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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 Urban Growth Area

#### 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 Ottawa, 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 Ottawa.
2. Achieving the objectives of the comprehensive plan.
3. Preserving and protecting property values.
4. Lessening congestion on the streets.
5. Preventing overcrowding.
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 Ottawa.
12. Promoting the achievement of the Future Land Use Plan for the City of Ottawa.
13. Informing the public regarding future development in the City of Ottawa 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, including any adopted area and corridor plans, and community development policies of the Planning Commission and the City Commission.

(1-103 - 02-19-14)

### **SECTION 1-4 JURISDICTION; WITHIN CORPORATE CITY LIMITS AND URBAN GROWTH AREA**

(Section 1-4 revised 07-19-06)

**1-401.** The jurisdiction of these zoning regulations shall apply to all land located within the corporate limits of the City of Ottawa, Kansas and additional land consistent with any interlocal agreements providing for extraterritorial jurisdiction by the City. Unless expressly provided for otherwise, these regulations shall apply to property owned by the City of Ottawa.

**1-402.** The following Articles and sections of these zoning regulations shall not apply to land located within the Urban Growth Area, as established by Interlocal Agreement between the City of Ottawa and Franklin County:

- (a) Article 4, Sections 4-8, 4-9, 4-10 and 4-11.
- (b) Article 13, Historic Conservation Overlay District.
- (c) Article 10, Manufactured Home Park District.
- (d) Article 11, Elderly Housing Overlay District.
- (e) Article 12, Housing Opportunity Overlay District.

(1-402 added 07-19-06)

### **SECTION 1-5 URBAN GROWTH AREA**

**1-501.** Consistent with the Interlocal Agreement entered into between the City of Ottawa and Franklin County establishing an Urban Growth Area, land within the Urban Growth Area shall retain its County zoning classification as of the date the Interlocal Agreement becomes effective. Such zoning classification shall continue unless and until rezoned in accordance with state statute, the City's rezoning procedures and the Interlocal Agreement. At all times subsequent to the delegation of authority taking effect in accordance with Section 3 of the Interlocal Agreement all land within the Urban Growth Area shall be subject to the

administration and enforcement provisions of these zoning regulations, except to the extent otherwise provided by Section 1-402.

(1-501 added 07-19-06)



## ARTICLE 2

### RULES, INTERPRETATIONS AND DEFINITIONS

**Sections:**

- 2-1 Rules and Interpretations
- 2-2 Separability
- 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 words “use,” “used,” “occupy” or “occupied” as applied to any land or building shall be construed to include the words “intended,” “arranged” or “designed” to be used or occupied.
- (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.

Unless specifically provided, in computing any period of time prescribed or allowed by these regulations, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included, unless it is Saturday, Sunday or a

legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. "Legal holiday" includes any day designated as a holiday by the Congress of the United States or by the Kansas legislature. Whenever a notice, petition or other document is required to be filed within a specified time period, the notice, petition or document must be filed with the appropriate city official or in the appropriate city office not later than 5:00 p.m. on the last day of the period as computed.

b. Interpretations.

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 SEPARABILITY

**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. An accessory building does not include shipping containers.

(2-301 revised 02-03-10)

**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.

**Adult Business.** Any of the businesses defined as an “Adult Business” at Chapter 11, Article X, Section 11-1002 of the Ottawa City Code, including but not limited to the following: adult bookstore, adult video store, adult news rack, adult retail establishment, adult motion picture theater, adult live entertainment business, adult modeling studio, adult motel, bathhouse, body painting studio, massage establishment and massage parlor.

(2-301 added 07-18-07)

**Agricultural use.** The use of property for the production of plants, animals, or horticultural products, including but not limited to: forages; grains and feed crops; dairy animals and dairy products; beef cattle; sheep; swine; poultry, and horses; bees and apiary products; trees and forest products; fruits, nuts, and berries; vegetables; or nursery, floral, ornamental, or greenhouse products. Land used for agricultural purposes shall **not** include the following:

- Land which is used for recreational purposes; residential suburban property; home sites and yard areas whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of the plants listed above.
- The operation or maintenance of greenhouses, nurseries, or hydroponics farms operated as retail.
- Wholesale or retail sales as an accessory use except the seasonal retail sale of produce.
- The operation or maintenance of a commercial stockyard, feedlot, or other confined livestock feeding operation.
- The operation of auction sales yards.
- The operation of a bed and breakfast.
- The operation of junk, scrap, or salvage yards.
- The operation of kennels.
- The establishment of additional dwelling site for any purpose except as accessory dwellings for bona fide farm help employed on the premises.

**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, hangars, other necessary uses, and open spaces.

**Alcohol manufacturers.** Higher-volume production facilities (such as breweries, distilleries and wineries) that manufacture large amounts of product each year. The size of these facilities, as well as the scale of production, indicates a heavy industrial use that may also produce levels of odor or

noise. These alcohol manufacturers do not include the small scale productions allowed for brewpubs, microbreweries, microdistilleries or farm wineries.

(Added 05-06-16)

**Alley.** A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property.

**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.

**Architectural Projections.** Architectural features and accessories which are deemed desirable or necessary for the health or safety of the public, such as, but not limited to: cornice and eaves, architectural decorations (sills, pediments, etc.), ornamental columns (pillars, columns, moldings, etc.), entrance steps, decks, porches, balconies, permanent awnings and canopies, marquees, and bay windows. The term architectural projection, however, does not include any architectural feature which may be removed or retracted at will from the primary structure, such as a flag pole, retractable awnings, or gutter.

**Artisanal manufacturing, production and industrial services.** An on-site production of goods by hand manufacturing or involving the use of hand tools and light mechanical equipment. Typical uses include woodworking and cabinet shops, ceramic studios, jewelry manufacturing, and similar types of arts and crafts or small-scale manufacturing uses that have no negative external impacts on surrounding properties.

(Added 09-19-18)

**Artisanal food and beverage production.** An on-site small-scale production of food and beverages consumed and/or offered for sale on-site or produced for sale off-site.

(Added 09-19-18)

**Attached.** A foundation, wall, or roof of a building or structure which is connected to and supported by the foundation, wall, or roof of another building or structure.

**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 that is partly or completely below grade plane for more than one-half of its perimeter. See *Story*.

**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. The holding of receptions, weddings and similar events are accessory uses at a bed and breakfast inn.

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

**Board of Zoning Appeals.** The City of Ottawa Board of Zoning Appeals.

**Boarding house.** See Lodging house.

**Brewpub.** A restaurant, bar or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops and yeast into beer or ale by mashing, cooking and fermenting. The difference between a brew pub and a microbrewery is the primary operation as a food service facility or a sale by-the-drink facility.

(Added 05-06-16)

**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.

**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, child-care facilities, assembly rooms, kitchens, recreational facilities and libraries.

**City.** The city of Ottawa, Kansas.

**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 Ottawa.

**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 sitting 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 Franklin County, Kansas.

**Day care facilities.** Definitions for those of 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) and the Kansas Department of Social and Rehabilitation Services (SRS). Standards for such definitions may be periodically amended by changes to state regulations and such changes are incorporated by reference herein.

1. **Adult Day Care Home.** A facility for adults having some or all of the characteristics of homes for the elderly, 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.
2. **Child care center.** A facility which provides care and educational activities for thirteen (13) or more children six (6) weeks to sixteen (16) years of age for more than three (3) and fewer than twenty-four (24) hours per day including daytime, 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 thirteen (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.
3. **Day care home.** A home in which care is provided for a maximum of twelve (12) children in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a day care home.
4. **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 twenty-four (24) hours a day, provided that not more than seven (7) children cared for at such place are under kindergarten age and not more than three (3) of the children cared for at such place are less than eighteen (18) months of age, or a maximum of ten (10) children under sixteen (16) years of age operated in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a family day care home.
5. **Group day care home.** A home in which care is provided for a maximum of twelve (12) children under sixteen (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. 28-4-114(f)(1)).
6. **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:
  - a. Provides learning experiences for children who have not attained the age of eligibility to enter kindergarten prescribed in K.S.A. 72-1107(c), and any amendments thereto, and who are thirty (30) months of age or older.
  - b. Conducts sessions not exceeding three (3) hours per session;
  - c. Does not enroll any child in more than one (1) session per day; and

- d. 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 thirteen (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.

**Detached.** A building that does not have a wall, roof or other structural member which is connected to and supported by the foundation, wall or roof of another building or structure.

**Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**Development review committee.** The committee charged with responsibility for site plan reviews and such other duties as are set out in these regulations. Committee membership shall be set by the City Manager to include the Utilities Director, Public Works Director, Planning and Codes Administration Director, City Engineer, Fire Chief and such other officials deemed appropriate.

**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 a drinking establishment shall be regulated the same as a tavern.

**Drive-in service.** The service of food or other goods, services or entertainment where patrons remain in their motor vehicles which are parked in spaces provided on the premises for that purpose.

**Drive-through service.** Service where patrons are served through a window or other device while remaining in their motor vehicles and where products served to patrons are normally not consumed on the premises.

**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 Ottawa City Engineer. When the context so requires, engineer shall mean an engineer licensed by the State of Kansas.

**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.** An exception from a provision of these regulations, which may be granted by the Board of Zoning Appeals only 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.

**Farm winery.** A facility that manufactures and stores domestic table wine and domestic fortified wine in a quantity not exceeding 100,000 gallons per year. Along with the ability to manufacture and store, the producer may sell the wine to licensed distributors, retailers, public venues, clubs, drinking establishments, and caterers. The producer is allowed onsite sales of unopened containers to customers, as well as onsite service of free samples in a tasting room.

(Added 05-06-16)

**Fence.** A free-standing structure intended to provide privacy, protection or confinement or to redirect a person's direction of travel. A fence may be constructed of but not limited to: wire, chain links, wood, stone or any standard building materials.

**Flood plain.** Consistent with definitions set by the Federal Emergency Management Agency, land adjacent to a watercourse subject to inundation from a flood having a chance occurrence in any one year of 1%.

**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.

**Garage, public.** A building, or portion thereof, other than a private or storage garage, designed for equipping, repairing, hiring, servicing, selling or storing motor-driven vehicles.

**Garage, storage.** A building or portion thereof, designed or used exclusively for housing five (5) or more motor-driven vehicles.

**Governing body.** The Ottawa City Commission.

**Grade.** A reference plane representing the average finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest point(s) 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 persons, eighteen (18) years of age or over, not constituting a “family” as defined in this section 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 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 a “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 Secretary of the Department of Health and Environment or the Secretary of the Department of Social and Rehabilitation Services; 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 of Social and Rehabilitation Services or the Kansas Department of Health and Environment. See also Large group home.

**Highway.** A thoroughfare controlled and/or maintained by the Kansas Department of Transportation (KDOT).

**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.** A building or structure used 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.

**Improvements.** Any structure, grading, street surface, curbs and gutters, sidewalks, bike-ways, cross-walks, water mains, sanitary sewers, storm sewers, drainage ditches, culverts, bridges, trees and other additions or deletions from the natural state of land which increase its utility or habitability.

**Inoperable motor vehicle.** A motor vehicle that is wrecked, dismantled, unable to move under its own power, impounded by a governmental agency, or is not currently licensed, all as such is defined in the Ottawa City Code.

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

**Institution of higher learning.** A college, university or incorporated academy providing general academic instruction equivalent to the standards prescribed by the State Board of Education. Dormitories, fraternity houses, sorority houses and other student housing and recreation and athletics-related facilities which are constructed on campus shall be considered accessory buildings.

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

**Junk.** Materials that include, but are not limited to: scrap copper, brass; rope; rags; batteries; paper; trash; rubber; debris; waste; junked, dismantled, scrapped or wrecked motor vehicles or parts thereof; iron; steel; or other old or scrap ferrous or nonferrous material or similar materials.

**Junk yard.** See Salvage yard.

**Kennel.** Any place, area, building or structure where dogs (including those under one year of age) and other domesticated animals are boarded, housed, cared for, fed, or trained by other than the owner, or where more than four (4) domesticated animals, sixteen (16) weeks of age or older, are kept for purposes of breeding, raising or as pets.

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

**Landowner.** The legal or beneficial owner or owners of a lot or tract. The holder of a contract to purchase or other person having an enforceable proprietary interest in a lot or tract shall be deemed a landowner.

**Landscape Material.** Such living materials as trees, shrubs, ground cover, vines, turf grasses, and non-living materials such as rocks, pebbles, sand, bark, brick pavers, earthen mounds (excluding pavement), and other items of a decorative or embellishment nature such as fountains, pools, walls, fencing, sculpture, etc.

**Landscaped Open Space.** That part of the net land area which is free of streets, structures, or parking areas and provided to improve the drainage, microclimate and aesthetics of the site. Such areas are usually landscaped and appropriately located to achieve maximum effect and appeal. Typically, such space includes lawn areas, shrubs and trees, walkways, paved terraces, sitting areas and outdoor recreational areas.

**Landscaping.** Bringing the soil surface to a smooth finished grade and installing sufficient trees, shrubs, ground cover and grass to soften building lines, provide shade and generally produce a pleasing visual effect of the premises.

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

**Laundry (self-service).** An establishment equipped with individual coin- and/or card-operated washing, drying and/or dry-cleaning machines.

**Laundry.** An establishment where commercial laundry and dry-cleaning work is undertaken.

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

- a. The Department of Social and Rehabilitation 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 Franklin 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 Franklin 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 Franklin County, prior to June 15, 1975.

**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 structure which is constructed in accordance with the federal Manufactured Home Construction and Safety Standards (HUD, June 15, 1976) and designed to be used as a dwelling, is built on a permanent chassis and is designed for use with or without a permanent foundation. See also Residential design manufactured home.

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

**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.

**Manufacturing, light.** Manufacturing which does not result in the emission of odor, dust, vibration, smoke, gas or noise offensive to the use and enjoyment of adjoining properties.

**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.

**Microbrewery.** A facility that manufactures and stores not less than 100 nor more than 30,000 barrels of domestic beer during the calendar year. Along with the ability to manufacture and store, the producer may sell the beer to licensed beer distributors, retailers, public venues, clubs, drinking establishments, and caterers. The producer is allowed onsite sales of unopened containers to customers, as well as onsite service of free samples in a tasting room.

(Added 05-06-16)

**Microdistillery.** A facility that manufactures and stores not more than 50,000 gallons of spirits per year. Along with the ability to manufacture and store, the producer is allowed the sale of these spirits to licensed off-site distributors, as well as the onsite sale to customers. The producer is also allowed to serve free samples onsite in a tasting room.

(Added 05-06-16)

**Mobile home.** Mobile home means a factory-built structure or structures more than eight (8) feet in width or more than thirty-six (36) feet in length, equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be used as a dwelling unit without a permanent foundation. The phrase “without a permanent foundation” indicates that the support system is constructed with the intent that the mobile home placed thereon may be moved from time to time at the convenience of the owner. For purposes of these regulations a mobile home is not a manufactured home.

**Modular home.** A dwelling structure located on a permanent foundation and connected to public utilities consisting of preselected, prefabricated units or modules, and transported to and/or assembled on the site of its foundation; in contradistinction to a dwelling structure which is custom-built on the site of its permanent location, and also in contradistinction to a manufactured home or a 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.** A lot, whether with or without improvements, 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. See also *Lot of record*.

**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.** A building operated by 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.

**Permanent wall foundation.** An exterior wall designed to resist frost action. The wall must be continuous around the perimeter of the structure but may have such openings as required by the Building Code of the City of Ottawa. The wall must be designed as a footing and foundation wall and constructed in accordance with the adopted Building Code of the City of Ottawa.

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

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

**Place or court.** An open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.

**Planning Commission.** The City of Ottawa Planning Commission.

**Plat.** A map depicting the division or subdivision of land into lots, blocks, parcels, tracts or other portions thereof.

- a. **Plat, Final** means a drawing of a permanent nature showing the precise location and dimension of such features as streets, lots, easements and other elements pertinent to transfer of ownership and prepared for permanent record.
- b. **Plat, Preliminary** means a drawing showing the proposed general patterns of streets, lots and land uses within a tract to be subdivided.

**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 or stormwater.
- 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.

**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 wall foundation which has minimum dimensions of twenty-two (22) body feet in width, a pitched roof, and siding and roofing materials which are customarily used on site-built homes. See *Permanent wall foundation and section 24-801*.

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

**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 nonsecure 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, airplanes, boats and similar 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 ½ ) 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. It is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story from the top of the floor finish to the top of the roof rafters.

**Story above grade plane.** Any story having its finished floor surface entire above grade plane, except that a basement shall be considered as a story above grade plane where the finished surface of the floor above the basement is:

- a. More than six (6) feet above grade plane.
- b. More than six (6) feet above the finished ground level for more than fifty percent (50%) of the total building perimeter; or
- c. More than twelve (12) feet above the finished ground level at any point.

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

**Street line or street right-of-way 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 very limited 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 limited 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.** The division of a tract of land into one or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land. The term “subdivision” includes re-subdivision and the term “re-subdivision,” as used herein, shall include any further subdivision of a lot or parcel of land previously subdivided, for sale, use or other purposes, which varies from the latest, approved subdivision of the same.

**Subdivision regulations.** The City of Ottawa 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 a drinking establishment shall be a tavern.

**Temporary/transitional housing.** A facility providing overnight housing for purposes of emergency shelter or for persons with limited resources where occupancy is permitted on a twenty-four-hour basis.

(Added 12-05-18)

**Townhouse.** A dwelling unit located in a group of three (3) or more attached dwelling units with no other dwelling unit located above or below another and with each dwelling unit having at least one interior common wall and private exterior access.

**Townhouse building.** A grouping of two (2) or more townhouses.

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

**Use.** The purpose or activity for which the land, or building thereon, is designed, arranged or intended, or for which it is occupied or maintained.

**Use, principal.** The main use of land or buildings as distinguished from a subordinate or accessory use. The principal use may be either a permanent or a special use.

**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.

**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 Map.** The official zoning map adopted by the City pursuant to K.S.A. 12-753.

**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 sixteen (16) districts and five (5) overlay districts designated as follows:

<b>“A”</b>	Agricultural District
<b>“CS”</b>	Countryside District
<b>“R-1”</b>	Low Density Residential District
<b>“R-2”</b>	Medium Density Residential District
<b>“R-3”</b>	High Density Residential District
<b>“TN”</b>	Traditional Neighborhood District
<b>“MP”</b>	Mobile Home Park District
<b>“MHS”</b>	Manufactured Home Subdivision District
<b>“C-1”</b>	Office and Service Business District
<b>“C-2”</b>	Restricted Commercial District
<b>“C-3”</b>	General Commercial District
<b>“C-4”</b>	Central Business District
<b>“MU”</b>	Mixed Use District
<b>“I-1”</b>	Light Industrial District
<b>“I-2”</b>	Heavy Industrial District
<b>“P”</b>	Public Use District
<b>“EH-O”</b>	Elderly Housing Overlay District
<b>“HO-O”</b>	Housing Opportunity Overlay District
<b>“HC-O”</b>	Historic Conservation Overlay District
<b>“PPD-O”</b>	Proximity Park Development Overlay District
<b>“PUD”</b>	Planned Unit Development Overlay District
<b>“FW/FP”</b>	Floodway and Flood Plain 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 retain the zoning classification it had from Franklin County, until such time procedures are followed and finalized to amend that zoning classification consistent with state law and these regulations.

### **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 for by variance or exception granted by the Board of Zoning Appeals as specifically authorized by these regulations:

- 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 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. Yards shall not be reduced beyond the depth of the projected necessary right-of-way, as shown in adopted corridor management plans.

(3-501-d-02-19-14)

## ARTICLE 4

## INTENT OF DISTRICTS

## Sections:

- 4-1 “A” 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 “TN” Traditional Neighborhood District
- 4-6 “CS” Countryside District
- 4-7 “MHS” Manufactured Home Subdivision District
- 4-8 “MP” Manufactured Home Park District
- 4-9 “EH-O” Elderly Housing Overlay District
- 4-10 “HO-O” Housing Opportunity Overlay District
- 4-11 “HC-O” Historic Conservation Overlay District
- 4-12 “PPD-O” Proximity Park Development Overlay District
- 4-13 “C-1” Office and Service Business District
- 4-14 “C-2” Restricted Commercial District
- 4-15 “C-3” General Commercial District
- 4-16 “C-4” Central Business District
- 4-17 “I-1” Light Industrial District
- 4-18 “I-2” Heavy Industrial District
- 4-19 “P” Public Use District
- 4-20 “MU” Mixed Use District
- 4-21 “PUD” Planned Unit Development Overlay District
- 4-22 Floodplain Management District

## SECTION 4-1 “A” AGRICULTURAL DISTRICT

**4-101.** It is the intent of the A District to preserve and protect agricultural uses and resources by regulating density and land use. 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. Intense urban usage is usually premature and undesirable in the “A” District, due to lack of infrastructure. Uses within this district are mostly related to agricultural activities. 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 primarily for one-family dwellings with accommodation for two- and three-family dwellings and related residential uses such as churches and certain public uses which tend to be located at the edge of higher density, and more centrally located residential areas. The district is intended to accommodate a low population density for specified types of dwelling units on large to medium sized lots with emphasis on adequate open space around buildings.

**SECTION 4-3 “R-2” MEDIUM DENSITY RESIDENTIAL DISTRICT**

**4-301.** The intent of the R-2 District is to provide for one-, two- or three-family dwellings with some accommodations for four-plus family dwellings as conditional uses and also related residential uses and certain public uses. This district allows for a moderate density for these types of dwelling units.

**SECTION 4-4 “R-3” HIGH DENSITY RESIDENTIAL DISTRICT**

**4-401.** The intent of the R-3 District is to provide for a full range of dwelling units, from one-family to apartments and for related residential and certain public uses and also related residential uses and certain public uses. This district is located primarily where moderate to high residential density will be compatible with surrounding uses and development patterns.

**SECTION 4-5 “TN” TRADITIONAL NEIGHBORHOOD DISTRICT**

**4-501.** The intent of the TN District is to provide for areas of residential development and redevelopment consistent with design principles of traditional neighborhoods.

**SECTION 4-6 “CS” COUNTRYSIDE DISTRICT**

**4-601.** The intent of the CS District is to provide area to accommodate a rural residential lifestyle, with limited future residential development which will provide adequate open space even after full development. The district is intended for one-family detached dwellings and limited related residential and agricultural uses.

**SECTION 4-7 “MHS” MANUFACTURED HOME SUBDIVISION DISTRICT**

**4-701.** The intent of the MHS District is to provide area for low-density manufactured housing, recognizing the need and demand for alternative housing choices. This district also recognizes that alternative housing types often function best, and maintain optimum property value, when part of a well-planned development. It is intended that this district be established to accommodate manufactured homes on permanent foundations where lots are owned by manufactured home owners.

**SECTION 4-8 “MP” MANUFACTURED HOME PARK DISTRICT**

**4-801.** The intent of the MP District is to provide 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 areas comprised of site-built housing. This district is intended for those areas where the owner proposes to develop and rent or lease individual manufactured home sites.

**SECTION 4-9 “EH-O” ELDERLY HOUSING OVERLAY DISTRICT**

**4-901.** The intent of the EH-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 4-10 “HO-O” HOUSING OPPORTUNITY OVERLAY DISTRICT**

**4-1001.** The intent of the HO-O District is to encourage the development or redevelopment of residential lots in the older areas of the City, where lots contain less area and have less frontage than required in new residential districts.

**SECTION 4-11 “HC-O” HISTORIC CONSERVATION OVERLAY DISTRICT**

**4-1101.** The intent of the HC-O Overlay District is to establish development regulations which will promote the conservation, preservation and restoration of landmarks, historic properties and other structures, areas and neighborhoods.

**SECTION 4-12 “PPD-O” PROXIMITY PARK DEVELOPMENT OVERLAY DISTRICT**

**4-1201.** The regulations set forth in this Article or set forth elsewhere in these regulations when referred to in this Article, are the regulations for the Proximity Park Development Overlay (PPD-O). The intent of this overlay district is to ensure compatible development in and around Proximity Park and to develop as close as possible to the land uses identified in the master plan found at the end of this section.

**SECTION 4-13 “C-1” OFFICE AND SERVICE BUSINESS DISTRICT**

**4-1301.** The intent of the C-1 District is to provide for areas for public, quasi-public, institutional, social, philanthropic organizations or societies, professional service and office types of uses. Density and intensity of use may be considered moderate. This zone is primarily used to allow for non-residential uses which provide a direct service to the total community and still be compatible with adjoining residential districts.

**SECTION 4-14 “C-2” RESTRICTED COMMERCIAL DISTRICT**

**4-1401.** 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 4-15 “C-3” GENERAL COMMERCIAL DISTRICT**

**4-1501.** The intent of the C-3 District is to allow basic retail, service and office uses located at specific points on major streets outside the central and neighborhood business districts. 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, therefore it is particularly appropriate adjoining a major highway. 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 4-16 “C-4” CENTRAL BUSINESS DISTRICT**

**4-1601.** The intent of the C-4 District is to encourage the location of major business services, artisanal and retail business activity and retail business activity in the central business district in order to maintain that area as the core retail, government and entertainment district for the community. The intent is also to encourage residential use in the C-4 District under terms and conditions where such use complements commercial uses.

(4-1501 revised 09-19-18)

**SECTION 4-17 “I-1” LIGHT INDUSTRIAL DISTRICT**

**14-1701.** The intent of the I-1 District is primarily to provide locations for those manufacturing industries and related industrial activities in which the production performance of the manufacturing industries characteristically produces a finished product which 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. The District is not intended to create obnoxious noise, glare, dust or odor or create intensive lot or land coverage. Commercial uses permitted in this district are generally those which serve the convenience of industrial establishments and their employees.

**SECTION 4-18 “I-2” HEAVY INDUSTRIAL DISTRICT**

**14-1801.** 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. Certain obnoxious or hazardous uses are allowed only upon the issuance of a conditional use permit.

**SECTION 4-19 “P” PUBLIC USE DISTRICT**

**4-1901.** The intent of the P District is to provide locations for public ownership that are used for major public facilities.

**SECTION 20 “MU” MIXED USE DISTRICT**

**4-2001.** The intent of the Mixed Use Districts is to accommodate compatible mixed-use development. The intent of the Mixed Use/Residential-Commercial (MU/RC) District is to encourage compatible mixed use residential and commercial uses of low to moderate intensity, complementing neighborhood residential areas with high quality development and urban design standards. The intent of the Mixed Use/Commercial-Industrial (MU/CI) District is to encourage the mixture of certain compatible general commercial and light industrial uses in such a way as to promote reuse and readaptation of structures and the redevelopment of properties without compromising public health and safety.

**SECTION 4-21 “PUD” PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT**

**4-2101.** The intent of the PUD Overlay 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 4-22 FLOODPLAIN MANAGEMENT DISTRICTS**

**4-2201.** The intent of the Floodplain Management District is to protect public health, safety and welfare by minimizing loss of life and property in areas subject to flooding.

**ARTICLE 5****AGRICULTURAL DISTRICT (A)****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**
- 5-9 Minimum Lot Size**

**SECTION 5-1 INTENT**

**5-101.** It is the intent of the A District to preserve and protect agricultural uses and resources by regulating density and land use. 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. Intense urban usage is usually premature and undesirable, due to lack of infrastructure. 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 which is outside the corporate city limits, but subject to these regulations, when such land is in excess of ten (10) acres under one ownership and actually used for agricultural purposes. Any land within the corporate city limits actually used for agricultural purposes shall be subject to these regulations, and if located within the A district, shall be subject to this Article.

**SECTION 5-2 PERMITTED USES**

**5-201.** In the A 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 forty (40) 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.
- g. Churches and other similar places of worship.  
(5-201-g added 05-04-11)
- h. Adult or child daycare facilities, when having twelve (2) or fewer children or twelve (12) or fewer adults for whom care is provided and is conducted in owner-occupied dwelling.  
(5-201-h added 04-04-12)

### SECTION 5-3 CONDITIONAL USES

**5-301.** In the A 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. Any public building or land used by any department of the city, county, state or federal government.
- b. Commercial agricultural product storage facilities (elevators) when no other business is in combination with said storage.
- c. Commercial development of natural resources and commercial extraction of raw materials such as rock, gravel, sand, etc.
- d. Exploration and extraction of oil and natural gas.
- e. 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.
- f. Privately owned parks, playgrounds, or other outdoor recreational areas such as campgrounds, youth camps, gun clubs, and archery, trap and skeet ranges.
- g. Radio, telephone or television transmitters and towers, subject to additional regulations set out at Article 29.
- h. Seasonal or temporary uses such as recreation camps or similar enterprises.
- i. Telephone exchange, electric substations, cable television, or similar public utilities.
- j. 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 applicant shall demonstrate that satisfactory provisions have been made for fire protection, police protection, refuse collection and removal, heavy traffic routing, safety and site drainage.
3. Upon termination of the temporary use, the site shall be cleared of improvements and debris not conforming with uses permitted in the A zoning district and the City Commission may require a bond guaranteeing the removal of the improvements.

#### **SECTION 5-4 HOME OCCUPATIONS**

**5-401.** Regulations relating to home occupations in the A District are set out in Article 23.

#### **SECTION 5-5 ACCESSORY USES**

**5-501.** Regulations relating to accessory uses in the A District are set out in Article 24.

#### **SECTION 5-6 HEIGHT AND YARD REGULATIONS**

**5-601.** No building in the A District shall exceed thirty-five (35) feet in height, except as otherwise provided in Article 24.

**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 2.
  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 24, 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 24 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 Article 24.

### **SECTION 5-7 SIGN REGULATIONS**

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

### **SECTION 5-8 PARKING REGULATIONS**

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

### **SECTION 5-9 MINIMUM LOT SIZE**

**5-901.** No parcel, lot or tract of land less than three (3) acres in area shall be zoned as A District.

## ARTICLE 6

### RESIDENTIAL ZONED DISTRICTS (R-1 : 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

<b>USE</b>		<b>R-1</b>	<b>R-2</b>	<b>R-3</b>
1.	Any public building or land use by any department of the City, county, state or federal government.	<b>C</b>	<b>C</b>	<b>C</b>
2.	Art centers / Art galleries / Cultural Centers	<b>C</b>	<b>C</b>	<b>P</b>
3.	Bed and breakfast inns.	<b>C</b>	<b>C</b>	<b>P(1)/C</b>
4.	Churches and similar places of worship.	<b>P</b>	<b>P</b>	<b>P</b>
5.	Convents.	<b>P</b>	<b>P</b>	<b>P</b>
6.	Day care facilities: adult day care homes, child care centers, day care homes, family day care homes, group day care homes and preschools.	<b>P(3)/C(2)</b>	<b>P(3)</b>	<b>P</b>
7.	Dormitories or residence halls for students of universities and theological institutions.		<b>C</b>	<b>P(8)/C</b>
8.	Dwellings: a. Single family b. Two- or three-families c. Four or more families	<b>P</b> <b>C(9)</b>	<b>P</b> <b>P</b> <b>C(9)</b>	<b>P</b> <b>P</b> <b>P</b>
9.	Golf courses.	<b>P(6)</b>	<b>P(6)</b>	<b>P(6)</b>
10.	Group boarding homes for adults.	<b>C(7)</b>	<b>C(7)</b>	<b>P(2)/C(6)</b>
11.	Group boarding homes for minors.	<b>C</b>	<b>P(5)/C(5)</b>	<b>P(2)/C(6)</b>
12.	Group homes.	<b>P(5)</b>	<b>P(5)</b>	<b>P(5)</b>
13.	Hospitals and related medical facilities including, but not limited to, medical, dental and health clinics.	<b>C(1)</b>	<b>C(1)</b>	<b>C(1)</b>
14.	Large group homes.		<b>C(3)</b>	<b>P(2)/C(4)</b>
15.	Lodging houses.			<b>P(1)/C</b>
16.	Nonprofit institutions of an educational, philanthropic or eleemosynary nature.			<b>P</b>
17.	Nursing homes, rest homes, convalescent homes, hospices and similar facilities.			<b>C</b>
18.	Rehabilitation houses.			<b>P(2)/C(4)</b>
19.	Safe houses.	<b>P(4)</b>	<b>P(4)</b>	<b>P/C(8)</b>
20.	Schools: a. Public and private elementary schools. b. Public and private secondary schools. c. Post-secondary educational institutions.	<b>C</b> <b>C</b> <b>C</b>	<b>C</b> <b>C</b> <b>C</b>	<b>P</b> <b>P</b> <b>P</b>
21.	Telephone exchanges, electric substations, pumping stations and similar public utilities.	<b>P(7)</b>	<b>P(7)</b>	<b>P(7)</b>



**TABLE 6-1**  
**Residential Zoned Districts**

**Permitted Uses Footnotes:**

- (1) When having nine (9) or fewer sleeping rooms.
- (2) When having twenty (20) or fewer residents, including staff.
- (3) When having twelve (12) or fewer children or twelve (12) or fewer adults for whom care is provided and is conducted in owner-occupied dwelling.
- (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.
- (7) Subject to screening requirements as determined by the Zoning Administrator.
- (8) When having thirty (30) or fewer sleeping rooms.

**Conditional Uses Footnotes:**

- (1) Hospitals to be situated on a lot, plot or parcel of land five (5) acres or larger.
- (2) For facilities having thirteen (13) or more children or thirteen (13) or more adults for whom care is provided.
- (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 than 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) When eligible under the intensity standards of Section 6-5.
- (10) When having twelve (12) or more sleeping rooms.

**SECTION 6-4 HOME OCCUPATIONS**

**6-401.** Home occupation regulations for the residential districts are set out in Article 23.

**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, SQUARE FEET PER DWELLING UNIT**

Use		R-1	R-2	R-3
1.	Single-family dwelling	7,000	6,500	6,000
2.	Two-family dwelling	4,500	4,500	4,000
3.	Three-family dwelling	4,500	3,500	2,500
4.	Four or more family dwelling	NA	3,500	2,250

*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.

**6-502. Density Requirements for R-1 and R-2 Conditional Use Permits.**

a. The following dwelling unit density standards must be met before any application for a conditional use permit under Table 6-1, item 7 Dwellings, may be considered by the Planning Commission.

1. R-1 District Conditional Uses. In the R-1 low-density residential district two- and three-family dwelling units are allowed as conditional uses. To be considered for such a conditional use permit the Zoning Administrator must make the following analysis and reach a finding that the subject property meets the requirements of this section:

- (a) All dwelling units on lots on the same block as the subject property and the one-half of the block facing the subject property shall be counted. Only those dwelling units on lots zoned for residential use shall be included in the count. Undeveloped lots zoned R-1 shall be counted as one (1) dwelling unit. Undeveloped lots zoned R-2 shall be counted as two (2) dwelling units.
- (b) The number of dwelling units from (a) above shall be divided into the total square footage of the lots included in the count in (a) above.
- (c) The resulting calculation of dwelling units/square footage cannot be less than the minimum lot area for single-family dwellings in R-1 in Table 6-2 (7,000 sq. ft.).
- (d) In addition to the above requirement, the subject property itself must meet the minimum lot area/dwelling unit as set forth in Table 6-2 (4,500 sq. ft. for both two-family and three-family dwelling units, per unit).
- (e) Upon the Zoning Administrator’s finding that density requirements would be met, the application for conditional use permit may then proceed in accordance with Article 26.

2. R-2 District Conditional Use. In the R-2 medium-density residential district four-plus family dwelling units are allowed as a conditional use. To be considered for such a

conditional use permit the Zoning Administrator must make the following analysis and reach a finding that the subject property meets the requirements of this section:

- (a) All dwelling units on lots on the same block as the subject property and the one-half block facing the subject property shall be counted. Only those dwelling units on lots zoned for residential use shall be included in the count. Undeveloped lots zoned R-1 shall be counted as one (1) dwelling unit. Undeveloped lots Zoned R-2 shall be counted as two (2) dwelling units.
- (b) The number of dwelling units from (a) above shall be divided into the total square footage of the lots included in the count in (a) above.
- (c) The resulting calculation of dwelling units/square footage cannot be less than the minimum lot area for a two-family dwelling in R-2 in Table 6-2 (4,500 sq. ft. per dwelling).
- (d) In addition to the above requirement the subject property itself must meet the minimum lot area/dwelling unit as set forth in Table 6-2 (3,500 sq. ft. per dwelling unit for four or more family dwellings).
- (e) Upon the Zoning Administrator's finding that density requirements would be met, the application for conditional use permit may then proceed in accordance with Article 26.

- b. The density standards set out in this section may be varied from not to exceed 10 percent (10%) of the applicable standard, if approved by action of the Planning Commission. The Board of Zoning Appeals shall have no authority to issue variances or exceptions from these standards. The Board of Zoning Appeals shall hear appeals from any determination by the Zoning Administrator as to any of the calculations of this section affecting eligibility for a conditional use permit, in the same manner as all other appeals are heard.

#### **6-503.**

- a. For the purpose of encouraging the construction of housing in the R-2 medium density zoning district that is designed for elderly and/or disabled residents, the density bonus set out in paragraph b. below is established.
- b. For residential developments in the R-2 medium density district, for property on which there is constructed one-, two- or three-family dwellings for each 1,000 square feet of property area, the developer shall be allowed to construct one additional unit above what would otherwise be allowed under these regulations, when such additional unit is designed for elderly and/or disabled residents, as determined by the Zoning Administrator.

## **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 written approval of the Zoning Administrator subject to additional front, rear and side yard setbacks required at a rate of one (1)

- b. additional foot of yards for every two (2) feet of height above thirty-five (35) feet; or 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 with Table 6-3.

**TABLE 6-3  
MINIMUM YARD REGULATIONS**

District	Front (1),(5) (feet)	Lot Width (2) (feet)	Side (3) (feet)	Rear (4) (feet)
R-1	20	50	6	20
R-2	20	50	6	20
R-3	25	50	6	20

Footnotes:

- (1) Front yards on arterial or collector streets shall comply with Article 24.
- (2) Lot width as measured at the front setback line.
- (3) 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 on the same street.
- (4) Or twenty (20) percent of the depth of the lot whichever is less.
- (5) In the R-1 and R-2 districts where a garage is the same distance from the street as is the residence, the garage is subject to the twenty (20) foot setback. Provided, however, where a garage is closer to the street than is the residence, the minimum front yard setback is twenty-five (25) feet.

**6-603. Yard Regulations in Certain Residential Blocks.**

- a. Notwithstanding any other regulations to the contrary, garages on double-frontage lots located in the blocks described in subsection b. of this section may be located to within ten (10) feet of a property line.
- b. In order to allow for the continuation of the existing orientation of houses and garages on the following blocks with double frontage lots, garages on such lots may be located in accordance with subsection a. of this section:
  - 1. 500-900 blocks of N. Main, East side of blocks only.
  - 2. 700-800 blocks of S. Main, East side of blocks only.
  - 3. 700-800 blocks of S. Locust, West side of blocks only.

**6-604.** Additional yard regulations are set out in Article 24.

**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 24.

**SECTION 6-8 SIGN REGULATIONS**

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

**SECTION 6-9 PARKING REGULATIONS**

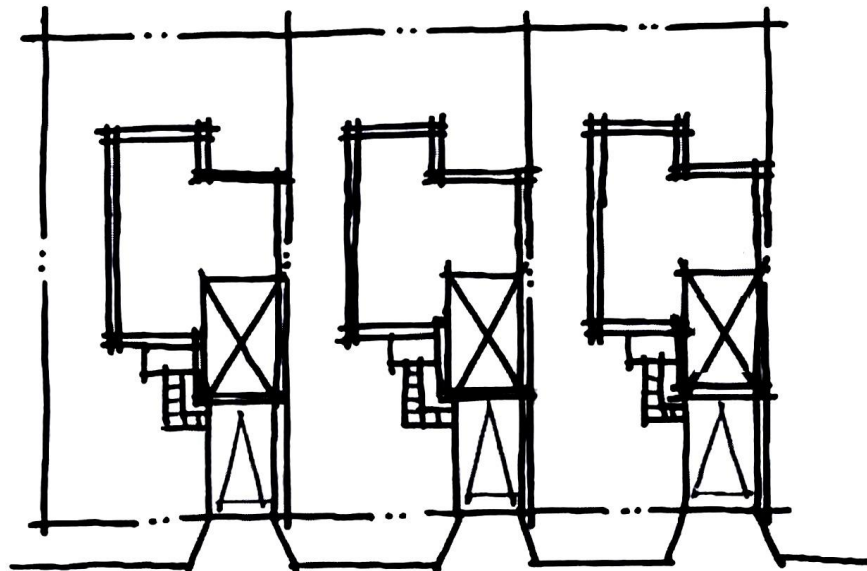
**6-901.** Parking regulations for the residential districts are set out in Article 22.

**SECTION 6-10 SUPPLEMENTAL REGULATIONS**

**6-1001.** Additional supplemental regulations for the residential districts are set out in Article 24.

**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 plantings may be used for screening subject to the approval of the Zoning Administrator as to type, size and number of plants. A solid or semi-solid fence or wall up to six (6) 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. 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 18 of these regulations or upon existing tracts by meeting the following requirements:

- 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. Townhouses. 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. Condominiums. 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-1 District with a Conditional Use Permit, and within the R-2 and R-3 districts subject to applicable district regulations and the following conditions:

(Revised 05-05-21)

- (a) No individual unit shall have less than twenty-two (22) feet frontage upon a public street.
- (b) The intensity of use for all structures shall be no less than required by the district in which the structures are erected.
- (c) 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 or building code, whichever standard is greater.
- (d) 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.
- (e) 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.
- (g) Within the R-1 District, as part of a Conditional Use Permit, the Planning Commission may recommend a reduced minimum lot size required per dwelling unit in such cases as the body deems appropriate.  
(Added 05-05-21)
- (h) Within the R-1 District, as part of a Conditional Use Permit, the Planning Commission may consider parking needs specific to each case.  
(Added 05-05-21)

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 or building 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 Franklin 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-2 and R-3 District 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 each other as required for multiple - family unit provisions of the building code or fire 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 Franklin County Register of Deeds. Such agreements shall be in accordance with K.S.A. 58-3101 et seq. and shall further provide assurances satisfactory to the City as to the means whereby open space and other external areas and facilities will be properly maintained in the event owners' agreement is not complied with.
- (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.

**ARTICLE 7****TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TN)****Sections:**

- 7-1 Intent**
- 7-2 Applicability**
- 7-3 Application Procedure and Approval Process**
- 7-4 Traditional Neighborhood Development Design Standards**
- 7-5 Definitions**

**SECTION 7-1 INTENT**

**7-101.** The intent of this Article is to allow the optional development and redevelopment of land consistent with the design principles of traditional neighborhoods. A traditional neighborhood has the following characteristics: compact; designed for the human scale; provides a mix of uses, including residential, commercial, public, and open space uses in close proximity to one another within the neighborhood; provides a mix of housing styles, types, and sizes to accommodate households of all ages, sizes, and incomes; and incorporates a system of relatively narrow interconnected streets with sidewalks and bikeways that offer multiple routes for motorists, pedestrians, and bicyclists and provides for the connections of those streets to existing and future development. A traditional neighborhood also: retains existing buildings with historical features or architectural features that enhance the visual character of the community; and incorporates significant environmental factors into the design.

**SECTION 7-2 APPLICABILITY**

**7-201.** The Traditional Neighborhood Development regulations are an alternative set of standards for development within the City for development of ten (10) acres or more contiguous to existing development and redevelopment or infill development of five (5) acres or more.

**SECTION 7-3 APPLICATION PROCEDURE AND APPROVAL PROCESS**

**7-301.** The application procedure and plan approval process for development within the TN District shall follow the same procedures and processes set out for Planned Unit Developments in Sections 18-4:6 of these regulations.

**7-302. Subdivision of Land.** If the Traditional Neighborhood Development involves the subdivision of land as defined in the City's subdivision regulations, the applicant shall submit all required land division documents in accordance with those requirements. If there is a conflict between the design standards of the subdivision regulations and the design guidelines of this Article, the provisions of this Article shall apply.

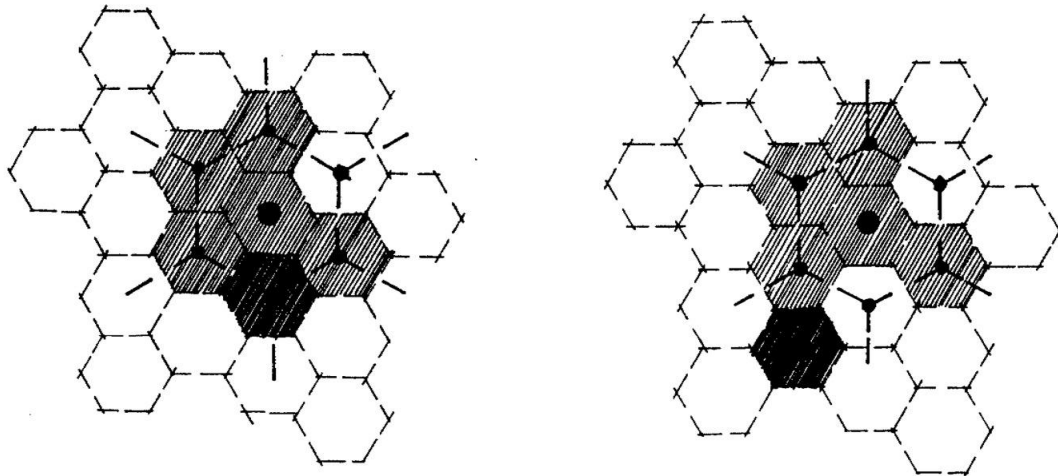
**7-303. Ownership and Maintenance of Public Space.** Provisions shall be made for the ownership and maintenance of streets, squares, parks, open space, and other public spaces in a Traditional Neighborhood Development by dedication to the City.

**7-304. Recording of Documents.** The following documents shall be filed by the applicant in the Franklin County Register of Deeds Office within 21 calendar days after approval of the documents by the Governing Body; a certified copy of the zoning ordinance amendment designating a tract of land as a Traditional Neighborhood Development; and the final plan.

## SECTION 7-4 TRADITIONAL NEIGHBORHOOD DEVELOPMENT DESIGN STANDARDS

**7-401.** Development within the TN District should provide for a mix of the following residential, commercial and public uses:

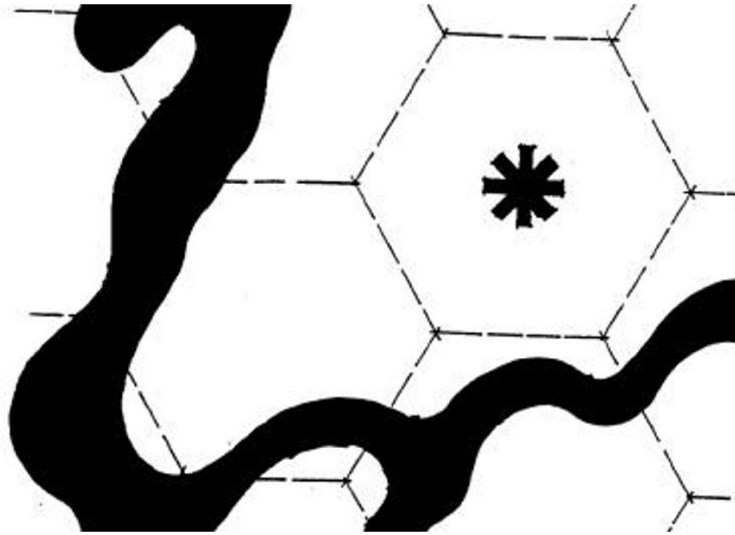
- a. Any permitted or conditional use in the R-1 District.
- b. Any permitted use in the C-1 District.
- c. Any permitted use in the P District.



**Figure 1.** Plan-view conceptual diagrams of neighborhood commercial “service areas” (hexagons). Each hexagon represents a neighborhood with a mixed-use center (dot) that is within a five-minute walking distance of the neighborhood’s edge. Clusters of neighborhoods (larger hexagon) can support more extensive commercial development than individual neighborhoods. The appropriate amount of commercial uses within a traditional neighborhood development depends on the location, or community context, of the new development (darker shaded hexagon).



**Figure 2.** Elevation sketch of a typical “streetscape” within a fixed-use area. Architectural design, street furniture, and landscaping all contribute to an attractive, human-scaled environment with a distinct visual character.



**Figure 3.** Plan-view diagram illustrating the importance of context in planning public open spaces. Large, contiguous open spaces are community-wide resources with environmental, aesthetic, recreational, and educational benefits. Smaller parks and open spaces (asterisk) should be located in neighborhoods (hexagons) that are not within easy walking distance of community parks and open space.

**7-402. Development Units.** The number of residential dwelling units and the amount of nonresidential development (including open spaces) shall be determined as follows:

1. In areas devoted to mixed residential uses:
  - a. The number of single-family attached and detached units permitted shall be six (6) dwelling units per net acre;
  - b. The number of multifamily units shall be twenty (20) dwelling units per net acre;
  - c. Secondary dwelling units shall be permissible in addition to the number of dwelling units authorized under this section. However, the total number of secondary dwelling units shall not be more than ten (10) percent of the total number of single-family attached and detached units.

- d. For each affordable housing unit one additional dwelling unit shall be permitted, up to a maximum 15 percent increase in dwelling units.
2. In mixed use areas:
    - a. The number of single-family and multifamily dwelling units permitted shall be calculated the same as above plus an additional number of units not to exceed 10 percent of the amount permitted above.
    - b. All dwelling units constructed above commercial uses shall be permissible in addition to the number of dwelling units authorized under this section. However, the total number of dwelling units shall not be increased by more than 10 dwelling units or 10 percent, whichever is greater.
    - c. The total ground floor area of nonresidential development uses, including off-street parking areas, shall not exceed 25 percent of the Traditional Neighborhood Development.

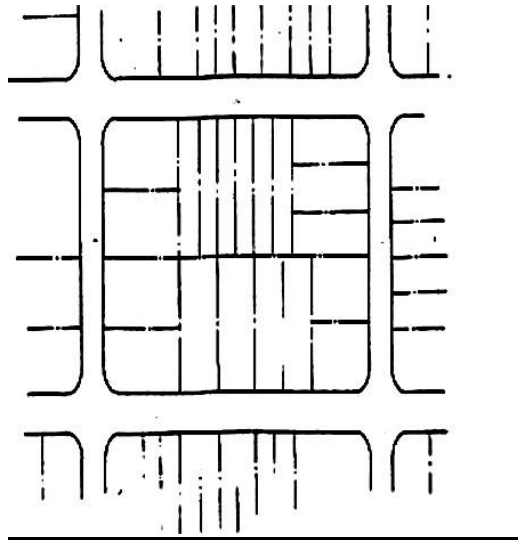
**7-403. Open Space.** At least ten (10) percent of the gross acreage of the Traditional Neighborhood Development must be open space. At least 25 percent of the open space must be common open space dedicated to the public for parkland. Ninety (90) percent of the lots within the areas devoted to mixed residential uses shall be within  $\frac{1}{4}$  mile or a five minute walk from common open space.

**7-404. Stormwater Management.** The design and development of the Traditional Neighborhood Development should minimize off-site stormwater runoff, promote on-site filtration, and minimize the discharge of pollutants to ground and surface water. Natural topography and existing land cover should be maintained/protected to the maximum extent possible. New development and redevelopment shall meet the following requirements:

1. Untreated, directed stormwater discharges to wetlands or surface waters are not allowed.
2. Erosion and sediment controls must be implemented to remove 80 percent of the average annual load of total suspended solids.
3. All treatment systems must have operation and maintenance plans to ensure that systems function as designed.

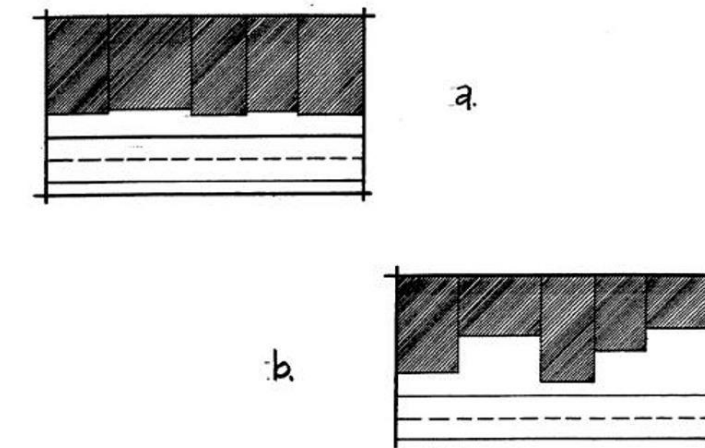
**7-405. Lot and Block Standards.**

1. Block and Lot Size Diversity. Street layouts should provide for perimeter blocks that are generally in the range of 200-400 feet deep by 400-800 feet long. A variety of lot sizes should be provided to facilitate housing diversity and choice and meet the projected requirements of people with different housing needs.



**Figure 4.** Plan-view diagram of a street grid showing a diversity of lot (parcel) size.

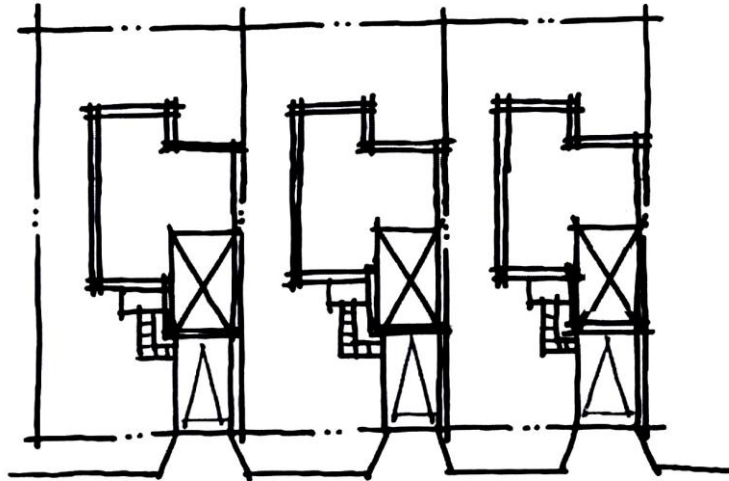
2. Lot Widths. Lot widths should create a relatively symmetrical street cross section that reinforces the public space of the street as a simple, unified public space.
3. Building Setbacks, Front – Mixed Use Area. Structures in the mixed use area have no minimum setback. Commercial and civic or institutional buildings should abut the sidewalks in the mixed use area.



**Figure 5.** Plan-view diagrams showing two alternatives for building setbacks from the street right-of-way in mixed-use areas. Relatively uniform setbacks (a) are preferable to widely varying building setbacks (b).

4. Building Setback, Front – Areas of Mixed Residential Uses. Single-family detached residences shall have a building setback in the front between five (5) and twenty (20) feet. Single-family attached residences and multifamily residences shall have a building setback in the front between 0 and 15 feet.
5. Building Setback, Rear – Areas of Mixed Residential Uses. The principal building on lots devoted to single-family detached residences shall be setback no less than twenty-five (25) feet from the rear lot line.

6. Side Setbacks. Provision for zero lot-line single-family dwellings should be made, provided that a reciprocal access easement is recorded for both lots and townhouses or other attached dwellings, provided that all dwellings have pedestrian access to the rear yard through means other than the principal structure.



**Figure 6.** Plan-view diagram of the “zero-lot line” concept. A large side-yard on each parcel is created by uniformly eliminating one of the side-yard setbacks.

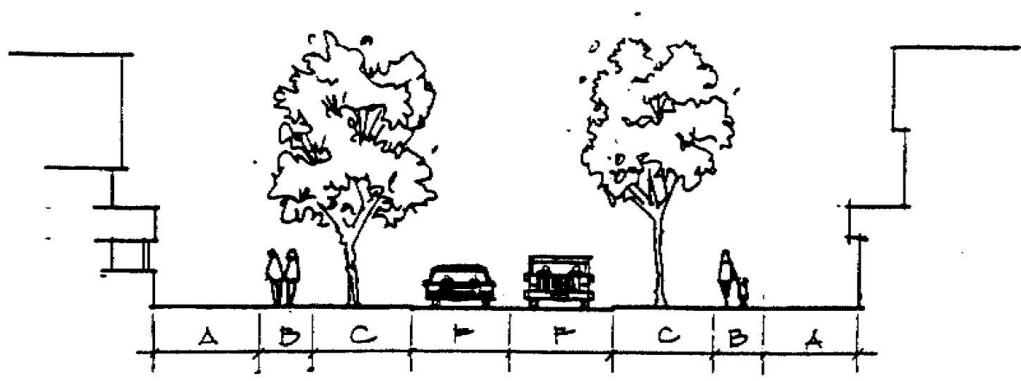
**7-406. Circulation Standards.** The circulation system shall allow for different modes of transportation. The circulation system shall provide functional and visual links within the residential areas, mixed use area, and open space of the Traditional Neighborhood Development shall be connected to existing and proposed external development. The circulation system shall provide adequate traffic capacity, provide connected pedestrian and bicycle routes (especially off street bicycle or multi-use paths or bicycle lanes on the streets), control through traffic, limit lot access to streets of lower traffic volumes, and promote safe and efficient mobility through the traditional neighborhood development.

- a. Pedestrian Circulation. Convenient pedestrian circulation systems that minimize pedestrian-motor vehicle conflicts shall be provided continuously throughout the Traditional Neighborhood Development. Where feasible, any existing pedestrian routes through the site shall be preserved and enhanced. All streets, except for alleys, may, at the City’s request, be bordered by sidewalks on both sides. The following provisions also apply:
1. **Sidewalks in Residential Areas.** Clear and well-lighted sidewalks, a minimum of four (4) feet in width, depending on projected pedestrian traffic, shall connect all dwelling entrances to the adjacent public sidewalk.
  2. **Sidewalks in Mixed Use Areas.** Clear and well-lighted walkways shall connect building entrances to the adjacent public sidewalk and to associated parking areas. Such walkways shall be a minimum of five (5) feet in width.
- b. Bicycle Circulation. Bicycle circulation shall be accommodated on streets and/or on dedicated bicycle paths. Facilities for bicycle travel may include off-street bicycle paths (generally shared with pedestrians and other non-motorized users) and separate, striped, 4 foot bicycle lanes on streets. If a bicycle lane is combined with a lane for parking, the combined width should be 14 feet.

- c. Motor Vehicle Circulation. Motor vehicle circulation shall be designed to minimize conflicts with pedestrians and bicycles. Traffic calming features such as “queuing streets,” curb extensions, traffic circles, and medians may be used to encourage slow traffic speeds.
- 1. Street Hierarchy. Each street within a Traditional Neighborhood Development shall be classified according to the following Table 7-1:

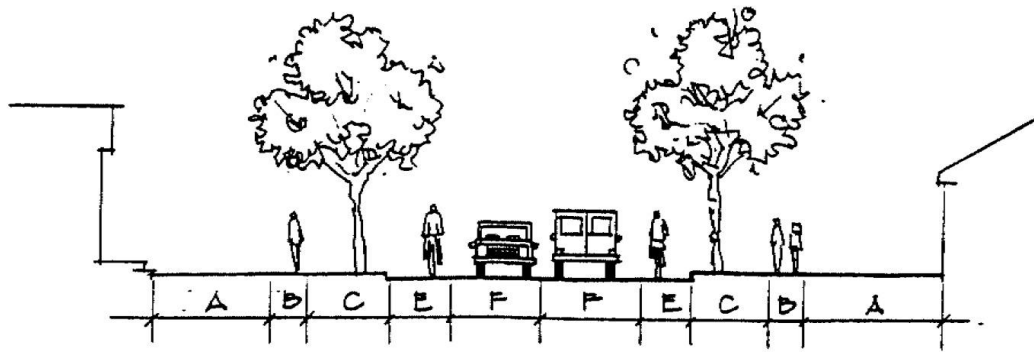
**Table 7-1: Attributes of Streets in a Traditional Neighborhood Development**

	<b>Collector</b>	<b>Local Street</b>	<b>Alley</b>
Right-of-Way	76-88 feet	35-50 feet	12-16 feet
Auto Travel Lanes	Two or three 12 feet lanes	Two 10 feet lanes, or one 14 feet (queuing) lane	Two 8 feet lanes for two-way traffic, or one 12 feet lane for one-way traffic
Bicycle Lanes	Two 6 feet lanes combined with parking spaces	None	None
Parking	Both sides, 8 feet	None or one side, 8 feet	None (access to individual drives & garages outside Right-of-way)
Curb and Gutter	Required	Not permitted	
Planting Strips	Minimum 6 feet	Minimum 6 feet	
Sidewalks	Both sides, 5 feet minimum	Both sides, 3-5 feet	None

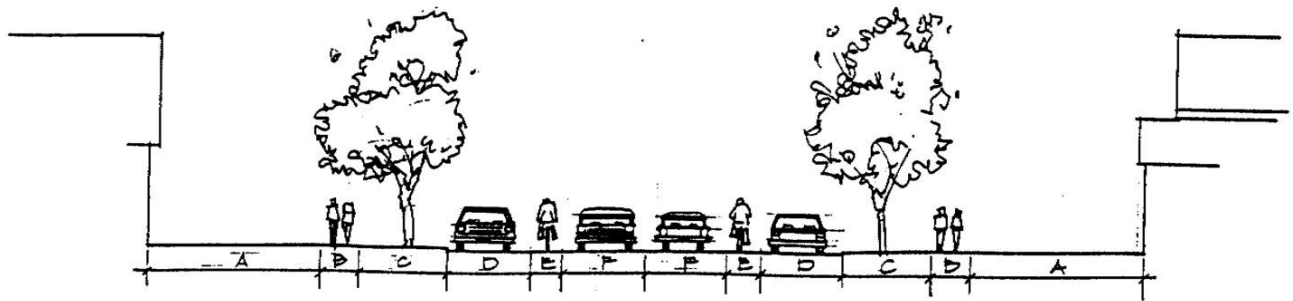


**Figure 7a.** Schematic sketch of a typical local street cross-section. Table 1 lists the recommended dimensions of each component: A) building setback from street right-of-way; B) walkway; C) planting area; F) travel lane.



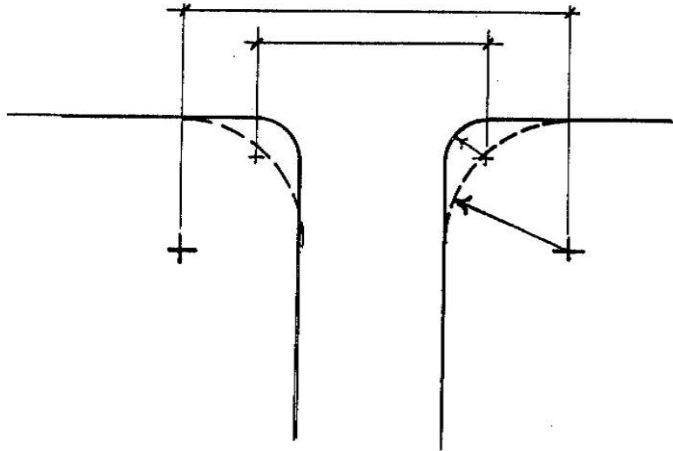


**Figure 7b.** Schematic sketch of a typical sub-collector street cross-section. Table 7-1 lists the recommended dimensions of each component: A) building setback from street right-of-way; B) walkway; C) planting area; E) bicycle lane; F) travel lane.



**Figure 7c.** Schematic sketch of a typical collector street cross-section. Table 7-1 lists the recommended dimensions of each component: A) building setback from street right-of-way; B) walkway; C) planting area; D) parking lane; E) bicycle lane; F) travel lane.

2. Street Layout. The Traditional Neighborhood Development should maintain the existing street grid, where present, and restore any disputed street grid where feasible. In addition:
  - i. Intersections shall be at right angles whenever possible, but in no case less than 75 degrees.
  - ii. Corner radii. The roadway edge at street intersections shall be rounded by a tangential arc with a maximum radius of 15 feet for local streets and 20 for intersections involving collector or arterial streets. The intersection of a local street and an access lane or alley shall be rounded by a tangential arc with a maximum radius of 10 feet.



**Figure 8.** Plan-view diagram of a street intersection. Reducing the radius of street corners slows turning vehicle traffic and shortens pedestrian sidewalks.

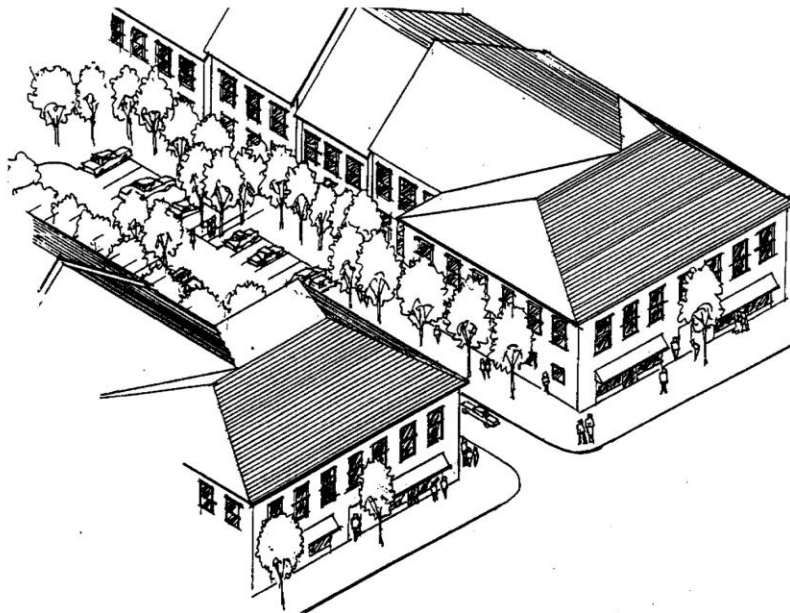
- iii. Curb cuts for driveways to individual residential lots shall be prohibited along arterial streets. Curb cuts shall be limited to intersections with other streets or access drives to parking areas for commercial, civic or multifamily residential uses. Clear sight triangles shall be maintained at intersections, as specified below, unless controlled by traffic signal devices:

<u>Intersection of:</u>	<u>Minimum clear sight distance:</u>
Local and street collector	120 feet
Collector and collector	130 feet
Collector and arterial	150 feet

- iv. The orientation of streets should enhance the visual impact of common open spaces and prominent buildings, create lots that facilitate passive solar design, and minimize street gradients. All streets shall terminate at other streets or at public land, except local streets may terminate in stub streets when such streets act as connections to future phases of the development. Local streets may terminate other than at other streets or public land when there is a connection to the pedestrian and bicycle path network at the terminus.

- 3. Parking requirements. Parking areas for shared or community use should be encouraged. In addition:
  - i. In the mixed use area, any parking lot shall be located at the rear or side of a building. If located at the side, screening shall be provided as specified in section 7-408.
  - ii. A parking lot or garage may not be adjacent to or opposite a street intersection.
  - iii. In the mixed use area, a commercial use must provide on parking space for every 500 square feet of gross building area.

- iv. Parking lots or garages must provide not less than one bicycle parking space for every 10 motor vehicle parking spaces.
- v. Adjacent on-street parking may apply toward the minimum parking requirements.
- vi. In the mixed residential areas, parking may be provided on-site. One off-street parking space with unrestricted ingress and egress shall be provided for each secondary dwelling unit.
- vii. Multi-family uses must provide one parking space for every dwelling unit and 0.5 parking space for each additional bedroom.



**Figure 9.** Aerial perspective sketch of a mixed-use area integrating commercial (ground floor) and residential (second story) uses. A relatively narrow gap in the continuous “street wall” (created by the mixed-use buildings) provides access from the street to a landscaped, “pedestrian-friendly” parking lot.

4. Service access. Access for service vehicles should provide a direct route to service and loading dock areas, while avoiding movement through parking areas.

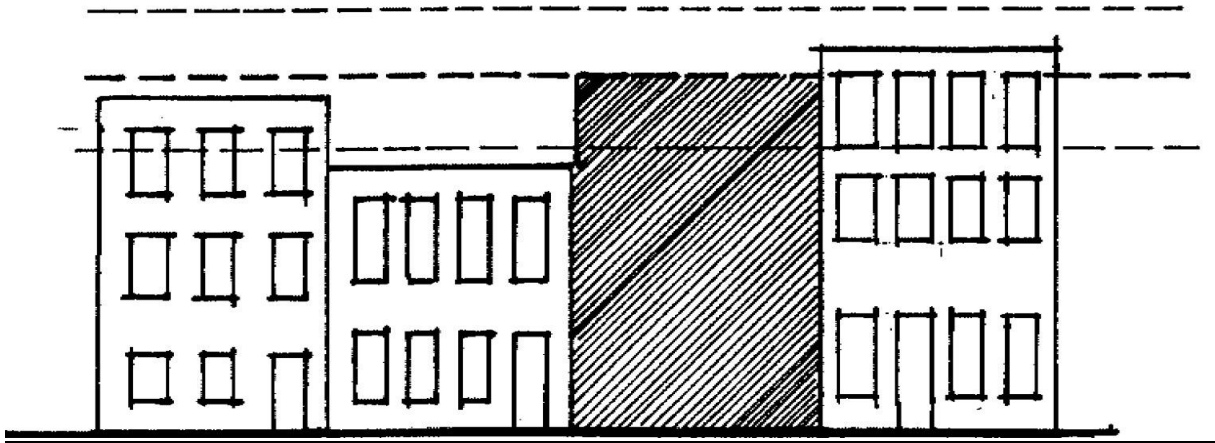
**7-407. Architectural Standards.** A variety of architectural features and building materials is encouraged to give each building or group of buildings a distinct character.

**1. Guidelines for Existing Structures**

- a. Existing structures, if determined to be historic or architecturally significant, shall be protected from demolition or encroachment by incompatible structures or landscape development.
- b. The U.S. Secretary of the Interior’s Standards for Rehabilitation of Historic Properties shall be used as the criteria for renovating historic or architecturally significant structures.

2. Guidelines for New Structures

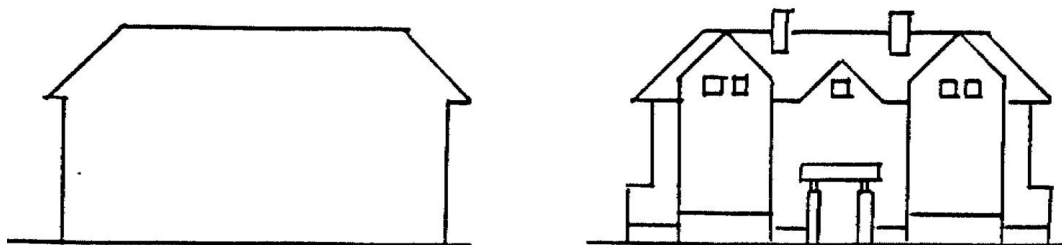
- a. Height. New structures within a Traditional Neighborhood Development shall be no more than 35 feet in height, except where provided otherwise in Article 24 of these regulations.



**Figure 10.** Schematic elevation sketch of a mixed-use “streetscape.” To create a visually unified “streetwall,” buildings should be no more than 30% taller or 30% shorter than the average building height on the block.

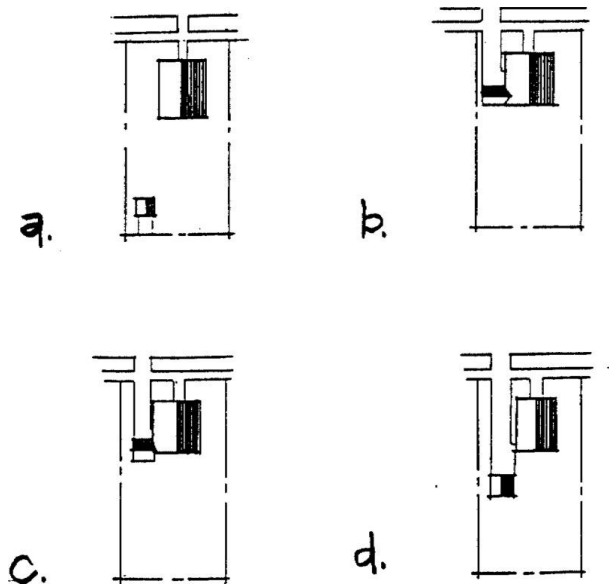
- b. Entries and Facades

- i. The architectural features, materials, and the articulation of a façade of a building shall be continued on all sides visible from a public street.
- ii. The front façade of the principal building on any lot in a Traditional Neighborhood Development shall face onto a public street.
- iii. The front façade shall not be oriented to face directly toward a parking lot.
- iv. Porches, pent roofs, roof overhangs, hooded front doors or other similar architectural elements shall define the front entrance to all residences.
- v. For commercial buildings a minimum of 50 percent of the front façade on the ground floor shall be transparent, consisting of window or door openings allowing views into and out of the interior.
- vi. New structures on opposite sites of the same street should follow similar design guidelines.



**Figure 11.** Schematic elevation sketches of two multi-storied buildings with equal heights and widths. Architectural details such as porches, windows, and roof dormers “articulate” a building’s façade (right) which enhances visual quality and contributes to a human-scaled development.

3. **Guidelines for garages and secondary dwelling units.** Garages and secondary dwelling units may be placed on a single-family detached residential lot within the principal building or an accessory building provided that the secondary dwelling unit shall not exceed 800 square feet.



**Figure 12.** Plan-view diagram of four alternative garage locations on a single-family housing lot: a) detached garage is accessed from an alley; b) and c) attached garage is accessed from the local street; d) detached garage, behind the house, is accessed from the local street.

4. **Guidelines for exterior signage.** A comprehensive sign program is required for the entire Traditional Neighborhood Development which establishes a uniform sign theme. Signs shall share a common style (e.g., size, shape, material). In the mixed use area, all signs shall be wall signs or cantilever signs. Cantilever signs shall be mounted perpendicular to the building face and shall not exceed eight (8) square feet.
5. **Guidelines for lighting.**
- Street lighting shall be provided along all streets. Generally more, smaller lights, as opposed to fewer, high-intensity lights, should be used. Street lights shall be installed on both sides of the street at intervals of no greater than 75 feet. Street lighting design shall meet the minimum standards developed by the Illumination Engineering Society.
  - Exterior lighting shall be directed downward in order to reduce glare onto adjacent properties.

**7-408. Landscaping and Screening Standards.** Overall composition and location of landscaping shall complement the scale of the development and its surroundings. In general, larger, well-placed contiguous planting areas shall be preferred to smaller, disconnected areas. Where screening is required by this article, it shall be at least three (3) feet in height, unless otherwise specified. Required screening shall be at least 50 percent opaque throughout the year. Required screening

shall be satisfied by one or some combination of: a decorative fence not less than 50 percent opaque behind a continuous landscaped area, a masonry wall, or a hedge.

1. Street trees. A minimum of one deciduous canopy tree per 40 feet of street frontage, or fraction thereof, shall be required. Trees can be clustered and do not need to be evenly spaced. Trees should preferably be located between the sidewalk and the curb, within the landscaped area of a boulevard, or in tree wells installed in pavement or concrete. If placement of street trees within the right-of-way will interfere with utility lines, trees may be planted within the front yard setback adjacent to the sidewalk.

2. Parking area landscaping and screening.

a. All parking and loading areas fronting public streets or sidewalks, and all parking and loading areas abutting residential districts or uses, shall provide:

- i. A landscaped area at least 5 feet wide along the public street or sidewalk.
- ii. Screening at least 3 feet in height and not less than 50 percent opaque.
- iii. One tree for each 25 linear feet of parking lot frontage.

b. Parking area interior landscaping. The corners of parking lots, “islands,” and all other areas not used for parking or vehicular circulation shall be landscaped. Vegetation can include turf grass, native grasses or other perennial flowering plants, vines, shrubs or trees. Such spaces may include architectural features such as benches, kiosks or bicycle parking.

3. Installation and Maintenance of Landscaping Materials.

- a. All landscape materials shall be installed to current industry standards.
- b. Maintenance and replacement of landscape materials shall be the responsibility of the property owner.

4. Materials. All plant materials must meet the minimum standards set by the American National Standards Institute in ANSI Z60.1 American Standard for Nursery Stock. Landscape species shall be indigenous or proven adaptable to the climate, but shall not be invasive species. Plant materials shall comply with the following standards:

a. Minimum plant size shall be as specified as follows (for the purpose of determining tree trunk size, the diameter shall be measured 6 inches above ground level):

<u>Plant Type</u>	<u>Minimum Size</u>
Evergreen tree	6 feet in height
Deciduous canopy tree	22 inches in caliper at dbh*
Small deciduous tree	12 inches caliper at dbh*
Evergreen or deciduous shrubs	18-24 inches in height
*dbh=diameter at breast height	

b. Landscape materials shall be tolerant of specific site conditions, including but not limited to, heat, drought and salt.

- c. Existing healthy plant material may be utilized to satisfy landscaping requirements, provided it meets the minimum plant size specified above.
- d. Landscape materials that are used for screening shall be of a size that allows growth to the desired height and opacity within 2 years.

## SECTION 7-5 DEFINITIONS

**7-501.** The following definitions shall govern in this Article, except when the context clearly indicates otherwise.

**ADT.** Average daily traffic volumes of vehicles on a street.

**Affordable Housing.** Housing priced to serve those in the community earning fifty percent (50%) or less of the most recently available Franklin County median income, as determined by the Zoning Administrator.

**Building Scale.** The relationship between the mass of a building and its surroundings, including the width of street, open space, and mass of surrounding buildings. Mass is determined by the three-dimensional bulk of a structure: height, width, and depth.

**Common Open Space.** Squares, greens, parks, and linear environmental corridors owned and maintained by the City.

**Curb Radius.** The curved edge of streets at an intersection measured at the outer edge of the street curb or of the parking lane.

**Net Acre.** An acre of land excluding street rights-of-way and other publicly-dedicated improvements such as parks, open space, and stormwater detention and retention facilities.

**Queuing.** The use of one travel lane on streets with parking on both sides.

**Secondary Dwelling Unit.** An additional dwelling unit located within the principal dwelling on the lot, in a freestanding building or above a residential garage.

**Traditional Neighborhood.** A compact, mixed-use neighborhood where residential, limited commercial and civic buildings are encouraged to locate within close proximity to each other.

**ARTICLE 8****COUNTRYSIDE DISTRICT (CS)****Sections:**

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

**SECTION 8-1 INTENT**

**8-101.** The “CS” Countryside District is intended to reduce the number of nonconforming properties, both undeveloped and developed, which would otherwise result from the application of these regulations to newly-annexed property. The CS district will provide a rural residential lifestyle where residents have adequate open space by which to preserve that character even after the area becomes fully developed in accordance with this Article. The district will allow for limited future single-family residential development without encouraging the premature loss of open space or the loss of land used for agricultural purposes. Development in rural areas is encouraged to utilize cluster subdivisions methods to allow density in the future when infrastructure becomes available.

**8-102.** Following the effective date of these Regulations, to be eligible for zoning classification as Countryside, land should be at least twenty (20) acres in area. Land which does not itself meet the above criteria, but which is surrounded by sections of land zoned Countryside, may also be zoned Countryside.

**8-103.** New lots shall be created within the Countryside District only if constituting 5 or more acres, as provided in Section 8-5. New lots less than 5 acres may be permitted if developed in accordance with Article 13, Conservation Subdivision Development Standards, of the City’s Subdivision Regulations.

**SECTION 8-2 PERMITTED USES**

**8-201.** In the Countryside District no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for the following uses:

1. Limited agricultural activities including keeping and raising of livestock and the storage and sale of agricultural products grown or produced on the premises, subject to Section 24-602.
2. Grain storage structures.
3. Single-family dwellings.
4. Subdivisions for one-family dwellings, when constructed as either conventional or cluster subdivisions in accordance with the City’s subdivision regulations.
5. Churches and other similar places of worship

(8-201-1 Revised 12-21-11)

6. Adult or child daycare facilities, when having twelve (2) or fewer children or twelve (12) or fewer adults for whom care is provided and is conducted in owner-occupied



dwelling.  
(5-201-6 added 04-04-12)

### **SECTION 8-3 PARKING REGULATIONS**

**8-301.** Two (2) off-street parking spaces shall be provided for each dwelling unit.

**8-302.** Additional parking requirements are contained in Article 22 of these regulations.

### **SECTION 8-4 SIGN REGULATIONS**

**8-401.** The following signs shall be allowed by permit in the Countryside District (CS):

1. One (1) non-illuminated sign per residence or building under construction, not more than sixty-four (64) square feet in area showing the name of the architects, engineers, builders or contractors. Any such sign shall be removed within ten (10) days of project completion.
2. One (1) non-illuminated home occupation sign per property lot, not to exceed six (6) square feet in area.

**8-402.** Additional sign regulations are contained in Article 27 of these Regulations.

### **SECTION 8-5 HEIGHT, AREA AND YARD**

**8-501.** Height: Buildings or structures other than those actually used for agricultural purposes shall not exceed 35 feet and/or two and one-half (2 1/2) stories in height.

**8-502.** In the Countryside District, the minimum dimensions of lots and yards as part of an overall subdivision shall be as follows:

1. Lot Area: For every lot created after March 1, 2005, the minimum lot area shall be 5 acres with 300 feet or more of frontage on a public road. In cases where unusual lot configuration or dedications for public uses have created a lot of less than 5 acres, the Zoning Administrator shall determine whether the lot area nonetheless meets the spirit and intent of this requirement.
2. Lot Dimensions: For every lot created after March 1, 2005, the minimum width of a lot shall be 300 feet. The minimum depth of a lot shall be 500 feet. There shall not be a lot depth-to-width ratio greater than 3:1 (i.e. the depth of a lot cannot be greater than 3 times its width). In the event of unusual lot configurations, the Zoning Administrator shall determine whether the lot dimensions nonetheless meet the spirit and intent of this requirement.

(Article 8- added 06-04-08)

**ARTICLE 9**

**MANUFACTURED HOME SUBDIVISION DISTRICT (MHS)**

**Sections:**

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

**SECTION 9-1 INTENT**

**9-101.** The intent of the MHS District is to provide manufactured housing development compatible with the character of the surrounding neighborhood. For purposes of this Article the term “manufactured housing” shall not include “mobile homes,” as defined in these regulations.

**SECTION 9-2 PERMITTED USES**

**9-201.** In the MHS District no building or land shall be used and no building or structures shall be hereafter altered, enlarged or erected for other than one of the uses listed below:

- a. Churches, synagogues and other similar places of worship.
- b. Single-family dwellings, including but not limited to manufactured housing.
- c. Public park and recreation areas, including recreation-related buildings.

**SECTION 9-3 CONDITIONAL USES**

**9-301.** 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 exchanges, electric substations, cable television, pumping stations, or other similar utilities.
- c. Public or private elementary and secondary schools.

## SECTION 9-4 INTENSITY OF USE

**9-401.** No manufactured housing shall be placed on a lot having less than six thousand (6,000) square feet of lot area. The maximum lot coverage by the principal building shall be fifty percent (50%).

## SECTION 9-5 HEIGHT REGULATIONS

**9-501.** No building shall exceed thirty-five (35) feet in height except as otherwise provided in Article 24.

## SECTION 9-6 YARD REGULATIONS

**9-601.**

- a. *Front yard.* Front yards on arterial or collector streets shall conform with the provisions of Article 24. 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 24, there shall be a rear yard having a depth of not less than twenty (20) feet or twenty percent (20%) of the average depth of the lot, whichever amount is smaller.

## SECTION 9-7 SIGN REGULATIONS

**9-701.** Sign regulations for the MHS District are set out in Article 27.

## SECTION 9-8 PARKING REGULATIONS

**9-801.** Parking regulations for the MHS District are set out in Article 22.

## SECTION 9-9 PERFORMANCE STANDARDS

**9-901.** 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 twelve (12) feet and contain a minimum of six hundred (600) square feet.
- b. *Fences.* Fencing on each lot shall comply with the fence regulations of the City of Ottawa.
- c. *Skirting.* Unless placed on a permanent wall foundation, manufactured housing shall be provided with skirting on all sides and shall be of material harmonious to the manufactured home.

- d. *Blocking.* Unless placed on a permanent wall foundation, 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 sixteen (16) inches bearing upon the stand or to manufacturer's requirements, whichever is more restrictive. Blocking shall be placed on two (2) or more well-drained concrete strips at least six (6) inches deep and three (3) feet wide located under the frame rails of the manufactured home, both of which shall extend the full length of the home.
- e. *Utilities.* All utility connections shall be in conformance with City-adopted codes.
- f. *Tie-downs and ground anchors.* Unless placed on a permanent foundation, 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.
- g. *Area.* A tract or tracts to be zoned as MHS District shall not be less than five (5) acres.

**ARTICLE 10**

**MANUFACTURED HOME PARK DISTRICT (MP)**

**Sections:**

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

**SECTION 10-1 INTENT**

**10-101.** The intent of the MP District is to provide for manufactured home park developments 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 services and amenities found in residential areas comprised of site-built houses. For purposes of this Article the term “manufactured housing” shall not include “mobile home,” as defined in these regulations.

**SECTION 10-2 PERMITTED USES**

**10-201.** 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.
- 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.

**SECTION 10-3 CONDITIONAL USES**

**10-301.** 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, elementary and secondary schools.

#### **SECTION 10-4 HOME OCCUPATIONS**

**10-401.** Regulations relating to home occupations in the MP District are set out in Article 17.

#### **SECTION 10-5 ACCESSORY USES**

**10-501.** Regulations relating to accessory uses in the MP District are set out in Article 20, at Section 20-8.

#### **SECTION 10-6 GENERAL REQUIREMENTS**

**10-601.** The requirements of this section shall apply to all manufactured home parks established after the effective date of these regulations. The requirements of 10-603:605 shall apply to the area of any expansions of manufactured home parks which were lawfully established prior to the effective date of these regulations. For purposes of this Article “expansion” means any new development which results in an increase in land area devoted to manufactured home park uses.

**10-602.** The tract to be used for a manufactured home park shall not be less than five (5) contiguous acres, unless it is an extension of, and adjoining to, an existing manufactured home park.

**10-603.** Manufactured homes shall be placed on leased spaces and not permitted to be placed on permanent foundations.

**10-604.** 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. Approval of an extension shall not be withheld by the Governing Body without good cause.

**10-605.** No manufactured home manufactured on or after June 15, 1976 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 June 15, 1976 shall be located, relocated, stored or parked in the MP District.

#### **SECTION 10-7 SPECIFIC REQUIREMENTS**

**10-701.** Except where otherwise expressly provided, the requirements of Section 10-7 shall apply to all manufactured home parks, whether operating prior to the effective date of these regulations or established thereafter.

**10-702. Water.** All 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.

**10-703. Sewage disposal.** All 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 construction code.

**10-704. 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.

**10-705. Utilities.** Electric, telephone and cable television service lines installed in 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.

**10-706. 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 flytight, 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.

**10-707. Blocking.** All manufactured homes placed in a 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.

**10-708. 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.

**10-709. 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.

**10-710. 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 manufactured home space.

## **SECTION 10-8 APPLICATION FOR PRELIMINARY APPROVAL**

**10-801.** 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 fifteen (15) 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 10-6, General Requirements, and Section 10-7, 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 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 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 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 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 park.

### **SECTION 10-9 FINAL PLAN**

**10-901.** 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 Franklin County Register of Deeds as if it were a final subdivision plat.

### **SECTION 10-10 DEVIATION FROM FINAL PLAN**

**10-1001.** 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 10-11 DISCONTINUANCE OF USE AS A MANUFACTURED HOME PARK**

**10-1101.** Whenever a park ceases to be used for such purpose for a period of twelve (12) 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 10-12 SIGN REGULATIONS**

**10-1201.** Sign regulations for the MP District are set out in Article 27.

### **SECTION 10-13 PARKING REGULATIONS**

**10-1301.** Parking regulations for the MP District are set out in Article 22.

**SECTION 10-14 VISIBLE LOT NUMBERS**

**10-1401.** 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 park and approved by the Planning Commission. It shall be the park operator's responsibility to ensure the numbering system is installed and maintained.

**ARTICLE 11**

**ELDERLY HOUSING OVERLAY DISTRICT (EH-O)**

**Sections:**

- 11-1 Intent**
- 11-2 Eligibility**
- 11-3 Uses**
- 11-4 Minimum Safety Regulations**
- 11-5 Parking Regulations**
- 11-6 Height, Area and Yard Regulations**
- 11-7 Other Regulations**

**SECTION 11-1 INTENT**

**11-101.** The regulations set forth in this Article, or set forth elsewhere in these regulations when referred to in this Article, are the regulations of the Elderly Housing Overlay District (EH-O). This residential overlay 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 senior citizens, within the underlying residential zoning districts. This district is intended to encourage significant facilities and services specifically designed to meet the physical or social needs of older persons.

**SECTION 11-2 ELIGIBILITY**

**11-201.** Housing which qualifies for inclusion in the EH-O overlay district 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 one or more of the City's R-1, R-2 or R-3 residential zoning districts and the total number of units located in the EH-O 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) or a household, regardless of age, if at least one person in the household met the age requirements of either subsections 11-201a or 11-201b 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 11-3 USES**

**11-301.** 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, except for the following uses:

- a. Any use allowed as a permitted or conditional in the underlying residential zoning district;
- b. Nursing homes, rest homes, convalescent homes, congregate living facilities, residential retirement developments, hospitals, clinics and other health care facilities; and
- c. Accessory buildings and uses, which are determined by the Zoning Administrator to be customarily incidental to providing on-site services for residents and guests of the developments in the EH-O District.

## SECTION 11-4 MINIMUM SAFETY REGULATIONS

**11-401.** All structures in the EH-O District shall be constructed to the following minimum safety standards:

- a. An accessible route into and through all dwellings.
- 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. Electrical 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 floors 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 wheel chair can maneuver about the space.

**11-402.** 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 AANSI A117.1") suffices to satisfy the requirements of this section, unless a more specific standard applies.

**11-403.** A storm shelter may be required by the Governing Body to be provided in a central location. Determination of necessary capacity shall be made by the Zoning Administrator.

**SECTION 11-5 PARKING REGULATIONS**

**11-501.**

- 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 working shift having the greatest number of employees;
- 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; and
- 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 11-6 HEIGHT, AREA AND YARD REGULATIONS**

**11-601.** Height: Buildings or structures shall not exceed forty-five (45) feet and/or three (3) stories in height.

**11-602.** Yards:

- a. Front Yard: The depth of the front yard shall be at least fifteen (15) feet.
- b. Side Yard: There shall be a side yard of at least five (5) feet on each side of a dwelling. All detached accessory buildings shall have a minimum side yard of six (6) feet.
- c. Rear Yard: The depth of the rear yard shall be at least twenty (20) feet. All detached accessory buildings shall have a minimum rear yard of twenty (20) feet.

**11-603.** 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 ninety (90) feet. Lots fronting a cul-de-sac with at least a fifty (50) foot radius must have width at the front lot line of not less than twenty-five (25) feet.

**11-604.** 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.

**11-605.** Minimum District Size: The minimum district size shall be two (2) acres.

**SECTION 11-7 OTHER REGULATIONS**

**11-701.** Additional standards required of developments in the EH-O District are:

- a. All development of structures shall occur in conformance with a plan of development, approved by the Planning Commission, showing the phases of construction.
- b. All width, depth and yard requirements for each structure shall be shown on such plan.
- c. All minimum lot area per dwelling unit requirements shall be shown on such plan.

**ARTICLE 12****HOUSING OPPORTUNITY OVERLAY DISTRICT (HO-O)****Sections:**

- 12-1 Intent**
- 12-2 Uses**
- 12-3 Parking Regulations**
- 12-4 Height Area and Yard Regulations**
- 12-5 Additional Incentives**

**SECTION 12-1 INTENT**

**12-101.** The regulations set forth in this Article, or set forth elsewhere in these regulations when referred to in this Article, are the regulations for the Housing Opportunity Overlay District (HO-O). The intent of this overlay district is to provide for greater density residential development, within the R-1 or R-2 district, on smaller than normal lot sizes in areas where residential redevelopment is desirable. These regulations also provide for additional development incentives to encourage construction of housing for buyers with wide ranges of income.

**SECTION 12-2 USES**

**12-201.** In the Housing Opportunity Overlay District no building, land or premises shall be used and no building or structure shall be hereafter erected or altered, except for the following uses:

- a. Single family, two family, and three family detached dwellings, on a permanent foundation. All group homes shall have an exterior appearance, which is in reasonable conformance to the general neighborhood standard.

(12-201-a revised 02-15-06)

- b. Accessory uses, including automobile parking areas, customarily incident to the above uses and located on the same lot therewith, not involving the conduct of a business or industry. Accessory buildings shall not exceed five hundred and eighty (580) square feet in ground floor area for single-family lots and seven hundred and twenty (720) square feet in ground floor area for two or three family lots.

(12-201-b revised 02-15-06)

**SECTION 12-3 PARKING REGULATIONS**

**12-301.** Two (2) off-street parking spaces shall be provided for each dwelling unit.

**SECTION 12-4 HEIGHT, AREA AND YARD REGULATIONS**

**12-401.** Height: Main buildings or structures shall not exceed thirty-five (35) feet and/or two and one-half (2 2) stories in height. Detached accessory structures shall not exceed a maximum of twenty (20) feet.

**12-402. Yards:**

- a. Front Yard: The depth of the front yard shall be at least fifteen (15) feet.
- b. Side Yard: There shall be a side yard of at least five (5) feet on each side of a dwelling. All detached accessory buildings shall have a minimum side yard of five (5) feet.
- c. Rear Yard: The depth of the rear yard shall be at least fifteen (15) feet. All detached accessory buildings shall have a minimum rear yard of five (5) feet.
- d. Where a garage is the same distance from the street as is the residence, the garage is subject to the fifteen (15) foot setback. Provided, however, where a garage is closer to the street than is the residence, the minimum front yard setback is twenty (20) feet.

**12-403. Lot Dimensions:** The minimum width of a lot shall be forty (40) feet on an interior lot and seventy (70) feet on a corner lot. The minimum depth of a lot shall be ninety (90) feet. Lots fronting a cul-de-sac with at least a fifty (50) foot radius shall have width at the front lot line of not less than twenty-five (25) feet.

**12-404. Lot Area Per Household:** Every single-household dwelling or residence established shall provide a minimum lot area of five thousand, eight hundred (5,800) square feet per household, every two-household dwelling or residence established shall provide a minimum lot area of three thousand, seven hundred (3,700) square feet per household and every three-household dwelling or residence established shall provide a minimum lot area of two thousand, nine hundred (2,900) square feet per household.

(12-404 revised 02-15-06)

**12-405. Size of Dwelling:** Every dwelling hereafter erected, constructed, reconstructed or altered in the HO-O District shall have a minimum habitable area, excluding basements, open and screened porches and garages, of eight hundred fifty (850) square feet.

**12-406. Maximum Building Coverage:** The maximum building coverage of a lot, including accessory buildings but excluding swimming pools, shall not exceed sixty percent (60%).

**12-407. Minimum District Size:** The minimum district size shall be twenty-three thousand, two hundred (23,200) square feet.

**SECTION 12-5 ADDITIONAL INCENTIVES**

**12-501.** Upon application to the Zoning Administrator, any of the requirements of Section 12-4 may be reduced by the Zoning Administrator by up to 20 percent (20%) to accommodate residential development upon satisfactory evidence that at least 25 percent (25%) of the dwellings to be constructed in the HO-O District will be priced to serve those earning 50 percent (50%) or less of the most recently available Franklin County median income.

**12-502.** Any appeals of a determination or other action by the Zoning Administrator pursuant to Section 12-501 shall be heard by the Planning Commission, whose decision shall be final.



## ARTICLE 12A

### PROXIMITY PARK DEVELOPMENT OVERLAY DISTRICT (PPD-O)

#### Sections:

- 12-1 Intent
- 12-2 Uses
- 12-3 Parking & Loading Regulations
- 12-4 Height Area and Yard Regulations
- 12-5 Additional Development Standards

#### SECTION 12A-1 INTENT

**12A-101.** The regulations set forth in this Article, or set forth elsewhere in these regulations when referred to in this Article, are the regulations for the Proximity Park Development Overlay (PPD-O). The intent of this overlay district is to ensure compatible development in and around Proximity Park and to develop as close as possible to the land uses identified in the master plan found at the end of this section.

#### SECTION 12A-2 USES

**12A-201.** In the Proximity Park Development Overlay District no building, land or premises shall be used and no building or structure shall be hereafter erected or altered, except for the following uses:

##### Industrial:

- a. Building and use restrictions for the Park shall be the same as set forth in the I-1 / I-2 Industrial Zoning District Regulations for the City of Ottawa, Kansas, the text of such regulations being hereby incorporated herein by this reference for the land showing as industrial in the Master Plan Map. In the event said regulations are hereafter amended or modified by the City, whichever regulation is stricter shall apply.

##### Commercial & Mixed Use:

- a. Building and use restrictions for the Park shall be the same as set forth in the C-3 Retail Commercial and MU/CI Mixed Use Commercial/Industrial Zoning District Regulations for the City of Ottawa, Kansas, the text of such regulations being hereby incorporated herein by this reference for the land showing as industrial in the Master Plan Map. In the event said regulations are hereafter amended or modified by the City, whichever regulation is stricter shall apply.

##### All Uses:

- a. In addition to the prohibitions and regulations set forth in the Zoning Regulations, no portion of the Property shall be committed to: (a) any use that creates a nuisance; (b) any use that creates or permits the excessive emission of dust, odor, smoke, gases; (c) any use that materially increases fire, explosion; and/or (d) any use involving hazardous, radioactive or toxic materials, except as may be customary in industrial parks of comparable size and quality in the Kansas City metropolitan area.

The creation and/or emission of excessive dust is prohibited. In the event, however, that

dust on or emanating from the Property or any Lot is determined by the City, in its sole discretion, to warrant abatement, the owner may be required to abate such dust at the sole expense of the Owner. Such abatement may include, but is not limited to, the following:

- (a) Increase or improve vegetative cover at parts of the Property or Lot that may contribute to airborne particulate matter.
- (b) Application of dust suppression chemicals to road surfaces.
- (c) Conduct sweeping of the Property or Lot.
- (d) Conduct road dust reduction strategies listed in Federal Highway Administration (FHWA) suggestions to reduce particulates.

- b. Accessory uses, customarily incident to the above uses and located on the same lot therewith.

### SECTION 12A-3 PARKING & LOADING REGULATIONS

**12A-301.** Parking: Employee, customer, owner or tenant parking shall be the responsibility of the property owners and they shall provide all necessary parking facilities entirely on their property. Parking on private or public streets within the overlay district or adjacent roadways is expressly prohibited. All parking areas and drives and access shall be paved with an impervious surface equal to asphalt or concrete and maintained by the owner in a well-kept condition.

Each parking space provided shall be designated by lines painted on the paved surfaces and shall be adequate in area, generally spaces will be sized nine feet wide by eighteen feet long (9' x 18') when a curb abuts and nine feet wide by twenty feet long (9' by 20') when not abutting a curb. If proposing compact car spaces, they must be 9 x 15 and no more than 10% of the required parking, for cars no longer than 14 feet.

For the office portion of the Development, it shall be the general standard that no parking spaces, parking aisles or roadways, except the access way, shall be permitted within the front ten (10) feet of the front setback. If parking spaces are provided in front of the building a landscape buffer shall be provided as described in the landscaping section of this regulation.

Adequate off-street parking shall be provided by each Owner and tenant for its customers, employees and visitors; and the parking ratios will be provided in the preliminary development plan and will be reviewed and approved by the City.

Parking shall be required per City standard based upon individual land use. Buildings in excess of one hundred thousand (100,000) square feet or users with specific parking needs may provide an independent parking study to the City for approval.

All maneuvering of vehicles shall take place on site or within a mutual access easement. No public right-of-way shall be used for backing or maneuvering into or from a parking space, or for circulation within the parking lot.

**12A-302** Off-Street Loading: Provision for handling all truck service must be totally within the building site. Buildings adjacent to any right-of-way in the overlay district area shall not have loading docks visible for these right-of-ways. Docks and loading areas facing non-industrial uses within the development shall be screened in accordance with the landscape provisions described in Article 20, Landscaping Regulations. All loading service areas shall be paved with an impervious surface equal to asphalt or concrete. All side and rear loading service areas shall be properly screened from view from all existing or proposed streets, roads, or highways by walls, earth berms, and/or plant material.

**SECTION 12A-4 HEIGHT, AREA AND YARD REGULATIONS**

**12A-401.** Height: buildings or structures shall not exceed the height permitted by the underlying zoning district.

**12A-402.** Yards: Apply the required yard setbacks of the underlying zoning district.

**12A-403.** Lot Dimensions: The minimum area shall conform with the required lot area of the underlying zoning district.

**12A-404.** Minimum District Size: The minimum district size shall be 40 acres, more or less.

**SECTION 12A-5 ADDITIONAL DEVELOPMENT STANDARDS**

**12A-501.** Design Guidelines: The purpose of these design guidelines is to encourage development that will contribute to the overall aesthetics of the Proximity Park Development District as a unique place by enhancing the built environment. These guidelines are intended to ensure that new development and redevelopment will be compatible and will enhance the overall appearance of the Proximity Park Development District. Exceptions to requirements may be allowed on a case by case basis by the Planning Commission upon submission and approval of the drawings and details of the proposed project.

**12A-502.** Building Materials and Construction: All buildings and other structures within Proximity Park District shall be constructed of attractive exterior sides of high quality materials including masonry, concrete, glass, and metal (when used in an incidental role).

One hundred percent (100%) of the surface of each exterior wall (excluding doors and windows) facing a public street, residential use or public open space shall consist of materials including but not limited to stone, brick, glass block, tile, cast metal, cast or cultured stone, concrete (tilt-up walls), glass, or a combination of these materials. The use of other cementitious products (e.g. stucco, Hardy Plank, or other similar materials) shall be limited to fifty percent (50%) of the buildings' exterior finishes where it is deemed important as a design feature and where it will be applied under the highest standards for quality and durability. However, stucco may not be located in the first eight feet (8') above grade on a façade visible from a public right-of-way or a public area.

Specific materials which will be excluded include exposed (i) galvanized metal facades, (ii) nondecorative cinder or concrete block, and (iii) double T concrete panels.

Exterior mechanical or electrical equipment, including, but not limited to, HVAC equipment shall be so placed or screened that the predominant design lines of the building or structure continue without visual distraction or interruption. If the function of the building or structure dictates placement of such equipment in such a manner or location that the building exterior walls themselves are unable to screen the equipment from view of adjacent existing or proposed streets or highways, they must be separately screened using materials compatible with the approved building materials with use of an appropriately designed parapet wall and the height of such screening shall be equal to the height of the equipment to be screened; or with acceptable landscaping. Accessory buildings, enclosures, appurtenant structures to, or extrusions from, any building or structure shall be of similar or compatible materials, design and construction.

When more than one (1) building is planned for PPD-O District property, the development plan shall

demonstrate integration and coordination of the architectural design for buildings, structures, landscaping and open space.

Buildings should be oriented so that the front or side of the building faces the public street frontage of the property. The City will consider an exception to orient a rear elevation towards a public street for unique situations due to the configuration of the lot.

**12A-503. Building Material Colors:** Color of materials used on the construction of all buildings, enclosures, and appurtenant structures shall be consistent throughout the entire development and will present a **predominantly warm earth** tone appearance. Exact color palette and materials will be approved by the City Manager.

**12A-504. Architectural Design Standards:**

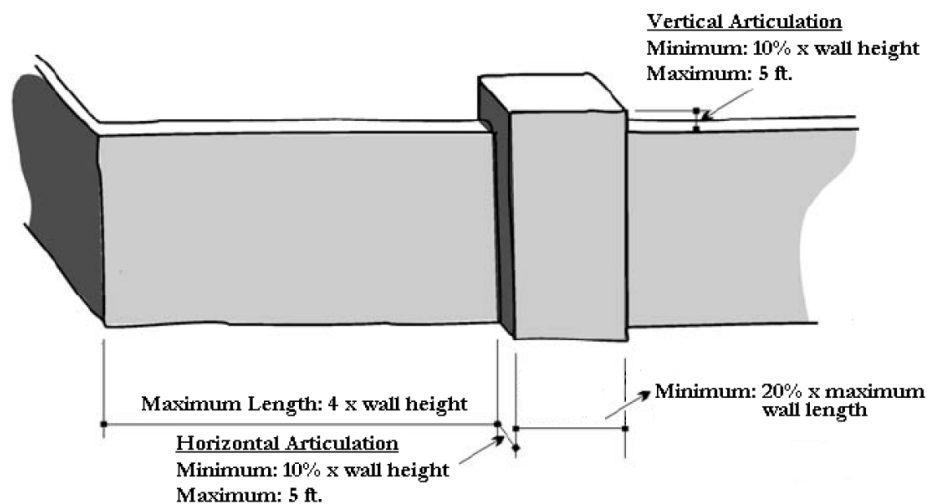
- a. **Building Massing and Scale.** A building's massing is defined as its exterior volume. The height, width and depth of a structure create the overall massing of a building. A building's scale is the relationship of its overall size and its component parts with its adjoining spaces and buildings.
- b. **Large Expanses.** Large expanses of blank walls of any material or metal siding are not allowed. Building facades over one hundred feet (100') long facing public right-of-way or residential property shall break up massing of buildings by dividing building facade into smaller components with a minimum of three (3) of the following elements:
  1. Articulating details around doors, windows, balconies, plate lines, providing details such as "belly-bands," recessed design elements, interesting cornice treatment details, exposed expansion joints, reveals, change in texture, or other such methods of visual relief;
  2. Avoiding long, repetitive, monotonous facades – particularly those that repeat the same design element several times along the same elevation;
  3. Use of darker building color and varied wall treatments;
  4. Varying roof lines (see Vertical Articulation section); and
  5. Change of wall plane (see Horizontal Articulation section).
- c. **Facade Guidelines:**
  1. **Horizontal Articulation.** Walls facing a public right-of-way or a residentially zoned property shall not extend for a distance greater than four (4) times the wall's height without having an off-set of ten percent (10%) of the wall's height (maximum of five (5) feet); the new plane shall extend for a distance equal to a minimum of twenty percent (20%) of the maximum length of the first plane. The City may allow exceptions to this requirement upon review and approval of a typical façade elevation.

Walls not facing a public right-of-way or a residentially zoned property and loading dock doors are exempt from the horizontal articulation requirement.

2. Vertical Articulation. Walls facing a public right-of-way or a residentially zoned property shall not extend for a distance greater than four (4) times the height of the wall without changing height by a minimum of ten percent (10%) of the wall's height (maximum of five (5) feet). The City may allow exceptions to this requirement upon review and approval of a typical façade elevation.

Walls not facing a public right-of-way or residentially zoned properties are exempt from the vertical articulation requirement.

Figure 3. Horizontal and Vertical Articulation



**12A-505. Outside Storage and Equipment in Industrial Zones:** Although the outdoor storage of materials in Proximity Park is not preferred, the City recognizes it may be necessary. The temporary storage of cargo containers, operational trailers and tractors shall be allowed in the PPD-O District for up to 30 days. For long term storage, the storage shall be on hard surface or porous surface (if porous is to include rock, it must be clean rock to allow stormwater to permeate) and must be identified with site plan submitted to the City and consistent with the conditions below. If a need arises later, to accommodate businesses that are experiencing growth and/or change the process for approval must be applied for prior to establishing any storage. Considering this, the outdoor storage of materials may be permitted in accordance with the following regulations with a formal application and review. These regulations do not apply to the customary trailer parking activities associated industrial uses.

1. A request must be made to the City Manager and granted to allow outside storage.
2. Included with the request be a written explanation as to why the business needs the outdoor storage, how long they intend to have the outdoor storage and what their long term plan is to accommodate the storage.
3. Outside storage areas may only be permitted within areas that have a screening

mechanism (wing wall, building bump out, or landscaping if already existing or dense enough to cover for the term needed, etc.) along Kingman, Montana or I-35. If not along the roadway, screening still required, but may be done with fencing if approved.

4. The maximum outside storage area shall be based on the businesses inside space. 10,000 square feet of first floor indoor space = 1,000 square feet of outside storage area.
5. Storage areas shall be located adjacent to the building and shall not extend more than 5 feet less than the length of the screening mechanism (i.e. – if the wing wall extends 80 feet from the building, the storage area shall not extend beyond 75 feet).
6. Storage areas on hard surface shall be designated by yellow pavement markings.
7. The maximum height of stored items shall not exceed 10 feet, but the application shall state the proposed height.
8. Storage areas shall not impede vehicular traffic and emergency access points.
9. All materials being stored must be associated with the business that is located in the building adjacent to the storage area. A detailed list and photos of materials to be stored must be submitted with the application.
10. Storage areas shall be maintained in a neat and orderly manner.
11. If a business receives more than 2 written code violation notices associated with the outdoor storage in a calendar year the permit will be revoked. The business must wait 1 year from the date of revocation before applying for another permit for outdoor storage.

**For All Locations in Proximity Park Development Overlay:**

Any facilities for storage of waste and rubbish shall be maintained within a screened area in closed metal containers of type approved.

Each Owner and tenant shall keep its premises, buildings and improvements and appurtenances in a safe, sightly, clean, neat and wholesome condition, and shall comply in all respects with all governmental, health and police requirements. Removing promptly to the extent reasonably practicable, snow, ice, surface water and debris. Each Owner and tenant shall remove, at its own expense, any rubbish or trash of any character which may accumulate on its property and shall keep unlandscaped and landscaped areas neat and well-maintained. Rubbish and trash shall not be disposed of on the premises by burning in open fires or incinerators. All rubbish and trash containers shall be properly screened by an appropriate enclosure.

**12A-506. Permanent Park Signage:** No sign shall be erected, placed or otherwise installed upon a Building Site or affixed to a Building, structure, or other improvement erected on a Building Site until the plans for such sign shall have been approved by the City. Flashing or moving signs shall be prohibited. Product or service replicas or models shall be prohibited. The location, size, and design of all signs must be in keeping with the character of the Park. All signage must be kept clean, distinct, and legible and in compliance with Article 27 of the City's Zoning Regulations.

**12A-507.** Landscaping: All open areas on any building site not occupied by buildings, storage, parking, access roads and loading shall be suitably graded with a slope not to exceed 3:1 to allow for mowing and drainage and shall be maintained in lawn, trees, and/or shrubs, including lawn irrigation in all such areas. It is the intent of these regulations to provide a park-like setting for the buildings, as well as to screen objectionable areas.

1. Overlay Area: All lots are required to provide a minimum landscape buffer of ten feet (10') along public right-of-way, utilizing deciduous shade and ornamental trees, evergreen trees and shrubs.
2. Building Site (Pervious Area): Building site shall include a minimum of one (1) two and one-half (2-½) inch caliper deciduous or evergreen tree (8' in height) for each two thousand five hundred (2,500) square feet of pervious/green space area, to be planted in side yard, front yard or rear of building at common area. Substitutions are allowed for pervious area calculation only based upon the following:
 

1 Shade Tree (2-1/2" cal.) or Evergreen Tree (8' ht) = 20 shrubs 3' in height or 2 ornamental trees 6' in height.
3. Building Frontage at Street: 1 Shade Tree (2-1/2" cal.) or Evergreen Tree (8' ht) for every 50 feet of street frontage to be planted along the street right-of-way.
4. Common Area side or Building Rear: 1 Shade Tree (2-1/2" cal.) or Evergreen Tree (8' ht) for every 50 feet of frontage on common area such as, lakes and canals.
5. Parking Lots: Landscaped islands should be added at the ends of all parking rows and should be bermed and planted with either sod or landscaping.
  - 1 Shade Tree (2-1/2" cal.) or Evergreen Tree (8' ht) for every 200 square foot of parking lot islands.
  - Fifty percent (50%) of the parking lot should be screened from view with shrubs 3' in height.
6. Building Foundation: Forty percent (40%) of the building foundation should be landscaped with ground covers, shrubs and ornamental trees.

The landscape development, having been installed, shall be maintained by Owner in a neat and adequate manner, which shall include the mowing of lawns, trimming of hedges, other such maintenance and watering including the installation of lawn irrigation on all sites. The landscaping shall be implemented and completed within six (6) months after certificate of occupancy of the building has been issued. Care for and replanting all landscaped and planted areas so as to not allow dead or unsightly plants to remain within its Lot is required. All trees, shrubs and other landscaping materials designed and installed shall be considered as required elements of the project in the same manner as other elements of the project. If plantings fail or are removed, installation of like plants shall be required.

**12A-508.** Exterior Lighting: Lighting of buildings and public areas, such as parking, plazas, landscaping, fountains, sculptures, and walkways is required. All site lighting will be accomplished by using concealed source fixtures with a minimum average illumination in accordance with the requirements of the City of Ottawa, Kansas. All exterior lighting will be LED, white in color and constant in nature, specifically excluding traveling, flashing or intermittent illumination of any kind

and must be so arranged or shielded as to avoid glare or reflection onto any adjacent existing or proposed streets, highways, ponds or building sites. Pole mounted fixtures will have a maximum pole height of thirty-two (32) feet, including the base.

**12A-509.** Fencing: All fencing on any building site shall be compatible with the building materials used in the construction of the major structure on said building site. All metal fencing shall be wrought iron like and shall be screened by landscaping from view from existing or proposed streets, highways and contiguous building sites.



**ARTICLE 13**

**HISTORIC CONSERVATION OVERLAY DISTRICT (HC-O)**

**Sections:**

- 13-1 Intent**
- 13-2 Selection Criteria**
- 13-3 Uses**
- 13-4 Development/Design Standards**
- 13-5 Establishment of Overlay District**
- 13-6 Procedure**

**SECTION 13-1 PURPOSE**

**13-101.** The HC-O, Historic Conservation Overlay District, is intended to:

- a. Encourage development that conforms to the size, orientation and setting of existing buildings in a neighborhood or area;
- b. conserve and improve the value of property in and around designated landmarks and other historic properties within the community;
- c. foster and encourage preservation, restoration, and rehabilitation of structures, areas and neighborhoods;
- d. conserve the cultural resources, historic resources and property values within an identified neighborhood or area; and
- e. foster civic pride in the beauty and noble accomplishments of the past as represented in the city's landmarks, historic districts, and historic resources.

**SECTION 13-2 SELECTION CRITERIA**

**13-201.** An HC-O Overlay District must be a geographically defined area that has a significant concentration, linkage or continuity of sites that are united by physical development, architecture or history. Emphasis shall be upon compact, contiguous areas. To be eligible for HC-O overlay zoning, the underlying zoning of the area must be one or more of the following: R-1, R-2, R-3, TN, C-1, C-2, C-3, C-4 or MU; and the area must comply with the following criteria:

- a. The general pattern of development, including streets, lots and buildings, must have been established at least 50 years prior to creation of the district.
- b. The area must possess built environmental characteristics that create an identifiable setting and character.
- c. The area must be covered by a neighborhood or area plan approved by the Governing Body.

- d. The designated area must be a contiguous area of at least 3 acres in area. Areas of less than 3 acres may be designated if they abut an existing HC-O district.
- e. The area should embody distinguishing characteristics of architectural styles valuable for the study of a period, type, method of construction, or use of indigenous materials.
- f. The area should be identified as a work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community, county, state or nation.
- g. The area should embody elements of design, detailing, materials, or craftsmanship that render it architecturally significant, or structurally or architecturally innovative.
- h. The area should have a unique location or singular physical characteristics that make it an established or familiar visual feature.

### **SECTION 13-3 USES**

**13-301.** The HC-O Overlay District does not regulate the use of land or the use of buildings or structures. The uses are controlled by the regulations of the underlying base zoning district or districts.

### **SECTION 13-4 DEVELOPMENT/DESIGN STANDARDS**

**13-401.** In establishing an HC-O District, the Planning Commission is authorized to propose, and the City Commission is authorized to adopt, by ordinance, district-specific development and design standards to guide development and redevelopment within the HC-O district.

- a. When development/design standards have been approved, each application for alteration within the designated HC-O district must comply with those standards.
- b. When there are conflicts between the development standards of the underlying base zoning district and adopted HC-O district development standards, the HC-O development/design standards will govern.
- c. The development/design standards will be administered by city staff in accordance with adopted administrative policy.
- d. The City Commission is the final decision-making authority in determining whether a proposed project meets the adopted development/design standards.
- e. The Board of Zoning Appeals will have no authority to grant interpretations, exceptions or variances from the adopted development/design standards.

### **SECTION 13-5 ESTABLISHMENT OF OVERLAY DISTRICT**

**13-501.** HC-O overlay zoning is established only upon application of property owners and in accordance with the amendment procedures of Article 26, subject to the following provisions:

- a. Applications may only be initiated by petition signed by both (1) the owners of record of at least 70% of the area within the proposed HC-O district and (2) at least 70% of the number of record owners of property within the proposed district.
- b. The Planning Commission must submit written recommendations to the City Commission regarding the creation of HC-O districts.

**SECTION 13-6 PROCEDURE**

**13-601.** Upon receipt of an application for HC-O district zoning, the following procedures apply:

- a. Unless otherwise expressly stated, the amendment procedures of Article 26 apply.
- b. Following public hearing, the Planning Commission shall make a recommendation that the HC-O district zoning be approved, approved with condition(s) or denied. The recommendation shall be accompanied by a report to the City Commission containing the following information:
  - 1. An explanation of how the area meets or does not meet the selection criteria contained in Section 13-2;
  - 2. In the case of an area found to meet the criteria in Section 13-2, a description of the general pattern of development, including streets, lots and buildings in the area;
  - 3. An explanation of the planning and zoning implications related to the designation of the proposed area and related to the district-specific development and design standards recommended by the Planning Commission;
  - 4. District-specific development and design standards to guide redevelopment and development within the district; and
  - 5. A map showing the recommended boundaries of the HC-O Overlay District.

## ARTICLE 14

### COMMERCIAL ZONED DISTRICTS (C-1:C-4)

#### Sections:

- 14-1 Intent
- 14-2 Commercial Zoning Districts
- 14-3 Permitted and Conditional Uses
- 14-4 Intensity of Use
- 14-5 Height, Area and Yard Regulations
- 14-6 Development Standards
- 14-7 Sign Regulations
- 14-8 Parking Regulations
- 14-9 Off-Street Loading and Unloading Regulations
- 14-10 Supplemental Regulations
- 14-11 Travel Trailer Parks
- 14-12 Site Plans

#### SECTION 14-1 INTENT

**14-101.** It is the intent of the commercial zoning districts to provide for areas of compatible commercial and service businesses. See sections 4-12:15.

#### SECTION 14-2 COMMERCIAL ZONING DISTRICTS

**14-201.** 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.

#### SECTION 14-3 PERMITTED AND CONDITIONAL USES

**14-301.** In the commercial zoning districts the uses listed in Table 14-1 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 14-1.

**TABLE 14-1**

**P** = Indicates Permitted Uses

**C** = Indicates Conditional Uses

USE		C-1	C-2	C-3	C-4
1.	Adult businesses			C (7)	
2.	Ambulance service.			P	P
3.	Amusement places, indoor.			P	P
4.	Animal hospitals.			P (1)	P (1)
5.	Any public building or land use by any department of the City, county, state or federal government.	C (2)	C (2)	P (2)	P (2)
6.	Artists, authors, composers, studios and galleries.	P	P	P	P
7.	Artisanal food and beverage production.				P (10)
8.	Artisanal manufacturing, production and industrial services.				P (10)
9.	Auditoriums, exhibition halls, fairgrounds, stadiums and similar uses.			P	P
10.	Automobile wash services.			P	P
11.	Bed & Breakfast.	C	C		
12.	Bowling alleys.			P	P
13.	Brewpub		C	P	P
14.	Building contractors, including air conditioning, heating, plumbing and electrical.			P	P
15.	Churches, similar places of worship.	P	P	P	P
16.	Day care facilities: child care centers, day care homes, family day care homes, group day care homes and preschools.	P	P	P	P
17.	Dry cleaners and laundries, including self-service.			P	P
18.	Dwellings:				
	a. When dwelling unit(s) located on ground floor of commercial structure, but not to exceed 50% of structure's ground floor area.	C		C	P
	b. When dwelling unit(s) located on other than ground floor of commercial structure.	P		P	P
	c. Dwelling units w/o associated commercial use.				C (8)
19.	Electric, telephone and sewer substations.	P	P	P	P
20.	Farm Winery			P(5),(9)	P(5),(9)
21.	Food catering service, lockers-storage.			P	P

22.	Fraternal, civic and social organizations.			<b>P</b>	<b>P</b>
23.	Funeral, crematory and mortuary services.	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
24.	Furniture repair, upholstering.			<b>P</b>	<b>P</b>
25.	Garden supplies, nurseries, greenhouses.			<b>P</b>	<b>P</b>
26.	Golf driving ranges, outdoor.			<b>C</b>	
27.	Health and exercise spas, gyms.	<b>P (3)</b>	<b>P (3)</b>	<b>P</b>	<b>P (3)</b>
28.	Hospitals, clinics, laboratories.	<b>P (3)</b>	<b>P (3)</b>	<b>P</b>	<b>P (3)</b>
29.	Hotels, motels.			<b>P</b>	<b>P</b>
30.	Industrial laundry and linen supply services.			<b>C</b>	<b>C</b>
31.	Kennels; boarding and breeding, when within an enclosed structure.			<b>C</b>	
32.	Manufactured home sales.			<b>P</b>	
33.	Microbrewery / Microdistillery			<b>P(5),(9)</b>	<b>P(5),(9)</b>
34.	Miniature golf.			<b>P</b>	<b>P</b>
35.	Mini-storage, self-storage.			<b>C</b>	
36.	Monument sales.			<b>P</b>	<b>P</b>
37.	Motor vehicle repair shops and body shops.			<b>P (4)</b>	<b>C(4),(3)</b>
38.	Nursing homes, rest homes, convalescent homes and similar facilities.	<b>P (3)</b>	<b>P (3)</b>	<b>P</b>	<b>P (3)</b>
39.	Offices: professional, business, educational, religious, philanthropic and public	<b>P (3)</b>	<b>P (3)</b>	<b>P</b>	<b>P (3)</b>
40.	Commercial printing, including newspaper publishing.			<b>P</b>	<b>P</b>
41.	Private clubs, bars, taverns and drinking establishments.			<b>P (5)</b>	<b>P (5)</b>
42.	Radio and television broadcasting studios (without transmission towers).	<b>P</b>		<b>P</b>	<b>P</b>
43.	Radio or television broadcasting studios (with transmission towers).			<b>P</b>	<b>C</b>
44.	Radio, television or telephone transmitting station or towers, subject to further regulations set out in Article 29.			<b>C</b>	<b>C</b>
45.	Recreational vehicles, trailers, equipment rental or sales.			<b>P</b>	
46.	Research-development-testing other than those involving explosives, hazardous or toxic materials.	<b>C</b>		<b>P</b>	<b>P</b>
47.	Restaurants.		<b>P (3)</b>	<b>P</b>	<b>P (3)</b>

48.	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; convenience stores; 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; computers, office equipment and supplies; and service stations.		<b>P (3)</b>	<b>P</b>	<b>P (3)</b>
49.	Retail sales of services including, but not limited to: banks; barber and beauty shops; 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.	<b>C</b>	<b>P</b>	<b>P</b>	<b>P</b>
50.	Schools: a. Public and private elementary schools.	<b>C</b>	<b>C</b>	<b>C</b>	<b>C</b>
	b. Public and private secondary schools.	<b>C</b>	<b>C</b>	<b>C</b>	<b>C</b>
	c. Postsecondary educational institutions.			<b>P</b>	<b>P</b>
	d. Business, remedial education, training and vocational schools.	<b>C</b>	<b>C</b>	<b>P</b>	<b>P</b>
51.	Storage or warehousing, except for products of a highly explosive, combustible or volatile nature.			<b>C</b>	<b>C</b>
52.	Temporary / transitional housing.				<b>P</b>
53.	Theaters, indoor.			<b>P</b>	<b>P</b>
54.	Theaters, outdoor.			<b>C</b>	
55.	Travel trailer parks.			<b>C (6)</b>	
56.	Truck wash services.			<b>C</b>	
57.	Wholesale establishment.			<b>C</b>	<b>C (3)</b>
58.	Any other use determined by the Zoning Administrator to be of the same general character as the above listed uses.	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>

(Table 14-1 added #1 07-18-07); (Table 14-1 added C to #15 01-07-15); (Table 14-1 added #'s 11, 18, & 31 05-06-16); (Table 14-1 added #'s 7, 8, & 57 09-19-18); (Table 14-1 added #52 12-05-18)

**Permitted and conditional use footnotes:**

1. Providing all services, runs and pens are within an enclosed building.

2. Except for uses of an industrial nature and uses involving outdoor storage of materials.
3. Subject to intensity standards of Section 14-4.
4. Provided all work is performed and all materials are stored within an enclosed building. No more than three (3) vehicles or one (1) per service bay, whichever is greater, may be parked outside a building.
5. Provided not located within 200 feet of a church, school or hospital.
6. Subject to requirements set out in Section 14-11.
7. Provided the Adult Business:
  - a. At all times holds a current and valid adult business permit issued by the City; and
  - b. Complies with the following separation distances:
    - (1) For adult bookstores, adult video stores, and adult news racks, as those terms are defined in Section 11-1002 of the Ottawa Municipal Code: At least 500' from any structure lawfully used as a library, church, hospital, public or private school, public park or playground, or another adult business.
    - (2) For any other adult business, as that term is defined in Section 11-1002 of the Ottawa Municipal Code, other than those subject to subsection 7.b.(1) above: At least 1,000' from any structure lawfully used as a library, church, hospital, public or private school, public park or playground, or another adult business.

(Table 14-1-Footnote-7 added 07-18-07)

8. Properties in the C-4 District that do not have frontage on Main Street may be developed dwellings without an associated commercial use provided one parking space per dwelling unit is provided, at the intensity described in Section 14-4.

(Table 14-1 Footnote-8 added 01-07-15)

9. For all micro-alcohol production facilities (microbrewery, microdistillery, farm winery):
  - a. Tasting rooms are limited to 750 square feet in size, or an appropriate size as determined by the City's Chief Building Official.
  - b. Only beverages produced onsite may be served in the tasting room.
  - c. A security plan, approved by the Police Department, must be provided prior to operation of the facility.
  - d. Outdoor patios should be no larger than 400 square feet, or no larger than 50% of tasting rooms larger than 750 square feet (or other appropriate size to be determined by the City's Chief Building Official) in order to minimize potential conflicts with adjoining land uses.
  - e. Appropriate screening (as determined by the Zoning Administrator) will be required to buffer the outdoor area from any adjoining residential districts and/or uses.

(Table 14-1 Footnote-9 added 05-06-16)



10. For all permitted artisanal manufacturing, production and industrial services:
  - a. Retail sales of the product produced on site are allowed. If to be consumed off-site, the product must be in the original packaging. The product may also be sold and served on-site, and accessory retail sales of related items are permitted.
  - b. All equipment used in the production and all products produced must be located within the principal building.
  - c. The production process shall not produce odors, dust, vibration, noise, or other external impacts that are detectable beyond the property lines of the subject property.

(Table 14-1 Footnote-10 added 09-19-18)

**14-302.** No adult business shall be located within the boundaries of the Urban Growth Area other than as: (1) an adult business located in Franklin County’s C-2 Highway Commercial District with a valid special use permit issued in compliance with Section 11-3.01 of the Franklin County Zoning Regulations, or (2) an adult business located upon land rezoned to City of Ottawa C-3 General Commercial District with a valid conditional use permit issued in compliance with Section 14-3 of the City of Ottawa Zoning Regulations.

(14-302- Added 07-18-07)

**SECTION 14-4 INTENSITY OF USE**

**14-401.**

- a. For any use, whether permitted or conditional, indicated in Table 14-1 as being subject to intensity standards, structures shall not exceed the following ground floor areas:

- C-1: 5,000 sq. ft.
- C-2: 5,000 sq. ft.
- C-3: No limitation.
- C-4: 10,000 sq. ft.

- b. Residential uses in the C-4 District that do not have an associated commercial use shall have not less than 1,500 sq. ft. of lot area per dwelling unit.

(14-401-b Added 01-07-15)

- c. The standards in this section may be not be varied from, whether by administrative variance and/or by action of the Board of Zoning Appeals, by an amount greater than 25% of the standard from which variation is sought.

**SECTION 14-5 HEIGHT, AREA AND YARD REGULATIONS**

**14-501.**

- a. *Height:* Except as otherwise provided in Article 24, no building or structure shall exceed forty-five (45) feet in height in the C-1, C-2, C-3 and C-4 zoning districts.
- b. *Area:* In the commercial zoning districts the minimum lot width shall be twenty-five (25) feet and minimum lot depth fifty (50) feet.

- c. *Yard:* Front, side and rear yards shall comply with Table 14-2. Additional yard regulations are set out in Section 24-2.

**TABLE 14-2**

<i>District</i>	<i>Front Yard (1)</i>	<i>Side Yard</i>	<i>Rear Yard (2)</i>
C-1	20 ft.	5 ft. – 1 or 2 stories 8ft. – 3 stories	20 ft.
C-2	20 ft.	10 ft. where property adjoins any residential-zoned district.	25 ft. where property adjoins any residential-zoned district.
C-3	0	10 ft. where property adjoins any residential-zoned district.	25 ft. where property adjoins any residential-zoned district.
C-4	0	0	0

(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 14-6 DEVELOPMENT STANDARDS**

**14-601.**

- a. C-1, C-2 and C-4 zoning districts: All business, storage, service of goods shall be located completely within an enclosed structure.
- b. C-3 zoning district: 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.
- d. C-4 zoning district: A building or structure may occupy 100 percent (100%) of a lot in the C-4 district. If the entire lot is so occupied no landscaping or screening otherwise required by these regulations shall apply.

**SECTION 14-7 SIGN REGULATIONS**

**14-701.** Sign regulations for the commercial districts are set out in Article 27.

**SECTION 14-8 PARKING REGULATIONS**

**14-801.** Parking regulations for the commercial districts are set out in Article 22.

**SECTION 14-9 OFF-STREET LOADING AND UNLOADING REGULATIONS**

**14-901.** Off-street loading and unloading regulations for the commercial districts are set out in Article 23.

**SECTION 14-10 SUPPLEMENTAL REGULATIONS**

**14-1001.** Supplemental regulations for the commercial districts are set out in Article 24.

**SECTION 14-11 TRAVEL TRAILER PARKS**

**14-1101. 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.

**14-1102. Where Allowed.** 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.

**14-1103. 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 ten (10) 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 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 no more than thirty (30) consecutive calendar 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.

**14-1104. 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.

**14-1105. Sewage Systems.** An approved sewage system shall be provided within each travel trailer park. Where a public sewage system is located within five hundred (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.

**14-1106. 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.

**14-1107. 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.

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

- 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.

**14-1108. 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 flytight, 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.

**14-1109. 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.

**14-1110. 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 14-12 SITE PLANS**

**14-1201.** 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 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 light and heavy industrial uses and for other compatible uses. Light Industrial (I-1) uses generate few effects felt off-site, such as smoke, noise or odor. Heavy Industrial (I-2) uses tend to be basic or primary industries which do often produce vibration, smoke, noise, odor, glare, dust and other effects that travel off-site. See also sections 4-16:17.

**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

	<b>USE</b>	<b>I-1</b>	<b>I-2</b>
1.	Agricultural.	<b>P</b>	<b>P</b>
2.	Airplane hangars.	<b>P</b>	<b>C</b>
<b>3.</b>	<b>Alcohol Manufacturers</b>		<b>P</b>
4.	Animal hospitals or veterinarian clinics.	<b>P</b>	<b>P</b>
5.	Automobile and truck wrecking or salvage yards, junk yards and scrap processing yards.		<b>C</b>
6.	Building material sales including lumber yards (except for ready-mix concrete and similar uses which emit dust, odor and smoke.)	<b>P</b>	
7.	Carpenter, cabinet, plumbing or sheet metal shops.	<b>P</b>	<b>P</b>
8.	Contractor's office and equipment storage yard.	<b>P</b>	<b>P</b>
9.	Dog kennels.	<b>P</b>	<b>P</b>
10.	Dry cleaning and/or laundry plants.	<b>P</b>	<b>P</b>
11.	Farm Winery	<b>P</b>	
12.	Farm implement sales and services.	<b>P</b>	
13.	Feed and seed stores, grain elevators.	<b>C</b>	<b>P</b>
14.	Frozen food lockers.	<b>P</b>	<b>P</b>
15.	Greenhouses and nurseries, retail and wholesale.	<b>P</b>	
16.	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.	<b>P</b>	
17.	Machine shops, tool and die shops, and similar establishments	<b>P</b>	<b>P</b>
18.	Machinery sales and storage lots, including motor vehicles.	<b>P</b>	<b>C</b>
19.	Manufacturing, processing or fabrication establishments which are not noxious or offensive by reason of vibration, noise, dust fumes, gas, odor.		<b>P</b>
20.	Manufactured home production, storage and sales of units produced on-site.		<b>P</b>
21.	Microbrewery / Microdistillery	<b>P</b>	
22.	Motor vehicle repair.	<b>P</b>	<b>P</b>
23.	Offices and service yards for the Kansas Department of Transportation.	<b>P</b>	<b>P</b>
24.	Other uses which may be noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise or vibration.		<b>C</b>



25.	Public utility and public service uses including: municipal power plants; substations; lift stations; railroads; telephone exchanges, microwave towers, radio towers, television towers, telephone transmission buildings; electric power plants; and public utility storage yards.	<b>P</b>	<b>P</b>
26.	Recycling center, for collection of household recyclables including newspapers, aluminum cans and plastic containers.	<b>C</b>	
27.	Self-storage (mini-storage).	<b>P</b>	
28.	Service stations.	<b>P</b>	<b>P</b>
29.	Stockyards and slaughterhouses.		<b>C</b>
30.	Storage of bulk oil, gas, explosives and similar materials.		<b>C</b>
31.	Storage yards providing the storage yard is completely enclosed with a six foot fence or wall.		<b>P</b>
32.	Telecommunication towers subject to the further requirements of Article 29.	<b>C</b>	<b>C</b>
33.	Truck wash establishments.	<b>P</b>	
34.	Truck and rail terminals.	<b>P</b>	<b>P</b>
35.	Warehouses or storage houses.	<b>P</b>	<b>P</b>
36.	Welding shops.	<b>C</b>	<b>P</b>

(Table 14-1 added #'s 11 & 21 05-06-16)

**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 24. (15-301-a revised 09-05-07)
- 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 24. (15-301-b revised 09-05-07)
- 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. Further, the portion of the building or structure used for such retail sales or service shall not exceed ten (10) percent of the total square footage of the building or structure.
- 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 (90) percent.

- f. For all micro-alcohol production facilities (microbrewery, microdistillery, farm winery):
  - a. Tasting rooms are limited to 750 square feet in size, or an appropriate size as determined by the City’s Chief Building Official.
  - b. Only beverages produced onsite may be served in the tasting room.
  - c. A security plan, approved by the Police Department, must be provided prior to operation of the facility.
  - d. Outdoor patios should be no larger than 400 square feet, or no larger than 50% of tasting rooms larger than 750 square feet (or other appropriate size to be determined by the City’s Chief Building Official) in order to minimize potential conflicts with adjoining land uses.
  - e. Appropriate screening (as determined by the Zoning Administrator) will be required to buffer the outdoor area from any adjoining residential districts and/or uses.

(15-301-f added 05-06-16)

**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 any 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 any 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.* No front yard shall be required. Lots fronting on arterial or collector streets shall comply with the front yard requirements provided in Article 24.

(15-401-b1, revised 09-05-07)

- 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.** Regulations for the screening of industrial uses from adjacent residential land are set out in section 24-4.

**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**  
**PUBLIC USE DISTRICT (P)**

**Sections:**

- 16-1 Intent**
- 16-2 Permitted Uses**
- 16-3 Parking Regulations**
- 16-4 Sign Regulations**
- 16-5 Height, Area and Yard Regulations**

**SECTION 16-1 INTENT**

**16-101.** The “P” Public Use District is intended for application to sites in public ownership and used for major public facilities.

(Updated April 5, 2017)

**SECTION 16-2 PERMITTED USES**

**16-201.** Any activity of a governmental, civic or public institutional nature, when utilizing major public facilities and located on lands in city, county, state or federal ownership, is a permitted use in the P District. Major public facilities include, but are not limited to:

(16-201 revised 01-15-20)

- a. Animal shelters
- b. Armories
- c. Athletic complexes
- d. Auditoriums
- e. Cemeteries, public and private
- f. Courthouse
- g. Fairgrounds
- h. Generating plants
- i. Hospitals
- j. Museums
- k. Parks and public recreational facilities  
(16-201-k revised 01-15-20)
- l. Public schools, including business, technical, trade or vocational schools

- m. Private or public university's or college's  
(16-201-m added 01-15-20)
- n. Temporary/transitional housing  
(16-201-m added 12-05-18)
- o. Water and wastewater treatment plants, pumping and lift stations
- p. Zoos  
(16-201-p added 04-05-17)

### SECTION 16-3 PARKING REGULATIONS

**16-301.** Parking regulations for the P District are set out in Article 22.

### SECTION 16-4 SIGN REGULATIONS

**16-401.** Sign regulations relating to the P District are set out in Article 27.

### SECTION 16-5 HEIGHT, AREA AND YARD REGULATIONS

#### **16-501.**

- a. Height.
  - 1. For any structure located within one hundred feet (100') of any residential district, the maximum height of the nearest residential district shall apply. There shall be no height requirement for structures more than one hundred feet (100') from such residential district.
- b. Yard.
  - 1. *Front yards:* (a) For structures less than forty-five (45) feet in height, 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 shall have a setback equal to the setback of such adjoining residential district. (b) For structures greater than forty-five (45) feet in height, in addition to the requirements in section 16-501.a.1.(a), there shall be an additional one (1) foot setback for each one (1) foot of structure height exceeding forty-five (45) feet.
  - 2. *Side and rear yards:* No side or rear yard shall be required, except where such use abuts a residential district there shall be a minimum of ten feet (10') side and/or rear yard.

**ARTICLE 17****MIXED USE DISTRICTS (MU)****Sections:**

- 17-1 Intent**
- 17-2 Permitted and Conditional Uses: MU/RC District**
- 17-3 Permitted and Conditional Uses: MU/CI District**
- 17-4 Home Occupations: MU/RC District**
- 17-5 Accessory Uses**
- 17-6 Height and Yard Regulations; Design Standards**
- 17-7 Sign Regulations**
- 17-8 Parking Regulations**
- 17-9 Minimum Lot Size**

**SECTION 17-1 INTENT**

**17-101.** It is the intent of the MU Districts to encourage a compatible mixed use environment, utilizing the character of a particular area. This Article provides for two mixed use districts: (1) the m Mixed Use/Residential Commercial District (MU/RC), and (2) the Mixed Use/Commercial-Industrial District ( MU/CI).

- a. The MU/RC District facilitates compatible mixed use activity within a residential neighborhood. The district includes a balance of compatible residential, office, civic, and neighborhood commercial retail/service uses of low to moderate intensity that complement and support neighborhood residential areas and pedestrian usage with quality urban design. The objectives of the MU/RC District include:
  - 1. Retention and attraction of businesses, workplaces and residences through adaptive reuse and rehabilitation of existing buildings; and
  - 2. Redeveloping vacant and under-utilized properties through appropriately scaled in-fill development; and
  - 3. High quality development and urban design standards that maintain a sense of history, human scale, and pedestrian-orientation.
- b. The MU/CI District facilitates the mixture of certain commercial and light industrial uses within appropriate area. The district includes a balance of compatible commercial retail/service uses with light industrial uses in such a way as to accommodate the creative development and use of property without exposing the public to the dangers sometimes attributable to industrial uses. The objectives of the MU/CI district include:
  - 1. Retention and attraction of businesses and certain industrial activities through adaptive reuse and rehabilitation of existing buildings; and
  - 2. Redeveloping vacant and under-utilized properties by in-fill development.

**17-102. Applicability of Mixed Use Districts.** The MU District shall only be permitted in an area that merits special design considerations, involving a variety of uses within, and at a scale and intensity compatible with, a developed urban environment. The MU District shall be sufficiently cohesive and substantial to achieve objectives identified in this article and the City’s comprehensive plan.

## SECTION 17-2 PERMITTED AND CONDITIONAL USES: MU/RC DISTRICT

**17-201.** In the MU/RC District no buildings, 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. Permitted Uses.

1. Any use permitted in the R-2 or R-3 zoning districts.  
(17-201-a1 Revised 11-06-06)

- a. Except schools would be a conditional use.

2. Any use permitted in the C-1 or C-2 zoning districts.

b. Conditional uses.

1. Any use allowed as a conditional use in the R-2 or R-3 zoning districts.  
(17-201-b1 Revised 11-06-06)

2. Any use allowed as a conditional use in the C-1 or C-2 zoning districts.

3. Allow mini-storage as a conditional use.  
(17-201-b3 Revised 09-04-13)

4. Allow brewpubs as a conditional use.  
(17-201-b4 Added 05-06-16)

## SECTION 17-3 PERMITTED AND CONDITIONAL USES: MU/CI DISTRICT

**17-301.** In the MU/CI District no buildings, 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. Permitted uses.

1. Any use permitted in the C-3 zoning district.

2. Any use permitted in the I-1 zoning district, Dry cleaning and/or laundry plants, Offices and service yards for the Kansas Department of Transportation, Truck wash establishments, and Truck and rail terminals.

(17-301-a2 Revised 07-10-10); (17-301-a2 Revised 05-06-16)

b. Conditional uses.

1. Any use allowed as a conditional use in the C-3 zoning district.
2. Any use allowed as a conditional use in the I-1 zoning district.

#### SECTION 17-4 HOME OCCUPATIONS

**17-401.** Regulations relating to home occupations in the MU/RC District for permitted uses and conditional uses which are allowed under the R-1 zoning district regulations shall be the same as those for the R-1 zoning district, as set out in Article 23.

#### SECTION 17-5 ACCESSORY USES

**17-501.** Regulations relating to accessory uses in the MU/RC and MU/CI Districts are set out in Article 24.

#### SECTION 17-6 HEIGHT AND YARD REGULATIONS; DESIGN STANDARDS

**17-601.** No building in the MU/RC and MU/CI Districts shall exceed thirty-five (35) feet in height, except as otherwise provided in Article 24.

**17-602.**

- 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 2.
  3. No accessory building shall project beyond the front building setback line of any lot.

**17-603. Side yard.** Except as otherwise provided in Article 24, there shall be a side yard of not less than eight (8) feet on each side of a building.

**17-604. Rear yard.** Except as otherwise required in Article 24 there shall be a rear yard having a depth of not less than thirty (30) feet or twenty (20) percent of the depth of the lot, whichever amount is smaller.

**17-605. Design Standards: MU/RC District.** All new development, including permitted commercial, office, institutional, residential uses, or combination thereof, or change of uses with exterior modifications shall be consistent with the following design standards:

- a. *Setbacks, massing, and form* – Minimize building setbacks within neighborhood or downtown district settings so as to reflect and align with existing setbacks of buildings on the block or



- facing block. Massing and form of building shall also be compatible with buildings on block, facing block, or neighborhood.
- b. *Building types* – Permitted building types shall include a rear yard building that occupies the front of its lot at full width, a side yard building that occupies one side of the lot at full depth, or a courtyard building that occupies all or most of the edges of its lot while internally defining one or more private spaces.
  - c. *Parking lots* – Parking lots shall not dominate the frontage of pedestrian-oriented and image streets or conflict with pedestrian crossings. No parking space shall be closer to the primary frontage street than the building.
  - d. *Facades* – Blank walls in excess of fifty (50) feet shall be avoided. Buildings with multiple storefronts should be unified in character and compatible with any upper floors.
  - e. *Outdoor activity* – Buildings should accommodate outdoor activity with balconies, arcades, terraces, decks and courtyards for patrons', residents', or workers' interaction to the extent reasonably feasible.
  - f. *Outdoor cafes* – Restaurants should be encouraged to operate outdoor cafes on sidewalks, within buildings setbacks or courtyard provided that pedestrian circulation and access to store entrances is not impaired, the space is well-kept, and street furniture/coverings are compatible with architectural character of the building/block.
  - g. *Pedestrian circulation* – Adequate pedestrian circulation must be maintained at all times. Pedestrian linkages between parking lots, alleys, parks, and the street or building fronts shall be provided for within the public right-of-way or by dedicated easement.
  - h. *Transition yards and landscaping* – Where a commercial lot abuts a residential use, a landscaped yard consisting of, but not limited to, trees, vegetation, wood fencing, landscaped earthen berm, or other plantings shall be provided for as a visual buffer that creates spatial separation. Front yard setback areas shall be landscaped.
  - i. *Open storage* – Any open storage visible from the street, adjacent to residential uses shall be screened to substantially reduce visual impact by fencing, landscaping, or other appropriate means.
  - j. The Zoning Administrator may waive any of the above-listed design standards if he or she determines it to be unnecessary to the scope and nature of the proposed development.

**17-606. Design Standards: MU/CI District.** All new development, including permitted commercial, office, or industrial uses, or combination thereof, shall be consistent with the following design standards:

- a. *Building types* – Permitted building types shall include a rear yard building that occupies the front of its lot at full width, a side yard building that occupies one side of the lot at full width, or a courtyard building that occupies all or most of the edges of its lot while internally defining one or more private spaces.

- b. *Transition yards and landscaping* --- Where a commercial lot abuts a residential use, a landscaped yard consisting of, but not limited to, trees, vegetation, wood fencing, landscaped earthen berm, or other plants shall be provided for as a visual buffer that creates spatial separation. Front yard setback areas shall be landscaped.
- c. *Open storage* – Any open storage visible from the street, or adjacent to residential uses shall be screened to substantially reduce visual impact by fencing, landscaping, or other appropriate means. No outdoor storage shall be allowed forward of the front building line or in a required front yard.  
(17-606-c Revised 07-10-10)
- d. *Bulk* – Warehouses and storage houses shall be limited to no more than 10,000 square feet of gross floor area per building lot.  
(17-606 added d 07-10-10)
- e. The Zoning Administrator may waive any of the above-listed design standards if he or she determines it to be unnecessary to the scope and nature of the proposed development.

## SECTION 17-7 SIGN REGULATIONS

**17-701.** Sign regulations for the MU/RC and MU/CI Districts are set out in Article 27.

## SECTION 17-8 PARKING REGULATIONS

**17-801.** Parking regulations for the MU/RC and MU/CI Districts are as follows:

- a. Residential dwellings: One space per dwelling unit.
- b. Private clubs, brewpubs, drinking establishments, and restaurants with fifty (50) percent of gross income in food sales: One space per four occupants permitted.  
(17-801-b Revised 05-06-16)
- c. Private clubs, drinking establishments, and restaurants with fifty (50) percent of gross income in alcohol or cereal malt beverage sales: One space per three (3) occupants permitted.
- d. Retail and office uses: One space per three hundred (300) square feet of floor area.
- e. All other uses not specified shall be consistent with Article 22.
- f. Minimum off-street parking requirements for uses within the MU/RC and MU/CI Districts may be exempted by the Zoning Administrator for any change of use or expansion of an existing building provided adequate off-street or on-street parking can be demonstrated, and such exemption does not impose an unreasonable hardship on a residential neighborhood.
- g. A maximum number of off-street parking spaces for a particular use may be imposed by the Zoning Administrator to conserve open space, or to prevent unnecessary demolition of buildings and damage to the historic integrity of a district.

**SECTION 17-9 MINIMUM DISTRICT SIZE**

**17-901.** No area shall be zoned as a MU/RC District unless it comprises one (1) acre or more unless adjacent to an “I” industrial district, “C” commercial district, or “P” Public Use District. A minimum district size does not apply when adjacent to an “I” industrial district, “C” commercial district, or “P” Public Use District provided the MU/RC or MU/CI district meets the intent of this article and is recommended in accordance with the factors for rezoning in Section 26-108.

**17-902.** No area shall be zoned as a MU/CI District, unless it comprises one (1) acre or more.

## ARTICLE 18

## PUD &amp; TRANSPORTATION OVERLAY DISTRICT

## AIRPORT HEIGHT &amp; HAZARD OVERLAY DISTRICT (H &amp; H)

## Sections:

- 18-1 Definitions
- 18-2 Overlay Zone
- 18-3 Ottawa Airport Zone Height Limitations
- 18-4 Supplemental Notice of Construction Requirements
- 18-5 Use Restrictions
- 18-6 Nonconformities
- 18-7 Permits
- 18-8 Administration
- 18-9 Appeals
- 18-10 Variance or Exception
- 18-11 Review by the Board of Zoning Appeals
  - 18-1A Intent
  - 18-2A Uses
  - 18-3A Height, Area and Yard Regulations
  - 18-4A Additional Regulations
    - 18-1B Intent
    - 18-2B General Provisions
    - 18-3B Standards and Conditions
    - 18-4B Application Process
    - 18-5B Preliminary Plan
    - 18-6B Final Plan
    - 18-7B Recording

## SECTION 18-1. DEFINITIONS.

**18-101.** As used in this Overlay District, unless the context otherwise requires:

**Abandoned.** Means any item which has ceased to be used for its designed and intended purpose.

**Airport Advisory Board.** Means the appointed advisory board for the OWI.

**Airport Elevation.** Means the highest point of the airport's usable landing area measured in feet above sea level (966 feet above sea level).

**Airport Hazard.** Means any structure or tree or use of land which obstructs or is hazardous to the airspace required for the flight of aircraft in landing or taking-off or permanently raises the published or planned approach minimums at the airport.

**Airport Hazard Area (Also referred to as the "Airport Hazard Overlay District").** Means any area of land or water surrounding the Ottawa Airport upon which an airport hazard might be established—including any which may permanently raise the published or planned approach minimums of the airport—if not prevented as provided in this Resolution and as depicted on the "Airport Hazard Area Graphic" adopted by and made a part of this Resolution; and including the FAA

Part 77 Civil Airport Imaginary Surfaces, which consist of the Horizontal Surface, Conical Surface, Primary Surface, Approach Surface, Transitional Surface and Precision Approach Surfaces; and the Terminal Instrument Procedures (TERPS) surfaces and the Vertically Guided Approach Surfaces (VGAS) for the airport as referenced on the Kansas Department of Transportation (KDOT) “Kansas Airspace Awareness Tool” at <http://www.ksdot.org/airspaceool>.

**Airport Hazard Area Graphic.** Means the map depicting the airspace Airport Airspace Protection Area and attached to this Article as Exhibit A and made a part thereof.

**Airport Layout Plan (ALP).** Means a plan adopted by the City Commission that depicts existing airport facilities and proposed developments as determined from the Airport Advisory Board’s review of the aviation activity forecasts, facility requirements, and alternatives analysis.

**Approach Minimums.** Means the minimum ceiling or visibility under which an aircraft may be landed with the use of a published approach procedure. It also means planned Non-precision or precision instrument approach minimums so indicated on an approved Airport Layout Plan or any other planning document.

**Approach Surface.** Means 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 Section IV of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

**City Commission.** Means the Governing Body for the City of Ottawa, Kansas.

**Conical Surface.** Means a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty feet horizontally to each foot vertically (20:1) for a horizontal distance of 4,000 feet.

**FAA.** Means the Federal Aviation Administration.

**Hazard To Air Navigation.** Means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

**Hazardous Wildlife.** Means species of wildlife (birds, mammals, reptiles), including feral animals and domesticated animals not under control, that are associated with aircraft strike problems, are capable of causing structural damage to airport facilities, or act as attractants to other wildlife that pose a strike hazard.

**Height.** Means for the purpose of determining the height limits in all zones set forth in this Article and shown on the Ottawa Airport Hazard Area Graphic, the datum shall be mean heights as measured from the elevations of OWI Runways 17-35, 13-31 unless otherwise specified.

**Horizontal Surface.** Means a horizontal plane 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.** Means a runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft (OWI Runways 17-35, 13-31).

**Obstruction.** Means any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this Article.

**Ottawa Airport (Ottawa Municipal Airport, OWI).** Means the public-use airport owned and operated by the City of Ottawa, Kansas.

**OWI.** Means the three-letter identifier assigned by the Federal Aviation Administration to the public-use airport owned and operated by the City of Ottawa, Kansas.

**Person.** Means an individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

**Primary Surface.** Means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in Section III of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

**Runway.** Means a defined area on an airport prepared for landing and taking-off of aircraft along its length.

**Runway, Non-Precision Instrument Approach.** Means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned. (OWI Runways 17-35, 13-31)

**Runway, Precision Instrument Approach Or Instrument Approach Procedure (IAP).** Means a series of predetermined maneuvers for the orderly transfer of an aircraft under instrument flight conditions from the beginning of the initial approach to a landing, or to a point from which a landing may be made visually. (OWI Runways 17-35, 13-31)

**Terminal Instrument Procedures (TERPS).** Means surfaces that are constructed from the electronic signals transmitted by ground-based and satellite-based air navigation electronic equipment, which are the instrument procedures that aircraft pilots use to fly between airports and land on runways.

**Transitional Surfaces.** Means these surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically (7:1) from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

**Tree.** Means any object of natural growth.

**Vertically Guided Approach Surfaces (VGAS).** Means satellite-based approach surfaces that are established to protect Instrument Approach Procedures (IAP) that provide vertical guidance and lower approach minima. Examples of landings systems protected by VGAS include Instrument

Landing System (ILS) based approaches and GPS based procedures utilizing a Wide Area Augmentation System (WAAS) with Localizer Performance with Vertical Guidance (LPV); and which can improve airport capacity when ground based systems are out of service, and provide accurate, reliable access to more airports previously not served by precision approaches.

**Wildlife Attractants.** Means any human-made structure, land-use practice, or human-made or natural geographic feature that can attract or sustain hazardous wildlife within the Airport Hazard Area. These attractants can include architectural features, landscaping, waste disposal sites, wastewater treatment facilities, agricultural or aquaculture activities, surface mining, or wetlands.

**Zones: Approach, Transitional, Horizontal, Conical, VGAS and TERPS.** Means the zones that are set forth in Section III of this Article.

## SECTION 18-2. OVERLAY ZONE.

**18-201.** As used in this Overlay District, unless the context otherwise requires:

**18-202.** The airport Height and Hazard Regulations shall apply to the Airport Hazard Area as an “Airport Hazard Overlay District” to the City zoning regulations, in coordination with the County Commission which shall have zoning jurisdiction over the remainder of said hazard area in the portions of unincorporated Franklin County not within City land use regulatory jurisdiction. The Airport Hazard Area, wherein the Height and Hazard Regulations apply, include all of the land area as defined in these regulations, generally lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, conical surfaces and any other territory surrounding the Ottawa Airport divided into zones—including the established and ultimate minimum approach surfaces and precision approaches, as depicted on the Ottawa Airport Hazard Area Exhibit A (which is based on the KDOT “Kansas Airspace Awareness Tool” at <http://www.ksdot.org/airspaceool>), made a part hereof and attached to this Article. The Airport Hazard Area Exhibit A is provided to the public as an attachment to this Ordinance for illustrative purposes, only, in order to generally show where these regulations apply; and is not to be relied upon as a regulatory tool. For administrative purposes, when applying these regulations on a case-by-case basis, the standard FAA procedures for determining compliance of proposed structures with height and hazard standards should be relied upon as the starting point for interpreting the applicability of these regulations.

**18-203.** An area located in more than one of the following zones is considered to be in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- a. **FAR Part 77 Surfaces, sub-Part C Civil Airport Imaginary Surfaces Zones** - the Horizontal Surface, Conical Surface, Primary Surface, Approach Surface, and Transitional Surface as designated by the FAA:
  1. **Runway Larger than Utility with a Visibility Minimum Greater Than 3/4 Mile Non-precision Instrument Approach Zone (34:1)** - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its

- centerline is the continuation of the centerline of the runway. (OWI Runway 17-35)
2. **Visual Utility Runway** - The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 2,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (OWI Runway 13-31, Existing)
  3. **Utility Runway With A Visibility Minimum at or Greater Than 1-Mile Non-precision Instrument Approach Zone** - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (OWI Runway 13-31, Ultimate)
  4. **Transitional Zone** - The transitional zones are the areas beneath the transitional surfaces.
  5. **Horizontal Zone** - The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others 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. The horizontal zone does not include the approach and transitional zones.
  6. **Conical Zone** - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.
- b. **Runway Approach Minimum Zones** - The approach zones to the runways, the minimum ceiling or visibility under which an aircraft may be landed with the use of a published approach procedure; and the planned Non-precision or precision instrument approach minimums so indicated on the approved Airport Layout Plan (ALP) or the Airport Hazard Area Graphic, which depicts the Terminal Instrument Procedures (TERPS) surfaces and the Vertically Guided Approach Surfaces (VGAS) for the airport.
  - c. **Terminal Instrument Procedures Surface (TERPS) Zones** - which can extend 10 nautical miles from a runway, constructed from the electronic signals transmitted by ground and space based air navigation electronic equipment, which instrument procedures aircraft pilots use to fly between airports and land on runways.
  - d. **Vertically Guided Approach Surfaces (VGAS) Zones** - which provide lower minima for approach procedures that do not rely on ground based navigational systems, including Instrument Landing System (ILS), to improve airport capacity when ground based systems are out of service—for better access to runways with terrain or airspace constraints using curved RNAV legs and narrower protected surfaces; and for improved safety by eliminating circling maneuvers and providing laterally and vertically guided approaches not available through conventional ground-based



Navigational Aid (NAVAID) procedures or through existing Area Navigation (RNAV) procedures.

### SECTION 18-3. OTTAWA AIRPORT ZONE HEIGHT LIMITATIONS.

**18-301.** Except as otherwise provided in this Article, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by these regulations to a height in excess of the applicable height herein established for such zone.

**18-302.** Such applicable height limitations are hereby established for each of the zones in question as follows:

- a. **FAR Part 77 Surfaces, sub-Part C Civil Airport Imaginary Surfaces Zones** - the Horizontal Surface, Conical Surface, Primary Surface, Approach Surface, and Transitional Surface as designated by the FAA:
  1. **Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Non-precision Instrument Approach Zone** - Slopes thirty-four feet outward for each foot upward (34:1) 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 centerlines of each runway (OWI Runway 17-35).
  2. **Visual Utility Runway** - Slopes 20 feet outward for each foot upward (20:1) 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. OWI Runway 13-31, Existing).
  3. **Utility Runway With A Visibility Minimum at or Greater Than 1-Mile Non-precision Instrument Approach Zone** - Slopes 20 feet outward for each foot upward (20:1) 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. (OWI Runway 13-31, Ultimate).
  4. **Transitional Zones** - Slope seven (7) feet outward for each foot upward (7:1) 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 elevations each runway. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface of each runway, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.
  5. **Horizontal Zone** - Established at 150 feet above the airport elevation.

6. **Conical Zone** - Slopes twenty feet outward for each foot upward (20:1) beginning at the periphery of the horizontal zone and at 150 feet above the airport elevations and extending to a height of 350 feet above the airport elevations.
- b. **Runway Approach Minimum Zones** - The slopes established by the minimum ceiling or visibility under which an aircraft may be landed with the use of a published approach procedure; and by the planned Non-precision or precision instrument approach minimums so indicated on an approved Airport Layout Plan.
- c. **Terminal Instrument Procedures (TERPS) Surface Zones** - The slopes established by the electronic signals transmitted by ground and space based air navigation electronic equipment, which instrument procedures aircraft pilots use to fly between airports and land on runways.
- d. **Vertically Guided Approach Surfaces (VGAS) Zones** - The slopes established by the VGAS approach surfaces longitudinally centered on the extended runway centerline beginning at the runway threshold and extending outward and upward at a slope of 40:1 (2.5%) for a horizontal distance of 20,200 feet. The surface is 2,000 feet wide (1000 feet either side of centerline) at the runway threshold and expands to a width of 8,000 feet at 10,200 feet from threshold. From 10,200 to 20,200 feet the surface is 8,000 feet wide (4,000 feet either side) and parallel to the runway centerline extended.

#### **SECTION 18-4. SUPPLEMENTAL NOTICE OF CONSTRUCTION REQUIREMENTS.**

**18-401.** In order to comply with Section 3, *Airport Zones* and Section 4, *Airport Zone Height Limitations* in this Article, as well as relevant FAA *Advisory Circulars*, including *Hazardous Wildlife Attractants on or Near Airport, AC No: 150/5200-33B*, this Section is established to require notice of construction or alteration to any object(s) that potentially affects the navigable airspace of the Ottawa Airport. Any application for a permit directed to the City of Ottawa, Kansas that potentially affects the navigable airspace of the Ottawa Airport must be supplemented by a completed and submitted Federal Aviation Administration (FAA) Form 7460-1 (2-99), *Notice of Proposed Construction or Alteration*. Any application to construct or alter any wildlife attractant or a proposed solid waste landfill shall be supplemented by a completed and submitted FAA Form 7460-1 (2-99).

#### **SECTION 18-5. USE RESTRICTIONS.**

**18-501.** Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create wildlife attractants or habitat for hazardous wildlife, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport. Furthermore, no use may be made of the land or water within any zone established by this Article that would result in permanently raising the published or planned approach minimums.

**SECTION 18-6. NONCONFORMITIES.**

**18-601.** The regulations prescribed in this Article shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a legal nonconforming use.

**18-602. Regulations Not Retroactive.** Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.

**18-603. Marking and Lighting and Tree Trimming.** Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree, upon proper notification from the FAA and/or KDOT, is hereby required to permit the installation, operation, and maintenance of such markers and lights by the City, upon recommendation by the Airport Advisory Board, or trimming, topping or cropping the tree at the expense of the Ottawa Airport .

**18-604. Nonconforming Uses Abandoned or Destroyed.** Whenever the Ottawa Zoning Administrator determines that a nonconforming tree or structure has been abandoned or more than 51 percent destroyed, physically deteriorated, or decayed, no permit shall be granted that would allow the reconstruction of such abandoned or destroyed nonconforming structure or tree to exceed the applicable height limit or otherwise deviate from these Height and Hazard Regulations. Factors to be considered in determining abandoned could include: operability and functional utility of the item; ) last effective use ; disrepair or damage; status of registration or licensing of the item; or the nature of the area and location of the item.

**SECTION 18-7. PERMITS.**

**18-701.** No permit shall be granted for a use inconsistent with the provisions of this Article, or for a use that would allow the establishment or creation of an airport hazard or permit a nonconforming structure to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or when the application for a permit is made; unless a variance has been approved.

**18-702. Permits Required When.** Permit applications shall be submitted for proposed structures in any of the zones or surfaces except as specifically provided in sub-section 2. Each permit application shall be submitted on forms required by the City to determine whether the resulting use, structure, or tree would conform to these regulations. If such determination is in the affirmative, the permit shall be granted.

**18-703. No Permit Required When.** No permit shall be required for structures shorter than 75 feet; provided that, in an approach or transitional zone the proposed structure or tree is more than 4,200 feet from the end of a runway; provided further that, this permit exception shall not be construed as permitting any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Article.

**18-704. Permit Conditioned on FAA Form 7460-1, “Notice of Construction”.** Any proposed construction, alteration or repair requiring a permit must have filed an FAA Form 7460-1 (FAA 77.13 Construction or Alteration Requiring Notice) with the appropriate FAA Regional Office. No

construction, alteration or repair work may commence until the determination is received from the FAA and said determination is reviewed by the Zoning Administrator in consultation with the Airport Advisory Board.

**18-705. Permit may be Conditioned on Marking or Lighting and Tree Trimming.** Any permit or variance granted may be conditioned on a requirement that the owner of the structure or tree in question install, operate, and maintain, at the owner's expense, such markings and lights or tree trimming as may be deemed reasonably necessary to effectuate the purpose of this Article. If deemed proper by the Airport Advisory Board, this condition may be modified to require the owner to permit the City, at its own expense, to top, crop, or trim the tree or install, operate, and maintain the necessary markings and lights.

#### **SECTION 18-8. ADMINISTRATION.**

**18-801.** It shall be the duty of the Zoning Administrator to administer the regulations prescribed herein in consultation with the Airport Advisory Board. Applications for permits shall be made to the Zoning Administrator upon a form for that purpose. Applications for appeals, variances or exceptions shall be made to the Zoning Administrator upon a form published for that purpose per Article 25. .

#### **SECTION 18-9. APPEALS.**

**18-901.** Any person aggrieved, or any property owner in the Height and Hazard Area affected by any decision of the Zoning Administrator made in the administration of the Article may appeal to the Board of Zoning Appeals per Article 25-201.

#### **SECTION 18-10. VARIANCE OR EXCEPTION.**

**18-1001.** Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use of property, not in accordance with the regulations prescribed in this Article, may apply to Board of Zoning Appeals for a variance or exception from such regulations. The application for variance or exception shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the published or planned approach minimums, operation of air navigation facilities, and the safe, efficient use of navigable airspace. Such variances shall be granted where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Article. Additionally, no application for variance to the requirements of this Article may be considered by the Board of Zoning Appeals unless a copy of the application has been furnished to the Ottawa Airport Advisory Board for review and comment.

#### **SECTION 18-11. REVIEW BY THE BOARD OF ZONING APPEALS.**

**18-1101.** The Board of Zoning Appeals shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming or modifying any order, requirement, decision or determination which comes before it under the provisions of this Article.

**TRANSPORTATION CORRIDOR OVERLAY DISTRICT (TC-O)****Sections:**

- 18-1a Intent**
- 18-2a Uses**
- 18-3a Height, Area and Yard Regulations**
- 18-4a Additional Regulations**

**SECTION 18-1A INTENT**

**18-101A.** The regulations set forth in this Article, or set forth elsewhere in these regulations when referred to in this Article, are the regulations for the Transportation Corridor Overlay District (TC-O). The intent of this overlay district is to provide for consistency and implementation of the K-68 Corridor Management Plan.

**SECTION 12-2A USES**

**12-201A.** In the Transportation Corridor Overlay District no building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless a permitted or conditional use in the underlying zoning district. The use of land for public parks or recreation areas is discouraged unless no other feasible locations are available.

**SECTION 18-3A HEIGHT, AREA AND YARD REGULATIONS**

**12-301A.** Height: buildings or structures shall not exceed the height permitted by the underlying zoning.

**12-302A.** Yards: The depth of the yard of properties along K-68 Highway shall be no less than the right-of-way width identified in the K-68 Corridor Management Plan, plus the required yard setback of the underlying zoning district.

**12-303A.** Lot Dimensions: The minimum area shall conform with the required lot area of the underlying zoning district.

**SECTION 12-4A ADDITIONAL REGULATIONS**

**12-401A.** Sign Regulations: The regulations relating to signs in the underlying zoning districts are set out in Article 27. The setback of new signs on properties along K-68 Highway shall be no less than the right-of-way width identified in the K-68 Corridor Management Plan, plus any required setback required by the underlying zoning district.

**PLANNED UNIT DEVELOPMENT (PUD) OVERLAY DISTRICT****Sections:**

- 18-1B Intent**
- 18-2B General Provisions**

- 18-3B Standards and Conditions
- 18-4B Application Process
- 18-5B Preliminary Plan
- 18-6B Final Plan
- 18-7B Recording

## SECTION 18-1B INTENT

**18-101B.** 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 applicant shall submit preliminary and final development plans in accordance with the provisions and conditions set out in this Article.

## SECTION 18-2B GENERAL PROVISIONS

**18-201B.** 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.
- e. **Site Plan Requirements.** The plan shall also be consistent with any site plan submitted and approved pursuant to Article 28 of these regulations, and shall comply with all determinations resulting from Site Plan Review pursuant to Article 28.

## SECTION 18-3B SPECIFIC STANDARDS AND CONDITIONS

### 18-301B.

- 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) 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 individual residential use shall have vehicular access onto an arterial or collector 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 18-4B APPLICATION PROCESS**

**18-401B.** 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 18-5B PRELIMINARY PLAN**

#### **18-501B.**

- 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 number of copies set by the City's copy schedule 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 18-6B FINAL PLAN****18-601B.**

- 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 the number of copies set by the City's copy schedule 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, stormwater, 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 18-7B RECORDING**

**18-701B.** Any approved final plan shall be filed of record with the Franklin County Register of Deeds.

(Article 18 Revised 12-05-12)

## ARTICLE 19 FLOODPLAIN MANAGEMENT

### Sections:

- 19-1 Statutory Authorization, Findings of Fact, and Purposes
- 19-2 General Provisions
- 19-3 Administration
- 19-4 Provisions for Flood Hazard Reduction
- 19-5 Floodplain Management Variance Procedures
- 19-6 Violations
- 19-7 Amendments
- 19-8 Definitions
- 19-9 Certificate of Adoption

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

#### 19-101. Statutory Authorization.

1. *Approval of Draft Ordinance by Kansas Chief Engineer Prior to Adoption*

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 February 09, 2022.

2. *Kansas Statutory Authorization*

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 of the public. Therefore, the City Commission of the City of Ottawa, Kansas, ordains as follows:

#### 19-102. Findings of Fact.

1. *Flood Losses Resulting from Periodic Inundation*

The special flood hazard areas of the City of Ottawa, 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.

### 3. *Methods Used To Analyze Flood Hazards*

The Flood Insurance Study (FIS) that is the basis of this ordinance uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps.

- a. Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this ordinance is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this ordinance. The base flood is the flood that is estimated to have a one percent chance of being equaled or exceeded in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated March 8, 2022 as amended, and any future revisions thereto.
- b. Calculation of water surface profiles that are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
- c. Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
- d. Delineation of floodway encroachment lines within which no development is permitted that would cause **any** increase in flood height.
- e. Delineation of flood fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

**19-103. Statement of Purpose.** It is the purpose of this ordinance to promote the public health, safety, and general welfare of the public; to minimize those losses described in Section 19-102(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(d) 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

**19-201. Lands to Which Ordinance Applies.** This ordinance shall apply to all lands within the jurisdiction of the City of Ottawa in Franklin County, Kansas identified as numbered and unnumbered A Zones, AE, AO and AH Zones on the Flood Insurance Rate Map (FIRM) panels referenced on the associated FIRM Index dated March 8, 2022 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 Ottawa City Commission or its duly designated representative under such safeguards and restrictions as the Ottawa City Commission 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.

**19-202. 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.

**19-203. 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.

**19-204. 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.

**19-205. 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 or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create a liability on the part of the City of Ottawa, 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.

**19-206. 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

**19-301. Floodplain Development Permit.** A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured or mobile homes, in the areas described in Section 19-201. 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.

**19-302. Designation of Floodplain Administrator.** The Zoning Administrator is hereby appointed to administer and implement the provisions of this ordinance.

**19-303. 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;
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.

**19-304. 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 structure 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. Specify whether development is located in designated flood fringe or floodway;
6. Identify the existing base flood elevation and the elevation of the proposed development;
7. Give such other information as reasonably may be required by the floodplain administrator;
8. Be accompanied by plans and specifications for proposed construction; and



9. 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

### 19-401. General Standards.

1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured or mobile homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the one percent annual chance or 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 Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.
3. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
4. All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured or mobile 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; 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 greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.

5. *Storage, Material, and Equipment*

- a. Storage of 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 has been or is discontinued for twelve (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.

**19-402. Specific Standards.**

1. In all areas identified as numbered and unnumbered A zones, AE, and AH Zones, where base flood elevation data have been provided, as set forth in Section 19-401(2), the following provisions are required:
  - a. *Residential Construction*

New construction or substantial-improvement of any residential structures, including manufactured or mobile homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above base flood elevation. 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 or mobile 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 floodproofed so that below one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall verify 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 19-303(7)(8)(9).

c. *Enclosures Below Lowest Floor*

Require, for all new construction and substantial-improvements, that fully enclosed areas below 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 flood waters. 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 flood waters.

**19-403. Manufactured or Mobile Homes.**

1. All manufactured or mobile homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured or mobile 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.
2. Require manufactured or mobile homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's FIRM 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 or mobile 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 a minimum of one (1) foot above the base flood elevation 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 or mobile homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, that are not subject to the provisions of Section 19-403(2) of this ordinance, be elevated so that:
  - a. The lowest floor of the manufactured or mobile home is a minimum of one (1) foot above the base flood level. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

**19-404. Areas of Shallow Flooding (AO and AH Zones).** Located within the areas of special flood hazard as described in Section 19-201 are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

1. *AO Zones*
  - a. All new construction and substantial-improvements of residential structures, including manufactured or mobile homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
  - b. All new construction and substantial-improvements of any commercial, industrial, or other non-residential structures, including manufactured or mobile homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two (2) feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - c. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.
2. *AH Zones*
  - a. The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in Section 19-402.
  - b. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.



**19-405. Floodway.** Located within areas of special flood hazard established in Section 19-201, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:

1. The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
2. The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted 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.
3. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision, fulfills the requirements for such revisions as established under the provisions of 44 CFR 65.12, and receives the approval of FEMA.
4. If Section 19-405(2) is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Section 19-4.
5. In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in Section 19-401(2).

**19-406. Recreational Vehicles.** Require that recreational vehicles placed on sites within all unnumbered and numbered A Zones, AE, AH, and AO Zones on the community's FIRM 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, elevation, and 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

**19-501. Establishment of Appeal Board.** The City Planning Commission shall act as the Floodplain Management Appeal Board as established by the City of Ottawa, Kansas and shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.

**19-502. 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 19-501. 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.

**19-503. Further Appeals.** Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 and 12-760.

**19-504. 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.

**19-505. 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, 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, provide 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 significant increase in flood discharge or base flood elevation 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. The City shall notify the applicant in writing over the signature of a city 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.
7. The City shall maintain a record of all variance actions, including justification for their issuance.
8. Variances may be issued by the City for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of items 1 through 5 of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

## SECTION 19-6 VIOLATIONS

### 19-601. Penalties for Violations.

1. The floodplain administrator may make reasonable entry upon any lands and waters in the City of Ottawa, Kansas for the purpose of making an investigation, inspection or survey to verify compliance with these regulations. The floodplain administrator shall provide notice of entry by mail, electronic mail, phone call, or personal delivery to the owner, owner's agent, lessee, or lessee's agent whose lands will be entered. If none of these persons can be found, the floodplain administrator shall affix a copy of the notice to one or more conspicuous places on the property a minimum of five (5) days prior to entry.
2. A structure or other development without a floodplain development permit or other evidence of compliance is presumed to be in violation until such documentation is provided.
3. The floodplain administrator shall provide written notice of a violation of this ordinance to the owner, the owner's agent, lessee, or lessee's agent by personal service or by certified mail, return receipt requested. The written notice shall include instructions and a deadline to request a hearing before the appeals board, and if no hearing is requested, a deadline by which the violation must be corrected.
4. 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, 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 Ottawa, Kansas or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

5. Notwithstanding any criminal prosecutions or in lieu of any criminal prosecutions, if the owner, occupant or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the period specified, the public officer or an authorized assistant shall abate or remove the conditions causing the violation.

6. If the public officer or an authorized assistant abates or removes the nuisance pursuant to this section, notice shall be provided to the owner, the owner's agent, lessee, or lessee's agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred. The notice shall also state that the payment is due within 30 days following receipt of the notice. The cost of providing notice, including any postage, required by this section may also be recovered.

7. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (K.S.A. 12-1617f).

## SECTION 19-7 AMENDMENTS

**19-701.** 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 Ottawa, Kansas. 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

**19-801.** 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).

**"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 Shallow Flooding"** means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**"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.

**"Base Flood Elevation"** means the elevation of the surface of the water during a one percent annual chance flood event.

**"Basement"** means any area of the structure 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 Boundary and Floodway Map (FBFM)"** means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

**"Flood Elevation Determination"** means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

**"Flood Elevation Study"** means an examination, evaluation and determination of flood hazards.

**"Flood Fringe"** means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.



**"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, that provide standards for the purpose of flood damage prevention and reduction.

**"Floodproofing"** 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.

**"Floodway Encroachment Lines"** means the lines marking the limits of floodways on Federal, State and local floodplain maps.

**"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 floodproofing 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 include mobile homes manufactured prior to 1976 but **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), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) 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 American Vertical Datum (NAVD) of 1988 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).

"**Numbered A Zone**" means a special flood hazard area where the Flood Insurance Rate Map shows the Base Flood Elevation.

"**One percent annual chance flood**" see "*base flood*."

"**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.

"**Reasonably Safe From Flooding**" means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

"**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 able to be towed 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 an FHBM, FIRM or FBFM 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 structures, 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 National Flood Insurance Program (NFIP) in that state.

**"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 that is principally above ground and affixed to a permanent site, as well as a manufactured home 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 for 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."*

**"Unnumbered A Zone"** means a special flood hazard area shown on either a flood hazard boundary map or flood insurance rate map where the base flood elevation is not determined.

**"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.

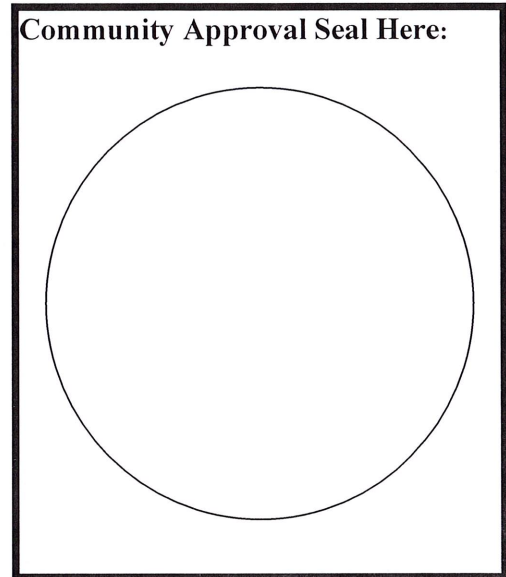
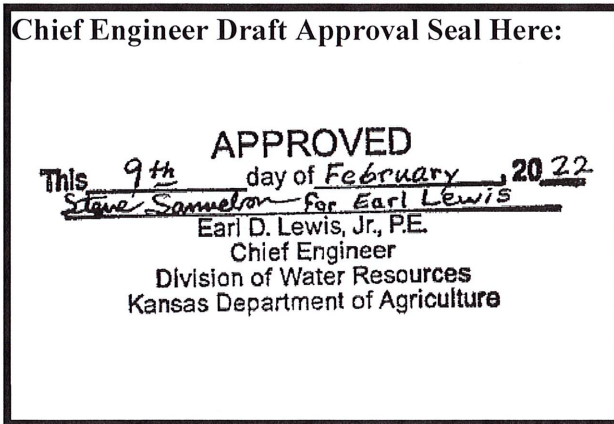
**"Water Surface Elevation"** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

**SECTION 19-9 CERTIFICATE OF ADOPTION**

This Floodplain Management Ordinance for the community of Ottawa, Kansas.

PASSED AND ADOPTED by the Governing Body of Ottawa, Kansas.

This 16<sup>th</sup> day of February , 2022 .



**APPROVED:**

/s/ Eric Crowley 2/16/22  
**Signature of Chief Executive Officer/Chief Elected Official** **Date**

Eric Crowley Mayor  
 Chief Executive Officer/Chief Elected Official Name (Typed/printed) **Title**

**ATTEST:**

/s/ Melissa Reed 2/16/22  
**Signature of Recording Clerk** **Date**

Melissa Reed City Clerk  
 Recording Clerk Name (Typed/printed) **Title**

**Published in official news publication or on website** Ottawa Herald on 2/19/22.

**Section 2.** REPEALER. Previous ordinances and any parts of ordinances in conflict with this Ordinance are hereby repealed.

**Section 3.** EFFECTIVE DATE; PUBLICATION. This Ordinance shall take effect amending the Zoning Ordinance #3501-05 for the City of Ottawa, Kansas, and be in full force from and after its publication in the official city newspaper.

PASSED AND ADOPTED by the Governing body of the City of Ottawa, Kansas, this 16<sup>th</sup> day of February, 2022.

/s/ Eric Crowley  
Eric Crowley, Mayor

ATTEST:

/s/ Melissa Reed  
Melissa Reed, City Clerk

## ARTICLE 20

### LANDSCAPING

#### Sections:

- 20-1 Intent
- 20-2 Definitions
- 20-3 General Conditions
- 20-4 Minimum Tree Requirements
- 20-5 Planting Requirements
- 20-6 Planting Requirements Within Parking Areas
- 20-7 Timing for Establishing Landscaping
- 20-8 Maintenance and Enforcement
- 20-9 Appeals

#### SECTION 20-1 INTENT

**20-101.** The intent of this Article is to provide shade and to enhance the visual integrity of the community; to encourage the use of landscape vegetation to visually soften paved areas and hard architectural lines, buffer uncomplimentary land uses, screen unsightly views, enframe buildings and scenic views, and to generally enhance the quality and appearance of developments; to ensure the preservation and/or replenishment of trees and other vegetation native to the region; to promote sound environmental conditions by preserving and restoring stream corridors, floodplains, and sensitive natural areas, providing shade, air purification, oxygen regeneration, ground water recharge, stormwater runoff retardation, and noise, glare and heat abatement.

(20-101 Revised 09-19-18)

#### SECTION 20-2 DEFINITIONS

**20-201.** For the purposes of this Article, the following words shall have the following meanings:

- a. **Deciduous trees** means generally those trees which shed their leaves annually, such as ash, sycamore and willow.
- b. **Evergreen trees** means generally those trees which do not shed their leaves annually, such as pine, spruce and juniper.
- c. **Ground cover** means landscape materials, or living low-growing plants other than turf grass, installed in such a manner so as to form a continuous cover over the ground surface.
- d. **Landscaped open space** means all land area within the property lines not covered by building or pavement.
- e. **Landscape material** shall consist of such living material as trees, shrubs, ground cover/vines, turf grasses, and nonliving material such as: rocks, pebbles, sand, bark, brick pavers, earthen mounds (excluding pavement); and/or other items of a decorative or embellishment nature such as: fountains, pools, walls, fencing, sculpture and geo-block drives.



- f. **Large trees** generally include those species of trees that reach a height of seventy feet (70') or taller at maturity.
- g. **Medium trees** means trees generally thirty (30) to seventy feet (70') in height at maturity.
- h. **Native grasses** means species of perennial grass other than those designated as noxious weeds by the Kansas Department of Agriculture.
- i. **Private street setback** means that distance of open area between the curb line and the building or parking setback line.
- j. **Public street setback** means that distance of open area between the street right-of-way line and the building or parking setback line.
- k. **Shrubs** means any self-supporting, woody plant of a species which normally grows to an overall minimum height of less than fifteen feet (15') in this region.
- l. **Small trees** means trees generally thirty feet (30') or less in height at maturity, including ornamental flowering trees and patio trees.
- m. **Trees** means any self-supporting, woody plant of a species which normally grows to an overall minimum height of fifteen feet (15') in this region.
- n. **Turf grass** means a species of perennial grass grown as permanent lawns or for landscape purposes as distinguished from those species grown for agricultural or commercial seed purposes.

“The American Standard for Nursery Stock,” in its most current edition, as published by the American Association of Nurserymen, shall be referred to in determining the applicability of the definitions in this section.

## SECTION 20-3 GENERAL CONDITIONS

### 20-301.

- a. A landscape plan shall be submitted in support of a site plan or planned unit development. All land areas which are to be unpaved or not covered by buildings shall be brought to finished grade in accordance with the approved erosion and sediment control plan and planted with turf or native vegetation or other appropriate ground cover and receive trees as specified in Section 20-4.

(20-301-a Revised 09-19-18)

- b. In addition to the minimum number of trees to be planted, as set forth in Section 20-4, development of commercial and industrial properties adjoining residential districts shall comply with the requirements of Section 24-4.

- c. Sensitive Areas and Tree Preservation.

(20-301-c Revised 09-19-18)

1. Development for which a landscaping plan is required shall be designed to preserve existing trees, vegetation and sensitive areas to the greatest extent possible, and shall seek to incorporate existing stands of trees as well as individual trees. Sensitivity to site

grading, storm drainage, building location and orientation and parking lot configuration shall be demonstrated to ensure tree and vegetation preservation. The intent of these regulations is to recognize the need to alter the landscape during site development activities, while setting out standards necessary to ensure tree, vegetation, and sensitive areas preservation to the greatest extent possible.

(20-301-c-1 Revised 09-19-18)

2. A Sensitive Area Designation Plan shall be prepared in accordance with the provisions in Article 4, Section 4-902 of the Subdivision Regulations, and submitted at the time of site plan review. The Planning Commission shall review the plan and either approve it or direct the applicant to seek alternative site design to improve preservation of existing trees and sensitive areas.

(20-301-c-2 Revised 09-19-18)

## SECTION 20-4 MINIMUM TREE REQUIREMENTS

### 20-401.

- a. Low-Density Residential Development. (other than within HC-O District): One tree per fifty feet (50') (or portion thereof) of street frontage, public or private, shall be required within the setback area abutting the street frontage. The trees may be clustered or arranged within the setback area and need not be placed evenly at fifty-foot intervals. In addition to the required trees based on street frontage, one tree shall be required for every dwelling unit.
- b. All Other Development.
  1. One tree per fifty feet (50'), or portion thereof, of street frontage, public or private, shall be required within the landscape setback abutting the street frontage. The trees may be clustered or arranged within the setback area and need not be placed evenly at fifty-foot intervals.
  2. Small ornamental trees and shrubs shall be provided to meet site and screening requirements.
- c. Adequate clearance between trees and other infrastructures shall be coordinated in such a manner to allow for the location of street trees within the right-of-way, wherever practical, and shall promote the longevity of the street trees to avoid premature loss of the trees. The street tree plan shall coordinate the locations of street trees to allow access to utilities with minimal disruption to the street trees and their supporting root systems while avoiding increased service costs to the utilities. Landscaping shall observe all sight-distance requirements.

## SECTION 20-5 PLANTING REQUIREMENTS

**20-501.** The planting and minimum size standards for all new plant material shall be as follows, except that the Planning Commission may modify these standards for good cause shown:

- a. Medium and Large Deciduous Trees. Three-inch (3") caliper, as measured six inches (6") above the ground as specified by American Hort (formerly the American Nursery & Landscape Association and The Association of Horticultural Professionals);

(20-501-a Revised 09-19-18)

- b. Small Deciduous or Ornamental Trees. Six to eight feet in height as specified by the American Association of Nurserymen, with the exception of true dwarf species;
- c. Conifers. Five to six feet in height;
- d. Upright Evergreen Trees. Five to six feet in height as specified by the American Association of Nurserymen, except for true dwarf varieties;
- e. Shrubs (Deciduous and Conifer, Including Spreader and Globe Tree Forms). Size should be sufficient to create an immediate visual impact;
- f. Lawns. Yard areas shall be sodded, or seeded, or maintained in a generally mature state, or planted with native grasses or other ground cover appropriate to the location and intended use to provide complete coverage within the first growing season;  
(20-301-f Revised 09-19-18)
- g. Ground Cover. Crowns, plugs, containers, in a number and of a quality appropriate by species to fulfill intended use;
- h. Sod. As necessary to provide soil stabilization.
- i. Native Vegetation. Native vegetation areas shall be seeded, planted with plugs or with container plants indigenous to northeastern Kansas, and appropriate for the location and the natural conditions at the location. Planting density shall be sufficient to provide complete coverage within the first calendar year.  
(20-301-i Added 09-19-18)

## SECTION 20-6 PLANTING REQUIREMENTS WITHIN PARKING AREAS

### 20-601.

- a. The intent of this section is to encourage interior landscaping within vehicular parking areas, to break up the large expanses of pavement, minimize increases in stormwater runoff, and to provide relief from the reflected glare and heat, as well as to guide vehicular and pedestrian traffic.  
(20-601-a Revised 11-16-11)
- b. Except for those having a paved area no wider than a double-loaded aisle or more than 65 feet in width, all parking areas, including lots for the sale or display of autos, trucks, motorcycles, boats, recreational vehicles, campers and similar items, shall include the following as minimum requirements:
  - 1. An area equal to not less than one (1) of every fifteen (15) parking stalls in the parking lot shall be used for interior landscaping. The applicant shall submit calculations demonstrating compliance with this requirement. Planting which is required along the perimeter of a parking lot shall not be considered as part of the interior landscaping requirement.
  - 2. The landscaping and planting areas shall be reasonably dispersed throughout the parking lots.

3. The interior dimensions of any planting area or planting median shall be sufficient to protect the landscaping materials planted therein and to insure proper growth. Each area shall be protected by portland cement concrete vertical curbs, or similar structures.
4. The primary landscaping materials used in parking lots shall be trees which provide shade or are capable of providing shade at maturity. Shrubbery, hedges and other planting material may be used to complement the tree landscaping but shall not be the sole contribution to the landscaping. Effective use of earth berms and existing topography is also encouraged as a component of the landscape plan.
5. In those instances where plant material exists on a parking lot site prior to its development, such landscape material may be used if properly preserved.
6. No landscaping, tree, shrub, fence, wall or similar item shall be placed in zones of ingress or egress at street corners, or in the intersection of a public right-of-way that the City Engineer or his or her designee determines is an obstruction to visibility, extends into sight lines, or is a traffic hazard.

## **SECTION 20-7 TIMING FOR ESTABLISHING LANDSCAPING**

### **20-701.**

- a. Except where otherwise provided in these regulations, or with the prior approval of the Zoning Administrator, all landscape material, living and nonliving, shall be in place prior to issuance of a final certificate of occupancy.
- b. Landscape Vegetation shall be planted during the proper planting season or seasons for each type of plant and species as recommended by a qualified local horticulturalist or horticultural organization, local nursery or seed supplier. Initial establishment maintenance shall be performed on all vegetation, and shall consist of all watering, weeding, and related care required to produce a vigorous and healthy stand of vegetation capable of surviving on its own with only routine maintenance.  
(20-701-b Added 09-19-18)
- c. All plant material shall be healthy and in place, and initial establishment completed, prior to issuance of a final certificate of occupancy. A temporary certificate from the Zoning Administrator may be issued without the installation, provided exposed soil on the site has been properly stabilized by Best Management Practices and written assurances are given that the planting and initial establishment will take place when the proper season arrives.  
(20-701-c Revised 09-19-18)

## **SECTION 20-8 MAINTENANCE AND ENFORCEMENT**

### **20-801.**

- a. The trees, shrubs and other landscaping materials depicted on plans approved by the City shall be considered as required elements of the project in the same manner as parking, building materials and other details are elements of the project.

- b. The landowner shall be responsible for the continued maintenance to remain in compliance with all the requirements of this Article.
- c. Plant material which exhibits evidence of insect pests, disease, and/or damage shall be appropriately treated and dead plants promptly removed and replaced within the next planting season.
- d. All landscaping will be subject to periodic inspection by the City.
- e. Should landscaping not be installed, established, maintained and replaced as needed to comply with the approved plan, the landowner shall be considered in violation of these regulations.

(20-801-e Revised 09-19-18)

## SECTION 20-9 APPEALS

**20-901.** Upon written request, the Zoning Administrator may grant an appeal administratively for single-family, duplex and triplex residences regarding requirements of this article. Any other appeal to waive or modify any of the requirements of this Article shall be made to and at the discretion of the Planning Commission. Such appeals shall be approved by the Planning Commission only upon its finding that the following conditions are evident:

- a. That the conditions unique to the particular property dictate a waiver or modification;
- b. That strict application of the provisions of this Article will result in unnecessary hardship to the applicant and/or property owner;
- c. That the waiver or modification will not adversely affect the rights of adjacent property owners nor the general public welfare; and
- d. That the waiver or modification will not be opposed to the general spirit of these regulations.

## ARTICLE 21

## NONCONFORMING SITUATIONS AND VESTED RIGHTS

## Sections:

- 21-1 Intent
- 21-2 Definitions
- 21-3 Continuation of Nonconforming Situations and Completion of Nonconforming Projects
- 21-4 Nonconforming Lots
- 21-5 Extension or Enlargement of Nonconforming Situations
- 21-6 Repair, Maintenance and Alterations
- 21-7 Change of Nonconforming Use
- 21-8 Nonconforming Site Improvements
- 21-9 Abandonment and Discontinuance of Nonconforming Situations
- 21-10 Nonconforming Signs
- 21-11 Nonconforming Manufactured Homes
- 21-12 Completion of Nonconforming Projects and Vested Rights

## SECTION 21-1 INTENT

**21-101.** The intent of this Article is to provide for the regulation of nonconforming buildings, structures, lots and uses, and to specify those circumstances and conditions under which those nonconforming buildings, structures, lots and uses shall be permitted to lawfully continue notwithstanding their nonconformance to these regulations. It is in the best interest of the entire community that those nonconforming buildings, structures, lots and uses, which adversely affect the orderly development and value of other property not be permitted to continue unless restricted.

## SECTION 21-2 DEFINITIONS

**21-201.** Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this Article:

- a. **Cost.** The total cost of alteration or repair shall mean the fair market value of the materials, services and labor necessary to accomplish such renovation, repair or restoration.
- b. **Dimensional nonconformity.** A nonconforming situation that occurs when the height, size or minimum floor area of a structure, or the relationship between an existing building or buildings and the other buildings or lot lines, does not conform to the regulations applicable to the zoning district in which the property is located.
- c. **Effective date.** Whenever this Article refers to effective date, the reference shall be deemed to include the effective date of any amendments to these regulations if the amendment, rather than these regulations (as originally adopted), creates a nonconforming situation.
- d. **Nonconforming lot.** A lawfully platted lot existing on the effective date of these regulations that does not meet one or more of the minimum width, depth or area requirements of the zoning district in which the lot is located.

- e. **Nonconforming project.** Any structure, development or undertaking that is incomplete on the effective date of these regulations, and would be inconsistent with one or more of the regulations applicable to the zoning district in which it is located if completed as proposed or planned.
- f. **Nonconforming sign.** A sign that, on the effective date of these regulations, does not conform to one or more of the regulations set forth in Article 27.
- g. **Nonconforming site improvement.** A situation that occurs when, on the effective date of these regulations, an existing site improvement on a lot, including but not limited to parking areas, storm drainage facilities, sidewalks and landscaping, no longer conforms to one or more of these regulations applicable to the property.
- h. **Nonconforming situation.** A situation that occurs when, on the effective date of these regulations, an existing lot, structure or improvement, or the use of an existing lot, structure or improvement no longer conforms to one or more of the regulations applicable to the zoning district in which the lot, structure or improvement is located.
- i. **Nonconforming use.** A situation that occurs when property is used legally for a purpose and then is prohibited or made unlawful by the use regulations applicable to the zoning district in which the property is located. The term also refers to the activity that constitutes the use made of the property.
- j. **Structural value.** The present-day cost of replacing the structure or improvement.

### SECTION 21-3 CONTINUATION OF NONCONFORMING SITUATIONS AND COMPLETION OF NONCONFORMING PROJECTS

#### 21-301.

- a. Unless otherwise specifically provided in this Article and subject to the restrictions and qualifications set forth in Sections 21-3:12, nonconforming situations that were otherwise lawful on the effective date of these regulations may be continued.
- b. Nonconforming projects may be completed only in accordance with the provisions of Section 21-12.
- c. The burden shall be on the landowner or developer to establish entitlement to continuation of nonconforming situations or completion of nonconforming projects.

### SECTION 21-4 NONCONFORMING LOTS

#### 21-401.

- a. This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. A substantial structure shall include any structure in excess of eight hundred (800) square feet in floor area which was constructed for a principal use permitted in the zoning district at the time of construction. A change in use of a developed nonconforming lot may occur only in accordance with Section 21-7.

- b. Where a nonconforming lot does not conform to the lot area or dimensions applicable to that zoning district, the lot may be used for any permitted use in that zoning district provided all other requirements and regulations are met.
- c. When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements cannot be complied with, then the Board of Zoning Appeals may allow variances from the applicable setback requirements if it finds that:
  - 1. Development of the property is not reasonably possible for the use proposed without such variance;
  - 2. The variance is necessitated by the size or shape of the nonconforming lot; and
  - 3. The property can be developed as proposed without any significant adverse impact on surrounding properties or the public health or safety.
- d. For purposes of subsection c, development in compliance with the applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.
- e. If, on the effective date of these regulations, an undeveloped nonconforming lot adjoins and has continuous frontage with one (1) or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his or her successors in interest may take advantage of the provisions of this section. This subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within five hundred (500) feet of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots, but not to require such combination when that would be out of character with existing patterns of development.
- f. The subdivision of any land, lot or parcel which creates a lot area or dimension which does not meet the minimum standards of these regulations is prohibited.

## **SECTION 21-5 EXTENSION OR ENLARGEMENT OF NONCONFORMING SITUATIONS**

### **21-501.**

- a. No person may increase the extent of nonconformity of a nonconforming situation. Physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:
  - 1. An increase in the total amount of space of building area devoted to a nonconforming use; or
  - 2. Greater nonconformity with respect to dimensional restrictions such as building setback requirements, height limitations or density requirements, or other requirements such as parking requirements.



- b. Subject to subsection d, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by these regulations, was designed or arranged to accommodate that non-conforming use. Except as otherwise provided in Section 21-12, a nonconforming use may not be extended to additional buildings or to land outside the original building.
- c. Except as otherwise provided in Section 21-12, a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming. However, a use that involves the removal of natural materials from the land may be expanded to other portions of the lot where the use was established at the time it became nonconforming if seventy-five percent (75%) or more of the natural products had already been removed on the effective date of these regulations, and where the development and performance standards otherwise applicable to such a use were complied with.
- d. The volume, intensity or frequency of use of property where a nonconforming situation exists may be one-time increased up to ten percent (10%) and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other provisions of this section occur.
- e. Notwithstanding subsection 21-501.a., any structure used as a single-family dwelling and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not:
  - 1. create new nonconformities,
  - 2. increase the extent of the existing nonconformities with respect to such matters as setback and parking requirements, and
  - 3. violate the limitations of Section 21-7.

## **SECTION 21-6 REPAIR, MAINTENANCE AND ALTERATIONS**

### **21-601.**

- a. Repairs, alterations and maintenance of structures and property where nonconforming situations exist may be made provided those repairs, alterations and maintenance conform to the regulations of the district in which the building or structure is located.
- b. If a structure located on a lot where a nonconforming situation exists is damaged by fire, explosion, act of God, or the public enemy to an extent that the costs of repair or restoration would not exceed fifty percent (50%) of its structural value, then the damaged structure may be repaired or restored only in accordance with a nonconforming situation permit issued by the Zoning Administrator.

## **SECTION 21-7 CHANGE OF NONCONFORMING USE**

### **21-701.**

- a. A change in use of property where a nonconforming situation exists may not be made except in accordance with this section.

- b. If the change in use is to a permitted use in the district where the property is located, and all of the other requirements of these regulations are complied with, no permission from the City to make the change need be obtained. Once conformity with these regulations is achieved, the property may not revert to nonconforming status.
- c. If the change in use is to a permitted use in the district where the property is located, however the site or development requirements cannot reasonably be complied with, then the change in use is permissible only if the Zoning Administrator issues a nonconforming situation permit. This permit may be issued if the Zoning Administrator finds, in addition to any other findings that may be required by these regulations, that the intended change will not result in a violation of Section 21-8 and that all of the applicable requirements of this Article will be complied with that are reasonably possible.
- d. A nonconforming use may be changed to another nonconforming use if the Planning Commission finds that the proposed use is equally appropriate or more appropriate to the district than is the existing nonconforming use.

## **SECTION 21-8 NONCONFORMING SITE IMPROVEMENTS**

### **21-801.**

- a. On lots with nonconforming site improvements, no additions to, or repairs or alterations of any structure or site improvement may be made without first either bringing the nonconforming site improvements into conformity with the regulations applicable to the zoning district or obtaining a nonconforming situation permit. This section shall not apply to minor repairs and renovations (less than ten percent (10%) of the structural value of a structure or site improvements), or repairs or alterations to a structure pursuant to Section 21-6.
- b. When an addition to, or repairs or alterations to, any structure or site improvement is proposed on a lot with a nonconforming site improvement, the Zoning Administrator may approve a nonconforming situation permit allowing such addition or repairs or renovation upon finding that all of the following criteria are met:
  - 1. The nonconforming site improvement(s) is the only nonconforming situation pertaining to the property.
  - 2. Compliance with the site improvement requirements applicable to the zoning district in which the property is located is not reasonably possible.
  - 3. The property can be developed as proposed without any significant adverse impact on surrounding properties or the public health or safety.
- c. For the purposes of subsection b, mere financial hardship does not constitute grounds for finding that compliance with the site improvement requirements is not reasonably possible.

**SECTION 21-9 ABANDONMENT AND DISCONTINUANCE OF NONCONFORMING SITUATIONS**

**21-901.**

- a. When a nonconforming use is discontinued for a period of 360 consecutive days, or discontinued for any period of time without a present intention of resuming that activity, then the property may thereafter be used only in conformity with all of the regulations for the zoning district in which it is located.
- b. If the principal activity on property where a nonconforming situation other than a nonconforming use exists is discontinued for a period of 360 consecutive days, or discontinued for any period of time without a present intention of resuming that activity, then the property may thereafter be used only in conformity with all of the regulations for the zoning district in which it is located unless the Zoning Administrator issues a permit to allow the property to be used for this purpose without correcting nonconforming situations. Such permit may be issued if the Zoning Administrator finds that eliminating a particular nonconformity is not reasonably possible.
- c. When a structure or operation made nonconforming by these regulations is vacant or discontinued on the effective date of these regulations, the 360 day period for purposes of this section begins to run on the effective date of these regulations.

**SECTION 21-10 NONCONFORMING SIGNS**

**21-1001.**

- a. Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of these regulations may be continued.
- b. No nonconforming sign may be altered in such a manner as to aggravate the nonconforming condition, nor may illumination be added to any nonconforming sign.
- c. A nonconforming sign may be altered to bring the sign into complete conformity with these regulations.
- d. Subject to the other provisions of this section, nonconforming signs may be maintained.
- e. If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be deemed abandoned and shall be removed within thirty (30) days after such abandonment by the sign owner, owner of the property where the sign is located, or other person having control over such sign.
- f. If a nonconforming billboard remains blank for one hundred eighty (180) consecutive days, that billboard shall be deemed abandoned and shall, within thirty (30) days after such abandonment, be altered to comply with this Article or be removed by the sign owner or owner of the property where the sign is located, or other person having control over such sign. For purposes of this section, a sign is “blank” if:
  1. It advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted; or

2. The advertising copy paid for by a person other than the sign owner or promoting an interest other than the rental of the sign has been removed.

## **SECTION 21-11 NONCONFORMING MANUFACTURED HOMES**

**21-1101.** The removal and relocation of manufactured homes in the R-1, R-2, R-3, or TN districts, other than residential-design manufactured homes, 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 thirty (30) 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 on to 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.

## **SECTION 21-12 COMPLETION OF NONCONFORMING PROJECTS AND VESTED RIGHTS**

**21-1201.**

- a. All nonconforming projects, except as provided in paragraphs a., e., f. and g. of this section on which construction has begun, based upon the issuance of a building permit before the effective date of these regulations, and at least ten percent (10%) completed in terms of the total expected cost of the project on the effective date of these regulations, may be completed in accordance with the terms of their permits provided a vested rights permit is obtained from the Zoning Administrator.
- b. Except as provided in subsections a., e. and g., all work on any nonconforming projects shall cease on the effective date of these regulations and all permits previously issued for work on nonconforming projects may begin or may be continued only pursuant to a vested rights permit issued in accordance with this section by the Zoning Administrator. The Zoning Administrator shall approve such a permit upon finding that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changes his or her position in some substantial way in reasonable reliance on the regulations as they existed before the effective date of these regulations and thereby would be unreasonably prejudiced if not allowed to complete its project as proposed. In considering whether these findings may be made, the Zoning Administrator shall be guided by the following, as well as other relevant considerations.

1. All expenditures made to obtain a validly issued and unrevoked building, land use or sign permit shall be considered as evidence of reasonable reliance on the regulations that existed before the effective date of these regulations.
  2. To the extent that expenditures are recoverable with a reasonable effort, a person shall not be considered prejudiced by having made those expenditures. For example, a person shall not be considered prejudiced by having made some expenditure to acquire a potential development site if the property obtained is approximately as valuable under the new classification as it was under the old, for the expenditure can be recovered by a resale of the property.
  3. To the extent that a nonconforming project can be made conforming and that expenditures made or obligations incurred can be effectively utilized in the completion of a nonconforming project, a person shall not be considered prejudiced by having made such expenditures.
  4. An expenditure shall be considered substantial if it is significant in dollar amount in terms of the total estimated cost of the proposed project and the ordinary business practices of the developer.
- c. When it appears from the developer's plans or otherwise that a project was intended to be or reasonably could be completed in phases, stages, segments or other discrete units, the developer shall be allowed to complete only those phases or segments with respect to which the developer can make the showing required under subsection b. Subject to the guidelines in subsection b, 1:4, the Zoning Administrator shall, in determining whether a developer would be unreasonably prejudiced if not allowed to complete phases or segments of a nonconforming project, consider the following in addition to other relevant factors:
1. Whether any plans prepared or approved regarding uncompleted phases constitute conceptual plans only or construction drawings based upon detailed surveying, architectural or engineering work.
  2. Whether any improvements, such as streets or utilities, have been installed in phases not yet completed.
  3. Whether utilities and other facilities installed in completed phases have been constructed in such a manner or location or to such a scale, in anticipation of connection to or interrelationship with approved but uncompleted phases, that the investment in such utilities or other facilities cannot be recouped if approved but uncompleted phases are constructed in conformity with existing regulations.
- d. The Zoning Administrator shall not consider any application for a vested rights permit authorized by subsection b. that is submitted more than 180 days after the effective date of these regulations.
- e. Completion of Single-Family Residential Development: Nothing in this Article shall prevent development of a single-family residential development in accordance with a final plat recorded in the office of the Register of Deeds of Franklin County. However, if construction is not commenced on any such land within five (5) years of the recording of the plat, the development rights shall expire.

- f. All PUDs that were approved and are still current as of the effective date of these regulations may continue to be developed in accordance with the stipulations, waivers, special conditions, uses, etc., provided that they are in compliance with time and other requirements.
- g. All nonconforming projects which have received site plan approval in accordance with Article 28 prior to the effective date of these regulations may continue to be developed in accordance with such approved site plan.

## ARTICLE 22

## OFF-STREET PARKING AND LOADING REGULATIONS

## Section:

- 22-1 Intent
- 22-2 General Provisions
- 22-3 Layout and Design Requirements
- 22-4 Permit Required
- 22-5 Required Parking Spaces
- 22-6 Exceptions Granted by Board of Zoning Appeals
- 22-7 Design Standards
- 22-8 Loading and Unloading Regulations

## SECTION 22-1 INTENT

**22-101.** These regulations are intended to 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. These regulations and standards also provide for loading and unloading spaces and 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 provisions of the City-adopted building code 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 variations of up to ten percent (10%) 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. In interpreting and applying this Article the Zoning Administrator shall rely on "Parking Standards," November 2002 edition, published by the American Planning Association.

### SECTION 22-3 LAYOUT AND DESIGN REQUIREMENTS

**22-301. Parking Space 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 for residential use parking spaces in the R-1 low density residential district, 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 when such is required under City-adopted regulations.

**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 City-adopted standards. Site plans for commercial properties may include a traffic impact analysis and an internal traffic circulation plan making full use of shared entrances.

**22-305. Surfacing.** All off-street parking facilities, loading areas, vehicular storage areas and drives and areas to and from such areas, including single-family and duplex residential driveways, shall be surfaced with a minimum of

- a. Four (4) inches of reinforced Portland cement concrete; or,
- b. Four (4) inches of granular rock base with two (2) inches of asphalt; or,
- c. Seven (7) inches of granular rock with a double chip and seal; or,
- d. Four (4) inches of full depth asphalt; or,
- e. Or as designed by an engineer or accepted by the City Engineer depending upon existing conditions.

As an alternative all off street parking for uses allowed by right within residential districts or areas of low off-street parking use as determined by the City Engineer (such as fire safety lanes or overflow parking areas), may be surfaced with the following alternative methods of paving:

- a. Grid unit pavers with grass installed per the manufacturer's recommendations with



the pavement and base designed by a professional engineer licensed in the State of Kansas. The pavement cross-section shall demonstrate the structural ability to support the anticipated vehicle loads for the use. The pavement design shall be reviewed and approved and approved by the City Engineer.

- b. Concrete, brick, or clay interlocking paver units installed per the manufacturer's recommendations with the pavement and base designed by a professional engineer licensed in the State of Kansas. The pavement cross-section shall demonstrate the structural ability to support the anticipated vehicle loads for the use. The pavement design shall be reviewed and approved by the City Engineer.

(22-305, a, b, c, d, Revised and adding e, new paragraph, a, & b, 12-21-05)

Driveways from gravel alleys to a rear garage or parking area may be covered by six (6) inches of gravel, including base, as an alternative to these surfacing requirements.

Driveways and parking areas for single-family units in residential districts may elect to pave only the vehicular wheel tracks beyond the right-of-way.

Gravel areas lawfully 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.

The Zoning Administrator may, upon receiving a specific written request from an owner of a property, authorize temporary occupancy for a time period not to exceed one (1) year prior to accomplishing the required paving or a portion thereof, provided a security (such as bond, cashiers check, escrow account, letter of credit or like security) for 125% of engineering estimate or actual bids, is submitted. The security would be exercised by the City if the applicant failed to perform as agreed.

In reviewing a request for temporary occupancy prior to accomplishing required paving, the Zoning Administrator shall consider the following criteria:

- a. Season of the year.
- b. Affect on the adjoining property.
- c. Surfacing of the connecting street.
- d. Surfacing of existing adjoining parking facilities.

A shorter timeframe or no delay may be determined appropriate based upon the above criteria.

**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: (a) when in residential zoning districts or (b) which are adjacent to a residential-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 landscape shall be at least four (4) feet in height.

**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 construction on any parking area designed to accommodate four or more vehicles.

**SECTION 22-5 REQUIRED PARKING SPACES**

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

<b><u>Residential Uses:</u></b>	<b><u>Minimum Off-Street Parking Spaces</u></b>
Single-family and Two-family	2 spaces per unit for residences 2,000 square feet in size or less, 3 spaces per unit for residences greater than 2,000 square feet in size.
Multiple-family: Efficiency One or more bedrooms	1 space per unit 2 spaces per unit
Dormitories, fraternities, sororities	1 space for each sleeping room
Lodging houses, rental sleeping rooms in a dwelling unit	1 space per room
Nursing home, rest home or convalescent home	1 space for each 2 beds based on maximum design capacity, plus 1 space for each 3 employees
Mobile home park or subdivision	2 spaces per unit
<b><u>Nonresidential Uses:</u></b>	
Automobile, truck, recreation vehicle, mobile home sales and rental lots	1 space per 3,000 square feet of indoor and/or outdoor display area, plus 1 space per employee, up to a maximum of 20 spaces
Automobile car wash	3 holding spaces for each stall, plus 1 drying space per stall
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
Bed and breakfast inns	1 space per rental unit
Bowling alleys	2 spaces for each lane or alley, plus 1 space per 4 seats in restaurant or bar area
Churches and similar places of worship	1 space for each 4 seats in the sanctuary

**CITY OF OTTAWA, KANSAS – ZONING REGULATIONS**

*Article 22*

College	a. For colleges where 50% or more of students reside within six (6) blocks of the campus, 1 space for each 3 employees, plus 1 additional space for fore each 15 students enrolled b. For other colleges, 1 space for every 2 classroom seats, based on maximum design capacity
Day care or nursery schools	1 space for each 10 students enrolled, plus 1 space per employee.
Elementary, junior high schools, and equivalent parochial or private schools	1 space per classroom, plus 1 space for each 4 persons based on maximum design capacity
Fraternal associations	1 space each 4 persons based on maximum design occupancy
Funeral homes and mortuaries	1 space for each 3 seats based on maximum design capacity plus 1 space per employee
Furniture and appliance stores	1 space per 500 square feet of floor area
High school	5 spaces per each classroom
Hospitals	1 space for each 3 beds, plus 1 space for each 2 employees on a maximum shift, plus 2 spaces for each examining room for outpatient service.
Laundromats	1 space for every 3 washing machines
Manufacturing, processing, assembly plants	1 space per 2000 square feet of gross floor area
Medical and dental clinics	5 spaces for each doctor or dentist
Microbrewery/microdistillery/farm winery/other micro-production and bottling facilities	1 space per 1,000 square feet of manufacturing and storage gross floor area; 1 space for each 3 persons based on maximum design capacity for tasting room areas.
Motel and/or hotels	1 spaces per rental unit plus 1 space for each 2 employees per working shift, plus number of spaces required for any ancillary uses
Motor vehicle repair or body shop	3 per service bay
Restaurants and brewpubs with fixed seating, provided that drive-up restaurants shall provide a minimum of 10 spaces	1 space for each 3 seats
Retail stores and shops, including convenience stores at which service areas at gas pumps will not be considered required parking spaces	1 space per 200 square feet of retail area
Service stations and quick service facilities	1 space for each employee, plus 2 spaces per service bay.
Taverns, private clubs	1 space for each 3 persons based on maximum design capacity
Theaters, auditoriums, assembly places with fixed seating	1 space for each 4 seats

Theaters, auditoriums, assembly places without fixed seating	1 space for each 4 persons based on maximum design capacity
Trade, commercial schools	1 space for each 3 students and employees
Warehouse, storage, wholesale establishments	1 per 2000 square feet of gross floor area
All other uses not specified above	1 space per each 200 square feet of floor area

(Table revised 05-06-16)

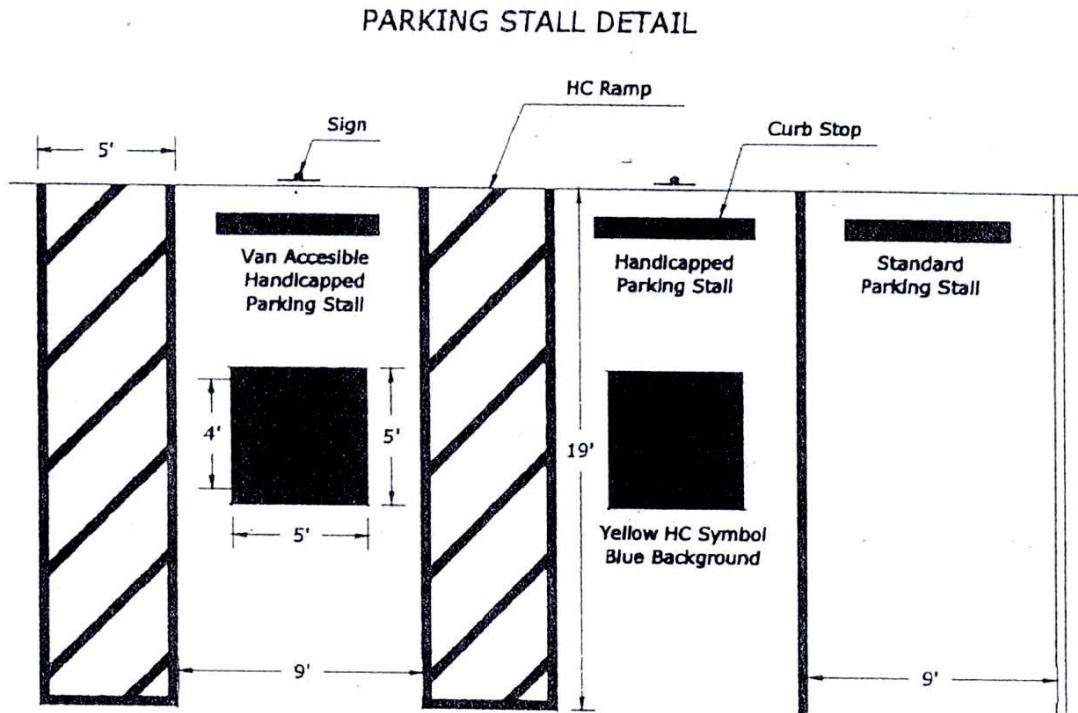
**SECTION 22-6 EXCEPTIONS GRANTED BY BOARD OF ZONING APPEALS**

**22-601.** The Board of Zoning Appeals may grant an exception to the following requirements:

- a. **Location.** Parking 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
- c. **Fencing and Screening.** A fence (such as solid-wall masonry, wood, louvered wood, metal or other similar materials) at least four (4) 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. Fences shall also comply with the provisions of Section 24-7.

**SECTION 22-7 DESIGN STANDARDS**

**22-701. Minimum off-street parking standards:**

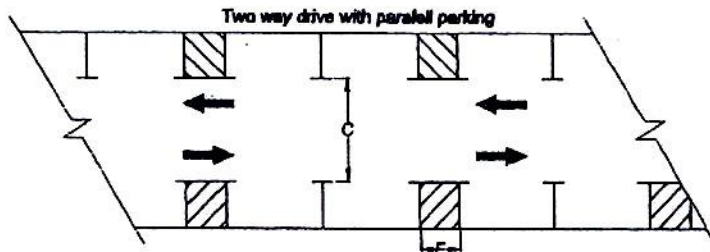
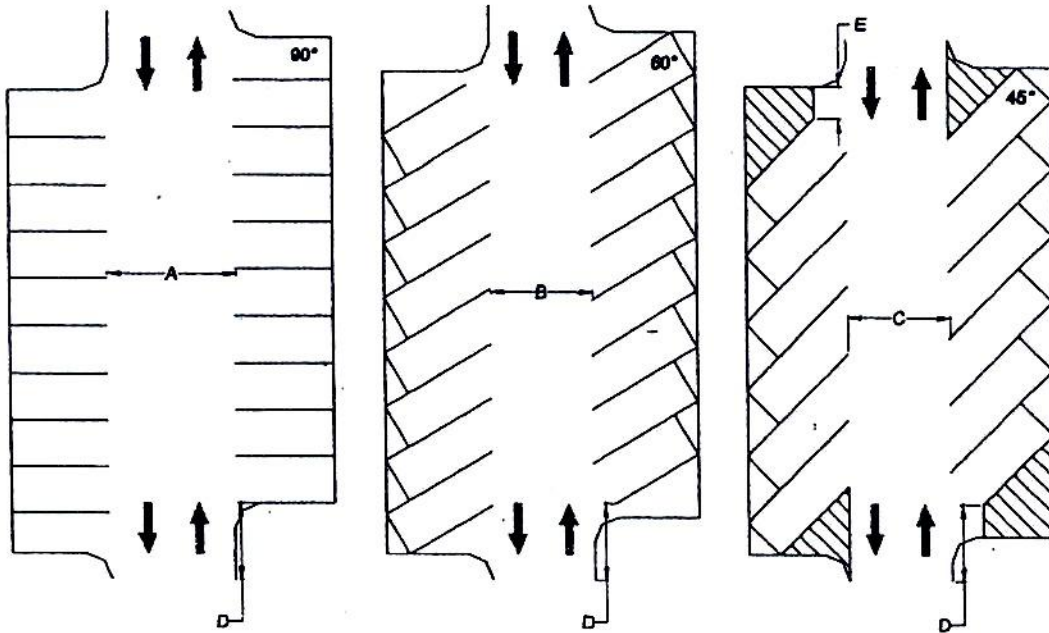


1. 1 HC stall required per 25 parking spaces.
2. Curb Cut required for HC ramp at head of each HC loading area.
3. 12" x 18" HC parking sign required for every HC stall.
4. HC loading area hash spacing is 3' to 4'.
5. HC stall striping is yellow, standard stall striping is white.
6. All striping 4" to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

22-702. Parking Lots:

PARKING LOT DIMENSIONS

Two Way Traffic

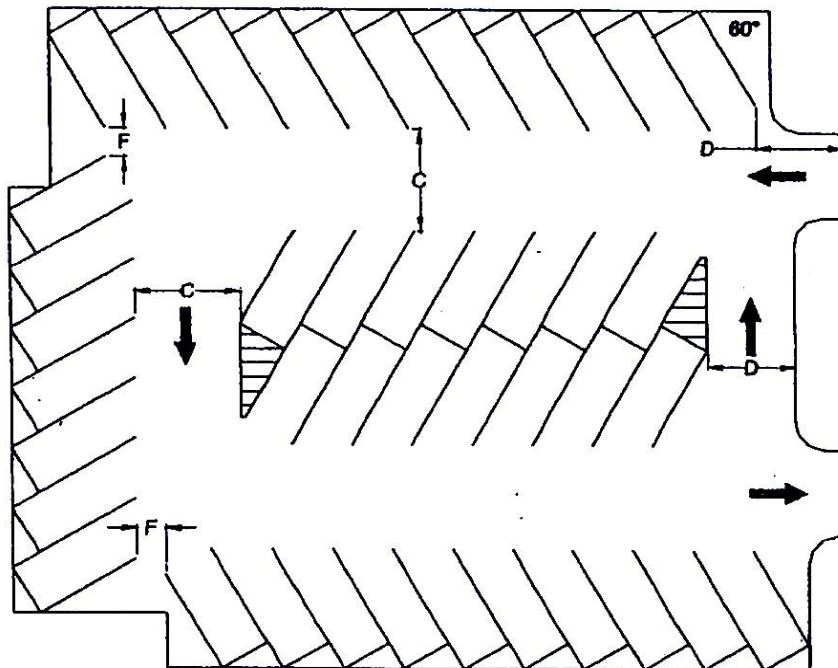
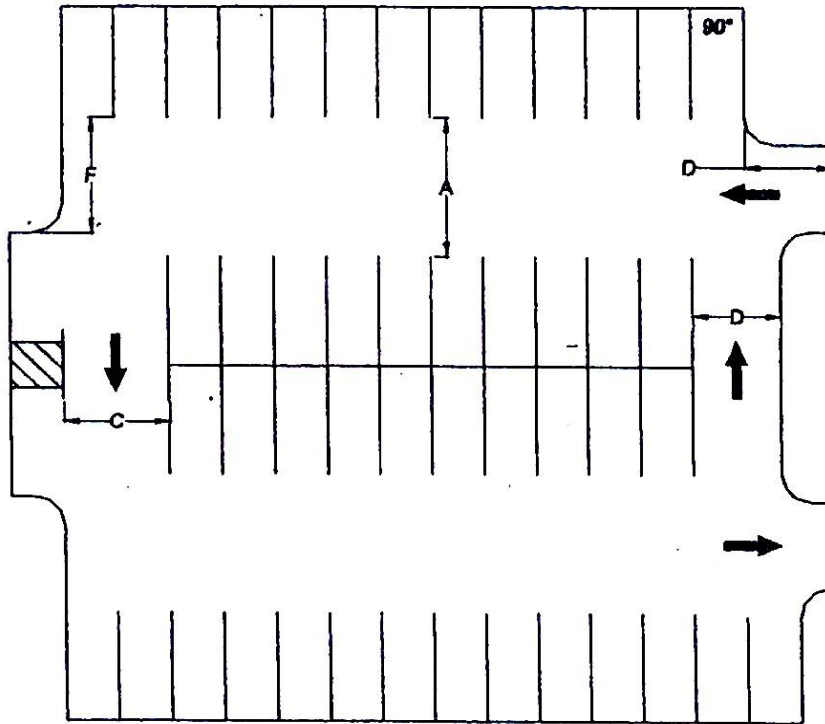


	Standard	*Minimum
A	25'	20'
B	23'	18'
C	20'	15'
D	15'	12'
E	10'	8'
F	8'	8'

\*Must be approved by Zoning Administrator prior to construction.

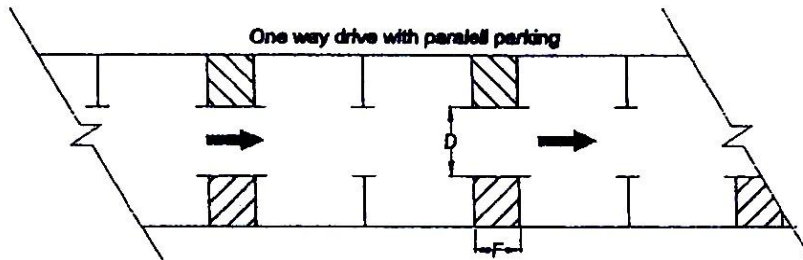
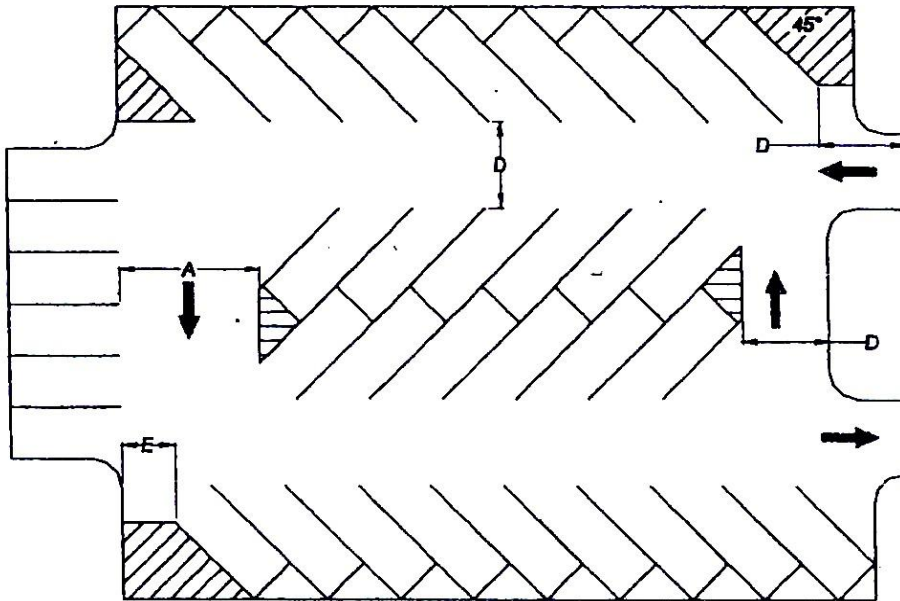
**PARKING LOT DIMENSIONS**

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.



**SECTION 22-8 LOADING AND UNLOADING REGULATIONS**

**22-801.** 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:

<b>Number of Spaces</b>	<b>Gross Floor Area in Square Feet</b>
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.

**22-802.** 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. A-2" Heavy Industrial.
- f. "M" Mixed.
- g. "TN" Traditional Neighborhood.

## ARTICLE 23

### HOME OCCUPATION REGULATIONS

**Sections:**

- 23-1 Home Occupations**
- 23-2 Permitted Home Occupations**
- 23-3 Prohibited Home Occupations**

#### SECTION 23-1 HOME OCCUPATIONS

**23-101.** Home occupations as defined in Article 2 of these regulations shall be permitted in the A District and the CS, R-1, R-2, R-3, TN, MHS and MP residential districts, subject to the following restrictions and limitations:

(23-101 Revised 04-04-12)

- a. No more than one employee or volunteer shall engage in such home occupation in addition to the person occupying the dwelling unit as his or her place of residence.
- b. No more than one home occupation may be in existence at any one dwelling unit at any point in time.
- c. There shall be no outdoor storage of materials or equipment used in the home occupation.
- d. No exterior alterations or other construction shall be made to the dwelling which changes the character or appearance from its primary residential use.
- e. No new accessory buildings shall be constructed for use, in whole or in part, in the home occupation.
- f. 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 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.
- g. 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 residential dwelling.
- h. No merchandise shall be displayed or sold on the premises to members of the general public, including 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.
- i. 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 five hundred (500) square feet, whichever is less.

- j. The giving of lessons of any type shall be limited to no more than four (4) persons at any one time.
- k. No more than one (1) sign regarding the home occupation shall be permitted, and such sign shall be mounted flat against, or within five (5) feet of, the exterior wall of the dwelling unit.
- l. Compliance with zoning regulations applicable to the district within which the home occupation operates.

### **SECTION 23-2 PERMITTED HOME OCCUPATIONS**

**23-201.** 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 or sewing of fabrics.
- c. Giving academic, music and similar types of lessons.
- d. Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers, realtors, insurance agents, brokers, sales representatives, contractors, and similar professional offices.
- e. Assembly of handicraft or hobby articles.
- f. Photographic studios.
- g. Beauty or barber shops having one chair, stand or station.
- h. Sales and services based upon the internet.
- i. Home electronics and small appliance repair service.

### **SECTION 23-3 PROHIBITED HOME OCCUPATIONS**

**23-301.** Except where allowed as a permitted or conditional use, home occupations shall not in any event include the following:

- a. Antiques, 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).
- g. Machine shops, welding shops.
- h. Fabrication or manufacturing of goods.

## ARTICLE 24

## SUPPLEMENTAL DISTRICT REGULATIONS

## Sections:

- 24-1 General
- 24-2 Height and Yard Regulations
- 24-3 Number of Structures on a Lot
- 24-4 Screening for Commercial and Industrial-Zoned Property
- 24-5 Temporary Uses
- 24-6 Accessory Uses
- 24-7 Fences
- 24-8 Residential-Design Manufactured Housing Standards
- 24-9 Underground Dwellings

## SECTION 24-1 GENERAL

**24-104.** The regulations set forth in this article qualify or supplement, as the case may be, the district regulations appearing elsewhere in these regulations.

## SECTION 24-2 HEIGHT AND YARD REGULATIONS

**24-201.**

- a. **Height.** Chimneys, cooling towers, steeples, 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, provided such line does not exceed by more than ten (10) feet the front yard requirement established by the applicable district regulations.
    - (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 fifteen (15) feet in a residential zone, or ten (10) feet in a commercial or industrial zone.

- (c) Unless conditions of a particular site warrant additional setback to account for future right-of-way needs, buildings located along arterial or collector streets shall be adjusted as follows.
1. Arterial Streets: No building or structure which fronts or sides on an arterial street shall be located nearer to the center of the arterial street right-of-way than the sum of the required front yard (in feet) plus 60 feet. No recorded front building setback line shall be established which is less than the projected necessary right-of-way for K-68 Highway as shown in the K-68 Corridor Management Plan.  
(24-201-c revised 1-02-19-14)
  2. Collector Streets: No building or structure which fronts or sides on a collector street shall be located nearer to the center of the collector street right-of-way than the sum of the required front yard (in feet) plus 50 feet.  
(24-201-c added 09-05-07)
2. *Accessory buildings and structures.*
- (a) Detached accessory buildings or structures must be located behind the front building line and may be located no closer than five (5) feet from the principal building, side or rear lot line, except 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) 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.
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.
  - (d) ADA accessible ramps or chairlifts may project into a required yard setback. In no event shall the ramp or chairlift extend beyond the property line.  
(24-201- 3 - added letter d 10-05-16)

## SECTION 24-3 NUMBER OF STRUCTURES ON A LOT

**24-301.** 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 24-4 SCREENING FOR COMMERCIAL AND INDUSTRIAL-ZONED PROPERTY**

### **24-401.**

- 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 plated 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 within six months of occupancy of the commercial or industrial use as allowed.

## **SECTION 24-5 TEMPORARY USES**

### **24-501.**

- a. Only the following temporary uses may be permitted.
  1. **Carnivals and Circuses:** A carnival or circus, but only in a I-1 or I-2 district or in a public park, for a period that does not exceed two (2) weeks. Such use need not comply with the front yard requirements, provided that structures or equipment which might block the view of operators of motor vehicles on the public streets shall conform to the requirements of the sight triangle as defined by these regulations. Except for a carnival or circus operated in conjunction with the Franklin County Fair, any carnival or circus located within 300 feet of a residential dwelling, hotel, motel, bed and breakfast, lodging or boarding house, or any other use providing overnight sleeping accommodations, said carnival or circus shall not be in operation between the hours of 10:00 p.m. and 8:00 a.m.
  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, with such use to continue only until sale or lease of all units in the development.
4. Outdoor temporary sales on private property and not incorporated or in partnership with the existing business located on this property in a commercial or industrial zone, including commercial sales, swap meets or similar activities providing they do not operate for more than ten (10) consecutive days and there are no more than four (4) such sales on any one property in any calendar year.
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. Such use shall not exceed 120 consecutive days.
6. One mobile home to be used as a temporary office for any allowable use in an industrial zoning district, provided that such mobile home shall not be used for more than a one (1) year period starting the day the mobile home is set upon the property.
7. Charitable Sales or Services: Charitable events such as dinners, car washes, performances, bake sales or similar activities but for a period not to exceed three (3) days over a 30-consecutive day period.
8. Portable, short term moving and shipping containers in residential areas, not to exceed 30 days. No such unit shall block any sidewalk, right-of-way, or be located in any sight triangle as described in Section 13-400 of the Municipal Code. Doors must be secured at all times except during loading and unloading. Exception to the length of time may be possible if the dwelling unit has been damaged by a natural disaster or casualty.

(24-501-a-8 added 02-03-10)

9. Seasonal or temporary retail sale of food and drink, such as snow cones, food, or coffee; products, such as electronics; and services, such as photo finishing. Such use may be permitted only in the C-3 district, ancillary to an established commercial use and located on land of common ownership. Any building placed for use in operation of such use shall be removed within 120 days of initial placement or constructed compliance with applicable building codes including, but not limited to placement upon a permanent foundation.

(24-501-a-9 added 11-03-10; revised 01-15-20)

10. Mobile Food vendors governed by City licensing and Section 24-501.c of this article, must be on land zoned c-3, C-4, Public, I-1 or I-2.

(24-501-a-10 added 01-15-20)

- b. Persons seeking approval for a temporary use authorized by items 1, 2, 4, 6 and 8 in subsection 24-501.a. above shall make application to the Zoning Administrator at least twenty (20) days in advance of the time desired for usage. Such application shall include a site plan showing existing buildings and parking, located of any permanent or semi-permanent structures and any required utility service connections. The Zoning Administrator may issue a certificate of temporary use upon the payment of the temporary use permit fee imposed by the fee ordinance and upon finding:

(24-501-b revised 11-03-10)



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 impact the public health, safety, or convenience and will not create traffic hazards or congestion or otherwise interrupt or interfere with the normal conduct of use and activities in the vicinity.
  3. That adequate off-street parking is available for the temporary use and any permanent use on the site.
  4. The temporary use will be in compliance with all applicable City laws, including licensure requirements.
- c. The following conditions for a temporary use shall apply:
1. Each site used by an authorized temporary use shall be left free of debris, litter and all evidence of such use.
  2. 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.
  3. No temporary use shall be located within the required setback of the site.
  4. 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 24-6 ACCESSORY USES

**24-601.** 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 24-601.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. Residential Uses.
    - (a) Garages / Carports:

1. Tracts under 1/2 acre - Private garages or carports or any combination thereof, not to exceed the lesser of (a) one thousand two hundred (1,200) square feet in area or (b) the floor area of the residential building.
2. Tracts 1/2 acre in size up to 3 acres - Private garages or carports or any combination thereof, not to exceed two thousand (2,000) square feet in area.
3. Tracts greater than 3 acres in size - Private garages or carports or any combination thereof may be permitted upon approval of a variance by the Board of Zoning Appeals. Factors to be considered by the Board include:
  - a. The size of the tract;
  - b. The size of the primary residential structure in relation to the proposed size of the garage/carport(s);
  - c. The proposed height of the garage/carport(s);
  - d. The proximity of proposed structures to neighboring property; and
  - e. The scale of the development on the tract and ensuring that the resulting development does not overwhelm the primary structure or other neighboring development /structures.

(24-601-b-1a-04-02-14; 24-601-b-1a-#3-08-01-18)

- (b) 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.
- (c) A children’s playhouse.
- (d) A private swimming pool and bathhouse.
- (e) Statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, hedges and radio and television antennas.
- (f) Storm shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.
- (g) For properties in the Urban Growth Area, private garages, carports or shop buildings shall not exceed one thousand eight hundred (1,800) square feet in area.

(24-601-b-g added 12-21-11)

- (h) For all permitted accessory uses the maximum building height shall be twenty-five (25) feet, as measured from the ridgeline.

(24-601-b-h added 10-17-12)

- (i) A greenhouse structure incidental to a community garden use, provided no such structure shall exceed three hundred (300) square feet in gross floor area.

(24-601-b-i added 08-15-18)

2. Commercial and Industrial Uses.
- (a) Retail sales of products manufactured, processed or fabricated on site.
  - (b) Storage or recreational equipment, such as boats, boat trailers, camping trailers, converted buses or trucks, motor homes, provided no such equipment is occupied for dwelling purposes.
  - (c) Restaurants, drug stores, gift shops, clubs and lounges in a permitted commercial or industrial building.
  - (d) Employee restaurants and cafeterias when located in a permitted commercial or industrial building.
  - (e) Offices for permitted commercial and industrial uses when the office is located on the same site as the business or industry to which it is an accessory.
  - (f) Retail sales for permitted industrial uses when located on the same site as the industrial use.
  - (g) 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 or overnight parking in a residential district of trucks of a gross vehicle weight of 12,000 pounds or mobile homes, provided such storage or parking may be permitted upon the issuance of a waiver by the Zoning Administrator following a finding by the Administrator that such waiver would not be adverse to public health, safety or welfare.
- 2. Outdoor storage, except as specifically permitted in the district regulations.
- 3. Freight storage containers and/or shipping containers in residential districts.

(24-601-c-3 added 02-03-10)

**24-602. Accessory Uses; Animals and Livestock.**

- a. The keeping of common household pets such as dogs, cats, fish or birds in quantities less than those that would require Agricultural zoning or zoning for an animal boarding, breeding or veterinarian facility is permitted as an accessory use in any district, provided such is in accordance with all applicable laws of the City.
- b. Large domestic farm animals are prohibited in any residential districts (R-1, R-2, R-3, TN, MHS, MP, MU/RC).

(24-602-b revised 04-04-12)

- c. The keeping of domestic and non-native farm animals, such as horses; ponies; cattle; swine; alpaca; llamas; sheep; goats; poultry; and emus or small domesticated animals shall be permitted as an accessory use in the A or CS districts when done in compliance with all applicable laws of the City and in accordance with the following:
1. Horses, cattle, sheep, goats and similar animals may be kept on lots no smaller than five (5) acres in size.
  2. Chickens, geese or other poultry may be kept on lots no smaller than three (3) acres in size.
  3. Pigs, hogs or swine may be kept on lots no smaller than 10 acres in size.
- (24-602-c-1-2-3 revised 04-04-12)
- d. Chickens, geese or other poultry and ponies no greater than 36 inches at the shoulder may be kept on lots no smaller than two (2) acres in size in the A, CS, R-1, & R-2 districts, when permitted by approval of a conditional use permit.
- (24-602-d added 10-01-14)

## SECTION 24-7 FENCES

**24-701. General Provisions.** Except as otherwise specifically provided elsewhere in these regulations, or in other codes, ordinances or regulations of the City, the following restrictions shall apply to the construction of fences:

- a. **Definition:** Means an enclosure, wall or partition constructed of ornamental iron, chain link, plastic or vinyl (fabricated as fencing material), masonry, stone, or rot resistant wood which encloses or divides a lot or parcel of land.
- (24-701-a revised 04-04-12; 06-19-19)
- b. No person shall erect or repair, replace or reconstruct 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 or welfare.
- c. No fence shall be constructed, repaired, replaced or reconstructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.

### 24-702. Location and Height.

- a. **Front yard.**
1. No fence shall be constructed closer to the street than the front setback line established for the district or neighborhood in which such fence is to be erected; provided however, that: (a) a fence four (4) feet or less in height with a visual density of seventy (70) percent or less per square foot may be constructed in the required front yard setback; (b) If the front yard setback of a principle building is established closer to the street right-of-way than the required front yard setback, a fence greater than four (4) feet in height shall not be erected closer to the street right-of-way than the front corner of the principle building; (c) If the established front yard setback of a principle building is greater than twenty-five (25) feet, a fence greater than four (4) feet in height may be constructed with a setback of twenty-five (25) feet from the street right-of-way line.

2. Corner lots: If the established front yard setback on a corner lot is located to the side of the principle building, a fence greater than four (4) feet in height may be constructed within ten (10) feet from the street right-of-way line. If, however, an interior lot or through lot is located to the rear of a corner lot, said fence shall maintain the same front yard setback as required for fences on the adjoining interior lot or through lot. Fences constructed in accordance with this subsection shall also comply with the applicable provisions of subsection 1 above.
3. Double-frontage (not corner): If the established front yard setback of a through lot adjoins a street which is to the rear of the principle building, a fence greater than four (4) feet in height may be constructed within ten (10) feet of the street right-of-way line. In no case, however, shall said fence be constructed closer to the street right-of-way line than the front yard setback of an existing principle building located on an adjoining lot.
4. Agricultural and P District, Schools (public or private) and City parks: A chain link fence greater than four (4) feet but no higher than six (6) feet may be constructed in the required front yard setback where safety is an issue.

(24-702-a-4 revised 07-16-08)

**b. Other.**

1. No fence shall be erected or constructed of a height greater than six (6) feet above grade level in residential districts and eight (8) feet above grade level in commercial or industrial districts.
2. No fence shall be constructed in such manner or be of such design as to be a traffic hazard.
  - (a) Site Triangle: No fence shall be constructed within the sight triangle as defined in Article 2 of these regulations. The minimum area included in a sight triangle shall be bounded on two sides by the centerline of each street, and on the third side by a line connecting the two center lines at points a distance of seventy-five (75) feet from the intersection of the center lines. This distance shall be increased to ninety (90) feet on arterial or collector streets.
3. Decorative Fences: Decorative fences may be located anywhere on a site, including all yard areas, but shall not exceed three (3) feet in height above grade level. Decorative fences shall be designed so that they are neither solid fences or opaque screens or used for a certain area. Split-rail and wrought iron fences are examples of the non-opaque fences that could serve as decorative fencing. The total length of the decorative fence shall not exceed fifty (50) percent of the total width of the lot, as measured along the front setback line.

**24-703. Permit Required.**

- a. No fence shall be constructed without first obtaining a Building Permit approved by the City Inspector.
- b. All fences shall conform to the construction standards of the Uniform Building Code and other applicable ordinances and resolutions.

**24-704. Fences in Easements.**

- a. A fence may be installed within a dedicated utility easement at the property owner's risk of having to bear the expense of removal (or of having the fence removed by the City) and/or repair such fence due to the lawful activities of persons or entities under the easement. Fences in these areas shall be identified in the building permit process and be reviewed by the Director of Utilities or designee. All such fences shall have gates or openings or be constructed of removal panels to provide proper access to utility meters and/or easements. The City shall not be liable for replacement of any fence and the waiver of liability shall be noted on the face of the permit issued.
- b. No fence shall be placed in a storm drainage easement.

**24-705. Certain Fences Prohibited.**

- a. No electric fences, except in the A and CS District and for pets as permitted in subsection c. below.

(24-705-a revised 04-04-12)

- b. No barbwire or razor wire fences shall be allowed, except as follows: For agricultural purposes in the A and CS Zoning Districts up to five (5) strands of barbwire may be used for security purposes in the C-2, C-3, I-1, and I-2 Zoning Districts up to three (3) strands may be placed at the top of a fence provided such strands are a minimum height above ground of six (6) feet and overall height not to exceed nine (9) feet.

(24-705-b revised 04-04-12)

- c. No above ground electric pet fences. However, underground pet fences (restraining devices), where the animal has to wear a collar in order for the fence to be activated are allowed.

**SECTION 24-8 RESIDENTIAL-DESIGN MANUFACTURED HOUSING STANDARDS****24-801.**

- 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 twenty-two (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 three (3) inches for every twelve (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 (2) 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 building code 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 masonry curtain wall, supported by frost-depth footing 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 twenty-five (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.
- 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.

## **SECTION 24-9 UNDERGROUND DWELLINGS**

**24-901.** Underground dwellings are a housing type allowed in zoning districts where site-built residences are a permitted or conditional use, with issuance of a building permit being subject to the following additional requirements: (a) approval of a stormwater drainage plan by the Zoning Administrator, and (b) approval by the Zoning Administrator of plans prepared by a licensed architect and certification by a structural engineer that the dwelling roof will support anticipated loads.

## **SECTION 24-10 WIND ENERGY CONVERSION SYSTEMS**

### **24-1001 Intent**

In order to balance the need for clean, renewable energy resources and the necessity to protect the public health, safety and welfare of the community, the city finds that these regulations are necessary in order to ensure that wind energy conversion systems are appropriately designed, sited and installed.

**24-1002 General Regulations**

- a. Permitted Use: A single turbine, small wind energy conversion system (rated capacity of up to one hundred (100) kilowatts) shall be allowed as an accessory use to a permitted principal use.
- b. Permit Required: It shall be unlawful to construct, erect, install, alter or locate any wind energy conversion system within the City of Ottawa, unless a building permit has been granted by the zoning administrator. The permit may be revoked any time the approved system does not comply with the rules set forth in this chapter and the conditions imposed. The owner of the wind energy conversion system must also obtain any other permits required by other federal, state and local agencies/departments prior to erecting the system.
- c. It shall be unlawful to erect or maintain a commercial wind energy conversion system within the City of Ottawa. Commercial wind energy conversion system is a wind energy conversion system which is intended to produce electricity for sale to a rate regulated or non-regulated utility or for use off site.
- d. Any proposed wind energy conversion system that cannot meet the requirements of this article may apply for a conditional use permit as established in Article 26.

**24-1003 Bulk Regulations**

- a. Minimum Lot Size: No small wind energy conversion systems shall be erected on a zoning lot smaller than one-half (½) acre.
- b. Setbacks: The minimum distance from any lot line to any tower, pole or other support structure of the wind energy conservation system shall be established by Table 24-1.
- c. Maximum Tower Height: Tower height shall be measured from the ground to the top of the tower, excluding the wind turbine generator and blades. The maximum tower height for small wind energy conversion systems shall be established by Table 24-1.

**Table 24-1**

Tower Height (feet)	Required Lot Size (acre)	Required Setback Distance (Feet)
60	½	70
70	1	80
80	2	100
100	3 or more	120

**24-1004 Location**

- a. No part of a wind energy conversion system shall be located on or over property lines. Any wind energy conversion system proposed to be located within or over drainage, utility or other established easements shall be subject to review by City staff.



- b. A wind energy conversion system shall be located rear of the principal structure on the lot.
- c. A wind energy conversion system shall not be located in any required setback.
- d. A wind energy conversion system shall be located in compliance with the guidelines of the federal aviation regulations with regard to airport approach and clearance around radio navigation stations.

#### **24-1005 Design and Technical Standards**

The following standards are required of all small wind energy systems and dispersed wind energy systems and shall be deemed to be conditions of approval of every small wind energy system:

- a. Color: The wind energy conversion system shall be white or light grey in color. The surface shall be non-reflective.
- b. Lighting: No lights shall be installed on the tower, unless required to meet FAA regulations.
- c. Signs: One sign, limited to four (4) square feet, shall be posted at the base of the tower. The sign shall include a notice of no trespassing, a warning of high voltage, and the phone number of the property owner to call in case of emergency.
- d. Climbing Apparatus: All climbing apparatus shall be located at least twelve feet (12') above the ground, and the tower must be designed to prevent climbing within the first twelve feet (12').
- e. Maintenance: Facilities shall be well maintained in an operational condition that poses no potential safety hazard.
- f. Restriction On Use Of Electricity Generated: A wind energy conversion system shall be used exclusively to supply electrical power for on site consumption, except that when a parcel on which a wind energy conversion system is installed also receives electrical power supplied by a utility company, excess electrical power generated by the wind energy conversion system and not presently needed for on site use may be used by the utility company in accordance with their connection requirements.
- g. Clearance of Blade Aboveground: No portion of the small wind energy system blade shall extend within twenty feet (20') of the ground. No blades may extend over parking areas, driveways or sidewalks.
- h. Automatic Overspeed Controls: All wind energy conversion systems shall be equipped with manual and automatic overspeed controls to limit the blade rotation speed to within the design limits of the wind energy conversion system. All overspeed controls shall meet the requirements as set forth by the interconnected utility.
- i. Noise: For wind speeds in the range of 0-25 mph, small wind turbines shall not cause a sound pressure level in excess of 60 dB(A), or in excess of 5 dB(A) above the background noise, whichever is greater, as measured at the closest neighboring inhabited dwelling. This level, however, may be exceeded during events such as utility outages and sever wind storms.

- j. **Electromagnetic Interference:** All blades shall be constructed of a nonmetallic substance. No wind energy conversion system shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No wind energy conversion system shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that the wind energy conversion system is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, subject to the approval of the zoning administrator. The zoning administrator may revoke a permit approving a wind energy conversion system if electromagnetic interference from the wind energy conversion system becomes evident.
- k. **Interconnection:** The wind energy conversion system, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth by the interconnected utility.
- l. **Removal:** If the wind energy conversion system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense. Removal of the system includes the entire structure including foundations and transmission equipment. If removal of towers and appurtenant facilities is required, the zoning administrator shall notify the owner. If the city removes a tower and appurtenant facilities, it may sell the salvage to defray the cost of removal.
- m. **Right of Entrance:** As a condition of operating a wind energy conversion system, the owner irrevocably grants permission to the City to enter the property to remove the wind energy conversion system pursuant to the terms of the conditional use permit and to inspect for compliance with the conditions as established by the interconnected utility.

#### **24-1006 Application and Approval Requirements**

An application for a wind energy conversion system shall be made on the forms provided by the zoning administrator and shall be accompanied by the following information:

- a. A site plan, preferably based on a USGS one to two thousand four hundred (1:2,400) scale topographic map, showing the following:
  - 1. Complete property dimensions.
  - 2. Location and full dimensions of all buildings existing on property including exterior dimensions, height of buildings and all uses on property. Location and full dimensions of all buildings within two hundred feet (200') of the property including exterior dimensions, height and uses on property.
  - 3. Location and dimensions of any other natural or manmade features within two hundred feet (200') of the property such as trees, highways, streets, bridges and underpasses.
  - 4. Proposed location of tower including height and setbacks.

- b. Drawings, to scale, of the structure, including the tower, base, footings and guywires, if any. The drawings and any necessary calculations shall be certified by a licensed engineer as meeting the requirements of the City of Ottawa building code.
- c. Line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation will meet the City of Ottawa electrical code.
- d. Certification from a licensed engineer or qualified person that the rotor and overspeed control have been designed for the proposed use on the proposed site.
- e. The proposed wind energy conversion system model shall have an operational history of at least one year.
- f. The applicant shall notify the utility that the customer intends to install an interconnected customer owned generator, and that the generator meets the minimum requirements established by the interconnected utility.
- g. A report or study from a qualified individual demonstrating that the site is feasible for a wind energy conversion system.
- h. Evidence that the proposed wind energy conversion system will comply with applicable federal aviation regulations, including any necessary approvals from the federal aviation administration.
- i. Any other evidence or information as required by the zoning administrator.

(Section 24-10 - added 02-04-09)

**ARTICLE 25****BOARD OF ZONING APPEALS AND ADMINISTRATIVE VARIANCES****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**
- 25-10 Administrative Variances**

**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. 12-759 et seq. and amendments thereto and in accordance with Chapter 3 5, Article 5 6, of the Municipal Code of the City of Ottawa. Such board shall consist of five (5) members three (3) of whom must be residents of the City of Ottawa, and two (2) of whom shall reside within the area outside the City but within 3 miles, all appointed by the Governing Body. 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 Ottawa Planning Commission. All members shall be appointed for three (3) year terms, except for the member of the Planning Commission which shall be for one (1) year.

**25-102.** The board shall adopt rules of procedure as may be necessary and proper to govern its own proceedings and to effectuate the provisions of these regulations. 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 Board shall annually elect one of its members as chairperson, vice-chairperson and shall appoint a secretary who may be a board member or an employee of the City. The Board shall follow rules or procedure for the conduct of business as outlined herein. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the

Board, decisions of the Board and voting upon each question. Records of all official actions of the Board shall be maintained.

(25-1 Revised 02-20-13)

## **SECTION 25-2 APPEALS**

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

- a. 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 transmit to the secretary of the board all papers constituting the record upon which the action appealed from is taken.
- b. 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 has been filed, that a stay would, in the opinion of the Zoning Administrator, cause imminent peril to life or property.

## **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.
- c. In accordance with section 25-10 a request for a variance may be granted by the Zoning Administrator for variances of 10% or less of the requirement. Requests for variances of greater than 10% of the requirement of the regulation 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 Franklin County by the secretary, after the passage of the thirty (30) day appeal period.

#### **SECTION 25-4 EXCEPTIONS**

**25-401.** 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.

- a. 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.
- 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.

**25-402. Exceptions Allowed.** The following exceptions are expressly allowed to be granted by the board when such is consistent with Section 25-401.

- a. Where a use district boundary line crosses a lot, a use of either classification on the whole lot within one hundred (100) feet of said district boundary line.
- b. An off-street parking area in a residential district where such facility would relieve traffic congestion on the streets and where said parking lot conforms to the following specification:
  1. The land devoted to parking to be located adjacent to, and within 200 feet of a business or industrial district.
  2. Walls, fences, or planting shall be provided in a manner to afford protection for and be in harmony with surrounding residential property.
  3. The same front yard depth restrictions shall be required as are required in the zoning district in which the parking area is located.
  4. All driveways and the area used for the parking of vehicles shall be surfaced with a hard, durable, rustproof material, and be properly drained.

5. The area shall be used exclusively for parking of motor vehicles belonging to invitees of the owner or lessee of said lot.
  6. The approval of all plans and specifications for the improvement, surfacing, drainage, entrances, and exits, or lights for said parking area shall be obtained from the City Engineer.
  7. The area shall conform to such other requirements as the Board, in the exercise of sound discretion, may require for protection of surrounding property, persons, and neighborhood values.
- c. Off-Street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of these regulations where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of these regulations to relieve
- d. Special Yard and Height Exceptions: The following yard exceptions, limited as to location and especially in locations described below may be approved by the Board.
1. An exception in the yard regulations on a lot where, on the adjacent lot there is a front, side, or rear yard that does not conform with such yard regulations.
  2. A yard exception on a corner lot, or lots opposite or adjoining permanent open spaces, including parks and playgrounds.
  3. An exception in the depth of rear yard on a lot in a block where there are nonconforming rear yard conditions.
  4. An exception where there are irregularities in depths of existing front yards on a street frontage on the side of a street between two intersecting streets, so that any one of the existing depths shall, for a building, hereafter constructed or extended, be the required minimum front yard depth.

## **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 either create the required ownership list or may require an application 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 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 Franklin 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.

## **SECTION 25-10 ADMINISTRATIVE VARIANCES**

### **25-1001.**

- 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. No application for an administrative variance may reduce the requirement sought to be varied from by an amount greater than ten (10) percent.
- c. The Zoning Administrator may approve, disapprove, modify and approve, or refer directly to the Board of Zoning Appeals, an application for administrative variance.
- d. Any final decision by the Zoning Administrator on an application for an administrative variance may be appealed to the Board of Zoning Appeals.

**ARTICLE 26**

**AMENDMENT PROCEDURES**

**Sections:**

<b>26-1</b>	<b>General Authority and Procedure</b>
<b>26-2</b>	<b>Table of Lesser Change</b>
<b>26-3</b>	<b>Time of Performance in Rezoning</b>
<b>26-4</b>	<b>Conditional Use Permits</b>
<b>26-5</b>	<b>Fees for Rezoning and Conditional Use Permits</b>

**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 owners 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 twenty (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 twenty (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 twenty (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.
- 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 make its consideration of the application based upon the record submitted by the Planning Commission. However, the Governing Body may, at its sole discretion, supplement that record as follows: (1) Information provided by City staff; or (2) New evidence from the applicant or any interested party, following the Governing Body's determination that: (a) the evidence is material and significant; and (b) good cause existed for it not being presented to the Planning Commission at or before the public hearing. The Governing Body's acceptance and consideration for such new information and/or evidence does not preclude the Governing Body from returning the recommendation of the Planning Commission to the Planning Commission for its reconsideration, whether for purposes of consideration of the new information and/or evidence, or for any other reason for reconsideration. The Governing Body 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 Section 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 applicants 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. Applications for 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 specifically reduced by the Governing Body. The requirements of the underlying district 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. A site plan will be required, for alterations to existing buildings and any new construction, for consideration in the review process of a conditional use permit application, which includes the following minimum information:
  - 1. The dimensions and address of the tract to be used;
  - 2. The location of all proposed improvements including driveway access, off-street parking and other such facilities the applicant proposes to install;
  - 3. Grade elevations (if they are to be changed);
  - 4. Building setbacks from all property lines;
  - 5. Front, side and rear elevation drawings of all improvements to be erected. For two or three family structures in low density zoning districts, front and side elevation drawings will be required;
  - 6. The location and type of plantings, screening, and/or other buffers proposed; and



7. Such other items as the Planning Commission shall deem reasonably necessary to properly process the application.

(26-109-c added 02-15-06)

**26-110. Factors to be Considered in Permit Applications.** 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, utility and service facilities in the area affected and, if so, whether such additional 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 applicants 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 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;
10. Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the application; and
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 Franklin County, and amendments thereto.

**26-111. 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.

**26-112. 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 TABLE OF LESSER CHANGE**

**26-201.** 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:

<i><b>Residential</b></i>	<i><b>Commercial</b></i>	<i><b>Industrial</b></i>
CS Countryside	C-1 Office and Service Business	I-1 Light Industrial
R-1 Low Density	C-2 Restricted Commercial	I-2 Heavy Industrial
R-2 Medium Density	C-3 General Commercial	
R-3 High Density	C-4 Downtown Business	

**SECTION 26-3 TIME OF PERFORMANCE IN REZONING**

**26-301.**

- 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 (5) 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 (2) years from the effective date of the ordinance 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 twenty (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 26-4 CONDITIONAL USE PERMITS

**26-401.** 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.

**26-402.** 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.

**26-403.** Upon approval of a Conditional Use Permit, the Zoning District Map shall be changed in the manner outlined in this Article.

**26-404.** 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 for failure to commence use under a Conditional Use Permit once a valid building permit has been issued or conditional use commenced, regardless of the running of such twelve (12) month period.

### **26-405. Expiration and Revocation or Modification of Conditional Use Permits.**

- a. All Conditional Use Permits will automatically expire, be considered abandoned and become invalid when:
  - 1. A definite time frame has been established as a condition and that time frame has elapsed.
  - 2. Conditional Use Permits in which the authorized activity, service or use has ceased for three hundred and sixty-five (365) continuous days, for any reason.
  - 3. Conditional Use Permits subject to termination due to the provisions of paragraph 2 above, may file a written request with the Zoning Administrator at least thirty (30) days prior to the expiration date for an extension of time to begin to reinstitute the activity, service or use. The application shall state specific reasons for such an extension and shall include all reports from appropriate city staff reports and shall be sent to the

Planning Commission for consideration within thirty (30) days of filing of the application. The Planning Commission may grant an extension if it finds that circumstances beyond the normal control of the holder of the permit resulted in a cessation of the activity, service or use.

- b. Any Conditional Use Permit, authorized in accordance with this Article, may be revoked or modified when the Planning Commission finds:
1. That there has been a failure to comply with the conditions established for that Conditional Use Permit.
  2. That the Conditional Use Permit has substantially expanded or deviated from its original use and intent.
  3. That the Conditional Use Permit has been found by a court of law and/or federal or state administrative agency to be an illegal activity or to be a nuisance as defined by Kansas statutes.
- c. Action to modify or revoke a Conditional Use Permit may be initiated by the Zoning Administrator. Upon receipt of a complaint, the Zoning Administrator shall investigate the complaint. If an investigation finds that the complaint is valid and sufficient grounds exist for modification or revocation of a Conditional Use Permit, the matter shall be referred to the Planning Commission for a hearing.

**26-406.** In all instances where a use was allowed under a valid Special Use Permit properly issued prior to the effective date of these regulations, which such use, (a) would have been a nonconforming use under these regulations but for the issuance of such permit, or (b) is a use which is allowed as a conditional use under these regulations, 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 26-5 FEES FOR REZONINGS AND CONDITIONAL USE PERMITS**

**26-501.** 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.

**26-502.** 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.

**ARTICLE 27 – Revised 2018**

**SIGN REGULATIONS**

**Sections:**

- 27-1 Intent**
- 27-2 Administration**
- 27-3 Exempt Signs**
- 27-4 Sign Types**
- 27-5 Sign Allowances**
- 27-6 Standards Applicable to All Signs**
- 27-7 Standards Applicable to Specific Sign Types**
- 27-8 Enforcement or Removal of Unlawful, Unsafe or Abandoned Signs**
- 27-9 Notices and Orders**
- 27-10 Maintenance of Signs**
- 27-11 Nonconforming Signs**
- 27-12 Definitions**

**SECTION 27-1 INTENT**

The intent of this section is to:

- a. Preserve the civic beauty and unique character of the city as reflected in distinct areas and districts within the city by ensuring signs contribute to an appropriate sense of place.
- b. Enhance the visual quality of the community reflected in the visual priority of buildings, open spaces, streetscapes, and landscape.
- c. Ensure safety of pedestrians, motorists or other users of the public right-of-way and open spaces by ensuring signs are maintained and structurally safe, and do not distract or reduce the effectiveness of public safety signs.
- d. Promote economic viability by assuring that the city will be a visually pleasant place to visit, conduct business, and live.
- e. Provide effective and efficient identification and communication for businesses without excessive competition for visual attention.

**SECTION 27-2 ADMINISTRATION**

**27-201.**

- a. Sign Permit Required:
  - 1. All new signs and replacement of existing signs shall require a sign permit demonstrating compliance with these sign standards, unless exempt from a permit by Section 27-3 Exempt Signs. Ordinary maintenance, care or repair of existing signs or change of copy without altering the essential construction elements of an existing sign shall not require a permit for zoning and design standards.

2. Sign permits shall be made on a form provided by the City of Ottawa and shall be accompanied by plans drawn to scale indicating the sign size, location, method of illumination, colors, materials of the sign and structure, and method of attachment. In addition, the applicant shall submit other information relating to the placement, construction, design, etc. of the sign as may be required. The Zoning Administrator, or his or her designee, shall review and approve any increase of height in signs, based on survey.
3. Issuance: The Zoning Administrator shall issue a permit for the erection, alteration, or relocation of a sign when an application has been properly made and the sign complies with all appropriate laws.
4. Revocation and Denial: The Zoning Administrator may, in writing, suspend or revoke a permit issued under the provisions of this section whenever the permit is issued on the basis of a misstatement of material fact or fraud. When a sign permit is denied by the Zoning Administrator, he/she will give written notice of the denial to the applicant, together with a brief written statement of the reasons for the denial.
5. Sign Permit Appeals: Appeal may be made to the Board of Zoning Appeals upon denial of a sign permit.
6. Effect of Permit Issuance: No permit for a sign shall be deemed to constitute permission or authorization to maintain an unlawful sign nor shall any permit constitute a defense in an action to abate an unlawful sign.

### SECTION 27-3 EXEMPT SIGNS

The following signs are exempt from the permit process provided they meet all other applicable requirements of this Code, and unless specifically noted, do not count towards the size allocation standards in this ordinance.

- a. **Address Signs.** Signs clearly indicating the property address are encouraged to enhance the ability of public safety and emergency services personnel to locate the property. One wall and one freestanding sign per address up to two square feet each provided the following standards are met.
  1. Address signs on buildings shall be mounted between four feet and nine feet high to enhance visibility.
  2. Freestanding address signs shall be located at the primary access point and shall be no more than three and one-half feet high to minimize sight obstruction.
- b. **Governmental Signs.** Governmental signs, as defined in this Article.
- c. **Government Flags.** Government Flags, as defined in this Article, subject to the height restrictions of the City of Ottawa, Kansas Zoning Regulations.
- d. **Decorative Flags.** Up to three Decorative Flags, as defined in this Article, per lot, not greater than 24 square feet in size, mounted on a flag pole and not located in any required minimum setback for the lot as set forth in the Zoning Regulations of the City of Ottawa, Kansas.

- e. **Corporate Flags.** Up to one Corporate Flag, as defined in this Article, per lot, not greater than 24 square feet in size, mounted on a flag pole and not located in any required minimum setback for the lot as set forth in the Zoning Regulations of the City of Ottawa, Kansas.
- f. **Automated Teller Machine (ATM), Fuel Pump and Fuel Pump Topper Signs.** Automated Teller Machine (ATM), Fuel Pump and Fuel Pump Topper signs as defined in this Article.
- g. **Signs within Enclosed Buildings.** Signs located completely within an enclosed building, and not exposed to view from a street or parking lot shall not be considered a sign under this Article.
- h. **Memorial Signs or Tablets.** Smaller signs or tablets used for commemorating, honoring or remembering a person, place or event, and names of buildings and date of building erection when cut into or raised in integral relief on any masonry surface or when constructed of bronze or similar noncombustible materials.
- i. **Public Safety or Traffic Control.** Signs designed and located to control internal site traffic movement and safety of vehicles and pedestrians according to uniform traffic control devise standards, or otherwise required to support any official action of a federal, state or local government.
- j. **Portable Pedestrian Signs.** Portable Pedestrian Signs as defined in this Article and meeting the standards specified in Section 27.701.c.
- k. **Temporary Signs.** Temporary signs not exceeding four square feet in size. These signs are exempt from permits, but *do* count toward the total size allocation per lot for all temporary signs.
- l. **Minor Signs.** Signs less than two square feet in size intended to convey messages to internal users of the site, and generally not visible from or intended to convey messages to people in the right-of-way, such as parking instructions, security warnings, or other similar minor signs that are accessory to the use of the site and building. Grouping or arranging minor signs to have the effect of a larger permitted sign makes these signs ineligible for this exemption.

#### SECTION 27-4 SIGN TYPES

The following sign types are distinguished for the purposes of the sign requirements in this Section.



Table 27-1: Sign Types

Type	Description
<p><b>Permanent Wall Sign</b></p>	<p>A sign painted, printed, attached, glued, or otherwise affixed to the exterior surface of a building, building marquee, awning, canopy or other fixed building surface in a permanent manner with a scale and design legible to vehicles or pedestrians from a public right-of-way or from a private sidewalk, walkway or parking lot that serves or supports the building or the development in which the building is located.</p>
<p><b>Permanent Freestanding Sign</b></p>	<p>A detached sign that is mounted to the ground in a permanent manner independent from any building with a scale and design legible primarily to vehicles or pedestrians in the public right-of-way. Free-standing signs encompass two specific sign types:</p> <p><b>Monument Sign:</b> A type of permanent free-standing sign mounted on an enclosed, solid base or ornamental surface structure, or on poles, pylons or similar structures that are concealed with a pole cover, pylon cover or cladding.</p> <p><b>Pole Sign:</b> A type of permanent free-standing sign constructed on one or more poles, pylons or similar structures so the bottom edge of the sign surface is elevated above the ground, and the pole(s), pylon(s) or similar structure(s) is(are) not concealed with a pole cover, pylon cover or cladding to meet description and requirements for a monument sign.</p> <p><b>Billboard:</b> A type of permanent sign structure that is specifically intended and used to display off-premise commercial or non-commercial sign messages that are intended to be manually changed frequently or intermittently.</p>



<p><b>Permanent Pedestrian Signs</b></p>	<p>A sign with a design and scale to be legible to pedestrians in front of or immediately adjacent to the building, or to be legible to individuals internal to a site containing multiple buildings. Pedestrian signs are located in a permanent manner hanging below a canopy or awning, projecting from a wall, mounted on a wall, door or window, or free-standing.</p>
<p><b>Temporary Sign</b></p>	<p>A portable sign which is not permanently embedded in the ground or permanently affixed to a building or structure, and designed or intended to be displayed for a brief period of time. Temporary signs do not include permanent signs with temporary or changeable messages or portable pedestrian signs as defined and otherwise regulated in this Article. Temporary signs are usually constructed of cloth, canvas, light fabric, cardboard, wallboard, aluminum or other similar light materials, with or without frames.</p>
<p><b>Permanent Internal Ground Sign</b></p>	<p>A sign with a design and scale to be legible to pedestrians or vehicles navigating or using the internal portions of a site, and, except for signs placed at entrance or exit driveways to direct vehicular traffic safely onto or from the interior portions of a site, generally not legible to vehicles or pedestrians in the public right-of-way. Internal ground signs may be monument or pole design.</p>

**SECTION 27-5 SIGN ALLOWANCES**

The following sign allowances apply to zoning districts or groups of zoning districts as the basic standard. Other restrictions in this Section or other regulations may operate to further reduce the basic sign allowances within each zoning district.

**27-501. Residential Districts.** Only the signs set out in Table 27-2 shall be permitted in the CS, R-1, R-2 and R-3 residential districts; MHS and MP manufactured home districts, and all residential sections of either a PUD (subject to any additional requirements of a PUD approval), or MU/RC.

**27-502. Commercial and Industrial Districts.** Only the signs set out in Table 27-2 shall be permitted in the C-1, C-2, C-3 and C-4 commercial districts; I-1 and I-2 industrial districts; and all commercial and industrial areas of either a PUD (subject to any additional requirements of PUD approval), or MU/CI.

Table 27-2: Sign Allowances

	Residential Districts	Commercial Districts	Industrial Districts
Permanent Wall Signs	<p>Permitted principal non-residential land uses or multi-dwelling land uses (excluding duplexes and attached 2 to 4 unit dwellings):</p> <ul style="list-style-type: none"> <li>▪ <i>Number:</i> 1 per zoning lot.</li> <li>▪ <i>Total Area/Size:</i> Allowance: 5% of building wall area to which the sign is attached, maximum.</li> <li>▪ <i>Sign Size:</i> 32 sq. ft. per sign maximum.</li> <li>▪ <i>Sign Illumination:</i> Internally illuminated wall signs are not allowed; externally illuminated signs are allowed provided they are indirectly lighted with white light only and are not constructed of reflective or luminous materials. Reverse channel letter wall signs are considered to be externally illuminated signs provided they are illuminated with white light only.</li> </ul> <p><i>*Home Occupations</i> – no more than 1 sign regarding the home occupation shall be permitted (whether it is a wall sign or a freestanding sign), and such sign shall be mounted flat against, or within five (5) feet of, the exterior wall of the dwelling unit. The maximum size allowed for a home occupation in Residential Districts is 4 square feet and 16 square feet for Agricultural / Countryside Districts.</p>	<ul style="list-style-type: none"> <li>▪ <i>Number of Signs:</i> 1 sign per tenant on wall with exterior public entrance to tenant space (multi-tenant building). Otherwise, 3 signs per façade maximum.</li> <li>▪ <i>Sign Area:</i> 10% of the building wall area maximum, or 300 sq. ft., whichever is less. For each 100 foot increment the building wall is set back from a public street right-of-way, the base maximum area may be increased by 50%, provided the total area of wall signs shall not exceed 10% of the building wall area or 450 sq. ft., whichever is less. Coverage of awnings, canopies or marquees cannot exceed 25% of the surface area.</li> <li>▪ <i>Sign Location:</i> Allowed on building walls facing or fronting a public street right-of-way or a parking lot or other open space under the same ownership with at least fifty lineal feet between the building wall and the nearest building. In no case shall wall signs be constructed on more than 3 building walls of a building.</li> </ul> <p><i>Sign Illumination:</i> Internally and externally illuminated signs are allowed.</p>	<ul style="list-style-type: none"> <li>▪ <i>Number of Signs:</i> 2 signs per tenant on wall with public exterior entrance to tenant space (multi-tenant building). Otherwise, 4 signs per façade maximum.</li> <li>▪ <i>Sign Area:</i> 10% of the building wall area maximum, or 300 sq. ft., whichever is less. For each 100 foot increment the building wall is set back from a public street right-of-way, the base maximum area may be increased by 50%, provided the total area of wall signs shall not exceed 10% of the building wall area or 450 sq. ft., whichever is less. Coverage of awnings, canopies or marquees cannot exceed 25% of the surface area.</li> <li>▪ <i>Sign Location:</i> Allowed on building walls facing or fronting a public right-of-way or a parking lot or other open space under the same ownership with at least 50' between the building wall and the nearest building. In no case shall wall signs be constructed on more than 3 building walls of a building.</li> </ul> <p><i>Sign Illumination:</i> Internally and externally illuminated wall signs are allowed.</p>

Table 27-2: Sign Allowances

	Residential Districts	Commercial Districts	Industrial Districts
Permanent Freestanding Signs	<p>For permitted non-residential land uses, regardless of lot size, or any residential subdivision project or multi-dwelling project (excluding duplexes and attached 2 to 4 unit dwellings) on lots or parcels of 2 acres or more:</p> <ul style="list-style-type: none"> <li>▪ <i>Number of Signs:</i> 1 sign per public street frontage for non-residential uses OR per entrance for residential projects on two acres or more.</li> <li>▪ <i>Sign Area Allowance:</i> For non-residential land uses on less than 2 acres, 1 sq. ft. for each 5' of lot public street frontage.</li> <li>▪ <i>Sign Area:</i> 32 s.f. maximum per sign. For each 5' of setback from the public street right-of-way property line, maximum sign area may be increased by 8 sq. ft. to a maximum of 48 sq. ft.</li> <li>▪ <i>Sign Height:</i> Monument design required for permanent signs; 12' high maximum (height includes monument base). For each 5' of setback from the public street right-of-way property line, maximum sign height may be increased by 1' to a maximum of 15'.</li> <li>▪ <i>Sign Illumination:</i> Externally illuminated signs are allowed provided they are indirectly lighted with white light only and are not constructed of reflective or luminous materials. Internally illuminated signs for permitted non-residential uses in residential zoning districts may be internally illuminated provided they are lit with white light only and no such internally illuminated sign shall create glare on surrounding residential uses/properties.</li> </ul> <p><i>*Home Occupations</i> – no more than 1 sign regarding the home occupation shall be permitted (whether it is a wall sign or a freestanding sign), and such sign shall be mounted flat against, or within five (5) feet of, the exterior wall of the dwelling unit. al / Countryside Districts.</p>	<ul style="list-style-type: none"> <li>▪ <i>Number of Signs:</i> 1 sign per lot. For lots of 3 or more acres, 1 additional sign may be allowed at a secondary entrance facing or fronting a different public street than the first sign.</li> <li>▪ <i>Sign Area:</i> <ul style="list-style-type: none"> <li>- <i>Monument Sign:</i> 100 square feet/side.</li> <li>- <i>Pole Sign:</i> 150 square feet/side.</li> <li>- <i>On-site freestanding pole signs located within 2,000 feet of the interstate:</i> total sign face may be increased to 750 square feet, with no individual face greater than 350 square feet. Sign size increases of more than 10% of the maximum allowed height must be processed through the Board of Zoning Appeals.</li> </ul> </li> <li>▪ <i>Sign Height:</i> No sign may exceed the maximum height permitted for buildings in the zoning district in which the sign is located.                     <ul style="list-style-type: none"> <li>- <i>Monument signs:</i> 12' high maximum. For each 5 feet of setback from public street right-of-way property line, height may be increased by 2 feet to a maximum of 16 feet (height includes monument base).</li> <li>- <i>Sign height of on-site freestanding pole signs</i> located within 2,000 feet of the interstate may be increased (with an absolute maximum height of 110 feet), provided a sign survey indicates a need for traffic safety or visibility to allow a safe exit from the inside lane of the interstate highway.</li> <li>- Sign height increases of more than 10% of the maximum allowed height must be processed through the Board of Zoning Appeals.</li> </ul> </li> <li>▪ <i>Sign Illumination:</i> Externally illuminated or internally illuminated signs are allowed.</li> </ul> <p><i>*Billboards</i> – all billboards must be located within 500 feet of the center of the U.S. Interstate 35 median or exit ramp and no two advertising signs shall be within 660 feet of each other. Maximum gross surface area of a billboard is 500 square feet/side.</p>	<ul style="list-style-type: none"> <li>▪ <i>Number of Signs:</i> 1 sign per lot. For lots of 3 or more acres, 1 additional monument sign may be allowed at a secondary entrance facing or fronting a different public street than the first sign.</li> <li>▪ <i>Sign Area:</i> <ul style="list-style-type: none"> <li>- <i>Monument Sign:</i> 150 square feet/side.</li> <li>- <i>Pole Sign:</i> 150 square feet/side.</li> <li>- <i>On-site freestanding pole signs located within 2,000 feet of the interstate:</i> total sign face may be increased to 750 square feet, with no individual face greater than 350 square feet. Sign size increases of more than 10% of the maximum allowed height must be processed through the Board of Zoning Appeals.</li> </ul> </li> <li>▪ <i>Sign Height:</i> No sign may exceed the maximum height permitted for buildings in the zoning district in which the sign is located.                     <ul style="list-style-type: none"> <li>- <i>Monument signs:</i> 16' high maximum. For each 5 feet of setback from public street right-of-way property line, height may be increased by 2 feet to a maximum of 20 feet (height includes monument base).</li> <li>- <i>Sign height of on-site freestanding pole signs</i> located within 2,000 feet of the interstate may be increased (with an absolute maximum height of 110 feet), provided a sign survey indicates a need for traffic safety or visibility to allow a safe exit from the inside lane of the interstate highway.</li> <li>- Sign height increases of more than 10% of the maximum allowed height must be processed through the Board of Zoning Appeals.</li> </ul> </li> <li>▪ <i>Sign Illumination:</i> Externally illuminated or internally illuminated signs are allowed.</li> </ul> <p><i>*Billboards</i> – all billboards must be located within 500 feet of the center of the U.S. Interstate 35 median or exit ramp and no two advertising signs shall be within 660 feet of each other. Maximum gross surface area of a billboard is 500 square feet/side.</p>

Table 27-2: Sign Allowances

	Residential Districts	Commercial Districts	Industrial Districts
<b>Temporary Signs</b>	<ul style="list-style-type: none"> <li>▪ <i>Freestanding –</i> <ul style="list-style-type: none"> <li>○ <i>Total Area Allowance:</i> 1 s.f. for each 5 linear feet of frontage.</li> <li>○ <i>Size:</i> 9 s.f. maximum per sign.</li> <li>○ <i>At least 25'</i> between signs.</li> </ul> </li> <li>▪ <i>Wall -</i> <ul style="list-style-type: none"> <li>○ <i>Number:</i> 2 per façade.</li> <li>○ <i>Total Area Allowance:</i> 5% of façade area maximum.</li> <li>○ <i>Size:</i> 8 s.f. maximum per sign.</li> </ul> </li> </ul> <p><i>Exception to maximum number of signs.</i> Temporary signs installed on a lot for not more than 50 days prior to and 10 days after the date of a political election, referendum or ballot measure.</p> <p><i>Exemption from permit:</i> Temporary signs as allowed above are exempt from permit.</p>	<ul style="list-style-type: none"> <li>▪ <i>Freestanding -</i> <ul style="list-style-type: none"> <li>○ <i>Total Area Allowance:</i> 1 s.f. for each 5 linear feet of lot street frontage.</li> <li>○ <i>Size:</i> 32 s.f. maximum per sign.</li> <li>○ <i>Sign Height:</i> 9' maximum above ground on which sign is placed.</li> <li>○ <i>Spacing:</i> At least 50' from any other temporary sign..</li> </ul> </li> <li>▪ <i>Attached to building wall –</i> <ul style="list-style-type: none"> <li>○ <i>Number:</i> 2 maximum per public street frontage.</li> <li>○ <i>Total Area Allowance:</i> 5% maximum of wall area facing a public street..</li> <li>○ <i>Size:</i> 32 s.f. maximum per sign.</li> </ul> </li> </ul> <p><i>Exemptions from permit.</i> (1) Temporary signs not exceeding the maximum sign size and height allowances above, and located on a lot where the property or a portion thereof is for sale, lease or rent, as set forth in Section 27-3 of this Article. Such signs shall not count against the total temporary sign area allowance for the lot. (2) Temporary signs not exceeding 8 sq. ft. in area that are installed on a lot for not more than 50 days prior to and 10 days after the date of a political election, referendum or ballot measure. (3) Temporary signs that are classified as Minor Signs. (4) Portable pedestrian signs meeting the standards of Section 27-3.c.</p> <p><i>Exception to maximum number of signs.</i> Temporary signs installed on a lot for not more than 50 days prior to and 10 days after the date of a political election, referendum or ballot measure.</p>	
<b>Permanent Pedestrian sign</b>	<p>For permitted non-residential land uses.</p> <ul style="list-style-type: none"> <li>▪ <i>Number of Signs:</i> 1 per public entrance to building or tenant space.</li> <li>▪ <i>Sign Height:</i> 4' high maximum, when mounted on the ground.</li> <li>▪ <i>Sign Location:</i> Within 20' of entrance, when mounted on the ground.</li> <li>▪ <i>Size Area:</i> 6 sq. ft. maximum.</li> </ul>	<ul style="list-style-type: none"> <li>▪ <i>Number of Signs, Size and Location:</i> 1 sign for each public entrance to a building or tenant space, maximum of 8 sq. ft. and within 20' of entrance.</li> <li>▪ <i>Sign Height:</i> 6' high maximum, when mounted on the ground.</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>▪ <i>Sign Number &amp; Size:</i> 1 sign for each 25' of building public street frontage; 6 sq. ft. maximum.</li> <li>▪ <i>Sign Height:</i> 6' high maximum, when mounted on the ground.</li> </ul> <p><i>Exemption:</i> Portable pedestrian signs or any pedestrian sign mounted on a building that projects into the right-of-way are exempt from right-of-way prohibition in the C-4 zoning district.</p>	
<b>Permanent Internal Ground Sign</b>	<ul style="list-style-type: none"> <li>• <i>Number of Signs:</i> 1 for each 10,000 sq. ft. of a lot or parcel.</li> <li>• <i>Sign Size:</i> 4 sq. ft. maximum on lots or parcels less than 2 acres; up to 8 sq. ft. for lots or parcels of 2 acres or more, and when set back at least 50' from public street right-of-way or lot or parcel lines.</li> <li>• <i>Sign Height:</i> 6' maximum, when set back at least 50' from public street right-of-way or lot or parcel lines.</li> <li>• <i>Sign Illumination:</i> Internally illuminated signs are not allowed; externally illuminated signs are allowed provided they are indirectly lighted with white light only and are not constructed of reflective or luminous materials.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Number of Signs:</i> 1 for each 5,000 sq. ft. of a lot or parcel up to and including 20,000 sq. ft., plus 1 for each 10,000 sq. ft. of a lot or parcel greater than 20,000 sq. ft.</li> <li>• <i>Sign Size:</i> 4 sq. ft. maximum when located within 15' of public street right-of-way; 6 sq. ft. maximum when located more than 15' but not more than 50' from public street right-of-way; 16 sq. ft. maximum when located more than 50' from public street right-of-way. Signs serving drive-through facilities may be 32 sq. ft. maximum when set back at least 50' from the public street right-of way and located further back from the public street right-of-way than the wall of the primary use building that faces a public street right-of-way.</li> <li>• <i>Sign Height:</i> 3' maximum height when located within 15' of public street right-of-way; 4' maximum height when located more than 15' but not more than 50' from public street right-of-way; 6' maximum height when located more than 50' from public street right-of-way. Signs serving drive-through facilities may be 8' maximum height when set back at least 50' from the public street right-of way and located further back from the public street right-of-way than the wall of the primary use building that faces a public street right-of-way.</li> <li>• <i>Sign Illumination:</i> Internally and externally illuminated signs are allowed.</li> </ul>	

**SECTION 27-6 STANDARDS APPLICABLE TO ALL SIGNS****27-601.**

- a. No sign shall be attached to any public utility pole or erected, located or placed within the right-of-way of a public road or street, except Governmental Signs or other similar signs as permitted by the applicable federal, state or local road authority, or by the applicable public utility, or where specifically exempt from the right-of-way prohibitions in this Article.
- b. No sign shall be erected, located or placed without the property owner's permission.
- c. No sign shall imitate or resemble a Governmental Sign for traffic direction or any other public safety symbol.
- d. No sign located on the triangle formed by two curb lines at the intersection of two streets, a public street and alley, two internal access streets, an internal access street and a public street or a driveway and public street, extending for a distance of 50 feet each way from the intersection of the curb lines, shall be permitted to exceed a height of more than 36 inches above the road level of the adjoining street, alley or driveway in order that the view of the driver of a vehicle approaching an intersection with a street shall not be obstructed.
- e. No sign shall be placed on any vehicle or trailer, when such vehicle or trailer is placed or parked visible from the right-of-way, and the primary purpose of the sign is to deviate from the standards or criteria of this Article.
- f. No sign attached to any building shall extend vertically above the highest portion of the roof line or parapet, whichever is less.
- g. Any sign projecting over a walkway or other active area in front of a building or other active area where people may walk shall maintain at least 9' vertical clearance.
- h. No sign shall be erected, located or placed in or on a public utility or drainage easement, unless specifically authorized by the Director of Community Development, or his or her designee.
- i. No sign, other than an authorized Governmental Sign, shall be erected, located or placed closer than 5' to the side or rear lot line of the lot on which the sign is erected, located or placed.
- j. No sign shall include balloons, pennant streamers, pennants or other air activated elements, or any Animated Sign elements, whether animated by mechanical, electrical, or environmental means, except for Flags, Corporate Flags, Decorative Flags, Government Flags and Feather Signs as defined and allowed in this Article.
- k. Any illumination shall be designed to eliminate negative impacts on surrounding right-of-way and properties. The light from an illuminated sign shall not flash or oscillate, or create a negative impact on residential uses in direct line-of-sight to the sign. Lighted signs in direct vision of a traffic signal shall not be in red, amber or green illumination.
- l. External light sources shall be directed and shielded to limit direct illumination of any object other than the sign.
- m. Any sign with a commercial message shall be an On-Premise Sign, as defined in this Article.

**SECTION 27-7 STANDARDS APPLICABLE TO SPECIFIC SIGN TYPES****27.701.****a. Monument Signs.**

1. Monument signs shall be located within a landscape area as may be required by a site plan required and approved pursuant to the City of Ottawa's Zoning Regulations.
2. Monument signs shall have a base at least 65% of the width of the widest part of the sign and not more than 125% of the width of the widest part of the sign.
3. The base and sign shall include ornamental architectural details and materials that complement the overall design of the site and building.
4. Monument signs shall be no closer than 10 feet to any other sign, building or structure unless constructed entirely of noncombustible material.
5. Monument signs shall have a surface or facing of noncombustible materials, or other material approved by the Chief Building Official, or his or her designee. Combustible structural trim may be used on monument signs.
6. No monument sign located on the triangle formed by two curb lines at the intersection of two streets, a public street and alley, two internal access streets, an internal access street and a public street or a driveway and public street, extending for a distance of 50 feet each way from the intersection of the curb lines, shall be permitted to exceed a height of more than 36 inches above the road level of the adjoining street, alley or driveway in order that the view of the driver of a vehicle approaching an intersection with a street shall not be obstructed.

**b. Wall Signs.**

1. **Flat wall signs.** A Wall Sign with the exposed face of the sign mounted in a plane approximately parallel to the plane of the wall that does not extend more than 18 inches from the wall.
2. **Projecting wall signs.** A Wall Sign is considered to be a Projecting Sign when any portion of the sign extends more than 12 inches from the wall, canopy or marquee to which it is attached. A Projecting Sign shall not project more than five feet from the face of the wall, canopy or marquee to which it is attached, and shall not extend over any public driveway, alley or thoroughfare used for vehicular traffic.

**Exception:** Projecting wall signs shall be allowed in the C-4 District subject to the following restrictions:

- a. No projecting sign shall be maintained less than nine (9) feet, nor more than fifteen (15) feet above, the sidewalk over which it is erected.
- b. No projecting sign shall exceed twelve (12) square feet in surface area.
- c. A projecting sign shall project at a ninety (90) degree angle from the building to which it is attached.

d. No applicant shall be granted a permit to erect a projecting sign over the public right-of-way until he/she has furnished proof of insurance satisfactory to the Zoning Administrator stating that the applicant's coverage extends to the proposed sign and any injuries arising therefrom.

3. **Awning or canopy wall signs.** Awnings and canopies, and Awning Signs and canopy Signs shall meet the following standards.

a. **Awning materials.** Awnings may be constructed of cloth or metal, provided that all frames and supports shall be of metal.

b. **Awning and canopy construction standards.** Awnings and canopies shall be of materials constructed in accordance with the requirements of the City of Ottawa, Kansas Building Regulations.

c. **Awning setback from street curblines.** No awning shall be permitted to extend beyond a point two feet inside the street curblines.

d. **Awning support.** Every awning shall be securely attached to and supported by the building, and properly maintained in such manner.

e. **Awning and canopy signage area.** To determine the allowable signage area on the awning or canopy, the surface area of the awning or canopy behind any lettering, logo or insignia shall be measured by establishing the square footage covered by the perimeter of signage. No Awning Sign or Canopy Sign, or any portion of an Awning Sign or Canopy Sign, shall contain a Changeable Message Sign.

(1) The combined sign area of signs on an awning or canopy supported by attachment to a building and other wall signs on the same building facade shall not exceed the allowances for wall signs pursuant to this Article. When more than 50 percent of the total square footage of an awning or canopy supported by attachment to a building contains logo, insignia or lettering, the surface area of the entire awning or canopy, including the surface area without lettering, logo, or insignia, shall be considered a sign for purposes of this Article.

(2) The combined sign area on any canopy face of a canopy that is structurally independent from another building shall not exceed twenty-five percent (25%) of the area of the canopy face, except that signs on a canopy face with an area not greater than 25 square feet shall not exceed fifty percent (50%) of the area of the canopy face.

All wall signs for which a permit is required under this Article shall have a facing surface of noncombustible materials, provided that combustible structural trim may be used on a wall sign. However, the surface or facing and structural trim of a wall sign which is attached to a stone, brick or masonry wall may be of exterior grade plywood having a thickness of not less than one (1) inch. No plywood sign shall be illuminated or in any manner be operated or serviced by electricity.

c. **Portable Pedestrian Signs.** Portable Pedestrian Signs ("A-Frame" or "sandwich board") for retail and service uses shall be located on private property, except in the C-4 Zoning District where such signs may be located on the public right-of-way, provided:

1. Not more than one (1) sign shall be located within close proximity to each main public entrance to the building.

2. Signs shall be located on or near a sidewalk with at least five feet clear passage maintained for pedestrians on the sidewalk, and any sign shall not otherwise be placed in any location that creates visual obstructions or safety hazards for users of the right-of-way.
  3. Signs shall not exceed 32 inches in width and 48 inches in height above the adjacent sidewalk.
  4. Signs shall not be illuminated or contain any digital display, and shall not contain banners, flags, pennants, pennant streamers, balloons or other moving parts.
  5. Signs shall not be displayed during non-business hours.
  6. Signs shall be designed with durable materials and quality aesthetics for use on a recurring basis (no banners, flags, pennants, pennant streamers, balloons or other moving parts). Although changeable copy can be included as part of the design, such as chalkboards, signs designed as Temporary Signs are not eligible as Portable Pedestrian Signs, and the allowance for signs in the right-of-way specifically does not apply to any Temporary Sign.
- d. **Electronic Message Center (EMC) Signs.** Electronic message center signs are subject to the following additional limitations:
1. EMC Signs shall be limited to C-1, C-2, and C-3 Zoning Districts and for permitted schools, churches, government buildings and public agencies. The following restrictions shall apply to electronic message centers:
    - a. No electronic message center shall exceed 40 square feet in size and shall be incorporated into a larger sign permitted by these regulations. The electronic message center shall not exceed 50 % of the overall sign face.
    - b. The sign must not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk and dawn.
    - c. The sign must have an automatic dimmer control to produce a distinct illumination change as required.
    - d. Electronic message centers are permitted to utilize the static display with “fade” or “dissolve” transitions or similar subtle transitions and frame effects that do not have the appearance of moving text or images. Electronic message centers may be changed at periodic intervals by said entry and exit effects provided that the minimum message time shall be five (5) seconds. Animated images are prohibited.
    - e. Electronic message centers, if located in a residential district or within one hundred fifty (150) feet of a residentially zoned district, may only be operated between the hours of 6 a.m. and 10 p.m.
- e. **Accessway:** No sign shall block any required accessway.
- f. **Temporary Signs.** Temporary Signs are subject to the following additional limitations:



1. It shall be the responsibility of the person who causes the Temporary Sign to be erected to see that the Temporary Sign placed with the permission of the property owner is removed when the temporary event is over or if the sign comes into disrepair.
2. Temporary Signs shall not be illuminated or painted with a light-reflecting paint.
3. Temporary Signs may be constructed of either rigid or non-rigid material, and securely anchored so as not to pose a distraction or hazard to drivers. Non-rigid materials (such as banners) which are secured by a support or frame to avoid distraction of flapping may be used as a freestanding temporary sign when set back at least 10 feet from the pavement edge of the fronting roadway.
4. The Zoning Administrator, or his or her designee, shall be authorized to require the removal of any Temporary Sign that pertains to an expired event.
5. Not more than two (2) Temporary Signs shall be allowed on any property that has an approved, operating Electronic Message Center Sign, excluding Temporary Signs placed on a lot for not more than 50 days prior to and 10 days after the date of a political election, referendum or ballot measure.
6. Temporary Feather Signs are allowed for commercial properties in the C-1, C-2, C-3 and I-1 Zoning Districts and are limited to not more than one (1) Feather Sign per lot street frontage at the same time and no more than two (2) such signs on any one zoning lot. Temporary Feather Signs may not exceed nine (9) feet in height above the ground on which they are placed and 16 square feet in area, must be at least 50' from any other temporary freestanding sign on the same lot, and must be set back from the public right-of-way by a distance that is equal to or greater than the height of the Feather Sign.

## **SECTION 27-8 ENFORCEMENT OR REMOVAL OF UNLAWFUL, UNSAFE OR ABANDONED SIGNS**

### **27.801**

- a. If it has been determined that any sign or other advertising structure regulated herein is unsafe, abandoned or has been constructed, erected or is being maintained in violation of the provisions of this Article, written notice of such determination shall be given to the sign owner. The owner shall immediately remove or repair the sign to bring it into compliance and/or make it safe. If the owner fails to remove or repair the sign so as to comply within thirty (30) calendar days, the Zoning Administrator may cause the sign to be removed or repaired to make it safe, at the expense of the permittee or owner.
  1. Signs in the right-of-way or on public property.
    - a. An unauthorized sign in the right-of-way or on public property is hereby declared to be a nuisance.
    - b. The following acts are prohibited:
      1. No person shall place or cause the placement of a sign in the right-of-way or on public property, including but not limited to any street, sidewalk, park, tree or utility poles. The act of placement will be deemed to continue until such sign is removed.
      2. Any sign placed or installed in the right-of-way or on public property will be deemed an unlawful sign and will be subject to immediate removal by the City of Ottawa, Kansas, as authorized in this Article.

3. The existence of a sign in the right-of-way or on public property directing attention to a person is prima facie evidence that such person has caused the placement of such sign in the right-of-way or on Public Property.
4. The existence of a sign in the right-of-way or on public property directing attention to a business, product or service is prima facie evidence that the owner or the agent for the owner of that business, product or service caused the placement of such sign in the right-of-way or on public property.
5. The existence of a sign in the right-of-way or on public property directing attention to an event is prima facie evidence that the promoter of that event or the agent for the promoter caused the placement of such sign in the right-of-way or on public property.

## 2. Exceptions.

- a. Signs installed by any of the following and directly related to the use of the right-of-way or public property, including Governmental Signs and signs for the control and direction of traffic shall be exempted from the provisions of subsections 27.901.a.1a. and 27.901.a.1.b. of this Article:
  - (1) City, county, state or federal government entities;
  - (2) Any public utility with a franchise or other agreement with the City of Ottawa, Kansas; or
  - (3) Any other government entity or person expressly authorized by local, state or federal law or contract to install a sign in the right-of-way or on public property.
- b. Portable Pedestrian Signs placed on public right-of-way for property in the C-4 Zoning District per standards set forth in Section 27-701.c) of this Article.

## 3. Other remedies and enforcement powers.

In addition to the other enforcement powers set forth in Section 5-1821 of this Article, for unlawful signs located on City property, City right-of-way or City easements, the Zoning Administrator or his or her designee, or other employee designated by the City Manager, shall have the authority to immediately remove such signs. In addition to the penalty provisions set forth above, any person seeking to retain custody of an unlawful sign removed from City property, City right-of-way or City easements shall pay to the City an administrative storage fee of \$25.00 for each sign. After at least ten days of storage the City shall have sign materials either recycled or otherwise properly disposed. The City may seek such other remedies and use such other enforcement powers as allowed by law.

- b. Unsafe signs. Any sign located on a building or property that is in substantial disrepair or that is structurally unsound or dangerous with potential to cause harm or damage to persons or property.
- c. Abandoned signs. Except as otherwise provided for in Section 27-9 of these regulations for nonconforming signs, any sign which is located on a building, structure, or real property which becomes vacant and unoccupied for a period of ninety (90) consecutive days or more, or any sign which pertains to a time, event, or purpose which no longer applies, shall be deemed to have been abandoned. An abandoned sign is prohibited and shall be removed by the owner of the sign or the owner of the premises. When a wall sign is removed, the wall of the building or structure shall be restored to its normal appearance. Removal of a monument or highway sign shall include the face and base. Any sign structure

that is in conformance with this Article may remain as long as it is properly maintained and does not become unsafe or unsightly.

1. If after the ninety (90) consecutive day time period has elapsed and the sign has not been removed, the Zoning Administrator shall notify, in writing, the property owner of record that the sign shall be removed within thirty (30) calendar days after the date of the notice. If the sign has not been removed within thirty (30) calendar days after the date of the notice, the City may have the sign removed and the associated costs assessed to the property.
2. The City Clerk shall mail a statement of cost for removal of the sign to the last known address of the owner of record of the property, or person in charge of such property. If such costs are not paid within ten (10) days from the mailing of notice, the Governing Body may levy a special assessment for such cost against the property. The City Clerk shall certify such assessment to the County Clerk for collection and payment to the City in the same manner as other assessments and taxes are collected and paid to the City.

## SECTION 27-9 NOTICES AND ORDERS

### 27.901

- a. **Notice of violation to person responsible.** Whenever the Zoning Administrator, or his or her designee, determines that there has been a violation of this Article or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 27-801.b. and 27-801.c. to the property or building owner, property or building lease, or other person responsible for the violation as specified in this Article.
- b. **Form.** Such notice prescribed in Section 27-801.a. shall be in accordance with all of the following:
  1. Be in writing.
  2. Include a description of the real estate sufficient for identification.
  3. Include a statement of the violation or violations and why the notice is being issued.
  4. Include a correction order allowing a reasonable time to correct the violation.
  5. Inform the property owner or owner's authorized agent of the right to appeal.
  6. Include a statement of the right to file a lien in accordance with this Article.
- c. **Method of service.** Such notice shall be deemed to be properly served when a copy thereof is:
  1. Delivered personally; or
  2. Sent by certified or first-class mail addressed to the last known address; or
  3. When the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the building or property affected by such notice.

## SECTION 27-10 MAINTENANCE OF SIGNS

### 27.100.

- a. Any person, who shall violate a provision of Article 27 of the Zoning Regulations of the City of Ottawa, Kansas, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local law. Each day that a violation continues after due notice has been served shall be deemed a separate offense. Any person convicted of a violation of any provision of this Article shall be punished by a fine in an amount not less than one hundred dollars (\$100) or more than five hundred dollars (\$500).
- b. Should any sign in a public easement be damaged due to maintenance of utilities in that easement by the City or others, the cost for repairs or replacement of the sign shall be borne by the sign owner.
- c. All signs and Works of Art together with all their supports, braces, guys and anchors, shall be kept in good repair and in a proper state of preservation. The Zoning Administrator, or his or her designee, may order the removal or repair of any sign or Work of Art that is not maintained in accordance with the provisions of this Article.

## SECTION 27-11 NONCONFORMING SIGNS

**27.110.** Nonconforming signs are regulated by the provisions of Section 21-10.

## SECTION 27-12 DEFINITIONS

### 27-120

Definitions of terms as used in this Article, unless the context otherwise requires, shall be as follows:

**Awning.** Any structure attached to the exterior wall or surface of a building that is made of cloth or metal with a metal frame, which projects over private or public property or public right-of-way, and may be designed to be raised to a position flat against the building when not in use.

**Billboard.** A permanent sign structure that is specifically intended and used to display off premise commercial or non-commercial sign messages that are intended to be manually changed frequently or intermittently.

**Candela.** The basic unit of measurement of light in SI (metric) units.

**Candela Per Square Meter (cd/m<sup>2</sup>).** The SI (metric) unit used to describe the luminance of a light source or of an illuminated surface that reflects light. Also referred to as Nits.

**Canopy.** A permanent structure or architectural projection of rigid construction over which a covering is attached that provides weather protection, identity or decoration. A canopy is permitted to be structurally independent or supported by attachment to a building on one or more sides. A canopy supported by attachment to a building projects over private or public property or public right-of-way.

**Channel Letter, Internally Illuminated.** A dimensional letter with a back, sides and a translucent front face capable of transmitting light from an internal light source within the letter.

**Channel Letter, Open Faced.** A dimensional letter with a back and sides but no face at the front of the letter. Open Faced Channel Letters may be non-lit, externally illuminated, or illuminated by a light source contained inside the open channel of the letter itself, such as a neon tube.

**Channel Letter, Reverse.** A dimensional letter with a face and sides but no back, opposite to an Open Faced Channel Letter. A Reverse Channel Letter has an open channel facing the wall or building to which it is affixed. A Reverse Channel Letter may contain a source of illumination designed to project lighting against the surface behind the letter, commonly referred to as a backlit channel letter; also referenced as a halo or silhouette lighted channel letter. The face of a Reverse Channel Letter does not illuminate.

**Cladding.** A non-structural covering designed to conceal the actual structural supports of a sign. See also Pole or Pylon Cover.

**Establishment.** A place of business which has a separate identity, separate entrances, and separate records and books of its business transactions.

**Flag.** A sheet made of cloth, fabric, plastic or similar material that is typically square, rectangular or triangular in shape, but that may have other shapes. This definition does not include a Banner Sign.

**Flag, Corporate.** A flag other than a Government Flag that may have copy and/or logos.

**Flag, Decorative.** A flag other than a Government Flag with no copy or logos.

**Flag, Government.** A flag of a city, county, state, United States or foreign nation.

**Foot Candle.** An English unit of measurement of the amount of light falling upon a surface (illuminance). One foot candle is equal to one lumen per square foot and can be measured by means of an illuminance meter.

**Front Footage.** The linear measurement of the street frontage of a lot or tract along which a sign is located and to which a sign faces.

**Illuminance.** The amount of light falling upon a real or imaginary surface, commonly called “light level” or “illumination”. Measured in foot candles (lumens/square foot) in the English system and lux (lumens/square meter) in the SI (metric) system.

**Marquee.** A roof-like structure of a permanent nature, which projects from the wall of a building, and may overhang a public right-of-way.

**Nit.** A photometric unit of measurement referring to luminance. One (1) Nit is equal to one (1) cd/m<sup>2</sup>.

**Noncombustible Material.** Material that has been tested in accordance with ASTM E 136, “Standard Test Method for the Behavior of Materials in a Vertical Tube Furnace at 750°C”, and that complies with ASTM E 136.

**Nonconforming Sign.** A sign that was legally installed by permit in conformance with all City of Ottawa, Kansas sign regulations and ordinances in effect at the time of installation, but which no longer complies with current laws and ordinances relative to the sign.

**Pole Cover or Pylon Cover.** An enclosure designed to conceal poles and/or other structural supports of a sign. See also Cladding.

**Public Property.** Any land owned by the city, county, state or federal government.

**Right-of-way.** The area on, below or above the present and future city streets, alleys, bridges, bikeways, parkways and sidewalks that is owned or controlled by the city, county, state or federal government.

**Sign.** Any name, identification, description, display or illustration, which is affixed to, painted or represented directly or indirectly upon a building or other outdoor surface or support structure which directs attention to or is designed or intended to direct attention to the Sign Face or to an object, product, place, building, structure, activity, person, institution, organization or business, including all parts, portions, units, and materials composing the same, together with the frame, background, and supports or anchoring thereof. A sign shall not include a Work of Art as defined in this Article.

**Sign Cabinet.** A structural frame that encloses one or more translucent Sign Face panels, one or more transparent exposed neon channel letters, or one or more opaque, routed push-through faces that are mounted within the structural frame, and which may contain lighting fixtures to illuminate the Sign Face panels from behind.

**Sign Copy.** The letters, numerals, figures, symbols, Logos and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only.

**Sign Face.** The surface upon, against or through which the Sign Copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural thematic or decorative trim, or any areas that are separated from the background surface upon which the Sign Copy is displayed by a distinct delineation, such as a reveal or border.

**Sign Structure.** A structure of any kind which is built or constructed and supports or is capable of supporting a sign as defined in this chapter. A Sign Structure shall include the foundation and base, the poles or pylons that support the sign, any structural extensions that support a sign or its Sign Cabinet, any structural framework that supports a Sign Face, or any Sign Cabinet.

**Sign, Animated.** A sign employing actual motion, the illusion of motion, or light and/or color changes achieved through mechanical, electrical, or electronic means. Animated Signs, which are differentiated from Changeable Message Signs as defined and regulated by this Article, include the following types:

1. Environmentally Activated: Animated Signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes, spinners, pinwheels, Pennant Streamers, Feather Signs, and/or other devices or displays that respond to naturally occurring external motivation.
2. Mechanically Activated: Animated Signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.
3. Electrically Activated: Changeable Message Signs producing the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through employment of the characteristics of flashing, scrolling or travelling, or through other patterned illusionary movement where illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion. For the purposes of this Article, Dissolving Message Signs and Fading Message Signs and transitions as defined in this Article are not considered to be Animated Signs.

**Sign, Automated Teller Machine (ATM).** A small sign or video screen mounted on top of or in, and usually integrated into the structure of, a machine that automatically provides cash and performs other banking functions on insertion of a special card by the account holder (commonly known as an automated teller machine) that is used to provide instruction or to advertise services offered through an associated financial institution, and is not legible or intended to be legible from the public right-of-way.

**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**
- 28-7 Development Standards**

**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 Ottawa, 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 Development Review Committee in accordance with this Article. Site Plan Review helps ensure that the meaning and intent of these zoning regulations are fully complied with and so property owners and developers understand City requirements under these regulations before projects begin.
- b. Site Plan Review regulates the development of structures and sites in a manner that considers the following:
  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, soil erosion, and stormwater runoff;  
(28-101-b-1 Revised 11-16-11)
  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 shall require that all applications for building permits for multi-family, commercial and industrial developments be subject to site plan review in accordance with these regulations. The Zoning Administrator may grant an exception to the required site plan review, except that lot corners shall be staked by a surveyor licensed by the State of Kansas and the plot plan, including easements, shall be submitted to the Chief Building Official for additions and new construction. The following situations may be exempt from site plan review by the Development Review Committee upon a determination by the Zoning Administrator that such development does not impact parking, stormwater, traffic or create other impacts upon public health, safety or welfare.
- Single-Family and two-family dwellings, buildings accessory to single family and two-family dwellings.
  - Redevelopments which enlarge the size of the original structure by less than fifty percent (50%).
  - Construction of new buildings in existing developments, that are located more than 100 feet of a residential zoned area.

Developments shall be encouraged to implement the objectives of the adopted City of Ottawa Future Land Use Plan to foster compatibility among land uses in the City.

- 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.
- c. Following application submittal, site plan reviews shall be performed by the Development Review Committee.
- d. Final action for approval of a site plan shall be by the Development Review Committee. Should the applicant wish to appeal a decision made by the Development Review Committee, an appeal must be made to the Planning Commission within 30 days of the official DRC determination. Refer to Article 26 Amendment Procedures of the Zoning Regulations, where the appeal process is defined.

**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 the largest scale possible, but no less than a scale of one (1) inch equals 20 feet, on standard 24" x 36" sheets, with one copy on 8 ½ " x 11" or 11" x 17". The number of copies of the site plan to be submitted for review shall comply with the City's schedule of copies. 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. All existing lot lines, easements, rights-of-way and any projected necessary future right-of-way as shown on adopted corridor management plans. Include area in acres or square feet, abutting land uses and structures.

(28-501-b-3 Revised 02-19-14)

4. 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, building 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 and conformance to the adopted comprehensive plan, including design guideline suggestions.
5. 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.
6. 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. If unavailable, subject to Zoning Administrator review before developer's design is approved.
7. The location, height, size, materials, and design of all proposed signage.

8. The location, size and common name of all existing plant materials to be retained on the site, including a description of the methods by which such materials could be preserved; plant materials if damaged during construction or dies within six (6) months, they must be replaced; mature sizes of plant material drawn to scale and identified by common name or appropriate key; location of all trees, twelve-inch (12”) caliper or larger measured at four and one-half feet (4 ½’) above ground level on sites that are proposed for removal.
9. 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, endwalls, hydrants, manholes and drainage swells, and post-construction water quality best management practices; as documented in the Stormwater Management Study.

(28-501-9-d Revised 09-19-18)

10. 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.
  - (a) Any new development or redevelopment that cumulatively disturbs equal to one (1) acre of land or more must provide a Stormwater Pollution Prevention Plan (SWP2) in accordance with Section 14-108 of the Ottawa Municipal Code; and any new development or redevelopment that cumulative disturbs equal to one (1) acre of land or increases net impervious surfaces by 500 square feet or greater, must provide a post-construction water quality plan in accordance with Article IV, Section 14-403.

(28-501-10-a Revised 09-19-18; 07-03-19)

- (b) Any other development activities shall employ, at minimum, Best Management Practices (BMPs) which limit erosion and sediment runoff.
- (c) Upon review of the Stormwater Management Study, the City may request the inclusion of an Operations and Maintenance Plan. Full requirements may be found in Article IV, Section 14-403(D) of the Ottawa Municipal Code.

Exceptions to the requirement for a Stormwater Management Study will be allowed only under the following conditions or circumstances:

(28-501-10-c Revised 09-19-18)

- (d) Remodeling, repair, replacement and improvement to any existing structure or facility and appurtenances that does not cause an increased area of impervious surface on the site in excess of ten (10) percent.
- (e) Residential improvements on one lot having a gross area of less than one acre and creating less than 500 square feet of new impervious surface.

Full requirements may be found in the Ottawa Municipal Code, Chapter 14, Stormwater Management.

(28-501-10-e Revised 09-19-18)

11. 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.
12. Zoning district boundaries adjacent to the site's perimeter shall be drawn and identified on the plan.
13. 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 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.
  - (d) Other information as requested by City Engineer.
14. 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.
  15. Sensitive Areas Designation Plan. A Sensitive Area Designation Plan shall be submitted at the time of plat and site plan review. The plan shall be prepared by a qualified professional such as a biologist, ecologist, environmental scientist or planner, environmental or agricultural engineer, or Landscape Architect; or with input from qualified professionals under the supervision of a licensed designer such as an

Architect, Professional Engineer or Landscape Architect. Sensitive Area Designation Plan shall identify all constrained or sensitive lands within the property boundaries and within four hundred (400) feet outside of the property boundaries, including, but not limited to, streams, stream corridors and floodplains, stream setback boundaries, wetlands and steep slopes. The Sensitive Area Designation Plan shall also clearly identify the general location and massing of wooded areas, areas with dense shrubbery, and isolated individual mature hardwood trees present on the property; and all natural or cultural resources and geographic features present on the property and within four hundred (400) feet outside of the property including but not limited to, meadows, grasslands, woodlands, streams, stream corridors, watercourses, prime farmland, wildlife corridors and/or habitat; potential state- or federally-listed threatened or endangered species or critical habitat; historic buildings and/or sites; archeological sites; cultural features and green space. The plan shall indicate and designate which areas and individual trees are to be preserved and which are to be removed. The Planning Commission shall review the plan and either approve it or direct the applicant to seek alternative site design to improve preservation of existing trees and sensitive areas.

See also, Article 20, Section 20-301.c.2; and Subdivision Regulations Article 4, Section 4-902.  
(28-501-15 Added 09-19-18)

16. A preliminary buffer plan must be submitted for City review with preliminary plans. The preliminary buffer plan must include a plan at a scale no smaller than 1"=100' showing at a minimum:
  - (a) Existing topography with at least 2-foot contour intervals;
  - (b) approximate stream locations based on approved City geographic information system mapping or City-approved mapping from state and federal agencies;
  - (c) approximate boundary of the FEMA- or City-designated floodplain based on City approved geographic information system mapping or federal mapping;
  - (d) approximate 1% flood conveyance limits where no regulatory floodplain is identified as determined by a qualified engineer using City-approved methods;
  - (e) approximate and/or potential wetland locations from a field survey, or the U.S. Fish and Wildlife Service National Wetlands Inventory or other publicly available data source (subject to formal delineation and Jurisdictional Determination by the U.S. Army Corps of Engineers prior to submittal of final buffer plan);
  - (f) slopes of 15% or greater in each sub-drainage area based on City-approved geographic information system mapping or a site topographic survey;
  - (g) the location of proposed structures or activities;
  - (h) identification of required stream buffer zones based on City-approved geographic information system mapping or a site topographic survey and a survey of mature riparian vegetation;

(28-501-16 Added 09-19-18)

17. A final buffer plan must be submitted for City review with the final plans. The final buffer plan must include a plan at a scale not smaller than 1"=100" showing at a minimum:
- (a) existing topography with at least 2-foot contour intervals;
  - (b) field delineated, marked, and surveyed streams and wetlands;
  - (c) existing sub-drainage areas of the site;
  - (d) slopes of 15% or greater in each sub-drainage area based on a site topographic survey;
  - (e) the location of proposed structures or activities;
  - (f) the location of field delineated and surveyed stream buffer zones;

See also Subdivision Regulations Article 15 – Stream Buffers.

(28-501-17 Added 09-19-18; 07-03-09)

## 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, comprehensive plan, and/or adopted area and corridor management plans.  
(28-601-c Revised 02-19-14)
- 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.
- f. The extent to which the proposal complies with City pollution, erosion, and sedimentation prevention standards.  
(28-601-f added 11-16-11)

## SECTION 28-7 DEVELOPMENT STANDARDS

**28-701.** Other than one-, two-, and three-family dwelling units, no building shall be erected that does not meet the following minimum standards:

- a. Rooftop equipment shall be screened from view from the ground near the building with vertical extensions of the building walls or with parapets or other architectural design features of the same materials used on the wall of the building. Where the topography permits, it is

desirable to screen such equipment from adjacent property, but it is not the intent of this requirement to increase the height of the screening significantly above that of the equipment in order to screen it from view from tall buildings or from higher ground. Raised exterior walls or screen walls should be designed to enclose groups of equipment. Wall material should be compatible with or identical to the predominant opaque material on the exterior of the building.

- b. Dumpster Enclosure and Improvements:
1. 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.
  2. The enclosure shall be a minimum of 12 feet wide to allow access for the truck picking up the refuse bin. The depth of the enclosure should be the depth of the refuse bin being used plus an additional four (4) feet to allow for the mechanical dumping of the refuse bin. The enclosure shall have a minimum height of five (5) feet.
  3. The floor of the enclosure shall be reinforced concrete with a minimum thickness of four inches (4") with #4 reinforcing at twenty-four inches (24") each direction.
  4. There shall be a 12' x 12' concrete pad in front of the enclosure. This pad should be a minimum depth of eight inches (8") and have #4 reinforcing rods every twenty-four inches (24") in each direction and have a test strength of 4,000 psi.
  5. 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 to extent possible. When decorative fence is used the corner post should be made of steel pipe with a four inch (4") diameter and filled with concrete.
  6. The number and location of the refuse bins shall be located on the site plans prior to approval.
- c. The form and proportion of building shall be consistent or compatible with the scale, form and proportion of existing development in the immediate area.
- d. The use of unusual shapes, color and other characteristics that cause new buildings to call excessive attention to themselves and create disharmony is discouraged.
- e. The rhythm of structural mass to voids, such as windows and glass doors, of a front facade should relate favorably to the rhythms established in adjacent buildings.
- f. Overly long horizontal facades (walls) should be articulated with variations in the building plane and parapet height, materials and colors, entrance canopies, landscaping and other design or site plan features. Parking lots along the facade can also relieve horizontally through the use of landscaped fingers and island containing trees and shrubs.
- g. Architectural design should create visual interest through the use of different textures, complementary colors, shadow lines and contrasting shapes. The use of walls in a single color, with little detailing or completely bland, is discouraged.

- h. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest.
- i. Careful consideration of durable materials, proportions, and shapes, emphasizing the importance of roofs as integral and embracing elements of the over-all design, is encouraged.
- j. Use of substantial amounts of masonry materials (face brick, stucco, stone) is encouraged. The use of aluminum siding, metal ribbed panels, and extensive mirrored glass surfaces is discouraged. Evaluation of building materials shall be based on the quality of its design and relationship and compatibility to building materials in the immediate neighborhood. Corrugated metal facades should be complemented with abundant use of masonry, whether brick, stone, stucco or split-face block, especially along perimeter streets. Architectural metal panels may be an acceptable substitute for masonry. Appropriate landscaping can be used to complement and enhance a building's design, color and material.
- k. Architectural treatments (e.g., building material, colors, facade design, roof lines, screening) shall be consistent and compatible on all sides. Treatment that is uniform on all sides will be deemed to meet the requirements of this principle. Adjacent land uses, visibility from public streets, use of screening devices (walls, fences, berms, landscaping) are criteria to be considered when varying this treatment. The applicant will have the burden of demonstrating the reasons for differing treatments on different sides (e.g., the need for truck access on one side and pedestrian access on another).

Long expanses of overhead doors should be relieved by matching their color to the wall or trim, recessing the doors, or adding architectural details to diminish the dominance of the doors.

**28-702.** Mini-warehouse facilities shall be developed in accordance with the following minimum standards:

- a. Off street parking shall be provided as follows:
  - 1. Parking shall be provided by parking/driving lanes adjacent to the buildings. These lanes shall be at least twenty feet (20') wide for one-way access lanes and at least twenty-five feet (25') wide for two-way access lanes.
  - 2. One parking space for every one hundred fifty (150) storage cubicles shall be located adjacent to the leasing office. A minimum of three (3) such spaces shall be required.
  - 3. Required parking spaces may not be rented as or used for vehicle storage, unless identified on the site plan or development plan.
- b. There shall be landscaped screening and fencing around the perimeter of the project. The fencing shall be a minimum of six feet (6') in height. When a development borders an arterial street, adjoining residential or commercial development, the fence shall be constructed of decorative material approved by the Zoning Administrator along those sides. Chain link fencing (with or without barbed wire fencing on top) may be used on sides that adjoin other industrial property of similar or greater intensity, as approved by the Zoning Administrator.

Architectural standards shall be provided as follows:

1. Architectural compatibility with the existing neighborhoods.
  2. Building height differential.
  3. No door openings for any mini-warehouse storage unit shall be constructed facing any residentially zoned property or public right-of-way.
- c. The following are prohibited storage materials and uses. These items shall be included as part of any lease agreement to rent storage units.
1. Auctions, except those required by state law to dispose of lien held property.
  2. Commercial, wholesale or retail sales or miscellaneous sales.
  3. The servicing, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances or other similar equipment.
  4. The operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment.
  5. The establishment of a transfer and storage business.
  6. Any use that is noxious or offensive because of odors, dust, noise, fumes or vibrations.



**ARTICLE 29****TELECOMMUNICATIONS TOWERS****Sections:**

- 29-1 Telecommunications Towers; Permits**
- 29-2 Fencing and Screening**
- 29-3 Setbacks and Landscaping**
- 29-4 Security**
- 29-5 Access**
- 29-6 Maintenance**
- 29-7 Design**
- 29-8 Consideration of Conditional Use Permit**
- 29-9 Filing Requirement**
- 29-10 Revocation of Permit**
- 29-11 Transfer of Permit**
- 29-12 Abandonment of Tower**

**SECTION 29-1 TELECOMMUNICATIONS TOWERS; PERMITS**

**29-101.** Radio or television towers, communication towers, microwave transmitting and/or receiving towers and/or stations, radio antennas, commercial satellite earth stations and similar appurtenances, collectively referred to in this Article as “towers” or “towers and similar structures,” may be allowed pursuant to issuance of a Conditional Use Permit, when such conditional use is provided for in the relevant district regulations, and subject further 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. Structures for the above uses must be set back from all adjacent property lines and streets a distance equal to not less than its height plus fifty (50) feet. 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 fulfillment of this requirement shall be placed in the record by affidavit of the applicant or intended user of the tower, who shall also submit a tower propagation map for a geographic area as determined by the Zoning Administrator. At the request of the Planning Commission additional evidence in the form of testimony may be required from the 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 that engineer. At the request of the Planning Commission additional evidence in the form of testimony may be required from the 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 section 29-801.

## **SECTION 29-2 FENCING AND SCREENING**

**29-201.** Security fences must be constructed around or upon parcels containing towers and similar structures. Screening is not required of towers.

## **SECTION 29-3 SETBACKS AND LANDSCAPING**

**29-301.** 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. Additional landscaping may be required as part of the Conditional Use Permit if such would make the tower or similar structures more compatible with the surrounding area.

## **SECTION 29-4 SECURITY**

**29-401.** All towers must be secured to protect against trespass or unauthorized use of the property, tower or similar structures.

## **SECTION 29-5 ACCESS**

**29-501.** All parcels upon which towers are located must provide access to at least two (2) vehicular parking spaces located within one hundred feet (100') of the tower.

**SECTION 29-6 MAINTENANCE**

**29-601.**

- 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 29-7 DESIGN**

**29-701.** 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 29-8 CONSIDERATION OF CONDITIONAL USE PERMIT**

**29-801.**

- 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 Article 26 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 FCC license has been granted to the applicant authorizing provision of wireless services to the community and whether radio frequency emissions will comply with FCC 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. Whether the tower will 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 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 FCC's regulations concerning such emissions.

## SECTION 29-9 FILING REQUIREMENT

**29-901.** 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 City, federal and state law 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 July 1, 2005, 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 29-10 REVOCATION OF PERMIT**

**29-1001.** 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 from the date of receipt of the notice in which to correct the violation or to provide adequate assurance of compliance. Together with that notice, 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 interested 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 the Franklin County District Court.
- 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. No order shall be issued prior to thirty (30) days from the date of the Governing Body's written determination. The order shall be served upon the chief executive officer of the utility company, together with the permittee at the last known address, and have attached to it the findings of the Governing Body.

### **SECTION 29-11 TRANSFER OF PERMIT**

**29-1101.** 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 29-12 ABANDONMENT OF TOWER**

**29-1201.**

- 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, the 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 30****ENFORCEMENT AND PENALTIES****Sections:**

- 30-1 Enforcement**
- 30-2 Interpretation and Conflict**
- 30-3 Validity**
- 30-4 Repeal of Existing Regulations and Accrued Rights and Liabilities**
- 30-5 Penalties**
- 30-6 Effective Date**

**SECTION 30-1 ENFORCEMENT**

**30-101.** 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 30-2 INTERPRETATION AND CONFLICT**

**30-201.** 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, lot 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 30-3 VALIDITY**

**30-301.** 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 declared to be invalid or unconstitutional.

**SECTION 30-4 REPEAL OF EXISTING REGULATIONS AND ACCRUED RIGHTS AND LIABILITIES**

**30-401.** The adoption of these regulations repeals the existing zoning regulations of the City of Ottawa, Kansas.

**30-402.** 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 30-5 PENALTIES**

**30-501.** 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 or by imprisonment for not more than six months for each offense, or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.

(30-501 revised 07-18-07)

**30-501.** 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 30-6 EFFECTIVE DATE**

**30-601.** These zoning regulations as adopted by the City Commission shall become and are in full force immediately upon passage and publication in the official City newspaper of the adopting ordinance in accordance with state law.