ZONING REGULATIONS

of

STAFFORD COUNTY/HUDSON KANSAS

Official Copy as Incorporated by Resolution

No. 2005-11

and Ordinance No. 190

prepared by the

STAFFORD COUNTY/HUDSON JOINT PLANNING COMMISSION

Technical Assistance by

Foster & Associates Planning Consultants Wichita, Kansas

and

County Zoning Administrator

Original Date April 22,1998

edition of September 19, 2005, city of Hudson effective date October 19, 2005

edition of January 1, 2026, Renewable energy, Fees, etc. effective date March 25, 2026

© Foster & Associates. Planning Consultants. 2005.

All rights reserved.

These Zoning Regulations are a proprietary product of Foster & Associates. Planning Consultants. Produced under contract solely for the use of the client named herein and any reproduction in any form or by any means. mechanical or electronic. by another party is prohibited without prior agreement and written permission from the consultants.

TABLE OF CONTENTS

Section		Page
	ARTICLE 1. TITLE. PURPOSE, AUTHORITY AND JURISDICTION	**1 - 1**
100	Title	1 - 1
101	Purpose	1 - 1
102	Authority	1 - 2
103	Zoning Jurisdiction	1 - 2
104	Notification to Cities	1 - 2
	ARTICLE 2. INTERPRETATION, CONSTRUCTION AND DEFINITIONS	**2 - 1**
100	Rules of Interpretation	2 - 1
	A. Minimum Requirements	2 - 1
	B. Overlapping or Contradictory Regulations	2 - 1
	C. Private Agreements	2 - 1
	D. Unlawful Uses	2 - 1
	E. Not a Licensing Regulation	2 - 1
	F. Effect on Existing Permits	2 - 1
	G. Vesting of Development Rights	2 - 2
101	Rules of Interpretation	2 - 3
102	Definitions	2 – 4
	ARTICLE 3. GENERAL PROVISIONS	**3 - 1**
100	Activities Governed by these Regulations	3 - 1
	A. New Structures	3 - 1
	B. New Uses of Old Structures	3 - 1
	C. Structural Alterations	3 - 1
	D. Uses of Open Land	3 – 1

Section TABLE OF CONTENTS (Continued) Page

E. Exemptions ..... 3 - 1

101 Districts. Zoning Maps and Boundaries ..... 3 - 2

A. Establishment of Districts ..... 3 - 2

B. Zoning Maps ..... 3 - 2

C. Boundaries ..... 3 - 3

D. Zoning of Rights of Way ..... 3 - 3

102 General Requirements for All Zoning Districts ..... 3 - 3

A. Permitted Uses ..... 3 - 3

B. Special Uses ..... 3 - 4

C. Conditional Uses ..... 3 - 4

D. Lot Sizes ..... 3 - 4

E. Bulk Regulations ..... 3 - 5

F. Use Limitations ..... 3 - 5

G. Off-Street Parking and Loading ..... 3 - 5

H. Accessory Structures or Uses ..... 3 - 6

I. Temporary Structures or Uses ..... 3 - 6

J. Home Occupations ..... 3 - 6

k. Signs ..... 3 - 6

103 Miscellaneous Requirements ..... 3 - 6

A. Number of Structures and Uses on a Zoning Lot ..... 3 - 6

B. Platted Building Setback Lines ..... 3 - 7

C. Average Setback in Existing Residential Districts ..... 3 - 7

D. Yard Requirements for Open Land ..... 3 - 7

Section	TABLE OF CONTENTS (Continued)	Page
	E. Restrictions on Allocation and Disposition of Required Yards or Open Space	3 - 7
	F. Permitted Obstructions in Required Yards	3 - 8
	G. Lot Size Requirements and Bulk Regulations for Public Utility Facilities	3 - 9
	H. Access to Business and Industrial Districts	3 - 10
	I. Annexed Land	3 - 10
	J. Sewer and Water Facilities	3 - 10
	K. Dedication of Rights of Way and Easements	3 - 11
	L. Vacated Rights of Way	3 - 11
	M. Moving Structures	3 - 11
104	Location or Replacement of Manufactured or Mobile Homes	3 - 12
105	Screening and Landscaping	3 – 13
	ARTICLE 4. ZONING DISTRICTS	**4 – 1**
100	Permitted Uses in ALL Districts	4 - 1
101	A-1 Agricultural District	4 – 1
	a. Commercial Solar Energy Project (CSEP)	4 – 6A1
	Battery Energy Storage Systems (CESS), (BESS) & (CESS)	
102	A-2 Agricultural Transition District	4 - 7
103	V-1 Village District	4 - 9
104	SR-1 Single-Family Suburban Residential District	4 - 10
105	MH-1 Manufactured Home Subdivision District	4 - 12
106	C-1 General Commercial District	4 - 14
107	I-1 Industrial District	4 - 17

Section	TABLE OF CONTENTS (Continued)	Page
108	R-1 Single-Family Residential District	4 - 21
109	R-2 Multiple-Family Residential District	4 – 24
110	B-1 Central Business District	4 – 27
111	I-1 Industrial District	4 - 30
112	P-O Protective Overlay District	4 - 34
	ARTICLE 5. OFF-STREET PARKING AND LOADING	**5 – 1**
100	Off-Street Parking	5 - 1
	A. General Provisions	5 - 1
101	Required Parking Spaces	5 - 4
	A. Dwelling and Lodging Uses	5 - 4
	B. Business and Industrial Uses	5 - 5
	C. Other Uses	5 - 6
102	Conditional Use for Parking	5 - 7
103	Off-Street Loading and Unloading	5 - 8
ARTICLE 6.	**ACCESSORY USES. TEMPORARY USES AND HOME OCCUPATIONS**	**6 - 1**
100	Accessory Uses Authorization	6 - 1
	A. Definitions	6 - 1
	B. Permitted Accessory Uses	6 - 1
	C. Bulk Regulations	6 - 4
	D. Use Limitations	6 - 4
101	Temporary Uses Permitted	6 - 5
102	Home Occupations Authorization	6 - 6
	A. Definition	6 - 7
	B. Use Limitations	6 - 7

C. Home Occupations Permitted ..... 6 - 8

D. Home Occupations Prohibited ..... 6 - 9

E. Home Occupation Authorization by Conditional Use ..... 6 – 9

ARTICLE 7. SIGNS **7 - 1**

100 Sign Permits ..... 7 – 1

101 Classification of Signs ..... 7 – 1

A. Functional Types ..... 7 – 1

B. Structural Types ..... 7 – 2

102 General Standards ..... 7 – 3

A. Gross Surface Area of Signs ..... 7 - 3

B. Corner and Through Lots ..... 7 - 3

C. Height of Sign ..... 7 - 3

D. Building and Electrical Codes Applicable ..... 7 - 4

E. Illuminated Signs ..... 7 - 4

F. Flashing or Moving Signs ..... 7 - 4

G. Metal and Nonmetal Signs ..... 7 - 4

H . Accessway or Window ..... 7 - 4

I . Signs on Trees or Utility Pol es ..... 7 - 4

J. Traffic Safety ..... 7 - 4

K . Location ..... 7 - 5

L . Portable Signs ..... 7 - 5

M. Damaged or Unsafe Signs ..... 7 - 7

103 Exemptions ..... 7 - 7

104 District Regulations ..... 7 - 10

ARTICLE 8. NONCONFORMING LOTS, STRUCTURES AND USES 8 - 1

100 Purpose ..... 8 – 1

101 Nonconforming Lots or Acre Size of Record ..... 8 - 1

102 Nonconforming Structures ..... 8 - 4

A. Authority to Continue ..... 8 - 4

B. Enlargement, Repair or Alterations ..... 8 - 4

C. Damage ..... 8 - 5

D. Moving ..... 8 - 5

103 Nonconforming Uses ..... 8 - 5

A. Authority to Continue ..... 8 - 5

B. Ordinary Repair and Maintenance ..... 8 - 5

C. Structural Alteration ..... 8 - 6

D. Extension ..... 8 - 6

E. Enlargement ..... 8 - 7

F. Damage ..... 8 - 7

G. Moving ..... 8 - 7

H. Change in Use ..... 8 - 7

I. Abandonment ..... 8 - 8

J. Nonconforming Accessory Uses ..... 8 - 9

104 Nonconforming Residential Structures ..... 8 - 9

105 Nonconforming Nonresidential Structures and Uses ..... 8 - 9

106 Discontinuance of Nonconforming Uses ..... 8 - 9

107 Registration of Nonconformities and Exemptions ..... 8 - 10

108 Status of Existing Special and Conditional Uses ..... 8 - 11

Section	TABLE OF CONTENTS (Continued)	Page
	ARTICLE 9. ADMINISTRATION AND ENFORCEMENT	**9 - 1**
100	Office of the Zoning Administrator	9 – 1
	A. Duties of the Zoning Administrator	9 – 1
	B. Duties of the Clerk	9 - 2
101	Zoning Permits and Occupancy Certificates	9 - 3
	A. Zoning Permits	9 - 3
	B. Occupancy Certificates	9 - 6
	C. Agricultural Compliance Certificate	9 - 7
102	Enforcement and Liability Violations	9 - 7
103	Violations	9 - 8
104	Fees	9 - 9
105	Reports	9 - 9
	ARTICLE 10. BOARD OF ZONING APPEALS	**10 - 1**
100	Authorization	10 - 1
101	General Procedures	10 - 1
102	Jurisdiction	10 - 1
103	Notice of Hearing	10 - 2
104	Conduct of Hearing	10 - 3
105	Finality and Judicial Review of Decisions	10 - 3
106	Appeals	10 - 3
107	Variances	10 - 5
108	Conditional Uses	10 - 8
	ARTICLE 11. AMENDMENTS	**11 - 1**
100	General Provisions for Amendments	11 - 1

Section TABLE OF CONTENTS (Continued) Page

A. Proposal ..... 11 – 1
B. Application ..... 11 – 1
C. Public Hearing ..... 11 – 2
D. Notice of Hearing ..... 11 – 3
E. Conduct of Hearing ..... 11 – 4
F. Report by Planning Board ..... 11 – 6
G. Amendments to Text ..... 11 – 7
H. Review Criteria for Amendments or Special Uses ..... 11 – 7

101 Special Uses ..... 11 – 9
102 Project Review ..... 11 –10
103 Filing of Protest ..... 11 –11
104 Adoption of Amendments or Special Uses by the Governing Body .. 11 –11
105 Annual Review ..... 11 –12
106 Judicial Review ..... 11 –12

ARTICLE 12. SEVERABILITY AND EFFECTIVE DATE **12 – 1**

100 Severability ..... 12 – 1
101 Effective Date ..... 12 – 1
Ordinance No. 2005-11..... 12 – 4
Ordinance No. 190 ..... 12 - 7

APPENDIX **A-1**

Table of Comparability for Zoning Districts A-1
Selected Index by Subject and Section A-3
Resolution Incorporating and Adopting Zoning Regulations A-11
Ordinance Incorporating and Adopting Zoning Regulations A-12

ZONING REGULATIONS of

STAFFORD COUNTY/HUDSON, KANSAS

ARTICLE 1. TITLE, PURPOSE, AUTHORITY AND JURISDICTION

100 **Title.** These regulations. including the zoning district maps made a part hereof. shall be known and may be cited as the "Zoning Regulations of Stafford County/Hudson Kansa s. " and shall hereinafter be referred to as "these regulations."

101 **Purpose.** These regulations are intended to serve the following purposes:

A. To promote public health. safety, morals. comfort and general welfare.

B. To establish a variety of zoning district classifications according to the use of land and buildings with varying intensities of uses and standards whose interrelationships of boundary zones form a compatible pattern of land uses and buffer areas which enhance the value of each zone:

C. To regulate and restrict the location. use and appearance of buildings, structures and land within each di strict and to zone for residential, commercial, industrial and other purposes.

D. To regulate and restrict the height. number of stories and size of buildings and structures including their distance from any street or highway; the percentage of each lot that may be occupied by buildings and other structures; and size of yards. courts and other open spaces.

E. To protect property values and conserve agricultural l and. energy and natural resources;

F. To provide for adequate light and air and acceptable noise levels.

G. To avoid the undue concentration of population and vehicular traffic and to prevent overcrowding the use of land and public facilities.

H. To facilitate the adequate provision of transportation. water supply, sewage disposal. schools. parks and other public improvements.

I. To provide adequate public notice on proposed changes in these regulations and zoning maps and an opportunity to be heard on such zoning matters.

J. To establish and provide procedures for the Board of Zoning Appeals to consider appeals, variances and conditional uses as exceptions; and

K. To implement the goals, policies and proposals of the comprehensive plan for the zoning jurisdiction.

102 **Authority.** Thes e regulations are adopted under authority established by K.S.A. 12-741 et seq. . as amended. 12-736. 12-742. 12-753 to 12-761 inclusive. 12-763. 12-764. 12-3009 through 12-3012 inclusive. 12-3301 and 12-3303 through 12-3305

103 **Zoning Jurisdiction.** These regulations apply to all buildings, structures and land in the unincorporated area of Stafford County, Kansas. And the City of Hudson as presently exists or is hereafter established.

104 **Notification to Cities**. To facilitate the mutual interest in prop er planning for the urbanizing area around all cities in the County, notice of any public hearing including proposed amendments to the text of these regulations before the Planning Commission or the Board of Zoning Appeals which would affect real property within three miles of a city shall be mailed to such city at least 30 days before such hearing . In lieu of such a three-mile area of notification. A designated Planning Area not exceeding a distance of more than three miles from the city limits may be proposed by any city for approval by the Commission as an area of notification.

ARTICLE 2. INTERPRETATION, CONSTRUCTION AND DEFINITIONS

100 **Rules of Interpretation.**

A. **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, comfort and general welfare.

B. **Overlapping or Contradictory Regulations.** Where the conditions imposed by the provisions 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 any other applicable law, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

C. **Private Agreements.** The provisions of these regulations are not intended to abrogate any easement. deed restriction. covenant or other private agreement of legal relationship: provided. where the requirements of these regulations are more restrictive or impose higher standards or regulations than such private agreements. The requirements of these regulations shall govern. Neither the County nor the city have a responsibility to enforce such private agreements.

D. **Unlawful Uses.** No use of land or structure 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 use or structure is in conflict with the requirements of these regulations, said use or structure remains unlawful hereunder.

E. **Not a Licensing Regulation.** Nothing contained in these regulations shall be deemed to be consent. license or permit to use any property or to locate, construct or maintain any structure or facility or to carry on any trade, industry, occupation or activity.

F. **Effect on Existing Permits.** For all purposes except single-family developments platted and recorded after January 1. 1992. nothing in these regulations shall be deemed to require any change in plans. construction or designated use of any land or structure in the event that: (See Section 2-100G.)

1. A zoning permit for such use of land or structure was lawfully issued prior to the effective date of these regulations or the effective date of any amendment thereof: and

2. Such permit had not by its own terms expired prior to such effective date: and

3. Such permits were issued based on an application showing complete plans for proposed construction and /or use: and

4. There has been a substantial change of position. Substantial ex-penditure. Substantial work performed or incurrence of substantial obligations by the permit holder in reliance on such permit other than purchase of land or preparation of design plans: and

5. Such issuance of a permit and change of position. Expenditures. Work or incurrence of obligations were made prior to the effective date of an amendment of these regulations which amendments would have made illegal the issuance of such permit: and

6. Construction pursuant to such permit is completed prior to the expiration of such permit: and

7. When the use of land or a structure is completed under a permit to which this Section 2-100F applies, an occupancy certificate shall be issued in accordance with the zoning regulations in effect at the time the zoning permit was issued.

G. **Vesting of Development Rights.** For the purpose of single-family residential developments according to K.S.A. 12-764, as amended, development rights in such land use shall vest upon recording of a final plat of such land after January 1, 1992. If construction of a principal structure does not commence on such land within ten years of recording a final plat. The development rights in such land shall expire and. Thus. All revisions to zoning or subdivision regulations becoming effective during the period vested shall thereafter apply to such platted land.

101 **Rules of Construction.**

A. 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:

1. The singular number includes the plural and the plural the singular.

2. The present tense includes the past and future tenses and the future the present.

3. The word **"shall"** is mandatory while the word **"may"** is permissive.

4. The phrase **"used for"** shall include the phrases "arranged for. " "designed for." "intended for." "maintained for" and "occupied for,

5. The word **"person"** includes individuals. firms, corporations. associations. governmental bodies and agencies. and all other legal entities.

6. The word "County" means Stafford County. Kansas and the word "City" means the City of Hudson, Kansas

7. The words "Governing Body" when applied to land and structures in the unincorporated area of the County mean the Board of County Commissioners of Stafford County, Kansas. When applied to land and structures inside the city. The words mean the Mayor and Council members of the City of Hudson. Kansas which together constitute the governing body.

8. The word "Clerk" means the County or City Clerk.

9. The words "Planning Commission" mean the Stafford County/Hudson Joint Planning Commission.

10. The words "Comprehensive Plan" mean the adopted and approved Comprehensive Development Plan for Stafford County, Kansas or the City of Hudson, Kansas. which includes. among other elements. a plan for land use.

11. The word "Board" as referred to in Article 10 means the Stafford County/Hudson Joint Board of Zoning Appeals.

12. The words "zoning jurisdiction" mean the area as defined in Section 1-103 for which the jurisdiction of these regulations is applicable for zoning purposes.

13. Unless otherwise specified. all distances shall be measured horizontally.

B. Any word or phrase which is defined in this Article or elsewhere in these regulations shall have the meaning as so defined whenever used in these regulations. unless such definition is expressly limited in its meaning or scope.

C. Words or terms not herein defined shall have their ordinary meaning in relation to the context as defined in a dictionary.

102 **Definitions.** The following definitions shall be used in the interpretation and construction of these regulations:

ACCESSORY DWELLING: An accessory use dwelling unit that may be constructed wholly within. or maybe detached from. a principal single-family dwelling unit which shall be subject to the following standards:

1. A maxi mum of one accessory apartment may be allowed on the same zoning lot as a single-family dwelling unit;

2. The appearance of an accessory apartment shall be compatible with the principal dwelling and the character of the neighborhood.

3. The lot on which the accessory apartment is to be located must meet the minimum lot area as required for the lot size in the relevant zoning district;

4. The off-street parking space and standards required for Section 5-101A1 must be met;

5. Separate or shar ed utility connections may be utilized subject to the regulations of any applicable Sanitary Code.

6. Temporary. prefabricated structures may be used as accessory apartments for limited periods of time; and

7. An accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit and not be subdivided or sold as a condominium. A suitable deed restriction stating this restriction must be filed with the Stafford County Register of Deeds prior to issuance of any occupancy certificate for the accessory apartment.

ACCESSORY USE OR STRUCTURE: **As defined in Article 6.**

ADULT CARE CENTER: A facility in which care and activities are provided on an hourly or daily basis for adults of all ages. The latter arrangement is not construed to be a "nursing home". It may also be referred to as an "adult day care" facility. Such centers are licensed under regulations established and administered by the Kansas Department of Health and Environment. (See Section 6-102C1 for adult care center limitations as home occupation.)

ADULT CARE HOME: A residential facility operated as a home occupation for not more than four adults wherein care and activities are provided on an hourly or daily basis or limited nursing care is provided on a **24-hour** basis. Such homes may also be referred to as "home plus" and are li censed under regulations established and administered by the Kansas Department of Health and Environment. Standards for such definitions may be periodically amended by changes in state regulations. Care for more than four adults as a home occupation may be approved as a conditional use by the Board of Zoning Appeals.

AGRICULTURE: (Inside a city) The use of land for growing crops in the open. horticulture. nurseries. truck farms and accessory uses. including structures not in a designated floodplain. for carrying out agricultural operations, provided. however. such agricultural use shall not include the following uses: (See Section 3-100E4 for Exemptions.)

a. The maintenance and operation of commercial greenhouses or hydroponic farms. except in zoning districts where permitted.

b. Retail sales as an accessory use. unless the same are otherwise permitted by these regulations.

c. The feeding of garbage to animals.

d. The feeding, grazing or sheltering domestic animals or fowl. e.g.. horses. cows, swine. goats. chickens. pigeons. rabbits or fur bearing animals. but not including

cats and dogs and other pets, unless such animals or fowls are otherwise permitted by City laws or regulations.

e. The operation or maintenance of a stockyard or feedlot. (See Section 2-102 for definition of FEEDLOT.)

Farmhouses are considered to be single-family dwellings.

AGRICULTURE: (Outside a city) The use of a tract of land under one ownership where the principle activity is to produce income from the growing of crops. horticulture. nurseries. truck farm s or the raising of fish. poultry and cattle or other livestock. including feedlots. Such definition includes the structures that are necessary for carrying on farming operations including greenhouses and. as accessory uses. the dwelling of the owner or operator of the premises including modular homes and multiple-wide manufactured homes on enclosed. perimeter permanent-type foundations which are used as the principal farm dwelling. The retail sale of items produced as part of the farming operation is permitted. Such definition shall not include land used for recreational purposes or rural home sites whose primary purpose is for residential use and not the production of income from a farming operation. Privately owned natural wildlife habitats and reserves are also considered an agriculture use.

So long as such land. related structures and accessory dwelling (s) are used for such bona fide agricultural purposes. These regulations do not require a zoning permit or occupancy certificate. nor do they establish any other rule or regulation contrary to the provisions of **K.S.A. 12-758**. To assist the Zoning Administrator in determining if a proposed building, structure or use meets the definition of agriculture. Any applicant seeking agricultural exempt may be requested to complete a compliance certificate. Any person aggrieved by a decision of the Zoning Administrator in interpreting the definition of agriculture may appeal to the Board of Zoning Appeals for a determination. Surrounding nonagricultural landowners should be aware that Kansas is a "right-to-farm" state under **K.S.A. 2-3201**. et seq. which limits nuisance suits and injunctions if an agricultural activity is being conducted in conformity with federal. state and local laws. (See Section 3-100E4 for Exemptions to agricultural purposes and Section 3-104E for accessory dwelling(s) to agricultural land as a conditional use.)

AIRCRAFT: Any contrivance now known or hereafter invented for use in or designed for navigation of or flight in the air.

AIRPORT: (Including Landing Strip. Heliport or Helistop.) Any premises which are used or intended for use. for the landing and take-off of aircraft, and any appurtenant areas which

are used. or intended for use. for airport buildings or other airport structures or rights-of-way, together with all airport buildings and structures located thereon.

ALLEY: A minor right-of-way along the side of or in the rear of lots intended to provide a secondary means of access to abutting lots and to and from streets.

ALTERATION: See STRUCTURAL ALTERATION.

AMUSEMENT CENTER: An indoor commercial establishment which contains amusement devices for public use as the principal activity of the business operating the center. but, in any event, places which operate six or more of the devices. Amusement devices shall include computer video games, pinball machines. pool or billiards and other table games. Such definition is not intended to include recreational uses such as bowling, skating rinks or miniature golf. but may ranges for archery and shooting firearms.

ANIMAL HOSPITAL OR CLINIC: An establishment where animals are admitted principally for examination, treatment. board or care, by a Doctor of Veterinary Medicine. This does not include open kennels or runs. unless specifically permitted by the district regulations.

APPEAL: See Section 10-106 for description.

ASSISTED LIVING FACILITY: Dwelling units used by older persons, persons with disabilities or other persons needing or desiring assistance with day-to-day living matters, but not including nursing homes, hospitals or convalescent care facilities. Typical uses include retirement communities in which housekeeping services, common dining facilities and recreational and social activities are offered to residents.

AUTOMOBILE SERVICE STATION: A structure and surrounding land used for the storage and sale of petroleum fuel, including self-service, primarily to passenger vehicles and for accessory uses such as the sale of lubricants. accessories or supplies, the incidental washing of motor vehicles and the performing of minor repairs. but not including ti re recapping. body repairs or major overhaul. Such use does not include open sales lots for new or used vehicles nor provide rental equipment, unless specifically permitted by the district regulations.

AWNING: A roof-like cover that is temporary in nature which projects from the wall of a building and which may overhang a public area for pedestrian use.

BASEMENT: That portion of a building located wholly or partially underground. but having more than one-half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

BED AND BREAKFAST HOME OR INN: A dwelling where for compensation one or more rooms are available for lodging and breakfast served to lodgers only. When conducted as a home occupation, such facilities are designated as "homes." When designated as an "inn." such facilities may be operated as a home occupation or as a business enterprise. When specifically permitted. tea rooms for a limited number of customers may be operated in conjunction with bed and breakfast inns.

BLOCK: A tract of land bounded by streets or by a combination of streets. public parks. cemeteries. railroad rights of way, waterways, city limits or other property lines.

BOARDING OR ROOMING HOUSE: A building other than a hotel were. for compensation and by prearrangement for definite periods, lodging only or with meals are provided for three or more boarders and/or roomers exclusively of the occupant's family. Individual cooking facilities are not provided. (See FAMILY.)

BUILDING: Any covered structure having a roof supported by columns or walls for the shelter, support or enclosure of persons. animals. horticultural products or chattels. Interconnected buildings shall be considered as one building.

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: (1) maximum height, (2) maximum lot coverage, and (3) minimum size of yards and set-backs.

BUSINESS AND PROFESSIONAL OFFICE: The office of an architect, attorney, dentist. doctor, engineer. landscape architect, real estate or insurance agent or other similar professional person, and any office used primarily for accounting, correspondence, research, editing or admin i strati on.

CAMPGROUND: Any parcel of ground which provides space for transient occupancy and is used or intended to be used for the parking of one or more camping trailers. tents or similar recreational vehicles. The term campground does not include sales lots on which unoccupied camping trailers. whether new or used. are parked for the purpose of storage, inspection or sale.

CANOPY: Any structure. movable or stationary, open on three sides without supporting posts, which are attached to and projects from a wall of a building for the purpose of sheltering a drive-up facility, platform, stoop. entranceway or sidewalk from the elements including a motor vehicle: or an independent roof-like structure supported by posts with no sidewalls for the purpose of sheltering a gasoline service area. drive-in facility or motor

vehicles. In any event. The sheltering of motor vehicles is for temporary parking and unloading only and not a permanent parking space. (See Section 3-103F1 for Permitted Obstructions.)

CAPACITY IN PERSONS: The maximum number of persons that can avail themselves of the services or goods of an establishment. at any one time. with reasonable comfort.

CARPORT: A structure for shelter and permanent parking space for motor vehicles attached to a building or independent thereof which may be enclosed on one or more sides: Such carports are not permitted obstructions under Section 3-103F1.

CAR WASH: An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.

CHILD CARE FACILITIES: Standards and requirements for facilities which provide care for children are established by State law and promulgated by regulations of the Kansas Department of Health and Environment. The following facilities are licensed or registered by the department and all requirements. as may be amended from time to time. must be met:

1. Group Boarding Home: A non-secure facility providing 24-hour residential care for not less than five nor more than 10 persons unrelated to the caregivers. Emergency shelter and maternity care may be provided.

2. Child Care Center: A facility in which care and educational activities for 13 or more children two weeks to 16 years of age are provided for more than three. but less than 24 hours per day, including before and after school care for school age children.

3. Preschool: A facility such as a "nursery school" providing learning experiences for children of l ess than kindergarten age, but who are 30 months or older. where sessions do not exceed three hours per day.

4. Day Care Home: A home or facility in which care is provided for a maximum of 10 children under 16 years of age.

5. Group Day Care Home: Similar to day care homes, except that care is provided to a maximum of 12 children under 16 years of age.

6. Family Day Care Home: A home in which care is provided for less than 24 hours per day for a maximum of six children who are less than 16 years of age, but of whom not more than three children are less than 18 months.

(See Section 6-100B11 for childcare facilities for employees and Sections 6-102C and D for home occupations permitted and prohibited.)

CLUB: An organization licensed as a Class A or B club for the purpose of consuming alcoholic beverage s either for or not for profit under K. S. A. 41-2601. et seq. as amended. (See FRATERNAL OR SERVICE CLUB and TAVERN AND DRINKING ESTABLISHMENT.)

CONDITIONAL USE: The use of a structure or use that is not permitted out-right within any zoning district. but when specifically authorized and listed in these regulations as a conditional use such use may be granted as an "exception" by the Board of Zoning Appeals. Conditions may be attached to the approval of such uses by the Board so that they may be more compatible to the particular location within a district. (See Section 10-108 for Conditional Uses.)

CONDOMINIUM: A structure and related common areas and facilities designed to meet the provisions of the Apartment Ownership Act cited in K.S. A. 58-3101 et seq. which governs the ownership. management. taxation. contents of the declaration and other matters related to the sale and operation of such structures and the independent units therein. Independent condominium units. as defined in the Act. may be used for residential. office. business. Industrial and other uses as permitted by the respective zoning districts. The contents of the declaration as required by K.S.A. 58-3111 shall also include a provision for the County to carry out the obligation to maintain the common areas and facilities in order to avoid having them become a public nuisance. In the event that such responsibilities are assumed by the County, the costs for such maintenance shall be assessed against the condominium units and shall become a tax lien thereon. The Zonin g Administrator must be satisfied that such a provision is included in the declaration before a zoning permit or occupancy certificate will be approved.

DENSITY: Restrictions on the number of dwelling units that may be constructed per acre or per square feet of a zoning lot area.

DEVELOPER: The legal or beneficial owner or owners of all the land proposed to be included in a planned development or the duly authorized agent thereof. The holder of an option or contract or purchase. a lessee having a remaining term of not less than 40 years or other person having an enforceable proprietary interest in such land. shall be deemed to be a developer for the purpose of these regulations.

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

DOG KENNEL: Any place where four or more dogs are kept. maintained. boarded. bred for a fee or offered for sale. A "dog" is defined as any member of any canine species over six months of age. This definition includes dogs which are kept or maintained as pets.

DRIVE-IN-ESTABLISHMENT: An enterprise which accommodates the patrons· automobiles and from which the occupants of the automobiles may make purchases. transact business or view motion pictures or other entertainment. Such definition does not include a drive-through facility such as located at banks or restaurants.

DWELLING: A building, or portion thereof. which is designed or used for residential occupancy including a condominium and a modular home. but not a group home as herein defined. an earth-sheltered dwelling, a residential-design manufactured home or a manufactured or mobile home. unless any of the latter are specifically permitted.

DWELLING. ATTACHED: A residential building which is joined to another dwelling at one or more sides by a party wall or walls. including walls of an attached garage. Separate ownership of attached dwelling units known as common lot line housing or "twin homes" shall be accompanied by a recorded lot split unless already platted into individual lots. All utilities and facilities must be independent of each other. unless provided by an association of town house or condominium owners under K.S.A. 58-3701 et seq. or 58-3101 et seq. respectively and platted as common ownership.

DWELLING, DETACHED: A residential building which is entirely surrounded by open space on the same lot.

DWELLING. MULTIPLE-FAMILY: A residential building containing three or more dwelling units.

DWELLING. SINGLE-FAMILY: A residential building containing one dwelling unit only or a group home as defined herein.

DWELLING, TWO-FAMILY: A residential building containing two dwelling units only.

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 one family, and which includes cooking space and lawful sanitary facilities reserved for the occupants thereof.

EARTH-SHELTERED DWELLING: A single-family dwelling constructed so that 50% or more of the exterior surface area of the building, excluding garages and other accessory structures. is covered with earth. Such a dwelling is a complete structure that does not serve just as a foundation or substructure for above-grade construction. A partially

Completed building shall not be considered earth sheltered. Bulk regulations shall be measured from the structural part of the dwelling as distinguished from the earth covering.

EASEMENT: A public dedication or private grant by the property owner of the specific use of a strip of land by others. Limitations apply to what type of principal or accessory buildings or structures can be located on a public easement. (See Section 9-101A for Zoning Permits.)

EXOTIC BIRDS OR ANIMALS: Birds or an i mal s not commonly kept domestically or that are not native to Stafford County and /or the United States. Exotic birds or animals include. but are not limited to. wolves including all wolf/canine hybrids. bears. lions. tigers. cougars. all other large carnivorous animals. tropical birds not authorized within the United States and poisonous or dangerous snakes and reptiles. Birds in the ratite family such as emus. ostriches and rheas as well as llamas and potbellied pigs shall not be considered as exotic birds or animals.

FAMILY: Either (1) an individual or two or more persons related by blood . marriage or adoption. living together as a single housekeeping unit in a dwelling unit; or (2) a group of not more than four persons who need not be related by blood. marriage or adoption. living together as a single. non- profit housekeeping unit in a dwelling unit; plus in either case. domestic servants. A family may include any number of gratuitous guests or minor children not related by blood. marriage or adoption. No more than two boarders or roomers are permitted as part of a housekeeping unit. (See BOARDING or ROOMING HOUSE and Section 6-102B3 for home occupation limitations.)

FEEDLOT: Any tract of land or structure. pen or corral wherein livestock or fowl are maintained in close quarters for the purpose of feeding such livestock or fowl for shipment to market. Such confined areas are not used normally for raising crops and no vegetation is grown there in which is intended for feed. The lot may or may not be regulated by the Kansas Department of Health and Environment. (See AGRICULTURE. inside and outside the City and Section 4-101B8. for feedlot under City jurisdiction.)

FENCE: A free-standing structure of customary materials such as metal. masonry, glass. plastic or wood or any combination thereof. resting on or partially buried in the ground and rising above ground level. and used for confinement. screening or partition purposes. but which does not pose a threat to public safety or health and is designed and constructed in such a manner as to produce an aesthetically pleasing appearance. Fences constructed of metal roofing materials. forklift pallets. portions of vehicles or appliances and the like are not permitted. No free-standing structure can be responsible for diverting any water flow.

FLOOR AREA: For computing off-street parking requirements. floor area shall mean the gross floor area of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings and shall include all floors. except that space which is used for storage or for group meeting rooms.

FRATERNAL OR SERVICE CLUB: An association formally organized for either fraternal. social. educational. philanthropic or other similar purposes. including union and professional organizations and operated not for profit for persons who are bona fide members paying annual dues. which owns. hires or l eases premises. The use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors. executive committee or similar body chosen by the members. Food. Meals and beverages may be served on such premises. provided adequate dining space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests. provided such service is secondary and incidental to the promotion of some other common objective of the organization. and further provided that such sale or service of alcoholic beverages is in compliance with all federal, state, county and local laws. (See CLUB.)

FRONTAGE: The property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street; or with a dead-end street, all property abutting one side of such street measured from the nearest intersecting street and the end of the dead-end street.

GARAGE. PRIVATE: A building for the private use of the owner or occupant of a principal building situated on the same lot as the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

GARAGE. REPAIR: A building designed and used for the storage, care, repair or refinishing of motor vehicles including both minor and major mechanical overhauling, paint and body work.

GARDEN STORE: A store which sells growing plants. seeds. bulbs, shrubs and gardening and landscaping tools. implements and supplies, including lawn furniture.

GROUP HOME: A dwelling occupied by not more than 10 persons. including eight or fewer persons with a disability which is a physical or mental impairment as defined by K.S.A. 12-736. The two staff residents need not be related by blood or marriage to each other or to the other residents of the home. Such a dwelling must be licensed by the Kansas Department of Social and Rehabilitation Services or the Kansas Department of Health and Environment. (See DWELLING. SINGLE FAMILY.)

HAZARDOUS WASTE FACILITY: An on-site or off-site facility or part of a facility or modification of an existing facility which includes all contiguous land. structures and other appurtenances and improvements on the land utilized for the purpose of treating, storing or disposing of hazardous waste. Such term shall also mean a hazardous waste injection well. In addition to this definition of facility, all related definitions pertaining to hazardous wastes as contained in K.S.A. 65-3430 and as may be amended from time to time are hereby incorporated by reference into the definitions of these regulations.

HEIGHT. MAXIMUM: A horizontal plane above and parallel to the average finished grade of the entire zoning lot at the height shown in the district regulations. No part of any structure shall project through such plane except:

1. Chimneys, flues. stacks. fire escapes. gas holders. elevator enclosures. ventilators. skylights. solar panels. water tanks and similar roof structures needed to operate and maintain the building on which they are located and signs where permitted by Article 7: (See Section 7-102C for Height of Sign.)

2. Flagpoles. water towers and tanks. steeples. bell towers. carillons. monuments. cupolas. electric transmission line towers. commercial wind energy projects and private wind energy conversion systems. (See Section 6-100B14 for private wind energy conversion systems.); and

3. Communication structures without white strobe lights as an accessory structure which do not exceed 60 feet in height in City industrial districts and 100 feet in County agricultural and industrial districts only. Also, an exception to the maximum height in all districts are antennas for licensed amateur radio and citizens band operators as well as wireless cable TV antennas on masts. Communication structures include (1) antennas. and (2) broadcasting and microwave transmitting and relay towers for television. radio and cellular telephone systems and other similar forms of electronic communication. In all districts. applicants may apply to the Planning Commission for a conditional use to construct a communication structure as a principal use which may exceed the height limitations for such structures. The Commission may adopt criteria in the form of a policy statement to assist in the review of such conditional use applications. (See Section 6-100B6 for satellite dish antennas. Section 6-100B7 for communication structures. antennas and aerials and Section 3-103G for lot size and bulk regulations exemption.)

HOME OCCUPATION: As defined in Article 6.

HOTEL: A building or portion thereof. or a group of building s, which provides sleeping accommodations for transients with or without meals. whether such estab1ishments are designated as a hotel. inn, automobile court. motel, motor inn. motor lodge, tourist cabin, tourist court or otherwise, but not a bed and breakfast home or inn.

LANDSCAPING: The improvement of a lot, parcel or tract of land with grass and shrubs and/or trees. Landscaping may include pedestrian walks. flower beds. ornamental objects such as fountains, statuary and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.

LOT: See LOT, ZONING.

LOT AREA: The area of a horizontal plane bounded by the front. side and rear lot lines.

LOT, CORNER: A lot abutting upon two or more streets at their intersection. (See LOT LINE. REAR and YARD. FRONT.)

LOT COVERAGE: That percentage of a lot which. when viewed directly from above. would be covered by a structure or structures or any part thereof. excluding projecting roof eaves and recreational activity areas for basketball. racquetball. swimming, tennis and similar activities.

LOT DEPTH: The distance between the midpoint of the front lot line and the midpoint of the rear lot line.

LOT, INTERIOR: A lot other than a corner lot. i.e. one whose side lot lines do not abut upon any street.

LOT LINE: The boundary line of a zoning lot. (See LOT. ZONING.)

LOT LINE. FRONT: A street right of way line forming the boundary of a lot.

(See LOT, CORNER.)

LOT LINE. REAR: The lot line that is most distant from and is or is most nearly, parallel to the front lot line. If a rear lot line is less than 10 feet long or if the lot comes to a point at the rear. The rear lot line shall be a line at least 10 feet long, lying wholly within the lot. parallel to the front line. If a zoning lot has two or more front lot lines. The owner or developer shall designate the yard which is to be the rear yard and/or the side yard.

LOT LINE. SIDE: A lot line which is neither a front lot line nor a rear lot line.

(See LOT LINE. REAR.)

LOT OF RECORD: A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Deeds or a parcel of land described by metes and bounds of which the deed was recorded prior to adopting these regulations.

LOT. REVERSE FRONTAGE: A lot whose rear lot line also serves as the street line for a limited access highway or street. With complete access control on the rear lot line, the abutting yard is considered to be a rear yard. (See LOT, THROUGH and YARD. REAR.)

LOT SIZE REQUIREMENTS: Restrictions on the dimensions of lots including (1) minimum lot area. width and depth; and (2) maximum density. Lot area, width and depth establish the minimum size of the zoning lot on which a structure or use or two or more structures or uses. may be constructed or established. (See Section 3-103G for utility and communication facilities exemption.)

LOT, THROUGH: A lot which has a pair of opposite lot lines along two substantially parallel streets and which is not a corner lot. On a through lot. both street lines shall be deemed front lot lines. but in the case of two or more contiguous through lots. There shall be a common front lot line. Sometimes referred to as a double frontage lot. (See LOT. REVERSE FRONTAGE.)

LOT WIDTH: The distance on a horizontal plane between the side lot lines measured at right angles to the lot depth at the established front yard setback line.

LOT. ZONING: A parcel of land that is designated by its owner or developer at the time of applying for a zoning permit as a tract all of which is to be used, developed or built upon as a unit under single ownership. As long as it satisfies the above requirements. such lot may consist of: (1) a single lot of record. or (2) a portion of a lot of record. or (3) a combination of complete lots of record. complete lots and portions of lots of record. or portions of lots of record.

MANUFACTURED HOME: A factory-built structure or structures equipped with the necessary service connections and made so as to be transportable as a unit or units on its own running gear and designed to be used as a dwelling unit with or without a permanent-type, enclosed perimeter foundation. The transportation system is designed so that the home may be moved from time to time at the convenience of the owner. The term shall include two or more separately towed units which are designed to be bolted or otherwise fastened together to form a complete living unit. Such homes are built on a chassis consisting of drawbar and coupling mechanisms. frame (e.g. steel I-beams). running gear assembly and lights. Removal of any or all these component parts does not change the

definition. All such homes shall be either skirted according to the manufacturer's design and construction standards or placed on a permanent-type, enclosed perimeter foundation and. according to standards of the State of Kansas under

K.S. A. 75-1226. et seq. as amended. shall be anchor ed to the ground or secured to a permanent-type foundation. All manufactured homes must meet the standards of the National Manufactured Home Construction and Safety Standards of 1976. Otherwise referred to as the "HUD Code''. Additions may be made to such homes for patios. porches. carports, garages, storage structures and living space provided such additions are designed and constructed by a manufactured home factory or meet applicable building codes. Overhead structures which cover or enclose a home are not permitted; however, a protective roof covering which is used to remedy a deteriorating roof condition is permitted. Under no circumstances shall two or more single-wide homes be permitted to connect together in any manner on the same zoning lot, nor shall such homes be attached to or integrated with the design of a site- built dwelling unit. (See MOBILE HOME and RESIDENTIAL- DESIGN MANUFACTURED HOME.)

MANUFACTURED HOME SUBDIVISION: A subdivision which is platted for development as individually owned lots for manufactured or modular homes to be placed on permanent-type, enclosed perimeter foundations. Whereas such homes can be used for rental purposes. Lots cannot be leased for periodic placement of such homes on them.

MEDICAL. DENTAL OR HEALTH CLINIC: Any building designed for use by two or more full-time professional persons engaged in the diagnosis. care and treatment of physical or mental diseases or ailments of human beings: including, but not limited to Doctor of Medicine, dentists. chiropractors. osteopaths. optometrists. podiatrists and naturopaths. and in which no patients are lodged overnight. but which may include an apothecary.

MINI-STORAGE FACILITY: A building or group of buildings that contain varying sizes of individual , compartmentalized and controlled-access stalls and/or lockers for the indoor storage of customer's goods or wares. Outdoor storage may be permitted. but only when specifically permitted by these regulations. The operation shall not include a transfer and storage business where the use of vehicles is part of such a business.

MOBILE HOME: A factory-built structure or structures equipped with the necessary service connections and made so as to be transportable as a unit or units on its own running gear and designed to be used as a dwelling unit with or without a permanent-type, enclosed perimeter foundation. The transportation system is designed so that the home may be moved from time to time at the convenience of the owner. The term shall include two or

more separately towed units which are designed to be bolted or other-wise fastened together to form a complete living unit. Such homes are built on a chassis consisting of drawbar and coupling mechanisms. frame (e.g, steel I-beams). running gear assembly and lights. Removal of any or all of these component parts does not change the definition. All such homes shall be either skirted according to the manufacturer's design and construction standards or placed on a permanent-type. enclosed perimeter foundation and. according to standards of the State of Kansas under **K.S.A. 75-1226**. et seq. as amended. shall be anchored to the ground or secured to a permanent-type foundation. Additions may be made to such homes for patios. porches. carports. garages. storage structures and living space provided such additions are designed and constructed by a manufactured home factory or meet app1i cab1e building codes. Overhead structures which cover or enclose a home are not permitted; however. A protective roof covering which is used to remedy a deteriorating roof condition is permitted. Under no circumstances shall two or more single-wide homes be permitted to connect together in any manner on the same zoning lot. nor shall such homes be attached to or integrated with the design of a site-built dwelling unit. (See MANUFACTURED HOME and RESIDENTIAL-DESIGN MANUFACTURED HOME.)

MODULAR HOME: A single-family dwelling or duplex building located on a permanent foundation and connected to public utilities. consisting of pre-selected. prefabricated units or modules. and transported to and/or assembled on the site of its foundation: in contrast to a residential building which is custom built on the site of its permanent location: and also in contrast to a manufactured or mobile home of any width which is located on a permanent foundation. In general, such modular homes shall have exterior building materials and somewhat similar appearance to custom built residential building s and meet the standards of the applicable building codes.

NONCONFORMING LOT OF RECORD: A zoning lot which does not comply with the lot size requirements for any permitted use in the district in which it is located. (See Sections 8-100A and 101for Nonconforming Lots of Record.)

NONCONFORMING STRUCTURE OR USE: A lawfully existing structure or use at the time these regulations or any amendments thereto became effective which does not conform to the requirements of the zone in which it is located. (See Sections 8-100B and C.102 and 103 for Nonconforming Structures and Uses.)

NURSING OR CONVALESCENT HOME: An institution for the care of children or the aged or infirm. or a place of rest for those suffering from bodily disorders. but not including

institutions for the care and treatment of mental illness. alcoholism or narcotics addiction. Regulations of the Kansas Department of Health and Environment designate such homes as "Adult Care Homes."

OCCUPANCY CERTIFICATE: A certificate by which the Zoning Administrator certifies that upon completion of an applicant's proposed structure and/or use that it complies with these regulations and. therefore, may be occupied and/or used. When applicable. such a certificate may be combined with the issuance of a certificate of occupancy as required by a building code. (See Section 8-103H for Change in Use and Section 9-101B for Occupancy Certificates.)

PERMITTED USE: A use of a structure or land which is permitted outright within a zoning district because of its suitability to the purpose of the other uses so designated. When a use may appear to be classified under more than one permitted use as well as a special or conditional use in any zoning district. The most specific or restrictive description or narrowly defined meaning is applicable. The Zoning Administrator is authorized to issue zoning permits and occupancy certificates for such permitted uses when all other requirements of the regulations have been met.

PORTABLE STORAGE UNITS / STRUCTURE: A structure in which a principal use of the lot on which the structure is located is moveable with little to no damage to the structure.

PREMISES: A lot or tract of land together with all buildings and structures thereon.

PRINCIPAL STRUCTURE: A structure in which a principal use of the lot on which the structure is located is conducted. Such a unit requires location on the ground, but is not permanently attached to the ground or to anything on the ground.

PRINCIPAL USE: The main use of land or structures as distinguished from a subordinate or accessory use.

RECREATIONAL VEHICLE. (RV): A vehicle or a unit that may be independently motorized or may be mounted on or drawn by another vehicle. which is primarily designed and used for travel. camping, recreation. temporary living or occasional use. Recreational vehicles include motor homes. mini-motor homes. converted buses. converted camper vans. pickup and truck campers. camping trailers. fifth-wheel trailers. boats and boat trailers. jet skis, jet ski trailers. all-terrain vehicles (ATVs) and similar vehicles. Conventional vans and

Pickup trucks with or without slide-in pickup campers or toppers are not considered to be recreational vehicles nor are small trailers used for hauling animals. equipment or household goods of the occupant of the dwelling whereon such trailer is parked. (See Section 6-100B for storage of recreational vehicles.)

RECYCLING CENTER: A location where clean. source separated. Recyclable materials are accepted or deposited by the public for transfer elsewhere. As distinguished from the operation of salvage yards or hazardous waste facilities. Such recyclable materials consist only of aluminum and steel cans. glass. paper, plastic. reusable containers and materials capable of being composted. A center must be maintained in a litter-free condition on a daily basis. The name and phone number of the party responsible must be clearly posted in case a problem occurs. Such a center may be further classified as follows: (See Sections 6-100B12 and 101G for recycling centers.)

1. Small recycling collection center: A center for collection containers or reverse vending machines not exceeding 100 square feet in ground area which may be approved by the Zoning Administrator as an accessory use in all business and industrial districts and on church and public property. Such a center may be located in the required front yard in business and industrial districts and on public property if proper vehicular safety and parking standards can be maintained.

2. Large recycling collection center: A center for collection containers larger than 100 square feet in ground area. on-site trailers. bulk- feed reverse vending machines. vehicles on-site during operating hours only and the like. -As an accessory use. Such a center may be approved by the Board of Zoning Appeals as a conditional use in all business and industrial districts and on church and public property.

3. Recycling processing center: A principal use in industrial districts only for handling the collection and processing of large volumes of bulky materials. some of which may originate at other recycling centers. Mechanical equipment may be used such as forklifts. balers. smashers and other related equipment. Outdoor storage may be permitted including composting operations.

REHABILITATION HOME: A residential building which is used by an organized group to supervise the rehabilitation of the individual occupants. Sometimes such homes are known as "halfway houses" for the rehabilitation of wayward juveniles. drug or alcoholic addict or former offenders. For new buildings or modifications of existing buildings, the overall appearance is to remain as a residential type building when located in a residential district.

RENEWABLE ENERGY: Shall include wind (CWEP), solar (CSEP), battery (CESS) & (BESS), photovoltaic, biomass, hydropower, geothermal and landfill gas resources or technologies.

RESIDENTIAL BUILDING: A building all or part of which contains one or more dwelling units. including single-family dwellings. two-family dwellings. multiple-family dwellings, earth-sheltered housing, lodging houses. dormitories. sororities and fraternity. as well as modular homes. Residential Building does not include Manufactured or Mobile Homes.

RESIDENTIAL CENTER: A non-secure facility which provides 24-hour residential care for more than 10 residents unrelated to the care givers including emergency shelter and maternity homes. Such a facility must be licensed by the Kansas Department of Health and Environment.

RESIDENTIAL-DESIGN MANUFACTURED HOME: A structure manufactured to the standards embodied in the federal Manufactured Home Construction and Safety Standards generally known as the HUD Code established in 1976 pursuant to 42 U.S.C. Sec. 5403. Such units shall provide all of the accommodations necessary to be a dwelling unit and shall be connected to water supply and sewage disposal systems in conformance with the County Sanitary Code. Such a structure shall be on a permanent type. enclosed perimeter foundation which has minimum dimensions of 22 body feet in width. a pitched roof. siding and roofing materials which are customarily used on site-built homes. and which complies with the following architectural or aesthetic standards so as to ensure their compatibility with site-built housing:

1. The roof must be predominantly double-pitched and have a minimum vertical rise of 2.2 inches for every 12 inches of horizontal run. and must be covered with material that is customarily used on site-built dwellings, including but not limited to approved wood. asphalt composition shingles or fiberglass. but excluding corrugated aluminum. corrugated fiberglass or metal roof. The roof shall have a minimum eave projection and roof overhang on at least two sides of 10 inches which may include a gutter.

2. Exterior siding shall be of a non-reflective 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 applicable building codes.

3. The home shall be installed in accordance with the recommended installation procedures of the manufacturer and a continuous. permanent concrete or masonry

foundation or masonry curtain wall. unpierced except for required ventilation and access which may include walk-out basements and garages. shall be installed under the perimeter of the home which shall be similar in material and appearance to a site-built home.

4. At the main entrance door there shall be a landing that is a minimum of 25 square feet which is constructed to meet the requirements of applicable building code standards.

5. The moving hitch. axles. wheels and transporting lights must be removed at the time of installation of the home on the lot.

6. The finished floor of the home shall be a maximum of 24 inches above the exterior finish grade of the lot on which it is located. as measured at the main entrance into the dwelling.

7. Any attached addition to such a home shall comply with all construction requirements of applicable building code standards. unless designed and constructed by a manufactured home factory.

8. If 50% or more of the frontage of existing site-built housing on both sides of the street on which the residential-design manufactured home is to be installed have a garage and/or a similar percentage have a covered porch or recessed entry. Such a home shall also provide a garage and/or porch or entry based on the percentages determined by the Zoning Administrator. On a corner lot, the street shall mean that street on which the frontage of the facade has been designated for the household address number. External roofing and siding material of such garage. porch or entry shall be similar in appearance to the materials on the roofing and siding of the residential-design manufactured home.

For purposes of these regulations. the term **"manufactured home".** when used by itself. shall not include a **"residential-design manufactured home"** as herein defined. Nothing in these regulations shall be construed to preempt or supersede valid restrictive covenants running with the land as to the placement or location of a residential-design manufactured home. (See MANUFACTURED HOME OR MOBILE HOME.)

RESTAURANT: A public eating house. including but not limited to the types of business establishments customarily referred to as cafeterias. coffee shops. dairy bars. fast food restaurants and soda fountains. but not a drive-in establishment unless specifically permitted by the district regulations. Drive-through facilities such as service from a window. however. are permitted. (See DRIVE-IN ESTABLISHMENT.)

RETAIL STORE: A building where goods are kept for retail sale which is selling on the

premises in small quantities to the ultimate consumer for direct consumption and/or use and not for resale. Sales at auctions and sales lots for motorized vehicles and recreational vehicles and the like are not considered as retail sales.

SALVAGE YARD:

1. Any land or building used for the collection or storage or sale of wastepaper. trash. rags. fibrous material. scrap metal or other discarded material; or for the collecting or dismantling or storing or salvaging of machinery or unlicensed motor vehicles not in operating condition. or for the sale of parts thereof. or. materials from the demolition of buildings or structures.

2. In residential districts. This definition shall prevent the storing of any more than two inoperable or unlicensed motor vehicles on the premises for a period of more than 72 hours which are in the process of restoration to operating conditions. unless such vehicles are stored inside a structure or screened from public view including adjacent properties. Similar provisions apply to nonfarm dwellings in the agricultural districts. except that after the time period has expired. such vehicles must be stored out of public view. i. e. from a roadway or adjacent property.

SCREENING: Fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such fences or evergreen vegetation. When fencing is used for screening, it shall be not less than six nor more than eight feet high, unless otherwise provided.

SETBACK. BUILDING: 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. The setback distance shall be measured from the existing right of way line or the proposed right of way line. whichever is the greater. (Note: Proposed right of way lines are based on the applicable Subdivision Regulations for arterial. collector. local and marginal access streets.) (See YARD. FRONT.)

SIGN: Any writing (including letters. words or numerals). pictorial representation (including illustrations or decorations). Emblem including devices. symbols or trademarks. flag. banner. streamer. pennant. string of lights or display calculated to attract the attention of the public or any other figure of similar character which:

a. Is a structure or any part thereof or a portable display. or is attached to. painted on. or in any other manner represented on a building or other structure or on the ground:

b. Is used to announce, direct attention to. or advertise and

c. Is not located inside a building.

SEXUALLY ORIENTED BUSINESS (SOB): Sexually Oriented Business means a sex parlor, massage parlor, nude studio, modeling studio, love parlors, adult bookstore, adult movie theater, adult video arcade, adult motel, or other commercial enterprise which has its primary business the offering of a service or the sale, rent or exhibit of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer. **K.S.A. 12-770**, by law, no SOB can be located within a School, Day Care, Church etc. for any reason and no variance can be requested.

SPECIAL USE: A use of a structure or land which is not permitted outright within a zoning district because of characteristics that might have an adverse effect upon nearby properties or the future development of the district unless certain conditions can be placed on the use which would make it suitable to the purpose of the district and compatible to the other uses so designated. Such uses are "special" in that they are often large, one-of-a-kind. private or public uses serving as community. Facilities and/or whose location would have planning implications for a large area. Designated special uses are processed in the same manner as zoning amendments for the hearing, except that a particular use is applied for within a district and conditions may be recommended by the Planning Commission and attached to their approval by the Governing Body. (See Section11-101 for Special Uses.)

STORAGE. OUTDOOR: The storage of goods and materials outside of any building or structure when specifically permitted by these regulations. but not including storage of a temporary or emergency nature or of new or used goods and materials on display for sale except when such display is permitted. Such storage does not permit the storing or parking of motor vehicles including recreational vehicles or utility trailers for sale at any location in any agricultural or residential district. (See Section 5-100A1 for utilization of parking facilities exemption and Section 6-100B13 for outdoor storage.)

STRUCTURAL ALTERATION: Any change in a structure other than normal repairs and maintenance which may prolong its useful life: or the useful life of its supporting members such as bearing walls or partitions. columns, beams, girders or foundations: or any complete rebuilding of the roof; or the exterior walls: or the construction of any addition to or enlargement of a structure: or the removal of any portion of a structure. For the purpose of these regulations, the following shall not be considered a structural alteration:

a. Attachment of a new front where structural supports are not chang ed.

b. Addition of fire escapes where structural support is not changed.

c. New windows where lintels and support walls are not materially changed.

d. Repair or replacement of non-structural members. (See Section 3-100C for Structural Alterations.)

STRUCTURE: Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground. but not including hard surfaced walks. mailboxes, utility poles. fire hydrants. street light fixtures or street signs. Fences. driveways, parking spaces and signs other than street signs are considered to be structures.

TAVERN AND DRINKING ESTABLISHMENT: An establishment which may be open to the general public wherein alcoholic liquor or cereal malt beverages are sold by the individual drink to customers for consumption on the premises. Such establishments shall include a Class B club. (See CLUB.)

USE: Any purpose for which a structure or a tract of land may be designed. arranged. intended, maintained or occupied: also, any activity, occupation. business or operation carried on. or intended to be carried on. in a structure or on a tract of land.

USE REGULATIONS: The provisions of these regulations which identify permitted, special and conditional uses. impose use limitations. and regulate accessories and temporary uses and home occupations.

VARIANCE: See Section 10-107 for description.

VISION TRIANGLE: A triangular area at the intersection of streets maintained in such a manner as to provide a safe and open line of vision for drivers of vehicles approaching the intersection. Within the vision triangle. no one shall install, construct. plant , park or maintain any sign, fence. hedge, shrubbery, trees, natural growth or other obstruction including automobiles, trucks and other large vehicles or trailers which would materially impede vision between the heights of 33 inches and eight feet above the street level. These restrictions shall not apply to signs as provided for in Section 7-102J2 as well as official traffic signs, signals and utility poles. Such area on a corner lot shall have two sides which are measured from the inter Section of the lot lines and a third side across the lot joining the ends of the other two sides. Where the lot lines at intersections have rounded corners. the lot lines will be extended in a straight line to a point of intersection. In all agricultural and residentially zoned districts, the two sides forming the lot line intersection shall be a minimum distance of 30 feet and in all other zoning districts such distance shall be 20 feet, except that there shall be no vision triangle requirements in the B-1 Central Business District.

YARD: Open space on a lot which is unoccupied and unobstructed from its lowest level to the sky, except for the permitted obstructions listed in Section 3-103F.

YARD. FRONT: A yard extending along a full length of a front lot line and back to a line drawn parallel to the front lot line at a distance there-from equal to the depth of the required front yard. On a corner lot, each yard that abuts a front lot line shall be considered a front yard. (See LOT LINE, FRONT and SETBACK. BUILDING.)

YARD. REAR: A yard extending along the full length of the rear lot line and back to a line drawn parallel to the rear lot line at a distance therefrom equal to the depth of the required rear yard. (See LOT LINE, REAR and LOT, REVERSE FRONTAGE.)

YARD. SIDE: A yard extending along a side lot line and back to a line drawn parallel to the side lot line at a distance therefrom equal to the width of a required minimum side yard. but excluding any area encompassed within a front yard or rear yard. Dimensions of minimum side yards specified in the district regulations of these regulations refer to the required width of each side yard rather than to the total width of both side yards. unless otherwise specified. (See LOT LINE. SIDE.)

ZONING ADMINISTRATOR: The person appointed and authorized by the Governing Body to administer and enforce the requirements of these regulations. (See Section 9-100 for Office of the Zoning Administrator.)

ZONING PERMIT: A certificate by which the Zoning Administrator certifies to an applicant that their proposed structure and/or use are in conformance with these regulations. When applicable. Such a certificate may be combined with the issuance of a building permit as required by a building code. (See Section 9-101A for Zoning Permits.)

ARTICLE 3. GENERAL PROVISIONS

100 Activities Governed by these Regulations.

A. New Structures. All structures-built hereafter shall comply with all the provisions of these regulations. Any structure hereafter moved from one site to another site shall be considered to be a structure-built hereafter. Any structure rebuilt or restored after damage, by any means. Shall be considered to be a structure-built hereafter. Unless Article 8 of these regulations permits such structures to be rebuilt or restored. (See Appendix for flood plain regulations.)

B. New Uses of Old Structures. If a use of any structure is hereafter changed to another. Then the new use must comply with the use regulations of these regulations. Unless permitted by provisions in Article 8. The mere establishment of the new use does not require an existing structure to conform to the lot size requirements or the bulk regulations.

C. Structural Alterations. If any structure is hereafter structurally altered as defined in Section 2-102:

1. The entire structure as altered shall comply with the use regulations of these regulations.

2. Any alterations. Enlargements or additions to the structure shall comply with the bulk regulations of these regulations. Except as permitted by Section8-102B for nonconforming structures.

3. The off-street parking facilities shall not be reduced below or if already less than. Shall not be further reduced below the requirements applicable to a similar new structure or use.

D. Uses of Open Land. If any use of open land is hereafter established or if any use of open land is hereafter changed to another use. Such new use shall comply with all the provisions of these regulations. Unless permitted by Sections 8-103 and 106.

E. Exemptions. The following structures and uses shall be exempt from the provisions of these regulations: (See Section 8-107 for Registration of Nonconformities and Exemptions.)

1. Poles. Wires. Cables. Conduits. Vaults, laterals. Pipes. Mains. Valves or other similar equipment for the distribution to consumers of telephones or other communications. Electricity, gas or water. Or the collection of sewage or surface water. But not including major utility substations located on or above the surface of the ground. (See Section 3-103G for lot size and bulk regulations for utility facilities.)

2. Railroad tracks. Signals. Bridges and similar facilities and equipment located on railroad rights-of-way, and maintenance and repair work on such facilities and equipment.

3. Buildings. Structures or l and used. But not just leased. By the federal government.

4. Use of land for agricultural purposes as defined in Section 2-102. Including accessory buildings and structures thereon. When any land or accessory buildings or structures cease to be used only for agriculture. Then it shall be subject to the applicable provisions of these regulations.

5. Drilling and operating oil or gas wells in the County jurisdiction.

101 Districts. Zoning Maps and Boundaries.

A. Establishment of Districts. The zoning jurisdiction is hereby divided into the districts as described in Article 4. References to “agricultural districts” shall mean those districts in which agricultural uses are the predominant activity. References to “residential districts” shall mean those districts in which residential uses are the main permitted use. References to “business districts” shall mean those districts in which commercial uses are the main permitted use. References to “industrial districts” shall mean those districts in which industrial uses are the main permitted use.

B. Zoning Maps.

1. The boundaries of the districts described in Article 4 are as indicated on the Official Zoning Map(s) which is on file with the Zoning Administrator and identified on its face as part of these regulations. The zoning map(s) with all notations. References and other matters shown thereon is as much a part of these regulations as if specifically set forth herein. (See Section 9-100A9 for zoning map(s) certificate and revisions.)

2. It is the intent of these regulations that the entire area of the zoning jurisdiction. including all the land and water areas. rivers, streets, alleys and railroads and other rights-of-way, be included in the districts established in these regulations. Any area not shown on the zoning map(s) as being included in any district shall be deemed to be in the most restrictive district.

C. Boundaries. In the event that uncertainties exist with respect to the intended boundaries of the various districts as shown on the Official Zoning Map(s). The following rules shall apply:

1. Where boundary lines are indicated as approximately following streets. alleys, easements. rail roads, rivers. streams or bodies of water, such boundaries shall be construed as following the centerlines thereof or otherwise are construed to coincide with lot or tract lines. unless otherwise indicated.

2. Where the district boundaries do not coincide with the location of boundaries as stated in Section 3-101C1 above. The district boundaries shall be determined by the use of the scale shown on the zoning map. unless an exact distance is shown.

3. Where a district boundary line in the County jurisdiction divides a lot or unsubdivided. property in single ownership. the regulations for either portion of the lot may, at the owner's discretion. extend to the entire lot. but not more than 25 feet beyond the boundary line of the district.

D. Zoning of Right of Way. All roads. streets. alleys. public ways. waterways and railroad rights of way, if not otherwise specifically designated. shall be deemed to be in the same zone as the property immediately abutting them. Where the centerline of a road. street. alley, public way. waterway or railroad right of way serves as a district boundary, the zoning of such areas. unless otherwise specifically designated. shall be deemed to be the same as that of the abutting property up to such centerline.

102 General Requirements for All Zoning Districts.

A. Permitted Uses. No structure shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used. occupied or

designed for use or occupancy except for a use that is permitted within the zoning district in which the structure or land is located or provided for otherwise in these regulations. (See Section 2-102 for definition of PERMITTED USES.)

B. Special Uses. No use of a structure or land that is designated as a special use in any zoning district shall hereafter be established, and no existing special use shall hereafter be changed to another special use in such district. unless a special use is approved in the same manner as for an amendment to a zoning district. The latter procedure is set forth in Section 11-101 with the additional requirement that all conditions further imposed upon the special use be made as part of the effectuating resolution or ordinance. (See Section 2-102 for definition of SPECIAL USE.)

C. Conditional Uses. No use of a structure or land that is designated as a conditional use in any zoning district shall hereafter be established, and no existing conditional use shall hereafter be changed to another conditional use in such district, unless a conditional use is approved by the Board of Zoning Appeals as provided for in Section 10-108. (See Section 2-102 for definition of CONDITIONAL USE.)

D. Lot Sizes.

1. No structure. or part thereof. shall hereafter be built. moved or structurally altered and no. structure or land shall hereafter be used. occupied. arranged or designed for use of occupancy on a zoning lot. unless otherwise provided for in these regulations. which in its district is:

a. smaller area than the minimum area or minimum lot area per dwelling unit required;

b. Narrower than the minimum lot width required: or

c. Shallower than the minimum lot depth required.

2. Where independent dwelling units are to be sold as condominiums. minimum lot size requirements shall not apply to each individual ownership, but shall be applied collectively to the common open space surrounding the structure(s) such that the total open space is

an aggregate of the minimum lot area required for each dwelling unit: however, the minimum lot width and depth for the district shall be applied to the entire zoning lot.

E. Bulk Regulations. In these regulations. bulk requirements are expressed in terms of maximum structure height. maximum lot coverage, minimum setbacks and minimum front. Side and rear yards.

1. No structure. or part thereof. shall hereafter be built. moved or structurally altered and no structure or land shall hereafter be used. occupied or designed for use or occupancy:

a. That would exceed the maximum lot coverage percentage or the maximum structure height specified for the zoning district in which the structure is located. unless exempted by the definition of maximum height. or

b. That would provide any minimum setback of a front. side or rear yard that is less than that specified for the zoning district in which such structure or use of land is located or maintained, except as front yard setbacks may be applied in Sections 3-103B and C and front and side yard setbacks for nonconforming structures and uses in Article 8.

2. Where independent dwelling units are to be sold as condominiums. bulk regulations shall not apply to each individual ownership. but shall be applied to the entire zoning lot.

F. Use Limitations. No permitted. special or conditional use hereafter established. altered. extended, enlarged or moved shall be operated or designed so as to conflict with the use limitations for the zoning district in which such use is. or will be located. No permitted. special or conditional use already established on the effective date of these regulations shall be altered. extended or enlarged so as to conflict. or further conflict with. The use limitations for the zoning district in which such use is located. (See Sections 8-102.103 and 106.)

G. Off-Street Parking and Loading. No structure shall hereafter be built or moved, and no structure or land shall hereafter be used. occupied or designed for use or occupancy. unless the minimum off-street parking and

off-street loading space required by Article 5 are provided. No structure or use already established on the effective date of these regulations shall be enlarged unless the minimum off-street parking and loading space which would be required by Article 5 are provided.

H. Accessory Structures or Uses. No accessory structures or use. As defined in Article 6. shall hereafter be built. altered. extended. enlarged or moved, unless such accessory structure or use is permitted by Article 6.

I. Temporary Structures or Uses. No temporary structure or use shall hereafter be built. altered. extended. enlarged or moved. unless such temporary structure or use is permitted by Article 6 of these regulations.

J. Home Occupations. No home occupation. as defined by Article 6, shall hereafter be established. alter ed, extended, enlarged or moved in any residential district unless such home occupation complies with the permitted uses. conditions and use limitations as provided for in Article 6.

K. Signs. No signs shall hereafter be built. and no existing signs shall be altered. enlarged or moved. unless such sign complies. or will thereafter comply with the restrictions imposed by Article 7.

103 Miscellaneous Requirements.

A. Number of Structures and Uses on a Zoning Lot.

1. Whenever a zoning lot is used for a single-family detached or attached dwelling, two-family dwelling or any type of manufactured or mobile home. only one principal structure and use may be located on the lot. but only when the structure and use conform to all requirements of the district in which the lot is located.

2. Whenever a zoning lot is used for other than a residential unit as described in Section 3-103A1 above. More than one principal structure and use may be located on the lot in common ownership. but only when the structures and uses conform to all requirements of the district in which the lot is located.

3. Whenever any structures are developed as condominiums. More than one principal structure may be located on the lot; provided. The definition of a condominium in Section 2-102 is met as well as the

requirements of Sections 3-102D2 and E2.

B. Platted Building Setback Lines. If a recorded subdivision plat imposes a building setback line or a front yard for a lot which is different from the minimum setback or yard required by the applicable section of these regulations. then. notwithstanding any other provision of these regulations. the minimum building setback or front yard shall be the same as that shown on such subdivision plat provided. that it has been recorded and not otherwise been officially vacated.

C. Average Setback in Existing Residential Districts.

1. On streets where a front yard more than that required by these regulations has been maintained for existing structures on lots having a frontage of 50% or more of the total frontage on one side of that portion of the street line between two intersecting streets. There shall be maintained a front yard setback of not less than the average setback of the existing structures: provided. that these regulations shall not be interpreted to require a front yard setback of more than 50 feet.

2. On streets where a front yard is less than that required by these regulations have been maintained for existing structures on lots having a frontage of 50% or more of the total frontage on one side of that portion of the street line between two intersecting streets. The front yard setback need not be greater than the average setback of the existing structures provided that these regulations shall not be interpreted to permit a front yard set-back of less than 20 feet.

D. Yard Requirements for Open Land. If a zoning lot is. or will be. occupied by a permitted use without structures. then the minimum front. side and rear yards that would otherwise be required for the zoning lot shall be provided and maintained. unless some other provision of these regulations requires or permits a different minimum front. side or rear yard. Such yards shall not be required on zoning lots used for open public recreation areas.

E. Restrictions on Allocation and Disposition of Required Yards or Open Space.

1. No part of the lot area. or of a yard, or other open space. or off-street parking or loading space provided in connection with any structure or

use in order to comply with these regulations shall. by reason of change of ownership or otherwise. be included as part of the minimum lot area, or of a yard. or open space. or off-street parking or loading space required. for any other structure or use. except as specifically provided herein.

2. All the lot area and all yards and other open spaces provided in connection with any structure or use in order to comply with these regulations shall be located on the same zoning lot as such structure or use.

3. No part of the lot area. or of the yard. other open space. or off-street parking or loading space provided in connection with any structure or use (including but not limited to. any structure or use existing on the effective date of these regulations or of any amendment thereof) shall be subsequently reduced below or further reduced if already less than. the minimum requirements of these regulations for the equivalent new construction.

F. Permitted Obstructions in Required Yards. The following shall not be considered to be obstructions when located in a required yard:

1. In all yards: Open terraces or patios not over four feet above the average level of the adjoining ground. but not including a permanent roof over a terrace or patio: awnings: canopies including underlying islands for petroleum pumps: steps four feet or less above grade which are necessary for access to a permanent structure or for access to a lot or to a lot from a street or alley including access to conform to the standards of the federal Americans with Disabilities Act of 1990 as incorporated into state statutes: fire escapes. one story bay windows and overhanging eaves and gutters projecting 36 inches or less into the yard: chimneys, entrance hoods. window wells. wing walls and daylight windows projecting 36 inches or l ess into the yard: arbors and trellises: flagpoles and basketball goals: ornamental light or gas fixtures: parking, when permitted by Article 5: accessory and temporary uses. when permitted by Article 6: signs. when permitted by Article 7: and when otherwise specifically permitted by the district

regulations. Garages. carports. patio covers. porches and decks are not permitted obstructions.

2. In any yard except a front yard: Accessory uses permitted by Article 6: children's recreational and laundry drying equipment: and open and closed fences not exceeding six feet in height with additional height permitted for security design measures.

3. Fences in the front yard: Lots in residential districts only with single-family dwellings and all types of manufactured and mobile homes. fences not exceeding four feet in height are permitted which are constructed with at least 75% open space. In all other circumstances. including decorative walls as perimeter boundaries and entryways to subdivisions. Open and closed fences are permitted which do not exceed six feet in height. Additional security design measures may be placed above the six feet limitation.

4. Construction standards for all fences: No fence shall be constructed which will constitute a hazard to traffic or a danger to persons or animals.

5. Conditional use for fences: The Board of Zoning Appeals may as a conditional use approve the construction of higher fences and /or less open space in all yards and in any district if the Board finds that the public welfare is preserved.

G. Lot Size Requirements and Bulk Regulations for Utility Facilities. Notwithstanding any other provision of these regulations. none of the following utility or communication facilities shall be required to comply fully with the lot size requirements and bulk regulations of the zoning district in which they are located. except as may be determined by the Board of Zoning Appeals where a conditional use is required in certain districts and by subsection three of the definition for height. maximum in Section 2-102: (See Section 3-100E1 for Exemptions.)

1. Communication structures.

2. Electric and telephone substations.

3. Gas regulator stations.

4. Pumping stations.

5. Water towers or standpipes.

H. Access to Business and Industrial Districts. No land which is located in a residential district shall be used for a driveway, walkway or access purpose to any land which is located in any business or industrial district.

I. Annexed Land. All land which may hereafter be annexed shall retain its existing County zoning classification until such time as the property owner. Planning Commission or Governing Body may file an application for rezoning to a city zoning classification. If such rezoning is not initiated within six months after annexation. Then the Planning Commission shall initiate an application(s) to determine the proper zoning. Rezoning may also be considered during the process of annexation. While the Planning Commission may hold their required public hearing on a rezoning amendment or a special use prior to annexation, the zoning ordinance approving the amendment or special use cannot be effectuated until the land is first officially annexed by a separate annexation ordinance. While both ordinances may be published on the same day, the annexation ordinance must be published first if they are published on separate days. (See Appendix for Table of Comparability of Zoning Districts.)

J. Sewer and Water Facilities.

1. In all districts except agriculture. It is the intention of these regulations to encourage the installation of public water supplies and sewage disposal systems or to connect to such systems if available for use and provided within an economically feasible distance.

2. In areas where such public facilities are not yet available and on-site wells. cisterns and septic tank systems or wastewater lagoons are necessary. The suitability of the lot and the standards for installation of such on-site water supply and sewage disposal systems shall be governed by the County Sanitary Code or City ordinance.

3. No building or addition thereto shall be erected over or across any public water. sewer or other utility lines. nor upon any platted or recorded easement. unless such easement is vacated or special permission is granted in writing by the County or City and the public utility whose lines are involved. if any. (See Section 9-101A3 for zoning permits.)

K. Dedication of Rights of Way and Easements. As a condition related to a rezoning amendment or a special use. the dedication of additional street rights of way: easements for utilities. drainage, access control. fire lanes. building setback lines and other purposes: and the construction. removal or replacement of public improvements necessary to the proper development of the property, may be required either by platting or replatting the land according to applicable County or City Subdivision Regulations or. in lieu of platting, by a legal document effectuating such dedications and improvements. Such conditions may be required whether the property is being divided or held in single ownership. A stated time limit not exceeding one year may be established to ensure compliance with the above conditions during which time the effectuation of the zoning amendment or special use having been approved with such conditions by the Governing Body shall be withheld from publication by the Clerk. Failure to comply with the conditions during the stated period shall result in making the zoning amendment or special use null and void. No extension of the time period may be granted without reapplication.

L. Vacated Right of Way. Whenever any road, street. alley. railroad or other right of way is vacated by official action of the Governing Body, the current zoning district(s) for such right of way as provided for by Section 3-101B2 remains in effect after such vacation. unless procedures are initiated to amend the district classification.

M. Moving Structures. No structure shall be moved into the jurisdiction. nor from one location to another location within the jurisdiction unless such structure shall. When relocated, it must be made to conform fully with these regulations and other applicable codes of the County or City including any building codes. No zoning permit shall be issued, unless in the opinion of the Zoning Administrator the height. age, architectural style and texture of the materials pertaining to the outward appearance of such structure reasonably conform to other buildings in the block or surrounding area to which it is to be moved and, in the block, or area opposite. To such an extent that its relocation shall not be detrimental to the appearance or have no substantial adverse effect on property values to the adjacent properties. Modifications in the appearance of such a structure as proposed by the applicant may be

considered in making such a decision and conditions may be attached to the issuance of the permit by the Administrator to achieve conformance.

104 **Location or Replacement of Manufactured or Mobile Homes or RV camping.** Notwithstanding other provisions of these regulations. The Zoning Administrator is authorized to issue a zoning permit for a manufactured or mobile home or RV campers under the following provisions:

A. Wherever a manufactured or mobile home is moved from a zoning lot within a district in which it is a permitted use. Only a manufactured home meeting the requirements of the district as a replacement may be moved onto the lot at any time; provided. that such home shall be skirted or placed on a permanent-type, enclosed perimeter foundation.

B. In the case of a lawful. nonconforming manufactured or mobile home use. Such a move must take place within 90 days from the date that the previous manufactured or mobile home was moved off the lot. otherwise, such use shall not thereafter be reestablished and. when so moved in. only a manufactured home is permitted which must be 25 years old or newer, must be skirted or placed on a permanent-type, enclosed perimeter foundation. In reestablishing such a home use. any existing nonconforming lot size requirements or bulk regulations shall not be increased in nonconformity and no newly acquired land can be used for placement of such a home.

C. No manufactured or mobile home. or portion thereof. shall be moved onto any lot or parcel or an existing home converted for storage or any other purpose than for a residence in any district and no such home shall be temporarily or permanently located in any district not otherwise permitting such homes. These provisions do not preclude the use of prefabricated mobile structures for offices in business or industrial districts. but not manufactured or mobile homes unless specifically permitted.

D. As an accessory use for a watchman or custodian (including a family), a manufactured home only may be located in all business and industrial districts and on land used for nonagricultural and nonresidential purposes in agricultural districts.

E. As an accessory use to a principal farm dwelling on agricultural land as defined herein in the County jurisdiction. application may be made to the Board of Zoning Appeals for a conditional use for locating a manufactured or

mobile home with such an existing dwelling for additional assistance on the farm or ranch. No zoning permit is required; however. A certificate of compliance is necessary to determine the status of the land for the agricultural exemption. (See Section 2-102 for definition of AGRICULTURE [Outside city].)

F. In the event of disasters. such as fires, tornados or floods. whereby expediency is an important factor, a manufactured or mobile home or RV camper may be located temporarily in any district at the discretion of the Zoning Administrator with appropriate conditions attached for a stated period of time.

G. As an accessory use to a principal residential building in the County jurisdiction which has been under construction or reconstruction for **not more than 18 months**. Such manufactured or mobile home or RV camper must be removed from the premises at the end of the permitted period or at the end of the construction period, whichever occurs first, unless a renewal of the permit is approved.

H. Where an unusual hardship is shown, the Board of Zoning Appeals may approve a conditional use for a manufactured or mobile home or RV camper to be located on a lot or tract with an existing dwelling for a stated period of time. A time period may be extended upon request to the Board of Zoning Appeals without further notice or fee.

105 **Screening and Landscaping.** Screening and/or landscaping shall be provided when a zoning permit is issued on all properties developed for multiple families and all nonresidential uses when such uses are established on property within or adjacent to any residential districts in accordance with standards and procedures as listed below. In anticipation of the need for screening, such matters are proper subjects to be discussed and, if deemed desirable, decided at any hearing for a zoning district amendment or a special use. In addition to the requirement for screening as stated above, screening may further be required at such a hearing to preserve the value of an existing use or the potential for future development of any adjacent land or land across a right of way.

A. Screening shall be provided along all sides or rear lot lines adjacent to such residential districts.

B. Landscaping shall be provided along a front lot line to the depth of at least 10

feet whenever such front lot line is adjacent to or across from such residential districts. No other uses except driveways and signs as permitted by Article 7 shall be allowed in such a landscaped area.

C. Screening shall be provided on all required developments sufficient to reasonably hide from ground level view all loading docks, trash receptacles, outdoor storage, outdoor display, outdoor working areas, parking spaces and similar uses from such residential districts.

D. Screening on the side or rear lot line may be reduced in height and intensity in the front yard area extending to the front lot line. i.e., the street right of way; however, screening shall not be required along such lot lines in that portion of the front yard which may be landscaped.

E. Whenever properties are developed adjacent to an alley. Screening may be omitted at driveways deemed essential for ingress and egress to uses established on the property.

F. Screening may consist of fencing and/or landscaping provided that such screening will serve to adequately reduce:

1. The visual effects on the environment caused by adjacent nonresidential or higher density residential uses;

2. Noise;

3. Lighting;

4. Glare; and

5. Blowing trash.

G. All screening and landscaping shall meet the requirements of the vision triangle. (See Section 2-102 for definition of VISION TRIANGLE.)

H. Landscaping along the front lot line shall involve 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 on the premises.

I. The selection of landscape materials shall consider the "mature" growth and habit of such plants so that vegetation will not overhang or obstruct the public street or a sidewalk area in such a manner as to conflict with pedestrian and vehicular access.

J. The type of fencing should be compatible with the kind and intensity of the land use and the architectural style of the development and adjacent properties.

K. Whenever such screening is required, a screening plan for the area shall accompany the application for a zoning permit. Such plan shall be transmitted to the Planning Commission for their review and approval prior to the issuance of the zoning permit.

L. The screening plan shall be in such detail as to provide enough information to determine if the plan meets the above criteria. Such plan shall contain the location. type and height of any fence and the location. mature size and the type of any plant materials along with their common and botanical names. The sizing, grading and condition of the plant materials shall be specified according to the American Association of Nurserymen Standards.

M. The Planning Commission may, in its discretion. temporarily or permanently waive the requirements for screenings and/or landscaping if:

1. The adjacent land use in the residential district may not necessitate nor benefit from such a requirement; or

2. The adjacent land use may already have provided adequate screening for which additional screening may be a duplication; or

3. The future land use for the adjacent area cannot readily be determined at this time and that upon mutual agreement of the Planning Commission and the applicant. that the requirements may be waived and the matter reviewed at a specified date in the future. In the meanwhile. The Planning Commission shall require that either a letter of assurance or a covenant be submitted to run with the land: or a guarantee in the form of a corporate security bond. Cashier's check. escrow account or other security be submitted to ensure that such requirements will be met when a determination is made. The Planning Commission may determine the sufficiency of the assurance based on the length of time anticipated before a decision. the size and cost of the potential work involved. and the need to ensure that the requirement is met regardless of any change in ownership.

4. Section 3-105M3 above shall not prevent the Planning Commission

from requiring temporary screening on all or a portion of a side or rear yard wherein a non-residential use is proposed for development adjacent to an existing single-family dwelling and thereby a potential nuisance or hazard may be created for the homeowner.

N. All plant materials shall be healthy and/or fencing in place prior to issuance of an occupancy certificate. A temporary certificate may be issued as provided for in Section 9-101B2 without the landscaping installation provided. Written assurances are given which are satisfactory to the Zoning Administrator that the planting will take place when the proper season arrives.

0. Maintenance.

1. It shall be the responsibility of the property owner to maintain in good condition all the required screening and landscaping improvements on his property. When it is determined by the Zoning Administrator that improvements required by Section 3-104 are not being maintained. It is his duty to give notice in writing to the property owner. Such notice shall specify in what manner the improvements are in need of maintenance and a date for compliance. The owner shall have not less than 30 days to comply with the notice; provided, however. that any person aggrieved by any such order and disagree with any of the requirements of the notice. may file an appeal under Section 10-106 within the 30-day filing period with the Board of Zoning Appeals.

2. If the owner of the land has failed. refused or neglected to make the necessary maintenance repairs within the time of the notice or time designated by the Board. Then the Zoning Administrator shall cause such maintenance to be done to the property. The cost of maintenance shall be certified by the Administrator to the Clerk. who shall cause the costs to be assessed against the property on which the maintenance repairs were made.

P. To assist in reviewing screening and landscape pl ans. the Planning Commission may from time to time adopt design criteria in the form of policy statements which may include illustrations.

ARTICLE 4. ZONING DISTRICTS

100 Permitted Uses in All Districts.

A. Off-street parking and loading as required by Article 5.

B. Accessory and temporary uses. and home occupations as permitted by Article 6.

C. Signs as permitted by Article 7.

101 A-1 Agricultural District. (County jurisdiction) This district is established to: (1) preserve productive farm and ranch land; (2) permit limited nonagricultural uses and low-density dwellings which would not be incompatible to the rural area and require minimum public services; and (3) encourage the compact development of the urban areas.

A. Permitted Uses.

1. Sing e-family detached dwellings. earth-sheltered dwellings, modulars. residential-design manufactured homes and multiple-wide manufactured homes on enclosed. perimeter permanent-type foundations.

2. Churches. chapels. temples and synagogues.

3. Golf courses. including accessory club houses. but not commercial driving ranges or miniature golf courses.

B. Special Uses.

1. Airports. heliports. ultralight landing areas and aircraft landing fields. publicly and privately owned.

2. Animal clinics or hospitals with outside runs where permitted.

3. Campgrounds, subject to the following regulations and accompanied by a plot plan:

   a. Campgrounds shall be utilized only for the accommodation of camping trailers. tents and other similar camping vehicles. and under no circumstances shall a campground be utilized for the occupancy of manufactured/mobile homes.

b. The tract to be used for a campground shall not be less than two acres in area and be located on a well-drained site. properly graded to insure rapid drainage and freedom from stagnant pools of water.

c. Campgrounds shall have a maximum density of 20 camping spaces per gross acre. a minimum area of 1, 250 square feet for each space. and maintain a setback of no less than 25 feet from any public street or highway right-of-way or property line.

d. If deemed necessary to screen adjoining property and provide privacy to the campground. a solid or semi-solid fence or wall at least six feet high, but not more than eight feet high. may be required. In lieu of a fence or wall. A land scape buffer may be provided not less than 20 feet in width and planted with coniferous and other plant materials. The fence. wall or land scape buffer shall be properly maintained by the operator.

e. The campgrounds shall have accessible. adequate. safe and potable water supply and. if a public water supply is reasonably available to the campgrounds, it shall be used. Also, it must have an adequate method for on-site sewage disposal as provided for in these regulations; however. if a public sewer system is reasonably available. it shall be used. (See Section 3-103J for sewer and water facilities.)

f. The campground and any service buildings and refuse disposal systems must be maintained in a clean. sanitary condition and kept free of any condition that will harm the health of the occupants or the public or constitute a nuisance.

4. Cemeteries including crematories and mausoleums.

5. Commercial development of natural resources and extraction of raw materials such as rock. gravel or sand; provided, that fencing may be required where deemed necessary and that it is the intent of these regulations to require an orderly continuing use of all land permitted to be excavated for its resources. At the time an application is made for a special use. The applicant shall submit a general plan for restoration of the area to be excavated or to be used in any way as part

of the operations. A special use shall be required for all new or expanded operations or reopening of previously abandoned operations. Information to be submitted with the application includes the following:

a. A plan showing the boundary of the entire tract, vehicular access routes and surfacing, prevailing wind directions, existing and proposed street rights-of-way, easements. water bodies. mining area and proposed fencing.

b. A general plan of operation. including blasting hours. removal plan and hours of operation.

c. A plan showing the finished topography of the restored areas including grades and slopes.

d. A general timing for restoring the various excavation pits and overburden for a continuing use.

e. A general description of the methods and materials proposed to provide for continuing use.

f. Amount and type of planting to be done on the restored area or other approved restoration uses or methods.

6. Commercial storage and/or sale of anhydrous ammonia, propane or butane in bulk and the wholesale storage of gasoline and other manufactured petroleum products above ground level.

7. Exhibiting or keeping exotic animals and/or birds either enclosed in a structure or outside. (See Section 2-102 for definition of EXOTIC BIRDS OR ANIMALS.)

8. Feedlots within three miles of the city. (See Section 2-102 for definition of FEEDLOT.) (City jurisdiction)

9. Grain elevators and storage bins. including the sale of related items such as seed. feed, fertilizer and pesticide.

10. Kennels for breeding and boarding dogs. provided that:

a. No kennel buildings or runs or open areas shall be located closer than 300 feet to any property line.

b. All kennel runs or open areas shall be screened around such areas or on the property lines. Such screening may be densely planted evergreen foliage or a solid wall or fence of masonry. wood or metal designed so as to reduce noise and prevent the distraction or excitement of the dogs.

11. Natural wildlife habitats and reserves. publicly owned. (See Section 2-102 for definition of AGRICULTURE.)

12. Privately owned seasonal or temporary or permanent parks and recreational areas such as youth camps. adult and family retreat areas. gun clubs. archery ranges. rodeos. musical festivals or hunting preserves.

13. Public buildings erected or land used by any agency of a city. township. county or state government.

14. Riding stables and academies providing no structure housing horses shall be located nearer than 500 feet to the boundary of any residential district.

15. Roadside stands for the sale of agricultural products by an operator other than the producer of the product. (See Sections 2-102 for definition of agriculture and Section 6-101D for seasonal sale of farm products.)

16. Salvage yards. subject to the following conditions:

a. Located on a tract of l and at least 300 feet from a residential district.

b. The operation shall be conducted wholly within an enclosed. noncombustible building or within an area screened where necessary by a fence or wall at least eight feet high. but not more than 10 feet high. Such fence or wall shall be of uniform texture and color and shall be properly maintained by the owner.

c. No salvage materials shall be loaded. unloaded or otherwise placed temporarily or permanently outside the enclosed building, fence. wall or within the public right-of-way.

d. No salvage materials shall be piled higher than the top of the required fence or wall.

e. Burning of salvage materials shall be subject to applicable county, state and federal laws.

17. Sanitary landfills. incineration plants. large recycling collection and processing centers. refuse transfer stations and hazardous waste facilities. all publicly and privately owned.

18. Other uses not specifically listed as permitted. special or conditional use. but which are in keeping with the intent of Section 4-101 and compatible with the uses permitted in Section 4-101A.

C. Conditional Uses.

1. Bed and breakfast homes and inns.

2. Boarding and rooming houses.

3. Renewable Energy shall include wind (CWEP), solar (CSEP), battery (CESS) & (BESS), photovoltaic, biomass, hydropower, geothermal and landfill gas resources or technologies.

4. Utility substations. pumping stations and water towers. publicly and privately owned, oil refinery or oil reclaiming stations, gas pipeline easements. (See Section 3-103G for lot size and bulk regulations.)

D. Lot Size Requirements.

1. Minimum lot area:

a. Residential uses: 217.800 square feet (5 acres).

b. Other uses: 40,000 square feet.

2. Minimum lot width: 100 feet:

3. Minimum lot depth: 150 feet.

E. Bulk Regulations.

1. Max i mum structure height: 45 feet. except grain elevators.

2. Yard requirements:

a. Minimum front yard: 35 feet on all sides abutting a street.

b. Minimum side yards:

(1) Residential: 25 feet.

(2) Other uses: 25 feet.

c. Minimum rear yards: 30 feet.

13. Maximum lot coverage: A building, structure or use may occupy all that portion of a zoning lot not otherwise required for off-street parking, loading or yard requirements.

F. <u>Use Limitations.</u>

1. Outdoor storage shall be permitted as defined by Section 2-102 for goods and materials as accessory uses related to the operation of the principal use as well as the display of new and used goods when the latter is approved as part of special or conditional uses.

2. (See Section 3-1040 for watchman or custodian residing on premises.)

102 **A-2 Agricultural Transition District.** (County jurisdiction) This district is established around cities to retain certain rural characteristics. but to also serve as a transition area to accommodate many of the nonagricultural uses normally located in a rural area while anticipating an increasing amount of urbanization including low-density dwellings. More public services would be anticipated than in the A-1 Agricultural District.

A. **Permitted Uses.**

1. Single-family detached dwellings, earth-sheltered dwellings. modulars. residential-design manufactured homes and multiple-wide manufactured homes on enclosed. perimeter permanent-type foundations.

2. Churches. chapels. temples and synagogues.

3. Golf courses. including accessory club houses. but not commercial driving ranges or miniature golf courses.

B. **Special Uses.**

1. Any special uses allowed in the A-1 Agricultural District. except Sections 4-101B 5.7.16 and 17

2. Commercial auction yards and barns.

3. Feed manufacturers such as alfalfa mills.

4. Fraternal and service clubs.

5. Livestock sales. yards and barns.

6. Other special uses not specifically listed as a permitted, special or conditional use. but which are in keeping with the intent of Section 4-102 and compatible with the uses permitted in Section 4-102A.

C. **Conditional Uses.**

1. Any conditional uses allowed in the A-1 Agricultural District. except Sections 4-101c 3 and 4

2. Swimming, tennis, racquetball and similar other private recreational club activities and related clubhouses.

D. Lot Si ze Requirements.

1. Minimum lot area:

   a. Residential uses: 217,800 square feet (5 acres).

   b. Other uses: 40.000 square feet.

2. Minimum lot width: 100 feet.

3. Minimum lot depth: 150 feet.

E. Bulk Regulations.

1. Maximum structure height: 45 feet. except grain elevators.

2. Yard requirements:

   a. Minimum front yard: 35 feet on all sides abutting a street.

   b. Minimum side yards:

(1) Residential: 25 feet.

(2) Other uses: 25 feet.

c. Minimum rear yards: 30 feet.

3. Maximum lot coverage: A building. structure or use may occupy all that portion of a zoning lot not otherwise required for off-street parking. loading or yard requirements.

F. Use Limitations.

1. Outdoor storage shall be permitted as defined by Section 2-102 for goods and materials as accessory uses related to the operation of the principal use as well as the display of new and used goods when the latter is approved as part of special or conditional use.

2. (See Section 3-104D for watchman or custodian residing on the premises.)

103 **V-1 Village District.** (County jurisdiction) This district is intended to encourage the continued existence of small unincorporated "villages" by placing very minimal restrictions on their development. No development of new villages is contemplated under these provisions and only fill-in type development of existing villages with low intensity uses is intended.

A. **Permitted Uses.**

1. Single-family detached dwelling. modulars and all types of manufactured and mobile homes on land owned by the homeowner.

2. Business uses comparable to the permitted uses listed in the C-1 General Commercial District as determined by the Zoning Administrator.

3. Industrial uses comparable to the permitted uses listed in the I-1 Industrial District as determined by the Zoning Administrator.

B. **Standards.** No restrictions are placed on lot size requirements or bulk regulations. County Sanitary Code is still applicable.

104 **SR-1 Single-Family Suburban Residential District.** (County jurisdiction) This district is established to provide for low to medium density rural subdivisions of single-family housing and to allow certain community facilities. It is intended that no uses be allowed in this district that will tend to devalue property for residential purposes or interfere with the health. safety, order or general welfare of persons residing therein. Regulations are intended to control density of population and to provide adequate open space around buildings and structures to accomplish these purposes.

A. **Permitted Uses.**

1. Single-family detached dwellings, earth-sheltered dwellings, residential-design manufactured homes. modulars and group homes.
2. Churches. chapels. temples and synagogues.
3. Golf courses. including accessory club houses. but not commercial driving ranges or miniature golf courses.

B. **Special Uses.**

1. Public buildings erected or land used by any agency of a city, township, county or state government.

C. **Conditional Uses.**

1. Any conditional use allowed in the A-2 Agricultural Transition District.
2. Childcare centers and preschools.

D. **Lot Size Requirements.**

1. Minimum lot area:
   a. Residential uses: 130,680 square feet (3 acres).*
   b. other uses: 40,000 square feet.
2. Minimum lot width: 100 feet.
3. Minimum lot depth: 150 feet.

*** Note:** The minimum lot area requirement may be increased to 217.800 square feet (five acres) if a wastewater lagoon is required.

E. **Bulk Regulations.**

1. Maximum structure height: 35 feet.

2. Yard requirements:

   a. Minimum front yard: 30 feet on all sides abutting a street.

   b. Minimum side yards:

(1) Residential: 15 feet.

(2) Other uses: 15 feet.

   c. Minimum rear yards: 30 feet.

3. Maximum lot coverage: 35%

F. **Use Limitations.**

1. No outdoor storage shall be permitted as defined by Section 2-102. (See Section 2-102 for salvage yard.)

2. Animal husbandry. including the maintenance of horses. cows. swine. goats. cats. dogs, rabbits. chinchillas. guinea pigs. pigeons. poultry and the like shall be subject to all applicable County and state health and sanitation requirements.

105 **MH- 1 Manufactured Home Subdivision District.** (Count y jurisdiction) This district is established as a low to medium density development platted as a subdivision of individually owned lots for locating all types and widths of manufactured homes with certain community facilities.

A. **Permitted Uses.**

1. Residential-design manufactured homes. manufactured homes. modulars and single-family detached dwellings, when the latter are incidental and not the main uses in the subdivision.

2. Churches. chapels, temples and synagogues.

3. Golf courses, including accessory club houses, but not commercial driving ranges or miniature golf courses.

B. **Special Uses.**

1. Any special use allowed in the SR-1 Single-Family Suburban Residential District.

C. **Conditional Uses.**

1. Any conditional use allowed in the SR-1 Single-Family Suburban Residential District.

D. **Lot Size Requirements for Parks.**

1. Minimum lot area:

   a. Residential uses: 130,680 square feet (3 acres).*

   b. other uses: 40,000 square feet.

2. Minimum lot width: 100 feet.

3. Minimum lot depth. 150 feet.

E. **Bulk Regulati ons for Parks.**

1. Maximum structure height: 35 feet.

2. Yard requirements:

a. Minimum front yard: 30 feet on all sides abutting a street.

*** Note:** The minimum lot area requirement may be increased to 217,800 square feet (five acres) if a wastewater lagoon is required.

b. Minimum side yard: 15 feet.

c. Minimum rear yard: 15 feet.

3. Maxi mum lot coverage: 30%

F. <u>Use Limitations.</u>

1. No outdoor storage shall be permitted as defined by Section 2-102. (See Section 2-102 for salvage yard.)

2. Animal husbandry, including the maintenance of horses, cows. swine, goats, cats. dogs, rabbits. chinchillas. guinea pigs. pigeons. poultry and the like shall be subject to all applicable County and state health and sanitation requirements.

3. All residential structures are to be either skirted or located on an enclosed. perimeter permanent-type foundation similar in materials and appearance to a site-built house.

106 **C-1 General Commercial District.** (County jurisdiction) This district is established for a selected group of retail and service businesses catering to the motoring public and providing a limited range of commercial services to rural and urban residents. Such uses should be located on major roads. particularly at intersections and/or adjacent to cities. It is not intended that this district would commercially "strip out" the roadways, nor would it create shopping centers or unduly compete with commercial urban centers in cities.

A. **Permitted Uses.**

1. Animal clinics and hospitals.
2. Antique. gifts and souvenir shops.
3. Automobile and truck service stations with minor repair work.
4. Bait shops including hunting and fishing supplies and equipment.
5. Business and professional offices.
6. Commercial auction yards and barns.
7. Commercial recreational activities.
8. Contractor and construction offices and shops including electrical. plumbing, woodworking, heating and air conditioning, and services like. (See Section 4-106C4 for outdoor storage.)
9. Convenience food stores.
10. Farmers co-ops.
11. Garden shops. greenhouses and nurseries.
12. Hotels and motels.
13. Mini-storage facilities.
14. Pottery and statuary sales.
15. Restaurants including drive-ins.

B. **Special Uses.**

1. Public buildings erected or land used by any agency of a city, township, county or state government.

2. Butane and propane bulk storage and distribution.

3. Fraternal and service clubs.

4. Clubs and taverns.

5. Other uses not specifically listed as a permitted. special or other conditional use. but which are in keeping with the intent of Section 4-106 and compatible with the uses permitted in Section 4-106A.

C. Conditional Uses.

1. Car washes.

2. Garages. repair.

3. Outdoor storage, display, operations or activity area of a permitted use.

4. Sales lots for motor vehicles. Recreational vehicles. manufactured and mobile homes and boats.

5. Utility substations, pumping stations and water towers. Communication structures, antennas and aerials. (See Section 2-102 for height. maximum and Section 6-100B7 for such structures as accessory uses.)

6. Welding and blacksmith shops.

D. Lot Size Requirements.

1. Minimum lot area: 20.000 square feet or not l ess than sufficient lot size to meet the minimum standards of the County Sanitary Code.

2. Minimum lot width: 90 feet.

3. Minimum lot depth: 100 feet.

E. Bulk Regulations.

1. Maximum structure height: 35 feet.

2. Yard requirements:

   a. Minimum front yard: 35 feet on all sides abutting a street.

b. Minimum side yard: 20 feet.

c. Minimum rear yard: 30 feet.

3. Maximum lot coverage: 50%.

F. <u>Use Limitations.</u>

1. No new building shall be used for residential purposes except for the use of the owner or operator of a business located on the premises.

2. All business. servicing, storage and display of goods, except for the sale of self-service gasoline and the operation of automobile service stations. shall be conducted within completely enclosed structures or screened from public view. unless approved as a conditional use by the Board of Zoning Appeals or as part of an application for a special or conditional use.

107 **I-l Industrial District.** (County jurisdiction) This district is established for light industrial uses which may not require large amounts of land; generate modest amounts of traffic: are consistent with the capacity and availability of public and private services; create limited environmental problems in the way of sounds. glare. dust. smoke. odor or vibration: and do not permit the intermixing of residential uses.

A. **Permitted Uses.**

1. Agricultural and oil equipment and machinery sales. repairs and storage.
2. Agricultural feed. seed. mixing grain and fertilizer. blending. sales and storage.
3. Automobile. truck. motorcycle. Recreational vehicles and boat sales. repairs and refinishing.
4. Automobile and truck service stations.
5. Building material. production. sales and storage including lumber-yards. but not the operation of concrete and asphalt plants.
6. Ceramic or pottery manufacturing, sales and storage.
7. Construction contractors offices. shops and related equipment and material storage yards including excavating contractors.
8. Dog kennels. including outside runs.
9. Food processing, distribution and storage.
10. Greenhouses. hydroponic farming and nurseries. wholesale and retail.
11. Livestock sales. yards and barns.
12. Manufacturing of housing, recreation vehicles and boats including sales. repair and storage.
13. Manufacturing of plastic products.
14. Metal fabrication and assembly.
15. Mini-storage facilities including outside storage.

16. Monument engraving and sales.

17. Rental equipment centers.

18. Utility substations. pumping stations and wat er towers.

19. Warehouses operations and the storage of equipment. vehicles and materials indoors and outdoors. except salvage equipment. vehicles or materials.

20. Welding or blacksmith shops.

B. Uses Not Permitted.

1. Acid manufacture.

2. Cement. lime. gypsum or plaster of Paris manufacture.

3. Creosote or tar treatment.

4. Distillation of bones.

5. Explosives manufacture or storage, including fireworks.

6. Fat rendering.

7. Garbage, offal or dead animal incineration or reduction.

8. Glue or soap manufacture.

9. Primary smelting of base metals from ore.

10. Slaughterhouses.

11. Tanning, curing or storage of raw hides or skins.

C. Special Uses.

1. Public buildings erected or land used by any agency of a city, township, county or state government.

2. Fertilizer manufacturers.

3. Hazardous waste facilities.

4. Salvage yards. (See Section 4-101B15 for standards.)

5. Storage in quantity and not used as part of normal manufacturing

process of such items as anhydrous ammonia. oil. gas. explosives and other products which may be considered as highly explosive. combustible or of a volatile nature.

6. Other industrial type uses not specifically listed as a permitted. special or other conditional use. but which are in keeping with the intent of Section 4-107 and compatible with the uses permitted in Section 4-107A.

D. Conditional Uses.

1. Asphalt and concrete mixing plants.

2. Retail and service business uses not specifically listed as a permitted. special or other conditional use. but which would provide a particular direct benefit to the industrial uses and /or serve as a convenience to the employees thereof.

E. Lot Si ze Requi rements.

1. Minimum lot area: 20.000 square feet or not less than sufficient lot size to meet the minimum standards of the County Sanitary Code.

2. Minimum lot width: 90 feet.

3. Minimum lot depth: 100 feet.

F. Bulk Regu la ti ons.

1. Maxi mum structure height: 45 feet exclusive of grain elevators.

2. Yard requirements:

   a. Minimum front yard: 35 feet on all sides abutting a street.

   b. Minimum side yard: 10 feet. but if adjacent to a residential district. 20 feet.

   c. Minimum rear yard: 20 feet. but if adjacent to a residential district 30 feet.

3. Maximum lot coverage: 50%.

G. Use Limitations.

1. No new building shall be used for residential purposes. except that a watchman or custodian may reside on the premises in a residential building or a manufactured/mobile home. (See Section 3-1040.)

2. Outdoor operations. display and storage are permitted which are related activities to the principal use. except that only parking and display areas for new products are permitted in the minimum front yard setback.

3. There shall be no emission of dust. noise. odor or vibration which shall be detectable as a nuisance beyond the lot line.

108 **R-1 Single-Family Residential District.** (City jurisdiction) This district is established for the purpose of medium density single-family dwelling use and to allow certain community facilities. It is intended that no uses be permitted in this district that will tend to devalue property for residential purposes or interfere with the health, safety, order or general welfare of persons residing therein. Regulations are intended to control density of population and to provide adequate open space around buildings and structres to accomplish these purposes.

A. **Permitted Uses.**

1. Single-family detached dwellings, residential-design manufactured homes. multiple-wide manufactured homes on enclosed. perimeter permanent-type foundations and group homes as defined in Section 2-102.

2. Churches and similar places of worship and parish houses.

3. Golf courses. including accessory club houses. but not separate driving ranges and miniature golf courses operated for commercial purposes.

4. Public and private schools: educational buildings for primary, intermediate and secondary schools including administrative centers, transportation centers. recreation areas. spectator sports facilities and the like. All such uses must be located on land which is properly platted.

B. **Special Uses.**

1. Public buildings erected or land used by any agency of the City, or a township, county or state government not otherwise provided for in these regulations.

2. Cemeteries. private or public.

C. **Conditional Uses.**

1. Two-family dwellings.

2. Adult and childcare centers and preschools.

3. Bed and breakfast homes.

4. Earth-sheltered dwellings, provided that the design is compatible with adjacent properties including such items as drainage, parking and accessory structures.

5. Swimming, tennis, racquetball and similar recreational club activities and related clubhouses.

6. Public and private utility uses as follows: electric and telephone substations: gas regulator stations: pumping stations: and water towers and standpipes. (See Section 3-103G for lot size and bulk regulations.)

D. <u>Lot Size Requirements.</u>

1. Minimum lot area:

   a. Dwellings permitted by Section 4-108A1: 8.000 square feet.

   b. Two-family and earth-sheltered dwellings: 9,000 square feet.

   c. All other uses: 10, 000 square feet.

2. Minimum lot width:

   a. Dwellings permitted by Section 4-108A1: 70 feet.

   b. Two-family and earth sheltered dwellings: 80 feet.

   c. All other uses: 90 feet.

3. Minimum lot depth: 100 feet.

E. <u>Bulk Regulations.</u>

1. Maximum structure height: 35 feet.

2. Yard requirements:

   a. Minimum front yard: 25 feet on all sides abutting a street. except that on corner lots where the street right of way is at least 60 feet wide one of the yards may be reduced to 15 feet: however. 20 feet shall still be required for yards with direct driveway access to a garage or parking space.

b. Minimum side yard: 8 feet.

c. Minimum rear yard: 25 feet.

3. Maximum lot coverage: 30%

F. <u>Use limitations.</u>

1. No outdoor storage shall be permitted as defined by Section 2-102.

109 **R-2 Multiple-Family Residential District.** (City jurisdiction) This district is established to permit various types of low density multiple-family dwelling units with compatible community facilities and certain special and conditional uses. yet retain a basic residential quality. It is not intended generally for single-family type use. except as incidental to the area.

A. **Permitted Uses.**

1. Any permitted uses allowed in the R-1 Residential District.
2. Single-family attached, not exceeding two. and two-family dwellings.
3. Multiple-family dwellings.
4. Childcare centers. preschools and adult care centers for more than four adults.
5. Boarding or rooming houses.

B. **Special Uses.**

1. Any special uses allowed in the R-l Residential District except cemeteries.
2. Funeral homes and mortuaries including live-in facilities.
3. Hospitals; medical. dental and health clinics and professional medical offices.
4. Multiple dwelling units for the elderly and handicapped whereby density and parking requirements may be varied from the standards otherwise required by these regulations.
5. Nursing and convalescent homes, retirement centers and assisted living facilities.
6. Rehabilitation houses and residential centers.

C. **Conditional Uses.**

1. Bed and breakfast homes.
2. Swimming. tennis, racquetball and similar recreational club activities and related clubhouses.

3. Public and private utility uses as follows: electric and telephone substations; gas regulator stations: pumping stations; and water towers and standpipes. (See Section 3-103G for lot size and bulk regulations.)

D. Lot Size Requirements.

1. Minimum lot area:

   a. Dwellings permitted by Section 4-109A1: 7,000 square feet.

   b. Single-family attached and two-family dwellings: 8.000 square feet.

   c. Multiple-family attached dwelling units: 3,000 square feet per dwelling unit. but no zoning lot shall be less than 10,000 square feet.

   d. All other uses: 10,000 square feet.

2. Minimum lot width:

   a. Dwellings permitted by Section 4-109A1: 60 feet.

   b. Two-family dwellings: 70 feet.

   c. Multiple-family dwellings: 80 feet.

   d. All other uses: 80 feet.

3. Minimum lot depth: 100 feet.

E. Bulk Regulations.

1. Maximum structure height: 35 feet.

2. Yard requirements:

   a. Minimum front yard: 25 feet on all sides abutting a street, except that on corner lots where the street right of way is at least 60 feet wide one of the yards may be reduced to 15 feet: however. 20 feet shall still be required for yards with direct driveway access to a garage or parking space.

   b. Minimum side yard:

(1) Dwellings permitted by Section 4-109A1: 7 feet.

(2) Single-family attached and two-family dwellings: 6 feet on each side. except for the common lot line of an attached dwelling.* (See Section 2-102 for definition of dwelling, attached.)

* See City Subdivision Regulations for procedures for approval of lot splits.

(3) Multiple-family dwellings: 5 feet.

(4) All other uses: 8 feet.

c. Minimum rear yard: 20 feet.

3. Maximum lot coverage: 45%.

F. <u>Use limitations.</u>

1. No outdoor storage shall be permitted as defined by Section 2-102.

110 **B-1 Central Business District.** (City jurisdiction) This district is established to group the main retail merchandising activities into a concentrated area serving the general shopping needs of the City and its trade area. The grouping of related activities which are compatible is intended to strengthen the Central Business District. Existing businesses not in the Central Business District are included in the district with modified standards.

A. **Permitted Uses.**

1. Animal hospitals and clinics are limited to the care. treatment and grooming of small animals. where all activities take place within a completely enclosed building.
2. Antique and gift shops and florists.
3. Assembly places both private and public including fraternal and service clubs. senior citizen centers and churches and similar places of worship.
4. Bakeries. including retail and wholesale sales.
5. Business. professional and public offices and financial institutions. including drive-up windows.
6. Establishments employing not more than five persons in construction businesses such as plumbing, heating, air conditioning and electrical work, but not woodwork such as millwork. (See Section 4-110F for outdoor storage.)
7. Hotels. motels and bed and breakfast homes and inns.
8. Laundries and dry-cleaning establishments. including self-service.
9. Dwelling units constructed in conjunction with and above the first floor of business establishments.
10. Newspaper, publishing and printing firms.
11. Parking lots or parking garages.
12. Restaurants. but not drive-ins.
13. Retail stores (See Section 2-102 for definition of RETAIL STORES.)

14. Second-hand stores.

15. Service businesses such as repairing watches. jewelry. shoes. office machines and appliances; dress making and tailor shops; barber and beauty shops; locksmiths; and the like as well as personal services such as physical fitness and tanning salons.

16. Studios: art. music. dance and photographic.

B. Special Uses.

1. Public buildings erected or land used by any agency of the City, or a township, county or state government not otherwise provided for in these regulations.

2. Clubs and taverns.

3. Mini-storage facilities for inside rental storage only.

4. Other special uses not specifically listed as a permitted. special or conditional use. but which are in keeping with the intent of Section 4-110 and compatible with the uses permitted in Section 4-110A.

C. Conditional Uses.

1. Auction houses.

2. Automobile service stations. sale of gasoline at convenience stores and car washes.

3. Commercial recreational activities and amusements centers. indoors only. (See Section 2-102 for definition of AMUSEMENT CENTER.)

4. Drive-in restaurants.

5. Garages. repair. (See Section 2-102 for definition of GARAGE. REPAIR.)

6. Sale lots of new and used automobiles. vans. small trucks and recreational vehicle vans. Storage of goods and equipment is not otherwise related to principal use of the premises as inventory.

D. Lot Size requirements.

1. Minimum lot area: None.

2. Minimum lot width: 20 feet.

3. Minimum lot depth: 50 feet.

E. <u>Bulk Regulations.</u>

1. Max i mum structure height: 45 feet.

2. Yard requirements:

   a. Minimum front yard: None. except that when land is separate from the recognized contiguous Central Business District 35 feet is required.

   b. Minimum side yard: None. but if there is one provided. It shall not be less than 5 feet.

   c. Minimum rear yard: None. but if there is one provided. It shall not be less than 5 feet.

3. Ma xi mum lot coverage: A building. structure or use may occupy all that portion of the lot not otherwise required for the yard regulations.

F. <u>Use Limitations.</u>

1. All business. servicing, storage and display of goods; except for small recycling collection centers and parking lots. shall be conducted within completely enclosed structures unless approved as a conditional use by the Board of Zoning Appeals or as part of an application for a special or other conditional use.

2. All permitted. special and conditional uses separately located outside the contiguous Central Business District shall have on-site parking and loading space according to standards established in Article 5.

111 **I-1 Industrial District.** (City jurisdiction) This district is designed for light industrial uses which do not require large amounts of land; generate modest amounts of traffic: are consistent with the capacity and availability of public and private services; create limited environmental problems in the way of odor. smoke. dust. glare. vibration or sounds: and do not permit the intermixing of residential uses.

A. **Permitted Uses.**

1. Agricultural feed. grain and fertilizer mixing, storage and sales.
2. Agricultural equipment sales. repairs and storage.
3. Assembly, manufacture or repair of electrical and mechanical appliances. instruments and the like.
4. Automobile. truck and recreational vehicle sales. storage, repairs. garages and washing facility.
5. Building material production. storage and sales including manufactured housing and lumberyards.
6. Clothing and textile manufacturers.
7. Construction equipment distribution. repair. Storage and sales.
8. Construction contractor's offices. including equipment and storage area.
9. Food manufacture. storage and distribution.
10. Furniture manufacture and repair.
11. Garages. repair. (See Section 2-102 for definition of GARAGE. REPAIR.)
12. Garden stores. greenhouses and hydroponic farming. (See Section 2-102 for definition of GARDEN STORE.)
13. Laundry, dry cleaning and dyeing works.
14. Manufactured products such as bags, brooms. concrete products. jewelry, paper goods. pharmaceutical products. plastics. sporting and office equipment. and the like.

15. Metal fabrication and assembly.

16. Printing and publishing companies.

17. Sale lots for new and used cars. vans. small trucks and recreational vehicles. (See Section 2-102 for definition of RECREATIONAL VEHICLE.)

18. Transportation firms including vehicle storage areas.

19. Utility substations and water towers

20. Wholesale businesses and storage warehouses and mini-storage facilities. including indoor and outdoor storage.

B. Uses Not Permitted.

1. Acid manufacture.

2. Cement. lime. gypsum or plaster of Paris manufacture.

3. Creosote or tar treatment.

4. Distillation of bones.

5. Explosives manufacture or storage, including fireworks.

6. Fat rendering.

7. Fertilizer manufacture.

8. Garbage, offal or dead animal incineration or reduction.

9. Glue or soap manufacture.

10. Petroleum processing and refining.

11. Primary smelting of base metals from ore.

12. Stockyards or slaughterhouses.

13. Tanning, curing or storage of rawhides or skins.

C. Special Uses.

1. Public buildings erected or land used by any agency of the city, or a township, county or state government not otherwise provided for by these regulations.

2. Bulk storage for retail or wholesale distribution and not used as an accessory part of a normal manufacturing process of such items as anhydrous ammonia and other products which may be considered as highly explosive. combustible or of a volatile nature.

3. Recycling processing centers. (See Section 2-102 for definition.)

4. Salvage yards. (See Section 2-102 for definition.)

5. Public and private hazardous waste facilities: (See Section 2-102 for definition.)

6. Other uses not specifically listed as a permitted. special or other conditional use. but which are in keeping with the intent of Section 4-111 and compatible with the uses permitted in Section 4-111A. Such other uses may also include retail and service businesses which provide a particular direct service to the industrial uses or serve as a convenience to the employees thereof or the community as a whole.

D. Conditional Use.

1. Asphalt and concrete mixing pl ants.

2. Dog kennels. including outside runs.

3. Large recycling collection and processing centers. (See Section 2-102 for definition.)

E. Lot Size Reguirements.

1. Minimum lot area: 10,000 square feet.

2. Minimum lot width: 80 feet.

3. Minimum lot depth: 100 feet.

F. Bulk Regulations.

1. Maxi mum structure height: 45 feet exclusive of grain elevators.

2. Yard requirements:

   a. Minimum front yard: 35 feet on all sides abutting a street.

b. Minimum side yard: No minimum requirement. but if a side yard is provided. It shall be not less than 10 feet.

c. Minimum rear yard: No minimum requirement. but if a rear yard is provided. It shall be not less than 10 feet.

3. Maximum lot coverage: 75%.

G. <u>Use Limitations.</u>

1. No new building shall be used for residential purposes except that a watchman or custodian may reside on the premises inside an industrial use structure or in a manufactured or mobile home.

2. Outdoor operations. display and storage is permitted which is related activity to the principal use; except that only parking and display areas are permitted in the minimum front yard setback.

3. There shall be no emission of dust. noise. odor or vibration which shall be detectable as a nuisance beyond the lot line.

112 **P-0 Protective Overlay District.** (County and City jurisdictions) This district may be applied as an overlay district in combination with any underlying zoning district. By limiting specific uses or requiring more restrictive development standards to individual projects or specific properties. This district is intended to:

(1) ensure compatibility among incompatible or potentially incompatible land uses;

(2) ease the transition from one zoning district to another;

(3) address sites or land uses with special requirements; and

(4) guide development of unusual situations or unique circumstances.

Development standards include. but are not limited to. lot sizes. bulk requirements. use limitations. off-street parking and loading provisions. accessory structures and uses. sign standards. miscellaneous requirements of Section 3-103 and screening and landscape requirements of Section 3-105.

A. Use and Development Standards. This district can be used to modify and restrict the use and development standards of an underlying zone district. All requirements of this district are in addition to and supplement all other applicable standards and requirements of these regulations. Restrictions and conditions imposed by this district shall be limited to the following:

1. Prohibiting otherwise permitted or special or conditional uses and accessory uses; or making an otherwise permitted use a special or conditional use;

2. Decreasing the number or average density of dwelling units that may be constructed on the site;

3. Increasing minimum lot size or lot width;

4. Increasing minimum setback requirements in any yard;

5. Restrictions on access to abutting properties and streets. including specific design features; and

6. Any other development standards required or authorized by these regulations.

B. Method of Adoption. Modifications and restrictions imposed through this

district are considered part of this zoning text and accompanying map. All property included in the district shall be identified on the Official Zoning Maps by adding the letters "P-0" and a number to the base zoning district symbol. The number shall be assigned when the application is filed, and numbers shall run consecutively beginning with number 1. The effectuating resolution or ordinance for zoning or rezoning property to the P-0 district shall specifically state the modifications or restrictions imposed pursuant to Section 4-112A. Such modifications and restrictions imposed shall be considered part of the text of these regulations and a violation of them shall be a violation of these regulations. The modifications and restrictions shall continue in full force and effect until revised in accordance with the same amendment procedures as for the approval of the original P-0 District.

C. Effect of P-0 District Designation. When the P-0 District zoning designation is applied in combination with an underlying zoning district. It shall always be considered to result in a more restrictive designation than if the district did not have the P-0 classification. In the event that the P-0 designation was not originally requested as part of the rezoning application. but is added instead during the public hearing process. renotification and readvertisement of the requested zoning amendment shall not be required.

ARTICLE 5. OFF-STREET PARKING AND LOADING

100 Off-Street Parking. In any applicable zoning district. All structures built and all uses established hereafter shall provide accessory off-street parking in accordance with the following regulations. When an existing structure or use is expanded. Accessory Off-street parking shall be provided in accordance with the following regulations for the area or capacity for such expansion. Plans showing the layout and design of all off-street parking spaces and loading areas must be submitted and approved by the Zoning Administrator before a zoning permit is issued for such spaces or area.

A. General Provisions.

1. Utilization: Accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons. occupants or employees of such uses. Such parking facilities or any vacant lot shall not be used to display or store motor vehicles including recreational vehicles and utility trailers for sale other than were permitted specifically in a district. Such provisions shall not prevent the display of a small temporary for sale sign not exceeding two square feet in size on a personal vehicle when parked periodically on the driveway or an identifiable parking area on a zoning lot of the owner's residence or place of employment. (See Section 2-102 for definition of STORAGE, OUTDOOR.)

2. Parking space dimension: An off-street parking space shall be at least eight feet six inches in width and at least 19 feet in length. exclusive of access drives or aisles. ramps or columns. unless special parking is designated for variable sizes of vehicles.

3. Access: Each 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. No parking space shall be designed to exit or back directly onto a public street or use the public right of way for parking space. unless specifically approved by the Governing Body. Such arrangements are to be discouraged. except in unusual circumstances wherein the traffic safety of the public can still be protected.

4. Open and enclosed parking: Off-street parking spaces open to the sky may be located in any yard. except that in residential districts no required spaces shall be located in a front yard setback other than for multiple-family dwellings. Principal buildings with private garages and carports integrated into or attached to the buildings which contain or shelter off-street parking spaces shall be subject to the yard setback requirements applicable in the district wherein the buildings are located. Detached garages and carports which contain or shelter off-street parking spaces shall be subject to the provisions of the accessory uses contained in Section 6-100 and, in particular. the bulk regulations of Section 6-100C. (See Section 3-103 F1 for canopies.)

5. Design and Maintenance:

   a. Design: Off-street parking spaces shall comply with such design standards relating to curb cuts and curb length. stall depth. driveway width. island width. barriers. and the location of ingress and egress as may be established from time to time by the County. Off-street parking spaces may be open to the sky or enclosed in a building or structure. Parking Off-street Parkor single-family dwellings and all types of manufactured and mobile homes is considered to be permitted temporary parking and required parking spaces on such lots are not to be in the front yard setback. **All parking spaces must be in an identifiable area where all spaces are contained thereon.** (See Section5-100A5c for screening.)

   b. Surfacing: All open off-street parking spaces. whether required spaces or not. and driveways shall be graded and paved or graveled and maintained in good condition. Driveways, parking spaces and display areas for all open sales or rental lots for motor vehicles. trailers. Recreational vehicles and manufactured or mobile homes shall be paved or graveled.

   c. Screening: Screening for parking spaces and loading areas is incorporated into the general screening provisions of Section 3-105.

d. Lighting: Any lighting used to illuminate off-street parking spaces shall be shaded so that direct light is not cast upon property located in a residential district and so that glare is not a problem to traffic on any public street.

e. Repair and service: No motor vehicle repair work or service of any kind shall be permitted in association with any off- street parking spaces or structures. except as i nci dental repairs to a personal vehicle. (See Section 2-102 for defi ni - tion of SALVAGE YARD.)

f. Computation: When determination of the number of off-street parking spaces required by these regulations results in a requirement of a fractional space, the fraction of one-half or less may be disregarded, and a fraction in excess of one-half shall be counted as one parking space.

g. Collective provisions: Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so furnished is not less than the sum of the separate requirements for each such use; provided. that wherever there is a common plan of parking for land in single ownership that the amount of required parking shall consider the joint use of such space whenever large places of assembly are present which vary in their times of use and sea on of the year to the end that all parking is contained on the site or on accessory parking lots except for infrequent periods of peak use. The off-street parking spaces required by Section 5-101 may be increased: however. where it is anticipated that peak parking periods will be a consistently reoccurring problem. All regulations must be adhered to which cover the location of accessory parking spaces in relation to the use served.

h. Locati on: All parking spaces required to serve structures or uses shall be located on the same zoning lot as the structure or use served unless a conditional use permit is obtained under Section 5-102.

i. Employee parking: Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing. or both. on the premises at any one time.

j. Handicapped parking: Parking spaces according to the number of spaces and their designated signage shall be provided for persons with a disability in conformance to the standard s of the federal Americans with Disabilities Act of 1990 as incorporated into state statutes. (**See K.S.A. 58-1311 and 42 USCA 12101 et seq.)**

6. Plans and approval required: Plans showing the layout and design of all off-street parking spaces. whether required spaces or not. including driveway and loading areas. shall be submitted and approved by the Zoning Administrator prior to issuance of a zoning permit for the parking lot itself or as part of an application for a larger related project. Before approving any parking layout. The Administrator shall determine that the spaces provided are usable and meet standard design criteria as well as all parking requirements of these regulations. Parking spaces shall be clearly indicated or otherwise marked to designate the individual spaces. (See Section 5-100A 1-5 for design standards.)

101 **Required Parking Spaces.** Off-street parking spaces, accessory to the uses hereinafter designated shall be provided as follows. except no such spaces shall be required in the B-1 Central Business District unless for dwelling units permitted in conjunction with business uses:

A. Dwelling and Lodging Uses.

1. Single and two-family dwellings, earth-sheltered dwellings, residential-designed manufactured and manufactured mobile homes: At least one parking space for each dwelling unit.

2. Hotels. motels and bed and breakfast homes and inns: One parking space for each rental unit. plus, such additional spaces as are required for restaurants, assembly rooms and affiliated facilities.

3. Boarding or rooms houses; One parking space for each two rooms.

B. Business and Industrial Uses:

1. Automobile service stations: One parking space for each employee, plus two spaces for each service bay.

2. Automobile, truck. trailer and manufactured and mobile home sales and rental lots: One parking space for each 3,000 square feet of open sales lot area devoted to the sale, display and rental of such vehicles, plus one parking space for each service bay and employee.

3. Business and professional offices: One parking space for each 300 square feet of floor area, not including meeting rooms.

4. Bowling alleys: Four parking spaces for each lane.

5. Cartage, express, parcel delivery and freight terminal establishments: One parking space for each two employees.

6. Car washes: Two holding spaces for each car washing stall. pl us one drying space for each car washing stall.

7. Funeral homes and mortuaries: One parking space for each four seats based upon the designed maximum capacity of the parlor. plus, one additional parking space for each employee and each vehicle maintained on the property.

8. Furniture or appliance stores and service or repair shops: One parking space for each 400 square feet of floor area.

9. Manufacturing, production, processing, assembly, disassembly, cleaning, servicing, testing, or repairing of goods, materials or products: One parking space per two employees.

10. Medical and dental clinics or offices: One and one-half parking spaces for each examination or treatment room, plus one for each doctor and employee.

11. Restaurants, clubs and taverns: One parking space for each 2. 5 seats based on the maximum designed seating capacity; provided. however. that drive-in restaurants shall have a minimum of at least 10 parking spaces.

12. Retail stores and financial institutions: One space per 250 square feet of floor area. not including meeting rooms. (See Section 5-101B13 for places of assembly.)

13. Theaters, auditoriums and places of assembly: One space for each four seats. (See Section 5-100A5g for collective provisions.)

14. Warehouses, storage and wholesale establishments: One parking space for each two employees.

C. Other Uses.

1. Childcare centers and preschool s: One parking space for each employee pl us such temporary parking spaces as determined necessary by the Zoning Administrator for customer parking depending upon the number of children.

2. Churches: One parking space for each five seats based upon the maxi mum designed seating capacity in the main worship area. including choir lofts.

3. Elementary and junior high public schools and equivalent parochial and private schools: One space for each faculty and staff person plus places of assembly. Regular parking spaces must be provided off the street for a11 buses serving the school. (See Section 5-100A5g for collective provisions.)

4. Hospitals: One parking space for each two beds. plus, one parking space for each resident or staff doctor and one space for each two employees.

5. Nursing and convalescent homes: One parking space per each five beds based on the maximum designed capacity of the building, plus one parking space for each employee.

6. Private social and hobby clubs. associations and lodges: One parking space for each three seats based upon the maximum designed seating capacity.

7. Secondary public and private schools: One parking space for every four persons based on the maximum design capacity for pupils.

faculty and staff. plus, places of assembly. Regular parking spaces must be provided off the street for all buses serving the school. (See Section 5-100A5g for collective provisions.)

8. Trade and commercial schools: Two parking spaces for each three students. plus, one for each employee based on full-time equivalency.

Parking spaces for other permitted uses not listed above shall be provided in accordance with the determination of the Zoning Administrator or with respect to the number of spaces that are required to serve employees and/or the visiting public at each such use. Parking for special and conditional uses may be established as part of processing their application or when issuing the zoning permit.

102 **Conditional Use for Parking.** To provide off premises required or additional off-street parking areas. The Board of Zoning Appeals may grant as a conditional use for the establishment of parking areas in any zoning district under the following provisions: (See Section 2-102 for definition of PREMISES.)

A. Location. The nearest acc ess to the parking area provided und er this section must be within 300 feet (along lines of public access) from the boundary of the nearest entrance to the structure for which the parking is provided.

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 any vehicles. equipment. materials or supplies. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.

C. Improvements.

1. Parking spaces and driveways on private property providing ingress and egress to parking areas shall be provided with an all-weather surface or gravel which meets the approval of the Board and shall be maintained in good condition and free of weeds. dust. trash and other debris.

2. Parking areas shall have adequate guards to prevent extension or the overhanging of vehicles beyond property lines or parking spaces. Such areas shall have adequate markings for channelization and movement

of vehicles.

3. If lighting facilities are provided, they shall be so arranged as to deflect or direct light away from any adjacent dwelling or residential district.

4. A fence (such as solid-wall masonry, wood, louvered/wood, metal or other similar materials) not less than six feet high, may be required to be erected along any property line adjacent to or adjoining any residential district to reduce noise, eliminate the passage of light from vehicles and prevent the blowing of debris. Whenever a fence shall be required along a front yard which includes a driveway area, such fence shall not be higher than four feet.

5. When located in a residential district. Parking shall not be located within a front yard, and the front yard shall remain unpaved and shall be landscaped, unless a waiver by the Board is warranted due to the nature and arrangement of the adjacent land use.

6. The Board shall determine the necessity of additional improvements in order to protect adjacent property owners and the public interest. Such improvements shall include, but not be limited to proper drainage, setbacks. screening, grass. shrubs. trees and the maintenance thereof. and the extent of access permitted to public roads, streets and alleys.

103 **Off-Street Loading and Unloading.** In all zoning districts except the B-1 Central Business District. loading and unloading space shall be provided off-street and on the same premises with every building, structure or part thereof. hereafter erected. established. or enlarged and occupied which requires the receipt or distribution of materials or merchandise by motor vehicle. The loading and unloading space shall be so located as to avoid undue interference with public use of roads. streets. alleys and walkways. Such vehicular access shall be maintained in good condition and surfaced in such manner as required in Section 5-100A5b for parking spaces. When off-street parking space is used to fulfill this loading and unloading requirement. The latter shall be scheduled so as not to interfere with meeting the parking needs.

ARTICLE 6. ACCESSORY USES, TEMPORARY USES AND HOME OCCUPATIONS

100 **Accessory Uses Authorization.** Accessory uses are permitted in any zoning district in connection with any principal use which is permitted.

A. **Definitions.** An accessory use is a structure or use which:

1. Is subordinate to and serves a principal structure or use:

2. Is subordinate in purpose to the principal structure or use served. This does not preclude recreational areas for tennis. swimming. racquetball. basketball and similar activities:

3. Contributes to comfort. recreation. convenience or necessity of occupants. business or industry in the principal structure or use served: and

4. Is located on the same zoning lot as the principal structur e or use served. (See Section6-10001 regarding beginning any accessory structure or use prior to the principal structure or use.)

B. **Permitted Accessory Uses.** Any structure or use that complies with the terms of Section 6-100A may be allowed as an accessory use or structure and may be included. but is not limited to the following list: *****

1. Off-street parking and loading space as regulated by Article 5 of these regulations. including detached garages and carports. On lots which are not over 10.000 square feet in size for single and two-family dwelling units and all types of manufactured and mobile homes such structures may contain incidental space for storage and other uses and are limited to one each per zoning lot not over 720 square feet in gross floor area for a garage and 500 for a carport. unless a conditional use is approved by the Board of Zoning Appeals for a larger structure. Similarly, on lots over 10,000 square feet and not more than five acres in size. detached garages shall not exceed 960 square feet and carports 600 square feet. Furthermore. on such lots over five acres in size. detached garages and carports shall be unlimited in size**. Individual homes or subdivisions, not permitted in the front yard.**

2. Signs. when permitted by Article 7 of these regulations.

* Zoning permits are required only for accessory structures which exceed 120 square feet of ground area. Permits are required in residential districts for single and two-family dwellings and all types of manufactured and mobile homes for both fences in the front yard setback and for satellite dish antennas which exceed one meter (39.37 inches) in diameter. (See Sections 3-103 F2 through 5 for fences and 6-100B6 for satellite antennas.) For other accessory zoning permits. see Section 6-101 for temporary uses. Section 6-102 for home occupations. Section 5-100 for parking spaces and loading areas and Article 7 for signs.

3. Buildings for storage and other purposes; provided. that no such building on lots which are not over 10.000 square feet in size which is accessory to single and two-family dwelling units and all types of manufactured and mobile homes shall exceed 400 square feet in gross floor area. unless a conditional use is approved by the Board of Zoning Appeals for a larger building. Similarly, on lots over 10. 000 square feet in size and not more than five acres. such buildings shall not exceed 600 square feet. Furthermore. on lots over five acre s in size. Such detached buildings are not limited in size.

No motorized vehicle of any type or any portion thereof such as a truck trailer may be used on a residential lot for storage or any purpose other than for periodic vehicular parking according to provisions of Article 5. Similarly, a railroad box car. shipping container or portable storage units are not permitted on a residential lot. Motorized vehicles and portions thereof. shipping containers or storage units; however. may be used temporarily for refuse disposal or storage during a period of construction or reconstruction.

4. Storage of recreational vehicles; provided. that they shall not be utilized for living purposes. except for the convenience of temporary lodging only for not more than 15 days at any one time. and when stored on the driveway or on a graveled or paved surface parallel and adjacent to the driveway of a lot in a residential district only by the occupant who is the vehicle owner. shall be located not less than five feet from the front lot line and not otherwise stored in a front yard setback. (See Section 2-102 for definitions of RECREATIONAL VEHICLE (RV) and YARD. FRONT.)

5. Storage outside both above or below ground level of petroleum products for heating and power purposes in all zoning districts or for

fueling vehicles related to the operation of the principal use in agriculture. business and industrial districts and for sale at automobile and truck service stations. (See also State Fire Marshals regulations.)

6. Detached. rack mounted solar equipment and satellite dish antennas; provided. that on lots with single and two-family dwelling units and all types of manufactured and mobile homes that the antenna structure shall not be located in any front yard setback nor in any portion of the area which is parallel to the front facade of the principle structure. Satellite antenna dishes exceeding one meter (39.37 inches) in diameter shall not be located on or attached to or mounted on masts (wireless cable) which are attached to dwelling units or manufactured or mobile homes nor their accessory garages or storage buildings. If an acceptable quality signal cannot be received under these restrictions to minimize visual impact and to provide safety, the Zoning Administrator may approve an alternative location suitable for reception. (See Section 2-102 for definition of HEIGHT. MAXIMUM for wireless cable antenna height.)

7. Communication structures. antennas and aerials. Antenna Mass, allow 12 feet above the structure or 35 feet in a residential district or 12 feet above structure. (See Section 2-102 for definition of height, maximum and Section 6-100B6 above for satellite dish antennas.)

8. Storm shelters. children's playhouses. statuary, arbors. trellises. barbecue stoves. flagpoles. fences. walls. bathhouses. and permanent-type swimming pools; provided, the latter are enclosed by a security-type fence for the protection of young children in residential districts only as approved by the Zoning Administrator regardless of whether the pool is above or below ground.

9. Guest houses without kitchen facilities or rooms for guests in accessory building; provided, such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units for permanent occupancy as housekeeping units.

10. Restaurants, pharmacies, gift shops, beauty parlors, barber shop s

and newsstands when located in a permitted hotel or motel.

11. For employees only, childcare centers and restaurants when located in a permitted business or industrial building.

12. Recycling collection centers, large and small. (See Section 2-102 for definition of recycling center.)

13. Outdoor storage shall not be permitted as an accessory use, except as specifically permitted in the district regulations. (See Section 2-102 for definition of STORAGE, OUTSIDE and Section 3-104C for manufactured or mobile homes as storage structures)

14. **Private wind energy conversion systems are permitted in all districts in the County jurisdiction only,** except that in a residential district such systems must be set back a distance from all property lines on the zoning lot for at least twice the height of such a system.

C. **Bulk Regulations.**

1. Accessory structures and uses shall maintain the same side and front yard setback as is required for the principal structure. unless they are a permitted obstruction within the provisions of Section 3-103F.

2. Accessory buildings shall be set back five feet from the rear lot line, except that garages with entrances facing alleys shall be set back at least 20 feet. (See Sections 9-101A for zoning permits on easements.)

3. No part of any accessory buildings shall be located closer than five feet to any principal structure, unless it is attached to and forms a part of the principal structure.

4. Accessory structures and uses shall otherwise comply with the bulk regulations applicable in the district in which they are located. except that in residential districts no accessory building shall be more than one story high nor exceed 20 feet in height unless a conditional use is approved by the Board of Zoning Appeals to exceed such height limitation for living (means for an accessary apartment) space only above such an accessory building.

D. **Use Limitations.** All accessory structures and uses shall comply with the use regulations applicable in the zoning district in which they are located

with the following additional use limitations:

1. No accessory structure shall be constructed and occupied on any zoning lot prior to the time construction begins on the principal structure to which it is accessory. (See Section 6-100A4)

101 Temporary Uses Permitted. The following uses of land are permitted in each zoning district unless specifically restricted to particular zoning districts and are subject to the regulations and time limits which follow and to the other applicable regulations of the district in which the use is permitted unless otherwise indicated:*****

A. Temporary zoning permits (original permit with temporary written across the top) for community celebrations. carnivals. circuses. musical festivals. religious revival services. Halloween or haunted houses or similar outdoor events may be approved with conditions by the Governing Body or their designated representative. Such uses need not comply with the bulk or lot size requirements provided. that structures or equipment which might block the view of operators of motor vehicles on the public streets shall meet the requirements of the vision triangle. (See Section 2-102 for definition of VISION TRIANGLE.)

B. Christmas tree sales in any agricultural. business or industrial district for a period not to exceed 60 days. Display of Christmas trees need not comply with the yard and setback requirements of these regulations; provided. that no tree shall be displayed within the dimensions of a vision triangle. (See Section 2-102 for definition of VISION TRIANGLE.)

C. Contractors offices. equipment sheds and open storage areas which are accessory to a construction project and remain on the site only during the duration of such project.

D. Seasonal sale of farm produce grown on the premises in a single-family residential district to continue for not more than six months per year. Small. temporary structures on private property incidental to such sale need not comply with the applicable front yard requirements.

***** Temporary zoning permits are required for events provided for in Section 6-101A. asphalt and concrete plants and fireworks stands. A recycling center is also required to obtain such a permit. but no fee is charged. (See Section 6-101G for recycling centers.)

E. Promotional activities of retail merchants involving the temporary display of goods and merchandise may be conducted outside of enclosed buildings for a period of not more than four consecutive weeks in any three-month period in an area adjacent to the building subject to the following conditions:

1. No portion of the display shall be on publicly owned property.

2. These provisions shall in no way be deemed to authorize the outdoor display or the sale of used goods such as furniture. appliances. plumbing, houseware. building material or similar display or sale in any business or industrial districts unless permitted otherwise by these regulations.

F. Periodic conduct of what is commonly called "garage or yard sales" which do not exceed a period of more than four days during any one sale and no more than two sales to be held at the same residence during any calendar year.

G. Recycling centers. small and large, periodically operated not for profit in business and industrial districts only for not more than 10 days in one period and for no more than three times during any 12-month period consistent with adequate provisions for public health and safety. (See Section 6-101 for temporary zoning permit.)

H. Firecrackers may be sold from an outside stand during the months of June and July as approved by State law and when all other applicable County regulations for safety have been met and such stand removed at all other times of the year. (See Section 6-101 for temporary zoning permit.)

I. Temporary permits may be approved by the Governing Body or their designated representative in the County jurisdiction for an equipment and material yards including an asphalt or concrete mixing plant for stated periods of time with conditions attached as deemed necessary to accommodate working space for highway or road projects. (See Section 6-101 for temporary zoning permit.)

102 Home Occupations Authorization. Home occupations that are customarily incidental to the principal use of a residential building or manufactured or mobile home shall be permitted provided the residential appearance of the building or home is maintained and no undue traffic or parking problems are created. If such a home occupation is conducted in a business or industrial district as legal.

nonconforming use. All the provisions of this section must be adhered to unless a zoning permit is obtained to operate the property and structure(s) thereon as a use meeting all the provisions of the applicable business or industrial district. *****

***** Zoning permits are required only when a home occupation sign is displayed, or an accessory structure is used. All regulations of Section 6-102 apply whether a zoning permit is required to be approved or not.

A. Definition. A business. profession. occupation. or trade conducted for gain or support entirely within a residential building or manufactured or mobile home. or within a permitted structure that is accessory to such a building or home, except you cannot regulate guns or ammunition businesses.

B. Use Limitations. In addition to all the use limitations applicable to the district in which it is located. No home occupation shall be permitted unless it complies with the following restrictions:

1. The home occupation shall be conducted entirely within the principal residential structure or a garage, swimming pool or an accessory structure. (See Sections 6-100B1 and 3 for limitations on garages and storage structures.)

2. No exterior alteration of the principal residential structure shall be made which changes the character thereof as a residence or causes goods to be displayed visibly from the residence or on the premises.

3. No more than 25% of the gross floor area of the residence shall be provided for the home occupation, however. that rooms let to boarders and roomers or used by childcare facilities are not subject to this limitation. (See Section 2-102 for definition of BOARDING and ROOMING HOUSE.)

4. Goods or stock for sale on or off the premises may be stored in enclosed areas. except articles which may constitute a hazard to the safety of adjacent property owners or tenants.

5. There shall be no outdoor storage of equipment or materials used in the home occupation.

6. No equipment or process shall be used which shall create undue noise. smoke or particulate matter emission. vibrations or odors

which are detectable to the normal senses off the lot. In case of electrical interference. No equipment or process shall be used which creates a visual effect or an audible interference off the premises in any radio or television receiver or transmitter or causes fluctuation in the voltage.

7. No more than one person other than a member of the immediate family occupying such residence shall be employed.

8. No sign shall be permitted other than that permitted by the applicable regulations in Article 7. (See Section 7-104 A and B for home occupation sign.)

C. **Home Occupations Permitted.** Customary home occupations include. but are not limited to. the following list of occupations provided; however. that each listed occupation shall be subject to the requirements of Section 6-102A and B:

1. Adult care center and adult care home for not more than four adults. group boarding home. day care home and family and group daycare home.

2. Artist. author. composer. photographer or sculptor.

3. Barber or beautician; provided. that only one operator shall be permitted.

4. Home crafts. such as cabinet making. model making. lapidary work. rug weaving and the like.

5. Minister. priest or rabbi.

6. Office for a route salesperson. company internet services, sales representative or manufacturer's representative. where no exchange of tangible goods is made on a regular basis on the premises.

7. Professional office for an accountant. architect. attorney. building contractor. dentist. engineer. l and scape architect. physician. real estate or insurance agent or a member of a similar profession.

8. Seamstress or tailor.

9. Teacher. including music and dance instructions: provided. that instructions shall be limited to two pupils at any time. except for occasional groups.

D. **Home Occupations Prohibited.** Permitted home occupations. for example. shall not in any event be deemed to include:

1. Animal kennels. or commercial stables.
2. Automobile and other vehicular repair shops or sales of such vehicles which exhibit a pattern of regular or continuous sales. A person holding a State Vehicle Dealer's License may not operate as a home occupation. This shall not prevent the periodic sale of a vehicle which is owned and operated for personal use.
3. Childcare centers and preschools. unless specifically permitted by the district regulations.
4. Church es. chapels. temples or synagogues for regular public worship or religious services in residential districts.
5. Dancing schools. except as provided for in Section 6-102C9.
6. Excavating or heavy equipment operators.
7. Funeral homes. unless specifically permitted by the district regulations.
8. Grocery stores.
9. Private schools providing educational services for persons outside of the home other than tutoring.
10. Renting of equipment, furniture, motorcycles. tools or trailers.
11. Repair of diesel or gasoline engines.
12. Restaurants.
13. except, (law changed in 2009) Sale of firearms or ammunition and gunsmithing, i.e. the repair of firearms.

E. **Home Occupation Authorization by Conditional Use.** Notwithstanding any other provisions of these regulations and. in particular. Section 6-102A

through D, an application may be made to the Board of Zoning Appeals for a conditional use to allow a home occupation in any agricultural district which would permit a broader range of home occupations and less restrictions than otherwise required. so,long as in the opinion of the Board under stated

conditions that the effect upon adjacent areas is minimized to the extent feasible and the public interest is served. The intent of such a provision is to provide for a wider range of home occupational activities while at the same time protecting adjacent properties from the intrusion of incompatible uses and uses of too great an intensity. In addition to the procedures and standards for establishing conditional uses as provided for in Section 10-108. The Board may, using the use limitation restrictions of Section 6-102B as guidelines. permit the following variations:

1. Limited outdoor storage of goods, materials and equipment when screened wherever feasible.

2. Limited outdoor display of goods. when deemed essential to the proper merchandising of the product.

3. Limited number of additional employees other than members of the immediate family occupying the dwelling unit may be employed regularly or periodically.

4. Limited outdoor related activity necessary to the conduct of the home occupation.

5. A sign for such home occupation may be increased in size when warranted by the type of activity.

6. Limitations as to stated periods of operational time such as hours, days and seasons.

7. Conditions may be attached to the premises and/or to the person(s) conducting the home occupation including maintaining any required licenses.

ARTICLE 7. SIGNS

100 **Sign Permits.** No sign, except for signs listed in Section 7-103. shall be constructed. erected. enlarged. relocated or structurally altered until a zoning permit for such sign has been obtained in accordance with the procedure set out in Article 9 of these regulations. No zoning permit for any sign shall be issued unless the sign complies with the regulations of this Article 7. All signs lawfully existing at the time of passage of these regulations may remain in use. including those in the status of legal nonconformance. The purpose of this article is to safeguard the public use of the roads and streets and to equitably enhance the visual environment. (See Section 2-102 for definition of sign.)

In addition to these sign regulations. all provisions of the **Kansas Highway Advertising Control Act administered by the Kansas Department of Transportation** must be met where such provisions exceed the requirements of these regulations. The l atter regulations apply to signs visible from the **Interstate and Federal Aid Primary Highway Systems**. (See K. S.A. 68-2231. et seq. for state sign regulations.)

101 **Classification of Signs.**

A. **Functional Types:**

1. Advertising Sign: A sign which directs attention to a business. commodity, service or entertainment conducted. sold or offered at a location other than the premises on which the sign is located or to which it is affixed. Such a sign may also be used to convey political and public service announcements. No such sign shall be attached to a stationary vehicle or a portion thereof which is publicly displayed on a zoning lot. **Advertising signs along state or federal highways must receive prior approval from the Kansas Department of Transportation before a zoning permit can be issued.**

2. Bulletin Board Sign: A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name or names of persons connected with it. and announcements of persons. events or activities occurring at the institution. Such sign may also present a greeting or similar message.

3. Business Sign: A sign which directs attention to a business or

profession conducted; or to a commodity or service sold. offered or manufactured; or an entertainment offered on the premises where the sign is located or to which it is affixed.

4. Construction Sign: A temporary sign indicating the names of designers and contractors involved in the construction of a project during the construction period and only on the premises on which the construction is taking place.

5. Identification Sign: A sign giving the name and address of a building, business. development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.

6. Nameplate Sign: A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located. and where applicable. their professional status.

7. Real Estate Sign: A sign pertaining to the sale or lease of the lot or tract of land on which the sign is located. or to the sale or lease of one or more structures. or a portion thereof located thereon. including auction and rental signs.

B. Structural Types:

1. Awning, Canopy or Marquee Sign: A sign that is mounted or painted on. or attached to an awning, canopy or marquee that is otherwise permitted by these regulations. No such sign shall project further below seven feet from the ground level or beyond the physical dimensions of the awning, canopy or marquee.

2. Ground Sign: Any sign placed upon. or supported by, the ground independently of the principal building or structure on the proper ty. A sign on accessory structures shall be considered a ground sign. Portable signs do not numerically count as ground signs for the district regulations.

3. Pole Sign: A sign that is mounted on a free-standing pole. The bottom edge of which sign is seven feet or more above ground level.

4. Projecting Sign: A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from

such building.

5. Roof Sign: A sign totally supported on the roof of a building which does not project more than 12 inches beyond the face of the structure.

6. Temporary Sign: A sign in the form of a banner, pennant. valance or advertising display constructed of fabric. cardboard, wall-board or other lightweight materials. with or without a frame. intended for temporary display of not more than 20 days at a time.

7. Wall Sign: A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface. and which does not project more than twelve inches from such building.

102 General Standards.

A. Gross Surface Area of Sign. The entire area within a single continuous perimeter enclosing the extreme limits of such sign, and in no case passing through or between any adjacent elements of same. Such perimeter shall not include any structural elements lying outside the limits of such sign and which do not form an integral part of the display. When two or more signs are located on a zoning lot. The gross surface area of all signs on the lot shall not exceed the maximum gross surface per street frontage set by the applicable district regulations. except as is provided by Section 7-102B. Signs on interior lots which may be viewed from both directions of the adjacent street are considered to have a single gross surface area.

B. Corner and Through Lots. On corner and through lots. Each lot line that abuts a street or highway shall be considered a separate street frontage. On corner and through lots. restrictions that are phased in terms of the number of signs per zoning lot shall be deemed to permit the allowable number of signs to face each street or highway that abuts the lot.

C. Height of Sign. The maximum height of signs shall be measured from ground level at the base of or below the sign to the highest element of the sign and shall be determined for purposes of Article 7 (104A5) as independent from the maximum structure height for zoning districts.

D. Building and Electrical Codes Applicable. All signs must conform to the structural design standards of any applicable building code. Wiring of all electrical signs must conform to any applicable electrical code.

E. Illuminated Signs. Signs shall be shaded wherever necessary to avoid casting bright light upon property located in any residential district or upon any public street or park. Any brightly illuminated sign, located on a lot adjacent to or across the street from any residential district. which is not otherwise shaded and visible from such residential district. shall not be illuminated between the hours of 11 P. M. and 7 A.M.

F. Flashing or Moving Signs. No flashing signs. rotating or moving signs. animated signs. signs with moving lights or signs which create the illusion of movement shall be permitted in any residential district. Except technology changing signs.

G. Metal and Nonmetal Signs. Signs constructed of metal and illuminated by any means requiring internal wiring or electrically wired accessory fixtures attached to a metal sign shall maintain a free clearance to grade of nine feet. Accessory lighting fixtures attached to a nonmetal frame sign shall also maintain a clearance of nine feet to grade. Metal or nonmetal signs. whether illuminated or not. shall maintain a clearance of at least seven feet underneath awnings. canopies or marquees.

H. Accessway or Window. No sign shall block any accessway or window required by any applicable building, housing, fire or other codes or regulations.

I. Signs on Trees or Utility Poles. No private sign shall be attached to a tree or utility pole whether on public or private property.

J. Traffic Safety.

1. No sign shall be maintained at any location whereby reason of its position. size, shape or color; it may obstruct, impair, obscure, interfere with the view of, or be confused with; any traffic control sign, signal or device; or where it may interfere with, mislead or confuse traffic.

2. No sign shall be located in any vision triangle as defined in Section 2-102, except official traffic signs and signs mounted eight feet or more

above the ground whose supports, not exceeding two, do not exceed 12 inches at the widest dimension and, thus, do not constitute an obstruction.

K. Location. No sign or structure thereof shall be permitted on a public right of way or public easement, except temporary real estate and garage sale signs may be placed on the public right-of-way with the approval of the adjacent landowner to provide direction to the property; provided that such signs do not obstruct traffic visibility. Such signs may only be displayed during an open house or a garage sale and must be removed at the conclusion of such open house or sale. **No sign shall be permitted to project over a public right-of-way or public easement,** except with the approval of the Board of Zoning Appeals as a conditional use, or as permitted in the B-1 Central Business District when the lowest part of a sign, except for an awning. canopy or marquee sign, is at least nine feet above the sidewalk area. (See Section 7-101B1 for Awning, Canopy or Marquee sign; Section 7-102G for clearance of Metal and Nonmetal Signs. Section 7-102L2 for Portable Signs, Section 7-103A5 for garage sale signs and Section 7-103B5 for real estate signs.)

L. Portable Signs. Notwithstanding any other provisions of these regulations and, in particular. Article 7, the following provisions apply to the use of portable signs:

1. A portable sign is defined as a temporary on-site sign designed in such a manner as to be readily movable and not permanently attached to the premises. such as A-frames or trailer signs, but not to include signs placed on vehicles. beacon lights and other similar signs. Removal of any wheels shall not change the definition of being readily moveable. Any such sign shall not exceed a height of 10 feet above grade level nor 60 square feet in gross surface area. Such signs shall not be used as advertising signs. (See Section 7-101A1 for Advertising Sign.)

2. All the general standards of Sections 7-102A through K are

applicable to portable signs. except that in Section 7-102K such signs may project over or be located on public easements, but not the public street right-of-way. No such signs shall be placed on the roof of structures.

3. Whereas portable signs are not required to set back any minimum distance from lot line in any zoning district, the Zoning Administrator shall. in his/her discretion. strictly enforce the traffic safety provisions of Section 7-102J1. especially at corner intersections and driveway entrances and exits.

4. In all zoning districts. except residential districts, portable signs are permitted: however. any such sign shall not be located closer than 50 feet to another such sign when measured along the frontage whether the latter is located on the same or another zoning lot. except that each business firm shall be permitted at least one such sign notwithstanding the 50 foot minimum spacing standard.

5. In all residential districts. Only portable signs are permitted which limit their messages to the following subjects

    a. Announcements of special occasions or activities of nonprofit organizations such as churches and fraternal and service clubs.

    b. Announcements related to personal or family events such as "Happy Birthday" and the like. The above signs are limited to a display period of not more than 15 days for any one announcement and only one sign at a time permitted on the premises of the party making the announcement.

6. In addition to the provisions of Sections 7-102D and E. strobe light sources or flashing bulbs or signs which create the illusion of movement shall not be permitted on portable signs in any district. Electrified portable signs shall not be connected to any electrical power source except during the hours when

the business. office or institution is open. Electrical lines shall not be permitted to lay on the ground where vehicular traffic or pedestrian passage is allowed and the use of extension cords for portable signs is prohibited. Ground Fault Circuit Interrupters (G.F.C.I.) are required on all electrified signs.

7. A zoning permit for each portable sign shall be obtained for all or a portion of each calendar year when the sign remains on the zoning lot. Permits in residential districts are not required which meet the criteria of Section 7-102L5 above. All portable signs shall bear an identification marker to indicate the owner's name and some system of identifying the individual sign, e.g. by number.

8. Any unauthorized portable sign placed on public property, including the public street right-of-way, is declared to be a public nuisance and be the cause of its removal and impoundment without notice. If not redeemed within 30 days by the owner paying a service charge, the County or City may dispose of the sign in any manner deemed appropriate. The Zoning Administrator may revoke the permit for any sign deemed to be in violation of this Section i.e., 7-102L, or of any condition on which the permit was based and order its removal within a reasonable period consistent with public safety.

M. Damaged or Unsafe Signs. The Zoning Administrator shall require the immediate repair or removal of any conforming or nonconforming sign or sign structure which has been damaged or deteriorated so as to become a public hazard. Such a sign or sign structure may be restored to its original condition without obtaining a zoning permit, unless the sign is replaced and, thus. must conform to the current regulations.

103 Exemptions.

A. The following signs shall be exempt from the requirements of this Article:

1. Signs of a duly constituted governmental body including

school districts such as traffic or similar regulatory devices, legal notices. warnings at railroad crossings, and other instructional or regulatory signs having to do with health. hazards. parking, swimming, dumping, etc.

2. Flags or emblems of a government or of a political. civic, philanthropic. educational or religious organizations. when displayed on private property.

3. Small signs. not exceeding five square feet in gross surface area. displayed on private property for the convenience of the public. including signs to identify entrance and exit drives, parking areas. one-way drives, rest rooms. freight entrances and the like.

4. Address numerals and other signs required to be maintained by law, rule or regulation; provided, that the content and size of a sign does not exceed such requirements.

5. Garage sale signs not exceeding four square feet in gross surface area. (See Section 7-102K for location on right-of-way.)

6. Memorial signs which are displayed on private property.

7. Scoreboards in athletic fields or stadiums.

8. Political campaign signs. not exceeding 32 square feet in gross surface area in the County jurisdiction and 16 square feet in a city, which are displayed on private property and not otherwise in the public right-of-way: provided, that they are removed 48 hours after a candidate is elected to office or is eliminated from further participation in the election as a candidate with similar provisions for bond issues and other ballot issues. Such signs may also be displayed as advertising signs where permitted by Section 7-104.

9. Ideological signs such as may pertain to religious or political expressions or personal beliefs when located on private property of the proponent and not otherwise in a public right-of-way, a sight obstruction in a vision triangle or on public property or structures such as utility poles.

B. The following signs are exempt from the zoning permit requirements of Section 7-100, but shall comply with all the other regulations imposed by this Article:

1. Nameplate signs not exceeding two square feet in gross surface area accessory to a residential building, including all types of manufactured and mobile homes.

2. Identification signs not exceeding 40 square feet in gross surface area, but not to be used as a home occupation sign.

3. Bulletin board signs not exceeding 40 square feet in gross surface area accessory to a church, private school or public or nonprofit institution.

4. Business signs when located on property used for agricultural purposes and pertaining to the sale of agricultural products produced on the premises.

5. Real estate signs not exceeding 12 square feet in gross surface area in agricultural districts and six square feet in all other districts which pertain to the sale or lease of the lot or tract or structure on which the sign is located, except for the provision of Section 7-102K.

6. Temporary signs which do not exceed 20 square feet in gross surface area and are displayed not more than four times per calendar year.

104 District Regulations.

A. A-1 and A-2 Agricultural Districts. (County jurisdiction)

1. Functional Types Permitted:
    a. Advertising signs.
    b. Bulletin board signs.
    c. Business signs pertaining to agricultural products produced on the premises. home occupations and other businesses.
    d. Construction signs.
    e. Identification signs.
    f. Nameplate signs.
    g. Real estate signs.
2. Structural Types Permitted:
    a. Ground signs.
    b. Pol e signs.
    c. Wall signs.
3. Number of Signs Permitted: One of each functional type per zoning lot.
4. Maximum Gross Surface Area.
    a. Advertising signs: 600 square feet.
    b. Bulletin board signs: 40 square feet.
    c. Business signs: Home occupations 4 square feet or the minimum required by state statutes; agricultural. 20 square feet; and other businesses. 100 square feet.
    d. Construction signs: 20 square feet.
    e. Identification signs: 15 square feet.
    f. Nameplate signs: Two square feet.

g. Real estate signs: 12 square feet.

5. Maximum Height: 15 feet, except 35 feet for advertising signs.

6. Required Setback: None.

7. Illuminati on: No sign shall be illuminated. except that advertising and bulletin board signs may be indirectly illuminated with incandescent or fluorescent light and business signs may be illuminated. but only during business hours.

B. **SR-1 Residential District and MH-1 Manufactured Home Subdivision District**. (County jurisdiction)

1. Functional Types Permitted:

   a. Bulletin board signs.

   b. Business signs pertaining to home occupations.

   c. Construction signs.

   d. Identification signs.

   e. Nameplate signs.

   f. Real estate signs.

2. Structural Types Permitted:

   a. Ground signs.

   b. Pole signs.

   c. Wall signs.

   d. Business signs pertaining to home occupations shall be affixed flush to the wall of a building.

   3. Number of Signs Permitted: One of each functional type per zoning lot.

4. Maxi mum Gross Surface Area.

   a. Bulletin board signs: 32 square feet.

b. Business signs pertaining to a home occupation only: Three square feet or the minimum required by state statutes.

c. Construction signs: 40 square feet.

d. Identification signs: 20 square feet.

e. Nameplate signs: Two square feet.

f. Real estate signs: Six square feet per lot: provided. that one sign not more than 100 square feet in area announcing the sale of lots and/or houses in a subdivision may be located on such development. Such sign shall be removed when 75% of the lots in the subdivision have been sold.

5. Maximum Height: 15 feet: provided. that signs associated with single and two-family dwellings and all types of manufactured and mobile homes shall not be located at a height greater than eight feet above ground floor elevation.

6. Required Setback: 10 feet from the front lot line. except name-plate signs on mailboxes and temporary real estate and garage sale signs. and none from the side yard setbacks.

7. Illumination: No sign shall be illuminated, except that bulletin board and identification signs may be indirectly illuminated with incandescent or fluorescent light.

C. **V -1 Village District.** (County jurisdiction)

1. No restrictions placed on signs.

D. **C-1 General Commercial District.** (County jurisdiction)

1. Functional Types Permitted: Any type listed in Section 7-101A.

2. Structural Types Permitted: Any type listed in Section 7-101B.

3. Number of Signs Permitted: One of each functional type per zoning lot.

4. Maximum Gross Surface Area: One square foot of sign area for each one-foot lineal street frontage, provided that no single sign shall

exceed a gross surface area of more than 100 square feet. except for advertising signs that shall not exceed 300 square feet.

5. Maximum Height: 30 feet. except that roof signs may not exceed a height of five feet above the high est point of the roof.

6. Required Setback: No minimum required.

7. Illumination: Illuminated signs shall be permitted.

E. **I-1 Industrial District.** (County jurisdiction)

1. Functional Types Permitted:Any types listed in Section 7-101A.

2. Structural Types Permitted: Any types listed in Section 7-101B.

3. Number of Signs Permitted: One of each functional type per zoning lot.

4. Maximum Gross Surface Area: Two square foot of sign area for each one-foot lineal street frontage; provided that no single sign shall exceed a gross surface area of more than 120 square feet, except for advertising signs that shall not exceed 400 square feet.

5. Maximum Height: 35 feet, except that roof signs may not exceed a height of five feet above the highest point of the roof.

6. Required Setback: No minimum required.

7. Illumination: Illuminated signs shall be permitted.

F. **R-1 and R-2 Residential Districts.** (City jurisdiction)

1. Functional Types Permitted:

a. Bulletin board signs.

b. Busi ness signs pertaining to home occupations.

c. Construction signs.

d. Identification signs.

e. Name plate signs.

f. Real estate signs.

2. Structural Types Permitted:

    a. Ground signs.

    b. Pole signs.

    c. Wall signs.

    d. Business signs pertaining to home occupations shall be affixed flush to the wall of a building.

3. Number of Signs Permitted: One of each functional type per zoning lot.

4. Maximum Gross Surface Area.

    a. Bulletin board and identification signs: 32 square feet in the R-1 District and 40 square feet permitted in the R-2 District.

    b. Business signs pertaining to a home occupation only: Two square feet or the minimum required by state statutes.

    c. Construction signs: 40 square feet.

    d. Nameplate signs: Two square feet.

    e. Real estate signs: Six square feet per lot; provided. that one sign not more than 100 square feet in area announcing the sale of lots and/or houses in a subdivision may be located on such development. Such sign shall be removed when 75% of the lots in the subdivision have been sold.

5. Maximum Height: 15 feet; provided, that signs associated with one and two-family dwellings and all types of manufactured and mobile homes shall not be located at a height greater than eight feet above ground floor elevation.

6. Required Setback: 10 feet from the front lot line. except temporary real estate and garage sale signs. and none from the side yard setbacks.

7. Illumination: No sign shall be illuminated. except that bulletin board and identification signs may be indirectly illuminated with incandescent or fluorescent light.

G. **B-1 Central Business District.** (City jurisdiction)

1. Functional Types Permitted:Any type listed in Section 7-101A. including advertising signs when the latter is approved as a conditional use by the Board of Zoning Appeals.

2. Structural Types Permitted: Any type listed in Section 7-101B.

3. Number of Signs Permitted:

   a. Ground and pole signs: One of each functional type per zoning lot.

   b. Other structural types permitted: No limitation.

4. Maxim um Gross Surface Area: Two square feet of sign area for each one-foot lineal street frontage; provided. No single sign shall exceed a gross surface area of 100 square feet. except for advertising signs that shall not exceed 200 square feet.

5. Maximum Height: 25 feet. except that roof signs may not exceed a height of five feet above the highest point of the roof line.

6. Required Setback: No minimum required.

7. Illumination: Illuminated signs shall be permitted.

H. **I-1 Industrial District.** (City jurisdiction)

1. Functional Types Permitted:Any types listed in Section 7-101A.

2. Structural Types Permitted: Any types listed in Section 7-101B.

3. Number of Signs Permitted:

   a. Ground and pole signs: One of each functional type per zoning lot.

   b. Other structural types permitted: No limitation.

4. Maxi mum Gross Surface Area: Three square feet of sign area for each one-foot lineal street frontage; provided. No single sign shall exceed a gross

surface area of 200 square feet. except for advertising signs that shall not exceed 300 square feet.

5. Maximum Height:

   a. Wall and roof signs: Five feet above the highest point of the roof line on which such sign is located.

   b. All other signs: 30 feet.

6. Required Setback: No minimum required.

7. Illumination: Illuminated signs shall be permitted.

ARTICLE 8. NONCONFORMING LOTS, STRUCTURES AND USES

100 **Purpose.** The purpose of this Article is to (1) provide for the regulation of nonconforming lots. buildings. structures and uses: and (2) specify those circumstances and conditions under which such nonconformities shall be permitted to continue. The right to continue a nonconforming lot. building, structure or use shall not be affected by a change in ownership or operator of the structure or use unless such ownership or operator is a condition attached to an approval for a special or conditional use. A definition of such nonconformities are as follows: (See Section 8-107 for Registration of Nonconformities and Exemptions.)

A. Nonconforming Lot of Record: A zoning lot which is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations and such lot now neither complies with the lot area requirements or the width for any permitted uses in the zoning di strict in which it is located.

B. Nonconforming Structure: An existing building or structure which does not comply with the maximum lot coverage and height or the minimum yard requirements which are applicable to new structures in the zoning district in which it is located.

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

D. Nonconformity; A nonconforming lot. use or structure that does not comply with currently applicable regulations. but that complied with zoning regulations in effect at the time it was legally established. (See Sections 8-100A. B and C.)

101 **Nonconforming Lots or Acre size of Record.**

A. In the County Jurisdiction.

1. Notwithstanding the regulations imposed by any other provision of these regulations. if the lot area, width and depth

or all three of a zoning lot is less than the minimum required by these regulations for the district within which it is located, any of the following specified lots or parcels of land may be used as a building site for a single-family detached dwelling or any type of manufactured or mobile home when such uses are permitted by the applicable district regulations and **meet the provisions of the County Sanitary Code**; provided, that the requirement of Section 8-101A2 is met.

a. Any lot shown on a plat which has been legally platted or replatted and recorded prior to the effective date of these regulations.

b. Any lot which meets the definition in Section 8-100A for a nonconforming lot of record.

c. Any lot or parcel of land where the deficiency is due exclusively to the condemnation of a portion thereof for a public purpose or the sale there of to any agency or political subdivision of a city, township. county, state or federal government.

2. Construction permitted by Section 8-101A shall comply with all of the regulations except minimum lot area, width and depth applicable in the zoning district in which the lot is located: provided, that the width (w) of any side yard required must not be less than that derived by applying the following **formula**:

Minimum side yard required Actual lot width x by district regulations

w = -

Minimum lot width required by district regulations

B. In the City Jurisdiction.

1. Notwithstanding the regulations imposed by any other provision of these regulations. a single-family detached

dwelling or any type of manufactured or mobile home which is a permitted use by the applicable district regulations and complies with the restrictions in Section 8-101B2 may be located on a lot(s) in the same ownership that is not less than 48 feet in width with public sewer and public water or an on-site water well and septic tank system that consists entirely of a tract of land that:

a. Has less than the prescribed minimum lot area. width or depth, or all three: and

b. Meets the definition in Section 8-100A for a nonconforming lot of records.

2. Construction permitted by Section 8-101B1 shall comply with all of the regulations except lot area, width and depth applicable to a single-family detached dwelling or any type of manufactured or mobile home in the zoning district in which the lot in question is located; provided, however, that the following side yard requirements shall apply in place of the side yard requirements otherwise applicable:

a. The structure shall be placed on the lot so as to provide a yard on each side of the dwelling.

b. The sum of the widths of the two side yards on each lot shall be not l ess than the small er of:

(1) 20% of the width of the lot, or

(2) the minimum total for both side yards prescribed by the bulk regulations for the zoning district.

c. In any case. Neither side yard resulting from the methods permitted in Section 8-101B2b, shall be less than five feet wide.

d. When a yard is also considered to be a front yard on a corner lot. one of the front yards comprising part of the lot width may be reduced to 15 feet: provided. that a

driveway to a parking space must maintain a length of at least 20 feet from the front lot line.

C. In City and County Districts Other than Residential Districts.

1. Notwithstanding the regulations imposed by any other provision of these regulations. A structure designed for any permitted use may be erected on a lot of the type described in Section 8-101 A1 or B1.

2. Construction permitted by Section 8-101C1 shall comply with all the regulations except minimum lot area. width and depth applicable in the zoning district in which the lot in question is located: provided. that the width of any side yard must not be less than that derived by applying the following **formula (wherein the width of any side yard required= w):**

$$w = \frac{\text{Actual lot width} \times \text{Minimum side yard required by district regulations}}{\text{Minimum lot width required by district regulations}}$$

102 Nonconforming Structures.

A. Authority to Continue. Any structure which is devoted to a use which is permitted in the zoning district in which it is located. but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations. may be continued. so long as it remains otherwise l awful. subject to the restrictions in Section 8-102B through 8-102D.

B. Enlargement. Repair or Alterations. Any such structure described in Section 8-102A may be enlarged. maintained. repaired or structurally altered: provided. however. that no such enlargement. maintenance. repair or alteration shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such

structure. except that as to structures located on a lot that does not comply with the applicable lot size requirements. the side yard requirements shall be determined by Section 8-101B.

C. Damage. If any structure described in Section 8-102A is damaged to the extent of more than 50% of its fair market value. such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located: provided, that structures located on a lot that does not comply with the applicable lot size requirements shall not in any event be required to provide a side yard that exceeds the yard requirements in Sections 8-101B. When a structure is damaged to the extent of 50% or less of its fair market value. No repairs or restoration shall be made unless a zoning permit is obtained and restoration actually begun within one year after the date of such partial destruction and is diligently pursued to completion. If the applicant is aggrieved by the decision of the Zoning Administrator in approving the percentage of damage to the value of the structure based on data submitted by the applicant. An appeal may be made to the Board of Zoning Appeals for determination. (See Section 8-105 for Nonconforming Nonresidential Structures and Uses.)

D. Moving. No structure described in Section 8-102A shall be moved in whole or in part for any distance whatever. to any other location on the same or any other lot, unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved. (See Section 3-103M for Moving Structures.)

103 Nonconforming Uses.

A. Authority to Continue. Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use of land, may be continued. so long as other-wise lawful. subject to the regulations contained in Sections 8-103B through 8-103J.

B. Ordinary Repair and Maintenance.

1. Normal maintenance and incidental repair or replacement,

installation or relocation of nonbearing walls, nonbearing partitions. fixtures. wiring or plumbing may be performed on any structure that is devoted in whole or in part to a

nonconforming use; provided. however. that this subsection shall not be deemed to authorize any violation of Sections 8-103C through I of these regulations.

2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition provided that such restoration will not be in violation of Section 8-103F of these regulations.

C. Structural Alteration. No structure that is devoted in whole or in part to a nonconforming use shall be structurally altered unless the entire structure and use thereof shall thereafter conform to all regulations of the zoning district in which it is located.

D. Extension.

1. Extension of a nonconforming use is permitted within a nonconforming structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of these regulations or on the effective date of the original County Zoning Regulations or a subsequent amendment heretofore that caused such use to become nonconforming: provided. however. that no structural alterations shall be made unless such changes. and the use there of. conform to the regulations of the district in which the structure is located.

2. Extension of a nonconforming use of a part of a structure is not permitted if all or substantially all the structure is designed or intended for a use which is permitted in the district in which the structure is located. nor shall the use be changed to any other nonconforming use.

3. Extension of a nonconforming use is not permitted too any

structure or land area other than the one actually occupied or used by such nonconforming use on the effective date of these regulations or on the effective date of the original County Zoning Regulations or a subsequent amendment heretofore that caused such use to become nonconforming.

E. Enlargement. No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.

F. Damage. If any structure that is devoted as a whole or in part to a nonconforming use is damaged to the extent of more than 50% of its fair market value. Such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage is 50% or less of the fair market value. No repairs or restoration shall be made unless a zoning permit is obtained, and restoration is actually begun within one year after the date of such partial damage and is diligently pursued to completion. If the applicant is aggrieved by the decision of the Zoning Administrator in approving the percentage of damage to the value of the structure based on data submitted by the applicant, an appeal may be made to the Board of Zoning Appeals for determination. (See Section 8-105 for Nonconforming Nonresidential Structures.)

G. Moving. No structure that is devoted in whole or in part to a nonconforming use shall be moved in whole or in part for any distance whatever. to any other location on the same or any other lot. unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. No nonconforming use of land shall be moved in whole or in part for any distance whatever. to any other location on the same or any other lot. unless such use shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. (See Section 3-103M for Moving Structures.)

H. Change in Use. If no structural alterations are made other than those

necessary to repair or maintain the structure as described in Section 8-103B1. A nonconforming use of a structure may be changed to another nonconforming use of the same or of a similar type of use or more restrictive use. Similarly, a nonconforming use of land not involving a structure or involving only an accessory structure may also be changed. when a nonconforming use has been changed to a more restrictive use or to any permitted use. It shall not thereafter be changed back to a less restrictive use or to a nonconforming use. In determining whether a change in use is the same. similar or more restrictive, the Zoning Administrator shall consider the changes in environmental factors such as outdoor storage, loading, traffic. parking, noise, lighting, air pollution. hours of operation. screening and other factors. as well as the provisions available in Section 8-105. (See Section 9-101A for Zoning Permits and Section 9-101B for Occupancy Certificates.)

I. Abandonment.

1. When a nonconforming use of land. not involving a structure. or involving only a structure which is accessory to the nonconforming use of land. is abandoned for a period of six consecutive months. Such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

2. When a nonconforming use of a part or all a structure which was designed and intended for any use which is permitted in the zoning district in which such structure is located. is abandoned for a period of 12 consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such structure shall comply with the regulations of the zoning district in which such structure is located.

3. When a nonconforming use of a part or all a structure which was not designed and intended for any use which is permitted in the zoning district in which such structure is located is

abandoned for a period of 12 consecutive months. Such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such structure shall comply with the regulations of the zoning district in which such structure is located.

J. Nonconforming Accessory Uses. No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

104 **Nonconforming Residential Structures.** Notwithstanding the provisions of Sections 8-103C, D and E, any structure which is devoted to a residential use, and which is located in a business or industrial district. may be structurally altered. extended. expanded and enlarged; provided. That after any such alteration. extension. expansion or enlargement. Such structure shall not be used to accommodate a greater number of dwelling or lodging units than such structure accommodated prior to any such work unless specifically permitted by the district.

105 **Nonconforming Nonresidential Structures and Uses.** Notwithstanding any other provisions of these regulations and. in particular. Sections 8-102B and C and 8-103C, D, E, and F, nonconforming nonresidential structures and uses that existed on the day prior to the effective date of these regulations. may apply on a one time basis only to the Board of Zoning Appeals for a conditional use to structurally alter, enlarge or recon- struct after damage, or make extensions to structures or uses including the use of additional land when properly zoned for the use, so long as in the opinion of the Board under stated conditions that the effect upon adjacent areas is protected to the extent feasible and the public interest served. (See Section 10-107C6 for Authorized Variances.)

106 **Discontinuance of Nonconforming Uses.** In the County jurisdiction. the nonconforming use of a building or premises for the purpose of (1) dismantling or wrecking automobiles or other vehicles of any kind or (2) storing junk. scrap iron and scrap material including dismantled and wrecked automobiles or other vehicles and which are located in other than the I-1 Industrial District, shall be discontinued and the buildings or premises thereafter devoted to a use permitted in the district in which such buildings

or premises are located within five years from the effective date of April 22. 1998.

107 **Registration of Nonconformities and Exemptions.** (See Sections 8-100 for Nonconformities and 3-100E for Exemptions.)

A. Purpose. Registration of nonconformities and exemptions. Among other purposes, is to provide a property owner with a record of their nonconformity or exemption which may be in effect for many years. Such a record is very desirable since most nonconformities or exemptions are established in the past and the availability of personal witnesses and written documentation to confirm their status becomes more difficult due to the passage of time. This is particularly important since the person claiming the nonconformity or exemption has the burden to prove their claim by the preponderance of the evidence. Registration can be especially useful to property owners who may have a nonconformity or exemption created by changing their zoning status from the unincorporated area of the County to City regulations.

B. Rights Conditioned. A lawfully established nonconformity including exemptions is a vested right protected by due process which is sometimes referred to as being "grandfathered-in". In order to establish such a right. It is essential that it be created or commenced prior to the enactment of the regulations which restricted its establishment. A nonconformity or exemption which violated the zoning regulations at its inception has no lawful right to continue. Once the validity of the nonconformity or exemption has been determined. It has the right to be sold. inherited. transferred or assigned unless restricted by a condition attached to a special or conditional use. Certain limitations. however. may be placed on the expansion. repair, maintenance and continuance of such nonconformities or exemption as may be determined by the provisions of Article 8 in these regulations. For example. continuance may be subject to abandonment or limited amortization of certain uses.

C. Registration Process. The Zoning Administrator shall establish a

process for registration of nonconformities and exemptions and a system for making determinations thereof and keeping records of the same. While there shall be no deadline for registration, property owners anticipating the need for registration should do so at their earliest convenience.

D. Registration Determination. The Zoning Administrator shall determine the qualifications of the lot, use or structure for registration as to its legal. nonconforming status. Such determination in writing shall be based on the evidence submitted by the property owner requesting the registration.

E. Appeal. An aggrieved party may appeal to the Zoning Administrator's determination whether to register or not register the nonconformity or exemption to the Board of Zoning Appeals. (See Section10-106 pertaining to Appeals.)

108 Status of Existing Special and Conditional Uses.

A. The following procedures are to be followed to determine the status of existing special and conditional uses after their reclassification as lawful, permitted. special or conditional uses in these regulations to avoid nonconformities and to provide equitable conversions of such uses:

1. Where a use existed prior to the effective date of these regulations and was previously permitted only as a special use or as a conditional use. i.e. an exception approved by the Board of Zoning Appeals, such uses shall not be deemed to be nonconforming but shall. without further action. be deemed to be a lawful special or conditional use as now classified with the same conditions applicable as originally established. unless reclassified now as a permitted use.

2. Where a use existed prior to the effective date of these regulations and any prior regulations and was or is now classified as a special use or as a conditional use. It shall be considered to be lawful, conforming special or conditional use. Enlargement. Extension or alterations to existing

structures or land improvements for expansion of such lawful uses may be made within the area of the zoning lot which was actually used for such uses on the effective date of these regulations and shall be subject to all requirements set forth in these regulations as a permitted use.

ARTICLE 9. ADMINISTRATION AND ENFORCEMENT

100 **Office of the Zoning Administrator.** A Zoning Administrator(s) shall be appointed by the Governing Body. The Zoning Administrator(s) and clerical assistance as shall be approved from time to time shall administer and enforce these regulations. except for those duties specifically assigned to the Clerk.

A. Duties of the Zoning Administrator. (See Section 9-102 for Enforcement and Liability.)

1. Approve and issue all zoning permits and occupancy certificates and make and maintain records thereof.

2. Conduct inspections of buildings, structures and uses of land as necessary to determine compliance with the provisions of these regulations.

3. Maintain a set of administrative forms to assist applicants and to process the cases considered by the Planning Commission. Board of Zoning Appeals and Governing Body.

4. Receive. file and forward to the Planning Commission the applications and records for all amendments and special uses which are initially filed with the Zoning Administrator.

5. Receive. file and forward to the Board of Zoning Appeals the applications and records for all variances and conditional uses which are initially filed with the Zoning Administrator and forward all records of appeals to the Chairperson of the Board.

6. Maintain permanent and current public records of the zoning regulations. including but not limited to all official zoning maps. amendments. special uses. appeals. variances. conditional uses and applications thereof and records of hearing thereon.

7. Provide such technical and clerical assistance as may be required by the Planning Commission. the Board of Zoning Appeals. the Governing Body and other agencies and officials in the exercise of their duties relating to these regulations.

8. Maintain for distribution to the public a supply of the current zoning regulations. zoning map(s) and any rules of the Planning Commission and the Board of Zoning Appeals. A fee may be charged to defray the cost of printing and distribution.

9. Maintain the official copy of the zoning map(s) showing the district boundaries. Such map(s) for the unincorporated area of the County shall be marked "Official copy of zoning district map(s) incorporated into zoning regulations by adoption of Resolution No._____ by the Board of County Commissioners of Stafford County on the day of _____ 20___" For the City such map shall be marked, "Official copy of zoning district map incorporated into zoning regulations by adoption of Ordinance No. _____ by the City Council of the City of Hudson on the _____of _____, 20__ ." All maps shall be open to inspection and available to the public at all reasonable business hours. The applicable map shall be signed by the Chairman of the Board of County Commissioners or the Mayor and attested to by the respective Clerk. Periodic changes to the map(s) shall be noted by a revision date.

B. Duties of the Clerk. The Clerk shall maintain certain official records and carry out certain responsibilities in the administration of these regulations as follows:

1. That not less than three copies of these model regulations shall be marked by the Clerk as "Official Copy as Incorporated by (Resolution No._____) (Ordinance No._____)" [i.e. the respective resolution or ordinance approved by the Governing Body] and all sections or portions thereof intended to be omitted clearly marked to show any such omissions or showing the sections. articles, chapters. parts or portions that are incorporated and to which shall be attached a copy of the applicable incorporating resolution or ordinance. Such copies maintained by the Clerk shall be open to inspection and available to the public at all reasonable business hours.

2. That the Clerk supply the applicable law enforcement

department(s), court(s). Zoning Administrator(s), attorneys and all administrative departments of the County and City charged with the enforcement of these regulations official copies similarly marked as described in Section 9-100B1. Subsequent amendments to these regulations shall be appended to such copies.

3. That such clerical assistance be provided by the Clerk to the Governing Body as to facilitate and record the actions of the Governing Body in the exercise of their duties relating to these regulations.

101 Zoning Permits and Occupancy Certificates. *

A. Zoning Permits.

1. Unless a zoning permit shall first be obtained from the Zoning Administrator. the construction. reconstruction. moving or structural alteration of any building or structure or the improvement of land prior to its use or the use of any land or structure being changed to any other use, shall not be commenced. For permits required on accessory uses. temporary uses. home occupations. plans for parking and loading space and signs. **see**

* The County or City may issue zoning permits and occupancy certificates concurrently with the process of issuing building and occupancy permits under applicable building codes.

Articles 5. 6 and 7. Such permits shall not be issued by any other official. employee, department. board or agency of the County or City, except as provided for as a temporary permit in Section 6-101. Any zoning permit issued in conflict with the provisions of these regulations shall be null and void. (See Section 8-103H for Change in Use.)

2. Except for a continuation of an existing use or occupancy, accessory structures or uses. or additions to existing structures or uses. permits must also meet the requirements of any applicable Subdivision Regulations and. thus. shall not

be issued on land which is not shown on a recorded plat or replat. or a lot split or exempted from the platting requirements. If platting is not required. all the public improvements necessary to carry out the requested permit nevertheless may be required. including dedications in lieu of platting such as for easements and additional rights-of-way.

3. No principal or accessory building or structure or use shall be permitted to locate on or project over any platted or recorded public easement or over any known utility installation. unless (1) as a sign permitted by Section 7-102K or. (2) as an accessory structure or use which is moveable. relocatable or poses no significant problem to the maintenance of existing public improvement installations or to such future installations. Ground level extensions such as concrete slabs or other permanent-type materials are not permitted in or on a public easement except as extensions of parking spaces or driveways for which a zoning permit has been or is being issued. In any event. when such structures or uses are permitted to be located on or project over such easements. The property owner assumes the risk and liability for any reconstruction or replacement necessary including fences if any maintenance or other improvements are required by a governmental agency or a utility provider. (See Section 3-103I for Protection of Utility Lines.)

4. A zoning permit is not initially required for grading and/or excavating a proposed construction site. (**Note: If the site is located in or adjacent to a water body, regulations of the Water Division of the Kansas Department of Agriculture may apply.)**

5. Application. Every application for a zoning permit shall be accompanied by the following:

   a. A drawing or copy of the recorded plat. in duplicate. of the piece or parcel of land. lots(s). block(s). parts or portions thereof. drawn to scale showing the actual

dimensions of the zoning lot(s). including any easements thereon.

b. A drawing. in duplicate, drawn to scale and in such form as may, from time to time, be prescribed by the Zoning Administrator. showing the location. ground area. height and bulk of (1) all present and proposed structures, (2) driveways, parking spaces and loading areas. (3) building setback lines in relation to lot lines, (4) waste disposal areas, (5) use to be made of such present and proposed structures on the land. and (6) such other information as may be required for the proper enforcement of these regulations.

One copy of such drawings shall be retained by the Zoning Administrator as a public record.

6. Issuance. A zoning permit shall be either issued or disapproved by the Zoning Administrator within 10 days after the receipt of an application thereof or within such further period as may be agreed to by the applicant. When the Administrator refuses to issue a zoning permit, he/she shall advise the applicant in writing of the reasons for the disapproval.

7. Period of Validity. A zoning permit shall become null and void 180 days after the date on which it is issued. unless within said period construction. reconstruction, moving or structural alteration of a structure is commenced or a use is commenced. If the construction or work is abandoned or suspended for any 180-day period after such a permit is issued. Then application must be made to the Zoning Administrator for an extension of time to continue the project. The Administrator may grant reasonable extensions of time provided no changes have been made to any applicable regulations. If such changes have occurred. application must be made for a new permit based on the provisions of the new

or amended regulations in order to continue the project, unless Section 2-101G applies pertaining to vesting of single-family residential developments. (See Section 2-101F for Effect of Existing Permits.)

B. **Occupancy Certificates.** No structure or addition thereto constructed, reconstructed. moved or altered after the effective date of these regulations shall be occupied or used for any purpose; and no land vacant on the effective date of these regulations shall be used for any purpose; and no use of any land or structure shall be changed to any other use, unless an occupancy certificate shall first have been obtained from the Zoning Administrator certifying that the proposed use or occupancy complies with all the provisions of these regulations. (See Section 8-103H for Change in Use.)

1. Application. Every application for a zoning permit shall be deemed to be an application for an occupancy certificate. Every occupancy certificate shall be in such form and contain such information as the Administrator shall provide by general rule.

2. Issuance.

    a. No occupancy certificate for a structure or addition thereto constructed. reconstructed. moved or structurally altered or for the new or changed use of any structure or l and shall be issued after the effective date of these regulations until such work has been completed and the premises inspected and certified by the Zoning Administrator to be in full and complete compliance with the plans and specifications upon which the permit was issued including the requirements for utilities. roads. streets and other public improvements in any applicable Subdivision Regulations which must either be installed or guaranteed. Direct access must be available from the frontage of each zoning lot to an open public road or street or otherwise the improvement of the road or

street must be guaranteed by such methods as stated in any applicable Subdivision Regulations.

b. An occupancy certificate shall be issued, or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued within 10

days after the receipt of an application therefore or after the Zoning Administrator is notified in writing that the structures or premises are ready for occupancy or use. Pending the issuance of a permanent occupancy certificate. A temporary occupancy certificate may be issued to be valid for a period not to exceed six months from its date pending the completion of any addition or improvement(s) or during partial occupancy of the premises provided. satisfactory guarantees are submitted including the possible use of performance bonds or escrow accounts.

C. Agricultural Compliance Certificate. Completion of an agricultural compliance certificate may be requested by the Zoning Administrator when such information is needed to determine the agricultural exemption status described in Section 3-100E4. No fees shall apply to obtaining this certificate from the Zoning Administrator.

102 Enforcement and Liability.

A. It shall be the duty of the Zoning Administrator or any deputies working under his or her direction to enforce the provisions of these regulations in consultation with the applicable County or City Attorney in the following manner:

1. Refusing to issue any zoning permit or occupancy certificate for any building or structure or use of any premises which would violate any of the provisions here in.

2. To revoke a zoning permit and issue a stop order at any time for a building or structure or use for which the same was issued when it shall appear (1) that there is a departure from the

plans. specifications or conditions as required under terms of the permit; (2) that the same was procured by false representation: (3) that it was issued by mistake. or (4) that it violates any provisions of the zoning regulations.

3. To cause any building, structure. place or premises to be inspected and examined as required by these regulations and to order in writing the remedying of any condition found to exist therein or threat in violation of any provisions herein.

4. To institute any appropriate action or proceedings to prevent such unlawful action or use or to restrain. correct, or abate such violation on or about the premises of any building or structure which is constructed, built. moved, structurally altered or reconstructed or land is used in violation of any provisions here in.

B. The Zoning Administrator or designee charged with the enforcement of these regulations, acting in good faith and without malice in the discharge of the duties described herein. shall not be personally liable for any damage that may accrue to persons or property as a result of any act or by reason of an act or omission in the discharge of such duties. A suit brought against the Administrator because of an act or omission performed by the Administrator i n the enforcement of any provision of these regulations or other pertinent laws or resolutions implemented through the enforcement of these regulations shall be defended by the applicable County or City until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by the respective County or Ci ty. **(See K.S. A. 75-6101. et seq. in general and K. S. A. 75-6109 specifically.)**

103 **Violations.** (See Section 5 of Resolution Incorporating and Adopting Zoning Regulations for the County in Appendix p. A-3 for penalties and remedies. For the City, see Sections 9-103 A and B below for penalties and remedies.)

A. Penalties. **Pursuant to K.S.A. 12-761**, as amended, any violations of these regulations shall be deemed to be a misdemeanor. The owner or agent of a building, structure or premises in or upon which a

violation of any provision of these regulations has been committed or shall exist or the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist or the agent. architect. building contractor or any other person

who commits. takes part or assists in any violation or who maintains any building, structure or premises in or upon which a violation has been committed or shall exist. shall be punished by a fine 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.

B. Remedies. In case any building or structure is erected. constructed. reconstructed. structurally altered, converted or maintained, or any building. structure or land issued or is proposed to be used in violation of these regulations. the appropriate authorities of the City of Hudson. in addition to using other remedies. may institute injunction. mandamus or other appropriate actions or proceeding to prevent such unlawful erection. construction. reconstruction. alteration. conversi on. maintenance or to correct or abate such violation. or to prevent the occupancy of such building, structure or land. In addition to the city, any person. the value or use of whose property is or may be affected by such violation. shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these regulations and to abate nuisances in violation thereof.

104 **Fees.** For purposes of wholly or partially defraying the costs of the administrative and enforcement provisions described in these regulations. including publication costs. the applicant upon filing an application for an amendment. special use. appeal. conditional use. variance or a zoning permit including occupancy certificate. shall pay the Clerk a fee according to the fee schedule approved by the Governing Body. No part of such fee shall thereafter be refunded except for a zoning permit which is not approved.

105 **Reports.** The Zoning Administrator shall periodically report verbally or in writing to the Governing Body and the Planning Commission a summary of all zoning permits issued during the preceding period. giving details of any permitted variations. as well as the current status of all applications in

process for amendments. special uses. appeals. conditional uses and variances. Such a report shall include comments on any problems encountered in the administration or enforcement of these regulations which may especially be of use at the annual review established by Section 11-105.

ARTICLE 10. BOARD OF ZONING APPEALS

100 **Authorization.** The Planning Commission as previously established by the Governing Body has been designated to also serve concurrently as the joint Board of Zoning Appeals as prescribed **by K.S.A. 12-759**. as amended. and hereinafter in this Article and in these regulations will be referred to as the "Board."

101 **General Procedures.** All members of the Planning Commission are voting members of the Board and shall serve without compensation. but may be reimbursed for expenses when authorized by the Governing Body. All officers of the Commission are officers of the Board including the Recording Secretary. Public records shall be kept of all official actions of the Board which shall be maintained separately from the Commission by the Recording Secretary. The Board shall keep minutes of its proceedings showing evidence presented, findings of fact. decisions and the vote of each member upon each question. If a member is absent. abstaining or disqualified from voting, such fact should be indicated. Special meetings shall be held at the call of the Chairperson and at such other times as the Board may determine in its bylaws. Board meetings may be held separately from a Commission meeting or in conjunction with such a meeting wherein the Commission may recess a portion of its meeting to conduct business of the Board and to reconvene to continue the Commission agenda. When a quorum is declared present. all actions of the Board including appeals. variances and conditional uses as exceptions shall be made by motion and decided by a majority vote of the members present and voting. The Board shall adopt rules for its operation in the form of bylaws which shall include hearing procedures and will not be in conflict with the Interlocal Agreement designating the Planning Commission as the Board. the applicable state statutes and the provisions of these regulations. Such bylaws shall be subject to the approval of the Governing Body. The Governing Body shall establish a scale of reasonable fees to be paid in advance by the appealing party.

102. **Jurisdiction.** The Board shall have the following jurisdiction and authority as a quasi-judicial body:

A. To hear and decide appeals where it is alleged there is error in any

order. requirement, decision or determination (all hereinafter referred to collectively as "decision") made by the Zoning Administrator in the enforcement of these regulations subject to the procedure and standards set out in Section 10-106.

B. To hear and decide on variances from specific terms of these regulations subject to the procedure and standards set out in Section10-107.

C. To hear and decide on conditional uses as exceptions subject to the procedure and standards set out in Section 10-108.

103. **Notice of Hearing.** For the hearing on each appeal for a decision. variance or conditional use as an exception. public notice of the date. time and place of the hearing. the legal description or a general description sufficient to identify the property under consideration. and a brief description of the subject of such hearing shall be published once in the official newspaper so that **at least 20 days shall elapse** between the date of such publication and the date for the hearing. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available when only a general description of the property is provided in the notice. A copy of such notice shall be mailed to each party making the appeal and to the Secretary of the Planning Commission. The Board shall also provide notice to all owners of record of real property located within at least 1,000 feet of the property under consideration which is outside of any city and for 200 feet inside any city which is within the notification area. In any event. all the owners of property adjacent to any land contiguously owned by the applicant outside of the property under consideration. shall be notified. Conversely, a notice shall be provided to all owners of record of real property located within at least 200 feet of the property under consideration which is inside the City. If the applicant's property is located adjacent to the city limits. the area of notification shall be extended to at least 1, 000 feet in the unincorporated area. Such notice shall be mailed so that **at least 20 days shall elapse** between the mailing date and the hearing date. A list of such owners of record of real property with their addresses and zip codes shall be provided by the applicant. Failure to receive such notice after it has been properly addressed and deposited in the mail shall not invalidate any subsequent action taken by the Board. If there is

no quorum present for the meeting or available at the time of the hearing, the Members in attendance may agree to hold another meeting in the future at a stated date. time. and place for which. when announced at the present meeting. No further public notice need be given. The Board may give additional notice to other persons as it may from time to time provide by its rules. Such rules may include requirements for additional notice to be provided for by the posting of signs on the property to be considered in the appeal application.

104 **Conduct of Hearing.** The Board shall select a reasonable time and place for the hearing on each appeal of a decision. variance or conditional use as an exception. All hearings shall be open to the public: however. when hearing such appeals the Board exercises quasi-judicial functions and. thus. may upon proper motion proceed to deliberate in closed session according to **K.S.A. 75-4318(a).** No binding action may be taken, and all voting must be conducted in an open meeting. Any person may appear and testify at a hearing, either in person or by a duly authorized agent or attorney. Every decision of the Board shall be filed without unreasonable delay with the Zoning Administrator and shall be open to public inspection during reasonable business hours.

105 **Finality and Judicial Review of Decisions.** Any order or determination of the Board on an appeal for a decision. a variance or a conditional use as an exception. shall be final decisions and shall be subject to judicial review. but not appealable to the Planning Commission or the Governing Body. Any person. official or governmental agency, jointly or separately dissatisfied by any decision of the Board. may present to the County District Court. a petition. duly verified. stating that such decision is illegal in whole or in part. specifying the grounds of the illegality and asking for relief there from based on a determination of the reasonableness of any such order or determination. Such petition shall be filed with the Court **within 30 days** after the date of filing the final decision with the Zoning Administrator.

106 **Appeals.** An appeal from the decision of the Zoning Administrator with respect to the interpretation. application or enforcement of these regulations may be taken to the Board by any person aggrieved. or by any officer of the

County or City, or any governmental agency or body affected by any decision of the Zoning Administrator.

A. Time for Appeals. Appeals shall be made **within 30 days** after a decision has been made by the Zoning Administrator by filing an application for appeal. Upon the Chairperson's receipt of an

application for appeal and notification to the Zoning Administrator. The Administrator shall forthwith transmit to the Chairperson all of the papers constituting the record upon which the decision being appealed was based.

B. Application. An application for an appeal shall (1) be filed with the Chairperson. (2) specify the grounds for such an appeal. (3) include the legal description of any property involved with the appeal. (4) be accompanied by an ownership list as required by Section 10-103 and the filing fee. and (5) provide such additional information as may be prescribed by rule of the Board.

C. Stay of Proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board. after the application for appeal has been filed. that by reason of facts stated in the certificate a stay would. in his opinion. cause imminent peril to life or property. In such cases. The proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on petition with notice to the Zoning Administrator and on the basis of due cause shown.

D. Hearing and Notice. A hearing on the application for such an appeal shall be held and notice thereof given as specified under Sections 10-103 and 104 and which are consistent with the general procedures and records required by Section 10-101.

E. Decision. The Board may affirm or reverse. wholly or partly or may modify the order. requirement. decision or determination appealed from. and may make such order, requirement. decision or determination ought to be made. And to that end, we shall have all the powers of the Zoning Administrator. and may issue or direct the issuance of a zoning permit and/or occupancy certificate. No

conditions can be attached to such a decision. unless the Zoning Administrator was equally permitted to attach such conditions by these regulations. The Board shall render a written decision in the form of a resolution on the appeal without unreasonable delay after the close of a hearing and. in all cases. **within 45 days** after the closing of the hearing.

107 **Variances.** The Board may authorize such variances in terms of these regulations as will not be contrary to the public interest and provided that the spirit of the regulations shall be observed. Public safety and welfare secured, and substantial justice done. Variances may be authorized only in those specific instances enumerated in Section 10-107C and then only when the Board has made findings of fact based upon the standards set out in Section 10-107D that owing to special conditions a literal enforcement of the provisions of these regulations will. in an individual case. result in unnecessary hardship for the owner. lessee or occupant of land or structures. According to **K.S.A. 12-759(e).** any such variance shall not permit any use not permitted by these regulations in the zoning district in which the variance is requested.

A. Application. An application for a variance shall (1) be filed with the Zoning Administrator. (2) provide the legal description of the property involved with the variance. (3) be accompanied by an ownership list as required by Section 10-103 and the filing fee. And (4) contains the following information as well as such additional information as may be prescribed by rule of the Board:

1. The particular requirements of these regulations which prevent the proposed use or construction;

2. The characteristics of the subject property which prevent compliance with the requirements of these regulations;

3. The reduction of the minimum requirements of these regulations which would be necessary to permit the proposed use or construction;

4. The particular hardship which would result if the particular requirements of these regulations were applied to the subject property; and

5. Submit a sketch drawn to scale showing the lot(s) included in the application. the structures existing thereon and the structures proposed that necessitate the request.

B. Hearing and Notice. A hearing on the application for such a variance shall be held and notice thereof given as specified under Sections 10-103 and 104 and which are consistent with the general procedures and records required by Section 10-101.

C. Authorized. Variances from the provisions of these regulations shall be granted by the Board only in accordance with the standards set out in Section 10-107D. and may be granted only in the following instances and in no others:

1. To vary the applicable minimum lot area. lot width and lot depth requirements.

2. To vary the applicable bulk regulations, including maximum height and minimum lot coverage and yard requirements.

3. To vary the dimensional provisions for permitted obstructions in required yards including fences in Sections 3-103F.

4. To vary the applicable number of required off-street parking and the amount of off-street loading requirements of Article 5.

5. To vary the applicable dimensional sign provisions of Section 7-102 regarding general standards and Section 7-104 regarding district regulations.

6. To vary the applicable requirements in Sections 10-107C1 through 5 above in conjunction with conditional use applications for nonconforming nonresidential structures and uses under provisions of Section 8-105.

D. Standards:

1. The Board may grant a variance upon specific written findings of fact based upon the particular evidence presented to it at the hearing that all the conditions required by K.S. A. 12-759(e) have been met which are listed bel ow:

a. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant:

b. That granting of the variance will not adversely affect the rights of adjacent property owners or residents:

c. That strict application of the provisions of these regulations from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application;

d. That the variance desired will not adversely affect public health. safety. morals. order. convenience. prosperity or general welfare; and

e. That granting the variance desired will not be opposed to the general spirit and intent of these regulations.

2. In determining whether the evidence supports the conclusions required by Section 10-107D1. The Board shall consider the extent to which the evidence demonstrates that:

a. The particular physical surroundings, shape or topographical condition of the specific property involved would result in practical difficulty or unnecessary hardship upon or for the owner. lessee or occupant. as distinguished from a mere inconvenience. if the provisions of these regulations were literally enforced;

b. The request for a variance is not based exclusively upon the desire of the owner. lessee. occupant or applicant to make more money out of the property:

c. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located: and

d. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increasing

congestion on public roads or streets. increase the danger of fire. endanger the public safety or substantially diminish or impair property values within the neighborhood.

E. Conditions and Restrictions. In granting a variance. The Board may impose such conditions upon the premises benefitted by the variance as may be necessary to comply with the standards set out in Section 10-107D which would 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. including methods for guaranteeing performance such as are provided for in Section 10-108D. Failure to comply with any of the conditions for a variance which are later attached to a zoning permit shall constitute a violation of these regulations. To change a condition that is part of the granting resolution which may have created an unintended hardship or been created due to changing conditions not created by an action of the applicant, it is necessary to reapply as in the original manner except that the condition is the only item to be heard and decided upon.

F. Decisions and Records. The Board shall render a written decision containing specific findings of fact in the form of a resolution on an application for a variance without unreasonable delay after the closure of a hearing, but in all cases **within 45 days** after the closure of the hearing. The Zoning Administrator shall maintain complete records of all actions of the Board with respect to applications for variances in order to properly issue permits.

G. Period of Validity. No variance granted by the Board shall be valid for a period longer than **180 days** from the date on which the Board grants the variance. unless within such **180-day** period a zoning permit is obtained and the variance requested is started. The Board may grant extensions **not exceeding 180 days** each. upon written application. without further notice or hearing.

108 **Conditional Uses.** The Board may grant as an exception to the provisions of these regulations. the establishment of only those conditional uses that are expressly authorized to be permitted in a particular zoning district or in one or

more zoning districts. No such conditional use shall be granted unless it complies with all of the applicable provisions of these regulations.

A. Application. An application for a conditional use shall (1) be filed with the Zoning Administrator. (2) provide the legal description of the property involved with the conditional use, (3) be accompanied by an ownership list as required by Section10-103 and the filing fee. and (4) contain the following information as well as such additional information as may be prescribed by rule of the Board:

1. A statement or diagram showing compliance with any special conditions or requirements imposed upon the particular conditional use by the applicable district regulations or Section10-108D if applicable:

2. A statement as to why the proposed conditional use will not cause substantial injury to the value of other property in the neighborhood:

3. A statement as to how the proposed conditional use is to be designed. arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable district regulations; and

4. Present data in support of the standards specified in Section10-108C.

5. Submit a sketch drawn to scale showing the lot(s) included in the application. the structures existing thereon and the structures proposed that necessitate the request.

B. Hearing and Notice. A hearing on the application for such a conditional use as an exception shall be held and notice thereof given as specified under Sections 10-103 and 104 and which are consistent with the general procedures and records required by Section 10-101.

C. Standards. The Board may grant a conditional use when it makes specific written findings of fact based upon the particular evidence presented to it at the hearing which supports conclusions that:

1. The proposed conditional use complies with all applicable regulations, including lot size requirements, bulk regulations. use limitations and performance standards: unless a concurrent application is in process for a variance.

2. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood.

3. The location and size of the conditional use. 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 conditional use 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 conditional use will 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.

4. Off-street parking and loading areas will be provided in accordance with the standards set forth in Article 5 of these regulations. Such areas will be screened from adjoining residential uses and located so as to protect such residential uses from injurious effects.

5. Adequate utility, drainage and other such necessary facilities have been installed or will be provided by platting, dedication and/or guarantees.

6. Adequate access roads, entrance and exit drives and/or access control is available or will be provided by platting, dedications and/or guarantees and shall be designed to prevent traffic hazards and to minimize traffic congestion in public roads and streets.

D. Conditions. In granting a conditional use, the Board may attach such conditions upon the premises and/or the applicant benefitted by the conditional use as may be necessary to comply with the standards set out in Section 10-108C in order to reduce or minimize any potentially injurious affect upon other property in the neighborhood and to carry out the general purpose and intent of these regulations. Such conditions may include but not be limited too. Further restrictions on bulk regulations; time of operation and ownership limitations; screening, landscaping and fencing; provision of utilities. drainage and other public improvements; additional access or access control; off-street parking and loading requirements; and platting, dedications and/or guarantees. In addition to the guarantees referred to below for parking and/or screening, covenants which run with the land or the property guarantee that conditions will be carried out at a future date may be filed with the County Register of Deeds. Afterwards, a zoning permit is issued for the conditional use. Failure to comply with any of the conditions placed on such use shall constitute a violation of these regulations. To change a condition that is part of the granting resolution, it is necessary to reapply as in the original manner except that the condition is the only item to be heard and decided upon.

In lieu of actual construction of required off-street parking or the initial provisions for screening, the Board may accept, in the name of the County or City, a corporate surety bond. cashier's check. escrow account or other like security in an amount to be fixed by the Board and conditioned upon actual completion of such improvement within a specified time. Such securities shall be filed with the Clerk. The Governing Body may enforce such securities by all equitable means.

E. Decisions and Records. The Board shall render a written decision containing specific findings of fact in the form of a resolution on an application for a conditional use without unreasonable delay after the closure of a hearing, but in all cases **within 45 days** after the closure of the hearing. The Zoning Administrator shall maintain complete records of all actions of the Board with respect to applications for conditional uses in order to properly issue permits.

F. Period of Validity. No variance granted by the Board shall be valid for a period **longer than 180 days** from the date on which the Board grants the variance. Unless within such **180-day period** a zoning permit is obtained and the variance requested is started. The Board may grant extensions not **exceeding 180 days** each. Upon written application. Without further notice or hearing.

ARTICLE 11. AMENDMENTS

100 **General Provisions for Amendments.** These regulations and the districts created under the authority of these regulations may be amended from time to time by the Planning Commission following a public hearing and the approval by the Governing Body. No such amendment shall be adopted except in accordance with the procedures of this Article 11. Special use applications are not amendments, but are processed for the hearing in the same manner. (See Section11-101 for special uses.)

A. Proposal. Amendments or special uses may be proposed: (1) by the Governing Body, (2) by the Planning Commission or (3) upon application by, or on behalf of the owner of the property affected. but only in accordance with the procedure set forth in Section 11- 100B. When the Governing Body proposes an amendment or special use. It shall transmit its proposal to the Commission for a public hearing and recommendation thereon.

B. Application. When the owner of the property affected proposes an amendment to any of these regulations or to any zoning district created thereby or applies for a special use. An application shall (1) be filed with the Zoning Administrator who refers it to the Planning Commission for a hearing. (2) be in such form and contain such information as shall be prescribed from time to time by the Commission and (3) in all instances contain the following information:

1. The applicant 's name. address and telephone number;

2. The precise wording of any proposed amendment to the text of these regulations or the exact description of the special use requested.

3. In the event that the proposed amendment would change the zoning district classification or add a special use to any specific property:

    a. The name. address and telephone number of the owner of the property and. if any, the agent representing the owner;

b. The legal description of the property and a general description such as a street address sufficient to identify the property;

c. The present and proposed zoning district classifications and existing uses of the property and structures thereon;

d. The dimensions of the property and the zoning lot area stated in square feet or acres or fractions thereof. and

e. An ownership list of the names. addresses and zip codes of the owners of record of real property in the unincorporated area of the County located within at least 1,000 feet of the exterior boundaries of the area described in the application.

If such area is located adjacent to a city. The ownership list shall provide similar information extending to at least 200 feet inside the corporate limits of the city if such an area would otherwise be part of the 1,000-foot notification area. Furthermore. The ownership list shall include similar information for all owners of record of property adjacent to any land contiguously owned by the applicant outside of the area described in the application.

For land inside the city limits. an ownership list of the owners of record of real property located within 200 feet of the exterior boundary of the area described in the application both within the city limits and extending outside the city limits when necessary. If such area is located adjacent to but within the city limits. the ownership list, in addition to the 200 feet inside the city limits. shall provide similar information extending to 1,000 feet into the unincorporated area.

C. Public Hearing. The Planning Commission shall hold a public hearing on each proposed amendment that is filed with, referred to. or initiated by the Commission. The Commission shall select a reasonable time and place for such public hearing, and it shall hold such hearing **within 45 days** from the date on which the proposed

amendment is received or initiated. An applicant for an amendment may waive the requirement that such hearing be held **within 45 days**.

D. Notice of Hearing. One of the following three procedures shall be selected to provide proper notice for a public hearing for any zoning amendment application:

1. Public notice of a hearing by the Planning Commission on a proposed amendment shall be published once in the official newspaper by the Zoning Administrator. At **least 20 days** shall elapse between the date of such publication and the date set for such hearing. Such notice shall state the date. time and place of the hearing and shall contain a statement regarding the proposed changes in regulations or the zoning classification or zoning district boundaries of any property. If the proposed amendment would change the zoning classification of any specific property or the boundaries of any zoning district. such notice shall contain the legal description or a general description sufficient to identify the property under consideration. If a general description is used. The notice shall include a statement that a complete legal description is available for public inspection and where such description is available.

In addition to such publication notice. the Zoning Administrator shall mail a written notice of the hearing containing information similar to the published notice thereof to the applicant and to· the owners of record of all real property within the area to be altered or changed and such owners located within at least 1,000 feet of the exterior boundaries of the area described in the amendment application which is outside any city limits. If such area is located adjacent to a city, the official area of notification shall be extended to at least 200 feet inside the corporate limits of the city. Furthermore. Such notice shall also be given to all owners of record of property adjacent to any land contiguously owned by the applicant outside of the property under consideration that it is not otherwise in the area of notification. The latter property owners are not eligible to be part of the legal

protest areas described in Section 11-103. For land inside the city limits. notice must be given to all owners of record of real property located within 200 feet of the exterior boundary of the area described in the application both within the city limits and extending outside the city limits when necessary. If such area is located adjacent to but within the city limits. the area of notification shall. in addition to the 200 feet inside the city limits, be extended to 1,000 feet in the unincorporated area. The notice to adjacent property owners including the applicant shall be mailed so that 20 days shall elapse between the mailing date and the hearing date. 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 Commission or the Governing Body.

2. Whenever five or more owners of record of real property owning 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification initiate a rezoning of their property. from a less restrictive to a more restrictive zoning classification. such amendment shall require notice by publication only and hearing in like manner as required by Section 11-100C. Such zoning amendment **shall not** require written notice and shall not be subject to the protest petition provision of Section 11-103.

3. The hearing shall be conducted, and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Board may from time to time prescribe by rule or bylaws which are not in conflict with these regulations or applicable state statutes.

   The Commission may give such additional notice to other persons as it may from time to time provide by its rules. Such rules may include requirements for additional notice to be provided for by the posting of signs on the land to be considered in the amendment application.

E. Conduct of Hearing.

   1. All hearings that these regulations require the Planning Commission to conduct for amendments to changes in the text of the regulations or the zoning classifications or in district

boundaries shall be open public meetings according to **K.S.A. 75-4317** et seq. the Open Meetings Act. When a proposed amendment will affect the zoning classification or district boundary of specific property. however. the Commission acts in a quasijudicial capacity and. thus. may upon proper motion proceed to deliberate in closed session according to

K.S.A. 75-4318(a). No binding action can be taken in such a session, and all voting must be conducted in an open meeting.

2. Any interested person or party may appear and be heard at the hearing in person. by agent or by attorney.

3. The hearing shall be conducted, and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Commission may from time to time prescribe by rule or by laws which are not in conflict with these regulations or applicable state statutes.

4. The Commission shall keep minutes of the proceedings showing evidence presented at hearings. findings of fact by the Commission. motions made and the vote of each member upon any question or recommendation. If a member is absent. abstains or disqualified. Such facts shall be indicated.

5. The Commission may request a report on any proposed amendment from any governmental official or agency, or any other person. firm or corporation. If such a report is made. A copy thereof shall be made available to the applicant and any other interested person prior to or at the public hearing.

6. The Commission may make recommendations on proposed amendments to specific properties which affect only a portion of the land described in the hearing notice or which give all or any part of the land described a zoning classification of lesser change than · that set forth in the notice. A recommendation for a zoning classification of lesser change than that set forth in the notice shall not be valid. however. without republication and. where necessary. remailing of notices. unless the

Commission shall have previously established a table or publication available to the public which designates what zoning classifications are lesser changes authorized within the published zoning classifications. (See Appendix page A-1 for Table of Comparability for Zoning Districts.)

7. For action on zoning amendments. a quorum of the Commission must be more than one-half of the membership

   as established by the Interlocal Agreement. A majority of the members of the Commission present and voting at the hearing shall be required to recommend approval or disapproval of the amendment to the Governing Body. If the Commission fails to make a recommendation on a rezoning request. The Commission shall be deemed to have made a recommendation of disapproval.

8. A hearing may be adjourned from time to time upon a motion to continue in the future at some stated date. time and place. At the conclusion of a hearing, the Commission shall prepare its findings and the factors on which to base its recommendation and vote.

9. If a meeting is called or a hearing is on the agenda and no quorum is present. The members in attendance may agree to hold the hearing at another meeting in the future at a stated date. time and place or at the next regular meeting for which. when announced at the present scheduled meeting, no further public notice need be given to continue the hearing.

F. Report by Planning Commission. **Within 14 days** after the closure of a public hearing on a proposed amendment and/or special use. the Planning Commission shall submit a report to the Governing Body. A copy of this report shall also be filed with the Clerk and the Zoning Administrator, and such copies shall be kept available for public inspection. A copy of the report shall also be mailed to the applicant. Such report shall contain a recommendation as to whether the proposed amendment or special use should be approved or disapproved and specific written determinations on the items listed in

Sections 11-100G or 11-100H and on such other items as the Commission may consider re1evant. The report submitted to the Gove ming Body shall be accompanied by a summary of the hearing. In lieu of a report. The above information may be contained in the minutes of the meeting and submitted to the Governing Body.

G. Amendments to Text. When a proposed amendment by the Governing Body or Planning Board would result in a change in the text of these regulations, but would not result in a change of the zoning classification of any specific property, a legislative hearing shall be held by the Board and the report or minutes shall contain a statement as to the purpose and effect of such proposed amendment.

H. Review Criteria for Amendments or Special Uses. When a proposed rezoning amendment or special use would result in a zoning change for any specific property, the report of the Planning Commission accompanied by a summary of the hearing shall contain statements as to (1) the present and proposed district classifications or description of the special use. (2) the applicant's reasons for requesting such reclassification or special use. and (3) a statement of the factors where relevant upon which the recommendation of the Commission is based using the following criteria as guidelines: *****

1. What are the existing uses and their character and condition on the subject property and in the surrounding neighborhood?
2. What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the request?
3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?
4. Would the request correct an error in the application of these regulations?
5. Is the request caused by changed or changing conditions in the area of the subject property and. if so. What is the nature and significance of such changed or changing conditions?

6. Do adequate sewage disposal and water supply and all other necessary public facilities including street acc ess exist or can they be provided to serve the uses that would be permitted on the subject property?

7. Would the subject property need to be platted or replatted or in lieu of dedications made for rights of way. easements. access control or building setback lines?

8. Would a screening plan be necessary for existing and/or potential uses of the subject property?

9. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?

10. If the request is for business or industrial uses. Are such uses needed to provide more services or employment opportunities?

11. Is the subject property suitable for the uses in the current zoning to which it has been restricted?

12. To what extent would the removal of the restrictions. i.e. the approval of the zoning request detrimentally affect other property in the neighborhood.?

13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?

15. What is the nature of the support or opposition to the request?

16. Is there any information or are there recommendations on this request available from professional persons or persons with related expertise which would be helpful in its evaluation?

17. By comparison. does the relative gain to the public health. safety or general welfare outweigh the loss in property value or

the hardship imposed upon the applicant by not approving the request?

***** NOTE: All the factors stated in the decision of Golden v. City of Overland Park. 224 Kan. 591. 584 P.2d 130 (1978) are included in this list. In using these factors as guidelines. modifications may be made in the criteria to more specifically relate them to the particular zoning change in classification or special use.

Of those factors considered as relevant to the requested change in zoning district classification or boundary or special use. Not all factors need to be given equal consideration by the Commission in deciding upon its recommendation.

101 **Special Uses. Because of particular factors 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 permitted as "special uses" when their proposed location is supplemented by additional conditions such as making the use considered compatible with the surrounding property, the neighborhood and the zoning district.

In granting special use. The minimum requirements of approval for all similar types of permitted uses in the same district must be met. unless otherwise reduced by a specific reference in these regulations. The requirements may be made more stringent if there are potentially injurious effects which may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public. Such additional conditions may be included. but are not limited to. requirements affecting the lot size or yard dimensions: changing road or street width; the extent and location of entrance or exit drives: controlling the size. location and number of signs: the period and time of operation: lot coverage and height of buildings; screening, fencing and/or landscaping to protect the surrounding property; establishing environmental standards for air and water pollution. noise. vibration. lighting and other such conditions: protection from flooding; and additional improvements such as road or street construction. utilities and storm drainage. if necessary. including platting and/or dedication. Such conditions may be placed upon the property which is the subject of the special use application or upon the applicant or both. Failure to comply with any if the conditions for a special use which are later attached to a zoning permit shall constitute a violation of these regulations. To change a condition that is part of the granting resolution, it is

necessary to reapply as in the original manner except that the condition is the only item to be heard and decided upon.

Although the official zoning map is not amended. The procedure for approval of a special use shall otherwise be the same as for an amendment to change a zoning district classification or boundary which is set forth in Section 11-100 of this Article including the provisions for filing protest petitions in Section 11-103: provided. that any additional requirements which are further imposed upon the special use shall be made a part of the applicable effectuating resolution or ordinance. Applications for special uses shall be accompanied by a plot plan of the proposed development Concurrent applications may be processed for changing zoning district classifications as amendments and approving special uses on the same property

wherein joint notices are advertised and mailed and hearing held: however. separate motions. Reviewing criteria and effectuating resolutions or ordinances are necessary. No special use approval by the Governing Body shall be valid for a period longer than one year from the publication date of the effectuating resolutions unless (1) another time period is designated as a condition attached to the special use; or (2) an application is filed and a zoning permit is approved during the period of validity. In such instance the special use shall be valid for the period of validity of the zoning permit. The Governing Body may authorize extensions of the validity period without notice or public hearing for more than one year upon a written request received within a valid period. Upon expiration of any validity period the effectuating resolution automatically becomes null and void unless an extension has been granted or a zoning permit has been obtained during the validity period.

102 **Project Review.** In the event that certain public improvements. facilities or utilities of a type embraced within the recommendations of the Comprehensive Plan are classified as special uses or are the subject of a change in zoning classification or district boundary, the consideration of such uses by the Planning Commission in conjunction with a zoning application may also constitute their project review of such proposed use if concurrently processed under procedures required by **K.S.A. 12-748**, as amended : provided. that a statement of findings is included in the Commission's approval or disapproval as to whether such proposed use is or is not in conformance with the Comprehensive Plan. In case the Commission finds that the proposed use is not in conformance to the Plan and states in writing the manner in which it is not in conformance. Then the Governing Body shall not proceed with

construction of such a proposed use unless the Governing Body by a majority vote overrides the disapproval of the Commission and the Plan shall be deemed to have been amended and the Commission shall make the necessary changes in the Plan to reflect the vote of the Governing Body.

103 **Filing of Protest.** Whether or not the Planning Commission approves or disapproves a zoning change, if a written protest petition against a proposed amendment for a specific property or a special use shall be filed in the office of the Clerk **within 14 days** after the date of the conclusion of the hearing by the Commission which is signed and an accurate legal description of their property provided by the owners of record of 20% or more of any real property proposed to be altered or changed, excluding streets or public ways, or by the owners of record of 20% or more of the real property within the total area required in the official area of notification by Section 11-100D. **excluding** streets and public ways and specific statutorily excluded property as described below; then the applicable effectuating resolution or ordinance shall not be passed except by at least a 3/4 vote of all the members of the Board of County Commissioners or City Council.

Property statutorily excluded by **K.S.A. 12-757(f)** from determining the sufficiency of a protest petition when calculating the total real property within the notification area

is that which was (1) requested by the owner of the specific property for rezoning or a special use; or (2) the owner of the specific property requested for rezoning or a special use who does not oppose in writing such rezoning or special use. (See Sections 11-100 D2 and D3 for protest petition exceptions for rezoning from a lesser restrictive to a more restrictive zoning classification.)

104 **Adoption of Amendments or Special Uses by the Governing Body.** When the Planning Commission submits in its report a recommendation of approval or disapproval of a proposed amendment or special use including the basis, therefore. the Governing Body may: (1) Adopt such recommendations by an effectuating resolution; (2) override the Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or (3) return such recommendation to the Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the Commission's recommendation. the Commission. after considering the same. may resubmit its original recommendation giving the reasons therefor or submit a new or amended recommendation. Upon receipt of such recommendation. the Governing Body, by a

simple majority thereof. may adopt or may revise or amend and adopt such recommendations by the effectuating resolution or ordinance or it need take no further action thereon. If the Commission fails to deliver its recommendation to the Governing Body following the Commission's next regular meeting after receipt of the Governing Body's report. The Governing Body shall consider such course of inaction on the part of the Commission as a resubmission of the original recommendation and proceed accordingly.

In considering its decision under each of the above set of circumstances. the. Governing Body shall take into account the guidelines in Section 11-100H which are relevant to the proposed amendment or special use and. having reviewed the Commission's findings of fact and the factors upon which their recommendation is based. The Governing Body either adopts the Commission's findings and factors by reference or records their own findings of fact and the factors upon which their decision is based.

The proposed amendment or special use shall become effective upon publication for either of them of the applicable effectuating resolution or ordinance. If such an amendment affects the classification or boundaries of any zoning district. the

respective resolution or ordinance shall legally describe the classification or boundaries as amended. shall order the official zoning map to be changed to reflect such amendment. and shall reincorporate such maps as amended.

105 **Annual Review.** In order to maintain these regulations including the official zoning map(s). The Planning Commission shall annually hold a public review at their first regular meeting in January to consider amendments. if any, to these regulations. Preceding such a review. the Governing Body. other affected governmental agencies. and interested private organizations and individuals should be notified of the intent to review and their ideas requested. In preparation for such a review. the Zoning Administrator shall maintain a master copy of the current zoning regulations on which are recorded comments and ideas brought to the attention of the Administrator during the preceding year to maintain the intent and purpose of the zoning regulations under changing conditions and to implement the Comprehensive Pla n. Information on any relevant changes in state statutes shall be compiled for the review.

106 **Judicial Review.** As provided by K.S.A. 12-760. as amended. any resolution or ordinance. regulation. amendment. Special use or other zoning decision provided

for or authorized by these regulations shall be reasonable and any person aggrieved thereby may have the reasonableness of any decision determined by bringing an action against the respective County or City **within 30 days** after a final decision is made. In the event that an amendment to these regulations or a special use is approved by the Governing Body, the **30-day** period commences when the applicable effectuating resolution or ordinance is published. Such action shall be brought in the Stafford County District Court.

According to **K.S.A. 12-757(a).** if a proposed amendment is not a general revision of the existing regulations and affects specific property. Such an amendment shall be presumed to be reasonable if it is in accordance with the land use plan or the land use element of the comprehensive plan.

APPENDIX

TABLE OF COMPARABILITY FOR ZONING DISTRICTS

In accordance with provisions provided for in **K.S.A. 12-757(b)** and in Section 11-100E6 of the Zoning Regulations of Stafford County/Hudson Kansas. The Stafford County/Hudson Joint Planning commission hereby establishes a "Table of Comparability for Zoning Districts" as listed below. This table designates the zoning districts which are considered to be "lesser changes" due to their more restrictive characteristics as set forth in the Zoning Regulations.

When considering zoning district amendments. The Planning Commission and the Governing Body may recommend and approve a lesser change in zoning districts for the property already advertised for a public hearing without republication of a notice or redistribution of notices to property owners when such change is more restrictive than the district which is applied for as shown on the table below: provided. However. That such recommendation and approval shall not be for a lesser classification than the existing zoning district. If the applicant at the Governing Body meeting at which a zoning amendment is being considered desires to amend the application and/or the Governing Body desires to consider a "lesser" zoning change. Then such a proposed change shall be returned to the Planning Commission for reconsideration and further recommendation to the Governing Body without further publication or notice as provided for in **K.S.A. 12-757l** and in Section 11-104 of the Zoning Regulations.

In the County Jurisdiction

MOST RESTRICTIVE:	A-1	Agricultural District
	A-2	Agricultural Transition District
	SR-1	Single-Family Suburban Residential District
	C-1	General Commercial District
LEAST RESTRICTIVE:	I-1	Industrial District

In the City Jurisdiction

MOST RESTRICTIVE:	R-1 Single-Family Residential District
	R-2 Multiple-Family Residential District
	B-1 Central Business District
LEAST RESTRICTIVE:	I-1 Industrial District

Because of the uniqueness and special purpose for which the V-I Village. MH-1 Manufactured Home Subdivision and P-0 Protective Overlay districts serve. These districts are excluded from the Table of Comparability.

Although the notification for a "Special Use" is processed in the same manner as a zoning district amendment. it is not an actual change in zoning districts and. therefore, the Table of Comparability does not apply, and reapplication is necessary for consideration of a different "Use" even if in the same zone. Part of the property considered for Special Use, however. may be withdrawn by the applicant or a lesser amount recommended for approval without renotification.

EXAMPLE: If an application is advertised for a public hearing requesting a change from A-1 Agricultural District to I-1 Industrial District, the Planning Commission may recommend the lesser, i.e., more restrictive C-1 Commercial District without republication or mailing of new notices.

If an application. however, is advertised for a public hearing requesting a change from the existing B-1 Central Business District to the I-1 Industrial District, and the recommending of the lesser R-1 Single-Family Residential District shall not be valid without republication and the mailing of new notices.

SELECTED INDEX BY SUBJECT AND SECTION

A

Accessory Use or Structure – Definition of, 6-100A; general requirements,

3-102H; permitted uses, zoning permit, 6-100B; bulk regulations, 6-100C; use limitations, 6-101D

Access to Business and Industrial District – residential limitation, 3-103H

Adult Care Center - definition of, 2-102

Adult Care Home - definition of, 2-102; See also nursing or convalescent home, 2-102

Agreements, Private - rules of interpretation for, 2-100C

Agricultural Compliance Certificate - certificate, 9-101C

Agriculture - definition of, exemption of, 2-102; See also exemptions from regulations and agricultural compliance certificate

Aircraft - definition of, 2-102

Airport - definition of, 2-102

Alley - definition of, 2-102

Alteration, Structural - definition of, see structural alteration, of, 2-102

Amateur Radio Operator - See height, maximum for exemption, 2-102

Amendments - general requirements, 11-100; proposed by, 11-100A; application,11-100B; notice, 11-100D; hearing, conduct thereof, 11-100C and E; minutes, 11-100E4, 11-100F; table of comparability, 11-100E6, Appendix; voting, quorum, 11-100E4 and 7; hearing continued,11-100E8 and 9; no quorum, 11-100E9; report on, 11-100F; change in text, 11-100G; review criteria, factors, 11-100H; protest petition, 11-103; adoption by governing body, 11-104; judicial review,11-106; See also project review, 11-102

Amusement Center - definition of, video games, 2-102

Animal Hospital or Clinic - definition of, 2-102

Animal or Fowl - definition of agriculture, exotic birds and animals, 2-102

Annexed Land - zoning procedure, 3-103I

Annual Community Event - temporary permit, 6-101; annual celebration, carnival, circus, musical festival, 6-101A

Annual Review - regulations, zoning administrator's master copy, 11-105

Antenna, Television and Radio - See definition of height, maximum for exemptions, 2-102; accessory uses, 6-100B7

Apartment – definition of, see dwelling, multiple-family, accessory, 2-102

Appeal from Decision of Zoning Administrator - general requirements,

10-106; time for, 10-106A; application, 10-106B; stay of proceedings, 10-106C; notice, 10-103; hearing, 10-106D; decision, 10-106E; See also board of zoning appeals

Asphalt Mixing Plant – temporary permit, 6-101 I

Assisted Living Facility - definition of, 2-102

Auction Sign - See real estate sign, 7-101A7

Automobile Service Station - definition of, 2-102

B

Basement - definition of, 2-102

Bay Window - permitted obstruction, 3-103F1

Bed and Breakfast Home - definition of, home occupation, 2-102

Bed and Breakfast Inn - definition of, 2-102

Billboard Sign - state regulations, 7-100; advertising, 7-101A1

Board of Zoning Appeals - meaning of, 2-101A11; planning board designation, 10-100; general procedures, voting, 10-101; jurisdiction,10-102; judicial review, 10-105

Boarding or Rooming House – definition of, 2-102; home occupation, 6-102B3

Building - definition of, 2-102

Building Setback - definition of, See setback, building, proposed rights of way, 2-102; platted, 3-103B

Bulk Regulations - definition of, 2-102; general requirements, 3-102E; utility and communication facility exemption, 3-103G; accessory uses, 6-100C

Business and Professional Office - definition of, 2-102

C

Campground - definition of, 2-102

Canopy – definition of, 2-102; permitted obstruction, 3-103F1

Capacity in Persons - definition of, 2-102

Carport - definition of, 2-102; not permitted obstruction, 3-103F1; See also garage

Car Wash - definition of, 2-10 2

Change in Ownership or Operator - right to continue, 8-100

Change in Use - nonconforming, 8-103H; zoning permit, 9-101A; occupancy certificate, 9-101B

Child Care Center - definition of, see childcare facilities, 2-1 02; home occupation prohibited, 6-102D3

Child Care Facilities - definition of, 2-102

Chimney - permitted obstruction, 3-103 F1

Citizen Band Operator - See height, maximum for exemption, 2-102

Clerk - duties, 9-100B

Club - definition of, 2-102; See also fraternal or service club

Common Lot Line Housing – see dwelling, attached

Communication Structure - See definition of height, maximum for exemptions, 2-102; lot size and bulk regulation exemption, 3-103G; accessory uses, 6-100B7

Community Event - temporary permit, 6-101; annual celebration, carnival, circus, musical festival, 6-101A

Concrete Mixing Plant - temporary permit, 6-101 I

Conditional Use - definition of, 2-102; general requirements, 3-102C; See also individual zoning districts for list of conditional uses, Article 4; status of existing or reclassified, 8-106A; application, 10-108A; notice, 10-103; hearing, 10-108B; standards, 10-108C; conditions, 10-108D; decision, record, 10-108E; validity period, 10-108F; See also board of zoning appeals

Condominium - definition of, 2-102; lot size requirements, 3-102D2; bulk regulations, 3-102E2

Construction Project - contractor's office and storage, 6-101C

Contradictory Regulations - rules of interpretation for, 2-100B

Corner Lot - definition of, See lot, corner, 2-102

D

Damaged Structure or Use - nonconforming, 8-102C, 8-103F

Day Care Home - definition of, See childcare facilities, 2-102; home occupation permitted, 6 -102C1

Daylight Window - permitted obstruction, 3-103F1

Deck - not permitted obstruction, 3-103F1

Deed Restriction - rules of interpretation for, See private agreements, 2-100C

Density - definition of, 2-102

Dental Clinic - definition of, See medical, dental or health clinic, 2-102

Developer - definition of, 2-102

District - definition of, 2-102; See also zoning districts

Dog Kennel - definition of, 2-102

Drive-in Establishment - definition of, 2-102

Dwelling - definition of, 2-102

Dwelling, Attached - definition of, common lot line housing, 2-102

Dwelling, Detached - definition of, 2-102

Dwelling, Multiple-Family - definition of, 2-102

Dwelling, Single-Family - definition of, 2-102, See also dwelling, detached

Dwelling, Two-Family – definition of, 2-102; See also dwelling, attached

Dwelling Unit - definition of, 2-102

E

Earth-Sheltered Dwelling - definition of, 2-102; See also dwelling

Easement - definition of, 2-102; dedication thereof, 3-103K; construction on or over, 9-101A3

Eaves and Gutters - permitted obstruction, 3-103F1

Effective Date - amendments, 11-104; regulations, 12-101

Electric Transmission Line Tower - See height, maximum for exemption, 2-102

Enforcement - zoning administrator, attorney, 11-102A; See also violations

Exception - See conditional use

Exemptions from Regulations - list of use exemptions, 3-100E

F

Family - definition of, 2-102

Family Day Care Home - definition of, See childcare facilities, 2-102

Farmhouse - See agriculture

Feedlot - See agriculture

Fees - fee schedule, 9-104

Fence - definition of, 2-102; permitted obstruction, 3-103F 2 through 5; screening requirements, 3-104; zoning permit, 6-100B; See also wall

Fireworks - zoning permit, 6-101; temporary use, 6-101H

Flagpole - See definition of height, maximum for exemption, 2-102; permitted obstruction, 3-103F1

Floor Area - definition of, 2-102; required parking spaces, 5-101

Fraternal and Service Club - definition of, 2-102

Frontage - definition of, 2-102

Front Lot Line - definition of, See lot line, front, 2-102

Front Yard - definition of, See yard, front, corner lot, 2-102; average setback in existing residential, 3-103C

G

Garage, Private - definition of, 2-102; not permitted obstruction, 3-103F1; setback requirements for attached and detached, 5-100A4; zoning permit, 6-100B; accessory use, 6-100Bl; bulk regulations, 6-100C; use limitations, 6-100D1; home occupation, 6-102B1

Garage, Repair – definition of, 2-102

Garage Sale Sign – right of way location, 7-102K; exemption, 7-103A5

Garage Sales - frequency, 6-l0Lf

Garden Store - definition of, 2-102

Governing Body - meaning of, 2-101A7; adoption of amendments

11-104; adoption of regulations, 12-101; resolution, ordinance and special uses, Appendix

"Grandfather Clause" - general, Article 8

Group Boarding Home - definition of, see childcare facilities, 2-102

Group Day Care Home - definition of, See childcare facilities, 2-102

Group Home - definition of, 2-102; See also dwelling, single-family

H

Hazardous Waste Facility - definition of, 2-102

Health Clinic - definition of, See medical, dental or health clinic, 2-102

Height, Maximum - definition of, exemptions for, 2-102

Home Occupation - general requirements, 3-102J; authorization, zoning permit, 6-102; definition of, 6-102A; use limitations, 6-102B; permitted uses, 6-102C; prohibited uses, 6-102D; authorization by conditional use, 6-102E; sign, 7-104 A, B and F

Hotel - definition of, 2-102

I

Interior Lot - definition of, Se e lot, interior, 2-102

J & K

Judicial Review - court action, time limit, 11-106

Jurisdiction, Zoning - See zoning jurisdiction, 1-103

L

Landfill, Sanitary - definition of, 2-102

Landscaping - definition of, 2-102; screening and landscaping requirements, 3-104

Liability - zoning administrator, 9-102B

Licensing Regulation - rules of interpretation, 2-100E

Loading and Unloading - See off-street loading and unloading

Lot - definition of, See lot, zoning, 2-102

Lot Area - definition of, 2-102

Lot Coverage - definition of, 2-102

Lot Depth - definition of, 2-102

Lot Line - definition of, 2-102

Lot of Record - definition of, 2-102; nonconforming, 8-100, 8-101

Lot, Reverse Frontage - definition of, 2-102

Lot Size Requirements - definition of, 2-102; general requirements, 3-102D; public utility facility exemption, 3-103G

Lot Width - definition of, 2-102

M

Manufactured or Mobile Home – definition of, 2-102; See also dwelling; replacement of, 3-104 A and B; as storage or office, 3-104C; for watchman or custodian, 3-104D; accessory to agricultural land, 3-104E; disasters, 3-104F; construction of principal building, 3-104G; hardship, 3-104H; See also residential-design manufactured home, 2-102

Manufactured Home Subdivision – definition of, 2-102; district, 4-105

Measurements - measuring distances, 2-101A13

Medical Clinic - definition of, See medical, dental or health clinic, 2-102

Microwave Transmitting and Relay Tower - See definition of height, maximum, 2-102

Mini-Storage Facility - definition of, 2-102

Modular Home - definition of, 2-102

Motel - definition of, See hotel, 2-102

Moving Structure - See structure

N

Nonconforming Lot of Record - definition of, 2-102, 8-100A; residential districts, 8-101A; other districts, 8-101B

Nonconforming Structure - definition of, 2-102, 8-100B; continuation, 8-103A; enlargement, repair or alteration, 8-102B; damage, 8-102C; moving 8-102D; residential, 8-104; nonresidential, 8-105

Nonconforming Use - definition of, 2-102, 8-100C; continuation, 8-103A; repair, 8-103B; alteration, 8-103C; extension, 8-103D; enlargement, 8-103E; damage, 8-103F; moving, 8-103G; change in use, 9-103H; abandonment, 8-103J; residential, 8-104; nonresidential 8-105; discontinuance of, 8-106

Nonconformity - definition of, 8-100D; registration of, 8-107

Nursing or Convalescent Home - definition of, 2-102; See also assisted living facility, 2-102

O

Obstructions Permitted in Yards - permitted obstructions, 3-103F

Occupancy Certificate - definition of, 2-102; change of use, 9-101B; application, 9-101B1; completion and inspection; subdivision regulations requirements, 9-101B2a; issuance period, temporary, 9-101B2b

Off-Street Loading and Unloading - requirements, 5-103

Off-Street Parking - general requirements, 3-102G; general provisions for design, maintenance and plan approval, zoning permit, 5-100; handicapped parking, 5-100A5j; required spaces, 5-101; off-premises parking areas, 5-102

Oil and Gas Drilling and Operation - exemption, 3-100E5

Open Land, Uses of - compliance of, 3-100D

Ordinance - effectuating, 11-104; incorporating regulations, Appendix

P & Q

Parking Space - See off-street parking

Patio - permitted obstruction, See also patio cover, 3-103F1

Penalties - See violations

Permit, Existing Zoning - effect on, 2-100F

Permitted Use - definition of, 2-102; general requirements, 3-102A; See also individual zoning districts for list of permitted uses, Article 4

Person - legal entities included, 2-101A5

Planning Commission - meaning of, 2-101A9; adoption of regulations, 12-101

Political Sign - exemption, 7-103A8; Also see ideological signs, 7-103A9

Porch - not permitted obstruction, 3-103F1

Portable Sign - regulations, 7-102L

Premises - definition of, 2-102

Preschool - definition of, See childcare facilities, 2-102

Principal Structure - definition of, 2-102

Principal Use - definition of, 2-102

Professional Office - definition of, 2-102

Project Review - public improvements, facilities, utilities, 11-102

Protest Petition - filing, procedure, 11-103

Purpose of Zoning District - See introductory paragraph for each district, Article 4

Purpose of Regulations - purpose generally, 1-101

R

Real Estate Sign – right-of-way location, 7-102K; exemption, 7-103B5

Rear Lot Line - definition of, See lot line, rear, 2-102

Rear Yard - definition of, See yard, rear, 2-102

Recreational Vehicle – definition of, 2-102; storage of boats, camping trailers, motor homes, 6-100B4

Recycling Center - definition of small, large or processing, 2-102; accessory uses, 6-100B12; zoning permit, 6-101; temporary uses, 6-101G

Rehabilitation Home - definition of, 2-102

Repair or Maintenance of Structure - See definition of structural alteration, 2-102; alterations regulated, 3-100C; nonconforming, 8-102B, 8-103B

Residential Building - definition of, 2-102

Residential Center - definition of, 2-102

Residential-Design Manufactured Home - definition of, restrictive covenants, 2-102, See also manufactured or mobile home

Resolution - effectuating resolution, 11-104; incorporating regulations, Appendix

Restaurant - definition of, 2-102

Restrictive Covenant - rules of interpretation for, See private agreements, 2-100C

Retail Store - definition of, 2-102

Rezoning - See amendments

Right-of- Way, Proposed - See definition of setback, building, 2-102; dedication thereof, 3-103K, 9-101A2

Roof Structures – see definition of height, maximum for exemptions, 2-102

Rooming House - See boarding or rooming house

Rules of Word Construction - definition of selected words, 2-101; undefined words and terms, 2-101C

S

Salvage Yard - definition of unlicensed or inoperative motor vehicles, 2-102; discontinuance of, 8-108

Satellite Dish Antenna - zoning permit, 6-100B; requirements for, 6-100B6

Screening - definition of, 2-102; requirements, 3-104

Seasonal Sales – Christmas trees, 6-101B; farm produce, 6-101D; retail goods, 6-101E

Service Station - definition of, See automobile service station, 2-102

Severability - unconstitutionality, invalidity, 12-100

Sewer Facilities - general requirement, 3-103J

Side Lot Line - definition of, See lot line, side, 2-102

Side Yard - definition of, See yard, side, 2-102

Sign - definition of, 2-102; general requirements, 3-102K; functional classifications, 7-100A; structural types, 7-100B; general standards, 7-102; location on or over right of way or easement, 7-102K; damaged or unsafe, 7-102M; exemptions, 7-103; district regulations, 7-104; home occupation, 7-104 A, B and F

Sign of Governmental Body - general exemption, also exempts school board, 7-103A1

Solar Equipment - See definition of height, maximum for exemption, 2-102; accessory use, 6-100B6

Special Use - definition of, 2-102; general requirements, 3-102B; See also individual zoning districts for list of special uses, Article 4; status of existing or reclassified, 8-106; general requirements, conditions, approval procedure, protest petition, 11-101; review criteria, factors 11-100H; See also amendments and protest petitions

Statutory Authority - applicable state statutes, 1-102

Storage, Outdoor - definition of, 2-102; accessory use, 6-100B13; manufactured or mobile home as storage structure, 3-104C; discontinuance of, 8-108; See also individual zoning districts for use limitations

Storage Structure - zoning permit, 6-100B; accessory use, 6-100B3; bulk regulations, 6-100C; use limitations, 6-100D1; home occupation, 6-102B1

Structure - definition of, 2-102; moving, 3-100A, 3-103M; new, 3-100A; new uses, 3-100B, 8-103H; number of on a zoning lot, 3-103A; See also nonconforming structure and nonconforming use.

Structural Alteration - definition of, 2-102; compliance requirements, 3-100C

Swimming Pool - accessory use, fencing, 6-100B8

T

Table of Comparability - lesser changes, republication, renotification, special uses, 11-100E6, Appendix

Tavern and Drinking Establishment - definition of, 2-102

Temporary Use or Structure - general requirements, 3-102I; temporary uses permitted, zoning permit, 6-101

Through Lot - definition of, See lot, through, 2-102

U

Unlawful Uses - status of, 2-100D

Unlicensed or Inoperative Motor Vehicles - See definition of salvage yard, 2-102

Use Regulations - definition of, 2-102; use limitation, 3-102F; See also individual zoning districts for use limitations, Article 4

Uses - open land, 3-100D; number of on a zoning lot, 3-103A

Utility - exemptions, 3-100E1; lot size and bulk regulations,3-103G

Utility Line Protection - exception, 3-103I

V

Variance - notice, 10-103; general requirements, use variance, 10-107; application, 10-107A; hearing, 10-107B; authorized, 10-107C; statutory findings of fact, 10-107D1; conclusions from evidence; 10-107D2; conditions, 10-107E; decision, record, 10-107F; validity period, 10-107G; See also board of zoning appeals

Vesting of Development Rights - status of single-family residential development, 2-100G

Veterinarian Clinic - definition of, See animal hospital or clinic, 2-102

Violations - For County, see Section 5 of Resolution for penalties and remedies, Appendix; for City, see penalties, 9-103A, and remedies, 9-103B

Video Games - See amusement centers, 2-102

Vision Triangle - definition of, 2-102

W - X

Wall - definition of fence, 2-102; permitted obstruction, 3-103F2 through 5; decorative perimeter boundary and entryway to subdivision, 3-103F3; See also fence

Water Tower - See definition of height, maximum for exemption, 2-102

Water Facilities - general requirement, 3-103J

Wind Energy Conversion System, Private - See definition of height, maximum, 2-102; accessory use, 6-100B14

Wind Energy Project, Commercial - See definition of height, maximum, 2-102

Window Well - permitted obstruction, 3-103F1

Wing Wall - permitted obstruction, 3-103F1

Y

Yard - definition of, 2-102; general restrictions, 3-102E; open land, 3-103D; permitted obstructions, 3-103F

Yard Sales - frequency, 6-101F

Z

Zoning Administrator – definition of, 2-102; duties, 9-100A; enforcement, 9-102A; liability, 9-102B; reports, 9-105

Zoning Districts - districts listed below contain the related provisions for permitted, special and conditional uses; lot size requirements; bulk regulations and use limitations:

A-1 Agricultural 4-101; **A-2** Agricultural Transition 4-102; **V-1** Village 4-103; **SR-1** Single-Family Suburban Residential 4-104; **MH-1** Manufactured Home Subdivision 4-105; **C-1** General Commercial 4-106; **I-1** Industrial 4-107; **R-1** Single-family Residential 4-108; **R-2** Multiple-Family Residential 4-109; **B-1** Central Business 4-110; **I-1** Industrial 4-111; **P-O** Protective Overlay 4-112

Zoning Jurisdiction - regulations applicable to, area covered, 1-103

Zoning Lot - definition of, see lot, zoning, 2-102; number of structures or uses on, 3-103A

Zoning Maps - boundaries, 3-101B 2, 3-l0lC, 3-l0lD; certificate, revision, 9-100A9; incorporation by reference, ordinance, resolution, Appendix

Zoning Permit - effect on existing, 2-100F; definition of, 2-102; screening, 3-104; accessory uses, 6-100B; temporary uses, 6-101; home occupations, 6-102; null and void, 9-101A1; subdivision regulations requirements, 9-101A2; construction on or over easement, 9-101A3; grading, 9-101A4, application, 9-101A5; period to issue, 9-101A6; validity, 9-101A7

RESOLUTION INCORPORATING AND ADOPTING ZONING REGULATIONS.

(Published Once in The Stafford Courier on October 19, 2005)1t

RESOLUTION NO. 2005-11

A RESOLUTION APPROVING AND ADOPTING BY REFERENCE ZONING REGULATIONS OF STAFFORD COUNTY, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE COUNTY OF STAFFORD, KANSAS:

Section 1. ADOPTION. That Zoning Regulations are hereby approved and adopted pursuant to K.S. A., 12-74 I., et seq., as amended 12-736. 12-742. 12-753 to 12-761 inclusive, 12-763 and 12-764 which govern the zoning of land in the unincorporated area of Stafford County, Kansas.

Section 2. OFFICIAL MAP: That there are further herein incorporated by reference and adopted as Official Zoning Map delineating the boundaries of zoning districts and the classification of such districts, which map shall be marked "Official copy of zoning district map incorporated into zoning regulations by adoption of **Resolution No: 2005-11** by the Governing Body of Stafford County, Kansas on the 11th day of October 2005" and filed with the Zoning Administrator to be open for inspection and available to the public at all reasonable business hours.

Section 3. PUBLIC HEARING: That such regulations were prepared in book form as model regulations for Stafford County. Planning Board by Foster & Associates, Planning Consultants of Wichita, Kansas and the County Zoning Administrator under the date of September 19, 2005, and were adopted by the Joint Planning Commission on September 19, 2005 following an advertised public hearing as required by Kansas law, and the same is hereby declared to be approved and incorporated by reference as fully as if set out herein pursuant to K.S.A. as amended. 12- 3301 and 12-3303 through 12-3305:

Section 4. OFFICIAL COPIES: That not less than three copies of the Joint Zoning Regulations in book form marked Official Copy as Incorporated by **Resolution No. 2005-11** and to which there shall be a published copy of this Resolution appended, shall be filed with the County Clerk to be open for Inspection and available to the public at all reasonable business hours.

Section 5. VIOLATIONS: Thal pursuant to K.S.A. 12-761, as amended, any violations of this Resolution shall be enforced by the following penalties and remedies.

A. Penalties. According to state statutes, any violations of these regulations shall be deemed to be a misdemeanor. The owner or agent of a building, structure or premises in or upon which a violation of any provision of these regulations has been committed or shall exist or the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist; or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building, structure or premises in or upon which a violation has been committed or shall exist shall be punished by a fine 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.

B. Remedies. In case any building or structure is erected, constructed, structed, structurally altered, converted or maintained; or any building, structure or land is used or is proposed to be used in violation of these regulations, the appropriate authorities of Stafford County, in addition to using other remedies, may institute injunction. mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or to correct or abate such violation, or to prevent the occupancy of such building, structure or land. In addition to the County, any person, the value or use of whose property is or may be affected by such violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these regulations and to abate nuisances in violation thereof.

Section 6. INVALIDITY OF A PART: That any provisions of this Resolution which shall be declared by a competent court to be unconstitutional or invalid shall not affect the validity and authority of any other sections of said Resolution.

Section 7. REPEAL: Thal Resolution No. 98-7 is hereby repealed and any other resolutions or parts of resolutions in conflict with this Resolution arc hereby repealed.

Section 8. EFFECTIVE DATE: That this Resolution shall take effect from and after its adoption and publication once in the official county newspaper.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF STAFFORD COUNTY, KANSAS, this 11th day of October 2005.

J. D. Hager, Jr., Chairman

Laurn H. Chile s, Commissioner

Lee Suiter, Commissioner

SEAL ATTEST:

Nita J. Keenan, County Clerk

ORDINANCE INCORPORATING AND ADOPTING ZONING REGULATIONS

{Published Once in The Stafford Courier on October 5, 2005) It

ORDINANCE NO. 190

AN ORDINANCE ENACTED APPROVING AND INCORPORATING BY REFERENCE CERTAIN MODEL ZONING REGULATIONS GOVERNING THE USE OF LAND AND THE LOCATION OF BUILDINGS WITHIN THE CITY OF HUDSON, KANSAS, AS PREPARED AND PUBLISHED IN BOOK FORM BY THE STAFFORD COUNTY/HUDSON JOINT PLANNING COMMISSION PURSUANT TO K.S.A. 12-741, AS AMENDED, 12-736, 12-742, 12-753 TO 12-761 INCLUSIVE, 12-763, 12-764, 12-3009 TO 12-3012 INCLUIVE, 12-3301 AND 12-3002; ESTABLISHING ZONING DISTRICT BOUNDARIES AND THE CLASSIFlCATION OF SUCH DISTRICTS; ADOPTING BY REFERENCE AN OFFICIAL MAP OF ZONING DISTRICTS; DEFINING CERTAIN TERMS USED IN SAID REGULATIONS; REGULATING THE MAXIMUM DIMENSIONS OF BUILDINGS AND OTHER STRUCTURES THROUGH BULK REGULATIONS AND LOT AREAS; REGULATING THE LOCTION AND SIZE OF SIGNS; PROVIDING FOR AND REGULATING VEHICULAR PARKING SPACE; REESTABLISHING THE BOARD OF ZONING APPEALS AND PRESCRIBING ITS DUTIES; . PROVIDING FOR THE APOINTMENT OF A ZONING ADMINISTRATOR ANQ PRESCRIBING HIS OR HER DUTIES; PROVIDING FOR FEES TO BE CHARGED FOR' AMENDMENTS, APPEALS AND PERMITS; ESTABLISHING A MEANS FOR AMENDING SAID REGULATIONS, MAP AND ORDINANCE; PROVIDING FOR PENALTIES FOR VIOLATION OF ITS PROVISIONS AND A MEANS OF ENFORCEMENT; AND REPEA LING ALL OTHER ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HUDSON, KANSAS:

Section 1. Adoption: Zoning regulations· are hereby approved and adopted by the Governing Body of the City of Hudson, Kansas, as prepared and published in book form as model regulations by the Stafford County/ Hudson Joint Planning Commission with the technical assistance of Foster & Associates; Planning Consultants of Wichita, Kansas, and the County Zoning Administrator under the

date of September 19, 2005, and entitled “Zoning Regulations of Stafford/Hudson, Kansas" and the same are hereby incorporated by reference as fully as if set out herein.

Section 2. Official Map: There are further herein incorporated by reference and adopted as Official Zoning Map delineating the boundaries of zoning districts and the classification of such districts, which map shall be marked "Official copy of zoning district map incorporated into zoning regulations by adoption of Ordinance No. 190 by the Governing Body of the City of Hudson on the 28th day of September. 2005" and filed with the Zoning Administrator to be open for inspection and available to the public at all reasonable business hours.

Section 3. Public Hearing: The advertised public hearing required by Kansas law was duly held on September 26, 2005 by the Stafford County /Hudson Joint Planning Commission, and a discussion of said Zoning Regulations and map was had at the hearing; and the Zoning Regulations and map in model code form herein adopted are a true and correct copy of those regulations as adopted Joint Planning Commission.

Section 4. Jurisdiction: From the effective date of this Ordinance, the Zoning Regulations and Official Zoning Map herein incorporated by reference shall govern all use of the land and the location of buildings and other structures placed within the City of Hudson, Kansas.

Section 5. official Coples: Not less than three copies of the Zoning Regulations in book form marked "Official Copy as incorporated by Ordinance No.190" and to which there shall be a published copy of this Ordinance attached, shall be filed with the City Clerk to be open for inspection and available to the public at all reasonable business hours.

Section 6. Invalidity of a Part: Any provisions of this Ordinance which shall be declared by a competent court to be unconstitutional or invalid shall not affect the validity and authority of any other sections of said Ordinance.

Section 7. Repeal: Any other ordinances or parts of ordinances in conflict with this Ordinance arc hereby repealed,

Section 8. Effective Date: This Ordinance shall take effect from and after its passage, approval and publication once in the official city newspaper.

PASSED BY THE CITY COUNCIL this 28th day of September 2005
APPROVED BY THE MAYOR this 28th day of September 2005.

(SEAL)/s/Harold J. Bauer, Mayor

ATTEST: /s/ Sheila Witt, City Clerk