

**ZONING REGULATIONS
Of The
CITY OF BURLINGTON, 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 the City of Burlington, Kansas," and shall hereinafter be referred to as "these regulations."

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

- A. To promote the public health, safety, morals, comfort and general welfare and to protect and control the aesthetics of redevelopment and new development according to K.S.A. 12-755(a) (4);
- 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 district and to zone for residential, commercial, industrial and other purposes including flood plains;
- D. To regulate and restrict the height, number of stories and size of buildings and structures including their distance from any lot line or street right-of-way; 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 and historical values and conserve agricultural land, 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. These regulations are adopted under authority established by K.S.A., 12-741 et seq., as amended, 12-715b, 12-736, 12-742, 12-753 to 12-761 inclusive, 12-763, 12-764, 12-766, 12-3009 to 12-3012 inclusive, 12-3301 and 12-3302.

103 **Zoning Jurisdiction.** These regulations shall apply to all buildings, structures and land within the corporate limits of the City of Burlington, Kansas, as presently exist or are hereafter established by annexation and within the following land description which is located outside of the City; provided, however, that such land is not otherwise zoned by Coffey County, is within three miles of the city limits and is not more than one-half the distance to another city:

That land in Burlington and Hampden Townships of Coffey County, Kansas, excluding the City of Burlington which contains the following area:

Township 21 South, Range 15 East

Sections 14, 15, 20, 21, 22, 23, 25, 26, 28, 29, 30, 32, 33, 34, 35, and 36; the West $\frac{1}{2}$ and SE $\frac{1}{4}$, less the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 13; that part of Sections 16, 17, and 19 south of Embankment Road (FAS 2074); Section 24 less the E $\frac{1}{2}$ of E $\frac{1}{2}$ of SE $\frac{1}{4}$; the E $\frac{1}{2}$ and NW $\frac{1}{4}$ of Section 31.

Township 21 South, Range 16 East

Sections 31 and the S $\frac{1}{2}$ of Section 30 except the North 70 acres of the SE $\frac{1}{4}$ of said section.

Township 22 South, Range 16 East

The W $\frac{1}{2}$ and NE $\frac{1}{4}$ of Section 6.

Township 22 South, Range 15 East

Section 1, 2, 3, 4, 5 and 10; the NE $\frac{1}{4}$ of Section 6; the NE $\frac{1}{4}$ of Section 8; the E $\frac{1}{2}$ and NW $\frac{1}{4}$ of Section 9; the W $\frac{1}{2}$ and NE $\frac{1}{4}$ of Section 11; and the NW $\frac{1}{4}$ of Section 12.

All such land is included in the Planning Area for the Comprehensive Development Plan which has been adopted by the Planning Commission and approved by the Governing Body.

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 the 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, ordinance, 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 lawful and valid easement, deed restriction, covenant or other private agreement of legal relationship; provided, that 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. The City does not 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 a 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 residential 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 for Vesting of Development Rights.)
 - 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 permit was issued on the basis of an application showing complete plans for proposed construction and/or use; and
 - 4. There has been a substantial change of position, substantial expenditure, 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 principle structure is not commenced on such land within five 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 an individual, firm, corporation, association, partnership, trust, governmental body and agency, and all other legal entities.
 6. The word "**City**" means the City of Burlington, Kansas.
 7. The words "**Governing Body**" mean the Mayor and Council Members of the City of Burlington, Kansas which together constitute the governing body.
 8. The word "**Clerk**" means the City Clerk of the City of Burlington, Kansas.
 9. The words "**Planning Commission**" mean the Burlington City Planning Commission.
 10. The words "**Comprehensive Plan**" mean the adopted and approved Comprehensive Development Plan for the City of Burlington, Kansas and surrounding Planning Area, which includes, among other elements, a plan for land use.
 11. The word "**Board**" means the Burlington 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 APARTMENT: An accessory use dwelling unit that may be constructed wholly within, or may be detached from a principal single-family dwelling unit which shall be subject to the following standards:

1. A maximum 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 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 shared utility connections may be utilized subject to meeting all requirements of the of the current building codes for the City.
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 Coffey 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 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 licensed 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. (See Section 6-102C1 for adult care home limitations as home occupation.)

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

1. The maintenance and operation of commercial greenhouses or hydroponics farms, except in zoning districts where permitted;
2. Retail sales as an accessory use, unless the same are otherwise permitted by these regulations;
3. The feeding of garbage to animals;
4. The feeding, grazing or sheltering of 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 fowl are otherwise permitted by City laws or regulations; and
5. The operation or maintenance of a stockyard or feedlot.

Farmhouses are considered to be single-family dwellings.

AGRICULTURE: (Outside the City) The use of a tract of land in excess of three acres under one ownership where the principle activity is to produce income from the growing of crops, horticulture, nurseries, truck farms or the raising of fish, poultry and cattle or other livestock, but not including feedlots. Such definition includes the structures which are **not** in a designated flood plain that are necessary for carrying on farming operations including greenhouses and, as an accessory use, the dwelling of the owner or operator of the premises including modular and manufactured or mobile homes used as the principal farm dwelling. 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. The retail sale of items on the property produced as part of the farming operation is permitted. Such definition shall not include lands used for recreational purposes or rural home sites of which the 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 an occupancy certificate, nor do they establish any other rule or regulation contrary to the provisions of K.S.A. 12-715b. To assist the Zoning Administrator in determining if a proposed building, structure or use meets the definition of agriculture, any applicant seeking agricultural exempt status may be asked to complete a certificate of compliance. 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 definition for FEEDLOT, Section 3-100E4 for Exemptions to agricultural purposes and Section 3-103N7 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 right-of-ways, together with all airport buildings and structures located thereon.

ALLEY: A minor public 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 eight or more of the devices. Amusement devices shall include computer video games, pinball machines, pool or billiard and other table games. Such definition is not intended to include recreational uses such as bowling, skating rinks or miniature golf, but may include indoor 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.

APARTMENT: See DWELLING, MULTIPLE-FAMILY.

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 tire recapping, body repairs or major overhaul. Such use does not include open sales lots for new or used vehicles nor provide for rental vehicles or 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 sidewalk area.

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 right-of-ways, waterways, city limits or other property lines.

BOARDING OR ROOMING HOUSE: A building other than a hotel where, for compensation and by prearrangement for definite periods, lodging only or with meals are provided for five or more boarders and/or roomers exclusive 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 support, shelter or enclosure of persons, animals, horticultural products or chattels. Interconnected structures 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 setbacks. (See Section 3-103G for utility and communication facilities exemption.)

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 administration.

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. No camper shall occupy a campground for a period exceeding 14 consecutive days. 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. [See City Manufactured Home Park and Trailer Camp Regulations.]

CANOPY: Any structure, movable or stationary, open on three sides without supporting posts, which is 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 or drive-in facility. 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 is enclosed on at least one side and has supporting posts. Such carports are not permitted obstructions under Section 3-103F1. (See CANOPY.)

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

CHILD CARE FACILITIES: Definitions for facilities which provide care for children are established by state law and promulgated by regulations of the Kansas Department of Health and Environment. Standards for such definitions may be periodically amended by changes to state regulations and are

automatically incorporated herein. The following facilities are licensed or registered by the department:

1. Group Boarding Home: A non-secure facility providing 24-hour residential care for not less than five nor more than 10 persons related 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 less 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 child care 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 beverages 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.) (Also see *City Codes, Chapter III Beverages.*)

CONDITIONAL USE: The use of a structure or land that is not permitted outright 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 City 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 City, the costs for such maintenance shall be assessed against the condominium units and shall become a tax lien thereon. The Zoning Administrator must be satisfied that such a provision is included in the declaration before an 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 of the land proposed to be included in a planned development or the duly authorized agent thereof. The holder of an option or contract for 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 three 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' parked automobiles and from which the occupants 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 on what type of principal or accessory buildings or structures can be located on a public easement. (See Section 9-101A for Zoning Permits.)

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 five 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 four 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 therein 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.)

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, fork-lift pallets, portions of vehicles or appliances and the like are not permitted. (See Section 3-103F 2-5 for fences as permitted obstructions and Section 6-100B for zoning permits required for all fences.)

FLOOD PLAIN: See Section 4-111 for definitions in the Flood Plain District.

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 leases 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, trees 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, and wind energy conversion systems. (See Section 6-100D2 for wind energy conversion systems.); and
3. Communication structures as an accessory structure which do not exceed 60 feet in height in 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 special use to construct a communication structure 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 special 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 buildings, which provides sleeping accommodations for transients with or without meals, whether such establishments 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.

LANDFILL, SANITARY: A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day in accordance with a definite plan. All such landfills must be approved by the Kansas Department of Health and Environment.

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. (See BUILDING.)

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 adoption of 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 contiguous 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. 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 mechanism, 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. Specifically, a manufactured home shall not have been constructed more than 15 years previously. Such 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 City 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, or 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 PARK: Any area, piece, parcel, tract, or plot of ground equipped as required for support of manufactured homes and used or intended to be used by one or more occupied homes. Such parks shall be under one ownership and control, but under no circumstances shall the home spaces be sold or offered for sale individually. The definition of a park does not include a sales area on which unoccupied homes, whether new or used, are parked for the purposes of storage, inspection or sale, unless approved as a conditional use by the Board of Zoning Appeals. A manufactured home may, however, remain on a space for purposes of sale by the resident owner.

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 doctors 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 otherwise fastened together to form a complete living unit. Such homes are built on a chassis consisting of drawbar and coupling mechanism frame (e.g., steel I-beam), 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 spaces provided such additions are designed and constructed by a manufactured home factory or meet applicable City 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 dwelling structure which is custom built on the site of its permanent location; and also in contrast to a manufactured home, either single-width, double-width or multi-width, located on its permanent foundation. In general, such modular homes shall have exterior building materials and somewhat similar appearance to custom built single-family dwellings and meet the standards of the City 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 101 for 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 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 or change in 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 building permit. (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.

PREMISES: A contiguous 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.

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 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 6-100B4 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 and plastic and 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 a responsible party 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.

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 fraternities, as well as modular homes.

RESIDENTIAL CENTER: A non-secure facility which provides 24-hour residential care for more than 10 residents unrelated to the caregivers including

emergency shelters 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 National Manufactured Home Construction and Safety Standards generally known as the HUD Code established in 1976 pursuant to 42 U.S.C. Sec. 5403. Such units shall provide all of the accommodations necessary to be a dwelling unit and shall be connected to all utilities in conformance with applicable City regulations or provide on-site water supply and sewage disposal. A residential-design manufactured home shall not have been constructed more than 15 years previously.

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 3.0 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 City building code standards.
3. The home shall be installed in accordance with the recommended installation procedures of the manufacturer and the standards set by the International Conference of Building Officials (ICBO) and published in the most current edition of "Guidelines for Manufactured Housing Installations." 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, also in accordance with the above guidelines.
4. At the main entrance door there shall be a landing that is a minimum of 20 square feet which is constructed to meet the requirements of City 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 City 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 pre-empt 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: 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.

RIGHT-OF-WAY: The area between boundary lines of a street, alley or other easement of access.

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 NOT prohibit the storing of one or two inoperable or unlicensed motor vehicles for a period of thirty (30) consecutive days or less, which are in the process of restoration to operating condition. (See City Codes for Inoperable Vehicles.)

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 Comprehensive

Plan and are further specified in the City 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:

1. 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;
2. Is used to announce, direct attention to, or advertise; and
3. Is not located inside a building.

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 affect 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 neighborhood or the entire City. 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 Section 11-101 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 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:

1. Attachment of a new front where structural supports are not changed.
2. Addition of fire escapes where structural supports are not changed.
3. New windows where lintels and support walls are not materially changed.
4. Repair or replacement of non-structural members.

(See Section 3-100C for Structural Alterations and Section 3-103F for Permitted Obstructions in Required Yards regarding fire escapes.)

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, mail boxes or public items such as street surfacing, utility poles, fire hydrants, street light fixtures or street signs. Fences, driveways, parking spaces, and signs not otherwise identified as street signs are considered to be structures. (See Section 3-100E1 for Exemptions)

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 and City Code - Chapter III Beverages.)

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 accessory 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, tree, 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. The City has the authority by these regulations to remove any and all obstructions from the vision triangle. The property owner shall be notified and directed to remove the obstruction(s). If action is not taken within five days, the City shall cause the obstructions to be moved and may charge the cost of removal to the property owner. Trees and shrubs existing prior to adoption of these regulations are permitted in the vision triangle as long as they do not obstruct the vision of motorists. 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 center of the lot line intersection 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 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 C-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 there-from 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 there from 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 by the Mayor with the consent of the City Council 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 of 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 Section 2-102 for definition of STRUCTURE.)
- 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 Section 8-102B 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:
 - 1. Poles, wires, cables, conduits, vaults, lift stations, 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 right-of-ways, and maintenance and repair work on such facilities and equipment.
 - 3. Buildings, structures or land used, but not just leased, by the federal government.
 - 4. Use of land for agricultural purposes as defined in Section 2-102, both inside and outside the City, including accessory buildings and structures thereon not in a designated flood plain. 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 operation of oil and gas wells outside the City.

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 uses. References to "industrial districts" shall mean those districts in which industrial uses are the main permitted use. The "flood plain district" is considered as an overlay zone to be used in conjunction with the other districts.
- 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 right-of-ways, 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 roads, streets, alleys, easements, railroads, rivers, streams or water, such boundaries shall be construed as following the centerlines thereof, unless otherwise indicated.
 2. Where boundary lines are indicated as approximately following lot lines; or section, half-section or quarter-section lines; such lines shall be construed to be said boundaries.
 3. Where the district boundaries do not coincide with the location of boundaries as stated in Sections 3-101C1 or 2 above, the district boundaries shall be determined by the use of the scale shown on the zoning map, unless an exact distance is shown.
- D. Zoning of Right-of-ways. All streets, alleys, public ways, waterways and railroad right-of-ways, 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 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 USE)
- 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, except that the Official Zoning Map(s) is/are not amended. 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 a part of the effectuating 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 as an exception 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, altered, 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. A platted zoning lot may be divided into two lots as long as each lot meets the provisions pertaining to lot splits of Article 9 of the City Subdivision Regulations are met.

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 less 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, 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 setback of less than 10 feet; and a driveway to a parking space or garage must maintain a length of at least 20 feet from the front lot line.
- 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 of 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: (See Section 9-101A3 for principal or accessory buildings or structures or uses locating on or projecting over public easements.)
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 30 inches or less into the yard; chimneys, entrance hoods, window wells, wing walls and daylight windows projecting 36 inches or less 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. Attached 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 a front yard: On lots with single or two-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 (See City Code - Chapter 1, Article 8. Fees, and Section 6-108B for required zoning permits.)

4. Construction standard for all fences: No fence shall be constructed which will constitute a hazard to traffic or a danger to persons or animals. (See City Code - Chapter 1, Article 8. Fees)
 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 3-100E 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 to the City from the extraterritorial zoning jurisdiction shall remain in its current zoning classification until such time as the property owner, Planning Commission or Governing Body may file an application to consider a change in zoning districts. Such changes may be considered any time before, during or after the process of annexation is completed, unless some particular requirement of such an application necessitates being inside the city limits to be effectuated. (See Appendix for Table of Comparability of Zoning Districts.)
- J. Sewer and Water Facilities. All principal structures built hereafter within the city limits and on adjacent zoning lots in the extraterritorial jurisdiction shall be served by and connected to the City's sewer and water system, if such facilities can be feasibly provided as may be determined by the Governing Body.
- K. Dedication of Right-of-ways and Easements. As a condition related to a rezoning amendment or a special use, the dedication of additional street right-of-ways; 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 the City Subdivision Regulations or, in lieu of platting, by a legal document effectuating such dedications and improvements. Such condition 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. Flood Plain Requirements. Within any flood plain area as delineated by the Federal Emergency Management Agency, no use of land shall commence or no structure shall hereafter be constructed, structurally altered, extended, enlarged or moved under these regulations, unless it also complies with the flood plain regulations. (See Section 4-111 for FP, Flood Plain District.)
- 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, be made to conform fully with these regulations and other applicable codes of the 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. (See City Code - Chapter IV, Article 5.)
- N. Status of Moving Manufactured or Mobile Homes. Notwithstanding other provisions of these regulations, the Zoning Administrator is authorized to issue a zoning permit for various types of manufactured and mobile homes under the following provisions; except, that all such homes must meet the flood plain district requirements and none may be replaced in a floodway overlay boundary: (See Section 2-102 for definitions of MANUFACTURED HOME and MOBILE HOMES.)
 - 1. Wherever a manufactured or mobile home is moved from a zoning lot within a district in which it is a permitted use, another manufactured or mobile home meeting all of the requirements of the district may be moved onto the lot at any time.
 - 2. In the case of a lawful, nonconforming manufactured or mobile home use, such a move must take place within 180 days from the date that the previous manufactured was moved off the lot, otherwise such use shall not thereafter be reestablished and, when so moved in, shall be skirted or placed on a permanent-type, enclosed perimeter foundation. In reestablishing such a home use, any nonconforming bulk regulations shall not be increased in nonconformity and no newly acquired land can be added to the zoning lot for placement of such a home and a replacement home must be a manufactured home not older than 15 years.

3. 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 designed for offices in business or industrial districts, but not manufactured or mobile homes unless specifically permitted.
4. As an accessory use for a watchman or custodian (including a family) in all business and industrial districts and on land used for nonagricultural and nonresidential purposes in agricultural districts.
5. In the event of disasters, such as fires, tornadoes or floods, whereby expediency is an important factor, a manufactured or mobile home may be located temporarily in any district at the discretion of the Zoning Administrator with appropriate conditions attached and for a stated period of time.
6. Where an unusual hardship is shown, the Board of Zoning Appeals may approve a conditional use for a manufactured or mobile home as an accessory use to be located on a lot or tract, or 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.
7. As an accessory use to a principal farm dwelling on agricultural land as defined herein for outside the City, 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 the City]
0. Vision Triangle. On all corner lots in all districts, no use of land shall commence or no structure shall hereafter be constructed, structurally altered, extended, enlarged or moved after the effective date of these regulations unless it also conforms to the requirements of the vision triangle as defined by Section 2-102.

104 Screening and Landscaping. Screening and/or landscaping shall be provided when a zoning permit is issued on all properties developed for multiple-family, manufactured home park 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 a 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 side 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 development 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 in Section 3-103 O.
- 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 of 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. Tree species and location must be approved by the City Tree Board before being planted on City property. (See City Code, Chapter XIII, Article 4.)
- 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 can not 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 3-104M3 above shall not prevent the Planning Commission from requiring temporary screening on all or a portion of a side or rear yard wherein a nonresidential 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.
- O. Maintenance.
1. It shall be the responsibility of the property owner to maintain in good condition all of 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 disagreeing 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 plans, the Planning Commission may from time to time adopt design criteria in the form of policy statements which may include illustrations.

105 Site Plan Approval. The purpose and intent of requiring site plan approval before start of construction is to encourage the compatible arrangement of buildings, off-street parking, lighting, signage, landscaping, screening, ingress and drainage on and from the site, any or all of these, in a manner that will promote safety and convenience for the public and will preserve property values of surrounding properties.

- A. Applicability. All principle land uses including public uses shall submit site plans for approval by the Planning Commission except single-family and duplexes, unless the latter are arranged in courtyard or grouped settings. Such plans are applicable to all new developments, unless major alterations to an existing site intensify factors which affect the overall design relationships. Minor revisions to the plans due to unforeseen circumstances may be approved by Zoning Administrator after the initial plan approval by the Planning Commission. Site plans may be considered concurrently for rezoning amendments and special uses.
- B. Enforcement. No initial zoning permit shall be issued until a site plan is approved by the Planning Commission. An applicant aggrieved by a decision of the Planning Commission may appeal to the governing body within 30 days for a determination based on the reasonableness of the conditions attached to the issuance of their zoning permit.
- C. Fees. Processing fees are included in the zoning/occupancy certificate fee.
- D. Submittal Time. Site plans should be submitted to the Zoning Administrator 10 days before a regular Planning Commission meeting.
- E. Number of Plan Copies. A minimum of 11 copies are needed for proper review.
- F. Site Plan Requirements.
1. Preceded by final plat approval or concurrent platting when required by City Subdivision Regulations, zoning amendment, or special use.
 2. Oriented to north with north arrow and scale plus property boundary line.
 3. Topography by contour lines required only if slopes exceed 5% or buffer berms are used.
 4. Show flow of storm drainage.
 5. Locate existing and proposed structures by bulk dimensions plus number of stories, gross floor area and entrances.
 6. Show existing and proposed, curb cuts, aisles, off-street parking, loading spaces and walkways, including type of surfacing and number of parking spaces.
 7. Indicate location, height and materials for screening walls or fences and landscaped areas, including grass, trees and shrubs.
 8. Show location, direction and intensity of proposed lighting.
 9. Locate all major signs by type, height and approximate size.

10. Indicate location of outside display, storage and trash disposal areas.

G. Conditions of Approval.

1. Proposed uses are permitted in the district in which the property is located.
2. Proposed arrangement of buildings, off-street parking, loading, access, lighting, signage, landscaping and screening, and drainage is compatible with adjacent land uses.
3. Vehicular ingress and egress to and from the site and circulation within the sites provides for safe, efficient and convenient movement of traffic not only within the site but on adjacent roadways as well.
4. Site plan provides for the safe movement of pedestrians within the site.
5. There is a sufficient mixture of grass, trees and shrubs within the interior and perimeter (including public right-of-way) of site so that the proposed development will be in harmony with adjacent land uses and will provide a pleasing appearance to the public. Any part of the site plan area not used for buildings, structures, parking, loading, or access ways shall be landscaped with a mixture of grass, trees and shrubs.
6. All outdoor trash disposal areas are screened and outdoor storage areas screened where necessary.

H. Assurances. Site plan performance assured by issuance of zoning permit and occupancy certificate. Landscaping must be maintained in a health, disease-free and debris-free condition or it will be considered a violation of these regulations similar to the provisions of Section 3-104 0.

I. Design Criteria. From time to time, the Planning Commission may adopt design criteria in the form of policy statements to assist in reviewing site plans.

ARTICLE 4. ZONING DISTRICTS

4-100 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.

4-101 A-1 Agricultural District. This district is intended to encourage the compact development of the urban area and, except for those particular uses normally expected to locate in a rural area, to promote the preservation and protection of productive agricultural land, watersheds, wildlife habitats and flood plains.

A. Permitted Uses (See Section 2-102 for definition of AGRICULTURE (Inside the City) and AGRICULTURE (Outside the City.)

- 1. Churches, chapels, temples, and synagogues.
- 2. Golf Courses including accessory club houses, but not commercial golf driving ranges and, pitch and putt miniature golf courses.
- 3. Single-family detached dwellings, single-family modular homes, residential-designed manufactured homes and earth-sheltered housing outside the City.

B. Special Uses

- 1. Airports, heliports and ultra-light landing areas, publicly and privately owned.
- 2. Cemeteries, crematories and mausoleums
- 3. Campgrounds. (See Section 2-102 for definition of CAMPGROUND, and also Manufactured Home Park and Trailer Camp Regulations of the City of Burlington, Kansas.)
- 4. Commercial agricultural product storage (elevators) when no other business is in combination with such storage unless properly zoned.
- 5. Commercial auction yards and barns.
- 6. 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 used in any way with the activity permitted. Include in this plan shall be:
 - a. A plan showing the finished topography of the restored areas including grades and slopes.
 - b. A general timing for restoring the various excavation pits and overburden for a continuing use.
 - c. A general description of the methods and materials proposed to provide for a continuing use.

- d. Amount and type of planting to be done on the restored area, or other approved restoration uses or methods.
 - e. All quarry operations shall comply with the "Regulations for Quarry Operations of Coffey County, Kansas". (See Resolution No. 486.)
7. Commercial feedlots.
 8. Commercial storage and/or sale in bulk of anhydrous ammonia or propane and the wholesale storage of gasoline and other manufactured petroleum products above ground level.
 9. Feed mills and fertilizer plants.
 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 at the property lines. Such screening may be densely planted deciduous 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.
 12. Power plants for commercial use. (See Section 6-100D2 for wind energy conversion systems_ and HEIGHT, MAXIMUM as defined in Section 2-102.)
 13. 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; fairgrounds; and musical festivals
 14. Public buildings erected or land used by any agency of City, Township, County, or State governments.
 15. Race tracks.
 16. Riding stables and academies providing no structure housing horses shall be located nearer than 600 feet to the boundary of any residential district.
 17. Sales lots for automobiles, vans, small trucks, hauling trailers and recreational vehicles, when the latter are specifically permitted. (See Section 2-101 for definition of RECREATIONAL VEHICLES.)
 18. Salvage yards, subject to the following conditions:
 - a. Located on a tract of land at least 300 feet from any residential district.
 - b. The operation shall be conducted wholly within an enclosed noncombustible building or within an area completely surrounded by a fence or wall at least eight feet high, but not more than 10 feet high, unless such fence or wall would not be needed to screen adjacent properties due to existing or potential development.

- 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 the applicable local, state or federal laws.
- 19. Utility uses as follows: Electric and telephone substations, gas regulator stations, pumping stations, water towers and standpipes. (See Section 3-103G for lot and bulk requirements.)
 - 20. 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. Earth-sheltered housing inside the city.
- D. Lot Size Requirements
- 1. Minimum lot area:
 - a. Residential uses: 217,800 square feet (five acres).
 - b. All other uses: 40,000 square feet.
 - 2. Minimum lot width: 150 feet.
 - 3. Minimum lot depth: None
- 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 or road.
 - b. Minimum side yard: 35 feet.
 - c. Minimum rear yard: 25 feet.
 - 3. Maximum lot coverage:
 - a. A building structure or use may occupy all that portion of the lot not otherwise required for off street parking, loading, driveways 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 a special or conditional use.
 - 2. (See Section 3-104N4 for watchman or custodian residing on premises.)

4-102 SR-1 Suburban Single-Family Residential District. This district is designed for certain very low density residential areas mainly outside of the City. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where children are members of many families and to prohibit activities of a commercial nature. To these ends, development is limited to single-family housing plus certain community facilities which serve the residents.

A. Permitted Uses

1. Churches, chapels, temples, and synagogues.
2. Golf courses, for daytime use only, including accessory club courses, but not commercial golf driving ranges and pitch and putt miniature golf courses.
3. Public and private schools: educational buildings for primary, intermediate and secondary schools including administrative centers, transportation centers, recreation areas, spectator sports facilities, and storage warehouses. All such uses must be located on land which is properly platted.
4. Single-family detached dwellings, single-family modular homes, residential-design manufactured homes, multiple-wide manufactured homes, group homes and earth-sheltered housing.

B. Special Uses.

1. Bed and breakfast homes.
2. Public buildings erected or land used by any agency of City, Township, County or State governments.
3. Utility uses as follows: Electric and telephone substations, gas regulator stations, pumping stations, and water towers and standpipes. (See Section 3-103G for lot and bulk requirements.)

C. Conditional Uses.

1. Child care centers, preschools and day care homes NOT operated as home occupations.
2. Recreational clubs for swimming, tennis, racquetball, and similar activities and related clubhouses.

D. Lot Size Requirements.

1. Minimum lot area:
 - a. Residential dwellings:
 - 1) 130,680 square feet (three acres) with public sewer.
 - 2) 217,800 square feet (five acres) without public sewer.
 - b. All other permitted uses:
 - 1) 40,000 square feet.
2. Minimum lot width: 150 feet.
3. Minimum lot depth: None.

E. Bulk Regulations.

1. Maximum structure height: 35 feet.

2. Yard requirements:
 - a. Minimum front yard: 35 feet on all sides abutting a street or road.
 - b. Minimum side yards: 35 feet.
 - c. Minimum rear yard: 25 feet.
 3. Maximum lot coverage: 10%
- F. Use Limitations: No outdoor storage shall be permitted as defined in Section 2-102.

4-103 R-1 Single-Family Residential District. This district is established for the purpose of medium density single-family dwellings and to allow certain community facilities. It is intended that no uses be permitted in this district that 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. Churches, chapels, temples, and synagogues.
2. Golf courses, for daytime use only, including accessory club courses; but not commercial golf driving ranges and pitch and putt miniature golf courses.
3. Public and private schools: educational buildings for primary, intermediate and secondary schools including administrative centers, transportation centers, recreation areas, spectator sports facilities and storage warehouses. All such uses must be located on land which is properly platted.
4. Single-family detached dwellings, single-family modular homes, residential-design manufactured homes not over 15 years old and group homes as defined in Section 2-102.

B. Special Uses.

1. Bed and breakfast homes.
2. Public buildings erected or land used by any agency of City, Township, County, or State governments.
3. Utility uses as follows: Electric and telephone substations, gas regulator stations, pumping stations, and water towers and standpipes. (See Section 3-103G for lot and bulk requirements.)

C. Conditional Uses.

1. Accessory apartments. (See Section 2-102 for definition of ACCESSORY APARTMENT.)
2. Adult care homes for five or more adults.
3. Child care centers, preschools and day care homes NOT operated as home occupations.
4. Earth-sheltered dwellings, provided that the design is compatible with adjacent properties including such items as drainage, parking and accessory structures.
5. Metal buildings specifically designed for use as single-family detached dwellings; provided, that the design is compatible with adjacent properties including such items as aesthetic appearance, parking and accessory structures.
6. Off-premises accessory detached garage or storage buildings on an adjacent zoning lot or directly across from an alley in the same zoning district which otherwise meet all the standards of Section 6-100B1 and 3. The ownership of the lots are perpetually tied together unless another dwelling is built on the lot with the

detached structure(s). An occupancy permit shall not be issued until a suitable restrictive covenant is filed with the County Register of Deeds which perpetually ties together the ownership of the two lots subject to the above conditions for dividing the ownership of the lots.

7. Recreational clubs for swimming, tennis, racquetball, and similar activities and related clubhouses.

D. Lot Size Requirements.

1. Minimum lot area:
 - a. Single-family dwellings:
 - 1) 7,500 square feet for interior lots
 - 2) 9,000 square feet for corner lots.
 - 3) 40,000 square feet without public sewer.
 - b. All other permitted uses:
 - 1) 10,000 square feet with public sewerage.
2. Minimum lot width:
 - a. 150 feet for lots of 40,000 square feet or larger.
 - b. 70 feet for interior and 80 feet for corner lots less than 40,000 square feet.
3. Minimum lot depth: None.

E. Bulk Regulations.

1. Maximum structure height:
 - a. 35 feet for principle structures.
 - b. 24 feet for accessory structures.
2. Yard requirements:
 - a. Minimum front yard:
 - 1) 30 feet for lots of 40,000 square feet and larger.
 - 2) 15 feet for lots less than 40,000 square feet.
 - b. Minimum side yards:
 - 1) Residential: 5 feet.
 - 2) All other permitted uses: 5 feet.
 - c. Minimum rear yard: 5 feet.
3. Maximum lot coverage: 30%

- F. Use Limitations: No outdoor storage shall be permitted as defined in Section 2-102.

4-104 R-2 Multiple-Family Residential District. This district is composed of certain medium density residential areas of the City with a variety of housing types plus certain open areas where similar development appears likely to occur. The regulations are designed to stabilize and protect the essential characteristics of the district and to promote and encourage a suitable environment for family life. Uses are typically single-family dwellings, duplexes, triplexes and fourplexes, plus certain additional uses such as schools, parks, churches and certain community facilities which serve the residents of the district.

A. Permitted Uses.

1. Any permitted use allowed in the R-1 Residential District.
2. Boarding or rooming houses.
3. Single-family attached, not exceeding two and two-family dwellings.
4. Triplex and fourplex attached dwellings.

B. Special Uses.

1. Bed and breakfast homes.
2. Public buildings erected or land used by any agency of City, Township, County, or State governments.

C. Conditional Uses.

1. Any conditional use allowed in the R-1 Residential District.

D. Lot Size Requirements.

1. Minimum lot area:
 - a. Single-family detached dwellings:
 - 1) 6,000 square feet.
 - b. Single-family attached and two-family dwellings:
 - 1) 3,700 square feet per dwelling
 - c. Triplex and fourplex attached dwellings:
 - 1) 7,500 square feet plus 1,500 square feet for each additional dwelling exceeding two units.
 - d. All other uses:
 - 1) 10,000 square feet.
2. Minimum lot width:
 - a. Single family dwellings: 60 feet
 - b. Two-family dwellings: 70 feet
 - c. Triplex and fourplex dwellings: 80 feet
 - d. All other uses: 80 feet
3. Minimum lot depth: 100 feet

E. Bulk Regulations.

1. Maximum structure height:
 - a. 35 feet for principal structures.
 - b. 24 feet for accessory structures.

2. Yard requirements:

a. Minimum front yard:

- 1) 15 feet on all sides abutting a street, except driveways to parking spaces require 20 feet.

b. Minimum side yard:

1) All residential buildings:

- a) 5 feet, except for the common lot line of a single-family attached dwelling. (See Section 2-102 for definition of DWELLING, ATTACHED.)*

- 2) All other uses: 5 feet.

c. Minimum rear yard: 5 feet.

3. Maximum lot coverage: 35%

F. Use Limitations: No outdoor storage shall be permitted as defined in Section 2-102.

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

4-105 R-3 Multiple-Family Residential District. This district is established to permit various types of low density multiple-family dwellings units with community facilities and certain special and conditional uses, yet retain a residential quality. The district is not intended generally for a single-family dwelling use except as incidental to the area.

A. Permitted Uses.

1. Adult and child care centers, preschools, and adult and day care homes, all of which are not operated as home occupations.
2. Boarding or rooming houses.
3. Churches, chapels, temples and synagogues.
4. Multiple-family dwellings.
5. Single-family attached, not exceeding two, and two-family dwellings.
6. Single-family detached dwellings and group homes.

B. Special Uses.

1. Bed and breakfast homes and inns.
2. Dwelling units for the elderly and handicapped whereby density and parking may be varied from the standards otherwise required.
3. Medical and dental offices, hospitals and health clinics.
4. Nursing and convalescent homes.
5. Public building erected or land used by any agency of City, Township, County or State Governments.
6. Rehabilitation houses such as "halfway" houses and residential centers.
7. Retirement centers and assisted living facilities.

C. Conditional Uses.

1. Any conditional use allowed in the R-1 Residential District, except earth-sheltered housing.

D. Lot Size Requirements.

1. Minimum lot area:
 - a. Single-family detached dwellings:
 - 1) 6,000 square feet
 - b. Single-family attached and two-family dwellings:
 - 1) 3,700 square feet per dwelling
 - c. Multiple-family attached dwellings:
 - 1) 3,000 square feet per dwelling unit, but no zoning lot shall be less than 10,000 square feet.
 - d. All other uses:
 - 1) 10,000 square feet.
2. Minimum lot width:
 - a. Single-family dwellings: 60 feet.

- b. Two-family dwellings: 70 feet.
- c. Multiple-family dwellings: 90 feet.
- d. All other uses: 90 feet.
- 3. Minimum lot depth: 100 feet.

E. Bulk Regulations.

- 1. Maximum structure height: 45 feet.
- 2. Yard requirements:
 - a. Minimum front yard:
 - 1) 15 feet on all sides abutting a street except driveways to parking spaces require 20 feet.
 - b. Minimum side yard:
 - 1) All residential buildings: 5 feet, except for the common lot line of a single-family attached dwelling. (See Section 2-102 for definition of DWELLING, ATTACHED.*)
 - 2) All other uses: 5 feet
 - 3) Maximum lot coverage: 50%
 - c. Minimum rear yard: 5 feet

F. Use Limitations: No outdoor storage shall be permitted as defined in Section 2-102.

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

4-106 MH-1 Manufactured Home Park District. This district is designed to provide for medium density manufactured home parks which would be compatible with the character of the surrounding neighborhood. Manufactured homes will **NOT** be permitted on individually owned lots. Manufactured home parks are further governed by the Manufactured Home Park and Trailer Camp Regulations for the City.

A. Permitted Uses.

1. Child care centers and preschools.
2. Community buildings, washrooms, restrooms, laundry facilities, storage areas, storm shelters, and offices for the manufactured home parks.
3. Manufactured home parks.
4. Park and recreational facilities such as swimming pools, tennis courts, golf courses, shuffleboards, and boating and fishing lakes for residents of the manufactured home park.

B. Special Uses.

1. None.

C. Conditional Uses.

1. Mini-storage facilities.

D. Standards for Manufactured Home Parks.

1. The tract to be used for a manufactured home park shall not be less than two acres in area.
2. The manufactured home park shall be under one ownership and control, and individual occupants other than the owner shall not purchase or own any piece, parcel, or portion of the park.
3. The applicant for a manufactured home park shall submit a Manufactured Home Park Plot Plan for approval to accompany the application for rezoning to an MH-1 District according to the standards and procedural requirements of the Manufactured Home Park and Trailer Camp Regulations of the City.

E. Unused Manufactured Home Park.

1. Whenever a property, zoned for the MH-1 District ceases to be used for such purposes for a period of two years, the Planning Commission may initiate an application to rezone such property to some other district compatible with the neighboring area.

4-107 C-1 Central Business District. This District is composed of certain land and structures used primarily to provide retailing and personal services, including opportunities for a complete variety of goods for comparative shopping. The provisions are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for providing service to the City and trade area and to permit limited industrial activity. To these ends, development is primarily limited to retailing and personal services plus some of the uses permitted in residential districts. The regulations are designed to permit development of the enumerated functions limited by standards designed to retain a favorable environment for the proper functioning of the district, plus certain public facilities which are needed to serve the occupants of the district. The following uses are permitted outright in the district, provided that: (1) There shall be no manufacturing, compounding, processing or treatment of products other than that which is clearly incidental and essential to a retail business and where all such products are customarily sold at retail on the premises, and (2) such uses, operations or products are not objectionable due to odor, dust, smoke, noise, vibration or other similar causes.

A. Permitted Uses.

1. Appliance repair shops.
2. Amusement centers, indoor only, but not bowling alleys.
3. Bakery and health food stores.
4. Barber and beauty shops.
5. Bus passenger stations and express offices.
6. Business and professional offices and financial institutions, including drive-up windows.
7. Business schools.
8. Carpentry shops.
9. Custom dressmaking and tailor shops
10. Dwelling units constructed in conjunction with and above the first floor of business establishments.
11. Hotels and motels, including private clubs therein, and bed and breakfast inns.
12. Laundry or dry-cleaning establishments.
13. Liquor stores.
14. Medical and dental clinics.
15. Newsstands
16. Parking lots or parking garages.
17. Pawnshops.
18. Personal care services such as tanning salons, fitness centers, massages, nails and the like; but not including tattoo parlor.
19. Pet shops.

1. Maximum structure height: 50 feet.
2. Yard Requirements:
 - (a) Minimum front yard: None.
 - (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. Maximum lot coverage: A building, structure or use may occupy all that portion of the lot not otherwise required for the yard regulations.

F. Use Limitations:

1. All business, service, storage and display of goods shall be located within a completely enclosed structure; except for automobile service stations, news racks and vending machines.
2. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in a residential district.

4-108 C-2 Commercial District. This district is intended to provide a full range of retail sales and services including opportunities for a complete variety of goods for comparative shopping, plus activities not basically conducted within an enclosed structure such as vehicle sales lots, etc. The provisions are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for providing service to the trade area and to prohibit activities of an industrial nature. The regulations are designed to permit development of commercial and business functions plus certain public facilities which are needed to serve the occupants of the district.

A. Permitted Uses.

1. Establishments for the retailing of convenience and shoppers' goods and for a wide variety of commercial uses and personal services including, but not limited to variety, grocery, hardware, sporting goods, barber and beauty shops, dry cleaning outlets, self-service laundries, shoe repair shops, upholstering shops, carpentry shops and similar service activities.
2. Agricultural implement sales and services.
3. Assembly halls for fraternal, service and labor organizations.
4. Amusement center, indoor only.
5. Automobile service stations.
6. Building materials, retail outlet only.
7. Business and professional offices.
8. Business and technical schools.
9. Churches, chapels, temples, and synagogues.
10. Financial institutions, including drive-up windows.
11. Greenhouses and nurseries including both wholesale and retail.
12. Hotels and motels, bed and breakfast inns and boarding houses.
13. Medical and dental clinics and hospitals.
14. Mortuaries and funeral homes.
15. One-unit dwelling when incidental to the principal permitted use. (See Section 4-108F1.)
16. Restaurants, including drive-in establishments.

B. Special Uses.

1. Amusement centers, outdoor (i.e., miniature golf)
2. Mini-storage facilities for inside and outside rental storage.
3. Oil field services and equipment sales.
4. Public building erected or land used by any agency of City, Township, County or State governments.
5. Sales, repair, rental and storage facilities for equipment and machinery.

6. Veterinarian facilities and animal hospitals.
 7. Vocational schools.
 8. Utility uses as follows: Electric and telephone substations, gas regulator stations, pumping stations, water towers and standpipes. (See Section 3-103G for lot and bulk requirements.)
 9. Other uses not specifically listed above as a permitted, special or other conditional use, but which are in keeping with the intent of section 4-108 and compatible with the uses permitted in Section 4-108A.
- C. Conditional Uses.
1. Building materials, wholesale outlet.
 2. Car washes.
 3. Child care centers.
- D. Lot Size Requirements.
1. Minimum lot area: 10,000 square feet.
 2. Minimum lot width: 100 feet.
 3. Minimum lot depth: 100 feet.
- E. Bulk Regulations.
1. Maximum height: 40 feet for principal structures;
25 feet for accessory structures
 2. Yard Requirements:
 - a. Minimum front yard: 15 feet on all sides abutting a street.
 - b. Minimum side yard: None, but if a side yard is provided, it shall not be less than 5 feet.
 - c. Minimum rear yard: 5 feet.
 3. Maximum Lot Coverage: 60%
- F. Use Limitations.
1. All outdoor business, service repair, processing, storage or display of goods shall be related to the permitted, special or conditional uses allowed in the district and shall be conducted wholly within an enclosed building unless screened from any adjacent residential district by a sight obscuring fence permanently maintained at least six feet in height.
 2. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in a residential district.

4-109 I-1 Light Industrial District. This district is established 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; and create limited environmental problems not specifically limited to odor, smoke, dust, glare, vibration, noise or dangerous and hazardous materials. No residential uses are permitted.

A. Permitted Uses.

1. Agricultural and oil equipment sales, repairs and storage.
2. Agricultural feed, grain and fertilizer mixing, storage and sales.
3. Animal hospitals or clinics, including outside runs.
4. Auction sales, but not animal sales barns.
5. Automobile and truck sales, refinishing, repairs and storage.
6. Building materials except concrete and asphalt plants, lumberyards, recreation vehicles, boats and manufactured home production, sales, storage and repairs.
7. Car washes.
8. Carpenter, electrical, plumbing and sheet metal shops.
9. Construction contractor's offices, including equipment and storage yards.
10. Dog kennels, including outside runs.
11. Dry cleaning and/or laundry plants.
12. Food production, distribution and storage.
13. Frozen food lockers and storage plants.
14. Greenhouses, hydroponics farming and nurseries, retail and wholesale.
15. Light manufacturing operations.
16. Machinery and equipment sales, repairs and storage.
17. Metal fabrication, assembly and welding shops.
18. Monument sales.
19. Printing and publishing firms.
20. Research facilities.
21. Sales, repair, rental and storage facilities for equipment and machinery.
22. Sign manufacturing and maintenance.
23. Transportation vehicle storage such as trucks and buses.
24. Upholstery shops.
25. Wholesale businesses and storage and mini-storage facility; except those which handle products of a highly explosive, combustible or volatile nature such as anhydrous ammonia, petroleum products,

dynamite including fireworks or similar products which may be considered dangerous to life and/or property.

B. Special Uses

1. Public buildings erected or land used by any agency of City, Township, County or State governments.
2. Utility uses as follows: Electric and telephone substations, gas regulator stations, pumping stations, water towers, standpipes, and utility maintenance areas and related storage. (See Section 3-103G for lot and bulk requirements.)
2. Other uses not specifically listed as permitted, special or conditional use, but which are in keeping with the intent of Section 4-109 and compatible with the uses permitted in Section 4-109A. 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.

C. Conditional Uses.

1. Automobile service stations.
2. Restaurants, including drive-in establishments.

D. Lot Size Requirements.

1. Minimum lot area: 10,000 square feet.
2. Minimum lot width: 50 feet
3. Minimum lot depth: 100 feet

E. Bulk Regulations

1. Maximum structure height: 45 feet exclusive of grain elevators.
2. Yard requirements:
 - a. Minimum front yard: 25 feet on all sides abutting a street.
 - b. Minimum side yard: 10 feet.

Minimum rear yard: 10 feet, unless this district abuts a residential district and then the yard shall not be less than 25 feet.

F. Use Limitations:

1. No new building shall be used for residential purposes, except that a watchman or custodian may reside on the premises.
2. All outdoor activities, service, storage and display of goods shall be related to the permitted, special or conditional uses allowed in the district. Display of goods in the front yard setback may be permitted if approved by the Board of Zoning Appeals as part of a conditional or special use.
3. All business and professional offices shall be facilities related to the permitted, special or conditional uses allowed in the district.
4. There shall be no emission of noise, dust, smoke, odor or vibration which shall be detectable as a nuisance beyond the lot line.

4-110 I-2 Heavy Industrial District. This district is established for basic or primary industries which require large amounts of land and/or use the land intensely, generate heavier type traffic, place more demands on public utilities, create some environmental problems and are generally not compatible with residential and/or most commercial activity. Certain uses which present special environmental problems and hazardous situations will require special or conditional use permit. No residential uses are permitted.

A. Permitted Uses.

1. Any permitted use allowed in the I-1 Industrial District.
2. Concrete and clay manufactured products.
3. Foundries and blacksmith shops
4. Heavy manufacturing, processing and fabrication operations.
5. Poultry slaughtering and egg processing.
6. Recycling processing centers.

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.
6. Fat rendering.
7. Fertilizer manufacture.
8. Garbage, offal or dead animal incineration or reduction.
9. Glue or soap manufacture.
10. Smelting of base metals.
11. Tanning, curing or storage of rawhides or skins.

C. Special Uses.

1. Alfalfa dehydrating plants.
2. Asphalt and concrete mixing plants.
3. Bowling centers or alleys.
4. Bulk storage for wholesale or retail sale or outside storage or inside an accessory storage structure of materials used as part of a principal manufacturing process of such items as anhydrous ammonia, petroleum products and other products which may be considered as highly explosive, combustible or of a volatile nature. (See Section 6-100B for permitted accessory uses.)
5. Commercial development of natural resources and extraction of raw materials such as rock, gravel or sand; subject to the same standards as in Section 4-101D5 of the A-1 Agricultural District. (Quarry operations must be in compliance with the "Regulations

for Quarry Operations of Coffey County." (See Resolution No. 486.)

6. Petroleum and natural gas refining and storage.
7. Public buildings erected or land used by any agency of City, Township, County or State governments.
8. Public and private hazardous waste facilities.
9. Public and private sanitary landfills including the operation of incineration plants, large recycling collection and processing centers and transfer stations.
10. Salvage yards: subject to same standards as in Section 4-101D17.
11. Stockyards and slaughter houses other than for poultry.
12. Other 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. Such other uses may also include retail and service businesses, which provide a direct service to the industrial uses or serve as a convenience to the employees thereof.

D. Conditional Uses.

1. Any conditional use permitted in the I-1 Industrial District.

E. Lot Size Requirements.

1. Minimum lot area: 20,000 square feet.
2. Minimum lot width: 75 feet.
3. Minimum lot depth: 125 feet.

F. Bulk Regulations.

1. Maximum structure height: 60 feet exclusive of grain elevators.
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: 20 feet, unless this district abuts a residential district and then the yard shall not be less than 25 feet.
3. Maximum lot coverage: 60%

G. Use Limitations.

1. No new buildings shall be used for residential purposes, except that a watchman or custodian may reside on the premises.
2. All outdoor activities, service, storage and display of goods shall be related to the permitted, special or conditional uses allowed in the district. Display of goods in the front yard setback may be permitted if approved by the Board of Zoning Appeals as part of a conditional or special use.

3. All business and professional offices shall be facilities related to the permitted, special or conditional uses allowed in the district.

4-111 FP Flood Plain District. The Legislature of the State of Kansas has in K.S.A. 12-741 et seq. delegated the responsibility to local government units to adopt flood plain management regulations designed to protect the health, safety, and general welfare. Therefore, the Governing Body of the City of Burlington ordains the following: Certain areas of the City are periodically subject to flooding which can result in losses due to: (1) the cumulative effect of obstructions in floodways causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise protected from flood damages. The Flood Plain District is designed to permit the gainful use of certain lands which are considered to be in the path of potential flood waters and from which structures and other valuable property use that is subject to damage by flood water should be excluded. This would permit surface runoff through such areas in the event of heavy stream flow with a minimum of structural damage or property loss and a minimum of obligation upon the governmental authorities for flood assistance. More specifically, the purpose of this overlay zoning district is to:

1. Prohibit the placement of structures, fill and materials which would unduly impede or obstruct flood flows;
2. Protect human life and health, prevent property damage, minimize business interruptions, and minimize and facilitate rescue and relief efforts which generally must be undertaken at public expense;
3. Minimize expenditures of public monies for costly flood control projects and minimize the damage to public facilities in the flood plain, such as water mains, sewer lines, streets and bridges;
4. Minimize flood blight areas and maintain property values and a stable tax base adjacent to the flood plain;
5. Require that uses vulnerable to floods, including public facilities, be provided with flood protection at the time of initial construction;
6. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard;
7. Assure that eligibility is maintained for property owners in the City to purchase flood insurance in the Federal Flood Insurance Program.

A. Definitions: The following definitions which supplement Section 2-102 shall be used in the construction and interpretation of this district:

1. ACTUARIAL RATES OR RISK PREMIUM RATES: Those rates established by the Federal Insurance Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with 42 U.S. Code 4014 and the accepted actuarial principles. Actuarial rates include provisions for operating costs and allowances.
2. APPEAL: A request for a review of the Zoning Administrator's interpretation of any provision of this ordinance or request for a variance.
3. AREA OF SHALLOW FLOODING: A designated AO or AH zone on a community's Flood Insurance Rate Map (F.I.R.M.) with a one percent

or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

4. AREA OF SPECIAL FLOOD HAZARD: The land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.
5. BASE FLOOD OR 100-YEAR FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year.
6. BASEMENT: Any area of a building having its floor sub grade (below ground level) on all sides.
7. CHANNEL: A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow thus is that water which is flowing within the limits of a defined channel.
8. DEVELOPMENT: In the FP District only, development means any man-made change to improved or unimproved property, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations and storage of equipment or materials which would result in measurable increased flood heights.
9. EXISTING CONSTRUCTION: For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the F.I.R.M. or before January 1, 1975, for F.I.R.M.s effective before that date. "Existing construction" may also be referred to as "existing structures."
10. EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the flood plain management regulations adopted by the community.
11. EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: Means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
12. FLOOD: A temporary rise in stream flow or stage that results in water overlapping its banks and inundating areas adjacent to the channel. Also, an unusual and rapid accumulation of runoff or surface waters from any source.
13. FLOOD ELEVATION DETERMINATIONS: A determination of the water surface elevations of the 100-year flood; i.e., the level of flooding that has a one percent chance of occurrence in any given year.
14. FLOOD FRINGE: That area of the flood plain outside of the floodway that on the average is likely to be flooded once every 100 years; i.e., that has one percent chance of flood occurrence in any one year.

15. FLOOD INSURANCE RATE MAP (F.I.R.M.): The effective date of the City's F.I.R.M. is September 20, 1996 as amended. This official map was prepared by the Federal Insurance Administration of the Federal Emergency Management Agency for a community delineating where flood insurance may be sold and the risk premium zones applicable to such areas.
16. FLOOD INSURANCE STUDY (F.I.S.): The effective date of the City's F.I.S. is September 20, 1996 as amended. This official report was provided by the Federal Insurance Administration, which contains flood profiles and water surface elevations for various flood frequencies as well as the boundaries and water surface elevations of the 100-year flood.
17. FLOOD PLAIN MANAGEMENT: The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to an emergency preparedness plan, flood control works and flood plain management regulations.
18. FLOOD PROTECTION SYSTEM: Those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard." Such a system typically includes levees or dikes. These specialized modifying works are those constructed in conformance with sound federal engineering standards.
19. FLOODPROOFING: Any combination of structural and non-structural additions, changes or adjustments to structures, including utility and sanitary facilities, which would preclude the resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
20. FLOODWAY: The channel of a river, creek or other watercourse and the adjacent portion of the flood plain that must be reserved in order to discharge the base flood without increasing the water surface elevation more than one foot.
21. FREE BOARD: A factor of safety usually expressed in feet above the flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.
22. HIGHEST ADJACENT GRADE: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
23. HISTORIC STRUCTURE: Any structure that is:
 - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or district preliminarily determined by the Secretary to qualify as a registered historic district;

- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior; or (2) Directly by the Secretary of the Interior in states without approved programs.
24. LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
25. MANUFACTURED HOME: A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include "recreational vehicles."
26. MANUFACTURED HOME PARK SUBDIVISION: A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.
27. NEW CONSTRUCTION: Those structures for which the "start of construction" commenced on or after the effective date of an initial F.I.R.M. or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For flood plain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the flood plain management regulation adopted by the community and includes any subsequent improvements to such structures.
28. OVERLAY DISTRICT: A district which acts in conjunction with the underlying zoning districts in these regulations.
29. RECREATIONAL VEHICLE: A recreational vehicle is:
- a. built on a single chassis;
 - b. 400 square feet or less when measured at the largest horizontal projections;
 - c. designed to be self-propelled or permanently tow able by a light duty truck; and
 - d. designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

All recreational vehicles placed on sites within all unnumbered and numbered A zones, AO, AE, and AH zones on the community's FIRM are required to be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use*; or meet the permitting, elevating, and the anchoring requirements for manufactured homes.

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

30. REGULATORY FLOOD ELEVATION: An elevation indicated on the F.I.R.M. as the elevation of the 100-year flood.
31. START OF CONSTRUCTION: This means the date the building permit was issued for new construction, including substantial improvements provided the actual start of construction, repair, reconstruction, placements, or other improvements, was within 180 days of the permit date. The "actual start" means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footing, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the replacement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include the excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages, or sheds not occupied as dwelling units or not part of the main structure.
32. STRUCTURE: As pertaining to the FP Flood Plain District only, a walled and roofed structure, including a gas or liquid storage tank, that is principally above the ground, including but without limitations to buildings, factories, sheds, cabins, manufactured homes, and other similar uses.
33. SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage.
34. SUBSTANTIAL IMPROVEMENTS: Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either
 - a) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - b) any alteration of an "historic structure" provided that the alteration will not preclude the structure's continued designation as an "historic structure."
35. VARIANCES: A grant of relief to a person from the requirements of the flood plain regulations which permits construction in a manner otherwise prohibited by these regulations where specific enforcement would result in unnecessary hardship.
36. VIOLATION: The failure of a structure or other development to be fully compliant with the community's flood plain management

regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by these regulations is presumed to be in violation until such time as that documentation is provided.

B. General Standards

1. All applications for zoning permits/building permits shall be reviewed to determine whether proposed building sites will be reasonably safe from flooding and assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972: 33 U.S.C. 1334.
2. Until a floodway has been designated, no development, including landfill, may be permitted within Zones A1-30 and AE on the City's F.I.R.M. unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the 100-year flood more than one foot on the average cross section of the reach in which the development or landfill is located as shown on the Flood Insurance Study incorporated by reference [See Section 4-111G].
3. All subdivision proposals and other proposed new developments, including manufactured home parks and subdivisions, greater than 50 lots or five acres, whichever is lesser, are required to include within such proposals base flood elevation data.
4. Any base flood elevation data available from a Federal, State or other source, shall be obtained, reviewed and reasonably utilized until such other data has been provided by the Administrator, as criteria for requiring that all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to at least one foot above the base flood elevation and all new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated or flood proofed to at least one foot above the base flood elevation.
5. In riverine situations, notification must be given to adjacent communities and the State Coordinating Office; i.e., the Water Resources Division of the State Board of Agriculture, prior to any alteration or relocation of a watercourse, and copies submitted of such notifications to the Federal Emergency Management Agency.
6. The flood carrying capacity within the altered or relocated portion of any watercourse must be maintained.

C. Lands to Which District Applies: This district shall apply to all lands within the jurisdiction of Burlington, Kansas, identified as numbered and unnumbered A zones, AE, AO, and AH Zones, on the Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) dated September 20, 1996 as amended, and any future revisions thereto.

D. Warning and Disclaimer of Liability: The degree of flood protection required by this district is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study which consist of the following series of interrelated steps:

1. Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected-frequency of occurrence, the area inundated and the depth of inundation. The regulatory flood selected for this district is representative of large floods known to have occurred in this region and which are reasonable characteristic of what can be expected to occur on the average once every 100 years or has a one percent chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study dated September 20, 1996 as amended.
2. Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and over bank areas to convey the regulatory flood.
3. Computation of the floodway required to convey this flood without increasing flood heights more than the foot at any point.
4. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.
5. Delineation of the flood fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the regulatory flood.

Large floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as the jams and bridge openings restricted by debris. These regulations do not imply that areas outside the Flood Plain District with its floodway and flood fringe boundaries or land uses permitted within such a district will be free from flooding or flood damage. These regulations shall not create liability on the part of the city or result from reliance on these regulations or any Administrative decision lawfully made there under.

E. Interpretation of Boundaries: The floodway and flood fringe overlay boundaries shall be determined by scaling distances on the official zoning map boundaries for the Flood Plain District. Where interpretation is needed to the exact location of the boundaries or where there appears to be conflict between a mapped boundary and actual filed conditions, the Zoning Administrator shall make the necessary interpretation. Where the interpretation is contested, an appeal may be taken to the Board of Zoning appeals as provided for in Section 10-106. The regulatory flood elevation for the point in question shall be the governing factor in locating the boundary on the land. The Appealee shall be given a reasonable opportunity to submit his or her own technical evidence, if he or she so desires.

F. Consideration of Flood Plain Management Programs in Neighboring Communities: The City will, in all official actions, take into account flood plain management programs in effect in Coffey County and any neighboring areas.

G. Establishment of Flood Plain District: The flood plain area within the jurisdiction of these regulations is hereby declared to be one district, the FP Flood Plan District. The area delineation for the district is shown on the Federal Insurance Administrator's Flood Insurance Rate Map(s) with the effective date of FEBRUARY 16, 1996 which is hereby incorporated by reference and made a part of the official zoning map of

these regulations. Such maps also designate those areas to be in the floodway portion and the flood fringe portion of the Flood Plain District. The FP District shall be considered an overlay zoning district in that the existing underlying zoning districts and their district regulations apply in addition to and complementary to these provisions contained herein. All uses not meeting the standards of this district and those standards of the underlying zoning districts shall be prohibited. This district shall be consistent with all "A" zones, including Zones A1-30 and AE, AO, and AH Zones, if any, as identified on the official F.I.R.M. and in the Flood Insurance Study.

H. Standards Within the Floodway and Flood Fringe Overlay Boundaries - (Including AO and AH Zones): No zoning permits/building permits for development shall be granted for new construction or substantial improvements within these boundaries unless the following conditions are satisfied:

1. All areas identified as unnumbered A Zones in the F.I.R.M. are subject to inundation of the 100-year flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all provisions of this district, including the one foot freeboard requirement. If the Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state, or other sources.
2. New developments or substantial improvements shall be designed or modified and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
3. New or replacement water supply systems and/or sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems shall be located so as to avoid impairment of them or contamination from them.
4. Proposed subdivisions and other new developments shall be required to assure that: (a) all such proposals are consistent with the need to minimize flood damage; (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and (c) adequate drainage is provided so as to reduce exposure to flood hazards.
5. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damage, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
6. All public and nonresidential utility and sanitary facilities shall be flood proofed to at least one foot above the base flood level so that any space below such elevation is water tight with wall substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

I. Floodway Overlay Boundary (Including AO and AH Zones)

1. Permitted Uses: The following uses having a low flood damage potential and non-obstructing flood flows shall be permitted within the floodway boundary to the extent that they are not prohibited by any other applicable district and provided that they do not require structures, fill or storage of material or equipment. All encroachments, including fill, new construction, substantial improvements and other developments must be prohibited unless certification by a professional registered engineer or architect is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base regulatory flood elevation. These predominantly open space uses are subject to the standards of Section 4-111H. In Zone A unnumbered, obtain, review and reasonably utilize any floodway data available through Federal, State or other sources in meeting the standards of this section.
 - a. Agricultural uses, such as general farming, pasture, nurseries, forestry, but not accessory;
 - b. Public and private recreational uses, such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.
 - c. Non-residential related uses such as loading areas, parking and airport landing strips
 - d. Residential related uses, such as lawns, gardens, parking and play areas;
2. Conditional Uses: The following uses which involve structures (temporary or permanent), fill, or storage of materials or equipment may be permitted only upon application to the Board of Zoning Appeals for a conditional use as provided for in Section 10-108 of these regulations. Such uses are also subject to the provisions of Section 4-111H which applies to all conditional uses proposed in the floodway boundary plus the conditional use standards required by Section 4-111I3.
 - a. Uses or structures accessory to permitted open space uses listed in Section 4-111I1 and for other conditional uses listed below;
 - b. Circuses, carnivals, and similar transient amusement enterprises;
 - c. Drive-in theaters, new and vehicle sales lots roadside stands, signs and billboards;
 - d. Extraction of sand, gravel and other material;
 - e. Marinas, boat rentals, docks, piers and wharves;
 - f. Railroads, streets, bridges, utility transmission lines, and pipe lines;
 - g. Storage yards for equipment, machinery, or materials;
 - h. Kennels and stables;
 - i. Other similar conditional uses consistent with the standards set forth in Section 4-111I3.
3. Conditional Use Standards: In reviewing applications for conditional uses listed in Section 4-111I2, the Board of Zoning Appeals shall require that the following conditions be met:

- a. No structure (temporary or permanent), fill (including fill or roads and levees) deposit, obstruction, storage of materials or equipment, or other use may be allowed as a conditional use that would result in any increase in flood levels within the City during the occurrence of the base flood discharge. In addition, all such uses shall be further subject to the following standards:
 - 1) Fill:
 - a) Any fill proposed to be deposited in the floodway must be shown to have some beneficial purpose, and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
 - b) Such fill or other materials shall be protected against erosion by riprap, vegetation cover, or bulk heading.
 - 2) Structures (temporary or permanent):
 - a) Structures shall not be designed for human habitation.
 - b) Structures shall have a low flood-damage potential.
 - c) The structure or structures, if permitted, shall be placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
 - (1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of the flood flow; and
 - (2) So far as practicable, structures shall be placed approximately on the same flood-flow lines as those adjoining structures.
 - d) Structures shall be firmly anchored to prevent flotation, which may result in damage to other structures, restriction of bridge openings, and other narrow sections of the stream or river.
 - e) Service facilities such as electrical and heating equipment shall be constructed at or above the regulatory flood elevation for the particular area or flood proofed.
 - 3) Storage of material and equipment
 - a) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
 - b) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

J. Flood Fringe Overlay Boundaries (Including AO and AH Zones):

1. Permitted Uses: All permitted uses in the underlying districts, provided they meet the standards of Sections 4-111H and 111J3, and detached garages and similar accessory buildings to be used only for parking or limited storage. At a minimum, accessory structures which are not elevated so that their floor is at least one foot above the base flood elevation or higher would have to be designed and constructed to meet the following requirements. The community should be aware of the insurance ramifications of exempting detached garages from the elevation or flood proofing requirements.
 - a. Use of the structure must be limited to parking or limited storage and not used for human habitation.
 - b. The structure must be built using unfinished and flood damage resistant materials.
 - c. The structure must be adequately anchored to prevent flotation, collapse, or lateral movement which may result in damage to other structures. This is a mandatory measure, pursuant to FEMA policy guidance Section 4-111H2. It must also meet Section 4-111J3 openings requirement.
 - d. Any mechanical and utility equipment in the structure must be elevated to at least one foot above the base flood elevation or flood proofed.
 - e. The structure shall be constructed and placed on the building site so to offer the minimum resistance to the flow of floodwaters.
 - f. The structure shall not exceed 700 square feet.
2. Conditional Uses: All conditional uses in the underlying districts provided they meet the standards of Section 4-111H and 4-111J3.
3. Standards for Permitted and Conditional Uses:
 - a. All new construction and substantial improvements of residential structures shall have the lowest floor, including the floor of the basement, elevated one foot or more above the regulatory flood elevation.
 - b. Require new construction or substantial improvements of nonresidential structures to have the lowest floor, including the floor of the basement, elevated one foot or more above the regulatory flood elevation or, together with attendant utility and sanitary facilities, to be flood proofed up to that level.
 - c. Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- d. Within AH Zones, if any adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- e. All manufactured homes shall be required to be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with the Building Code of the City or F.E.M.A. guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements for their equivalents shall be met:
 - 1) Over-the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
 - 2) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
 - 3) All components of the anchoring system be capable to carrying a force of 4,800 pounds;
 - 4) Any additions to manufactured homes be similarly anchored.
- f. Require that all manufactured homes to be placed within Zones A1-30, AH and AE on the community's F.I.R.M. be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 4-111J3(e) above.
- g. Require that all recreational vehicles placed on sites within the identified flood plain on the community's F.I.R.M. either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for manufactured homes. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, if attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- h. Located within the areas of special flood hazard are areas designated a AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:
 - 1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's F.I.R.M. (at least two feet if no depth number is specified).
 - 2) All new construction and substantial improvements of nonresidential structures shall (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number

specified in feet on the community's F.I.R.M. (at least two feet if no depth number is specified), or (ii) together with attendant utility and sanitary facilities be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section 4-111K1.

K. Certification and Information:

1. Flood proofing: Applicants shall provide certification by a registered professional engineer or architect that the flood proofing designs used in the structure satisfy the standards in these regulations and in particular Section 4-111J3(b). This certification shall include the specific elevation in relation to mean sea level to which the structure is flood proofed. The certification shall furthermore certify that the resulting construction has been inspected and meets the requirements of the flood proofing design plan.
2. Elevation of Property: Applicants shall provide information identifying the elevation of the property in relation to mean sea level at the lowest floor, including the floor of the basement of the proposed structure. In addition, the applicant shall provide this information for the second lowest floor when the lowest floor is below the grade on one or more sides. The applicant shall also be required to submit certification by a registered professional engineer or other qualified individual that the finished fill and building floor elevations and other flood protection measures were accomplished in compliance with the provisions of this district.
3. Certification and Permanent Record: The City shall certify that the registered professional engineer or architect has submitted the certification that the structure has been inspected and built in accordance with the design in Section 4-111K1. Certifications and elevation information required by Sections 4-111K1 and 2 above are to be maintained as a permanent record.

L. Variance:

1. Establishment of Board of Zoning Appeals (BZA) :

The Burlington Board of Zoning Appeals (BZA), as established by the Governing Body, shall hear and decide appeals and requests for variances from the flood plain management requirements of this section.

2. Responsibility of the BZA:

Where an application for a flood plain development permit or request or a variance from the flood plain management regulations is denied by the Flood Plain Administrator, the applicant may apply for such flood plain development permit or variance directly to the BZA. The BZA shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Flood Plain Administrator in the enforcement and administration of these regulations.

3. Further Appeals:

Any person aggrieved by the decision of the Board of Zoning Appeals or any taxpayer may appeal such decision to the Coffey County District Court as provided in K.S.A. 12-759(f).

4. Flood Plain Management Variance Criteria:

In passing such applications for variances, the BZA shall consider all technical data and evaluations, all relevant factors, standards specified in Section 10-107, and the following criteria:

- a. the danger to life and property due to flood damage;
- b. the danger that materials may be swept onto lands to the injury of others;
- c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. the importance of the services provided by the proposed facility to the community;
- e. the necessity of the facility of a waterfront location, where applicable;
- f. the availability of alternative locations, not subject to flood damage, for the proposed use;
- g. the compatibility of the proposed use with existing and anticipated development;
- h. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. the safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
- k. the costs of providing governmental services during and after flood conditions, including the maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

5. Conditions for approving Flood Plain Management Variances:

Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounding by lots with existing structures constructed below the base flood elevation, providing the following items are considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

- a. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.
- b. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

- c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- d. Variances shall only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to the public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- e. A community shall notify the applicant in that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this section.

M. Application for Zoning Permits/Building Permits and Occupancy Certificates:

- 1. An application for a zoning permit/building permit and an occupancy permit shall be made in accordance with Section 9-101. Permits for development shall additionally be required, but only in the FP District, for dredging, filling, grading, paving, excavation or drilling operations, which would result in measurable increased flood heights. Such application shall also include the following information where applicable: plans showing the nature, location, dimensions and elevations to the lot; existing or proposed structures, fill or storage of materials; and the location of the foregoing in relation to the channel, the floodway and the regulatory flood elevation.
- 2. The Zoning Administrator may require the applicant to furnish the following additional information as is deemed necessary to evaluate the effects of the proposed use upon the flood flows and other factors necessary to render a decision on the suitability of proposed use:
 - a. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be affected by the proposed development and higher water information;
 - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location and spatial arrangement of all proposed and existing structures on site; location and elevation of streets, water supply and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information;
 - c. Profile showing the slope of the bottom of the channel or flow line of the stream; or
 - d. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvements, storage of materials, water supply, and sanitary facilities.

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 of such expansion. Plans showing the layout and design of all off-street parking spaces and loading areas are required and must be approved by the Zoning Administrator before a zoning permit is issued for such spaces or areas.

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 where permitted specifically in a district. Such provision 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 a driveway or an identifiable parking area on a zoning lot of a residence or a business location. (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. Multiple family and commercial parking spaces shall not 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 or its designee. 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 such 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 3-103F1 for canopies.) (See Section 3-103F1 for canopies.)

5. Design, Maintenance & Nuisances:

- 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 City. Off-street parking spaces may be open to the sky or enclosed in a building or structure. Parking on driveways for single and two-family dwellings and all types of manufactured and mobile homes is considered to be permitted temporary parking and required permanent parking spaces on such lots are not to be in the front yard setback. **All parking spaces shall be in an identifiable area where all spaces are contained thereon.** (See Section 5-100A5c for screening.) A minimum 20 foot setback is required for a garage fronting on a street to allow adequate temporary parking spaces for vehicles. The setback is required to discourage vehicles from being parked on sidewalks or in the street right-of-way. The Zoning Administrator may approve parking contrary to the setback requirement of this section due to unique circumstances, NOT created by the current property owner.
- b. Surfacing: All open off-street commercial parking spaces, whether required spaces or not, and driveways shall be graded and paved with an asphalt, asphalted concrete, concrete or other comparable hard-surfaced, all weather, dustless material which shall be maintained in good condition; provided, however, graveled parking areas are permitted in the agricultural, residential, and industrial districts and for church parking lots and manufactured or mobile homes in related parks. Driveways, parking spaces and display areas for all open sales 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 and landscaping provisions of Section 3-104.
- 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 incidental repairs to a personal vehicle. (See Section 2-102 for definition 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 season 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. Location: 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 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 standards 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 Zoning 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 5-100A1-5 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 C-1 Central Business District unless for dwelling units constructed in conjunction with business uses:

A. Dwelling and Lodging Uses.

- 1. Single and two-family dwellings, earth-sheltered dwellings, residential-designed manufactured homes and manufactured or mobile homes: At least one parking space for each dwelling unit.
- 2. Multiple-family dwellings: At least one and one-half parking spaces per unit, except in housing for the elderly, one space per two units.
- 3. Boarding or rooming houses: One parking space for each two rooms.
- 4. Dormitories, fraternities, sororities and similar lodging facilities: At least two parking spaces for each three occupants.

5. 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.

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/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, plus 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 examining or treatment room, plus one for each doctor and employee.
11. Restaurants, private 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 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. Child care centers and preschools: One parking space for each employee.

2. Churches: One parking space for each four seats based upon the maximum 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 all 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 homes, convalescent homes and retirement centers: 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 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. In order 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 access to the parking area provided under 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 surfaced with concrete, asphaltic concrete, asphalt, gravel, or any other comparable surfacing which meets the approval of the City Street Superintendent

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 modification by the Board of Zoning Appeals 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 streets and alleys.

103 Off-Street Loading and Unloading. In all zoning districts except the C-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 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.