

ZONING REGULATIONS
OF THE
CITY OF ANDOVER, KANSAS

Official Copy as Incorporated by Ordinance No. 1187

MODEL CODE
PREPARED BY THE
ANDOVER CITY PLANNING COMMISSION

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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 Andover, 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;
- 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 street or highway; the percentage of each lot that may be occupied by buildings and other structures; and size of yards, courts and other open spaces;
- E. To protect property values and conserve 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, 12-736, 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 Andover, Kansas, as presently exist or are hereafter established by annexation.

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 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.)
 - 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 Andover, Kansas.
 7. The words “Governing Body” mean the Mayor and Council members of the City of Andover, Kansas which together constitute the governing body.
 8. The word “Clerk” means the City Clerk.
 9. The words “Planning Commission” mean the Andover, City Planning Commission.
 10. The words “Comprehensive Plan” mean the adopted and approved Comprehensive Development Plan for the City of Andover, Kansas and surrounding Planning Area, which includes, among other elements, a plan for land use.
 11. The word “Board” means the Andover 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 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.” Such centers may or may not be licensed or registered under regulations established and administered by the Kansas Department of Health and Environment unless warranted by the particular services provided.

ADULT CARE HOME: A residential facility operated as a home occupation for not more than four adults wherein care and activities are provided on an hourly or daily basis or limited nursing care is provided on a 24-hour basis which may or may not be regulated and/or licensed by the Kansas Department of Health and Environment.

AGRICULTURE: The use of land for growing crops in the open, horticulture, nurseries, truck farms and accessory uses, including the 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 hydroponic 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.
5. The operation or maintenance of a stockyard or commercial feed lot.

Farm houses are considered to be single-family dwellings.

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

AIRPORT: (Including Landing Strip, Heliport or Helistop.) Any premises which are used, or intended for use, for the landing and take-off of aircraft; and any appurtenant areas which are used, or intended for use, for airport buildings or other airport structures or rights-of-way, together with all airport buildings and structures located thereon.

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

ALTERATION: See Structural Alteration.

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

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.

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 rental equipment, unless specifically permitted by the district regulations.

AWNING: A roof-like cover that is temporary in nature which projects from the wall of a building and which may overhang a public 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 rights-of-way, waterways or city limits.

BOARDING OR ROOMING HOUSE: A building other than a hotel where, for compensation and by pre-arrangement for definite periods, lodging only or with meals are provided for four or more boarders and/or roomers exclusive of the occupant's family. Individual cooking facilities are not provided. (See Family.)

BUILDING: Any covered structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind, and which is permanently affixed to the land exclusive of fences. 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.

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 30 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.

CANOPY: Any structure, movable or stationary, open on three sides, 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 sidewalks for the purpose of sheltering a gasoline service area, drive-in facility or motor vehicles. In any event, the sheltering of motor vehicles is for temporary parking and unloading only and not a permanent parking space. (See Section 3-103F1 for Permitted Obstructions.)

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

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

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

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

1. Boarding Home for Children: A residential facility where one or more children under 16 years of age are in the control or custody of adult supervisors who provide them with food or lodging or both.
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.)

COMMON OPEN SPACE: A parcel of land or an area of water or combination of both land and water within a site designated as a planned unit development district, which is also designed and intended for the use and enjoyment of the residents of the development. Common open space does not include streets, alleys, parks, off-street parking or loading area, public open space or other facilities dedicated by the developer for public use. Common open space shall be substantially free of structures, but may contain such improvements as are approved as a part of the general development plan and are appropriate for the recreation of residents of the planned unit development.

CONDITIONAL USE: The use of a structure or use 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 a zoning permit or occupancy certificate will be approved.

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

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

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

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

DRIVE-IN-ESTABLISHMENT: An enterprise which accommodates the patrons’ automobiles and from which the occupants of the automobiles may make purchases, transact business or view motion pictures or other entertainment.

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/mobile home, unless any of the latter are specifically permitted.

DWELLING, ATTACHED: A residential building which is joined to no other dwelling at one or more sides by a party wall or walls, including walls of an attached garage. Separate ownership of attached dwelling units shall be in compliance with K.S.A. 58-3701 et seq. and accompanied by a duly recorded lot split. All utilities and facilities must be independent of each other unless ownership and maintenance are provided by an association of townhouse owners.

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 four persons who need not be related by blood, marriage or adoption, living together as a single, non-profit housekeeping unit in a dwelling unit; plus in either case, domestic servants. A family may include any number of gratuitous guests or minor children not related by blood, marriage or adoption. No more than three boarders or roomers are permitted as part of a housekeeping unit. (See Boarding or Rooming House and Section 6-102B3 for home occupation limitations.)

FENCE: A free-standing structure of metal, masonry, glass 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.

1. Open Non-Security Fence: A fence less than four feet in height of such design or construction as to provide aesthetic value or delineate boundaries without preventing passage of persons, animals, air or light into or through a zoning lot; such as cable or rope, picket, lattice, split rail or wrought iron.
2. Open Fence: A fence of such design as to permit passage of air and light, such as chain link, picket, lattice, wrought iron and woven wire.
3. Closed Fence: A fence of such design and construction as to prohibit passage of persons, animals, air or light into or through a zoning lot; such as brick, concrete, solid wood, stone or a continuous hedge at least four feet high.

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.

FLOOR AREA RATIO: The numerical value obtained through dividing the gross floor area of a building or buildings, including accessory buildings, storage areas and group meeting rooms, by the lot area on which such building or buildings are located.

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 Private 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.

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

GREENHOUSE: A structure with translucent roof and sides for the growing of plants, including hydroponics farming. Retail and wholesale sales are permitted of plants grown, including sales of seeds, fertilizers, pesticides and the like, but not lawn equipment and 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;
2. Flagpoles, water towers and tanks, steeples, bell towers, carillons, monuments, cupolas and electric transmission line towers; but not wind energy conversion systems. (See Section 6-100D2 for wind energy conversion systems.); and
3. Wireless communication facilities, in accordance with Article 3-103Q. Review Criteria for Wireless Communication Facilities.

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.

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

LOT: See Lot, Zoning.

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

LOT, CORNER: A lot abutting upon two or more streets at their intersection. (See Lot Line, Rear and Yard, Front.)

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

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

LOT, INTERIOR: A lot other than a corner lot.

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.

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

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 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.

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.

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

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

MANUFACTURED/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 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-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. Such homes may or may not meet the standards of the National Manufactured Home Construction and Safety Standards Act of 1976, unless specifically designated in these regulations. When such homes do not meet the standards of the Act, the industry refers to them as "mobile homes." It is the intent of this definition to use the term "mobile home" interchangeably with "manufactured home," but not "residential-design manufactured home", unless otherwise specified in these regulations. 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 singlewide manufactured homes be permitted to connect together in any manner on the same zoning lot. (See Residential-Design Manufactured Home.)

MANUFACTURED/MOBILE HOME PARK: Any area, piece, parcel, tract, or plot of ground equipped as required for support of manufactured/mobile homes and used or intended to be used by one or more occupied home. 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/mobile home may, however, remain on a space for purposes of sale by the resident owner.

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

MEDICAL, DENTAL OR HEALTH CLINIC: Any building designed for use by three 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 dead storage indoors 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.

MODULAR HOME: A dwelling structure 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 contradistinction to a dwelling structure which is custom built on the site of its permanent location; and also in contradistinction 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 that it complies with these regulations and, therefore, may be occupied and/or used. When applicable, such a certificate may be combined with the issuance of a certificate of occupancy as required by a building code. (See Section 9-101B for Occupancy Certificates.)

OUTDOOR STORAGE: 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. (See Section 6-100B13 for outdoor storage.)

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. 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 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.

PRIVATE 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.)

RECYCLING CENTER: A location where clean, source-separated, recyclable materials are accepted or deposited by the public for transfer elsewhere. As distinguished from salvage yards, such materials consists only of aluminum and steel cans, glass, papers and plastic and reusable containers. 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.

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

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

2. Exterior siding shall be of a non-reflective material customarily used on site-built dwellings such as wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials, but excluding smooth, ribbed or corrugated metal or plastic panels. Siding material shall extend below the top of the exterior of the foundation or curtain wall or the joint between siding and enclosure wall shall be flashed in accordance with City building codes.
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 three feet by three feet which is constructed to meet the requirements of the City building codes.
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 the City building codes, unless designed and constructed by a manufactured home factory.
8. If 50% or more of the 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 façade has been designated for the household address number. External roofing and siding material of the garage and porch or entry shall be similar in appearance to the materials on the roofing and siding of the residential-design manufactured home.

For purposes of these regulations, the term "manufactured home", when used by itself, shall not include a "residential-design manufactured home" as herein defined. Nothing in these regulations shall be construed to preempt or supersede valid restrictive covenants running with the land as to the placement or location of a residential-design manufactured home. (See Manufactured/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-up type windows, however, are permitted.

RETAIL: Selling on the premises in small quantities to the ultimate consumer for direct consumption and/or use and not for resale. Auctions are not considered as retail sales.

SALVAGE YARD:

1. Any land or building used for the collection or storage or sale of wastepaper, trash, rags, fibrous material, scrap metal or other discarded material; or for the collecting or dismantling or storing or salvaging of machinery or unlicensed motor vehicles not in operating condition, or for the sale of parts thereof, or materials from the demolition of buildings or structures.
2. In residential districts, this definition shall prevent the storing of any more than two inoperable or unlicensed motor vehicles for a period of more than 72 hours which are in the process of restoration to operating conditions, unless such vehicles are stored inside a structure or screened from public view.

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.)

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, 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.)

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.)

STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including hard surfaced walks and terraces or public items such as utility poles, street light fixtures and street signs.

TAVERN: An establishment in which cereal malt beverages are sold or served to customers for consumption on the premises.

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 as defined by the City Subdivision Regulations and to include automobiles, trucks and other large vehicles or trailers as obstructions to vision, except as otherwise provided for in Section 7-102J2. 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.

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 therefrom 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.

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

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

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

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

ARTICLE 3. GENERAL PROVISIONS

100 Activities Governed by these Regulations.

- A. New Structures. All structures built hereafter shall comply with all 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.
- 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, 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 utility substations located on or above the surface of the ground.
 - 2. Railroad tracks, signals, bridges and similar facilities and equipment located on railroad rights-of-way, and maintenance and repair work on such facilities and equipment.
 - 3. Buildings, structures or land used, but not just leased, by the federal government.
 - 4. Use of land for agricultural purposes as defined in Section 2-102, including accessory buildings and structures thereon 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.

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 “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, planned unit development and protective overlay: districts are considered as overlay zones 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 rights-of-way, be included in the districts established in these regulations. Any area not shown on the zoning map(s) as being included in any district shall be deemed to be in the most restrictive district.

b. Boundaries.

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

1. Where boundary lines are indicated as approximately following streets, alleys, easements, railroads, rivers, streams or bodies of water, such boundaries shall be construed as following the centerlines thereof or otherwise are construed to coincide with lot or tract lines, unless otherwise indicated.
2. Where the district boundaries do not coincide with the location of boundaries as stated in Section 3-101C1 above, the district boundaries shall be determined by the use of the scale shown on the zoning map, unless an exact distance is shown.
3. Where a district boundary line divides a lot or unsubdivided property in single ownership, the entire lot shall be construed to be within the less restrictive district unless the application of this rule would increase the area of the less restrictive portion of the lot by more than 25%.

D. Zoning of Rights-of-Way. All streets, alleys, public ways, waterways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting them. Where the centerline of a 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.
- B. Special Uses. No use of a structure or land that is designated as a special use in any zoning district shall hereafter be established, and no existing special use shall hereafter be changed to another special use in such district, unless a special use is approved in the same manner as for an amendment to a zoning district. The latter procedure is set forth in Section 11-101 with the additional requirement that all conditions further imposed upon the special use be made a part of the effectuating ordinance.
- C. Conditional Uses. No use of a structure or land that is designated as a conditional use in any zoning district shall hereafter be established, and no existing conditional use shall hereafter be changed to another conditional use in such district, unless a conditional use is approved by the Board of Zoning Appeals as provided for in Section 10-108.
- 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.

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 20 feet.
- D. Yard Requirements for Open Land. If a zoning lot is, or will be, occupied by a permitted use without structures, then the minimum front, side and rear yards that would otherwise be required for the zoning lot shall be provided and maintained, unless some other provision of these regulations requires or permits a different minimum front, side or rear yard. Such yards shall not be required on zoning lots used for open public recreation areas.
- E. Restrictions on Allocation and Disposition of Required Yards or Open Space.
1. No part of the lot area, or of a yard, or other open space, or off-street parking or loading space provided in connection with any structure or use in order to comply with these regulations shall, by reason of change of ownership or otherwise, be included as part of the minimum lot area, or of a yard, or open space, or off-street parking or loading space required for any other structure or use, except as specifically provided herein.
 2. All 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:
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 or an open or closed porch or deck; awnings or canopies but not carports; 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; one story bay windows and overhanging eaves and gutters projecting 36 inches or less into the yard; chimneys, window wells 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; fences when permitted by Section 3-104; and when otherwise specifically permitted by the district regulations. Garages, carports, porches, decks and wing walls are not permitted obstructions.
 2. In any yard except a front yard and a side yard adjoining a street which is deemed to be a front yard: Accessory uses permitted by Article 6; children's recreational and laundry drying equipment; and fences when permitted by Section 3-104.
- G. Lot Size Requirements and Bulk Regulations for Public Utility Facilities. Notwithstanding any other provision of these regulations, none of the following public utility or public service uses 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:
1. Electric and telephone substations.
 2. Gas regulator stations.
 3. Pumping stations.
 4. Radio, television and microwave transmitting or relay stations and towers.
 5. Water towers or standpipes.
- H. Access to Business and Industrial Districts. No land which is located in a residential district shall be used for a driveway, walkway or access purpose to any land which is located in any business or industrial district.
- I. Annexed Land. All land which may hereafter be annexed shall be automatically classified in the A-1 Agricultural Transition District until such time as the property owner, Planning Commission or Governing Body may file an application to consider a change in zoning districts; however, residential lots which are platted and recorded with an average lot size of 20,000 square feet or more shall be automatically classified in the R-1 Single-Family Residential District upon annexation and similarly an average lot of less than 20,000 square feet shall be automatically classified as in the R-2 Single-Family Residential

District. Zoning changes may be considered during the process of annexation. While the Planning Commission may hold their required public hearing on a rezoning amendment or a special use prior to annexation, the zoning ordinance approving the amendment or special use cannot be effectuated until the land is first officially annexed by a separate annexation ordinance. While both ordinances may be published on the same day, the annexation ordinance must be published first if they are published on separate days.

- J. Sewer and Water Facilities. All principal structures built hereafter 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 Rights-of-Way and Easements. As a condition related to a rezoning amendment or a special use, the dedication of additional street rights-of-way; easements for utilities, drainage, access control, fire lanes, building setback lines and other purposes; and the construction, removal or replacement of public improvements necessary to the proper development of the property, may be required either by platting or replatting the land according to 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 4-117 FP Flood Plain District)
- M. Moving Structures. No structure shall be moved into the City, nor from one location to another location within the City, unless such structure shall, when relocated, be made to conform fully with these regulations and other 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 to which it is to be moved and in the block 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.
- N. Status of Moving Manufactured/Mobile Homes. Notwithstanding other provisions of these regulations, the Zoning Administrator is authorized to issue a zoning permit for a manufactured/mobile home 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:
 - 1. Wherever a manufactured/mobile home is moved from a zoning lot within a district in which it is a permitted use, another manufactured/mobile home meeting the requirements of the district may be moved onto the lot at any time.
 - 2. In the case of a lawful, nonconforming manufactured/mobile home use, such a move must take place within six months from the date that the previous manufactured/mobile home 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 within 60 days. In reestablishing such a home use, any existing nonconforming lot size requirements or bulk regulations shall not be increased in nonconformity and no newly acquired land can be used for placement of such a home.

3. No manufactured/mobile home, or portion thereof, shall be moved onto any lot or parcel for storage purposes in any district and no such home shall be temporarily located in any district not otherwise permitting such homes. These provisions do not preclude the use of prefabricated mobile structures for offices in business or industrial districts, but not manufactured/mobile homes unless specifically permitted.
 4. In the event of disasters whereby expediency is an important factor, the Zoning Administrator is empowered to permit the temporary location of manufactured homes at his discretion for a stated period of time with appropriate conditions attached in any zoning district.
- O. 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.
- P. Wind Energy Conversion Systems. Wind energy conversion systems may be approved upon application as a special use in any zoning district based upon the guidelines listed below. Such guidelines, when applied as conditions attached to the applicant and/or the premises, may be modified to be made more or less stringent depending upon the location and the relative need to avoid injurious effect. Wind energy conversion systems (WECS) means any device or combination of devices, including but not limited to wind charges, windmills, and wind turbines, which converts wind energy into another usable form of energy; the term shall include all associated support structures and transmission lines.
1. Set back distance from all lot lines shall at least be equal to the total height of the tower and WECS.
 2. The WECS shall not cause interference to microwave communications or radio and television reception in the area. Noise levels measured at the lot line shall not exceed 60 decibels in a residential zone. Decibels shall be measured as per Ordinance 506, designated as Article 9, Chapter IV of the Code of the City of Andover, Kansas—1978.
 3. To limit climbing access to a WECS tower if tower steps are utilized, the tower climbing apparatus shall be fenced with not less than a six-foot fence with locking portal.
 4. All blades of a WECS shall be constructed of nonmetallic substances. If the applicant can prove, in written form, that no electromagnetic interference will result, a metal content of up to 25% will be acceptable.
 5. The WECS tower must be designed to meet the requirements of the City Building Code for wind and seismic, and such requirements must be certified by a professional engineer registered in Kansas.
 6. The WECS tower must be installed under the requirements of the City Building Code and must meet standards that insure the structural integrity of tower installation, and such requirements must be certified by a professional engineer registered in Kansas.

7. All electrical components of the WECS and electrical support components must comply with the National Electrical Code (NEC). The electrical box or any hazardous components within ground reach must be securely locked. A registered engineer must certify compliance with the NEC regulation which states “where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a professional engineer registered in Kansas or compliance with the requirements of the National Electrical Code and good engineering practices”.
8. A plot plan shall be submitted with the application for a zoning permit showing the proposed location and dimensions of the WECS, guy wires or other support, fencing and all existing buildings within 50 feet of the property line.
9. No WECS shall be located nearer to an existing WECS than a distance equal to five times the diameter of the larger rotor; provided that this distance may be reduced upon a showing that such reduction will not adversely affect the operation of either WECS.
10. The applicant shall provide a \$300,000 certificate of liability insurance. This amount of insurance does not relieve the applicant of any liabilities incurred over the required insurance amount. Annually the owner/operator shall present evidence to the City Clerk that said liability insurance is still in effect.
11. The WECS must be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor. This requirement must be certified by a professional engineer registered in Kansas, that the rotor and overspeed controls have been designed and fabricated for the proposed use in accordance with good engineering practices.
12. All cost for required engineer certification will be the responsibility of the WECS owner.
13. Any application for a WECS shall also conform to all other provisions of these regulations including those of Section 11-102, except for the maximum height, yard and lot size requirements.
14. Any WECS, which thereafter become inoperable or fails to conform to the requirements hereof shall be shut down, repaired, or removed within 60 days. If such inoperability or failure to conform to the requirements is caused by a condition which could effect the public safety, then the WECS shall be removed from operation as soon as such condition is apparent or made known to the owner and secured in such a manner as to protect public safety.

Q. Review Criteria for Wireless Communication Facilities. In order to accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community, this criteria is necessary in order to:

Comply with the 1996 federal Telecommunications Act and facilitate the provision of wireless communication services to the residents and businesses of the City;

Minimize adverse visual effects of wireless communication facilities through careful design and siting standards;

Avoid potential damage to adjacent properties from wireless communication facility failure through structural standards and setback requirements;

Maximize the use of existing and approved wireless communication facilities and buildings to accommodate new wireless communication facilities in order to reduce the number of wireless communication facilities needed to serve the community.

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

AMATEUR RADIO: Radio equipment and associated antennas or support structures operated for the purpose of receiving or transmitting communications by a radio station as described in Section 153(g) of Title 47 of the U.S. Code and which is operated under license by the FCC.

ANTENNA: A whip (omni-directional antenna), panel (direction antenna), disc (parabolic antenna) or similar device used for transmission and/or reception of radio frequency signals.

ANTENNA ARRAY: More than one whip, panel, disc or similar device used for the same carrier at the same frequency.

APPLICANT: A person or entity with an application before the City of Andover for a permit for a wireless communication facility.

AGL (above ground level): The actual height of the wireless communication facility from the ground at the base of the structure to the highest part of the mount or the antenna, whichever is higher.

BROADCAST SYSTEMS: Wireless communication systems that are licensed for the broadcast of AM/FM radio or television.

CAMOUFLAGE: To paint or mount a wireless communication facility in a manner that requires minimal changes to the host structure and hides the facility in the context of its surroundings on the host structure.

CARRIER: A company licensed by the Federal Communications Commission (FCC) that provides wireless communication. A wireless communication facility builder is not a carrier.

CELLULAR: A personal wireless service capable of transmitting and receiving voice that operates in the 800 MHz spectrum.

CO-LOCATION: The use of a common wireless communication facility or common site by two or more carriers or by one carrier for more than one type of wireless communication technology and/or placement or two or more wireless communication facilities on adjacent properties.

COMMERCIAL MOBILE RADIO SERVICES (CMRS): Per Section 704 of the Telecommunications Act of 1996, any of several wireless communication technologies using radio signals at various frequencies to send and receive voice, data and video. According to the FCC, these services are “functionally equivalent services.” Section 704 of the Telecommunications Act of 1996 prohibits unreasonable discrimination among functionally equivalent services.

COMMON CARRIER WIRELESS EXCHANGE ACCESS SERVICES: Services by which wireless communication is interconnected with wired communication infrastructure.

CONCEAL: To enclose a wireless communication facility within a natural or man-made feature resulting in the facility being either hidden from view or made part of the feature enclosing it.

DESIGN: The appearance of wireless communication facilities as determined by selection of materials, colors, size, and shape.

DISGUISE: To design and construct a wireless communication facility to be an architectural feature of an existing or proposed structure in such a manner that the wireless communication facility is not discernible from the remainder of the structure.

ELEVATION: The measurement of height above sea level. Also AMSL, or above mean sea level.

ENHANCED SPECIALIZED MOBILE RADIO (ESMR): Private land mobile radio with telephone services.

EQUIPMENT SHELTER: An enclosed structure, cabinet, shed, or box at the base of or in the general proximity of a support structure within which are housed the equipment for the wireless communication facility such as radios, batteries, and electrical equipment.

FEDERAL COMMUNICATIONS COMMISSION (FCC): An independent federal agency charged with licensing and regulating wireless communication at the national level.

FUNCTIONALLY EQUIVALENT SERVICES: These services include Cellular, PCS, Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging. Section 704 of the Telecommunications Act of 1996 prohibits unreasonable discrimination among functionally equivalent services.

GUYED WIRELESS COMMUNICATION FACILITY: Any type of support structure that is supported in whole or in part by cables anchored to the ground or other surface.

HEIGHT, MAXIMUM: The maximum height of wireless communication facilities shall be determined by measuring the vertical distance from the wireless communication facility's point of contact with the ground or rooftop to the highest point of the wireless communication facility, including all antennas or other attachments.

LATTICE WIRELESS COMMUNICATION FACILITY: A type of support structure that consists of an open network of braces forming a wireless communication facility that is usually triangular or square in cross section.

LOCATION: The area where a wireless communication facility is located or proposed to be located.

MODIFICATION: The changing of any portion of a wireless communication facility from its description in a previously approved permit. The FCC definitions for "modification" are different than local government rules.

MONOPOLE: A type of support structure that consists of a vertical pole fixed into the ground and/or attached to a foundation.

PCS (PERSONAL COMMUNICATION SERVICES): A personal wireless service capable of transmitting and receiving voice, data, text, and video messaging that operates in the 1850-1990 MHz range.

PERSONAL WIRELESS SERVICES: Any personal wireless service defined in the Telecommunications Act of 1996 which includes Federal Communications Commission (FCC) licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and unlicensed wireless services, and common carrier wireless exchanges access services.

PRIVATE DISPATCH SYSTEM: Wireless communication systems that are licensed to one user for exclusive use and not to be shared with, or leased to, other users.

PUBLIC SERVICE AND EMERGENCY SYSTEM: Wireless communication systems operated by or for a governmental agency for the delivery of emergency or other public services.

RADIO FREQUENCY (RF) ENGINEER: Someone with a background in electrical engineering or microwave engineering who specialized in the study of radio frequencies.

RADIO FREQUENCY RADIATION (RFR): The propagation of electromagnetic waves through space.

RADIO FREQUENCY (RF) SIGNAL: The actual beam or radio waves sent and received by a wireless communication facility. A signal is the deliberate product of a wireless communication facility. The RF emission is the byproduct.

SCREENING: Decorative fencing or other materials, evergreen vegetation, or landscaped earth berms constructed and maintained for the purpose of concealing a wireless communication facility or a portion thereof from view.

SEPARATION: The distance between one carrier's antenna array and another carrier's antenna array.

SITE: That portion of a subject property where a wireless communication facility is to be placed. Any acceptable location may have several potential sites within it.

SITING: The method and form of placement of wireless communication facilities on a specific area of a subject property.

SPECIALIZED MOBILE RADIO (SMR): A form of dispatch or two-way communication used by companies that rent space or time from an SMR carrier. Used primarily for delivery vans, truckers or taxis within a small, definable geographic area.

SUPPORT STRUCTURE: The structure or surface upon which antennas are mounted as follows:

- Roof-mounted. Mounted on the roof of a building.
- Side-mounted. Mounted on the side of a building.
- Ground-mounted. Mounted on the ground.
- Structure-mounted. Mounted on a structure other than a building.

TOWER: Generally used to describe all wireless communication facilities or sometimes used to refer only to those wireless communication facilities at high elevations above grade. Also used as a modifier (e.g., tower builder) or when modified (e.g., lattice tower).

TOWER BUILDER: A company or individual that builds, leases, or manages support structures for wireless communication facilities.

UNLICENSED WIRELESS SERVICES: Wireless communication services operating on public domain frequencies using duly authorized devices, which do not require an FCC license for their sites.

WIRELESS CABLE SYSTEM: Wireless communication services that provide point-to-multi-point communication for the provision of voice, data, text, and video that operate in the 2.1 to 2.8 GHz range.

WIRELESS COMMUNICATION: Comprehensive term describing the wireless services covered by the location/design guidelines of this criteria. Includes the following terms as defined herein: broadcast systems, cellular, commercial mobile radio services, common carrier wireless access exchange services, enhanced specialized mobile radio, functionally equivalent services, personal communication services, paging, personal wireless services, public service and emergency system, specialized mobile radio, wireless communication facility builder, unlicensed wireless services, and wireless cable system. Does not include amateur radio or private dispatch system.

WIRELESS COMMUNICATION FACILITY (WCF): Comprehensive term describing the facilities covered by the location/design guidelines of this criteria. Generally used to describe all wireless communication facilities or sometimes is used to refer only to those wireless communication facilities at high elevations above grade. Also used as a modifier (e.g., wireless communication facility builder) or when modified (e.g., lattice wireless communication facility). Includes the following terms as defined herein: antenna, antenna array, equipment shelter, guyed wireless communication facility, lattice wireless communication facility, location, monopole, site, support structure, and wireless communication facility.

2. Co-Location Requirements. All commercial wireless telecommunication facilities erected, constructed, or located within the City shall comply with the following requirements:
 - a. A proposal for a new wireless communication facility shall not be approved unless the telecommunications equipment planned for the proposed wireless communication facility cannot be accommodated on an existing or approved wireless communication facility or building within a one mile for proposed wireless communication facilities greater than 120 feet in height, one-half mile for wireless communication facilities between 60 and 120 feet in height, and one-

quarter mile for wireless communication facilities under 60 feet in height of the proposed wireless communication facility due to one or more of the following reasons:

- (1) The planned equipment would exceed the structural capacity of the existing or approved wireless communication facility (WCF), as documented by a qualified and licensed professional engineer, and the existing or approved wireless communication facility cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
- (2) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the wireless communication facility as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
- (3) Existing or approved wireless communication facilities within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified professional radio frequency engineer.
- (4) Other unforeseen reasons that make it infeasible to locate the planned equipment upon an existing or approved wireless communication facility.

b. Any proposed wireless telecommunication facility shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the wireless communication facility is over 100 feet in height or for at least one additional user if the wireless communication facility is over 60 feet in height. The wireless telecommunication facility must be designed to allow for future rearrangement of antennas upon the wireless telecommunication facility and to accept antennas mounted at varying heights.

3. Construction Requirements. All antennas and wireless communication facilities erected, constructed, or within the City, and all wiring therefore, shall comply with the following requirements:

The requirements set forth in Chapter 4, Building and Construction, of the Code of the City of Andover and FCC Guidelines.

All applicable provisions of the Code of the City of Andover,

Wireless communication facilities shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code and the Electronics Industry Association,

With the exception of necessary public electric and telephone service and connection lines, no part of any antenna or wireless communication facility nor any lines, cable, equipment or wires or braces in connection with either shall at any time extend across or over any part of a public right-of-way for a street, highway, sidewalk, or property line,

Wireless communication facilities and associate antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code,

All signal and remote control conductors of low energy extending substantially horizontally above the ground between a wireless communication facility or antenna and a structure, or between wireless communication facilities, shall be at least eight feet above the ground at all points, unless buried underground.

Every wireless communication facility affixed to the ground shall be protected to discourage climbing of the wireless communication facility by unauthorized persons.

All wireless communication facilities shall be constructed to conform with the requirements of the federal Occupational Safety and Health Administration.

Metal wireless communication facilities shall be constructed of, or treated with, corrosive resistant material. Wood poles shall be impregnated with rot resistant substances.

4. Design Requirements. Proposed or modified wireless communication facilities shall meet the following design requirements.
 - a. Wireless communication facility shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by state or federal authorities such as the Federal Aviation Administration.
 - b. Wireless communication facilities which incorporate ground mounted equipment or accessory structures must be surrounded by a security fence and screening at least six feet in height.
 - c. Wireless communication facilities shall be of a monopole design.
 - d. Wireless communication facilities shall be constructed in accordance with a site plan approved by the Site Plan Review Committee.
5. Setbacks. Wireless communication facilities shall conform with each of the following minimum setback requirements:
 - a. Wireless communication facilities shall meet the setbacks of the underlying zoning district and shall not encroach upon any easements.
 - b. Wireless communication facilities between 60 feet and 100 feet in height shall be separated from any property zoned for residential uses a distance equal to the height of the wireless communication facilities.
 - c. Wireless communication facilities 100 feet or greater in height shall be separated from any property zoned for residential uses a distance equal to twice the height of the wireless communication facility.
 - d. Wireless communication facilities shall not be located between a principal structure and a public street except in an industrial zoning district, where wireless communication facilities may be placed in front

of a principal structure abutting any street but an arterial street, in compliance with the minimum setback required by the zoning district.

- e. No minimum setback shall be required for wireless communication facilities utilizing whip (omni-directional) or surface mounted panel type antennas attached to utility transmission support structures, light standards, traffic signals, etc.

6. Height Limitations. The purpose of this Section is to regulate the height of structures above ground level in order to maintain the character and scale of the predominant single-family residential development. Wireless communication facilities shall conform to the following height limitations:

- a. 35 feet if self-supported units and 45 feet if attached to a permitted structure in the R-1 Single-Family Residential District, R-2 Single-Family Residential District, R-3 Multiple-Family Residential District, R-4 Multiple-Family Residential District, R-5 Single-Family Zero Lot Line Residential District, R-6 Condominium Residential District, MH-1 Manufactured Home Park District, MH-2 Manufactured Home Subdivision District, and all property zoned A-1 Agricultural Transition District but designated as Potential Future Residential on the Future Land Use Map of the Comprehensive Development Plan for the Andover Area, Kansas as amended.
- b. 35 feet if self-supported units and 45 feet if attached to a permitted structure in the B-1 Office Business District and B-2 Neighborhood Business District.
- c. 60 feet if self-supported units and if attached to a permitted structure in the B-3 Central Shopping District and B-4 Central Business District.
- d. 75 feet if self-supported units and if attached to a permitted structure in the B-5 Highway Business District and B-6 Business District.
- e. 100 feet in the A-1 Agricultural Transition District, except for those areas designated as Future Residential on the Future Land Use Map in the Comprehensive Development Plan for the Andover Area, Kansas.
- f. 150 feet in the I-I Industrial District, and on land owned by the public and used for recreation purposes.
- g. Wireless communication facilities utilizing whip (omni-directional) or surface mounted panel type antennas attached to utility transmission support structures, light standards, traffic signals, etc. may exceed the maximum height restriction for the zoning district by 20 percent of the maximum height or 25 feet above the top of the mounting pole, whichever height is the lesser.

7. Lighting. Wireless communication facilities shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority. When incorporated into the design of the wireless telecommunication facilities, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the area.

8. Signs and Advertising. The use of any portion of a wireless telecommunication facility for signs other than warning or emergency information signs are prohibited.
9. Accessory Utility Buildings. All utility buildings and structures accessory to a wireless communication facility shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the zoning district. Ground mounted equipment shall be screened from view by materials which complement the architectural character of the surrounding neighborhood.
10. Abandoned or Unused Wireless Communication Facilities. Abandoned or unused wireless communication facilities or portions of wireless communication facilities shall be removed as follows:
 - a. All abandoned or unused wireless communication facilities and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. A copy of the relevant portions of a signed lease which requires the applicant to remove the wireless communication facility and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a wireless communication facility is not removed within 12 months of the cessation of operations at a site, the wireless communication facility and associated facilities may be removed by the City and the costs of removal assessed against the property or drawn on the applicant's cash assurance.
 - b. Unused portions of wireless communication facilities above a manufactured connection shall be removed within six months of the time of antenna relocation. The replacement of portions of a wireless communication facility previously removed requires the issuance of a new zoning permit.
11. Antennas Mounted on Roofs, Walls, and Existing Wireless Communication Facilities. The placement of wireless communication antennas on roofs, walls, and existing wireless communication facilities may be approved by the Zoning Administrator, provided the antennas meet the requirements of this criteria, after submittal of (1) a final site and building plan and (2) a report prepared by a qualified and licensed professional engineer indicating the existing structure or wireless communication facility's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated.
12. Interference with Public Safety Communications. No new or existing communications service shall interfere with public safety communications. All applications for new service shall be accompanied by a preliminary intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, communication providers shall notify the City at least 10 calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

13. Additional Submittal Requirements. In addition to the information required elsewhere in this criteria, development applications for wireless communication facilities shall include the following supplemental information:
- a. A report from a qualified professional engineer licensed to practice in the State of Kansas which
 - (1) describes the wireless communication facility's height and design including a cross section and elevation,
 - (2) documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas,
 - (3) describes the wireless communication facilities co-location capacity, including the number and type of antennas that it can accommodate,
 - (4) includes the engineer's stamp and license number, and
 - (5) includes other information necessary to evaluate the request.
 - b. For all wireless communication facilities, a letter of intent committing the wireless communication facility owner and his or her successors to allow the shared use of the wireless communication facility if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
 - c. Before the issuance of a zoning permit, the following supplemental information shall be submitted:
 - (1) Proof that the proposed wireless communication facility complies with regulations administered by Federal Aviation Administration; and,
 - (2) a report from a qualified professional engineer licensed to practice in the State of Kansas which demonstrates the wireless communication facility's compliance with the aforementioned structural and electrical standards.
14. Zoning Permits. It shall be unlawful for any person, firm, or corporation to erect, construct in place, place or re-erect, replace, or repair any wireless communication facility without first making application for and securing a zoning permit therefore as hereinafter provided.

The applicant shall provide at the time of application sufficient information to indicate that construction, installation, and maintenance of the antenna and wireless communication facility will not create a safety hazard or damage to the property of other persons.

Such permits are not required for:

- a. Adjustment or replacement of the elements of an antenna array affixed to a wireless communication facility or antenna, provided that replacement does not reduce the safety factor.

- b. Antennas and/or wireless communication facilities erected temporarily for test purposes, for emergency communication, or for broadcast remote pick-up operation; provided that all requirements of this criteria are met, with the exception of screening and landscaping, which are waived. Temporary antennas shall be removed within 72 hours following installation.
15. Cash Assurance. The applicant shall deposit, at the time of application for zoning permit, a cash assurance with the City Clerk which shall remain in effect for the duration of the use of the wireless communication facility in an amount sufficient to effect the removal of the equipment on the site in the event of a failure to comply with the provision of these regulations.
16. Fee. The fee is to be paid that is prescribed by a resolution establishing fee schedule for charges for proceedings governed by the Zoning Regulations and Subdivision Regulations of the City of Andover, Kansas.
17. Existing Antennas and Wireless communication facilities. Antennas and wireless communication facilities in existence as of September 7, 2000, which do not conform to or comply with this Section are subject to the following provisions:
 - a. Wireless communication facilities may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this Section.
 - b. If such wireless communication facilities are hereafter damaged or destroyed due to any reason or cause whatsoever, the wireless communication facility may be repaired and restored to its former use, location, and physical dimensions upon obtaining a zoning permit therefore, but without otherwise complying with this Section provided, however, that if the cost of repairing the wireless communication facility to the former use, physical dimension, and location would be 10 percent or more of the cost of a new wireless communication facility of like kind and quality, then the wireless communication facility may not be repaired or restored except in full compliance with this Section.
18. Number of Wireless Communication Facilities and antennas. Only one wireless communication facility shall exist at any one time on any one zoning lot.
19. Registration. All wireless communication facilities effected by these regulations shall be registered annually on January 1 of each year to insure continuing compliance with these regulations. Application for annual registration shall be made by December 15 of each year on the form provided by the City, and shall include the following information:
 - a. The identity and legal status of the registrant, including any affiliates.
 - b. The name, address, and telephone number of the officer, agent or employee responsible for the accuracy of the registration form.
 - c. A narrative and map description of the registrants facility, including street address.
 - d. A description of the communication services provided.

- e. A list of the carriers being served by the facility including names, addresses, telephone numbers for emergency contacts, and the type and location of all equipment on the wireless communication facility.
 - f. Copies of operating licenses or other approvals required by the Federal Communications Commission (FCC) to provide communication services.
 - g. Payment of the registration fee as set forth by Resolution of the City Council.
20. Inspections. All wireless communication facilities may be inspected at least once each year by the Zoning Administrator or his designee to determine compliance with original construction standards. Deviation from original construction for which a zoning permit is obtained constitutes a violation of this Section.
21. Modifications in Criteria. If during the process of application for zoning permit for a wireless communication facility, the applicant desires to seek modification of the review criteria in any zoning district, an application for a conditional use may be submitted to the Board of Zoning Appeals for consideration of such modification, except maximum height.
22. Special Use Applications to Exceed Maximum Height Limitations. In all zoning districts, applicants may apply to the Planning Commission for a special use to exceed height limitations established in the review criteria for all types of wireless communication facilities.

104 **Fencing**

The following provisions shall govern the construction and location of fences on any zoning lot, unless otherwise determined as part of the site plan approval process: (See Section 2-102 for definition of Fence. See also Section 6-100B requiring a zoning permit for fences in any front yard.)

- A. A-1 Agricultural Transition District:
 - 1. “Open”, “open non-security” and “closed” fences not exceeding six feet in height and permitted in any yard.
- B. R-1, R-2, R-3, R-4, R-5 and R-6 Residential Districts and MH-1 and MH-2 Manufactured Home Districts:
 - 1. “Open”, “open non-security” and “closed” fences not exceeding six feet in height and permitted in any yard except front yards, including both front yards of a corner lot which adjoins two streets.
 - 2. Only “open non-security” fences not exceeding four feet in height are permitted in front yards including both front yards of a corner lot within 35 feet of the front corner lot which adjoins two streets.
- C. B-1, B-2, B-3, B-4 and B-6 Business Districts:
 - 1. “Open” and “closed” fences not exceeding eight feet in height are permitted in any yard except a front yard.
 - 2. Only “open non-security” fences not exceeding four feet in height are permitted in a front yard.
- D. B-5 Highway Business District and I-1 and I-2 Industrial Districts:
 - 1. “Open” and “closed” fences not exceeding ten feet in height are permitted in any yard except a front yard.
 - 2. “Open” and “open non-security” fences not exceeding six feet in height are permitted in a front yard except: only “open” and “open non-security” fences not exceeding four feet in height are permitted in either front yard of a corner lot within 15 feet of the front corner which adjoins two streets.
- E. Screening fences in all zoning districts:
 - 1. Notwithstanding the provisions placed on such fences in Sections 3-104A through D above and as may be required by site plan approval in Section 3-105, perimeter screening fences or walls not exceeding six feet in height which are open or closed as defined herein may extend into front yard setbacks of developments at their entrances from streets.

105 Site Plan Approval.

The purpose and intent of requiring site plan approval is to (1) encourage the compatible arrangement of buildings, off-street parking, lighting, signage, landscaping, screening, ingress and egress and drainage on and from the site, (2) maintain a pleasant and visually appealing community appearance; (3) promote public health and safety; (4) enhance or preserve property values; (5) protect and support the economic well-being of the City; and (6) control the aesthetics of redevelopment or new development as provided for in K.S.A 12-755(a)(4).

A. Applicability. The following land uses shall be required to obtain approval of a site plan by the Site Plan Review Committee:

1. General:

- a. All nonresidential projects, including remodeling of existing nonresidential properties;
- b. All multiple-family projects arranged in a courtyard or grouped setting;
- c. All screening and landscaping adjacent to an arterial street, except those that are accessory to a single-family residential property with an estimated total project value of under \$5,000.00. All landscaping with an estimated total project value under \$10,000 will be submitted to City staff for review and approval as long as the project complies with the Streetscape Guidelines and Preferred Tree Species for South Central Kansas as prepared by the Kansas Urban Forestry Council.
- d. All permanent signage and monuments, including those accessory to single-family residential subdivision, except those that are replacing an existing approved sign and are not changing the size, location or lighting of the existing sign;
- e. All parking areas adjacent to an arterial street, except those that are accessory to a single-family dwelling unit;
- f. All Planned Unit Development (P.U.D.) Districts shall be required to submit a preliminary landscape plan for review at the time of preliminary P.U.D. plan approval. A final landscape plan shall be submitted for final Site Plan Review Committee approval as final P.U.D. plan approval for each phase is attained. Review shall be limited to arterial streets.

2. Nonresidential projects with an estimated total project value under \$10,000 shall be required to submit a site plan for Site Plan Review Committee approval under the following conditions:

- a. If the project meets one of the criteria under Section 3-105 A1 above;

- b. The review and approval will be limited to the specific change in the building or site. For example, if the building is being resided, only the appearance of the siding can be reviewed;
- c. Routine maintenance such as new roofing and paint shall not be reviewed unless the base primary color or colors of the building is changing;
- d. A full application with site plans and other required drawings will not be required for projects with an estimated total project value under \$10,000. At a minimum, a drawing or a photograph with color samples of the proposed changes and material boards, if applicable, shall be submitted;
- e. If a property receives an approval for changes for a project with an estimated total project value under \$10,000 and then subsequently seeks another, the Zoning Administrator shall be authorized to require a full site plan review. The determination of the Zoning Administrator in this instance may be appealed to the Board of Zoning Appeals on the basis of reasonableness.
- f. Landscaping projects with an estimated total project value under \$10,000 will be submitted to City staff for review and approval as long as the project complies with the Streetscape Guidelines and Preferred Tree Species for South Central Kansas.

B. Appointment of Site Plan Review Committee. A seven-member Site Plan Review Committee shall be nominated by the mayor and approved by the City Council. All the members shall reside in the city limits except that not more than three may be appointed who reside outside the City in the Andover Planning Area. Members selected shall have experience and/or education in such fields as architectural design, landscaping, construction, traffic control, urban planning, historical preservation, public safety, civil engineering, local business ownership and similar backgrounds. The members shall be appointed to serve staggered three-year terms so that initially two members shall serve for one year, two for two years and three for three years. In the event a vacancy occurs, appointments shall be made for the unexpired term of membership. The Committee may elect its own officers and adopt rules as bylaws for transaction of business; however, all approval of site plans must have the affirmative vote of at least four members. All meetings shall be open to the public according to K.S.A. 75-4317 et seq. Before each Committee meeting, an agenda must be published in the official City newspaper identifying the site plans to be reviewed.

C. Review Standards. The Site Plan Review Committee shall prepare criteria and procedures for the submittal of site plans and standards for their approval including appearance standards. Such criteria, procedure and standards shall be reviewed by the Planning Commission for a recommendation to the Governing Body and subsequent approval by the Governing Body before implementation. Any amendments to such criteria, procedure and standards shall also be approved in the same manner.

D. Appeals. Applicants aggrieved by any decision of the Site Plan Review Committee may appeal to the City Board of Zoning Appeals within 30 days after their meeting for a determination based on the reasonableness of conditions attached to the issuance of their zoning permit.

- E. Enforcement. No zoning permit shall be issued by the Zoning Administrator until a site plan is approved by the Site Plan Review Committee.
- F. Fees. Fees for site plan review shall be determined by Section 9-104.

106 Maintenance of Required Screening and Landscaping.

- A. 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 3-105 are not being maintained, the Administrator shall 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.
- B. 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.

ARTICLE 4. ZONING DISTRICTS

100 Permitted Uses in All Districts.

- A. Off-street parking and loading required by Article 5.
- B. Accessory and temporary uses and home occupations as permitted by Article 6.
- C. Signs as permitted in Article 7.

101 R-1 Single-Family Residential District.

This district is designed to provide for single-family dwellings at a low density and to allow certain public facilities.

- A. Permitted Uses.
 - 1. Single-family detached and group home dwellings and residential-design manufactured homes.
 - 2. Churches, chapel, temples and synagogues; however, prefabricated metal structures are not permitted.
 - 3. Golf courses, including accessory club houses, but not commercial golf driving ranges, pitch and putt or miniature golf courses.
 - 4. Public and private schools: educational buildings for primary, intermediate and secondary schools including administrative centers, but not transportation centers, recreation areas, spectator sports facilities and the like. All such uses must be located on land which is properly platted.
 - 5. Public parks and playgrounds.
- B. Special Uses.
 - 1. Public buildings erected or land used by any agency of the City, County, or State government.
 - 2. Cemeteries, private or public.
 - 3. Activity centers for senior citizens.
 - 4. Bed and breakfast homes.
 - 5. Transportation centers, recreation areas, spectator sports facilities and the like for public and private primary, intermediate and secondary schools.
- C. Conditional Uses.
 - 1. Child care centers and preschools.
 - 2. Earth-sheltered dwellings, provided that the design is compatible with adjacent properties including such items as drainage, parking and accessory structures.

3. Manufactured homes on individual lots or as a related use to an existing dwelling, but only permitted where an usual hardship is shown, including construction or reconstruction of a dwelling, and for a stated period of time. Time periods may be extended upon request to the Board of Zoning Appeals without further notice given. (See Section 3-103N4 for temporary permits in the event of a disaster.)
4. Swimming, tennis, racquetball and similar other private recreational club activities and related clubhouses.
5. Public and private utility uses as follows: electric and telephone substations; gas regulator stations; pumping stations; and water towers and standpipes.

D. Lot Size Requirements.

1. Minimum lot area: 20,000 square feet.
2. Minimum lot width: 100 feet.
3. Minimum lot depth: 125 feet.

E. Bulk Regulations.

1. Maximum structure height: 35 feet.
2. Yard requirements:
 - a. Minimum front yard: 25 feet on all sides abutting a street.
 - b. Minimum side yards:
 - (1) Single-family: 10 feet.
 - (2) All other permitted uses: 25 feet.
3. Minimum rear yard: 25 feet.
4. Maximum lot coverage: 30%.

102 R-2 Single-Family Residential District.

This district is designed to provide for single-family dwellings at a medium density and to allow certain public facilities.

A. Permitted Uses.

1. Any use permitted in the R-1 Residential District.

B. Special Uses.

1. Any special use that may be allowed in the R-1 Residential District.

C. Conditional Uses.

1. Any conditional use that may be allowed in the R-1 Residential District; except that any manufactured homes allowed by Section 4-101 C 3 must be located on a minimum lot area of 20,000 square feet.
2. Greenhouses.

D. Lot Size Requirements.

1. Minimum lot area:
 - a. Single-family detached dwellings: 10,000 square feet.
 - b. All other permitted uses: 10,000 square feet.
2. Minimum lot width:
 - a. Single family detached dwellings: 75 feet.
 - b. All other permitted uses: 90 feet.
3. Minimum lot depth: 100 feet.

E. Bulk Regulations.

1. Maximum structure height: 35 feet.
2. Yard requirements:
 - a. Minimum front yard: 25 feet on all sides abutting a street
 - b. Minimum side yard:
 - (1) Single-family: 8 feet.
 - (2) All other permitted uses: 15 feet.
 - c. Minimum rear yard: 25 feet.
3. Maximum lot coverage: 35%

103 R-3 Multiple-Family Residential District.

This district is designed to provide for a slightly higher density of two, three and four-family dwellings co-mingling with compatible single-family dwellings.

A. Permitted Uses.

1. Any use permitted in the R-2 Residential District, except residential-design manufactured home.
2. Single-family attached and two, three, and four-family dwellings.

B. Special Uses.

1. Public buildings erected or land used by any agency of the City, County, or State government.
2. Activity centers for senior citizens.
3. Bed and breakfast homes and inns.
4. Mini-storage facilities, subject to the following conditions which may be more or less restrictive than otherwise required in the district: (See Section 2-102 for definitions of mini-storage facility.)
 - a. A preliminary development plan reflecting the conditions in this subsection shall be submitted with the application for a special use amendment. A final development plan reflecting all conditions as approved including fencing and landscaping shall be submitted with any application for a zoning permit plus an architectural building design, if required.
 - b. The use must front on an arterial or collector street as designated in the Comprehensive Plan.
 - c. Vehicular ingress/egress shall be limited to one point for each side of the property abutting any arterial or collector street.
 - d. Any side of the building providing doorways to storage areas shall be set back from the property line not less than 35 feet.
 - e. The building height shall not exceed one story.
 - f. Space may be allocated for manager's quarters.
 - g. Maximum lot coverage shall be limited to 50%.
 - h. All driveways, parking loading, and vehicle circulation areas shall be paved with concrete, asphalt, or asphaltic concrete. Adequate bumper guards or fences shall be provided to prevent the extension of vehicles beyond the property lines.
 - i. The premises shall be properly policed by the operator for removal of trash. Solid waste disposal areas shall be screened or so located as not to be visible to the public.

- j. All lights shall be shielded to direct light on the uses established and away from adjacent property; however, they may be of sufficient intensity to discourage vandalism and theft.
- k. Business signs identifying the nature of the mini-warehouse itself are permitted as wall signs, which do not exceed 40 square feet in an area, and may be indirectly illuminated only facing arterial streets.
- l. The exterior areas of mini-warehouses shall be of finished quality. When the development is in close proximity to existing or potential residential development, the architectural design of the building shall be submitted to the Planning Commission for review and a recommendation to the Governing Body as to whether or not the architecture is compatible to surrounding development or is otherwise properly screened.
- m. Fencing shall be provided around the perimeter of the development. Landscaping shall be provided along all street frontages as well as along the borders abutting any residential zoning districts when deemed desirable by the Planning Commission. The combined design of fencing and landscaping as screening to minimize the environmental impact of such operations shall consider the affects of possible visual blight, illumination, headlight glare, noise, and blowing trash and dust. All areas not otherwise paved shall be landscaped.
- n. No business activities other than rental of storage units shall be conducted on the premises.
- o. The servicing or repair of motor vehicles, boats, trailers, lawn mowers and other similar equipment shall not be permitted on the premises.
- p. Such other conditions as shall be deemed necessary for orderly development.

C. Conditional Uses.

- 1. Child care centers and preschools.
- 2. Swimming, tennis, racquetball and similar private recreational club activities and related clubhouses.

D. Lot Size Requirements.

- 1. Minimum lot area:
 - a. Single-family detached dwellings: 10,000 square feet.
 - b. Single-family attached dwellings and two-family dwellings: 5,000 square feet per dwelling unit.
 - c. Three and four-family attached dwelling units: 3,000 square feet per dwelling unit, but not less than a 10,000 square foot lot.
 - d. All other permitted uses: 10,000 square feet.

2. Minimum lot width:
 - a. Single-family detached dwellings: 75 feet.
 - b. Single-family attached and two-family dwellings: 75 feet
 - c. Three and four-family dwellings: 100 feet.
 - d. All other permitted uses: 75 feet.

E. Bulk Regulations.

1. Maximum structure height: 35 feet.
2. Yard requirements:
 - a. Minimum front yard: 25 feet on all sides abutting a street.
 - a. Minimum side yard:
 - (1) Single-family attached: 8 feet on each side, except for the common lot line of an attached dwelling.(See 2-102 for definition of Dwelling, Attached.)
 - (2) All other permitted residential dwellings: 8 feet.
 - (3) All other permitted uses: 15 feet.
 - c. Minimum rear yard: 25 feet.
3. Maximum lot coverage: 35%.

104 R-4 Multiple-Family Residential District.

This district is designed to provide for multiple-family development at medium densities where such uses may be located along arterial streets and some collector streets and also used as a buffer area around business districts. The district is not intended generally for a single-family type use except as incidental to the area.

A. Permitted Uses.

1. Any use permitted in the R-3 Residential District.
2. Multiple-family dwellings.
3. Boarding or rooming houses.
4. Adult and child care centers and preschools.

B. Special Uses.

1. Any special use that may be allowed in the R-3 Residential District.
2. Hospitals and medical and dental offices and health clinics.
3. Multiple dwelling units for the elderly and handicapped whereby density and parking requirements may be varied from the standards otherwise required by these regulations.
4. Nursing and convalescent homes, including barber shops, beauty shops, pharmacies, gift shops, newsstands and restaurants, provided such uses can be entered only from an interior lobby or hallway.
5. Rehabilitation houses such as "halfway" houses.
6. Activity centers for senior citizens.

C. Conditional Uses.

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

D. Lot Size Requirements.

1. Minimum lot area:
 - a. Single-family detached dwellings: 8,000 square feet.
 - b. Single-family attached dwellings and two-family dwellings: 4,000 square feet per dwelling unit.
 - c. Three and four-family units: 3,000 square feet per dwelling unit, but not less than a 10,000 square foot lot.

- d. Multiple-family dwellings: 3,000 square feet per dwelling unit, but not less than a 10,000 square foot lot.
 - e. Other permitted uses: 10,000 square feet.
2. Minimum lot width:
- a. Single-family detached dwellings: 75 feet.
 - b. Single-family attached and two-family dwellings: 75 feet
 - c. Three and four-family dwellings: 100 feet.
 - d. Multiple family dwellings: 100 feet
 - e. All other permitted uses: 75 feet
3. Minimum lot depth: 100 feet.
- E. Bulk Regulations.
1. Maximum structure height: 45 feet.
2. Yard requirements:
- a. Minimum front yard: 20 feet on all sides abutting a street.
 - b. Minimum side yard:
 - (1) Single-family attached: 7 feet on each side, except for the common lot line of an attached dwelling. (See Section 2-102 for definitions of Dwelling, Attached.)
 - (2) All other permitted residential dwellings: 7 feet.
 - (3) All other permitted uses: 10 feet.
 - c. Minimum rear yard: 20 feet.
3. Maximum lot coverage: 40%.

105 R-5 Single-Family/Zero Lot Line Residential District

This district is designed to provide for some flexibility and innovativeness in Zero Lot Line (ZLL) housing designs for single-family dwellings by permitting more variations and reductions in the lot size and bulk requirements than those required in other residential districts, but retaining a minimum housing size comparable to conventional single-family dwellings in the surrounding area.

A. Permitted Uses.

1. Single-Family detached dwellings and residential-design manufactured homes.

B. Special Uses.

1. None.

C. Conditional Uses.

1. None.

D. General Conditions.

1. Land used for a R-5 District:
 - a. Shall be located as a self-contained unit of development such as created by (1) cul-de-sac; (2) ZLL lots which face similar types of lots across a street and are not located on a street carrying substantial volumes of traffic such as arterial or collector streets; or (3) lots which face land use other than single or two-family dwellings either existing or potentially to be developed.
 - b. Shall, as a condition of zoning, be platted according to the Subdivision Regulations of the City with specific attention given to any problems of drainage or utility easements which may be created by the particular design concept.
2. A fencing and/or screening design plan for all ZLL lots shall be submitted showing how privacy for each lot and its relationship to other lots will be achieved.
3. To insure privacy, no windows, doors, or other openings shall be permitted on the wall with the most minimum setback. Such wall shall be constructed of the same materials as the other exterior walls of the dwelling unit.
4. Notwithstanding the parking space requirements of Section 5-101 A 1, each dwelling shall have at least one parking space as required by the provisions of Article 5 plus adequate space for at least two automobiles in the driveway area.
5. Proposed restrictive covenants shall be submitted guaranteeing the maintenance of the fencing and/or screening plan, access for maintenance of structures in close proximity to one another and other restrictions necessary to carry out the intent of the overall design concept.

6. In the event that, within two years following approval by the Governing Body, the applicant does not initiate construction in accordance with the plans and conditions so approved, the Planning Commission may initiate action to rezone the property according to the procedures of Article 11. At the public hearing, the applicant shall be given an opportunity to show why construction has been delayed. Following the hearing, the Planning Commission shall make findings of fact and an appropriate recommendation to the Governing Body for official action.

E. Lot Size Requirements.

1. Minimum lot area: 5,400 square feet.
2. Minimum lot width: 60 feet.
3. Minimum lot depth: 90 feet.

F. Bulk Regulations.

1. Maximum structure height: 35 feet.
2. Yard requirements:

- a. Minimum front yard.

On corner lots, 25 feet on all sides abutting a street, except that 15 feet is permitted where such frontage is adjacent to an interior ZLL lot. On interior lots, 15 feet, except that the length and width of the driveway area must extend at least 22 feet from the front lot line.

- b. Minimum side yard:

A minimum of 10 feet maintained between the adjacent residential structures. Overhanging eaves and gutters are permitted by Section 3-103 F 1; provided that provisions for their extension and maintenance over adjacent property is contained in the restrictive covenants.

- c. Minimum rear yard: 15 feet.

3. Maximum lot coverage: 60%.

106 R-6 Condominium Residential District.

This district is designed to provide for various types of housing at medium densities including multiple-family development, all of which is restricted to a form of ownership as independent condominium units.

A. Permitted Uses.

1. Single-family detached and attached dwellings and group homes.
2. Two, three and four-family dwellings.
3. Multiple-family dwellings.
4. Golf courses, including accessory club houses, but not commercial driving ranges, pitch and putt or miniature golf courses.
5. Child care centers and preschools.

B. Special Uses.

1. Public buildings erected or land used by any agency of the City, County, State or federal government.
2. Multiple dwelling units for the elderly and handicapped whereby density and parking requirements may be varied.
3. Retirement centers.
4. Activity centers for senior citizens.

C. Conditional Uses.

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

D. Lot Size Requirements.

1. Minimum lot area:
 - a. Single-family detached dwelling units: 8,000 square feet.
 - b. Single-family attached and two-family dwelling units: 4,000 square feet per dwelling unit.
 - c. Three and four-family dwelling units: 3,000 square feet per dwelling unit, but not less than a 10,000 square foot lot.
 - d. Multiple-family dwelling units: 3,000 square feet per dwelling unit, but not less than a 10,000 square foot lot.
 - e. Other permitted uses: 10,000 square feet.

2. Minimum lot width: 100 feet.
3. Minimum lot depth: 100 feet.

E. Bulk Regulations.

1. Maximum structure height: 45 feet.
2. Yard requirements:
 - a. Minimum front yard: 20 feet on all sides abutting a street.
 - b. Minimum side yard: 10 feet
 - c. Minimum rear yard: 20 feet
3. Maximum lot coverage: 40%

F. Use Limitations.

1. All residential developments must meet the definition for a condominium as defined in Section 2-102 including the requirements in the declaration to guarantee maintenance provisions.
2. Wherever more than one residential building is proposed for development with common open space provided, a site development plan drawn to scale must be submitted for approval concurrently with any application for an amendment to the R-6 Residential District. Such plan shall show in graphic and statement format how the proposed locations of the multiple buildings will meet the minimum lot size requirements and bulk regulations of the R-6 District and the layout for parking and vehicular access.
3. Issuance of a zoning permit and/or occupancy certificate is conditioned upon submittal of the approved site development plan as the basis for the application upon which the permit and/or certificate is to be issued.

107 MH-1 Manufactured Home Park District

This district is designed to provide for medium density manufactured home parks where such uses may be located along arterial streets. Manufactured homes will not be allowed on individually owned zoning lots. No more than 10% of the manufactured homes may be for rent. Manufactured home parks may be further governed by a City Mobile Home Park Ordinance.

A. Permitted Uses.

1. Manufactured home parks including related facilities for the residents, such as:
 - a. Child care centers.
 - b. Recreational facilities such as playgrounds, swimming pools, tennis courts, shuffleboards, ball fields, and lakes providing boating and fishing.
 - c. Recreation or community buildings, washrooms, restrooms, laundry facilities, storm shelters, storage areas, and offices for the manufactured home parks.

B. Special Uses. None.

C. Conditional Uses.

1. Sales area for storage and inspection of new or used unoccupied manufactured homes.

D. Lot Size Requirements for Manufactured Home Parks.

1. Minimum lot area: 80,000 square feet.
2. Minimum lot width: 150 feet.
3. Minimum lot depth: 140 feet.

E. Bulk Regulations for Manufactured Home Parks.

1. Maximum structure height: 35 feet.
2. Yard requirements:
 - a. Minimum front yard: 25 feet on all sides abutting a street.
 - b. Minimum side yard: 15 feet, unless otherwise established by the standards of Section 4-107F.
 - c. Minimum rear yard: 25 feet, unless otherwise established by the standards of Section 4-107F.
 - d. Maximum lot density: Seven manufactured homes per acre.

F. Standards for Manufactured Home Parks. Each manufactured home park shall be designed so as to comply with the following standards.

1. The manufactured home park shall be located on a well-drained site which is properly graded to insure rapid drainage and freedom from stagnant pools of water.
2. The manufactured home park shall provide manufactured home spaces, and each such space shall be clearly defined and delineated. No single manufactured home space shall contain less than 3,500 square feet. No single manufactured home space shall have a width of less than 40 feet.
3. Manufactured homes shall be located so that there is at least a 20-foot clearance between manufactured homes; provided, however, with respect to manufactured homes parked end-to-end, the clearance shall not be less than 10 feet. No manufactured home shall be located less than 10 feet from the front driveway.
4. Each manufactured home park shall devote at least 10% of its net area for the recreational use and enjoyment of the occupants of the park. Required perimeter yards and vehicular driveways shall not be counted in computing such recreation areas.
5. All manufactured homes spaces shall abut on an internal driveway that is not less than 30 feet in width. Such driveways shall have unobstructed access to a public street or highway and shall have a paved, hard surface of either concrete and/or asphalt which is well maintained and adequately lighted.
6. No manufactured home shall be located less than 25 feet from any property line of the manufactured home park or from any community building within the park, including any washroom, toilet, laundry facilities, or sales office.
7. Screening and/or landscaping may be required to provide proper screening for adjacent existing and potential land uses and for privacy and protection in the park. Storm shelters are to be encouraged for all park residents unless arrangements are made for similar shelter facilities within reasonable distance of the park given the emergency nature of the need for such shelter.
8. All electric distribution systems, plumbing systems and telephone service systems to each manufactured home space, except outlets and risers, shall be underground.
9. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in any other residential district.
10. In all other respects, manufactured home parks shall comply with all of the applicable statutes of the State of Kansas and all applicable ordinances and regulations of all political subdivisions of the State.

G. Unused Manufactured Home Park. Whenever a property zoned for the MH-I District ceases to be used for such purposes for a period of one year, the Planning Commission may initiate an application to rezone such property to some other district compatible with the neighborhood area.

108 MH-2 Manufactured Home Subdivision District.

This district is designed to provide for a medium density area of individually owned lots platted for all types of manufactured and modular homes on permanent type enclosed foundations. *

A. Permitted Uses.

1. Single and multiple width manufactured and modular homes.
2. Any use permitted in the R-1 Residential District; except single-family detached.

B. Special Uses.

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

C. Conditional Uses.

1. Any conditional use allowed in the R-1 Residential District; except earth-sheltered dwellings.

D. Lot Size Requirements.

1. Minimum lot area:
 - a. Manufactured homes: 6,000 square feet.
 - b. All other permitted uses: 10,000 square feet.
2. Minimum lot width:
 - a. Manufactured homes: 60 feet.
 - b. All other permitted uses: 90 feet.
3. Minimum lot depth: 100 feet.

E. Bulk Regulations.

1. Maximum structure height: 35 feet.
2. Yard requirements:
 - a. Minimum front yard: 25 feet; except one of the yards on a corner may be 15 feet.
 - b. Minimum side yard:
 - (1) Manufactured homes: 6 feet.
 - (2) All other permitted uses: 15 feet.

* Reference City adopted Guidelines for Manufactured Housing Installations.

- c. Minimum rear yard:
 - (1) Manufactured homes: 10 feet.
 - (2) All other permitted uses: 25 feet.
- 3. Maximum lot coverage: 40%.

F. Use Limitations.

- 1. A manufactured home subdivision shall comprise a minimum of 120,000 square feet.
- 2. The land must be platted for each lot according to the City Subdivision Regulations.
- 3. All manufactured homes shall meet the standards of the National Manufactured Home Construction and Safety Standards Act of 1974, as may be amended, and an inspection sticker shall be attached to the structure which denotes approval under the Act by the U.S. Department of Housing and Urban Development.
- 4. All manufactured homes shall be located on permanent-type enclosed perimeter foundations with footings. The foundation and footing must be built according to the City Building Code. Notwithstanding the definition of manufactured home in Section 2-102, skirting or facing may be permitted in conjunction with certain types of foundations which are not normally constructed on the perimeter of the walls. The hitches shall be removed. Basements and storm cellars meeting the standards of City codes are permitted.
- 5. According to the standards of the State of Kansas, all manufactured homes shall be secured to the ground unless secured to a permanent-type foundation.
- 6. Structures may be attached to the manufactured homes such as additional living space, patios, awnings, porch covers, entrance landings, carports, garages, and storage areas according to standards of the City codes.

109 B-1 Office Business District.

This district is designed to provide for business and professional offices with compatible institutional and public building uses. Such uses have limited evening activities and should be located along arterial streets and to serve as buffer areas between business and industrial districts and the residential districts.

A. Permitted Uses.

1. Business and professional offices and financial institutions, structure of which may contain storage space, provided such space does not exceed 50% of the gross floor area of the structure.
2. Educational, religious, philanthropic and eleemosynary institutions, but not penal or mental institutions.
3. Mortuaries and funeral homes.
4. The following uses when located in an office or institutional building or a medical or dental clinic, provided such use can be entered only from an interior lobby or hallway: Barber shops, beauty shops, pharmacies, gift shops, newsstands and restaurants.
5. Churches, chapels, temples and synagogues.
6. Activity centers for senior citizens.

B. Special Uses.

1. Public buildings erected or land used by any agency of the City, County, or State government.
2. Hospitals.
3. Mini-storage facilities, subject to the same conditions as provided for in the R-3 District, except that subsection (k) regarding signs is deleted and signs permitted for the B-1 District are applicable.
4. Philanthropic institutions, including distribution and/or merchandising of goods for the needy when permitted.

C. Conditional Uses.

1. Animal hospitals, including the grooming of small animals, subject to the following conditions:
 - a. All animals shall be harbored and treated in a completely enclosed building.
 - b. Such hospital shall be limited to the care and treatment of dogs, cats, and other small animals; and
 - c. Any accessory incinerator for the disposal of dead animals shall be designed so as not to create a nuisance for adjacent properties.

2. Public utility uses.
3. Research laboratories.
4. Service and fraternal clubs and lodges and related private club activities.
5. School of Performing Arts, limited to non-social dance, primarily for children, prohibiting public performance and limiting its commercial sales to merchandise related to accessories for dance instruction.

D. Lot Size Requirements.

1. Minimum lot area: 10,000 square feet.
2. Minimum lot width: 75 feet.
3. Minimum lot depth: 100 feet.

E. Bulk Regulations.

1. Maximum structure height: 45 feet.
2. Yard requirements:
 - a. Minimum front yard: 35 feet.
 - b. Minimum side yard: 20 feet.
 - c. Minimum rear yard: 20 feet.
3. Maximum lot coverage: 35%.

F. Use Limitations.

1. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any property located in a residential district.
2. All structures shall be located on sites that are planted and landscaped, except for parking areas and hard-surfaced walks, and no storage or servicing shall be permitted outdoors.
3. The depth to width ratio of the area to be zoned shall not exceed three to one unless the applicant can demonstrate a hardship in the effective use of the property would result.

110 B-2 Neighborhood Business District

This district is designed to provide for the retail sale of convenience goods and services in shopping districts of limited size areas near to residential neighborhoods at the intersections of two arterial streets or an arterial and a collector street.

A. Permitted Uses.

1. Appliance sales and repair shops.
2. Barber shops.
3. Beauty shops.
4. Business, professional and public offices.
5. Candy and ice cream stores.
6. Drug stores.
7. Dry cleaning and laundry receiving stations and where processing or cleaning of clothing is done on the premises by no more than five employees.
8. Food stores, including grocery stores, meat markets, bakeries and delicatessens.
9. Florist shops.
10. Gift shops.
11. Hardware stores.
12. Key shops.
13. Package liquor stores.
14. Restaurants (except for drive-ins).
15. Self-service laundries and dry cleaning stores.
16. Service stations.
17. Shoe repair shops.
18. Tailor shops.
19. Automobile parts stores.
20. Bed and breakfast inns.
21. Philanthropic institutions, including distribution and/or merchandising of goods for the needy when permitted.
22. Child cares centers and preschools.

B. Special Uses.

1. Public buildings erected or land used by any agency of the City, County, or State government.
2. Car washes.
3. Lumberyards with outdoor storage.
4. Mini-storage facilities, subject to the same conditions as provided for in the R-3 District, except that subsection (k) regarding signs is deleted and signs permitted for the B-2 District are applicable.
5. Other special uses not otherwise 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 4-110 A.

C. Conditional Uses.

1. Amusement centers, indoor only.
2. Public and private utility uses.

D. Lot Size Requirements.

1. Minimum lot area: 10,000 square feet.
2. Minimum lot width: 75 feet.
3. Minimum lot depth: 100 feet.

E. Bulk Regulations.

1. Maximum structure height: 35 feet.
2. Yard requirements:
 - (a) Minimum front yard: 35 feet, except that on a corner lot one front yard may be reduced to 15 feet.
 - (b) Minimum side yard: None required, but if a side yard is provided, no such yard shall be less than 10 feet.
 - (c) Minimum rear yard: 10 feet.
3. Maximum lot coverage: 30%.

F. Use Limitations.

1. No new residential structures shall be constructed, except existing residential structures may be altered, remodeled or improved subject to the restrictions and regulations which would be applicable to residences located in the R-4 District.
2. No separate business establishment shall occupy more than 5,000 square feet of floor space nor to be open for business during the hours of 11:00 p.m. to 7 a.m.

3. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
4. All business, servicing, storage and display of goods, except for the operation of car washes, the sale only of self-service gasoline by grocery stores and the operation of automobile service stations, shall be conducted within completely enclosed structures; unless approved as a conditional use by the Board of Zoning Appeals or as part of an application for a special use.
5. No business establishment shall offer goods or services directly to customers waiting in parked motor vehicles, or sell beverages or food for consumption on the premises in parked motor vehicles.
6. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any property located in a residential district.
7. The depth to width ratio of the area to be zoned shall not exceed 3 to 1 unless the applicant can demonstrate a hardship in the effective use of the property would result.

111 B-3 Central Shopping District.

This district is designed to provide for retail sales and certain service businesses and for those businesses which may prefer not to be part of a unified shopping center, but desire to operate as compatible uses.

A. Permitted Uses.

1. Any use permitted in the B-2 Neighborhood Business District.
2. Antique shops.
3. Apparel stores.
4. Automobile accessory and new/or reconditioned parts stores, automobile body repair shops and automobile repair shops.
5. Automobile sales rooms for new, but not used car sales.
6. Banks and financial institutions.
7. Book and office supply stores.
8. Business and professional offices.
9. Blueprinting and Photostatting establishments.
10. Camera and photographic supply stores.
11. Carpet and rug stores.
12. China and glassware stores.
13. Dry goods stores.
14. Furniture stores.
15. Furrier shops, including the incidental storage and conditioning of furs.
16. Garden shops.
17. Hobby shops and sales of electronic, entertainment and communication equipment.
18. Hotels and motels.
19. Interior decorating shops, including reupholstering, making of draperies, slipcovers and other similar articles which are conducted as a part of, and secondary to, a retail occupation.
20. Jewelry stores.
21. Leather goods and luggage stores.

22. Music stores, and musical instrument sales and repair.
23. Newspaper, publishing and printing firms.
24. Optical sales and services.
25. Paint and wallpaper stores.
26. Pet stores and grooming shops.
27. Physical culture and health services such as a private gymnasium and reducing salons.
28. Private clubs and taverns.
29. Restaurants, including drive-ins.
30. Schools: music, dance, or business, trade or college classes.
31. Service and fraternal clubs and lodges.
32. Sewing machine sales and services.
33. Sporting goods stores.
34. Theaters, indoor.
35. Philanthropic Institutions, including distribution and/or merchandising of goods for the needy when permitted.
36. Child care centers and preschools.

B. Special Uses.

1. Public buildings erected or land used by any agency of the City, County, or State government.
2. Car washes.
3. Mini-storage facilities, subject to the same conditions as provided for in the R-3 District, except that subsection (k) regarding signs is deleted and signs permitted for the B-3 District are applicable.
4. Used car lots.
5. Marine supplies and sales.
6. Single-family dwellings as an accessory use to a business when approved for medical hardship circumstances of or related to the business owner. Such a hardship must be verifiable by documentation and the approved special use permit (1) cannot be transferred to another owner, (2) is valid only as long as the hardship exists, and (3) the business owner is a resident of the dwelling. The dwelling must be an integral part of the principal business structure.
7. Limited types of light assembly and manufacturing operation of such kind and

character that the entire frontage of the ground floor along the principal street is used for office space, display or for wholesale or retail sales, provided, however, no individual business shall occupy more than 6,000 square feet or floor area, employ more than 20 employees on the premises and that operations must be compatible with other uses in the district and must not constitute a nuisance by reason of dust, smoke, noise, odor, hours of operation, vibration or other offensive conditions.

8. Other special uses otherwise not specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-108 and compatible with the uses permitted in Section 4-108 A.

C. Conditional Uses.

1. Public utility uses.

D. Lot Size Requirements.

1. Minimum lot area: 10,000 square feet.
2. Minimum lot width: 75 feet.
3. Minimum lot depth: 100 feet.

E. Bulk Regulations.

1. Maximum structure height: 45 feet.
2. Yard requirements:
 - (a) Minimum front yard: 35 feet on all sides abutting a street.
 - (b) Minimum side yard: 10 feet.
 - (c) Minimum rear yard: 20 feet.
3. Maximum lot coverage: 35%.

F. Use Limitations.

1. No new residential structures shall be constructed in the B-3 District, except existing residential structures may be altered, remodeled or improved subject to the restrictions and regulations which would be applicable to residences located in the R-4 Residential District.
2. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
3. All business, servicing, storage and display of goods shall be conducted within a completely enclosed building; except for the sale only of self-service gasoline by grocery stores, the sale of used cars, the operation of car washes and of automobile service stations, and the outdoor display of garden and landscaping materials when the latter is appropriately screened; unless approved as a conditional use by the Board of Zoning Appeals or as part of an application for a special use.

4. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any property located in a residential district and so that no glare is a hazard to traffic on any public street.
5. The width to depth ratio of the area to be zoned shall not exceed three to one unless the applicant can demonstrate a hardship in the effective use of the property would result.

112 B-4 Central Business District.

This district is designed to provide for a broad range of retail sales and service businesses in the form of an integrated shopping center with considerable areas for parking.

A. Permitted Uses.

1. Any uses permitted in the B-3 District, except automobile service stations, automobile body repair shops, automobile repair shops and drive-in restaurants.
2. Department stores.

B. Special Uses.

1. Other special uses not otherwise specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-112 and compatible with the uses permitted in Section 4-112A.

C. Conditional Uses.

1. Automobile service stations and restaurants, including drive-in, having a minimum setback of 35 feet and adequate traffic access control.

D. Lot Size Requirements. None.

E. Bulk Regulations.

1. Maximum structure height: 65 feet.
2. Yard requirements:
 - a. Minimum front yard: 100 feet on all sides abutting an arterial street and 35 feet on all sides abutting a collector or local street except that on a corner intersection a free standing structure is permitted with 35 feet on both sides abutting any street. The latter street classification system is defined in the City Subdivision Regulations.
 - b. Minimum side yard: None required, but if a side yard is provided, it shall be at least 5 feet in width.
 - c. Minimum rear yard: 20 feet.
3. Maximum lot coverage: 30%.

F. Use Limitations.

1. All use limitations required in the B-3 District shall be applicable except Section 4-111F5 depth to width ratio.

113 B-5 Highway Business District.

This district is designed to provide for those businesses which draw their customers from motorists on the highway, or for whom a location on an arterial street or adjacent to a freeway is especially useful or necessary. Although some of the uses listed are permitted in other business districts, most of these permitted in this district would not always be compatible with a prime retail area. Those uses which would generate unusual access or traffic patterns may be permitted as a special use.

A. Permitted Uses.

1. Automobile accessory stores.
2. Automobile service stations.
3. Car washes.
4. Commercial recreation centers such as for bowling, roller skating, and indoor amusement centers.
5. Food stores, and convenience type stores which may include retail fuel dispensers.
6. Garden stores and greenhouses.
7. Gift and souvenir shops.
8. Building material retail centers.
9. Motels and hotels
10. Motorcycle sales and repair services.
11. Liquor stores.
12. Clubs, taverns and drinking establishments.
13. Restaurants, including drive-in establishments.
14. Self-service laundry and dry cleaning establishments.
15. Service and fraternal clubs and lodges.
16. Sporting goods stores and bait shops.
17. Theaters, indoor.

B. Special Uses.

1. Public buildings erected or land used by any agency of the City, County or State government.
2. Limited types of manufacturing firms whose operations involve some retail sales

at the plant and where visibility from a highway enhances such sales. Operations must be compatible with other uses permitted in the district and must not constitute a nuisance by reason of dust, smoke, noise, odor, vibration or other offensive conditions.

3. Mini-storage facilities, subject to the same conditions as provided for in the R-3 District, except that subsection (m) is deleted regarding fencing and screening and subsection (k) regarding signs is deleted and signs permitted for the B-5 District are applicable.
4. Campgrounds.
5. Vehicle sales, new and used, and repair services including body repair and painting.
6. Golf driving ranges and miniature golf courses.
7. Construction and agricultural equipment sales and services.
8. Contractor shops.
9. Marine supplies, sales, and services.
10. Manufactured home and recreation vehicle sales, repair services and supplies.
11. Theaters, outdoor.
12. Auctions, indoors and outdoors.
13. Other special uses not otherwise specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-113 and compatible with the uses permitted in Section 4-113 A.

C. Conditional Uses.

1. Animal hospitals provided that all pets shall be in an enclosed structure when located within 300 feet of a residential district and any accessory incinerator for disposal of dead animals shall be designed so as not to create a nuisance for adjacent properties.
2. Breeding and boarding kennels including sale of various pets, provided that all animals shall be confined in enclosed structures between the hours of 8:00 p.m.-7:00 a.m. and whenever located within 300 feet of a residential district.
3. Utility facilities.

D. Lot Size Requirements.

1. Minimum lot area: 20,000 square feet.
2. Minimum lot width: 100 feet.
3. Minimum lot depth: 320 feet from the centerline of U.S. 54 and 150 feet, at any other location.

E. Bulk Regulations.

1. Maximum structure height: 45 feet.
2. Yard requirements:
 - a. Minimum front yard: 35 feet, except that outdoor displays of equipment such as motor vehicles, manufactured homes, recreation vehicles, and boats shall be located not less than 10 feet from the front property line.
 - b. Minimum side yard: If a side yard is provided, it shall not be less than 5 feet.
 - c. Minimum rear yard: 20 feet.
 - d. Minimum highway setback: 200 feet from the centerline of U.S. 54 within 1,000 feet of an arterial street intersection, and 150 feet from the centerline at all other locations.
3. Maximum lot coverage: 50%.

F. Use Limitations.

1. No structure shall be used for residential purposes except for the use of the owner or operator of the business located on the premises or a watchman or custodian, except that accommodations may be offered to transient public by motels and hotels.
2. Outdoor storage and display of goods is allowed as a related accessory use to the activities of the permitted, special or conditional uses. Any outdoor servicing shall be sufficiently screened to obstruct its view from any public street or highway.
3. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in a residential district.
4. The depth to width ratio of the area to be zoned shall not exceed three to one unless the applicant can demonstrate to the Zoning Administrator a hardship in the effective use of the property would result.

114 B-6 Business District.

This district is designed to co-mingle certain businesses and light industrial uses whose operations are compatible in size and intensity; which do not require large amounts of land; generate modest amounts of traffic which do not require immediate access to arterial streets; and do not constitute an environmental nuisance. The district does not permit the intermixing of residences.

A. Permitted Uses:

1. Agricultural feed and grain storage and sales.
2. Agricultural, construction and oil field equipment, repairs, storage and sales.
3. Aircraft sub-assembly and parts manufacturing.
4. Automobiles, truck and motorcycle sales, new and used, and repair services, including body repair and painting.
5. Animal hospitals; provided that all animals shall be confined in enclosed structures when located within 300 feet of a residential district and any incineration for disposal of dead animals be designed so as not to create a nuisance for adjacent properties.
6. Assembly, manufacture, sales or repair of electrical and mechanical appliances, components or instruments.
7. Building material production, storage and sales, but not to include lumber mills.
8. Clothing and textile production.
9. Construction contractor's office, shop, equipment and storage yards.
10. Dog kennels and related pet shops; provided that animals shall be confined in enclosed structures between the hours of 8 p.m. to 7 a.m. and whenever located within 300 feet of a residential district.
11. Food preparation, distribution and storage.
12. Furniture assembly, sales and repair.
13. Garden stores and greenhouses.
14. Laundry, dry-cleaning and dye works.
15. Assembly and sales of manufactured products such as: bags, bicycles, brooms, cosmetics, drugs, jewelry, paper goods, shoes, sporting goods, office equipment and the like.
16. Metal fabrication and assembly.
17. Printing and publishing companies.
18. Sign shops and services.

19. Mini-storage facilities for inside and outside storage, subject to the same conditions as provided for in Section 4-103B1 of the R-3 District when adjacent to the residential district.

20. Utility facilities, substations and water towers.

B. Special Uses:

1. Public buildings erected or land used by any agency of the City, Township, County, or State government.

2. Retail and service businesses which provide a particular service to the permitted uses or serve as a convenience to the employees thereof.

3. Retail bulk sales and related storage of volatile substance, explosives or combustibles such as propane, motor fuels and fertilizers.

4. Locker plants with slaughtering facilities; provided that all animals and waste be in an enclosed structure designed so as not to create a nuisance for adjacent properties.

5. Other special uses not otherwise specifically listed as permitted, special or conditional uses, but which are in keeping with the intent of Section 4-113 and compatible with the uses permitted in Section 4-113A.

C. Conditional Uses:

1. None.

D. Lot Size Requirements:

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

2. Minimum lot width: 75 feet.

3. Minimum lot depth: 125 feet.

E. Bulk Regulations:

1. Maximum structure heights: 35 feet.

2. Yard requirements:

a. Minimum front yard: 35 feet.

b. Minimum side yard: None required unless adjacent to a residential district. If a side yard is provided it shall be not less than 10 feet.

c. Minimum rear yard: None required unless adjacent to a residential district. If a rear yard is provided, it shall be not less than 10 feet.

3. Maximum lot coverage: 50%.

F. Use Limitations:

1. Outdoor operations:
 - a. Only parking and display areas are permitted in the minimum front yard setback.
 - b. Outdoor servicing, loading and storage of goods are permitted, except in the front yard setback, when enclosed by a fence or wall not less than six feet in height. Such fence or wall shall be capable of screening the area from the view of any adjacent residential district. Such outdoor areas shall be limited to 50% of the lot area.
2. No structure shall be used for residential purposes.
3. Employment shall be limited to 50 persons on the premises at any time.
4. All buildings shall be of such kind or character that the entire frontage of the ground floor along the principal access street is to be used for office space or display or for wholesale or retail sales.
5. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any property located in a residential district and so that no glare is a hazard to traffic on any public street.
6. There shall be no emission of dust, noise, odor or vibrations which shall be detectable as a nuisance beyond the property line.
7. The depth to width ratio of the area to be zoned shall not exceed three to one unless the applicant can demonstrate a hardship in the effective use of the property would result.

115 I-I Industrial District.

This district is designed for light industrial uses which do not require large amounts of land; generate modest amounts of traffic; are consistent with the capacity and availability of public and private service; create limited environmental problems in the way of odor, smoke, dust, glare, vibration or sounds; and do not permit the intermixing of residences.

A. Permitted Uses.

1. Agricultural feed, grain and fertilizer mixing, storage and sales.
2. Agricultural, construction and oil field equipment distribution, repairs, storage and sales.
3. Aircraft subassembly and parts manufacturing.
4. Animal hospitals.
5. Assembly, manufacture or repair of electrical and mechanical appliances, instruments, and the like.
6. Building material production, storage and sales including manufactured housing and lumberyards.
7. Clothing and textile manufacture.
8. Construction contractor's office, equipment and storage area.
9. Dog kennels and related pet shops.
10. Food manufacture, distribution and storage.
11. Furniture manufacture and repair.
12. Greenhouses.
13. Laundry, dry cleaning and dyeing works.
14. Manufactured products such as: bags, bicycles, brooms, brushes, cosmetics, drugs, jewelry, paint, paper goods, shoes, sporting and office equipment, and the like.
15. Metal fabrication and assembly.
16. Motor freight terminals.
17. Paint manufacture.
18. Printing and publishing companies.
19. Public and private utilities.
20. Research laboratories.

21. Sign shops and service.
22. Wholesale businesses, storage warehouses; except those which handle products of a highly explosive, combustible or volatile nature such as anhydrous ammonia, propane, petroleum products, or similar products which may be considered dangerous or hazardous activity to life and/or property on adjoining or nearby land or would be considered noxious activity which would offend the sensibilities of a reasonable person during a sustained or intermittent period of time on adjoining or nearby land. This exception does not pertain to such products which are periodically stored within a manufacturing plant and used as part of the normal production process.

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 manufactured including fireworks.
6. Fat rendering.
7. Fertilizer manufacture.
8. Garbage, offal or dead animal incineration or reduction.
9. Glue or soap manufacture.
10. Petroleum processing and refining.
11. Primary smelting of base metals from ore.
12. Stockyards or slaughter of animals (except poultry and rabbits).
13. Tanning, curing or storage of rawhides or skins.

C. Special Uses.

1. Public buildings erected on and used by any agency of the City, County, or State government.
2. Bulk storage for retail or wholesale distribution and not used as an accessory part of a normal manufacturing process of such items as anhydrous ammonia and other products which may be considered as highly explosive, combustible or of a volatile nature including fireworks.
3. Recycling processing centers and large recycling collection centers.
4. Public and private hazardous waste facilities.
5. Other uses not otherwise specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-115 and compatible

with the uses permitted in Section 4-115A, except that uses of a more intensive type may be allowed at selected locations if acceptable environmental conditions are specified. Such other uses may also include retail and service businesses which provide a particular service to the industrial uses or serve as a convenience to the employees thereof.

D. Conditional Uses.

1. Asphalt and concrete mixing plants.
2. Salvage yards.

E. Lot Size Requirements.

1. Minimum lot area: 5,000 square feet.
2. Minimum lot width: 50 feet.
3. Minimum lot depth: 100 feet.

F. Bulk Regulations.

1. Maximum structure heights: 35 feet, exclusive of grain elevators.
2. Yard requirements:
 - (a) Minimum front yard: 25 feet on all sides abutting a street.
 - (b) Minimum side yard: No minimum requirement, but if a side yard is provided, it shall be not less than 10 feet.
 - (c) Minimum rear yard: No minimum requirement, but if a rear yard is provided, it shall be not less than 10 feet.
3. Maximum lot coverage: 75%.

G. Use Limitations.

1. Outdoor operations, display and storage is permitted in all areas; except that only parking and display areas are permitted in the minimum front yard setback.
2. No building shall be used for residential purposes; except that a watchman or custodian may reside on the premises inside an industrial use structure or in a manufactured home.
3. There shall be no emission of dust, noise, odor or vibration, which shall be detectable as a nuisance beyond the property line.
4. The depth to width ratio of the area to be zoned shall not exceed three to one unless the applicant can demonstrate a hardship in the effective use of the property would result.

116 PUD Planned Unit Development District.

The purpose of the Planned Unit Development Districts is to encourage innovation in residential, commercial and industrial development by permitting greater variety and flexibility in type, design, and layout of buildings; to encourage a more efficient use of land reflecting changes in the technology of land development; to encourage development which incorporates the best features of modern design, while conserving the value of land; and to provide a procedure which relates the type, design, and layout of residential, commercial and industrial development to the particular site and the particular demand for housing at the time of development in a manner consistent with the preservation of property values. The PUD District operates as an overlay zone in conjunction with all of the other districts in that it is necessary for an area to concurrently be zoned for one or more of the other districts in addition to the PUD District designation, however, such other districts may differ in one or more respects when utilized for the PUD District.

A. General Provisions.

1. The Governing Body may by ordinance approve the establishment of a PUD District on any parcel or tract of land which is suitable for and of sufficient size to be planned and developed, or redeveloped, as a unit and in a manner consistent with the intent and purpose of these regulations and with the Comprehensive Plan.
2. A PUD District may be established for a residential development or for a general development. A development shall be deemed to be a residential development when it is limited to dwelling units in detached, attached or clustered, or multi-storied structures, or any combination thereof; and nonresidential uses of a religious, cultural, recreational and business character that are primarily designed and intended to serve the residents of the residential development. A development shall be deemed to be a general development when it contains major business and/or industrial structures and uses exclusively, or when it blends residential structures or dwelling units in a unified plan with business and/or industrial structures and uses.

B. Standards and Criteria for Planned Unit Developments.

1. For all planned developments:
 - a. A development plan that is not inconsistent with the standards set out in this section or with such general policies or specific rules and regulations for PUD Districts as may be adopted from time to time by the Governing Body or the Planning Commission and placed on public record in the office of the City Clerk shall prima facie be deemed to have qualified for preliminary approval. No such policies, rules or regulations shall be revised or added to so as to be applicable to a specific proposal for a PUD after an application for preliminary approval of a specific PUD plan has been filed. A PUD plan shall not be inconsistent with the following general standards for use of land, and the use, type, bulk, design, and location of buildings, the density or intensity of use, the common open space, the public facilities and the development by geographic division of the site:
 - (1) The PUD can be substantially completed within the period of time specified in the schedule of development submitted by the applicant.

- (2) The PUD will not substantially injure or damage the use, value and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the Comprehensive Plan.
- (3) The site will be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development and the streets and driveways on the site of the proposed development will be adequate to serve the residents or occupants of the proposed development. Traffic control signals will be provided without expense to the City when it is determined that such signals are required to prevent traffic hazards or congestion in adjacent streets.
- (4) The PUD will not impose an undue burden on public services and facilities, such as fire and police protection.
- (5) The entire tract or parcel of land to be occupied by the PUD shall be held by a single landowner, or if there are two or more landowners, the application for such PUD shall be filed jointly by all such landowners; however, the holder of a contract to purchase or other person having an enforceable proprietary interest in such land shall also be deemed a landowner for purposes of these regulations.
- (6) The PUD plan shall contain such proposed covenants, easements and other provisions relating to the bulk, location and density of residential buildings, nonresidential uses and structures, and public facilities as are necessary for the welfare of the PUD and are not inconsistent with the best interests of the area. Such covenants, easements and other provisions, if part of the PUD plan as finally approved, may be modified, removed or released only with the consent of the Governing Body after a public hearing before, and recommendations by, the Planning Commission as provided in Section 4-116C. All such covenants shall specifically provide for enforcement by the City in addition to the landowners within the development.
- (7) The Planning Commission may designate divisible geographic sections of the entire parcel to be developed as a unit, and shall, in such case, specify reasonable periods within which development of each such unit must be commenced. In the case of residential PUD plans and general PUD plans which contain residential buildings, the Planning Commission may permit in each unit deviations from the number of dwelling units per acre established for the entire PUD, provided such deviation shall be adjusted for in other sections of the PUD so that the number of dwelling units per acre authorized for the entire PUD is not affected. The period of time established for the completion of the entire PUD and the commencement date for each section thereof may be modified from time to time by the Planning Commission to be reasonably required to assure performance in accordance with the PUD plan and to protect the public interest in the event of abandonment of said plan before completion.

- (8) For all business and industrial uses proposed for development within the plan, the standards and extent of uses shall not exceed the least restrictive requirements for the specific use as provided for in the business and industrial districts of these zoning regulations unless they meet the provisions of Sections 4-116B1a(13) and 4-116C(9).
- (9) The location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a PUD not used for structures, parking and loading areas, or accessways, shall be landscaped or otherwise improved.
- (10) When business or manufacturing structures or uses in a PUD District abut a residential district or residential buildings in the same development, screening shall be provided. In no event shall a business or manufacturing structure in a PUD District be located nearer than 100 feet to a residential building.
- (11) Notwithstanding any of the other provisions of these regulations, when a shopping center is developed as a PUD District, such shopping center shall have 300 square feet of space devoted to off-street parking for each 100 square feet of floor area in the structures located in the planned shopping center development. Such off-street parking facilities shall otherwise comply with the provisions of Section 5-100A of these regulations.
- (12) The specifications for the width and surfacing of streets, alleys, ways for public utilities, for curbs, gutters, sidewalks, public parks and playgrounds, school grounds, storm water drainage, water supply and distribution, sanitary sewers and sewage collection and treatment adopted in the Subdivision Regulations of the City as amended from time to time, may, within the limits hereinafter specified, be waived or modified by the Planning Commission where the Commission finds that such specifications are not required in the interests of the residents or occupants of the PUD and that the waiver or modification of such specifications for PUD plans would not be inconsistent with the interests of the City. The Commission shall require guarantees for required public improvements and the filing of comparable engineering and survey data on preliminary and final development plans, but may modify the size, width, depth, and setbacks on lots.
- (13) Any modifications of the zoning or other regulations that would otherwise be applicable to the site shall be warranted by the design of the PUD plan, and the amenities incorporated in it, and shall not be inconsistent with the interest of the public generally.

2. Standards for Residential Planned Developments and General Planned Developments Containing Residential Buildings:

- a. Any PUD plan that does not propose to increase the number of dwelling units per acre that would otherwise be permitted on the property under the maximum zoning regulations otherwise applicable thereto in the districts which permit residences shall be prima facie qualified for preliminary approval insofar as residential density is concerned. A PUD plan may provide for a greater number of dwelling units per acre than would be permitted by these district regulations otherwise applicable to the site, but if the number of dwelling units per acre exceeds by more than ten percent that permitted by the zoning regulations otherwise applicable to the site, the developer has the burden to show that such excess will not have an undue and adverse impact on existing public facilities and on the reasonable enjoyment of neighboring property. The Planning Commission, in determining the reasonableness of a proposed increase in the number of dwelling units per acre, shall recognize that increased density may be compensated for by additional private amenities and by increased efficiency in public services to be achieved by (1) the amount, location and proposed use of common open spaces, and (2) the location, design and type of dwelling units. The Planning Commission shall also consider that the physical characteristics of the site may make increased densities appropriate in the particular location. In addition to establishing a maximum density, the plan shall specify either the minimum number of dwelling units and commercial or industrial uses or the minimum acreage allowances for each specific PUD District.
- b. When common open space is provided in a PUD plan, the amount and location of such common open space shall be consistent with the declared function of the common open space as set forth in the application for a PUD District. The PUD plan shall include such provisions for the ownership and maintenance of the common open space as are reasonably necessary to ensure its continuity, care, conservation and maintenance, and to ensure that remedial measures will be available to the City if the common open space is permitted to deteriorate or is not maintained in a condition consistent with the best interest of the PUD or of the City. If the City finds it necessary to carry out the obligations required to maintain the open space in order to avoid having it become a public nuisance, the costs shall be assessed against the properties within the development and shall become a tax lien on said properties.
- c. When a PUD includes common open space, such common open space shall never be used for the construction of any structure, nor shall such open space ever be computed as a part of the required minimum lot area, or any required yard, of any other structure. Adequate safeguards, including recorded covenants, shall be provided to prevent subsequent development of, and the future construction of structures on, such open space.
- d. The total ground area occupied by buildings and structures shall not exceed 35% of the total ground area of the PUD unless previous development in the neighborhood has a greater lot coverage, in which case the PUD plan for renewal may increase the lot coverage of buildings and structures to correspond with the bulk of the other structures in the neighborhood.
- e. Nonresidential uses of a religious, educational or recreational nature

shall be designed or intended primarily for the use of the residents of the PUD.

- f. Nonresidential uses of a business character shall be designed or intended to serve principally the residents of the PUD. No structure designed or intended to be used, in part or in whole, for business purposes shall be constructed prior to the construction of not less than 30% of the dwelling units proposed in the PUD plan.

C. Preliminary PUD Plan Contents. An application for a PUD shall constitute the filing of an application for a PUD District and shall be processed in the same manner prescribed for amending these zoning regulations. The same requirements for notice to property owners, advertisement of public hearing, protest petitions, and adoption by the Governing Body shall be required as in conventional zoning. The applicant shall prepare and submit a preliminary PUD plan for review and approval by the Planning Commission which shall contain the following information and documents:

1. A site plan showing the location, arrangement, bulk, type and use of all existing and proposed structures, the proposed traffic circulation pattern within the development, the areas to be developed for parking, the points of ingress and egress, including access streets where required, the relationship of abutting land uses and zoning districts, proposed lots and blocks, if any and proposed public or common open space, if any, including parks, playgrounds, school sites, and recreational facilities.
2. Applicable information as required for a preliminary plat pursuant to provisions in the Subdivision Regulations of the City.
3. A statement of the anticipated residential density (when applicable), the proposed total gross floor area, and the percentage of the development which is to be occupied by structures.
4. Preliminary sketches and/or description of the proposed screening and landscaping features.
5. When a PUD is to be constructed in units, a schedule for the development of such units shall be submitted. No such unit shall have a residential density that exceeds by more than 20% the proposed residential density of the entire PUD. When a PUD provides for common open space, the total area of common open space provided at any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire PUD as the units completed or under development bear to the entire PUD.
6. Evidence that the applicant has sufficient control over the tract to effectuate the proposed plan, including a statement of all the ownership and beneficial interests in the tract of land and the proposed development.
7. When it deems it to be necessary, the Planning Commission may require a traffic survey setting out and analyzing the effect that the PUD will have upon traffic in the streets and thoroughfare adjacent to and in the vicinity of the proposed development.
8. A statement of objectives showing the relationship of the PUD to the Comprehensive Plan with respect to land use for various purposes, density of population, direction of growth, location and function of streets and other public facilities, and common open space for recreation or visual benefit or both, and

such other factors as the City may find relevant in making a finding whether a PUD shall be authorized as being in general conformity to the Comprehensive Plan.

9. In the case of general planned developments, a statement identifying the principal types of business and/or industrial uses that are to be included in the proposed development.
10. When a PUD includes provisions for common open space, or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or recreational facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.
11. Copies of the restrictive covenants that are to be recorded with respect to property included in the PUD District.

D. Action on Preliminary PUD Plan.

1. **Hearing, Findings and Recommendation of Planning Commission.** The Planning Commission shall, within 60 days after a preliminary development plan is filed with it, hold a public hearing on the preliminary PUD plan after giving the notice required by Section 11-100D for hearings on amendments. Such public hearing shall consider all aspects of the preliminary PUD plan including all proposed units of development. Within 30 days after the last public hearing on such plan, the Planning Commission shall prepare and transmit to the Governing Body and to the applicant specific findings of fact with respect to the extent to which the preliminary PUD plan complies with the standards set out in Sections 4-116B and C, together with its recommendations to the Governing Body with respect to the action to be taken on the PUD plan. The Commission may recommend disapproval, approval, or approval with amendments, conditions or restrictions. Copies of the findings and recommendations of the Planning Commission shall be made available to any other interested persons.
2. **Action by the Governing Body.** After a 14-day period following the public hearing in which to receive protest petitions as provided by Section 11-103, the Governing Body shall consider the approval or disapproval of the preliminary PUD plan within 30 days after it receives the findings and recommendations of the Planning Commission thereon. If the preliminary PUD is disapproved, the applicant shall be furnished with a written statement of the reasons for disapproval of the plan. If the preliminary PUD is to be approved, the Governing Body shall, after receiving from the applicant any acceptance required by Section 4-116D3, adopt an ordinance approving the preliminary PUD plan, and establishing a PUD District for the parcel or tract of land included in the preliminary PUD plan.
3. **Restrictions and Conditions.** The Governing Body may alter the preliminary PUD plan, and impose such restrictions and conditions on the PUD as it may deem necessary to insure that the development will be in harmony with the general purpose and intent of these regulations and with the Comprehensive Plan. When the Governing Body alters the preliminary PUD plan, the applicant shall have 30 days within which to file an acceptance of such alterations, restrictions or conditions. When an acceptance is required by this section, no ordinance approving a preliminary PUD plan and establishing a PUD District shall be effectuated until such acceptance has been filed with the City Clerk.

4. Form of Ordinance. An ordinance approving a PUD and establishing a PUD District shall specify the zoning regulations and restrictions that will, pursuant to the PUD plan, apply in the PUD District and shall describe the boundaries of such district or set such boundaries out on a map that is incorporated and published as a part of such ordinance. Such ordinance shall also specify the conditions and restrictions that have been imposed by the Governing Body on the PUD, and the extent to which the otherwise applicable district regulations have been varied or modified. When the Planning Commission has designated divisible geographic sections of the development that may be developed as a unit, the ordinance shall authorize the Planning Commission to modify the schedule of development to the extent set out in Section 4-116B1a7.

E. Status of Preliminary PUD Plan After Approval.

1. Within 15 days after the adoption of an ordinance approving a preliminary PUD plan and establishing a PUD District, such ordinance shall be certified and filed by the City Clerk and a copy filed with the Zoning Administrator. A certified copy shall be mailed to the applicant. When approval of a preliminary plan has been granted, the same shall be noted on the official zoning maps maintained in the office of the City Clerk.
2. After being notified of the approval of a preliminary PUD plan by the Governing Body, the landowner shall within 15 days file with the County Register of Deeds a statement that such a plan has been filed with the City and has been approved and that such PUD is applicable to certain specified legally described land and that copies of said plan are on file in the office of the City Clerk. Such statement recorded with the Register of Deeds shall also specify the nature of the plan, the proposed density or intensity of land uses and other pertinent information sufficient to notify any prospective purchasers or users of land of the existence of such a plan. The recorded statement shall specify that the preliminary PUD plan shall become binding upon all successors and assigns unless amended in conformance with these regulations.
3. Preliminary approval of a PUD plan shall not qualify such a plan for recording. A PUD plan which has been given preliminary approval as submitted or which has been given preliminary approval with alterations, conditions and restrictions, which have been accepted by the applicant (and provided that the applicant has not defaulted nor violated any of the conditions of the preliminary approval), shall not be modified or revoked nor otherwise impairs by action of the City pending an application or applications for approval of a final PUD plan without the consent of the applicant, provided an application for final approval is filed, or in the case of unit developments, provided applications are filed, within the time or times specified in the ordinance granting approval of the preliminary plan. If no time is specified in such ordinance, then an application for approval of a final PUD plan, or all units thereof, shall be filed within three years.
4. In the event that a PUD plan is given preliminary approval and thereafter, but prior to approval of a final PUD plan, the applicant shall: (1) choose to abandon said plan and shall so notify the Planning Commission in writing; or (2) shall fail to file an application, or applications, for approval of a final plan shall be deemed to be revoked. When a preliminary plan is revoked, all that portion of the preliminary plan for which final approval has not been given shall be subject to those provisions of the Zoning Regulations and other local ordinances, that were applicable thereto immediately prior to the approval of the preliminary plan, as they may be amended from time to time. The Governing Body shall

forthwith adopt an ordinance repealing the PUD District for that portion of the development that has not received final approval and reestablishing the zoning and other regulatory provisions that would otherwise be applicable. When a PUD plan is revoked, such revocation shall be noted on the zoning maps in the records of the Zoning Administrator.

F. Final PUD Plan Contents and Approval.

1. An application for approval of a final PUD plan may be filed for all the land included in a planned development or for a unit thereof. Such application shall be filed by the applicant with the Planning Commission within the specified time in Section 4-116E2, and shall be in substantial compliance with the preliminary PUD plan as approved. The application shall include:
 - a. A detailed site plan showing the physical layout and design of all streets, easements, rights-of-way, lots, blocks, common open space, structures and uses including statements, where applicable, on the residential densities, the types and uses of structures, the maximum gross floor area, the percentage of the development to be occupied by structures, the height of structures and signs, the building setback lines, and the units within which construction would be scheduled.
 - b. Applicable information as required for a final plat pursuant to the provisions in the Subdivision Regulations of the City including such waivers as may have been agreed to in the preliminary PUD plan.
 - c. Plans for landscaping and screening.
 - d. Copies of any dedications for easements or right-of-ways and restrictive covenants.
 - e. Proof of the establishment and activation of any entity that is to be responsible for the management and maintenance of any common open space.
 - f. Evidence that no lots, parcel or tract or dwelling unit in such development have been conveyed or leased prior to the recording of any restrictive covenants applicable to such PUD.
 - g. Such bonds or guarantees and other documents that may have been required by the preliminary PUD plan pursuant to the provisions and procedures of the Subdivision Regulations regarding final plats.

In accordance with the schedule proposed in the application for approval of the preliminary plan, the applicant may elect to file an application for final approval of only a geographic unit or units of the land included in the plan and may delay, within the time limits authorized by the ordinance, application for final approval of other units. A public hearing by the Planning Commission on an application for approval of the final PUD plan, or a unit thereof, shall not be required provided the final plan, or unit thereof, is in substantial compliance with the preliminary PUD plan theretofore given approval.

2. A PUD plan submitted for final approval shall be deemed to be in substantial compliance with the preliminary plan, as approved, provided any modification by the developer or the preliminary plan, as approved, does not: (1) vary the proposed gross residential density or intensity of use by more than 5%; or (2) involve a reduction of the area set aside for common open space; nor (3) increase by more than 10% the floor area proposed for nonresidential use; nor

- (4) increase by more than 5% the total ground area covered by buildings or a substantial change in their height. A public hearing shall not be held to consider modifications in the location and design of streets or facilities for water and for disposal of storm water and sanitary sewerage.
3. Although a public hearing shall not be held on an application for approval of a final PUD plan when said plan as submitted for final approval is in substantial compliance with the preliminary plan, as approved, the burden shall nevertheless be upon the applicant to show the Planning Commission good cause for any variation between the preliminary plan, as approved, and the final plan as submitted. In the event a public hearing is not required for final approval, and the application for final approval has been filed, together with all drawings, specifications and other documents required in support thereof, the Planning Commission shall, within 30 days of such filing, make recommendations on such final plan; provided, however, that, in the event the final plan as submitted contains variations from the preliminary plan, as approved, but remains in substantial compliance with the preliminary plan, as approved, the Planning Commission may, after a meeting with the applicant, refuse to recommend approval of the final plan and shall, within 45 days from the filing of the application for final approval, so advise the applicant in writing of such refusal, setting out the reasons why one or more of said variations are not in the public interest. In the event of such refusal, the applicant may re-file his application for final approval without the variations objected to by the Planning Commission at any time within which he shall be entitled to apply for final approval. If the time for applying for final approval shall have expired at the time when the Planning Commission advised the applicant that the variations were not in the public interest, then the applicant shall have 60 additional days within which to re-file his application for final approval without the said variation. If the applicant shall fail to re-file within said period, he shall be deemed to have refused to accept such requirements and final approval shall be deemed to have been denied.
 4. In the event the final PUD plan, as submitted for approval, is not in substantial compliance with the preliminary plan, as approved, the Planning Commission shall, within 45 days of the date that the application for approval of the final plat is filed, so notify the applicant in writing, setting out the particular ways in which the final plan is not in substantial compliance with the preliminary plan, as approved. The applicant may make such changes in the final plan as are necessary to bring it into compliance with the preliminary plan, as provided for in Section 4-116E3, or he may file within 45 days a written appeal with the Planning Commission that it hold a public hearing on his application for final approval. In the event the applicant shall fail to take either of these alternate actions within said time, he shall be deemed to have abandoned the plan. Such public hearing shall be held, notice thereof shall be given, and the hearing shall be conducted in the manner prescribed in Sections 11-100D, E and F of these regulations. Within 15 days after the conclusion of the public hearing, the Planning Commission shall either recommend approval or denial of the final plan. The recommendations on the final plan, shall, in cases arising under this paragraph, be in the form and contain the findings required for a recommendation on an application for approval of a preliminary development plan as set out in Sections 4-116B and C.
 5. After a final PUD plan, or any unit thereof, has been submitted for consideration by either the procedures prescribed in Sections 4-116E3 or 4, the plan shall be considered for final approval by the Governing Body within 15 days. A final PUD plan, or any part thereof, which has been given final approval by the

Governing Body, shall be so certified by the City Clerk, and shall be filed of record with the County Register of Deeds immediately following the satisfying of all conditions precedent and conditioned upon such approval. A copy of the recorded final plan shall also be filed with the City Clerk and the Zoning Administrator before any building and/or zoning permits are issued or development takes place in accordance therewith. In the event the Governing Body fails to act, either by grant or by denial of final approval within the time prescribed, the final plan shall be deemed to be approved. Pending completion within a reasonable time of said PUD, or of any unit thereof, that has been finally approved, no modification of the provisions of said plan, or unit thereof, as finally approved, shall be made except with the consent of the applicant.

6. In the event that a plan or unit thereof is given final approval and thereafter the applicant shall abandon said plan or the section thereof and shall so notify the City in writing, or in the event the applicant shall fail to commence the PUD within 18 months after final approval shall terminate and shall be deemed null and void unless such time period is extended by the Governing Body upon written application by the applicant .

G. Enforcement and Modification. A PUD District ordinance or an approved preliminary or final PUD plan may be amended by the Governing Body, but only after a public hearing has been held pursuant to notice by Sections 11-100D, E and F of these regulations and findings of fact and recommendations have been prepared by the Planning Commission and transmitted to the Governing Body in the manner required by Section 4-116D1 hereof. To further the mutual interest of the residents and owners of the PUD and of the public in the preservation of the integrity of the plan, as finally approved, and to insure that modifications, if any, in the plan shall not impair the reasonable reliance of the said residence and owners upon the provisions of the plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the plan as finally approved, whether recorded by final plan, covenant, easement or otherwise, shall be subject to the provisions provided for in K.S.A. 12-732.

1. An application to amend a Planned Unit Development District, and a preliminary or Final PUD shall be signed by the owner(s) or authorized agent(s) of all land that will be directly affected by the amendment (i.e. the parcel(s) being amended).
2. An application for amendment shall be accompanied by a legal description of the are in the application as well as the name of the owner(s), and shall include the names and mailing addresses, including zip codes, of all owners of real property within the PUD District and all property owners within the following prescribed distance measured from the perimeter of the application area:

500 ft. or 200 ft. from the perimeter of the PUD District, whichever is the lesser, for application areas of 20 acres or less.

1,000 ft. or 200 ft. from the perimeter of the PUD District, whichever is the lesser, for application areas greater than 20 acres.

1,000 ft. for all owners of real property in the unincorporated area.

3. Notice of the public hearing on an application for an amendment to a PUD District or preliminary or Final PUD shall be as provided in Section 11-100 D, except for the notification area 4-116 G (2) above.
4. Notwithstanding the official area of notification referenced in Section 11-103 for Filing of Protest, the official area of notification referenced in Section 4-116(G)2

above shall be considered the official are for purposes of calculating the validity of the written protest petition when applicable to Section 4-116G. All other provisions of Section 11-103 are otherwise applicable to Section 4-116G.

117 **FP Flood Plain District**

Certain areas of the City are periodically subject to flooding which can result in losses due to: (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise protected from flood damages. This Floodplain 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 uses that are 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. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
 3. 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;
 4. Minimize expenditures of public monies for costly flood control projects and minimize the damage to public facilities in the floodplain, such as water mains, sewer lines, streets and bridges;
 5. Minimize flood-blighted areas and maintain property values and a stable tax base adjacent to the floodplain;
 6. Require that uses vulnerable to floods, including public facilities, be provided with flood protection at the time of initial construction;
 7. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard; and
 8. Assure that eligibility is maintained for property owners to purchase flood insurance in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) and K.A.R. 5-44-4.
- A. Definitions. The following definitions supplement Section 2-102 and shall additionally be used in the construction and interpretation of the FP Floodplain District:

ACCESSORY STRUCTURE: Means the same as "appurtenant structure."

ACTUARIAL RATES OR RISK PREMIUM RATES: Those rates established by the 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.

ADMINISTRATOR: The Federal Insurance Administrator

AGENCY: The Federal Emergency Management Agency. (F.E.M.A.)

APPEAL: A request for review of the Floodplain Administrator's interpretation of any provision of these regulations or a request for a variance.

APPURTENANT STRUCTURE: A structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

AREA OF SPECIAL FLOOD HAZARD: The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

BASE FLOOD: A flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT: Any area of the structure having its floor subgrade (below ground level) on all sides.

BUILDING: See STRUCTURE.

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.

COMMUNITY: Any state or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

DEVELOPMENT: For this Floodplain District only, development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, fences, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING: For insurance purposes, this means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

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 completed before the effective date of these regulations.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.)

FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waterways and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (F.B.F.M.): An official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

FLOOD ELEVATION DETERMINATIONS: A determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

FLOOD ELEVATION STUDY: An examination, evaluation and determination of flood hazards.

FLOOD FRINGE: The area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

FLOOD INSURANCE RATE MAP (F.I.R.M.): The official map of the community on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (F.I.S.): An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOODPLAIN OR FLOOD-PRONE AREA: Any land area susceptible to being inundated by water from any source. (See FLOOD).

FLOODPLAIN ADMINISTRATOR: For purposes of this article, the Floodplain Administrator shall be the official designated as the City Zoning Administrator for the City of Andover.

FLOODPLAIN 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 floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS: Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as Stormwater Management Policies and Design Criteria) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

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 engineering standards.

FLOODPROOFING: Any combination of structural and nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

FLOODWAY OR REGULATORY FLOODWAY: The channel of a river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOODWAY ENCROACHMENT LINES: The lines marking the limits of floodways on federal, state, and local floodplain maps.

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

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

HIGHEST ADJACENT GRADE: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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 a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on the state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR: The lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of these regulations.

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 a "recreational vehicle."

MANUFACTURED HOME PARK OR SUBDIVISION: A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

MAP: For purposes of this section only, means the Flood Insurance Rate Map (F.I.R.M.), or the Flood Boundary and Floodway Map (F.B.F.M.) for a community issued by the Federal Emergency Management Agency (FEMA).

MARKET VALUE OR FAIR MARKET VALUE: An estimate of what is fair, economic, just and equitable value under normal local market conditions.

MEAN SEA LEVEL: For purposes of the National Flood Insurance Program (NFIP), this means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (F.I.R.M.) are referenced.

NEW CONSTRUCTION: For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial F.I.R.M. or after December 4, 1986, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction"

means structures for which the "*start of construction*" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

NFIP: The National Flood Insurance Program.

OVERLAY DISTRICT: A district which acts in conjunction with the underlying zoning districts in these regulations.

PARTICIPATING COMMUNITY OR ELIGIBLE COMMUNITY: A community in which the Administrator has authorized the sale of flood insurance.

PERSON: Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including federal, state, and local governments and agencies.

PRINCIPALLY ABOVE GROUND: At least 51% of the actual cash value of the structure, less land value, is above ground.

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

REGULATORY FLOOD ELEVATION: An elevation indicated on the F.I.R.M. as the elevation of the base flood elevation (BFE).

REGULATORY FLOOD PROTECTION ELEVATION (aka "Freeboard"): An elevation one foot higher than the water surface elevation of the base flood elevation (BFE).

REMEDY A VIOLATION: To bring the structure or other development into compliance with federal, state or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance. (See Section 9-102 for Enforcement and Liability and Section 9-103 for Violations.)

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

SPECIAL FLOOD HAZARD AREA: See AREA OF SPECIAL FLOOD HAZARD.

SPECIAL HAZARD AREA: An area having special flood hazards and shown on a F.I.R.M. or F.B.F.M. as zones (unnumbered or numbered) A, AO, AE or AH.

START OF CONSTRUCTION: The date the zoning and building permits were issued for new construction including substantial improvements; provided, that the actual start of construction, repair, reconstruction, rehabilitation, placement or other improvement was within

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

STATE COORDINATING AGENCY: The Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

STRUCTURE: As pertaining to this Floodplain District only, a walled and roofed structure including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. "Structure" for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

SUBSTANTIAL DAMAGE: As pertaining to the Floodplain District only, any damage, the cost of which equals or exceeds 50% of the market value of the structure before the damage occurred.

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

VARIANCE: For this FP Floodplain District only, this refers to any grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community. Refer to Section 10-107 on variances for the process and to Section 4-117M of this district for additional standards for review.

VIOLATION: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided. (See Section 9-102 for Enforcement and Liability and Section 9-103 for Violations.)

WATER SURFACE ELEVATION: The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

B. General Standards.

1. A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, on the land described in Section 4-117C. No person, firm, corporation or unit of government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development. All proposed development shall also be reviewed to assure that the necessary permits have been received from those governmental agencies from which approval is required by other federal or state laws.
2. All applications for zoning permits shall be reviewed to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and manufactured homes) shall: (1) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure; (2) be constructed with materials and utility equipment resistant to flood damage; and (3) be constructed by methods and practices that minimize flood damage.
3. All subdivision proposals and other proposed new developments, including manufactured home parks and subdivisions, greater than 50 lots or five acres, whichever is the 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 Agency, as criteria for requiring that: (1) all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the regulatory flood protection elevation and (2) all new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated or flood proofed to or above the regulatory flood protection elevation.
5. In riverine situations, notification must be given to adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse and copies submitted of such notifications to the Agency.
6. The flood carrying capacity within the altered or relocated portion of any watercourse must be maintained.
7. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A on the F.I.R.M., unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the zoning jurisdiction.

- C. Lands to Which District Applies. This district shall apply to all lands within the jurisdiction of the City of Andover identified as numbered and unnumbered A zones, AE, AO and AH Zones on the Flood Insurance Rate Map (F.I.R.M.) and Flood Boundary and Floodway Map (F.B.F.M.) with the effective date of September 18, 2002 as amended, and any future revisions thereto, and within the FP Floodplain District established in Section 4-117G.

- 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 standard engineering and scientific methods of study which consist of the following series of interrelated steps:
1. Selection of a base 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 base flood selected for this district is representative of large floods known to have occurred in this region and which are reasonably characteristic of what can be expected to occur on the particular streams subject to these regulations. It is in the general order of a flood which could be expected to have a one percent chance of occurrence in any one year, as delineated on the Federal Insurance Administrator's Flood Insurance Study and illustrative materials (F.I.R.M.) dated September 18, 2002 with the effective date of September 18, 2002, as amended, and any future revisions thereto.
 2. Calculation of water surface profiles are based upon a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
 3. Computation of a floodway required to convey this flood without increasing flood heights more than one foot at any point.
 4. Delineation of floodway encroachment lines within which no development is permitted which would cause any increase in flood height.
 5. Delineation of the floodway fringe, i.e., that area outside the floodway encroachment lines but which is still subject to inundation by the base flood. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. These regulations do not imply that areas outside this Floodplain District with its floodway and floodway 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 any officer or employee thereof for any flood damages that may result from reliance on these regulations or any administrative decision lawfully made thereunder.
- E. Interpretation of Boundaries. The floodway and flood fringe overlay boundaries shall be determined by scaling distances on the Flood Boundary and Floodway Map (F.B.F.M.) which has been incorporated by reference in the Official Zoning Maps for this Floodplain District. (See Section 4-117G for Establishment of Floodplain District.) Where interpretation is needed to the exact location of such boundaries or where there appears to be a conflict between a mapped boundary and actual field conditions, the Floodplain 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 appellant shall be given a reasonable opportunity to submit his or her own technical evidence, if so desired.
- F. Consideration of Floodplain Management Programs in Neighboring Communities. The Governing Body will, in all official actions, take into account other floodplain management programs in effect in Butler County and any neighboring areas.
- G. Establishment of Floodplain District. The floodplain area within the jurisdiction of these regulations is hereby declared to be one district, the FP Floodplain District. The area delineated for the district is shown on the Agency's Flood Insurance Rate Map and Flood Boundary and Floodway Map with the effective date of September 18, 2002 which are hereby incorporated by reference and made a part of the Official Zoning Maps of these regulations. Such maps designate those areas to be in the floodway portion and the floodway fringe portion

of the Floodplain 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 AE, AO and AH Zones, if any, as identified on the official F.I.R.M. and in the Flood Insurance Study dated September 18, 2002.

- H. Standards Within the Floodway and Flood Fringe Overlay Boundaries. No floodplain development permit shall be granted for new developments or substantial improvements within these boundaries unless the following conditions are satisfied. No development located within the special flood hazard areas of the community shall be located, extended, converted, or structurally altered without full compliance with the terms of these regulations.
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 base flood elevation is not provided. The unnumbered A Zones shall be subject to all provisions of these regulations. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources.
 2. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones on the F.I.R.M., unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
 3. All new construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured homes and other developments shall require:
 - a. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. Construction with materials resistant to flood damage;
 - c. Utilization of methods and practices that minimize flood damages;
 - d. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - e. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and
 - f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
 - (1) All such proposals are consistent with the need to minimize flood damage;
 - (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;

- (3) Adequate drainage is provided so as to reduce exposure to flood hazards; and
 - (4) All proposals for development, including proposals for manufactured home parks and subdivisions, of five acres or fifty lots, whichever is lesser, include within such proposals base flood elevation data.
4. Storage, material, and equipment:
- a. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive or could be injurious to human, animal or plant life is prohibited.
 - b. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.
5. Nonconforming use in a floodplain district: A structure or the use of a structure or premises that was lawful before the passage or amendment of these regulations, but which is not in conformity with the provisions of these regulations, may be continued subject to the following conditions: (See Article 8 for Nonconforming Lots, Structures and Uses.)
- a. If utility service for a structure or use is discontinued for six consecutive months, any future use of the building shall conform to these regulations.
 - b. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places.
- I. Specific Standards: In all areas identified as numbered and unnumbered A zones where base flood elevation data have been provided, as set forth in 4-117H1, the following provisions are required:
- 1. Residential Construction: New construction or substantial improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one foot above base flood elevation. The elevation of the lowest floor shall be certified by a licensed land surveyor.
 - 2. Nonresidential Construction: New construction or substantial improvement of any commercial, industrial or other nonresidential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 4-117P9. The elevation of the lowest floor shall be certified by a licensed land surveyor.

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

4. MANUFACTURED HOMES:

- a. All manufactured homes to be placed within all unnumbered and numbered A zones on the community's F.I.R.M. shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- b. Manufactured homes that are placed or substantially improved within unnumbered or numbered A zones on the community's F.I.R.M. in sites which are:
 - (1) Outside of manufactured home parks or subdivisions;
 - (2) In a new manufactured home park or subdivision;
 - (3) In an expansion to an existing manufactured home park or subdivision; or
 - (4) In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood,

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one foot above the base flood elevation and shall be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor.

- c. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered or numbered A zones on the community's F.I.R.M. that are not subject to the provisions of subsection b above shall be elevated to either:
 - (1) the lowest floor of the manufactured home is a minimum of one foot above the base flood level; or
 - (2) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade and be securely attached to an

adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- (3) the elevation of the lowest floor in both of the above instances shall be certified by a licensed land surveyor.

5. Recreational Vehicles: Recreational vehicle(s), when placed on a site in accordance with requirements found elsewhere in these regulations, if placed on a site within a numbered or unnumbered A zone shall either:

- a. be on the site for fewer than 180 consecutive days; or
- b. be fully licensed and ready for highway use *; or
- c. meet the permitting, elevating, and the anchoring requirements for manufactured homes as required in these regulations.

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

J. Floodway Overlay Boundary.

1. Permitted Uses. The following uses having a low flood damage potential and non-obstructing 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 they do not require structures, fill or storage of materials 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 occurrence of the base flood discharge. No use shall increase the flood levels of the regulatory flood elevation. These predominantly open space uses are subject to the standards of Section 4-117H.

- a. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming and forestry.
- b. Fishing, hunting, preservation of scenic and scientific study areas; public or private fish hatcheries; soil and water conservation and wildlife and nature preserves.
- c. Loading areas, parking areas, lawns, gardens, play areas and airport landing strips.
- d. Private and public recreation uses, such as golf courses, tennis courts, archery and firearm ranges, picnic grounds, boating and swimming areas, parks, shooting preserves, hiking and horseback trails.
- e. Other similar open space uses as may be determined by the Floodplain Administrator.

In unnumbered Zone A, obtain, review and reasonably utilize any floodway data available through federal, state or other sources or Section 4-117B3 of these regulations, in meeting the standards of this section.

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 4-117H which applies to all conditional uses proposed in the floodway boundary plus the conditional use standards required by Section 4-117 I 3.
 - a. Uses or structures accessory to permitted open space uses listed in Section 4-117 I 1 and for other conditional uses listed below.
 - b. Circuses, carnivals and similar transient amusement enterprises.
 - c. Drive-in theaters, new and used car lots, roadside stands and signs.
 - d. Extraction of sand, gravel and other materials.
 - 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 conditional uses not specifically listed above, but which in the opinion of the Board of Zoning Appeals are similar in character and consistent with the standards set forth in Section 4-117 I 3.
3. Conditional Use Standards. In reviewing applications for conditional uses listed in Section 4-117 I 2, the Board of Zoning Appeals shall require that the following conditions be met:
 - a. No structure (temporary or permanent), fill (including fill for roads and levees) deposit, obstruction, storage of materials or equipment or other use may be allowed as a conditional use which affects the capacity of the floodway or increases flood heights in the floodway as determined and certified by a licensed professional engineer. 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, vegetative cover or bulkheading.
 - (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 constructed and 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 of 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 protection 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.

K. Flood Fringe Overlay Boundaries.

- 1. Permitted Uses. All permitted uses in the underlying districts provided they meet the standards of Sections 4-117H and 4-117J3.
- 2. Conditional Uses.
 - a. All conditional uses in the underlying districts; provided, that they meet the standards of Sections 4-117H and 4-117J3.
 - b. A conditional use application may be approved by the Board of Zoning Appeals for a detached garage or storage structure of minimal investment and of limited size when used only for parking or limited storage purposes, which may be constructed so that its floor is below the regulatory flood elevation. A determination of what constitutes a minimal investment should be made in relationship to the overall investment in the principal structure or use on the same zoning lot. Such accessory structures shall meet or exceed the minimum requirements as follows, which may be less than the standards established in Section 4-117J3 a through d for such conditional uses:
 - (1) The structure shall maintain the same bulk regulations and use limitations as contained in Sections 6-100 C and D, unless a variance is granted by the Board of Zoning Appeals;

- (2) The use of the structure shall be limited to parking vehicles or recreational vehicles or for limited storage and not used for human habitation;
- (3) The structure shall be built using unfinished and flood damage resistant materials;
- (4) The structure must be adequately anchored to prevent flotation, collapse or lateral movement which may result in damage to other structures including the use of openings to provide for the entry and exit of floodwater;
- (5) Any mechanical or utility equipment in the structure shall be elevated to or above the regulatory flood protection elevation or be floodproofed;
- (6) The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (7) The structure shall not exceed 700 square feet of gross floor area;
- (8) Applicants for such a conditional use are advised to seek personal advice on the insurance ramifications of exempting such structures from the elevation or floodproofing standards otherwise required by these regulations including the inability to obtain such insurance; and
- (9) Construction of such structures in the floodway overlay boundary as described in Section 4-117 I is prohibited.

3. Standards for Permitted and Conditional Uses.

(See Section 4-117 L for certification and floodproofing.)

- a. Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above the regulatory flood protection elevation.
- b. Require new construction or substantial improvements of nonresidential structures to have the lowest floor, including basement, elevated to or above the regulatory flood protection 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 licensed 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, 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 Codes of the City or FEMA guidelines. In the event

that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) 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 of 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 A, 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 at or above the regulatory flood protection elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 4-117J3e above.

L. Certification and Information.

1. Flood Proofing. Applicants shall provide certification by a licensed professional engineer or architect that the flood proofing methods selected for the construction plan are adequate to withstand the flood depth, pressures, velocities, impact and uplift forces and other factors associated with the base flood and also 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 by a licensed land surveyor identifying the elevation of the property in relation to mean sea level of the lowest floor (including 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 grade on one or more sides. The applicant shall also be required to submit certification by a licensed professional engineer or other qualified person that the finished fill and building floor elevations and other flood protection measures were accomplished in compliance with the provisions of this district.
3. Permanent Record. Certifications and elevation information required by Sections 4-117K 1 and 2 above are to be maintained by the Floodplain Administrator as a permanent record.

M. Variances.

1. Where by reason of exceptional narrowness, shallowness, shape of topography or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any provision of this district would result in peculiar and exceptional hardship upon the owner of the property as an unreasonable deprivation of use as distinguished from the mere grant of a privilege, the Board of Zoning Appeals may authorize a variance from strict application so as to relieve the demonstrable difficulties or hardships; provided, that such a variance may only be granted if:
 - a. The variance meets all the provisions of Section 10-107; and

- b. The structure is to be erected on a lot of one-half acre or less in size and such lot is contiguous to and surrounded by lots with existing structures constructed below the regulatory flood protection elevation. (As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases); or
 - c. The structure is listed on the National Register of Historic Places or the State Inventory of Historic Places to be restored or reconstructed; provided, that the proposed activity will not preclude the structure's continued historic designation.
2. Variances shall not be issued except upon:
- a. A showing of good and sufficient cause; and
 - b. A determination that the variance issuance will not result in measurably increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local or state laws or ordinances.
3. Variances may only be issued upon a determination that the applicant's request shall meet the minimum necessary standards of this district to afford relief.
4. In their review of the application for a variance, the Board of Zoning Appeals shall include add standards specified in section 10-107D of these regulations and, in addition, shall consider all of the following criteria:
- a. The danger to life and property due to flood damage;
 - b. The danger that materials may be swept onto other 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 to 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 maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets, and bridges.

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

N. Application for Floodplain Development Permits.

1. An application for a zoning permit and occupancy certificate shall be made in accordance with Section 9-101, and notwithstanding other provisions of these regulations, an additional Floodplain Development Permit shall be required in the FP District for dredging, filling, grading, paving, excavation or drilling operations, or for any other construction or development, including the substantial improvement of a structure as defined herein and the placement of manufactured homes. Such application shall also include the following information where applicable: (1) plans showing the nature, location, dimensions and elevations to the lot; (2) existing or proposed structures, fill or storage of materials; and (3) the location of the foregoing in relation to the channel, the floodway and the regulatory flood protection elevation.
2. In making a determination whether to issue a zoning permit or occupancy certificate, the Floodplain Administrator shall make full use of the floodplain data assembled by the City and seek the advice and assistance of any designated engineer. Furthermore, the Administrator may require the applicant to furnish the following additional information by a licensed professional engineer as is deemed necessary to evaluate the effects of the proposed use upon flood flows and other factors necessary to render a decision on the suitability of the proposed use:
 - a. A typical valley cross-section showing the channel of the stream, elevations 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 the site; location and elevations 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 improvement, storage of materials, water supply and sanitary facilities.

- O. Amendments to Floodplain District Regulations. No amendment shall be made to these regulations that proposes to change the provisions of this FP Floodplain District or the accompanying Official Zoning Maps as described in Section 4-117G without the City first submitting such proposed change accompanied by complete information to the Chief

Engineer, Division of Water Resources, Kansas State Board of Agriculture and the Federal Emergency Management Agency for written approval thereof in addition to the applicable amendment provisions of Sections 11-100 and 104.

P. Duties and Responsibilities of the Floodplain Administrator. The Floodplain Administrator's duties shall include, but not be limited to:

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

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

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

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

118 A-1 Agricultural Transition District.

This district is established to retain various agricultural characteristics, but to also serve as a transition area to accommodate many of the nonagricultural uses normally located in a rural area while anticipating an increasing amount of urbanization including low-density dwellings.

A. Permitted Uses.

1. Single-family detached dwellings and earth-sheltered dwellings.
2. Churches, chapels, temples, and synagogues.
3. Golf courses including accessory clubhouses, but not commercial driving ranges or miniature golf courses.

B. Special Uses.

1. Public buildings erected or land used by any agency of a City, Township, County or State government.
2. Airports, heliports, ultralite landing areas and aircraft landing fields, publicly and privately owned.
3. Animal clinics or hospitals with or without outside runs.
4. Campgrounds accompanied by a plot plan of spaces for camping trailer, tents, recreation vehicles and motor homes.
5. Cemeteries, private and public, including crematories and mausoleums.
6. Fraternal and/or service clubs.
7. Roadside stands for the sale of agricultural products by an operator other than the producer of the product.
8. Privately owned, seasonal or temporary or permanent parks and recreational areas such as:
 - a. adult and family retreat areas;
 - b. archery ranges;
 - c. gun clubs;
 - d. musical festivals;
 - e. polo fields;
 - f. rodeos; and
 - g. youth camps.
9. Riding stables and academies, provided that no structure housing horses shall be located nearer than 500 feet to the boundary of any residential district.
10. Other special uses not specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-118 and compatible with the uses permitted in Section 4-118A.

C. Conditional Uses

1. Swimming, tennis, racquetball and similar other private recreational club activities and related clubhouses.
2. Manufactured homes as an accessory use to a farm dwelling on agricultural land only when used by persons employed thereon, including their families.
3. Public and private utility uses as follows: Electric and telephone substations; gas regulator stations; pumping stations; and water towers and standpipes.

D. Lot Size Requirements

1. Minimum lot area:
 - a. Residential: 217,800 square feet (five acres) which may include an area to the centerline of a street right-of-way and easements on the lot; provided, that on-site water supply and sewage disposal standards meet the requirements of the County Sanitary Code; or if a public water supply or sewer system is available, 43,560 square feet (one acre) is required.
 - b. All other permitted uses: 20,000 square feet.
2. Minimum lot width: 125 feet.
3. Minimum lot depth: None.

F. Bulk Regulations

1. Maximum structure height: 35 feet.
2. Yard requirements:
 - a. Minimum front yard: 35 feet on all sides abutting a street.
 - b. Minimum side yards:
 - (1) Residential: 20 feet.
 - (2) All other permitted uses: 20 feet.
 - c. Maximum lot coverage: 25%.

Section 119 P.O. Protective Overlay District

This district may be applied as an overlay district in combination with any underlying zoning district except the FP Floodplain and the PUD Planned Unit Development districts. By limiting specific uses or requiring more restrictive development standards to individual projects or specific properties, this district is intended to:

- (1) Ensure compatibility, among incompatible or potentially incompatible land uses;
- (2) Ease the transition from one zoning district to another;
- (3) Address sites or land uses with special requirements; and
- (4) Guide development of unusual situations or unique circumstances.

Development standards include, but are not limited to, minimum lot sizes, bulk regulations such as maximum height or lot coverage and minimum size of yards and setbacks, use limitations, off-street parking and loading provisions, accessory structures and uses, sign standards, miscellaneous requirements of Section 3-103 and fencing requirements of Section 3-104.

- A. Use and Development Standards. This district can be used to modify and restrict the use and development standards of an underlying zoning district. All requirements of this district are in addition to and supplement all other applicable standards and requirements of these regulations. Restrictions and conditions imposed by this district shall be limited to the following:
 1. Prohibiting otherwise permitted or special or conditional uses and accessory uses, or designating an otherwise permitted use as a special or conditional use;
 2. Decreasing the number or average density of dwelling units that may be constructed on the site.
 3. Increasing minimum lot size or lot width'
 4. Increasing minimum setback requirements in any yard;
 5. Restrictions on access to abutting properties and streets, including specific design features; and
 6. Any other development standards required or authorized by these regulations.
- B. Method of Adoption. Modifications and restrictions imposed through this district are considered part of this zoning text and accompanying map(s). All property included in the district shall be identified on the Official Zoning Map(s) by adding the letters "P-O" and a number to the base zoning district symbol. The number shall be assigned when the application is filed and numbers shall run consecutively beginning with number 1. The effectuating ordinance for zoning or rezoning property to the P-O district shall specifically state the modifications or restrictions imposed pursuant to Section 4-119A. Such modifications and restrictions imposed shall be a violation the these regulations. The modifications and restrictions shall continue in full force and effect until revised in accordance with the same amendment procedures as for the approval of the original P-O District.
- C. Effect of P-O District Designation. When the P-O District zoning designation is applied in combination with an underlying zoning district, it shall always be considered to result in a more restrictive designation than if the district did not have the P-O classification. In the event that the P-O designation was not originally requested as part of the rezoning application, but is added instead during the public hearing process, re-notification and re-advertisement of the requested zoning amendment shall not be required

ARTICLE 5. OFF-STREET PARKING AND LOADING

100 Off-Street Parking.

In any applicable zoning district, all structures built and all uses established hereafter shall provide accessory off-street parking in accordance with the following regulations. When an existing structure or use is expanded, accessory off-street parking shall be provided in accordance with the following regulations for the area or capacity of such expansion. Plans showing the layout and design of all off-street parking spaces and loading areas must be submitted and approved by the Zoning Administrator before a zoning permit and/or occupancy certificate 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.
2. Parking space dimension: An off-street parking space shall be at least eight feet six inches in width and at least 19 feet in length, exclusive of access drives or aisles, ramps or columns, unless special parking is designated for variable sizes of vehicles.
3. Access: Each off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. No parking space shall be designed to exit or back directly onto a public street or use the public right-of-way for parking space, unless specifically approved by the Governing Body. Such arrangements are to be discouraged, except in unusual circumstances wherein the traffic safety of the public can still be protected.
4. Open and enclosed parking: Off-street parking spaces open to the sky may be located in any yard, except that in residential districts no such spaces shall be located in a front yard setback other than for multiple-family dwellings. Principal buildings with garages, carports and canopies 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.
5. Design and Maintenance:
 - a. Design: Off-street parking spaces shall comply with such design standards relating to curb cuts and curb length, stall depth, driveway width, island width, barriers, and the location of ingress and egress as may be established from time to time by the 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 parking spaces on such lots are not to be in the front yard setback. All parking spaces must be in an

identifiable area where all spaces are contained thereon. (See Section 5-100A5c for screening.)

- b. Surfacing: All required open off-street parking spaces and driveways shall be graded and paved with an asphalt, asphaltic 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 industrial districts and manufactured/mobile homes in related parks.
- 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 permit is obtained under Section 5-102.
- i. Employee parking: Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing, or both, on the premises at any one time.
- j. Handicapped accessible spaces: Parking spaces within the required number of spaces shall be provided for the disabled according to the following standards as per the Americans With Disabilities Act:

- (i.) Location closest to the nearest accessible entrance on an accessible route.
- (ii.) Spaces shall be at least 96" wide and shall have an adjacent access aisle 60" wide minimum. Two adjacent spaces may share a common access aisle. If parking spaces for vans designed for handicapped persons are provided, each should have an adjacent access aisle at least 96" wide.
- (iii.) Surface slopes of spaces and access aisles shall not exceed 1:50 in all directions.
- (iv.) Required minimum number of accessible spaces:

Total Parking in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 % of total
1001 and over	20 plus 1 for each 100 over 1000

One in every eight accessible spaces, but not less than one, shall be designated "van accessible". All accessible spaces shall be designated as reserved for the disabled by a sign showing the symbol of accessibility.

- 6. Plans and approval required: Plans showing the layout and design of all off-street parking spaces and loading areas, whether required spaces or not, shall be submitted and approved by the Zoning Administrator prior to issuance of a zoning permit and/or occupancy certificate 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.

101 Required Parking Spaces.

Off-street parking spaces accessory to the uses hereinafter designated shall be provided as follows:

A. Dwelling and Lodging Uses:

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

2. Multiple-family dwellings: At least two parking spaces per unit, except in housing for the elderly, one and one-half spaces per unit.
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, 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.
2. Business and professional offices: One parking space for each 300 square feet of floor area, not including meeting rooms.
3. Bowling alleys: Four parking spaces for each lane.
4. Cartage, express, parcel delivery and freight terminal establishments: One parking space for each two employees.
5. Car washes: Two holding spaces for each car washing stall, plus one drying space for each car washing stall.
6. 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.
7. Furniture or appliance stores and service or repair shops: One parking space for each 400 square feet of floor area.
8. Manufacturing, production, processing, assembly, disassembly, cleaning, servicing, testing, or repairing of goods, materials or products: One parking space per two employees.
9. 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.
10. 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.
11. Retail stores and financial institutions: One space per 250 square feet of floor area, not including meeting rooms. (See Section 5-101B14 for places of assembly.)
12. Salvage yards: One parking space for each employee, plus one parking space for each 10,000 square feet of storage area.

13. Service stations: One parking space for each employee, plus two spaces for each service bay.
14. Theaters, auditoriums and places of assembly: One space for each four seats.
15. Warehouses, storage and wholesale establishments: One parking space for each two employees.
16. All other business establishments not specified above: One parking space for each 300 square feet of floor area.

C. Other Uses:

1. Churches: One parking space for each five seats based upon the maximum designed seating capacity in the main worship area, including choir lofts.
2. Elementary, junior high 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.)
3. Secondary 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 Sec. 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. Child care centers and preschools: One parking space for each employee.
6. 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.
7. Private social and hobby clubs, associations and lodges: One parking space for each three seats based upon the maximum designed seating capacity.
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 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:

- 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 or any other comparable surfacing which meets the approval of the Board and shall be maintained in good condition and free of weeds, dust, trash and other debris.
 - 2. Parking areas shall have adequate guards to prevent extension or the overhanging of vehicles beyond property lines or parking spaces. Such areas shall have adequate markings for channelization and movement of vehicles.
 - 3. If lighting facilities are provided, they shall be so arranged as to deflect or direct light away from any adjacent dwelling or residential district.
 - 4. A fence (such as solid-wall masonry, wood, louvered/wood, metal or other similar materials) not less than six feet high, may be required to be erected along any property line adjacent to or adjoining any residential district to reduce noise, eliminate the passage of light from vehicles and prevent the blowing of debris. Whenever a fence shall be required along a front yard, which includes a driveway area, such fence shall not be higher than four feet.
 - 5. When located in a residential district, parking shall not be located within a front yard and the front yard shall remain unpaved and shall be landscaped.
 - 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 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.

ARTICLE 6. ACCESSORY USES, TEMPORARY USES AND HOME OCCUPATIONS

100 Accessory Uses Authorization.

Accessory uses are permitted in any zoning district in connection with any principal use which is permitted.

- A. Definitions. An accessory use is a structure or use which:
1. Is subordinate to and serves a principal building or use;
 2. Is subordinate in area, extent or purpose to the principal building or use served; however, this does not preclude recreational areas for tennis, swimming, racquetball, basketball and similar activities;
 3. Contributes to the comfort, recreation, convenience or necessity of occupants, business or industry in the principal building or use served; and
 4. Is located on the same zoning lot as the principal building or use served.
- B. Permitted Accessory Uses. Any structure or use that complies with the terms of Section 6-100A may be allowed as an accessory use or structure and may be included, but is not limited to the following list of examples:*
1. Off-street parking and loading space as regulated by Article 5 of these regulations, including detached garages and carports which may contain incidental storage.
 2. Signs, when permitted by Article 7 of these regulations.
 3. Structures exclusively for storage; provided, no structure accessory to a residential building shall exceed 200 square feet in gross floor area, except 500 square feet is permitted in the R-1 District and 300 square feet in the R-2 District.
 4. Storage of major recreational equipment such as boats, camping trailers or motor homes; provided, that they shall not be utilized for living purposes, except for the convenience of temporary lodging only for not more than 15 days at any one time.
 5. Storage outside both above or below ground level of petroleum products for fueling vehicles related to the operation of the principal use on commercial and industrial lots only and for sale at automobile and truck service stations.
 6. Fallout shelters; detached, rack mounted solar equipment; and satellite receiving antennas greater than one meter in diameter accessory to residential structures, limited to not exceed 15 feet in height above the maximum height of the principal structure and not located in front of the principal structure.
 7. Wireless communication facilities in accordance with Article 3-103Q amateur radio and private dispatch systems.
 8. Storm shelters, children's playhouses, statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, bathhouses and permanent-type swimming pools;

provided, the latter are enclosed by a security-type fence for the protection of young children in residential districts only as approved by the Zoning Administrator regardless of whether the pool is above or below ground.

9. Guest houses without kitchen facilities or rooms for guests in accessory building; provided, such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units for permanent occupancy as housekeeping units.
10. Restaurants, pharmacies, gift shops, beauty parlors, barber shops and newsstands when located in a permitted hotel or motel.
11. For employees only, child care centers and restaurants when located in a permitted business or industrial building.
12. Recycling collection centers, large and small. (See Section 2-102 for definition of recycling center.)
13. Outdoor storage shall not be permitted as an accessory use, except as specifically permitted in these regulations. (See Section 2-102 for definition of outside storage and Section 3-103N3 for manufactured/mobile homes as storage structures.)

* Zoning permits are required only for accessory structures which exceed 100 square feet of ground area; however, permits are required for fences in the front yard setback and for satellite dish antennas. (For other accessory zoning permits, see Section 6-101 for temporary uses, Section 6-102 for home occupations, Section 5-100 for parking spaces and loading areas and Article 7 for signs.).

C. Bulk Regulations.

1. Accessory structures shall be set back five feet from the rear lot line; except that garages with entrances facing alleys shall be set back at least 20 feet.
2. Accessory structures and uses shall maintain the same side and front yard setback as is required for the principal structure, unless they are permitted obstructions within the provisions of Section 3-103f; provided that storage buildings may be four feet from the side yard property except where a solid fence of at least six feet exists, in which case such buildings may abut the property line.
3. No part of any accessory building, except a detached garage, shall be located closer than 10 feet to any principal structure, unless it is attached to and forms a part of the principal structure.
4. Accessory structures and uses shall otherwise comply with the bulk regulations applicable in the district in which they are located; except that the aggregate total floor area occupied by all accessory buildings and structures in all residential districts shall not exceed: (1) twice the maximum gross floor area permitted for an accessory storage structure, or (2) the gross floor area occupied by the principal structure, whichever is lesser.

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

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

101 Temporary Uses Permitted.

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

- A. Permits for carnivals, circuses, musical festivals, annual celebrations or similar events may be approved with conditions by the City. Such uses need not comply with the bulk or lot size requirements; provided, that structures or equipment which might block the view of operators of motor vehicles on the public streets shall not be located within 30 feet of the intersection of the curb line of any two streets.
- B. Christmas tree sales in any business or industrial district for a period not to exceed 60 days. Display of Christmas trees need not comply with the yard and setback requirements of these regulations; provided, that no tree shall be displayed within 30 feet of the intersection of the curb line of any two streets.
- C. Contractors' office and equipment sheds, containing no sleeping or cooking accommodations, accessory to a construction project and to continue only during the duration of such project.
- D. Seasonal sale of farm produce grown on the premises in a single-family residential district to continue for not more than six months per year. Small, temporary structures on private property incidental to such sale need not comply with the applicable front yard requirements.
- E. Promotional activities of retail merchants involving the display of goods and merchandise may be conducted outside of enclosed buildings for a period of not more than two consecutive weeks in any three month period and retail business may display merchandise of a type generally sold within the building in the area immediately adjacent to the building subject to the following conditions:
 1. No portion of the display shall be on publicly owned property, unless the applicant shall first have obtained approval for such use from the City.
 2. These provisions shall in no way be deemed to authorize the outdoor display or the sale of used goods such as furniture, appliances, plumbing, housewares, building material or similar display or sale in any business or industrial districts unless permitted otherwise by these regulations.
- F. Periodic conduct of what is commonly called "garage or yard sales" which do not exceed a period of more than three days during any one sale and no more than two sales to be held at the same residence during any calendar year.
- G. Recycling centers, small and large, periodically operated not for profit in business and industrial districts only for not more than 10 days in one period and for no more than three times during any 12-month period consistent with adequate provisions for public health and safety. (See Section 6-101 for zoning permit.)
- H. Fireworks may be sold from an outside stand during the months of June and July as

approved by State law and when all other applicable City regulations for a permit have been met and such stand removed at all other times of the year.

- * Zoning permits are only required for carnivals, circuses, music festivals, annual celebrations and similar community events; and fireworks stands. A recycling center is also required to obtain a permit, but no fee is charged.

102 Home Occupations Authorization.

Home occupations that are customarily incidental to the principal use of a residential building or manufactured/mobile home shall be permitted provided the residential appearance of the building or home is maintained and no undue traffic or parking problems are created. If such a home occupation is conducted in a business or industrial district as a legal, nonconforming use, all the provisions of this section must be adhered to unless a zoning permit and/or an occupancy certificate is obtained to operate the property and structure(s) thereon as a use meeting all the provisions of the applicable business or industrial district.*

- A. Definition. A business, profession, occupation, or trade conducted for gain or support entirely within a residential building or manufactured/mobile home, or within a permitted structure that is accessory to such a building or home.
- B. Use Limitations. In addition to all of the use limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:
 - 1. The home occupation shall be conducted entirely within the principle residential structure or a garage, swimming pool, or an accessory structure. (See Section 6-100B3 for limitation on storage structure.)
 - 2. No alteration of the principal residential structure shall be made which changes the character thereof as a residence or causes goods to be displayed visibly from the residence or on the premises.
 - 3. No more than 25% of the gross floor area of the residence shall be devoted to the home occupation; provided, however, that rooms let to boarders and roomers are not subject to this limitation. (See Section 2-102 for definition of boarding and rooming house.)
 - 4. Goods or stock for sale on or off the premises may be stored in enclosed areas, except articles which may constitute a hazard to the safety of adjacent property owners or tenants.
 - 5. There shall be no outdoor storage of equipment or materials used in the home occupation.
 - 6. No equipment or process shall be used which shall create undue noise, smoke or particulate matter emission, vibrations or odors that are detectable to the normal senses off the lot. In case of electrical interference, no equipment or process shall be used which creates a visual effect or an audible interference off the premises in any radio or television receiver or transmitter or causes fluctuation in the voltage.
 - 7. No more than one person other than a member of the immediate family

occupying such residence shall be employed; provided, however, that no such person is employed in a two-family or multiple-family dwelling or in a manufactured/mobile home park.

8. No sign shall be permitted other than that permitted by the applicable regulations in Article 7.

* Zoning permits are required only when a home occupation sign is displayed or an accessory structure is used.

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

1. A seamstress or tailor.
2. A teacher, including music and dance instructions, provided that instructions shall be limited to two pupils at any time, except for occasional groups.
3. An artist, author, composer, photographer or sculptor.
4. Office facilities for an accountant, architect, attorney, building contractor, dentist, engineer, landscape architect, physician, real estate or insurance agent and a member of similar profession.
5. A minister, priest or rabbi.
6. Office facilities for a route salesman, sales representative or manufacturer's representative, when no exchange of tangible goods is made on the premises.
7. Home crafts, such as cabinet making, model making, lapidary work, rug weaving and the like.
8. Adult care center for not more than four adults, adult care home, boarding home for children, day care home and family and group day care home.
9. A barber or beautician; provided, that only one operator shall be permitted.

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

1. An animal kennel, hospital or stable.
2. An automobile and other vehicular repair shop or sales of such vehicles which exhibit a pattern of regular or continuous sales. A person holding a State Vehicle Dealer's License may not operate as a home occupation. This shall not prevent the periodic sale of a vehicle, which is owned and operated for personal use.
3. A child care center and preschool, unless specifically permitted by the district regulations.
4. A dancing school, except as provided for in Section 6-102C2.
5. An excavating or heavy equipment operator.

6. A funeral home.
7. A grocery store.
8. A massage parlor.
9. A medical or dental clinic.
10. Renting of trailers, motorcycles, tools or equipment.
11. A restaurant.
12. Sale of firearms or ammunition; however, the repair of firearms is not prohibited.

ARTICLE 7. SIGNS

100 Sign Permits.

No sign, except for signs listed in Section 7-103, shall be constructed, erected, enlarged, relocated or structurally altered until a zoning permit for such sign has been obtained in accordance with the procedure set out in Article 9 of these regulations. No zoning permit for any sign shall be issued unless the sign complies with the regulations of this Article 7. All signs lawfully existing at the time of passage of these regulations may remain in use, including those in the status of legal nonconformance. The purpose of this article is to safeguard the public use of the streets and the sidewalk area and to equitably enhance the visual environment of the City. (See Section 2-102 for definition of Sign. See also K.S.A. 68-2231 for state sign regulations.)

101 Classification of Signs.

A. Functional Types:

1. **Bulletin Board Sign:** A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name or names of persons connected with it, and announcements of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.
2. **Business Sign:** A sign which directs attention to a business or profession conducted; or to a commodity or service sold, offered or manufactured; or an entertainment offered on the premises where the sign is located or to which it is affixed.
3. **Construction Sign:** A temporary sign indicating the names of designers and contractors involved in the construction of a project during the construction period and only on the premises on which the construction is taking place.
4. **Identification Sign:** A sign giving the name and address of a building, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.
5. **Nameplate Sign:** A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and where applicable, their professional status.
6. **Real Estate Sign:** A sign pertaining to the sale or lease of the lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof located thereon.

B. Structural Types:

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

2. Monument or Ground Sign: Any sign 10 feet or less in height placed upon the ground or supported by a base that is a minimum of 50% of the width of the monument at its widest point, independently of the principal building or structure on the property. A sign on accessory structures shall be considered a ground sign.
3. Pole Sign: A sign that is mounted on free-standing poles or pylon, the bottom edge of which sign is seven feet or more above ground level.
4. Projecting Sign: A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.
5. Temporary Sign: A sign in the form of a banner, pennant, valance or advertising display constructed of fabric, card board, wall-board or other light weight materials, with or without a frame, intended for temporary display of not more than 30 days, four times per calendar year.
 - a. Use of a vehicle for a sign or sign support. It shall be prohibited to park or use a vehicle in such a way as to function as a sign, defined to include the parking of any vehicle, trailer or similar movable structure containing or supporting any signage with the exception of:
 - (1) Vehicles actively involved in construction on or the serving of the site;
 - (2) Vehicles delivering products to the site in designated loading areas;
 - (3) Vehicles parked in designated truck parking areas of business park districts that have been screened from or are not generally visible from the public right of way; or
 - (4) Passenger vehicles, pick-up trucks and vans of a size that can fit fully within a standard parking space, containing signs painted on or permanently affixed on the doors or integral side body panels that do not exceed 16 square feet in area.
6. Wall Sign: A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than 12 inches from such building.

102 General Standards

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

restrictions that are phased in terms of “signs per zoning lot” shall be deemed to permit the allowable number of signs facing each street or highway that abuts the lot.

- C. Height of Sign. The maximum height of signs shall be measured from ground level at the base of or below the sign to the highest element of the sign and shall be determined for purposes of Article 7 as independent from the maximum structure height for zoning districts.
- D. Building and Electrical Codes Applicable. All signs must conform to the structural design standards of any applicable building code. Wiring of all electrical signs must conform to any applicable electrical code.
- E. Illuminated Signs. Signs shall be shaded wherever necessary to avoid casting bright light upon property located in any residential district or upon any public street or park. Any brightly illuminated sign located on a lot adjacent to or across the street from any residential district, which is not otherwise shaded and visible from such residential district, shall not be illuminated between the hours of 11 P.M. and 7 A.M. Any accessory external lighting fixtures attached to a sign shall maintain a clearance of nine feet to the grade directly below the fixture.
- F. Flashing or Moving Signs. No flashing signs, rotating or moving signs, animated signs, signs with moving lights or signs which create the illusion of movement shall be permitted in any residential district. A sign whereon the current time and/or temperature is indicated by intermittent lighting shall not be deemed to be a flashing sign if the lighting changes are limited to the numerals indicating the time and/or temperature.
- G. Clearance for Projecting Awning, Canopy, or Marquee Signs. All awning, canopy, or marquee signs shall maintain a clearance of at least seven feet to the grade directly below the sign.
- H. Accessway or Window. No sign shall block any accessway or window required by any applicable building, housing, fire or other codes or regulations.
- I. Signs on Trees or Utility Poles. No private sign shall be attached to a tree or utility pole whether on public or private property.
- J. Traffic Safety.
 - 1. No sign shall be maintained at any location where by reason of its position, size, shape or color; it may obstruct, impair, obscure, interfere with the view of, or be confused with; any traffic control sign, signal or device; or where it may interfere with, mislead or confuse traffic.
 - 2. No sign shall be located in any vision triangle as defined in Section 2-102, except official traffic signs and signs mounted eight feet or more above the ground whose supports, not exceeding two, do not exceed 12 inches at the widest dimension and, thus, do not constitute an obstruction.
- K. Location. No sign or structure thereof shall be permitted on a public right-of-way or public easement, except:
 - 1. As a conditional use granted by the Board of Zoning Appeals for signs otherwise permitted in a district; or
 - 2. As a use permitted by the Governing Body for public informational or directional purposes of.

3. Any unauthorized sign placed on public property, including the public street right-of-way, is declared to be a public nuisance and be the cause of its removal and impoundment without notice. If not redeemed within 30 days by the owner paying a service charge of \$20, the City may dispose of the sign in any manner deemed appropriate. The Zoning Administrator may revoke the permit for any sign deemed to be in violation of this Section, i.e., 7-102L, or of any condition on which the permit was based and order its removal within a reasonable period consistent with public safety.
- L. Damaged or Unsafe Signs. The Zoning Administrator shall require the immediate repair or removal of any conforming or nonconforming sign or sign structure which has been damaged or deteriorated so as to become a public hazard. Such a sign or sign structure may be restored to its original condition without obtaining a zoning permit, unless the sign is replaced and, thus, must conform to the current regulations.
 - M. Setback for Pole Signs. All pole signs shall be separated from residential property a distance measured in feet equal to the gross surface area of the sign measured in square feet.
 - N. Prohibited Signs. Off-site advertising and portable signs are prohibited in an effort to preserve the visual appearance of the City, and promote traffic safety.
 - O. Amortization of Portable Signs. Any portable sign legally in existence on the effective date of this amendment to the Zoning Regulations shall be allowed to remain at the same location for a period of one year as a legal nonconforming use in a effort to amortize the cost of the sign at that location. Upon expiration of one year from the effective date of said amendment any portable sign remaining shall be declared unauthorized, and become subject to the provisions of Article 7, Section 102 K.3.
 - P. Off Premises Real Estate Signs. Notwithstanding the provisions of Section 7-102N and, to temporarily provide additional visibility for new real estate developments within the City but not located along major traffic routes, the Board of Zoning Appeals may consider an application for a conditional use to allow off premises real estate signs in any zoning district. If approved, such real estate signs shall otherwise comply with the provisions for real estate signs of the district in which it is located.
 - Q. Temporary Fireworks Signs. In order to allow accessory signage for temporary fireworks sales locations, the following standards shall apply:
 1. Structural Types Permitted: One of each structural type of sign shall be permitted, excluding permitted permanent signs.
 2. Maximum Gross Surface Area: One square foot of sign area for each one lineal foot of arterial street or U. S. Highway 54 frontage or four hundred square feet, whichever is lesser.
 3. Required Setback: All temporary firework signs not otherwise affixed to the fireworks sales structure shall be separated from any principal residential building by one foot for every one square foot of sign surface area or one hundred feet, whichever is the lesser.
 4. Maximum Height: 25 feet when adjacent to an arterial street, 35 feet when adjacent to U.S. Highway 54.

5. Time Restrictions: Temporary firework sign permits issued accessory to temporary fireworks sales locations shall be limited to three days prior to, and three days past the duration of the fireworks sales temporary use permit. Upon the expiration of the temporary sign permit, all of the elements of the sign, including the any temporary support structure shall be removed.

103 Exemptions

- A. The following signs shall be exempt from the requirements of this Article:
 1. Signs of a duly constituted governmental body, including traffic or similar regulatory devices, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, hazards, parking, swimming, dumping, etc.
 2. Flags or emblems of a government or of a political, civic, philanthropic, educational or religious organizations, when displayed on private property.
 3. Small signs, not exceeding five square feet in area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, rest rooms, freight entrances and the like.
 4. Address numerals and other signs required to be maintained by law, rule or regulation; provided, that the content and size of a sign does not exceed such requirements.
 5. Garage sale signs, not exceeding four square feet in gross surface area, except for the restrictions in Section 7-102K.
 6. Memorial signs which are displayed on private property.
 7. Scoreboards in athletic fields or stadiums.
 8. Political campaign signs, not exceeding six square feet in gross surface area, which are displayed on private property and not otherwise in the public right-of-way. Such signs must be removed 48 hours after a candidate is elected to office or is eliminated from further participation in the election as a candidate, with similar provisions for bond issues and other ballot issues. Such signs may also be displayed as advertising signs where permitted by Section 7-104. .
 9. Ideological signs such as may pertain to religious or political expressions or personal beliefs when located on private property of the proponent and not otherwise in a public right-of-way, a sight obstruction in a vision triangle or on public property or structures such as utility poles.
- B. The following signs are exempt from the zoning permit requirements of Section 7-100, but shall comply with all of the other regulations imposed by this Article:
 1. Nameplate signs not exceeding two square feet in gross surface area accessory to a residential building, including all types of manufactured and mobile homes.
 2. Identification signs not exceeding 24 square feet in gross surface area accessory to a multiple-family dwelling.

3. Bulletin board signs not exceeding 24 square feet in gross surface area accessory to a church, school or public or non-profit institution.
4. Business signs when located on property used for agricultural purposes and pertaining to the sale of agricultural products produced on the premises.
5. Real estate signs not exceeding six square feet in gross surface area and which pertain to the sale or lease of the lot or tract or structure on which the sign is located, except for the provision of Section 7-102K. Commercial property real estate signs not to exceed 32 square feet gross surface area.
6. Temporary signs which do not exceed six square feet in gross surface area.

104 District Regulations

- A. R-1, R-2, R-3, R-4, R-5 and R-6 Residential Districts and MH-1 and MH-2 Manufactured Home Districts.
 1. Functional Types Permitted:
 - a. Bulletin board signs.
 - b. Business signs pertaining to home occupations, but only in the R-1, R-2 and MH-2 District.
 - c. Construction signs.
 - d. Identification signs.
 - e. Nameplate signs.
 - f. Real estate signs.
 2. Structural Types Permitted:
 - a. Ground signs.
 - b. Pole signs.
 - c. Wall signs.
 - d. Business signs pertaining to home occupations shall be affixed flush to the wall of a building.
 - e. Temporary signs limited to those attached to the face of the principal structure, a permanent fence, or screening wall.
 3. Number of Signs Permitted: One of each functional type per zoning lot.
 4. Maximum Gross Surface Area.
 - a. Bulletin board and identification signs: 16 square feet in all residential districts, but 40 square feet is permitted in the R-4 District and for churches or public institutions in all residential districts.
 - b. Business signs pertaining to a home occupation only: Two square feet or the minimum required by State statutes.
 - c. Construction signs: 32 square feet.
 - d. Nameplate signs: Two square feet.

- e. Real estate signs: Six square feet per lot; provided, that one sign not more than 100 square feet in area announcing the sale of lots and/or houses in a subdivision may be located on such development. Such sign shall be removed when 75% of the lots in the subdivision have been sold.
 - f. Entry Monument: One per phase of development, or arterial or collector street entrance to a development. Limited to 10 feet maximum height, two square feet of gross surface area per lot or dwelling unit for sale or lease included in such development, but not to exceed 100 square feet maximum area, including the structure.. Limited to ground lighting only.
 - g. Wall signs shall be limited to 5% of the area of the wall area on which they are located.
 - h. Temporary signs: 21 square feet.
5. Maximum Height: 15 feet; provided, that signs associated with one and two-family dwellings and all types of manufactured and mobile homes shall not be located at a height greater than eight feet above ground floor elevation.
 6. Required Setback: 15 feet from the front line, except temporary real estate and garage sale signs, and none from the side yard setbacks.
 7. Illumination: No sign shall be illuminated, except that entry monument, bulletin board, and identification signs may be indirectly illuminated with incandescent or fluorescent light.
- B. B-1 Office Business and B-2 Neighborhood Business Districts.
1. Functional Types Permitted: Any type listed in Section 7-101A,
 2. Structural Types Permitted: Any type listed in Section 7-101B, except projecting signs.
 3. Number of Signs permitted:
 - a. Monument, ground and pole signs: One of each functional type per zoning lot.
 - b. Other structural types permitted: Limited to one of any of the other structure types.
 4. Maximum Gross Surface Area: One square foot of sign area for each one foot lineal of street frontage or One Hundred square foot maximum area, whichever is the lesser. Wall signs shall be limited to 5% of the area of the wall on which they are located.
 5. Maximum Height: 10 feet, except when adjacent to an arterial street within 200 feet of an intersection of two arterial streets, then 20 feet.
 6. Required Setback: No minimum required.
 7. Illumination: Illuminated signs shall be permitted.

- C. B-3, B-4 and B-6 Business Districts.
1. Functional Types permitted: Any type listed in Section 7-101A.
 2. Structural Types Permitted: Any type listed in Section 7-101B.
 3. Number of Signs Permitted:
 - a. Ground, monument or pole signs: One of each functional type per zoning lot, except that each freestanding principal building which is part of an integrated shopping center may also have a ground, monument or pole sign and/or complexes with over 300 feet of frontage will be allowed one additional free standing sign for each additional 300 feet or portion thereof.
 - b. Other structural types permitted: Limited to one of any of the other structural types per business establishment.
 4. Maximum Gross Surface Area: One square foot of sign area per one lineal foot of street frontage; provided, no single sign shall exceed 150 square feet, except when adjacent to an arterial street within 500 feet of the intersection of an arterial street and a highway, or adjacent to a highway, then 200 square feet. Wall signs shall be limited to 5% of the wall area on which they are located.
 5. Maximum Height:
 - a. Twenty feet when adjacent to an arterial street with 200 feet of the intersection of two arterial streets.
 - b. Thirty-five feet when adjacent to a highway, or adjacent to an arterial street within 500 feet of the intersection of an arterial street and a highway.
 - c. Ten feet at all other locations.
 6. Required Setback: No minimum required.
 7. Illumination: Illuminated signs shall be permitted.
- D. B-5 Highway Business District.
1. Functional Types permitted: Any type listed in Section 7-101A.
 2. Structural Types Permitted: Any type listed in Section 7-101B.
 3. Number of Signs permitted: One of each structural type permitted except that complexes with more than 500 feet of highway frontage may have two ground, monument, or pole signs, and a business with frontage also on an arterial or collector street may have one ground, monument, or pole sign per 300 feet of street frontage.
 4. Maximum Gross Surface Area: One square foot of sign area for each one lineal foot highway frontage, provided no single sign shall exceed a gross surface area of 400 square feet, except that one additional square foot of gross surface area shall be allowed for each one foot of set back from the front property line. In the instance a sign is located at the intersection of two streets, the additional

square footage shall be based on the lesser of setback. Signs adjacent to an arterial or collector street within 500 feet of the intersection of the arterial or collector street and the highway will be limited to 200 square feet. Wall signs shall be limited to 5% of the wall area on which they are located.

5. Maximum Height: 20 feet above the highest point of the principal structure or 40 feet above the average ground level, whichever is less.
6. Required Setback: No minimum required.
7. Illumination: Illuminated signs shall be permitted.

E. I-1 Industrial District.

1. Functional Types Permitted: Any types listed in Section 7-101A,
2. Structural Types Permitted: Any types listed in Section 7-101B, except pole signs.
3. Number of Signs Permitted. One of each structural type except that complex with frontage on more than one street may have one group or monument.
4. Maximum Gross Surface Area: One square foot of sign area for each one foot lineal street frontage, provided no single sign shall exceed a gross surface area of 200 square feet.
5. Maximum Height: 10 feet. Awning, canopy, marquee, and projecting signs shall be limited to the height of the building.
6. Required Setback: No minimum required.
7. Illumination: Illuminated signs shall be permitted.

F. A-1 Agricultural Transition District.

1. Functional Types Permitted:
 - a. Bulletin board signs.
 - b. Business signs, pertaining to agricultural products on the premises, home occupations and other businesses.
 - c. Construction signs.
 - d. Identification signs.
 - e. Nameplate signs.
 - f. Real estate signs.
2. Structural Types Permitted:
 - a. Ground or monument signs.
 - b. Pole signs.

- c. Wall signs.
3. Number of Signs Permitted:
 - a. One of each functional type per zoning lot.
 4. Maximum Gross Surface Area:
 - a. Advertising signs: 200 square feet.
 - b. Bulletin board signs: 40 square feet.
 - c. Business signs: Home occupations 4 square feet or the minimum required by state statutes; agricultural, 20 square feet; and other permitted businesses, 100 square feet.
 - d. (d) Construction signs: 20 square feet.
 - e. (e) Identification signs: 15 square feet.
 - f. (f) Nameplate signs: 2 square feet.
 - g. (g) Real estate signs: 12 square feet.
 - h. (h) Wall signs: 5% of the wall on which they are located.
 5. Maximum Height: 15 feet.
 6. Required Setback: No minimum required.
 7. Illumination: No sign shall be illuminated except that bulletin board signs may be indirectly illuminated with incandescent or fluorescent light and business signs may be illuminated only during business hours.

ARTICLE 8. NONCONFORMING LOTS, STRUCTURES AND USES

100 Purpose.

The purpose of this Article is to (1) provide for the regulation of nonconforming lots, buildings, structures and uses; and (2) specify those circumstances and conditions under which such non-conformities shall be permitted to continue. The right to continue a nonconforming lot, building, structure or use shall not be affected by a change in ownership or operator of the structure or use unless such ownership or operator is a condition attached to an approval for a special or conditional use. A definition of such nonconformities is as follows:

- A. Nonconforming Lot of Record: A zoning lot which is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations and such lot now neither complies with the lot area requirements or the width for any permitted uses in the zoning district in which it is located.
- B. Nonconforming Structure: An existing building or structure which does not comply with the maximum lot coverage and height or the minimum yard requirements which are applicable to new structures in the zoning district in which it is located.
- C. Nonconforming Use: An existing use of a structure or land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.

101 Nonconforming Lots of Record.

- A. In Any Residential District.
 - 1. Notwithstanding the regulations imposed by any other provision of these regulations, a single-family detached dwelling or any type of manufactured or mobile home which complies with the restrictions in Section 8-101A2 may be located on a lot(s) in the same ownership that is not less than 50 feet in width and that consists entirely of a tract of land that:
 - a. Has less than the prescribed minimum lot area, width or depth, or all three; and
 - b. Is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations.
 - 2. Construction permitted by Section 8-101A1 shall comply with all of the regulations except lot area, width and depth applicable to single-family dwellings or any type of manufactured or mobile home in the zoning district in which the lot in question is located; provided, however, that the following side yard requirements shall apply in place of the side yard requirements otherwise applicable:
 - a. The structure shall be placed on the lot so as to provide a yard on each side of the dwelling.

- b. The sum of the widths of the two side yards on each lot shall be not less than the smaller of:
 - (1) 20% of the width of the lot, or
 - (2) The minimum total for both side yards prescribed by the bulk regulations for the zoning district.
- c. In any case, neither side yard resulting from the methods permitted in Section B-101A2b shall be less than five feet wide.
- d. When a yard is also considered to be a front yard on a corner lot, one of the front yards comprising part of the lot width may be reduced to 15 feet.

B. In Districts Other than Residential Districts.

- 1. Notwithstanding the regulations imposed by any other provision of these regulations, a structure designed for any permitted use may be erected on a lot of the type described in Section 8-101A1.
- 2. Construction permitted by Section 8-101B1 shall comply with all of the regulations except minimum lot area, width and depth applicable in the zoning district in which the lot in question is located; provided, that the width of any side yard must not be less than that derived by applying the following formula (wherein the width of any side yard required = w):

Minimum side yard required:

$$W = \frac{\text{Actual lot width} \times \text{minimum side yard required by district regulations}}{\text{Minimum lot width required by district regulations}}$$

102 Nonconforming Structures.

- A. Authority to Continue. Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions in Section 8-102B through 8-102D.
- B. Enlargement, Repair or Alterations. Any such structure described in Section 8-102A may be enlarged, maintained, repaired or structurally altered; provided, however, that no such enlargement, maintenance, repair or alteration shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be determined by Section 8-101A2 or 8-101B2, whichever is applicable.
- C. Damage. In the event that any structure described in Section 8-102A is damaged, by any means except flooding, to the extent of more than 50% of its fair market value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided, that structures located on a lot that does not comply with the applicable lot size requirements shall not in any event be required to provide a side yard that exceeds the yard requirements in Sections 8-101A2 or B-2,

whichever is applicable. When a structure is damaged to the extent of 50% or less of its fair market value, no repairs or restoration shall be made unless a zoning permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion. If the applicant is aggrieved by the decision of the Zoning Administrator in approving the percent of damage to the value of the structure based on data submitted by the applicant, an appeal may be made to the Board of Zoning Appeals for a determination. (See Section 8-105.)

- D. Moving. No structure described in Section 8-102A shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved. (See Section 3-103M for Moving Structures.)

103 Nonconforming Uses.

- A. Authority to Continue. Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use of land, may be continued, so long as otherwise lawful, subject to the regulations contained in Sections 8-103B through 8-103J.
- B. Ordinary Repair and Maintenance.
1. Normal maintenance and incidental repair or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a non-conforming use; provided, however, that this subsection shall not be deemed to authorize any violation of Sections 8-103C through I of these regulations.
 2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition provided that such restoration will not be in violation of Section 8-103F of these regulations.
- C. Structural Alteration. No structure that is devoted in whole or in part to a nonconforming use shall be structurally altered unless the entire structure and use thereof shall thereafter conform to all regulations of the zoning district in which it is located.
- D. Extension.
1. Extension of a nonconforming use is permitted within a nonconforming structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of these regulations or on the effective date of the original City Zoning Regulations or a subsequent amendment heretofore that caused such use to become nonconforming; provided, however, that no structural alterations shall be made unless such changes, and the use thereof, conform to the regulations of the district in which the structure is located.
 2. Extension of a nonconforming use of a part of a structure is not permitted if all or substantially all of the structure is designed or intended for a use which is

permitted in the district in which the structure is located, nor shall the use be changed to any other nonconforming use.

3. Extension of a nonconforming use is not permitted to any structure or land area other than the one actually occupied or used by such nonconforming use on the effective date of these regulations or on the effective date of the original City Zoning Regulations or a subsequent amendment heretofore that caused such use to become nonconforming.
- E. Enlargement. No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.
- F. Damage. In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged, by any means except flooding, to the extent of more than 50% of its fair market value, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage is 50% or less of the fair market value, no repairs or restoration shall be made unless a zoning permit is obtained, and restoration is actually begun within one year after the date of such partial damage and is diligently pursued to completion. If the applicant is aggrieved by the decision of the Zoning Administrator in approving the percent of damage to the value of the structure based on data submitted by the applicant, an appeal may be made to the Board of Zoning Appeals for a determination. (See Section 8-105.)
- G. Moving. No structure that is devoted in whole or in part to a nonconforming use shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. No nonconforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless such use shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. (See Section 3-103M for Moving Structures.)
- H. Change in Use. If no structural alterations are made other than those necessary to repair or maintain the structure as described in Section 8-103B1, a nonconforming use of a structure may be changed to another nonconforming use of the same or of a similar type of use or more restrictive use. Similarly, a nonconforming use of land not involving a structure or involving only an accessory structure may also be changed. When a nonconforming use has been changed to a more restrictive use or to any permitted use, it shall not thereafter be changed back to a less restrictive use or to a nonconforming use. In determining whether a change in use is the same, similar or more restrictive, the Zoning Administrator shall consider the changes in environmental factors such as outdoor storage, loading, traffic, parking, noise, lighting, air pollution, hours of operation, screening and other factors, as well as the provisions available in Section 8-105.
- I. Discontinuance or Abandonment.
1. When a nonconforming use of land, not involving a structure, or involving only a structure which is accessory to the nonconforming use of land, is discontinued or abandoned for a period of six consecutive months regardless of any reservation of an intent not to abandon or to resume such use, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

2. When a nonconforming use of a part or all of a structure which was designed and intended for any use which is permitted in the zoning district in which such structure is located is discontinued or abandoned for a period of 12 consecutive months regardless of any reservation of an intent not to abandon or to resume such use, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such structure shall comply with the regulations of the zoning district in which such structure is located.
 3. When a nonconforming use of a part or all of a structure which was not designed and intended for any use which is permitted in the zoning district in which such structure is located, is discontinued or abandoned for a period of 12 consecutive months regardless of any reservation of an intent not to abandon or to resume such use, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such structure shall comply with the regulations of the zoning district in which such structure is located.
- J. Nonconforming Accessory Uses. No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

104 Nonconforming Residential Structures.

Notwithstanding the provisions of Sections 8-103C, D and E, any structure which is devoted to a residential use and which is located in a business or industrial district, may be structurally altered, extended, expanded and enlarged; provided, that after any such alteration, extension, expansion or enlargement, such structure shall not be used to accommodate a greater number of dwelling or lodging units than such structure accommodated prior to any such work unless specifically permitted by the district.

105 Nonconforming Nonresidential Structures and Uses.

Notwithstanding any other provisions of these regulations and, in particular, Sections 8-102 B and C and 8-103C, D, E and F, nonconforming nonresidential structures and uses that existed on the day prior to the effective date of these regulations, may apply on a one time basis only to the Board of Zoning Appeals for a conditional use to structurally alter, enlarge or reconstruct after damage, or make extensions to structures or uses including the use of additional land when properly zoned for the use, so long as in the opinion of the Board under stated conditions that the effect upon adjacent areas is protected to the extent feasible and the public interest served. (See Section 10-107C6 for Authorized Variances.)

106 Status of Existing Special and Conditional Uses.

- A. The following procedures are to be followed to determine the status of existing special and conditional uses after their reclassification as lawful, permitted, special or conditional uses in these regulations to avoid nonconformities and to provide equitable conversions of such uses:
 1. Where a use existed prior to the effective date of these regulations and was previously permitted only as a special use or as a conditional use, i.e., an exception approved by the Board of Zoning Appeals, such uses shall not be deemed to be nonconforming, but shall, without further action, be deemed to be a lawful special or conditional use as now classified with the same conditions applicable as originally established, unless reclassified now as a permitted use.

2. Where a use existed prior to the effective date of these regulations and any prior regulations and was or is now classified as a special use or as a conditional use, it shall be considered to be a lawful, conforming special or conditional use. Enlargement, extension or alterations to existing structures or land improvements for expansion of such lawful uses may be made within the area of the zoning lot which was actually used or occupied for such use on the effective date of these regulations and shall be subject to all requirements set forth in these regulations as a permitted use.

107 Discontinuance of Nonconforming Uses.

The nonconforming use of a building or premises or both for the purpose of (1) dismantling or wrecking automobiles or other vehicles of any kind or (2) storing junk, scrap iron and scrap material including dismantled and wrecked automobiles or other vehicles and which are located in other than an industrially zoned district, shall be discontinued and the buildings and/or premises thereafter devoted to a use permitted in the district in which such buildings or premises are located within two years from the effective date of this amendment to these regulations which is September 9, 1999. (See K.S.A. 12-721.)

ARTICLE 9. ADMINISTRATION AND ENFORCEMENT

100 Office of the Zoning Administrator.

A Zoning Administrator shall be appointed by the Mayor with the consent of the City Council. The Zoning Administrator and clerical assistance as shall be approved from time to time shall administer and enforce these regulations, except for those duties specifically assigned to the Clerk.

- A. Duties of the Zoning Administrator. (See Section 9-102 for Enforcement and Liability.)
1. Approve and issue all zoning permits and occupancy certificates and make and maintain records thereof.
 2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of these regulations.
 3. Maintain a set of administrative forms to assist applicants and to process the cases considered by the Planning Commission, Board of Zoning Appeals and Governing Body.
 4. Receive, file and forward to the Planning Commission the applications and records for all amendments and special uses which are initially filed with the Zoning Administrator.
 5. Receive, file and forward to the Board of Zoning Appeals the applications and records for all variances and conditional uses which are initially filed with the Zoning Administrator and forward all records of appeals to such Board upon request of the Secretary.
 6. Maintain permanent and current public records of the zoning regulations including but not limited to all official zoning maps, amendments, special uses, appeals, variances, conditional uses and applications thereof and records of hearing thereon.
 7. Provide such technical and clerical assistance as may be required by the Planning Commission, the Board of Zoning Appeals, the Governing Body and other agencies and officials in the exercise of their duties relating to these regulations.
 8. Maintain for distribution to the public a supply of the current zoning regulations, zoning map(s) and any rules of the Planning Commission and the Board of Zoning Appeals. A fee may be charged to defray the cost of printing and distribution.
 9. Maintain the official copy of the zoning map(s) showing the district boundaries. Such map(s) shall be marked "Official copy of zoning district map(s) incorporated into zoning regulations by adoption of Ordinance No. 1182 by the Governing Body of the City of Andover on the 10th day of September 2002" and shall be open to inspection and available to the public at all reasonable business hours. Each map shall be signed by the Mayor and attested to by the Clerk. Periodic changes to the map(s) shall be noted by a revision date.

- B. Duties of the Clerk. The Clerk shall maintain certain official records and carry out certain responsibilities in the administration of these regulations as follows:
1. That not less than three copies of these model regulations shall be marked by the Clerk as "Official Copy as Incorporated by Ordinance No. 1182", (i.e., the ordinance approved by the Governing Body) and all sections or portions thereof intended to be omitted clearly marked to show any such omissions or showing the sections, articles, chapters, parts or portions that are incorporated and to which shall be appended a copy of the incorporating ordinance. Such copies maintained by the Clerk shall be open to inspection and available to the public at all reasonable business hours.
 2. That the Clerk supply at cost to the City official copies of these regulations similarly marked as described in Section 9-100BI to the applicable police department, court, Zoning Administrator and all administrative departments of the City charged with the enforcement of these regulations. Subsequent amendments to these regulations shall be appended to such copies.
 3. That such clerical assistance be provided by the Clerk to the Governing Body as to facilitate and record the actions of the Governing Body in the exercise of their duties relating to these regulations.

101 Zoning Permits and Occupancy Certificates.*

A. Zoning Permits.

1. Unless a zoning permit shall first have been obtained from the Zoning Administrator, the construction, reconstruction, moving or structural alteration of any building or structure or the improvement of land prior to its use shall not be commenced. For permits required on accessory uses, temporary uses, home occupations, plans for parking spaces and loading areas and signs, see Articles 5, 6 and 7. Such permits shall not be issued by any other official, employee, department, board or agency of the City. **Any zoning permit issued in conflict with the provisions of these regulations shall be null and void.**
2. Except for a continuation of an existing use or occupancy, accessory structures or uses, or additions to existing structures or uses, permits must also meet the requirements of the City Subdivision Regulations and, thus, shall not be issued on land which is not shown on a recorded plat or replat, or a lot split or exempted from the platting requirements. If platting is not required, all of the public improvements necessary to carry out the requested permit nevertheless may be required, including dedications in lieu of platting such as for easements and additional rights-of-way.
3. No principal or accessory building or structure or use shall be permitted to locate on or project over any platted or recorded public easement or over any known utility installation, unless (1) as a sign permitted by Section 7-102K or (2) as an accessory structure or use which is moveable, relocatable or poses no significant problem to the maintenance of existing public improvement installations or to such future installations. Ground level extensions such as concrete slabs or other permanent-type materials are not permitted in or on a public easement except as extensions of parking spaces, driveways or sidewalks for which a zoning permit has been or is being issued. In any event, when such

structures or uses are permitted to be located on or project over such easements, the property owner assumes the risk and liability for any reconstruction or replacement necessary including fences if any maintenance or other improvements are required by the City or a utility company.

4. A zoning permit is not initially required for grading and/or excavating a proposed construction site, unless the site is located in the Flood Plain District and would result in an increase in flood levels. (See Section 4-117 FP Flood Plain District.)
5. Application. Every application for a zoning permit shall be accompanied by the following:
 - a. A drawing or copy of the recorded plat, in duplicate, of the piece or parcel of land, lot(s), block(s), parts or portions thereof, drawn to scale showing the actual dimensions of the zoning lot(s), including any easements thereon.
 - b. A drawing, in duplicate, drawn to scale and in such form as may, from time to time, be prescribed by the Zoning Administrator, showing the location, ground area, height and bulk of (1) all present and proposed structures, (2) drives, parking spaces and loading areas, (3) building setback lines in relation to lot lines, (4) waste disposal areas, (5) use to be made of such present and proposed structures on the land, and (6) such other information as may be required for the proper enforcement of these regulations.
 - c. A site or screening plan approved by the Planning Commission under Section 3-105, respectively, unless otherwise exempted.

One copy of such drawings shall be retained by the Zoning Administrator as a public record.

6. Issuance. A zoning permit shall be either issued or disapproved by the Zoning Administrator within 10 days after the receipt of an application thereof or within such further period as may be agreed to by the applicant. When the Zoning Administrator refuses to issue a zoning permit, he shall advise the applicant in writing of the reasons for the disapproval.
 7. Period of validity. A zoning permit shall become null and void 180 days after the date on which it is issued, unless within said period construction, reconstruction, moving or structural alteration of a structure is commenced or a use is commenced. If the construction or work is abandoned or suspended for any 180-day period after such a permit is issued, then application must be made to the Zoning Administrator for an extension of time to continue the project. The Zoning Administrator may grant reasonable extensions of time provided no changes have been made in any applicable regulations. If such changes have occurred, application must be made for a new permit based on the provisions of the new or amended regulations in order to continue the project, unless Section 2-101G applies pertaining to vesting of single-family residential developments. (See Section 2-101F for Effect of Existing Permits.)
- * The City may issue zoning permits and occupancy certificates concurrently with the process of issuing building and occupancy permits under City building codes.

- B. Occupancy Certificates. No structure or addition thereto constructed, reconstructed, moved or altered after the effective date of these regulations shall be occupied or used for any purpose; and no land vacant on the effective date of these regulations shall be used for any purpose; and no use of any land or structure shall be changed to any other use, unless an occupancy certificate shall first have been obtained from the Zoning Administrator certifying that the proposed use or occupancy complies with all the provisions of these regulations.
1. Application. Every application for a zoning permit shall be deemed to be an application for an occupancy certificate. Every application for an occupancy certificate for a new or changed use of land or structures where no zoning permit is required shall be filed with the Zoning Administrator and be in such form and contain such information as the Administrator shall provide by general rule.
 2. Issuance.
 - a. No occupancy certificate for a structure or addition thereto constructed, reconstructed, moved or structurally altered or for the new or changed use of any structure or land shall be issued after the effective date of these regulations until such work has been completed and the premises inspected and certified by the Zoning Administrator to be in full and complete compliance with the plans and specifications upon which the zoning permit was issued including the requirements for utilities, streets and other public improvements in the City Subdivision Regulations which must either be installed or guaranteed. Direct access must be available from the frontage of each zoning lot to an opened public street or otherwise the improvement of the street must be guaranteed by such methods as stated in the Subdivision Regulations
 - b. An occupancy certificate shall be issued or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued within 10 days after the receipt of an application therefore or after the Zoning Administrator is notified in writing that the structures or premises are ready for occupancy or use. Pending the issuance of a permanent occupancy certificate, a temporary occupancy certificate may be issued to be valid for a period not to exceed six months from its date pending the completion of any addition or improvement(s) or during partial occupancy of the premises; provided, satisfactory guarantees are submitted including the possible use of performance bonds or escrow accounts.

102 Enforcement and Liability.

- A. It shall be the duty of the Zoning Administrator or any deputies working under his direction to enforce the provisions of these regulations in consultation with the City Attorney in the following manner:
1. To refuse to issue any zoning permit or occupancy certificate for any building or structure or use of any premises which would violate any of the provisions herein.
 2. To revoke a zoning permit and issue a stop order at any time for a building or structure or use for which the same was issued when it shall appear (1) that there

is a departure from the plans, specifications or conditions as required under terms of the permit; (2) that the same was procured by false representation; (3) that it was issued by mistake, or (4) that it violates any provisions of the zoning regulations.

3. To cause any building, structure, place or premises to be inspected and examined as required by these regulations and to order in writing the remedying of any condition found to exist therein or threat in violation of any provisions herein.
 4. To institute any appropriate action or proceedings to prevent such unlawful action or use or to restrain, correct or abate such violation on or about the premises of any building or structure which is constructed, built, moved, structurally altered or reconstructed or land is used in violation of any provisions herein.
- B. The Zoning Administrator or designee charged with the enforcement of these regulations, acting in good faith and without malice in the discharge of the duties described herein, shall not be personally liable for any damage that may accrue to persons or property as a result of any act or by reason of an act or omission in the discharge of such duties. A suit brought against the Administrator because of an act or omission performed by the Administrator in the enforcement of any provision of these regulations or other pertinent laws or ordinances implemented through the enforcement of these regulations shall be defended by the City until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by the City. (See K.S.A. 75-6101, et seq. in general and K.S.A. 75-6109 specifically.)

103 Violations.

- A. Penalties. Pursuant to K.S.A. 12-761, as amended, any violations of these regulations shall be deemed to be a misdemeanor. The owner or agent of a building, structure or premises in or upon which a violation of any provision of these regulations has been committed or shall exist or the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist; or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building, structure or premises in or upon which a violation has been committed or shall exist, shall be punished by a fine not to exceed \$500 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.
- B. Remedies. In case any building or structure is erected, constructed, reconstructed, structurally altered, converted or maintained; or any building, structure or land is used or is proposed to be used in violation of these regulations, the appropriate authorities of the City of Andover in addition to using other remedies, may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or to correct or abate such violation, or to prevent the occupancy of such building, structure or land. In addition to the City, any person, the value or use of whose property is or may be affected by such violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these regulations and to abate nuisances in violation thereof.
- C. Flood Plain Violations. Any person, company, corporation, institution, municipality or agency of the state that violates any provision of the flood plain provisions of these regulations shall be subject to the penalties and remedies as provided in Sections 9-103A

and B above. Such remedies may also be instituted by the Attorney General and the Chief Engineer of the Division of Water Resources of the Kansas State Board of Agriculture.

104 Fees.

For purposes of wholly or partially defraying the costs of the administrative and enforcement provisions described in these regulations, including publication costs, the applicant upon filing an application for an amendment, special use, appeal, conditional use, variance or a zoning permit including occupancy certificate, shall pay the Clerk a fee according to the fee schedule approved by the Governing Body. No part of such fee shall thereafter be refunded.

105 Reports.

The Zoning Administrator shall periodically report verbally or in writing to the Governing Body and the Planning Commission a summary of all zoning permits issued during the preceding period, giving details of any permitted variations, as well as the current status of all applications in process for amendments, special uses, appeals, conditional uses and variances. Such a report shall include comments on any problems encountered in the administration or enforcement of these regulations, which may especially be of use at the annual review established by Section 11-105.

ARTICLE 10. BOARD OF ZONING APPEALS

100 Authorization.

The Planning Commission as previously established by the Governing Body has been designated to also serve as the Board of Zoning Appeals as prescribed by K.S.A. 12-759, as amended, and hereinafter in this Article will be referred to as the "Board."

101 General Procedures.

All members of the Planning Commission are voting members of the Board whether they reside inside or outside the City limits and shall serve without compensation, but may be reimbursed for expenses when authorized by the Governing Body. All officers of the Planning Commission are officers of the Board including the Secretary. Public records shall be kept of all official actions of the Board, which shall be maintained, separately from the Planning Commission by the Secretary. The Board shall keep minutes of its proceedings showing evidence presented at hearings, findings of fact, decisions and the vote of each member upon each question. If absent, abstaining or disqualified from voting, such fact shall be indicated. Special meetings shall be held at the call of the Chairperson and at such other times as the Board may determine in its bylaws. Board meetings may be held separately from a Planning Commission meeting or in conjunction with such a meeting wherein the Planning Commission may recess a portion of its meeting to conduct business of the Board and to reconvene to continue the Planning Commission agenda. When a quorum is declared present, all actions of the Board including appeals, variances and conditional uses as exceptions shall be made by motion and decided by a majority vote of the members present and voting.

The Board shall establish a scale of reasonable fees to be paid in advance by the appealing party subject to subsequent approval of such fees by the Governing Body in the form of a fee schedule. The Board shall adopt rules for its operation in the form of bylaws which shall include hearing procedures and will not be in conflict with the ordinance designating the Planning Commission as the Board, the applicable State statutes and the provisions of these regulations. Such bylaws shall be subject to the approval of the Governing Body.

102 Jurisdiction.

The Board shall have the following jurisdiction and authority as a quasi-judicial body:

- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination (all hereinafter referred to collectively as "decision") made by the Zoning Administrator in the administration and enforcement of these regulations subject to the procedure and standards set out in Section 10-106.
- B. To hear and decide on variances from specific terms of these regulations subject to the procedure and standards set out in Section 10-107.
- C. To hear and decide on conditional uses as exceptions subject to the procedure and standards set out in Section 10-108.

103 Notice of Hearing,

For the hearing on each appeal for a decision, variance or conditional use; public notice of the date, time and place of the hearing, the legal description or a general description sufficient to identify the property under consideration, and a brief description of the subject of such hearing shall be published once in the official newspaper so that at least 20 days shall elapse between the date of such publication and the date for the hearing. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available when only a general description of the property is provided in the notice. A copy of such notice shall be mailed to each party making the appeal and to the Secretary of the Planning Commission.

For land inside the city limits, the Board shall also provide notice to all owners of record of lands located within 200 feet of the exterior boundary of the property under consideration both within the city limits and extending outside the city limits when necessary. If the applicant's property is located adjacent to but within the city limits, the area of notification in addition to the 200 feet inside the City, shall be extended to 1,000 feet in the unincorporated area. Such notice shall be mailed so that at least 20 days shall elapse between the mailing date and the hearing date. A list of such owners of record of land with their addresses and zip codes shall be provided by the applicant. Failure to receive such notice after it has been properly addressed and deposited in the mail shall not invalidate any subsequent action taken by the Board. If there is no quorum present for the meeting or at the time of the hearing, the members in attendance may agree to hold another meeting in the future at a stated date, time and place for which, when announced at the present meeting, no further public notice need be given.

104 Conduct of Hearing.

The Board shall select a reasonable time and place for the hearing on each appeal of a decision, variance or conditional use as an exception. All hearings shall be open to the public; however, when hearing such appeals the Board exercises quasi-judicial functions and, thus, may upon proper motion proceed to deliberate in closed session according to K.S.A. 75-4318(a). No binding action may be taken and all voting must be conducted in an open meeting. Any person may appear and testify at a hearing, either in person or by a duly authorized agent or attorney. Every decision of the Board shall be filed without unreasonable delay with the Zoning Administrator and shall be open to public inspection during reasonable business hours.

105 Finality and Judicial Review of Decisions.

Any order or determination of the Board on an appeal for a decision, a variance or a conditional use as an exception, shall be final decisions and shall be subject to judicial review, but not appealable to the Planning Commission or the Governing Body. Any person, official or governmental agency, jointly or separately dissatisfied by any decision of the Board, may present to the County District Court, a petition, duly verified, stating that such decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom based on a determination of the reasonableness of any such order or determination. Such petition shall be filed with the Court within 30 days after the date of filing the final decision with the Zoning Administrator.

106 Appeals.

An appeal from a decision of the Zoning Administrator with respect to the interpretation, application or enforcement of these regulations may be taken to the Board by any person aggrieved, or by any officer of the City, or any governmental agency or body affected by any decision of the Zoning Administrator.

- A. Time for Appeals. Appeals shall be made within 30 days after a decision has been made by the Zoning Administrator by filing an application for appeal. Upon the Chairperson's receipt of an application for appeal and notification to the Zoning Administrator, the Administrator shall forthwith transmit to the Chairperson all of the papers constituting the record upon which the decision being appealed was based.
- B. Application. An application for an appeal shall (1) be filed with the Chairperson, (2) specify the grounds for such an appeal, (3) include the legal description of any property involved with the appeal, (4) be accompanied by an ownership list as required by Section 10-103 and the filing fee, and (5) provide such additional information as may be prescribed by rule of the Board.
- C. Stay of Proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after the application for appeal has been filed, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on petition with notice to the Zoning Administrator and on the basis of due cause shown.
- D. Hearing and Notice. A hearing on the application for such an appeal shall be held and notice thereof given as specified under Sections 10-103 and 104 and which are consistent with the general procedures and records required by Section 10-101.
- E. Decision. The Board may affirm or reverse, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator, and may issue or direct the issuance of a zoning permit and/or occupancy certificate. No conditions may be attached to such a decision that could not otherwise have been available to the Zoning Administrator in making his initial decision. The Board shall render a written decision in the form of a resolution on the appeal without unreasonable delay after the close of a hearing and, in all cases, within 45 days after the close of the hearing.

107 Variances.

The Board may authorize such variances from the terms of these regulations as will not be contrary to the public interest and provided that the spirit of the regulations shall be observed, public safety and welfare secured and substantial justice done. Variances may be authorized only in those specific instances enumerated in Section 10-107C and then only when the Board has made findings of fact based upon the standards set out in Section 10-107D that owing to special conditions a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship for the owner, lessee or occupant of land or structures. **Any such variance shall not permit any use not permitted by these regulations in the zoning district in which the variance is requested.**

- A. Application. An application for a variance shall (1) be filed with the Zoning Administrator, (2) provide the legal description of the property involved with the variance, (3) be accompanied by an ownership list as required by Section 10-103 and the filing fee, and (4) contain the following information as well as such additional information as may be prescribed by rule of the Board:
1. The particular requirements of these regulations which prevent the proposed use or construction;
 2. The characteristics of the subject property which prevent compliance with the requirements of these regulations;
 3. The reduction of the minimum requirements of these regulations which would be necessary to permit the proposed use or construction; and
 4. The particular hardship which would result if the particular requirements of these regulations were applied to the subject property.
- B. Hearing and Notice. A hearing on the application for such a variance shall be held and notice thereof given as specified under Sections 10-103 and 104 and which are consistent with the general procedures and records required by Section 10-101.
- C. Authorized. Variances from the provisions of these regulations shall be granted by the Board only in accordance with the standards set out in Section 10-107D, and may be granted only in the following instances and in no others:
1. To vary the applicable minimum lot area, lot width and lot depth requirements, subject to the following limitations:
 - a. The minimum lot width and lot depth requirements shall not be reduced more than 25%.
 - b. The minimum lot area for a single or two-family dwelling shall not be reduced more than 20%.
 - c. The minimum lot area per dwelling unit requirements for multiple-family dwellings shall not be reduced more than 10%.
 2. To vary the applicable bulk regulations, including maximum height and lot coverage and minimum yard requirements.
 3. To vary the dimensional provisions for permitted obstructions in required yards including fences in Sections 3-103F.
 4. To vary the applicable number of required off-street parking spaces and the amount of off-street loading requirements of Article 5.
 5. To vary the applicable dimensional sign provisions of Section 7-102 regarding general standards and Section 7-104 regarding district regulations.
 6. To vary the applicable requirements in Sections 10-107C1 through 5 above in conjunction with conditional use applications for nonconforming, nonresidential structures and uses under provisions of Section 8-105.
 7. To vary the applicable provisions permitted by the FP Flood Plain District as provided by Section 4-117.

D. Standards:

1. The Board may grant a variance upon specific written findings of fact based upon the particular evidence presented to it at the hearing that **all the conditions** required by K.S.A. 12-759(e) have been met which are listed below:
 - a. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant;
 - b. That granting of the variance will not adversely affect the rights of adjacent property owners or residents;
 - c. That strict application of the provisions of these regulations from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
 - d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
 - e. That granting the variance desired will not be opposed to the general spirit and intent of these regulations.
2. In determining whether the evidence supports the conclusions required by Section 10-107D1, the Board shall consider the extent to which the evidence demonstrates that:
 - a. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a practical difficulty or unnecessary hardship upon or for the owner, lessee or occupant, as distinguished from a mere inconvenience, if the provisions of these regulations were literally enforced;
 - b. The request for a variance is not based exclusively upon a desire of the owner, lessee, occupant or applicant to make more money out of the property;
 - c. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located; and
 - d. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion on public streets or roads, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood.

- E. Conditions and Restrictions. In granting a variance, the Board may impose such conditions upon the premises benefited by the variance as may be necessary to comply with the standards set out in Section 10-107D which would reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood and to carry out the general purpose and intent of these regulations, including methods for guaranteeing performance such as are provided for in Section 10-108D. Failure to comply with any of the conditions attached to a zoning permit for a variance shall constitute a violation of these regulations.

- F. Decisions and Records. The Board shall render a written decision containing specific findings of fact in the form of a resolution on an application for a variance without unreasonable delay after the close of a hearing, but in all cases within 45 days after the close of the hearing. The Zoning Administrator shall maintain complete records of all actions of the Board with respect to applications for variances, in order to properly issue permits.
- G. Period of Validity. No variance granted by the Board shall be valid for a period longer than 180 days from the date on which the Board grants the variance, unless within such 180-day period a zoning permit is obtained and the variance requested is started. The Board may grant additional extensions not exceeding 180 days each, upon written application, without further notice or hearing.

108 Conditional Uses.

The Board may grant as an exception to the provisions of these regulations, the establishment of only those conditional uses that are expressly authorized to be permitted in a particular zoning district or in one or more zoning districts. No such conditional use shall be granted unless it complies with all of the applicable provisions of these regulations.

- A. Application. An application for a conditional use shall (1) be filed with the Zoning Administrator, (2) provide the legal description of the property involved with the conditional use, (3) be accompanied by an ownership list as required by Section 10-103 and the filing fee, and (4) contain the following information as well as such additional information as may be prescribed by rule of the Board:
 - 1. A statement or diagram showing compliance with any special conditions or requirements imposed upon the particular conditional use by the applicable district regulations or Section 10-108D if applicable;
 - 2. A statement as to why the proposed conditional use will not cause substantial injury to the value of other property in the neighborhood;
 - 3. A statement as to how the proposed conditional use is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable district regulations; and
 - 4. Present data in support of the standards specified in Section 10-108C.
- B. Hearing and Notice. A hearing on the application for such a conditional use as an exception shall be held and notice thereof given as specified under Sections 10-103 and 104 and which are consistent with the general procedures and records required by Section 10-101.
- C. Standards. The Board may grant a conditional use when it makes specific written findings of fact based upon the particular evidence presented to it at the hearing which support conclusions that:
 - 1. The proposed conditional use complies with all applicable regulations, including lot size requirements, bulk regulations, use limitations and performance standards; unless a concurrent application is in process for a variance.
 - 2. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood.

3. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 - a. The location, nature and height of building structures, walls and fences on the site; and
 - b. The nature and extent of landscaping and screening on the site.
 4. Off-street parking and loading areas will be provided in accordance with the standards set forth in Article 5 of these regulations. Such areas will be screened from adjoining residential uses and located so as to protect such residential uses from injurious effects.
 5. Adequate utility, drainage and other such necessary facilities have been installed or will be provided by platting, dedications and/or guarantees.
 6. Adequate access roads, entrance and exit drives and/or access control is available or will be provided by platting, dedications and/or guarantees and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and roads.
- D. Conditions. In granting a conditional use, the Board may attach such conditions upon the premises and/or the applicant benefited by the conditional use as may be necessary to comply with the standards set out in Section 10-108C in order to reduce or minimize any potentially injurious affect upon other property in the neighborhood and to carry out the general purpose and intent of these regulations. Such conditions may include, but not be limited to, further restrictions on bulk regulations; time of operation and ownership limitations; screening, landscaping and fencing; provision of utilities, drainage and other public improvements; additional access or access control; off-street parking and loading requirements; and platting, dedications and/or guarantees. In addition to the guarantees referred to below for parking and/or screening, covenants, which run with the land or the property to guarantee, that conditions will be carried out at a future date may be filed with the County Register of Deeds. After a zoning permit and/or occupancy certificate is issued for the conditional use, failure to comply with any of the conditions placed on such use shall constitute a violation of these regulations.

In lieu of actual construction of required off-street parking or the initial provisions for screening, the Board may accept, in the name of the City, a corporate surety bond, cashier's check, escrow account or other like security in an amount to be fixed by the Board and conditioned upon actual completion of such improvement within a specified time. Such securities shall be filed with the Clerk. The Governing Body may enforce such securities by all equitable means.

- E. Decisions and Records: The Board shall render a written decision containing specific findings of fact in the form of a resolution on an application for a conditional use without unreasonable delay after the close of a hearing, but in all cases within 45 days after the close of the hearing. The Zoning Administrator shall maintain complete records of all actions of the Board with respect to applications for conditional uses in order to properly issue permits.

F. Period of Validity. No conditional use granted by the Board shall be valid for a period longer than 180 days from the date on which the Board grants the conditional use, unless within such period:

1. A zoning permit is obtained and the conditional use requested is started; or
2. An occupancy certificate is obtained and a use commenced.

The Board may grant additional extensions not exceeding 180 days each, upon written application, without further notice of a hearing.

G. Oil Well Drilling and Operation. Notwithstanding any other provisions of these regulations to the contrary, the drilling or operation of oil wells may be allowed as a conditional use in all zoning districts; provided, however, that in all zoning districts, except in an industrial district when the well is more than 500 feet from any school, residential district boundary or dwelling, a conditional use permit shall first be obtained as provided for in Section 10-108. The Board shall not grant a conditional use permit for such drilling or operation unless it shall make the specific findings of fact required under Section 10-108C. In addition, all oil well drilling or operations, except in the industrial district, shall be subject to the following conditions and restrictions:

1. All storage of oil and waste products and all pumping equipment shall be fully enclosed. Such enclosure shall be compatible in construction and design with the surrounding area. In all residential districts, such enclosures shall be fully roofed. In other districts, the Board may require roofing in order to minimize the adverse effect of such operation on adjoining properties.
2. All hauling of oil, water, and other materials, except in the case of an emergency, shall be during daylight hours.

ARTICLE 11. AMENDMENTS

100 General Provisions for Amendments.

These regulations and the districts created under the authority of these regulations may be amended from time to time by the Planning Commission following a public hearing and the approval by the Governing Body. No such amendment shall be adopted except in accordance with the procedures of this Article 11. Special use applications are not amendments, but are processed in the same manner. (See Section 11-101 for special uses.)

- A. Proposal. Amendments or special uses may be proposed: (1) by the Governing Body, (2) by the Planning Commission or (3) upon application by, or on behalf of the owner of the property affected, but only in accordance with the procedure set forth in Section 11-100B. When the Governing Body proposes an amendment, it shall transmit its proposal to the Planning Commission for a public hearing and recommendation thereon.
- B. Application. When the owner of the property affected proposes an amendment to any of these regulations or to any zoning district created thereby, an application shall (1) be filed with the Zoning Administrator who refers it to the Planning Commission for a hearing, (2) be in such form and contain such information as shall be prescribed from time to time by the Commission, and (3) in all instances contain the following information:
1. The applicant's name, address and telephone number.
 2. The precise wording of any proposed amendment to the text of these regulations or the exact description of the special use requested.
 3. In the event that the proposed amendment would change the zoning district classification of any specific property:
 - a. The name, address and telephone number of the owner of the property and, if any, the agent representing the owner;
 - b. The legal description of the property and a general description such as a street address sufficient to identify the property;
 - c. The present and proposed zoning district classifications and existing uses of the property and structures thereon;
 - d. The dimensions of the property and the zoning lot area stated in square feet or acres or fractions thereof; and
 - e. For land inside the city limits, an ownership list of the names, addresses and zip codes of the owners of record of land located within 200 feet of the exterior boundary of the area described in the application both within the city limits and extending outside the city limits when necessary. If such area is located adjacent to the city limits, the ownership list, in addition to the 200 feet inside the city limits, shall provide similar information extending to 1,000 feet into the unincorporated area. If such area is located outside the city limits, the ownership list shall extend for 1,000 feet in the unincorporated area

and, if the latter extends into the city limits, then landowners for 200 feet inside the city must also be included on the list.

- C. Public Hearing. The Planning Commission shall hold a public hearing on each proposed amendment that is filed with, referred to, or initiated by the Commission. The Commission shall select a reasonable time and place for such public hearing, and it shall hold such hearing within 45 days from the date on which the proposed amendment is received or initiated. An applicant for an amendment may waive the requirement that such hearing be held within 45 days.

- D. Notice of Hearing. Public notice of a hearing by the Planning Commission on a proposed amendment shall be published once in the official newspaper by the Zoning Administrator. At least 20 days shall elapse between the date of such publication and the date set for such hearing. Such notice shall state the date, time and place of the hearing and shall contain a statement regarding the proposed changes in regulations or the zoning classification or zoning district boundaries of any property. If the proposed amendment would change the zoning classification of any specific property or the boundaries of any zoning district, such notice shall contain the legal description or a general description sufficient to identify the property under consideration. If a general description is used, the notice shall include a statement that a complete legal description is available for public inspection and where such description is available.

In addition to such publication notice, the Zoning Administrator shall mail a written notice of the hearing containing information similar to the published notice thereof to the applicant and to the owners of record of all land located within 200 feet of the exterior boundary of the area described in the amendment application both within the city limits and extending outside the city limits when necessary. If such area is located adjacent to the city limits, the area of notification shall, in addition to the 200 feet inside the city limits, be extended to 1,000 feet in the unincorporated area. If such area is located outside the city limits, the area of notification shall extend for 1,000 feet and, if such notification extends into the city limits, then 200 feet inside the city limits must also be included. The notice to adjacent landowners including the applicant shall be mailed so that 20 days shall elapse between the mailing date and the hearing date. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Commission or the Governing Body.

The Commission may give such additional notice to other persons as it may from time to time provide by its rules. Such rules may include requirements for additional notice to be provided for by the posting of signs on the land to be considered in the amendment application.

- E. Conduct of Hearing.
 - 1. All hearings that these regulations require the Planning Commission to conduct for amendments to changes in the text of the regulations or the zoning classifications or in district boundaries shall be open public meetings according to K.S.A. 75-4317 et seq., the Open Meetings Act. When a proposed amendment will affect the zoning classification or district boundary of specific property, however, the Commission acts in a quasi-judicial capacity and, thus, may upon proper motion proceed to deliberate in executive session according to K.S.A. 75-4318(a). No binding action can be taken in such a session and all voting must be conducted in an open meeting.

 - 2. Any interested person or party may appear and be heard at the hearing in person, by agent or by attorney.

3. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Commission may from time to time prescribe by rule or bylaws which are not in conflict with these regulations or applicable State statutes.
 4. The Commission shall keep minutes of the proceedings showing evidence presented at hearings, findings of fact by the Commission, motions made and the vote of each member upon any question or recommendation. If a member is absent, abstains or disqualified, such fact shall be indicated.
 5. The Commission may request a report on any proposed amendment from any governmental official or agency, or any other person, firm or corporation. If such a report is made, a copy thereof shall be made available to the applicant and any other interested person prior to or at the public hearing.
 6. The Commission may make recommendations on proposed amendments to specific properties which affect only a portion of the land described in the hearing notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice. A recommendation for a zoning classification of lesser change than that set forth in the notice shall not be valid, however, without republication and, where necessary, re-mailing of notices, unless the Commission shall have previously established a table or publication available to the public which designates what zoning classifications are lesser changes authorized within the published zoning classifications. (See Appendix for Table of Comparability for Zoning Districts.)
 7. For action on zoning amendments, a quorum of the Commission must be more than one-half of the membership as established by ordinance. A majority of the members of the Commission present and voting at the hearing shall be required to recommend approval or disapproval of the amendment to the Governing Body. If the Commission fails to make a recommendation on a rezoning request, the Commission shall be deemed to have made a recommendation of disapproval.
 8. A hearing may be adjourned from time to time upon a motion to continue in the future at some stated date, time and place. At the conclusion of a hearing, the Commission shall prepare its findings and the factors on which to base its recommendation and vote.
 9. If a meeting is called or a hearing is on the agenda and no quorum is present, the members in attendance may agree to hold the hearing at another meeting in the future at a stated date, time and place or at the next regular meeting for which, when announced at the present scheduled meeting, no further public notice need be given to continue the hearing.
- F. Report by Planning Commission. Within 14 days after the close of a public hearing on a proposed amendment, the Planning Commission shall submit a report to the Governing Body. A copy of this report shall also be filed with the Clerk and the Zoning Administrator and such copies shall be kept available for public inspection. A copy of the report shall also be mailed to the applicant. Such report shall contain a recommendation as to whether the proposed amendment should be approved or disapproved and specific written determinations on the items listed in Sections 11-100G or 11-100H and on such other items as the Commission may consider relevant. The report submitted to the Governing Body shall be accompanied by a summary of the

hearing on the proposed amendment. In lieu of a report, the above information may be contained in the minutes of the meeting and submitted to the Governing Body.

G. Amendments to Text. When a proposed amendment would result in a change in the text of these regulations, but would not result in a change of zoning classification of any specific property, the report of the Planning Commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items:

1. Whether such change is consistent with the intent and purposes of these regulations; and
2. Whether the proposed amendment is made necessary because of changed or changing conditions in the zoning districts affected and, if so, the nature of such changed or changing conditions.

H. Amendments to Change Zoning Districts. When a proposed amendment would result in a change of the zoning district classification of any specific property, the report of the Planning Commission, accompanied by a summary of the hearing, shall contain statements as to (1) the present and proposed district classifications, (2) the applicant's reasons for seeking such reclassification, and (3) a statement of the factors where relevant upon which the recommendation of the Commission is based using the following factors as guidelines: *

1. What are the existing uses of property and their character and condition on the subject property and in the surrounding neighborhood?
2. What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the requested change in zoning classification?
3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration for a change in zoning?
4. Would the requested change in zoning correct an error in the application of these regulations as applied to the subject property?
5. Is the change in zoning requested because of changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?
6. Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property if the change in zoning was approved?
7. Would the subject property need to be platted or re-platted or in lieu of dedications made for rights-of-way, easements, access control or building setback lines if the change in zoning was approved?
8. Would a screening plan be necessary for existing and/or potential uses of the subject property if the change in zoning was approved?

*NOTE: All the factors stated in the decision of Golden v. City of Overland Park, 224 Kan. 591, 584 P. 2d 130 (1978) are included in this list. In using these factors as guidelines for special uses, modifications may be made in the questions especially to substitute the words "special use" for "change in zoning."

9. Is the general amount of suitable vacant land or buildings available or not available for development that currently has the same zoning district classification as is requested for the subject property?
10. In the event that the subject property is requested for business or industrial uses, are such uses needed to provide more services or employment opportunities?
11. Is the subject property suitable for the current zoning to which it has been restricted?
12. If the change in zoning were approved, would the uses, which would be permitted on the subject property, be compatible with the uses permitted on other property in the neighborhood?
13. Would the change in zoning as requested be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?
14. Is the request for the zoning changes in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?
15. What is the nature of the support or opposition of the requested change in zoning?
16. Are there any informational materials or recommendations available from professional persons knowledgeable on this request which would be helpful in its evaluation?
17. Does the relative gain to the public health, safety and general welfare outweigh the loss in value or the hardship imposed upon the applicant by not approving the requested change in zoning?

Of those factors considered as relevant to the requested change in zoning district classification or boundary, not all factors need to be given equal consideration by the Commission in deciding upon its recommendation.

101 Special Uses.

Because of particular factors associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts, but are permitted as "special uses" when their proposed location is supplemented by additional conditions such as to make the use considered compatible with the surrounding property, the neighborhood and the zoning district.

In granting a special use, the minimum requirements of approval for all similar types of permitted uses in the same district must be met, unless otherwise reduced by a specific reference in these regulations. The requirements may be made more stringent if there is potentially injurious effects which may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public. Such additional conditions may include, but are not limited to, requirements affecting the lot size or yard dimensions; changing street width; the extent and location of entrance or exit drives; controlling the size, location and number of signs; the period and time of operation; lot coverage and height of buildings; screening, fencing and/or landscaping to protect the surrounding property; establishing environmental standards for air and water pollution, noise, vibration, lighting and other such conditions; protection from flooding; and additional

improvements such as street construction, sidewalks, utilities and storm drainage, if necessary, including platting and/or dedications. Such conditions may be placed upon the property, which is the subject of the special use application, or upon the applicant or both.

Although the official zoning map is not amended, the procedure for approval of a special use shall otherwise be the same as for an amendment to change a zoning district classification or boundary which is set forth in Section 11-100 of this Article including the provisions for filing protest petitions in Section 11-103; provided, that any additional requirements which are further imposed upon the special use shall be made a part of the effectuating ordinance. Concurrent applications may be processed for changing zoning district classifications as amendments and approving special uses on the same property.

102 Project Review.

In the event that certain public improvements, facilities or utilities of a type embraced within the recommendations of the Comprehensive Plan are classified as special uses or are the subject of a change in zoning district classification or boundary, the consideration of such uses by the Planning Commission in conjunction with a zoning application may also constitute their project review of such proposed use if concurrently processed under procedures required by K.S.A. 12-748, as amended; provided, that a statement of findings is included in the Commission's approval or disapproval as to whether such proposed use is or is not in conformance with the Comprehensive Plan. In case the Commission finds that the proposed use is not in conformance to the Plan and states in writing the manner in which it is not in conformance, then the Governing Body shall not proceed with construction of such a proposed use unless the Governing Body by a majority vote overrides the disapproval of the Commission and the Plan shall be deemed to have been amended and the Commission shall make the necessary changes in the Plan to reflect the vote of the Governing Body.

103 Filing of Protest.

Regardless of whether or not the Planning Commission approves or disapproves a zoning change, if a written protest against a proposed amendment for a specific property or a special use shall be filed in the office of the Clerk within 14 days after the date of the conclusion of the hearing by the Commission which is signed and acknowledged by the owners of record of 20% or more of any real property proposed to be altered or changed, excluding streets or public ways, or by the owners of record of 20% or more of the total area required in the official area of notification by Section 11-100D, excluding streets and public ways, then the effectuating ordinance shall not be passed except by at least a ¾ vote of all the members of the City Council.

104 Adoption of Amendments by the Governing Body.

When the Planning Commission in its report submits a recommendation of approval or disapproval of a proposed amendment or special use including the basis therefore, the City Council may: (1) Adopt such recommendation by an effectuating ordinance; (2) override the Commission's recommendation by a 2/3 majority vote of the membership of the City Council; or (3) return such recommendation to the Commission with a statement specifying the basis for the City Council's failure to approve or disapprove. If the City Council returns the Commission's recommendation, the Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new or amended recommendation. Upon the receipt of such recommendation, the City Council, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by the effectuating ordinance or it

need take no further action thereon. If the Commission fails to deliver its recommendation to the City Council following the Commission's next regular meeting after receipt of the City Council's report, the City Council shall consider such course of inaction on the part of the Commission as a resubmission of the original recommendation and proceed accordingly.

In considering its decision under each of the above set of circumstances, the City Council shall take into account the guidelines in Section 11-100H which are relevant to the proposed amendment or special use and, having reviewed the Commission's findings of fact and the factors upon which their recommendation is based, the City Council either adopts the Commission's findings and factors by reference or records their own findings of fact and the factors upon which their decision is based.

The proposed amendment or special use shall become effective upon publication of the respective adopting ordinance. If such an amendment affects the classification or boundaries of any zoning district, the respective ordinance shall legally describe the classification or boundaries as amended, shall order the official zoning map to be changed to reflect such amendment, and shall reincorporate such map as amended.

105 Annual Review.

In order to maintain these regulations including the Official Zoning Map(s), the Planning Commission shall annually hold a public review at their first regular meeting in September to consider amendments, if any, to these regulations. Preceding such a review, the City Council, other affected governmental agencies and interested private organizations and individuals should be notified of the intent to review and their ideas requested. In preparation for such a review, the Zoning Administrator shall maintain a master copy of the current zoning regulations on which are recorded comments and ideas brought to the attention of the Administrator during the preceding year to maintain the intent and purpose of the zoning regulations under changing conditions and to implement the Comprehensive Plan.

106 Judicial Review.

As provided by K.S.A. 12-760, as amended, any ordinance, regulation, amendment, special use or other zoning decision provided for or authorized by these regulations shall be reasonable and any person aggrieved thereby may have the reasonableness of any decision determined by bringing an action against the City within 30 days after a final decision is made by the City. In the event that an amendment to these regulations or a special use is approved by the City Council, the 30-day period commences when the effectuating ordinance is published. Such action shall be brought in the Butler County District Court.

ARTICLE 12. SEVERABILITY AND EFFECTIVE DATE

100 Severability.

If any provisions of these regulations are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, then such provisions shall be considered separately and apart from the remaining provisions of these regulations, so as to be completely severable and the remaining provisions of these regulations shall remain in full force and effect.

101 Effective Date.

These regulations shall be in full force and effect from and after their adoption by the Planning Commission, approval by the City Council and adoption of an ordinance incorporating these regulations by reference, and publication of such ordinance in the official city newspaper.

Originally adopted by the Andover City Planning Commission on September 17, 2002.

Amended, approved and adopted by the City Council of the City of Andover, Kansas on September 24, 2002.

Adopted by Ordinance No. 1187 by the City Council of the City of Andover, Kansas on September 24, 2002 and officially published in the Andover Journal-Advocate on October 3, 2002.

Effective date of the Zoning Regulations as designed by ordinance is October 3, 2002.

Floodplain regulations as incorporated herein were approved by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on September 6, 2002.

Quentin Coon, Chairperson
Andover City Planning Commission

ATTEST:

Dave Martine, Secretary
Andover City Planning Commission

APPROVED AND ADOPTED by the City Council of the City of Andover, Kansas on September 24, 2002.

Dennis L. Bush, Mayor

ATTEST:

Jeffrey K. Bridges, City Clerk

APPENDIX

Table of Comparability for Zoning Districts

In accordance with provisions provided for in K.S.A. 12-757(b) and in Section 11-100E6 of the Zoning Regulations of the City of Andover, Kansas, the Andover City Planning Commission hereby establishes a “Table of Comparability for Zoning Districts” as listed below. This table designates the zoning districts, which are considered to be “lesser changes” due to their more restrictive characteristics as set forth in the Zoning Regulations.

When considering zoning district amendments, the Planning Commission and the Governing Body may recommend and approve a lesser change in zoning districts for the property already advertised for a public hearing without republication of a notice or redistribution of notices to property owners when such change is more restrictive than the district which is applied for as shown on the table below; provided, however, that such recommendation and approval shall not be for a lesser classification than the existing zoning district. If the applicant at the City Council meeting at which a zoning amendment is being considered desires to amend the application and/or the City Council desires to consider a “lesser” zoning change, then such a proposed change shall be returned to the Planning Commission for reconsideration and further recommendation to the City Council without further publication or notice as provided for in K.S.A. 12-757(c) and in Section 11-104 of the Zoning Regulations.

MOST RESTRICTIVE:	R-1	Single-family Residential District
	R-2	Single-family Residential District
	R-3	Multiple-family Residential District
	R-4	Multiple-family Residential District
	B-1	Office Business District
	B-2	Neighborhood Business District
	B-3	Central Shopping District
	B-4	Central Business District
	B-5	Highway Business District
	B-6	Business District
LEAST RESTRICTIVE:	I-1	Industrial District

NOTE: Because of the uniqueness and special purpose for which the MH-1 Manufactured Home Park District, MH-2 Manufactured Home Subdivision District, R-5 Single-family/Zero Lot Line Residential District, A-1 Agricultural Transition District, R-6 Condominium Residential District, PUD Planned Unit Development District, FP Floodplain District, and P-O Protective Overlay District serve, these districts are excluded from the Table of Comparability.

Although the notification for a “Special Use” is processed in the same manner as a zoning district amendment, it is not an actual change in zoning districts and, therefore, the Table of Comparability does not apply and reapplication is necessary for consideration of a different “Use” even if in the same zone.

Part of the property considered for a Special Use, however, may be withdrawn by the applicant or a lesser amount recommended for approval without renotification.

EXAMPLE: If an application is advertised for a public hearing requesting a change from R-1 Single-Family Residential District to I-1 Industrial District, the Planning Commission may recommend the lesser, i.e., more restrictive B-1 Office Business District without republication or mailing of new notices.

If an application, however, is advertised for a public hearing requesting a change from the existing B-1 Office Business District to the I-1 Industrial District, the recommending of the lesser R-1 or R-2 Districts shall not be valid without republication and the mailing of new notices.

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