City of Winfield, Kansas

June 1, 2007

ZONING REGULATIONS

TABLE OF CONTENTS

ARTICLE	SECTION	TITLE	PAGE
1		**TITLE AND PURPOSE**	
	1-1	Title	1-1
	1-2	Purpose and Intent	1-1
	1-3	Consistency with Comprehensive Plan	1-2
	1-4	Jurisdiction	1-2
2		**RULES, INTERPRETATIONS AND DEFINITIONS**	
	2-1	Rules and Interpretations	2-1
	2-2	Separability	2-3
	2-3	Definitions	2-3
3		**DISTRICTS AND BOUNDARIES**	
	3-1	District Classifications	3-1
	3-2	Zoning District Maps	3-2
	3-3	Annexation	3-2
	3-4	Rules Where Uncertainty May Arise	3-2
	3-5	Variances and Exceptions Required	3-3
4		**INTENT OF DISTRICTS**	
	4-1	A, Agricultural District	4-1
	4-2	R-1, Low Density Residential District	4-1
	4-3	R-2, Medium Density Residential District	4-1
	4-4	R-3, High Density Residential District	4-2
	4-5	CS, Countryside District	4-2
	4-6	MHS, Manufactured Home Subdivision District	4-2
	4-7	MP, Manufactured Home Park District	4-2
	4-8	(Reserved for Future Use)	4-3
	4-9	CO, College Overlay District	4-3
	4-10	C-1, Office and Service Business District	4-3
	4-11	C-2, Restricted Commercial District	4-3
	4-12	C-3, General Commercial District	4-3
	4-13	C-4, Central Business District	4-4

ARTICLE	SECTION	TITLE	PAGE
	4-14	I-1, Light Industrial District	4-4
	4-15	I-2, Heavy Industrial District	4-4
	4-16	P, Public Use District	4-4
	4-17	MU, Mixed Use District	4-4
	4-18	PUD, Planned Unit Development District	4-5
	4-19	FP-O, Floodplain Management District	4-5
5		**AGRICULTURAL DISTRICT (A-L)**	
	5-1	Intent	5-1
	5-2	Permitted Uses	5-1
	5-3	Conditional Uses	5-2
	5-4	Home Occupations	5-4
	5-5	Accessory Uses	5-5
	5-6	Height and Yard Regulations	5-5
	5-7	Sign Regulations	5-6
	5-8	Parking Regulations	5-6
	5-9	Minimum Lot Size	5-6
6		**RESIDENTIAL ZONED DISTRICTS (R-1:R-3)**	
	6-1	Intent	6-1
	6-2	Residential Zoning Districts	6-1
	6-3	Permitted and Conditional Uses	6-1
	6-4	Home Occupations	6-4
	6-5	Intensity of Use	6-4
	6-6	Height and Yard Regulations	6-4
	6-7	Accessory Uses	6-5
	6-8	Sign Regulations	6-5
	6-9	Parking Regulations	6-6
	6-10	Supplemental Regulations	6-6
	6-11	Removal and Relocation of Manufactured Homes	6-10
7		**COUNTRYSIDE DISTRICT (CS)**	
	7-1	Intent	7-1
	7-2	Permitted Uses	7-1
	7-3	Parking Regulations	7-2

ARTICLE	SECTION	TITLE	PAGE
	7-4	Sign Regulations	7-2
	7-5	Height, Area and Yard	7-2
8		**PUBLIC USE DISTRICT (P)**	
	8-1	Intent	8-1
	8-2	Permitted Uses	8-1
	8-3	Parking Regulations	8-2
	8-4	Sign Regulations	8-2
	8-5	Height, Area and Yard Regulations	8-2
9		**COMMERCIAL ZONED DISTRICTS (C-1:C-4)**	
	9-1	Intent	9-1
	9-2	Commercial Zoning Districts	9-1
	9-3	Permitted and Conditional Uses	9-1
	9-4	Intensity of Use	9-4
	9-5	Height and Yard Regulations	9-5
	9-6	Development Standards	9-5
	9-7	Sign Regulations	9-6
	9-8	Parking Regulations	9-6
	9-9	Off-Street Loading and Unloading Regulations	9-6
	9-10	Supplemental Regulations	9-6
	9-11	Travel Trailer Parks	9-6
10		**CENTRAL BUSINESS DISTRICT (C-4)**	
	10-1	Intent	10-1
	10-2	Use Regulations	10-1
	10-3	Parking Regulations	10-2
	10-4	Height, Area and Yard Regulations	10-2
	10-5	Sign Regulations	10-2
11		**MANUFACTURED HOME SUBDIVISION DISTRICT (MHS)**	
	11-1	Intent	11-1

ARTICLE	SECTION	TITLE	PAGE
	11-2	Permitted Uses	11-1
	11-3	Conditional Uses	11-1
	11-4	Intensity of Use	11-2
	11-5	Height Regulations	11-2
	11-6	Yard Regulations	11-2
	11-7	Sign Regulations	11-2
	11-8	Parking Regulations	11-2
	11-9	Performance Standards	11-3
12		**TELECOMUNICATIONS TOWERS**	
	12-1	Telecommunications Towers; Permits	12-1
	12-2	Fencing and Screening	12-2
	12-3	Setbacks and Landscaping	12-3
	12-4	Security	12-3
	12-5	Access	12-3
	12-6	Maintenance	12-3
	12-7	Design	12-4
	12-8	Consideration of Conditional Use Permit	12-4
	12-9	Filing Requirement	12-5
	12-10	Revocation of Permit	12-6
	12-11	Transfer of Permit	12-7
	12-12	Abandonment of Tower	12-7
13		**MANUFACTURED HOME PARK DISTRICT (MP)**	
	13-1	Intent	13-1
	13-2	Permitted Uses	13-1
	13-3	Conditional Uses	13-2
	13-4	Home Occupations	13-2
	13-5	Accessory Uses	13-2
	13-6	General Requirements	13-2
	13-7	Specific Requirements	13-3
	13-8	Application for Preliminary Approval	13-4
	13-9	Final Plan	13-5
	13-10	Deviation from Final Plan	13-6

ARTICLE	SECTION	TITLE	PAGE
	13-11	Discontinuance of Use as a Manufactured Home Park	13-6
	13-12	Sign Regulations	13-6
	13-13	Parking Regulations	13-6
	13-14	Visible Lot Numbers	13-6
14		**COLLEGE OVERLAY DISTRICT (C-O)**	
	14-1	Intent	14-1
	14-2	Permitted Uses	14-1
	14-3	Conditional Uses	14-2
	14-4	Intensity of Use	14-2
	14-5	Sign Regulations	14-3
	14-6	Parking Regulations	14-3
	14-7	Development Alternatives	14-3
15		**INDUSTRIAL DISTRICTS (I-1 AND I-2)**	
	15-1	Intent	15-1
	15-2	Permitted and Conditional Uses	15-1
	15-3	Development Standards	15-3
	15-4	Height and Yard Regulations	15-4
	15-5	Sign Regulations	15-4
	15-6	Parking Regulations	15-4
	15-7	Loading and Unloading Regulations	15-5
	15-8	Screening Requirements	15-5
16		**PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT (PUD)**	
	16-1	Intent	16-1
	16-2	General Provisions	16-1
	16-3	Specific Standards and Conditions	16-2
	16-4	Application Process	16-3
	16-5	Preliminary Plan	16-4
	16-6	Final Plan	16-5
	16-7	Recording	16-6

ARTICLE	SECTION	TITLE	PAGE
17		**HOME OCCUPATION REGULATIONS**	
	17-1	Home Occupations	17-1
	17-2	Permitted Home Occupations	17-2
	17-3	Prohibited Home Occupations	17-3
18		**MIXED USE DISTRICT (MU)**	
	18-1	Intent	18-1
	18-2	Permitted Uses	18-1
	18-3	Conditional Uses	18-2
	18-4	Home Occupations	18-2
	18-5	Accessory Uses	18-2
	18-6	Height and Yard Regulations; Design Standards	18-2
	18-7	Sign Regulations	18-4
	18-8	Parking Regulations	18-4
	18-9	Minimum Lot Size	18-4
19		**FLOODPLAIN MANAGEMENT**	
	19-1	Findings	19-1
	19-2	Purpose	19-2
	19-3	General Provisions	19-2
	19-4	Administration	19-3
	19-5	Provisions for Flood Hazard Reduction	19-5
	19-6	Floodplain Management Variance Procedures	19-12
	19-7	Penalties for Violation	19-20
	19-8	Amendments	19-20
	19-9	Definitions	19-20
20		**SUPPLEMENTAL DISTRICT REGULATIONS**	
	20-1	General	20-1
	20-2	Height and Yard Regulations	20-1
	20-3	Number of Structures on a Lot	20-2
	20-4	Sight Distances	20-3

ARTICLE	SECTION	TITLE	PAGE
	20-5	Screening for Commercial or Industrial-Zoned Property	20-3
	20-6	Temporary Uses	20-3
	20-7	Accessory Uses	20-5
	20-8	Accessory Uses: Garages	20-7
	20-9	Fences	20-8
	20-10	Residential-Design Manufactured Housing Standards	20-9
21		**NONCONFORMITIES**	
	21-1	General Provisions	21-1
	21-2	Nonconforming Lots of Record	21-1
	21-3	Nonconforming Structures	21-2
	21-4	Nonconforming Uses	21-3
	21-5	Nonconforming Manufactured Homes	21-5
22		**OFF-STREET PARKING REGULATIONS**	
	22-1	Purpose	22-1
	22-2	General Provisions	22-1
	22-3	Layout and Design Requirements	22-2
	22-4	Permit Required	22-4
	22-5	Required Parking Spaces	22-4
	22-6	Exceptions by Board of Zoning Appeals	22-6
	22-7	Design Standards	22-7
23		**LOADING AND UNLOADING REGULATIONS**	
	23-1	Space Requirements	23-1
	23-2	Districts Requiring Space	23-1
24		**BUILDING SETBACKS**	
	24-1	General Provisions	24-1
	24-2	Arterial and Collector Streets	24-1
	24-3	Sight Triangle	24-4

ARTICLE	SECTION	TITLE	PAGE
	24-4	Gas Pumps and Canopies	24-4
	24-5	Order of Precedence	24-4
25		**BOARD OF ZONING APPEALS AND ADMINISTRATIVE VARIANCES**	
	25-1	Board Organization and Procedure	25-1
	25-2	Appeals	25-2
	25-3	Variances	25-2
	25-4	Exceptions	25-3
	25-5	Determinations of Board	25-6
	25-6	Applications for Board Hearings	25-6
	25-7	Public Hearing Required	25-8
	25-8	Performance Upon Grant of Variance or Exception	25-8
	25-9	Appeals from Board Decisions	25-8
26		**AMENDMENT PROCEDURES**	
	26-1	General Authority and Procedure	26-1
	26-2	Table of Lesser Change	26-8
	26-3	Time of Performance in Rezoning	26-0
	26-4	Conditional Use Permits	26-10
	26-5	Fees for Rezoning and Conditional Use Permits	26-10
27		**SIGN REGULATIONS**	
	27-1	Definitions	27-1
	27-2	Signs Excluded from Regulations	27-3
	27-3	Signs Prohibited	27-4
	27-4	General Sign Regulations	27-4
	27-5	Residential District (R) Sign Regulations	27-5
	27-6	Countryside District (CS) Sign Regulations	27-5
	27-7	Agricultural District (A) Sign Regulations	27-6
	27-8	Commercial District Sign Regulations	27-6
	27-9	Industrial District Sign Regulations	27-8
	27-10	Maintenance of Signs	27-8
	27-11	Billboards/Off-Premises Signs	27-9

ARTICLE	SECTION	TITLE	PAGE
	27-12	Unlawful Cutting of Trees or Shrubs	27-10
	27-13	Nonconforming Signs	27-10
	27-14	Amortization of Nonconforming Signs	27-11
28		**ENFORCEMENT, VIOLATION AND PENALTY**	
	28-1	Enforcement	28-1
	28-2	Interpretation and Conflict	28-1
	28-3	Validity	28-1
	28-4	Repeal of Existing Regulations and Accrued Rights and Liabilities	28-2
	28-5	Penalties	28-2
	28-6	Effective Date	28-2

ARTICLE 1

TITLE AND PURPOSE

Sections:

1-1 Title
1-2 Purpose and Intent
1-3 Consistency with Comprehensive Plan
1-4 Jurisdiction

SECTION 1-1 TITLE

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

SECTION 1-2 PURPOSE AND INTENT

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

a. Promoting and serving the public health, safety, morals, comfort, and general welfare of the citizens of the City of Winfield.

b. Obtaining the objectives of the comprehensive plan.

c. Preserving and protecting property values.

d. Lessening congestion on the streets.

e. Preventing overcrowding of land.

f. Regulating and restricting location and use of buildings and land.

g. To create a variety of zoning districts sensitive to the peculiarities of the various permitted uses and designed to protect and enhance the values inherent in each zone.

h. Regulating and restricting the height, number of stories, and size of buildings; the percentage of lots that may be occupied by buildings and other structures; size of yards, courts, and other open spaces.

i. Avoiding the undue concentration of populations and to prevent overcrowding in the use of land and community facilities.

j. Providing adequate notice on subsequent changes to these regulations and an opportunity for interested parties to be heard.

k. Facilitating the adequate provisions of transportation, water, sewage, schools, parks, and other public improvements and services, and to carry out the goals and objectives as set forth in applicable laws of the State of Kansas and the adopted comprehensive plan for the City of Winfield.

l. Promoting the achievement of the Future Land Use Plan for the City of Winfield.

m. Informing the public regarding future development in the City of Winfield thereby providing a basis for wise decisions with respect to such development.

SECTION 1-3 CONSISTENCY WITH COMPREHENSIVE PLAN

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

SECTION 1-4 JURISDICTION

1-104. The jurisdiction of these zoning regulations shall apply to all land located within the corporate limits of the City of Winfield, Kansas. Further, these regulations shall apply to all land outside the City's limits consistent with any adopted interlocal agreement with Cowley County providing for extraterritorial jurisdiction by the City. Unless expressly provided for otherwise, these regulations shall apply to property owned by the City of Winfield.

ARTICLE 2

RULES, INTERPRETATIONS AND DEFINITIONS

Sections:

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

SECTION 2-1 RULES AND INTERPRETATIONS

2-101.

a. Rules.

1. In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise:

   (a) Words used in the present tense shall include the future.

   (b) Words in the singular number include the plural number, and words in the plural number include the singular number.

   (c) The words “use,” “used,” “occupy” or “occupied” as applied to any land or building shall be construed to include the words “intended,” “arranged” or “designed” to be used or occupied.

   (d) The word “shall” is mandatory.

   (e) The word “may” is permissive.

   (f) The word “person” includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.

   (g) Unless otherwise specified, all distances shall be measured horizontally.

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

Unless specifically provided, in computing any period of time prescribed or allowed by these regulations, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included, unless it is Saturday, Sunday or a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. "Legal holiday" includes any day designated as a holiday by the Congress of the United States or by the Kansas legislature. Whenever a notice, petition or other document is required to be filed within a specified time period, the notice, petition or document must be filed with the appropriate city official or in the appropriate city office not later than 5:00 p.m. on the last day of the period as computed.

b. Interpretations.

1. **Minimum requirements.** In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of public health, safety, morals and welfare.

2. **Overlapping or contradictory regulations.** Where the conditions imposed by any provision of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of these regulations or of any other law, rule or regulation of any kind, the regulations which are more restrictive shall govern unless otherwise excepted.

3. **Private agreements.** These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement of legal relationship; provided, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than such easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern.

4. **Unlawful structures and uses.** No structure or use which was not lawfully existing at the time of the adoption of these regulations shall become or be made lawful solely by reason of the adoption of these regulations; and to the extent that, and in any respect that, said unlawful structure or use is in conflict with the requirements of these regulations, said structure or use remains unlawful hereunder.

SECTION 2-2 SEPARABILITY

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

a. If any court of competent jurisdiction shall adjudge any provisions of these regulations to be invalid, such judgment shall not affect any other provisions of these regulations.

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

SECTION 2-3 DEFINITIONS

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

Abutting. Adjoining, adjacent or bordering.

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

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

Agricultural use. The use of property of not less than three (3) acres for the production of plants, animals, or horticultural products, including but not limited to: forages; grains and feed crops; dairy animals and dairy products; beef cattle; sheep; swine; poultry, and horses; bees and apiary products; trees and forest products; fruits, nuts, and berries; vegetables; or nursery, floral, ornamental, or greenhouse products. Land used for agricultural purposes shall **not** include the following:

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

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

Alley. A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property the right-of-way of which is at least twenty feet (20') in width.

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

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

a. A comprehensive revision or modification of the zoning text and/or maps.

b. A text change in the zone requirements.

c. The approval of a Conditional Use Permit as provided in these regulations.

d. A change in the maps, i.e., the zoning designation of a particular parcel or parcels. This form is also known as a "rezoning" and includes overlay zoning approval.

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

Apartment. See ***Dwelling, multiple***.

Applicant. The owner of a tract of land, or his or her duly designated representative, for which an amendment has been requested. Consent shall be required from the legal owner of the premises if the applicant is other than the owner.

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

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

Automotive service station. Any building, structure or land used for the dispensing, sale or offering for sale at retail any motor vehicle fuels, oils, or accessories, including lubrication of motor vehicles and replacement or installation of minor parts and accessories, but not including tire recapping, major repair work such a motor replacement, body and fender repair or spray painting, provision of rental equipment, or open motor vehicle sales lots.

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

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

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

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

Board of Zoning Appeals. The City of Winfield Board of Zoning Appeals.

Boarding house. See ***Lodging house***.

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

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

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

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

b. An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described in paragraph (a) above is more than ten (10) feet above the lowest grade.

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

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

***Building, public*.** A publicly-owned building used or occupied for a public purpose. Public buildings include, but are not limited to: fire stations, hospitals and related medical facilities, police stations, auditoriums, gymnasiums, natatoriums, community halls, maintenance buildings, park shelters, jails or penal institutions, and schools.

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

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

a. Maximum height.

b. Maximum lot coverage.

c. Minimum size of yards and setbacks.

Canopy**.** A structure, movable or stationary, attached to and deriving its support from framework, posts or other means independent of a connected structure for the purpose of shielding a platform, stoop or sidewalk from the elements; or, a roof-like structure of permanent nature which projects from the wall of a structure and overhangs the public way.

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

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

Cemetery. Land used for burial and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

Child care facilities. See ***Day care facilities***.

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

City. The city of Winfield, Kansas.

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

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

Comprehensive plan**.** The currently adopted Comprehensive Plan for the City of Winfield.

Conditional use**.** A use of any building, structure or parcel of land that, by its nature, is perceived to require special care and attention in sitting so as to assure compatibility with surrounding properties and uses. Conditional uses created after the effective date of these regulations are allowed only after public notice, hearing, and approval as prescribed in these regulations and may have special conditions and safeguards attached to assure that the public interest is served.

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

Condominium. A building containing two (2) or more dwelling units which are designed and intended to be separately owned in fee under the Townhouse Ownership Act (K.S.A. 58-3710 *et seq*.) of the State of Kansas.

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

***County Board or County Commission*.** The Board of County Commissioners of Cowley County, Kansas.

***Day care facilities*.** Definitions for those of the following facilities which provide care for children are established by state law and promulgated by regulations of the Kansas Department of Health and Environment (KDHE) and the Kansas Department of Social and Rehabilitation Services (SRS). Standards for such definitions may be periodically amended by changes to state regulations and such changes are incorporated by reference herein.

a. **Adult day care home*.*** A facility for adults having some or all of the characteristics of homes for the elderly, whether operated for profit or not, which through its operation provides one (1) or more personal services for five (5) or more persons not related by blood or marriage to the owner or operator, for periods of time of less than twenty-four (24) hours. Personal services are in addition to housing and food service, and include but are not limited to: personal assistance with bathing, dressing, housekeeping, eating, supervision of self-administered medication, individual or group activities, and assistance in securing health care from appropriate sources.

b. **Child care center.** A facility which provides care and educational activities for thirteen (13) or more children six (6) weeks to sixteen (16) years of age for more than three (3) and fewer than twenty-four (24) hours per day including daytime, evening and nighttime care; or which provides before and after school care for school-age children and licensed by the State as a child care center. A facility may have fewer then thirteen (13) children and be licensed as a center if the program and building meet child care center regulations as defined by the State of Kansas.

c. **Day care home.** A home in which care is provided for a maximum of twelve (12) children in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a day care home.

d. **Family day care home.** A home maintained for the purpose of providing children with day-care away from such children's homes, for fewer than twenty-four (24) hours a day, provided that not more than seven (7) children cared for at such place are under kindergarten age and not more than three (3) of the children cared for at such place are less than eighteen (18) months of age, or a maximum of ten (10) children under sixteen (16) years of age operated in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a family day care home.

e. **Group day care home.** A home in which care is provided for a maximum of twelve (12) children under sixteen (16) years of age, in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a group day care home. (K.A.R. 28-4-114(f)(1).)

f. **Preschool.** A day-care facility in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a preschool which:

1. Provides learning experiences for children who have not attained the age of eligibility to enter kindergarten prescribed in K.S.A. 72-1107(c), and any amendments thereto, and who are thirty (30) months of age or older.

2. Conducts sessions not exceeding three (3) hours per session;

3. Does not enroll any child in more than one (1) session per day; and

4. Does not serve a meal.

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

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

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

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

***Disability*.** Shall mean, with respect to a person:

a. A physical or mental impairment which substantially limits one or more of such person's major life activities; or

b. Having a record of having such an impairment; or

c. Being regarded as having such an impairment.

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

***Distance*.** Horizontal distances unless otherwise designated.

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

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

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

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

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

Dwelling, efficiency. A dwelling intended for occupancy by no more than two (2) people, generally having one (1) or two (2) rooms.

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

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

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

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

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

Engineer. The term engineer shall mean the Winfield City Engineer. When the context so requires, engineer shall mean an engineer licensed by the State of Kansas.

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

Exception. An exception from a provision of these regulations, which may be granted by the Board of Zoning Appeals only when such exception is specifically authorized in these regulations.

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

Fence. A free-standing structure intended to provide privacy, protection or confinement or to redirect a person's direction of travel. A fence may be constructed of but not limited to: wire, chain links, wood, stone or any standard building materials. A fence is not a structure unless it exceeds 80% visual blockage.

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

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

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

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

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

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

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

Governing body. The Winfield City Commission.

***Grade*.** A reference plane representing the average finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest point(s) within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

Group boarding home for adults. A residential dwelling unit for persons, eighteen (18) years of age or over, not constituting a "family" as defined in this section provided however, that this definition shall not include an existing or proposed use of a residential dwelling unit which is in compliance with the definition of "group home" as defined in K.S.A. 12-736. Such latter use shall be considered to be a single-family residential use and shall not be considered a "group boarding home for adults."

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

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

Guest house. Living quarters within a detached accessory building located on the same premises with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utilities and not rented or otherwise used as a separate dwelling.

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

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

Hospital. A building or group of buildings having room facilities for one or more abiding patients, used for providing services for the in-patient medical and surgical care of sick or injured humans, and which may include related facilities such as laboratories, pharmacies, out-patient departments, training facilities, central service facilities, and staff offices; provided, however, that such related facilities must be incidental and subordinate to the main use and must be an integral part of the hospital operation.

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

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

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

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

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

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

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

Junk yard. See ***Salvage yard***.

Kennel. Any place, area, building or structure where dogs (including those under one year of age) and other domesticated animals are boarded, housed, cared for, fed, or trained by other than the owner, or where more than three (3) domesticated animals, six (6) months of age or older, are kept for purposes of breeding, raising or as pets.

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

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

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

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

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

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

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

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

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

a. The Department of Social and Rehabilitation Services pursuant to K.S.A. 75-3307b or K.S.A. 65-425 et seq., and amendments thereto; or

b. The Behavioral Sciences Regulatory Board pursuant to K.S.A. 75-5346 et seq. or K.S.A. 74-5301 et seq., and amendments thereto; or

c. The State Board of Healing Arts pursuant to K.S.A. 65-2801 et seq., and amendments thereto.

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

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

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

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

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

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

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

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

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

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

Lot of record. A lot which is a part of a subdivision, which has been recorded in the office of the Register of Deeds of Cowley County or a lot described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds of Cowley County, prior to the effective date of Winfield Ordinance No. 2707.

Lot split. The division of a single lot into not more than two (2) tracts without having to re-subdivide said lot, providing that the resulting lots shall not again be divided without re-platting.

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

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

Manufacture. Any method of processing, developing, fabricating or assembling either raw material, semi-finished materials or parts into semi-finished or finished products.

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

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

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

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

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

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

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

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

Medical, dental or health clinic. Any building designed for use by more than one person lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrist, podiatrists, and in which no patients are lodged overnight, but which may include a pharmacy.

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

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

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

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

Motel. See ***Hotel***.

Motor home. A portable dwelling designed and constructed as an integral part of a self-propelled vehicle used for recreation.

Motor vehicle. A motorized vehicle with rubber tires for use on highways, including passenger cars, pick-ups and trucks.

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

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

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

Nonconforming lot of record. A lot, whether with or without improvements, which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of subdivision regulations and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located. See also ***Lot of record***.

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

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

***Nursing homes, retirement homes or convalescent homes*.** A building operated by an institution or agency licensed by the State of Kansas for the reception, board, care or treatment of three (3) or more unrelated individuals, but not including facilities for the care and treatment of mental illness, or alcohol or narcotics addiction.

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

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

Package liquor store. An establishment in which alcoholic beverages are sold for consumption off the premises.

Parcel. A lot or contiguous group of lots in single ownership or under single control, usually considered a unit for purposes of development.

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

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

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

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

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

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

***Planning Commission*.** The City of Winfield Planning Commission.

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

a. **Plat, Final** means a drawing of a permanent nature showing the precise location and dimension of such features as streets, lots, easements and other elements pertinent to transfer of ownership and prepared for permanent record.

b. **Plat, Preliminary** means a drawing showing the proposed general patterns of streets, lots and land uses within a tract to be subdivided.

Private club. An association organized and operated for profit or 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. Food, meals and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be served or sold to members and their guests provided such service or sale of alcoholic beverages is in compliance with all federal, state and local laws.

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

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

a. Telephone and other telecommunication services.

b. Telegraph service.

c. Electricity.

d. Natural gas.

e. Water or stormwater control.

f. Transportation of persons or property.

g. Cable television.

h. Sanitation control.

i. Any other business so affecting the public interest as to be subject to supervision or regulation by a governmental agency.

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

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

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

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

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

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

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

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

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

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

School. Any public or private elementary, junior high, high school, college, university, post-graduate, technical or vocational school, offering courses in general instruction at least five days per week and seven months per year.

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

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

Sight distances. The area within which no sign, fence, wall, planting or other obstruction to vision shall be constructed, placed or maintained.

a. No such obstruction above three feet (3') above the established street grade shall occur within the area of a corner lot between the lines of the intersecting streets and a straight line connecting them at points twenty feet (20') distant from the intersection of the lot lines.

b. No wall or fence more than four feet (4') in height may project into or enclose any required front yard. Walls or fences of up to seven feet (7') in height may project into or enclose other required yards.

c. An area comprising a triangle with legs of five feet (5') measured from the curbline shall be free from any visual obstruction at all points where alleys intersect with public streets.

Sign. See Article 27 for definitions relevant to signs.

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

Storage area/storage yard. An off-street area used for the placement, keeping and storage of inoperable vehicles, vehicles awaiting repair, and parts thereof; building materials, supplies and equipment; trailers; heavy construction equipment and other motorized vehicles and equipment; but not for junkyard or salvage yard purposes.

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

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

a. More than six (6) feet above grade plane.

b. More than six (6) feet above the finished ground level for more than fifty percent (50%) of the total building perimeter; or

c. More than twelve (12) feet above the finished ground level at any point.

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

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

Street network.

a. **Arterial.** A street which provides for through traffic movement between and around areas and across the city, with very limited direct access to abutting property; subject to necessary control of entrances, exits, and curb uses.

b. **Collector.** A street which provides for traffic movement between arterials and local streets, with limited direct access to abutting property.

c. **Local.** A street which provides for direct access to abutting property and for local traffic movement whether in business, industrial or residential uses.

Structural alterations. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any rebuilding of the roof or the exterior walls. For purposes of these regulations, the following shall not be considered a structural alteration:

a. Attachment of a new front where structural supports are not changed.

b. Addition of fire escapes where structural supports are not changed.

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

d. Repair or replacement of nonstructural members.

Structure**.** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Structures do not

include fences but do include, but are not limited to, buildings, walls, sheds and towers.

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

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

***Tavern*.** An establishment in which the primary function is the public sale and serving of cereal malt beverages for consumption on the premises. For purposes of these regulations a drinking establishment shall be a tavern.

Townhouse. A single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by party walls or are located immediately adjacent thereto with no visible separation between walls or roofs.

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

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

Travel trailer. A structure, not to exceed nine feet in width, designed to provide temporary living quarters for recreational, camping or travel use, constructed with integral wheels to make it mobile and/or towable by a motor vehicle.

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

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

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

Wall. A barrier which encloses, or partially encloses, and which is built of any materials or combination of materials erected to enclose or partially enclose areas of land or portions of a structure.

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

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

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

***Yard, side*.** A yard between the main building and the side lot line, extending from the front lot line to the rear lot line.

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

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

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

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

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

ARTICLE 3

DISTRICTS AND BOUNDARIES

Sections:

3-1 District Classifications
3-2 Zoning District Maps
3-3 Annexation
3-4 Rules Where Uncertainty May Arise
3-5 Variances and Exceptions Required
3-6 Violations Continue

SECTION 3-1 DISTRICT CLASSIFICATIONS

3-101. In order to classify, regulate and restrict the locations of trades, industries, and the location of buildings designed for specified uses; to regulate and limit the height and bulk of buildings; to regulate and limit the intensity of the use of lots; to regulate and determine the area of yards and other open spaces surrounding buildings; and to regulate and restrict the density of population, the City is hereby divided into fifteen (15) districts and three (3) overlay districts which are designated as follows:

"A"	Agricultural District
"R-1"	Low Density Residential District
"R-2"	Medium Density Residential District
"R-3"	High Density Residential District
"CS"	Countryside District
"C-1"	Office and Service Business District
"C-2"	Restricted Commercial District
"C-3"	General Commercial District
"C-4"	Central Business District
"MHS"	Manufactured Home Subdivision
"MP"	Manufactured Home Park District
"I-1"	Light Industrial District
"I-2"	Heavy Industrial District
"P"	Public Use District
"C-O"	College Overlay District
"MU"	Mixed Use District
"PUD"	Planned Unit Development Overlay District
"FP-O"	Floodplain Management Overlay District

SECTION 3-2 ZONING DISTRICT MAPS

3-201.

a. The boundaries of the zoning districts established by these Zoning Regulations are shown on a map or series of maps designated as the "Zoning Map of Winfield, Kansas" which together with all legends, symbols, notations, references, district boundaries, and other information thereon, is adopted and made a part of these Zoning Regulations as fully as if it were set out herein in detail.

b. Original copies of the Zoning Map, which shall constitute the official record, are maintained in the office of the Zoning Administrator. In case of any dispute regarding the zoning classification of property subject to these Zoning Regulations, the maps maintained by the Zoning Administrator shall control.

c. Changes in the boundaries of any zoning district shall be reflected on the Zoning Map promptly upon approval of the amendment by the City Commission. It shall be the responsibility of the Zoning Administrator to update the Zoning Map as amended by ordinance.

d. If there is a difference, either real or apparent, between the Zoning Map(s) adopted by these Zoning Regulations and previous zoning map(s), regardless of whether the real or apparent differences appear or are found to be the result of errors or omissions, the Zoning Map(s) adopted with these Zoning Regulations shall prevail and establish the zoning for all real property.

SECTION 3-3 ANNEXATION

3-301. Land hereafter annexed into the City shall receive, upon annexation, the zoning district classification as set forth in this section, until such time procedures are followed and finalized to amend that zoning classification consistent with state law and these regulations. Land shall be classified as R-1, low-density residential development unless the owner of the land to be annexed requests, in writing, to the office of the Winfield City Clerk at least 15 days prior to the effective date of the annexation, that such land be zoned A, Agricultural, upon its annexation.

SECTION 3-4 RULES WHERE UNCERTAINTY MAY ARISE

3-401. It is the intent of these regulations that every part of the incorporated area of the City of Winfield shall be included in one of the zoning districts established

herein. The boundaries of the specific zoning districts are to scale on the zoning map and are to be interpreted by the corresponding measurements on the map. The following rules shall apply in the determination of the boundaries of any district shown on the Zoning Map.

a. Whenever a lot is divided by a zoning district boundary, the zoning regulations applicable within each district shall apply equally to each portion of the lot situated in a separate district. The dimensions of the zoning district(s) on the lot shall be determined by scaled measurements of the zoning district boundaries on the Zoning Map.

b. Where boundaries approximate blocks and lots, street and alley lines or other identifiable property or boundary lines, such lines shall be construed to be the district boundary. Where such boundaries are shown as being within street and alley lines or within identifiable rights-of-way or waterways, the centerline thereof shall be construed to be the district boundary.

c. Where a district boundary divides an unsubdivided parcel, the location of the district boundary shall be determined by the use of the scale appearing on the Zoning Map unless indicated by dimensions.

d. Map codes or symbols indicating the classification of property on the Zoning Map apply to the entire area within the district boundaries.

e. Where a street, alley or right-of-way is lawfully vacated or abandoned, the zoning designation of the abutting property shall apply to the centerline of the vacated or abandoned street, alley or right-of-way.

f. Should any uncertainty remain about the location or meaning of a boundary indicated on the Zoning Map, the uncertainty shall be resolved by the Zoning Administrator, whose decision may be appealed to the Board of Zoning Appeals.

SECTION 3-5 VARIANCES AND EXCEPTIONS REQUIRED

3-501. Except as hereinafter provided for by variance or exception granted by the Board of Zoning Appeals as specifically authorized by these regulations:

a. No building shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located.

b. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit herein established for the district in which the building is located.

c. No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the area regulations of the district in which the building is located.

d. The minimum yards and other open spaces required by these zoning regulations for each and every building existing at the time of passage of these zoning regulations or for any building hereafter erected shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot area be reduced beyond the district requirements of these zoning regulations.

SECTION 3-6 VIOLATIONS CONTINUE

3-601. Violations Continue. Any violation of the previous City zoning or subdivision regulations shall continue to be a violation under these regulations and shall be subject to penalties and enforcement, unless the use, development, construction or other activity is consistent with the express terms of these regulations, in which case enforcement action shall cease, except to the extent of collecting penalties for violations that occurred before the effective date of these regulations.

ARTICLE 4

INTENT OF DISTRICTS

Sections:

4-1	**"A"**	**Agricultural District**
4-2	**"R-1"**	**Low Density Residential District**
4-3	**"R-2"**	**Medium Density Residential District**
4-4	**"R-3"**	**High Density Residential District**
4-5	**"CS"**	**Countryside District**
4-6	**"MHS"**	**Manufactured Home Subdivision District**
4-7	**"MP"**	**Manufactured Home Park District**
4-8		**(Reserved for Future Use)**
4-9	**"C-O"**	**College Overlay District**
4-10	**"C-1"**	**Office and Service Business District**
4-11	**"C-2"**	**Restricted Commercial District**
4-12	**"C-3"**	**General Commercial District**
4-13	**"C-4"**	**Central Business District**
4-14	**"I-1"**	**Light Industrial District**
4-15	**"I-2"**	**Heavy Industrial District**
4-16	**"P"**	**Public Use District**
4-17	**"MU"**	**Mixed Use District**
4-18	**"PUD"**	**Planned Unit Development Overlay District**
4-19	**"FP-O"**	**Floodplain Management Overlay District**

SECTION 4-1 "A" AGRICULTURAL DISTRICT

4-101. It is the intent of the A District to preserve and protect agricultural uses and resources by regulating density and land use. The district is not intended to serve the homeowner who lives on a small suburban lot, but is designed to accommodate agricultural operations on substantial acreage. Intense urban usage is usually premature and undesirable in the A District, due to lack of infrastructure. Uses within this district are mostly related to agricultural activities. Uses that might have nuisance characteristics, if intermingled in developed residential areas, are permitted on the basis that they are no more offensive than normal agricultural uses.

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

4-201. The intent of the R-1 District is to provide primarily for one-family dwellings with accommodation for two-family dwellings and related residential uses such as churches and certain public uses which tend to be located at the edge of higher density, and more centrally located residential areas. The district is intended to

accommodate a low population density for specified types of dwelling units on large to medium sized lots with emphasis on adequate open space around buildings.

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

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

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

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

SECTION 4-5 "CS" COUNTRYSIDE DISTRICT

4-501. The intent of the CS District is to provide area to accommodate a rural residential lifestyle, with limited future residential development which will provide adequate open space even after full development. The district is intended for one-family detached dwellings and limited related residential and agricultural uses.

SECTION 4-6 "MHS" MANUFACTURED HOME SUBDIVISION DISTRICT

4-601. The intent of the MHS District is to provide area for low-density manufactured housing, recognizing the need and demand for alternative housing choices. This district also recognizes that alternative housing types often function best, and maintain optimum property value, when part of a well-planned development. It is intended that this district be established to accommodate manufactured homes on permanent foundations where lots are owned by manufactured home owners.

SECTION 4-7 "MP" MANUFACTURED HOME PARK DISTRICT

4-701. The intent of the MP District is to provide manufactured home park developments which are compatible with the character of the surrounding neighborhood in which they are located. Manufactured home parks are residential

uses and should be located in areas where services and amenities are available such as those found in areas comprised of site-built housing. This district is intended for those areas where the owner proposes to develop and rent or lease individual manufactured home sites.

SECTION 4-8 *(Reserved for Future Use)*

SECTION 4-9 "C-O" COLLEGE OVERLAY DISTRICT

4-901. The intent of the C-O District is to provide for the use of a college as a special zoning district where development may occur in conformance with an approved master development plan, if the college elects to present one. This is an overlay district intended to be used only with R-3 as the underlying district.

SECTION 4-10 "C-1" OFFICE AND SERVICE BUSINESS DISTRICT

4-1001. The intent of the C-1 District is to provide for areas for public, quasi-public, institutional, social, philanthropic organizations or societies, professional service and office types of uses. Density and intensity of use may be considered moderate. This zone is primarily used to allow for non-residential uses which provide a direct service to the total community and still be compatible with adjoining residential districts.

SECTION 4-11 "C-2" RESTRICTED COMMERCIAL DISTRICT

4-1101. The intent of the C-2 District is to provide for areas of convenient shopping facilities located to serve one or more residential neighborhoods. The types of uses permitted include the basic retail, office and service uses that are customarily located in a shopping center.

SECTION 4-12 "C-3" GENERAL COMMERCIAL DISTRICT

4-1201. The intent of the C-3 District is to allow basic retail, service and office uses located at specific points on major streets outside the central and neighborhood business districts. This district is also intended to provide locations for commercial activities that do not require a central location downtown, but do require a location easily accessible to downtown shoppers, therefore it is particularly appropriate adjoining a major highway. Business uses needing large floor areas, particularly those of a service nature, not compatible with Central Business District uses, are included in this district.

SECTION 4-13 "C-4" CENTRAL BUSINESS DISTRICT

4-1301. The intent of the C-4 District is to encourage the location of major business services and retail business activity in the central business district in order to maintain that area as the core retail, government and entertainment district for the community. The intent is also to encourage residential use in the C-4 District under terms and conditions where such use complements commercial uses.

SECTION 4-14 "I-1" LIGHT INDUSTRIAL DISTRICT

14-1401. The intent of the I-1 District is primarily to provide locations for those manufacturing industries and related industrial activities in which the production performance of the manufacturing industries characteristically produces a finished product which is generally produced from semi-finished materials and requires little or no outside material storage. The effect of the production process upon surrounding areas is normally that of traffic generated by the receipt and delivery of materials and goods and traffic generated by employees. The District is not intended to create obnoxious noise, glare, dust or odor or create intensive lot or land coverage. Commercial uses permitted in this district are generally those which serve the convenience of industrial establishments and their employees.

SECTION 4-15 "I-2" HEAVY INDUSTRIAL DISTRICT

14-1501. The intent of the I-2 District is to provide locations for basic or primary industries and related industrial activities. Many of these industries characteristically store bulk quantities of raw or scrap materials for processing to semi-finished products. Commercial uses permitted in this district are generally those which serve the convenience of industrial establishments and their employees. Certain obnoxious or hazardous uses are allowed only upon the issuance of a conditional use permit.

SECTION 4-16 "P" PUBLIC USE DISTRICT

4-1601. The intent of the P District is to provide locations for public ownership that are used for major public facilities.

SECTION 4-17 "MU" MIXED USE DISTRICT

4-1701. The intent of the MU District is to encourage compatible mixed use residential and commercial uses of low to moderate intensity, complementing

neighborhood residential areas with high quality development and urban design standards.

SECTION 4-18 "PUD" PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

4-1801. The intent of the PUD Overlay District is to encourage innovation in residential, commercial and industrial development by allowing greater variety in type, design, and layout of buildings; to encourage a more efficient use of land reflecting changes in the technology of land development; to encourage the expansion of urban areas incorporating the best features of modern design while conserving the value of land; and to provide a procedure which relates the type, design, and layout of development to the particular site and the particular demand at the time of development in a manner consistent with the preservation of property values within established neighborhoods.

SECTION 4-19 "FP-O" FLOODPLAIN MANAGEMENT DISTRICT

4-1901. The intent of the Floodplain Management District is to protect public health, safety and welfare by minimizing loss of life and property in areas subject to flooding.

ARTICLE 5

AGRICULTURAL DISTRICT (A)

Sections:

5-1 Intent
5-2 Permitted Uses
5-3 Conditional Uses
5-4 Home Occupations
5-5 Accessory Uses
5-6 Height and Yard Regulations
5-7 Sign Regulations
5-8 Parking Regulations
5-9 Minimum Lot Size

SECTION 5-1 INTENT

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

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

SECTION 5-2 PERMITTED USES

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

a. Single-family dwellings where the land is used or intended to be used only for agricultural purposes except that the tract on which the dwelling may be placed shall not be less than twenty (20) acres.

b. Public parks and recreation areas.

c. Farms and ranches where the land is under single ownership and

used for general agricultural purposes.

d. Golf courses, except miniature, pitch and putt golf courses, and driving tees operated for commercial purposes.

e. Greenhouses and nurseries.

f. Stands for the sale, at retail, of agricultural products or commodities raised on the premises.

SECTION 5-3 CONDITIONAL USES

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

a. Airports and heliports.

b. Any public building or land used by any department of the city, county, state or federal government.

c. Cemetery, crematory or mausoleum.

d. Churches and similar places of worship.

e. Commercial agricultural product storage facilities (elevators) when no other business is in combination with said storage.

f. Commercial development of natural resources and commercial extraction of raw materials such as rock, gravel, sand, etc.

g. Exploration and extraction of oil and natural gas.

h. Kennels provided that:

1. The minimum lot size shall be not less than ten (10) acres.

2. No kennel buildings or runs shall be located nearer than seventy-five (75) feet to any property lines.

3. All kennel runs or open areas shall be screened around such areas or at the property lines to prevent the distraction or excitement of the dogs. Such screening may be mature, dense deciduous foliage (double row), solid masonry, brick or stone wall, louvered wood,

stockade or chain-link fence with aluminum strip intertwined or other equivalent fencing, providing a sight barrier to the dogs.

i. Privately owned parks, playgrounds, or other outdoor recreational areas such as campgrounds, youth camps, gun clubs, and archery, trap and skeet ranges.

j. Public or parochial schools, elementary, junior high, high schools and private schools with equivalent curriculum, colleges and universities.

k. Radio, telephone or television transmitters and towers, subject to additional regulations set out at Article 12.

l. Salvage yards, subject to the following:

1. The yard must be located at least three hundred (300) feet from the boundary of any residential district.

2. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a fence or wall at least six and one-half (6 1/2) feet high. The fence or wall, having a visual density of at least ninety (90) percent, shall be of uniform height, uniform texture and color, and shall be so maintained by the operator as to ensure maximum safety to the public and obscure the salvage material from view of the public. The fence or wall shall be installed in such a manner as to retain all scrap, junk or other material within the yard. No salvage, scrap or other materials shall be piled or stacked higher than the top of the required fence or wall.

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

4. Burning of waste materials shall be permitted only after approval of the City of Winfield Fire Department.

m. Telephone exchange, electric substations, cable television, or similar public utilities.

n. Theaters, motion picture, outdoor.

o. Temporary uses or uses of a temporary nature, such as portable auto shredders and balers, or asphalt or concrete batch plants, subject to the following requirements:

1. Said temporary use shall be located at least three hundred (300) feet from a residential district.

2. The routing and movement of trucks or similar heavy vehicles which are necessary to the operation of said use shall be on streets, roads or highways designated by the City of Winfield as capable for carrying the loads imposed by such vehicles.

3. Accumulation of trash, junk or other waste materials generated as part of such use shall be disposed of daily.

4. The applicant shall demonstrate that satisfactory provisions have been made for fire protection, police protection, safety and site drainage.

5. Upon termination of the temporary use, the site shall be cleared of improvements and debris not conforming with uses permitted in the A zoning district and the City Commission may require a bond guaranteeing the removal of the improvements.

6. Approval of a temporary use may be granted by the City Commission for up to twelve (12) consecutive months. Upon conclusion of the twelve-month period, the City Commission may grant an extension, upon holding a public hearing, not to exceed twelve (12) additional consecutive months. Should the City Commission deny an extension of time, the operation shall cease and the site be cleared of improvements and debris within ninety (90) days from the time of termination.

p. Veterinarian clinic or animal hospital for large or small animals, including livestock.

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

SECTION 5-4 HOME OCCUPATIONS

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

SECTION 5-5 ACCESSORY USES

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

SECTION 5-6 HEIGHT AND YARD REGULATIONS

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

5-602. Front yard.

a. Front yards on arterial and collector streets and unplatted tracts on local streets shall conform with the provisions of Article 24.

b. There shall be a front yard having a depth of not less than thirty (30) feet or the established building line as defined in Article 3, except as required in a. above.

c. Where lots have a double frontage, the required front yard shall be provided on both streets.

d. Where a lot is located at the intersection of two (2) or more streets, there shall be a setback from the side street of the lot of one-half of the required front yard setback; except that, when lots have been platted facing said side street, the setback from the side street shall be no less than five (5) feet less than the required front yard setback of the lots platted on the side street.

e. No accessory building shall project beyond the front building setback line of any lot.

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

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

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

SECTION 5-7 SIGN REGULATIONS

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

SECTION 5-8 PARKING REGULATIONS

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

SECTION 5-9 MINIMUM LOT SIZE

5-901. Following the effective date of these regulations, no parcel, lot or tract of land less than three (3) acres in area shall be zoned as A District.

ARTICLE 6

RESIDENTIAL ZONED DISTRICTS (R-1 : R-3)

Sections:

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

SECTION 6-1 INTENT

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

SECTION 6-2 RESIDENTIAL ZONING DISTRICTS

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

SECTION 6-3 PERMITTED AND CONDITIONAL USES

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

TABLE 6-1
Residential Zoned Districts
Permitted and Conditional Uses

P = Indicates Permitted Uses **C** = Conditional Uses

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

TABLE 6-1
Residential Zoned Districts

Permitted Uses Footnotes:

(1) When having nine (9) or fewer sleeping rooms.

(2) When having twenty (20) or fewer residents, including staff.

(3) When having twelve (12) or fewer children or twelve (12) or fewer adults for whom care is provided.

(4) When having six (6) or fewer sleeping rooms.

(5) When having eight (8) or fewer residents plus no more than two (2) staff.

(6) Excluding miniature golf and pitch and putt courses and commercially operated golf driving ranges.

Conditional Uses Footnotes:

(1) Hospitals to be situated on a lot, plot or parcel of land five (5) acres or larger.

(2) For facilities having thirteen (13) or more children or thirteen (13) or more adults for whom care is provided.

(3) For group homes having more than ten (1) residents, including staff.

(4) For facilities having more than ten (10) residents, including staff.

(5) When having more than ten (10) residents, including staff.

(6) When having more than twenty (20) residents, including staff.

(7) When having fewer than twenty (20) residents, including staff.

(8) When having seven (7) or more sleeping rooms.

(9) If property contains at least 500 sq. ft. of ground lot area per occupant.

SECTION 6-4 HOME OCCUPATIONS

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

SECTION 6-5 INTENSITY OF USE

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

TABLE 6-2
MINIMUM LOT AREAS, PER DWELLING UNIT

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

Additional requirements:

Maximum lot coverage by principal buildings shall not exceed fifty percent (50%). The combined floor area of all accessory buildings constructed in accordance with these regulations shall not exceed twenty-five percent (25%). Where a lot has less area than required in Table 6-2 and was in existence as a separate legal lot prior to the effective date of these regulations, a zoning certificate may be issued for such lot.

SECTION 6-6 HEIGHT AND YARD REGULATIONS

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

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

b. Be higher than fifty (50) feet upon approval of the Board of Zoning Appeals and with additional front, rear and side yard setbacks as required in (a) above for all height above thirty-five (35) feet.

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

TABLE 6-3
MINIMUM YARD REGULATIONS

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

Footnotes:

(1) Front yards on arterial or collector streets shall comply with Article 19.

(2) Where a lot is located at the intersection of two or more streets, there shall be a setback from the side street of the lot of one-half of the required front yard setback; except that when lots have been platted facing said side street, the setback from the side street shall be no less than five (5) feet less than the required front yard setback of the lots platted on the same street.

(3) Or twenty (20) percent of the depth of the lot whichever is less.

6-603. Additional yard regulations are set out in Article 20.

SECTION 6-7 ACCESSORY USES

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

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

SECTION 6-8 SIGN REGULATIONS

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

SECTION 6-9 PARKING REGULATIONS

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

SECTION 6-10 SUPPLEMENTAL REGULATIONS

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

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

6-1003. Zero Lot Line.

a. Zero lot line concept is where a one or two (2) family dwelling has one exterior wall on or within one (1) foot of a side property line and the remaining side yard is double the normal side yard required by district regulations. Zero lot line developments may be built under the following conditions:

   1. When submitted as part of a new subdivision plat or an amendment to an existing subdivision and each lot to be developed using the zero lot line concept is so designated showing which lot line is the zero lot line.

   2. On an existing lot in a partially developed subdivision when submitted to and approved by the Board of Zoning Appeals as a variance under Article 25 of these regulations.

b. On any lot approved for the zero lot line concept, the following stipulations shall apply:

   1. A maintenance easement of at least four (4) feet in width shall be provided and recorded on the property adjoining the designated zero lot line.

2. There shall be no door or window openings on the side of the house which is built on the zero lot line.

3. No portion of a roof, gutter or other part of the structure shall project past the zero lot line and all roof drainage will be installed so as to keep all run-off water off of the adjoining property.

4. If an owner or builder does not build on a designated zero lot line, the double side yard must still be observed.

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

a. Definitions.

1. Attached single-family dwellings. A series of no more than four (4) single-family dwelling structures which are joined at one or more sides by a common wall and where the units are completely independent of each other, including the parcel of land upon which each unit is built.

2. Townhouse. A series of three (3) or more single-family residential dwelling structures joined together at one or more sides by a common wall and where the units are independent of each other, including the immediate parcel of land upon which each unit is built, and where portions of the land are held in common ownership with other units in the project.

3. Condominium. Multi-unit structures with each unit under separate ownership and each owner owning only air space occupied by his or her unit. All owners jointly own all common areas and land.

b. Conditions.

1. Attached single-family dwellings, as defined in this section, may be erected within the R-2 and R-3 districts subject to district regulations and the following conditions:

(a) No individual unit shall have less than twenty-two (22) feet frontage upon a public street.

(b) The intensity of use for all structures shall be no less than required by the district in which the structures are erected.

(c) Each unit shall be separated from other units at common party walls which are of two (2) hour fire resistive construction, or comply with requirements of the City-adopted fire code, whichever standard is greater.

(d) Party wall agreements in the form of restrictive covenants which run with the land to define ownership, use and responsibility for maintenance and use of such party wall must be provided.

(e) Parking shall be as required for single-family residences in Article 22.

(f) Utility services to each unit shall be separately metered and utilities served from the side or rear of the tract shall be run in a utility easement ten (10) feet wide and extending from the utility easements to within ten (10) feet of the building. An additional ten (10) foot wide utility easement shall extend out from the rear of the building behind each unit for the establishment of individual lines. Water services from the street side may be run in a common line from the main to the property line and then branch off to each individual metered unit. Other utilities serving the structure from the front or street side shall be from an easement arrangement as required for the rear of side-yard utilities.

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

(a) The intensity of use for all structures shall be no less than required by the district in which the structures are erected.

(b) Each unit shall be separated from other units at common party walls which are of two (2) hour fire resistive construction, or comply with requirements of the City-adopted fire code, whichever standard is greater.

(c) Utility services to each unit shall be separately metered and utilities served from the side or rear of the tract shall be run in a utility easement ten (10) feet wide and extending from the utility easements to within ten (10) feet of the building. An additional ten (10) foot wide utility easement shall extend out from the rear of the building behind each unit for the

establishment of individual lines. Water services from the street side may be run in a common line from the main to the property line and then branched off to each individual metered unit. Other utilities serving the structure from the front or street side shall be from an easement arrangement as required for the rear of side-yard utilities.

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

(e) Parking shall be as required for multiple-family residences in Article 22.

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

(a) The intensity of use for all structures shall be no less than required by the district in which the structures are erected.

(b) Each unit shall be separated from each other as required for multiple family unit provisions of the building code.

(c) Utility services to each unit shall be separately metered and utilities served from the side or rear of the tract shall be run in a utility easement ten (10) feet wide and extending from the utility easements to within ten (10) feet of the building. An additional ten (10) foot wide utility easement shall extend out from the rear of the building behind each unit for the establishment of individual lines. Water services from the street side may be run in a common line from the main to the property line and then branched off to each individual metered unit. Other utilities serving the structure from the front or street shall be from an easement arrangement as required for the rear of side-yard utilities.

(d) All common open space shall be jointly owned by the owners of the individual units and agreements setting forth the responsibilities of both external and internal common areas and facilities and setting forth restrictions shall be filed with the application for permit and recorded with the Cowley

County Register of Deeds. Such agreements shall be in accordance with K.S.A. 58-3101 *et seq*.

(e) Parking shall be as required for multiple-family residences in Article 22.

SECTION 6-11 REMOVAL AND RELOCATION OF MANUFACTURED HOMES

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

ARTICLE 7

COUNTRYSIDE DISTRICT (CS)

Sections:

7-1 Intent
7-2 Permitted Uses
7-3 Parking Regulations
7-4 Sign Regulations
7-5 Height, Area and Yard

SECTION 7-1 INTENT

7-101. The "CS" Countryside District is intended to reduce the number of nonconforming properties, both undeveloped and developed, which would otherwise result from the application of these regulations to newly-annexed property. The CS district will provide a rural residential lifestyle where residents have adequate open space by which to preserve that character even after the area becomes fully developed in accordance with this Article. To that end the district is particularly suited for cluster subdivisions developed in accordance with the City's subdivision regulations.

The district is also intended to allow for limited future single-family residential development without encouraging the premature loss of open space or the loss of land used for agricultural purposes.

7-102. Following the effective date of these Regulations, to be eligible for zoning classification as Countryside, land should be considered on a section (640 acres) basis. Only sections of land which: (1) were comprised of 16 or more tracts, parcels or lots, and each conforming to the relevant zoning regulations and subdivision regulations in effect prior to the effective date of these Regulations and (2) have a minimum of three miles of public roads through or abutting the section, may be zoned Countryside. Land which does not itself meet the above criteria, but which is surrounded by sections of land zoned Countryside, may also be zoned Countryside.

7-103. New lots shall be created within the Countryside District only if constituting 20 or more acres, as provided in Section 7-5.

SECTION 7-2 PERMITTED USES

7-201. In the Countryside District no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for the following uses:

a. Agricultural purposes.
b. Grain storage structures.
c. One-family dwellings.
d. Subdivisions for one-family dwellings, when constructed as cluster subdivisions in accordance with the City's subdivision regulations.

SECTION 7-3 PARKING REGULATIONS

7-301. Two (2) off-street parking spaces shall be provided for each dwelling unit.

7-302. Additional parking requirements are contained in Article 22 of these regulations.

SECTION 7-4 SIGN REGULATIONS

7-401. The following signs shall be allowed by permit in the Countryside District (CS):

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

b. One (1) non-illuminated home occupation sign per property lot, not to exceed six (6) square feet in area.

7-402. Additional sign regulations are contained in Article 27 of these Regulations.

SECTION 7-5 HEIGHT, AREA AND YARD

7-501. Height: Buildings or structures other than those actually used for agricultural purposes shall not exceed 35 feet and/or two and one-half (2 1/2) stories in height.

7-502. In the Countryside District, the minimum dimensions of lots and yards shall be as follows:

a. Lot Area: For every lot created after December 31, 2006, the minimum lot area shall be 20 acres with 600 feet or more of frontage on a public road. In cases where unusual lot configuration or dedications for public uses have created a lot of less than 20 acres, the Zoning Administrator shall determine whether the lot area nonetheless meets the spirit and intent of this requirement.

b. Lot Dimensions: For every lot created after December 31, 2006, the minimum width of a lot shall be 600 feet. The minimum depth of a lot shall be 600 feet. There shall not be a lot depth-to-width ratio greater than 4:1 (i.e. the depth of a lot cannot be greater than 4 times its width). In the event of unusual lot configurations, the Zoning Administrator shall determine whether the lot dimensions nonetheless meet the spirit and intent of this requirement.

ARTICLE 8

PUBLIC USE DISTRICT (P)

Sections:

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

SECTION 8-1 INTENT

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

SECTION 8-2 PERMITTED USES

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

a. Armories

b. Athletic complexes

c. Auditoriums

d. Cemeteries, public and private

e. City hall

f. Civic and community buildings

g. Courthouse

h. Fairgrounds

i. Generating plants

j. Hospitals

k. Libraries

l. Museums

m. Parks and public recreational facilities

n. Post offices

o. Public safety buildings, including jails

p. Public schools, including business, technical, trade or vocational schools

q. Water and wastewater treatment plants

r. Zoos

SECTION 8-3 PARKING REGULATIONS

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

SECTION 8-4 SIGN REGULATIONS

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

SECTION 8-5 HEIGHT, AREA AND YARD REGULATIONS

8-501.

a. Height.

1. For any structure located within one hundred (100) feet of any residential district (R-1, R-2, R-3), the maximum height of the nearest residential district shall apply. There shall be no height requirement for structures more than one hundred (100) feet from such residential district.

b. Yard.

1. *Front yards:* There shall be no setbacks required, except yards adjacent to arterial or collector streets shall comply with Article 24, and yards adjacent to a residential district (R-1, R-2, R-3) shall have a setback equal to the setback of such adjoining residential district.

2. *Side and rear yards:* No side or rear yard shall be required, except where such use abuts a residential district (R-1, R-2, R-3) there shall be a minimum of ten (10) feet side and/or rear yard.

ARTICLE 9

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

Sections:

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

SECTION 9-1 INTENT

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

SECTION 9-2 COMMERCIAL ZONING DISTRICTS

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

SECTION 9-3 PERMITTED AND CONDITIONAL USES

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

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

TABLE 9-1

P = Indicates Permitted Uses **C** = Indicates Conditional Uses

	USE	C-1	C-2	C-3	C-4
1.	Ambulance service.			**P**	**P**
2.	Amusement places, indoor.			**P**	**P**
3.	Animal hospitals.			**P**(1)	**P**(1)
4.	Any public building or land use by any department of the City, county, state or federal government	**C**	**C**	**C**	**P**
5.	Artists, authors, composers, studios and galleries	**P**	**P**	**P**	**P**
6.	Auditoriums, exhibition halls, fairgrounds, stadiums and similar uses.			**P**	**P**
7.	Automobile and truck wash services.			**P**	**C**
8.	Bowling alleys.		**C**	**P**	**P**
9.	Churches, similar places of worship.	**P**	**P**	**P**	**P**(2)
10.	Convenience stores.		**P**(3)	**P**	**P**
11.	Day care facilities: child care centers, day care homes, family day care homes, group day care homes and preschools.	**P**	**P**	**P**	**P**
12.	Dry cleaners-laundries, including self-service.			**P**	**P**
13.	Dwellings: When dwelling unit(s) located on other than ground floor of commercial structure.	**P**	**P**	**P**	**P**
14.	Electric-telephone substations and other similar public utility uses.		**P**	**P**	**P**
15.	Food catering service, lockers-storage.			**P**	**P**
16.	Fraternal-civic-social organizations.	**P**	**P**	**P**	**P**
17.	Funeral, crematory and mortuary services		**P**	**P**	**P**
18.	Furniture repair, upholstering			**P**	**P**
19.	Garden Supplies – nurseries, greenhouses.			**P**	**P**
20.	Golf driving ranges.			**C**	**C**
21.	Health and exercise spas, gymnasiums.	**P**	**P**	**P**	**P**
22.	Hospitals, clinics, laboratories.	**P**	**P**	**P**	**P**
23.	Hotels-motels.		**C**	**P**	**P**
24.	Industrial laundry and linen supply services.			**C**	**C**
25.	Kennels-boarding and breeding.			**C**	**C**
26.	Miniature golf.		**P**	**P**	**P**
27.	Mini-storage, self-storage.		**C**	**C**	**C**
28.	Mobile home sales.			**P**	**P**
29.	Monument engraving and sales.			**P**	**P**

	USE	C-1	C-2	C-3	C-4
30.	Motor vehicle repair.			**P**(4)	**P**(4)
31.	Motor vehicle body shop, provided all work shall be performed and all materials shall be stored within an enclosed building.			**C**	**C**
32.	Nursing homes, rest homes, convalescent homes and similar facilities.	**P**	**P**	**P**	**P**
33.	Offices: professional-business-educational-industrial-religious-philanthropic-public.	**P**(5)	**P**	**P**	**P**
34.	Package liquor store.		**C**	**C**	**C**
35.	Printing, including newspaper publishing.			**P**	**P**
36.	Private clubs.			**P**(6)	**P**(6)
37.	Racetrack and courses – vehicle and animal.			**C**	**C**
38.	Radio and television broadcasting studios (without transmission towers).	**P**	**P**	**P**	**P**
39.	Radio or television broadcasting studios (with transmission towers).		**P**	**P**	**P**
40.	Radio, television or telephone transmitting station or towers, subject to further regulations set out in Article 12.		**C**	**C**	**C**
41.	Recreation centers.			**P**	**P**
42.	Recreational vehicles – trailers, equipment sales.			**P**	**P**
43.	Restaurants.		**P**	**P**	**P**
44.	Retail sales and rental of goods and merchandise including, but not limited to: antiques; apparel; appliances; bakeries; bicycles; books and stationery; building materials; carpet and other floor coverings; cigarettes; clocks; farm machinery and supplies; food and groceries; furniture; hardware; heating, plumbing, and air conditioning equipment; jewelry; musical instruments; motor vehicles, parts and supplies; pet shops; pharmacies; photographic supplies and cameras; office equipment and supplies; and service stations.	**P**	**P**	**P**	**P**
45.	Retail sales of services including, but not limited to: banks, barber and beauty shops; building contractors, including air-conditioning, heating, plumbing and electrical; cleaning and repair; diaper services; interior decorating; lawn care and landscaping; locksmith; message service; outdoor advertising; pet grooming; photocopying and blueprinting; and stenographic, duplicating and mailing services.	**P**	**P**	**P**	**P**

	USE	C-1	C-2	C-3	C-4
46.	Schools: a. Public and private elementary schools b. Public and private secondary schools c. Postsecondary educational institutions d. Business and training/vocational schools	**C** **C** **P** **C**	**C** **C** **P** **C**	**C** **C** **P** **P**	**C** **C** **P** **P**
47.	Storage or warehousing, except for products of a highly explosive, combustible or volatile nature.			**C**	**C**
48.	Taverns, bars and drinking establishments.			**P**(6)	**P**(6)
49.	Theaters, indoor.		**P**	**P**	**P**
50.	Theaters, outdoor.			**C**	**C**
51.	Travel trailer parks.			**C**(7)	
52.	Wholesale establishment.			**C**	**C**

Permitted and conditional uses footnotes:

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

(2) Parsonages and similar uses when located in the C-4 District must comply with the same floor area regulations as set out in Item 13 (Dwellings) of Table 9-1.

(3) Including the self-service dispensing of gasoline and related petroleum products, providing there is no motor vehicle repair or service.

(4) Provided all work shall be performed within an enclosed building.

(5) Provided that no goods wares or merchandise shall be prepared for sale or sold on the premises.

(6) Provided not located within 200 feet of a church, school or hospital.

(7) Subject to requirements set out in Section 9-11.

SECTION 9-4 INTENSITY OF USE

9-401. (Reserved)

SECTION 9-5 HEIGHT AND YARD REGULATIONS

9-501.

a. *Height:* Except as otherwise provided in Article 20, no building or structure shall exceed forty-five (45) feet in height in the C-1, C-2 or C-3 zoning districts.

b. *Yard:* Front, side and rear yards shall comply with Table 9-2. Additional yard regulations are set out in Section 20-2.

TABLE 9-2

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

1) Front yards adjacent to arterial or collector streets shall comply with Article 24.
(2) There shall be a thirty (30) foot rear yard for structures of three (3) stories or more in all zones.

SECTION 9-6 DEVELOPMENT STANDARDS

9-601.

a. C-1 zoning district: All business, storage, service of goods shall be located completely within an enclosed structure.

b. C-2, C-3 zoning districts: All outdoor storage shall be screened from public view by at least ninety percent (90%) density screening, unless such goods are for resale to the public.

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

SECTION 9-7 SIGN REGULATIONS

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

SECTION 9-8 PARKING REGULATIONS

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

SECTION 9-9 OFF-STREET LOADING AND UNLOADING REGULATIONS

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

SECTION 9-10 SUPPLEMENTAL REGULATIONS

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

SECTION 9-11 TRAVEL TRAILER PARKS

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

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

9-1103. General Requirements.

a. Any tract of land permitted as a travel trailer park after the effective date of these regulations must be at least five (5) acres in area.

b. The applicant for a conditional use permit for a travel trailer park shall prepare and submit a schedule of construction, which shall provide for commencement of construction within a period of one (1) year following the approval of the permit by the Governing Body, and which shall provide that construction shall be completed within a period of two (2) years.

c. The applicant shall prepare or cause to be prepared a development plan and shall present five (5) copies of said plan for review by the Planning Commission and Governing Body. This plot plan shall show the proposed development and shall conform with the following requirements:

1. The travel trailer park shall be located on a well-drained site that is not subject to objectionable noise, smoke, odors, or other objectionable influences including unpredictable or sudden flooding. Exposed ground surfaces in all parts of the park shall be paved, covered with stone or other solid materials or protected with a vegetative growth capable of preventing and eliminating dust.

2. Travel trailer parks shall have a maximum density of twenty (20) trailer spaces per acre. A minimum of one thousand two hundred fifty (1,250) square feet shall be provided for each trailer space.

3. Each travel trailer space shall be at least twenty (20) feet wide and fifty (50) feet deep and shall have a clearly defined or marked border.

4. Trailers shall be placed on each space so that there is at least a ten (10) foot clearance between trailers. No trailer or other structure shall be located closer than twenty (20) feet from any building within the park or from any property line surrounding the park, except where such property line is a public street. No trailer or other structure shall be located closer than twenty-five (25) feet from any public street.

5. All parks shall be provided with safe and convenient vehicular access to each trailer space. Surfacing and maintenance shall provide a smooth, hard and dense surface which should be well drained and shall meet the following requirements:

   (a) One-way, no parking, 15-foot width.

   (b) One-way, parking on one side only, 20-foot width.

   (c) Two-way, no parking, 24-foot width.

   (d) Two-way, parking on one side only, 27-foot width.

   (e) Two-way, parking on both sides, 30-foot width.

6. All roadways and walkways within the travel trailer park shall be hard-surfaced and adequately lighted at night with electric lamps.

7. A recreation area shall be provided at a central location in the park. The size of such recreation area shall be no less than two hundred (200) square feet for each trailer space in the park.

8. A solid or semi-solid fence, wall, or evergreen hedge six (6) feet in height and having a visual density of at least ninety (90) percent shall be installed and maintained by the owner when the district abuts a residential zoning district except that said fence, wall, or hedge shall be reduced to forty-two (42) inches in height when located in a front yard. A district shall not be considered as abutting if it is separated by a street or alley right-of-way.

9. One dwelling unit which may be a mobile home may be permitted on the site for the park operator.

10. Travel trailer spaces shall be rented by the day or week only, and the occupant of a travel trailer space shall remain in the same travel trailer park area no more than thirty (30) days.

11. A properly ventilated and constructed storm shelter shall be provided in a central or other convenient location within the travel trailer park. Each shelter size shall be equal to at least 21 square feet of shelter floor area per travel trailer space. Storm shelters shall be constructed in accordance with all applicable City-adopted building codes.

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

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

9-1106. Electrical. Electrical wiring systems shall be installed in accordance with applicable City- adopted electrical codes. Main power lines not located underground shall be suspended at least eighteen (18) feet above the ground.

There shall be a minimum of eight (8) feet of vertical clearance between any trailer and the overhead wiring.

9-1107. Service Buildings.

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

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

b. Parks having more than one hundred (100) travel trailer spaces shall also provide: One additional toilet and lavatory for each sex for each additional forty (40) travel trailer spaces or fraction thereof; and one (1) additional men's urinal for each additional one hundred (100) travel trailer spaces or fraction thereof.

c. Where a travel trailer park is designed for and exclusively limited to use by camping units with self-contained water and sewage systems, only the following minimum sanitary facilities shall be required: For each one hundred (100) trailer spaces or fractional part thereof, there shall be one (1) flush toilet, one (1) lavatory, and one (1) shower for each sex.

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

9-1109. Open Fires. Cooking shelters, barbecue pits, fireplaces, wood-burning stoves and incinerators shall be so located, constructed, maintained and used as to minimize fire hazard and smoke nuisance both on the property on which used

and on neighboring properties. No open fire shall be permitted, except in facilities provided by the park operator. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.

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

a. The name and address of each trailer owner or tenant.

b. The name and address of each owner of a motor vehicle.

c. The date of arrival and departure of each trailer.

d. The license tag number of each motor vehicle.

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

ARTICLE 10

CENTRAL BUSINESS DISTRICT (C-4)

Sections:

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

SECTION 10-1 INTENT

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

SECTION 10-2 USE REGULATIONS

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

a. Unless otherwise expressly restricted, any permitted use in the C-1, C-2 or C-3 zoning districts and, upon the issuance of a conditional use permit, any use allowed as a conditional use in the C-1, C-2 or C-3 zoning districts.

b. Accessory buildings and uses customarily incidental to the above uses, provided there shall be no manufacture, processing or compounding of products other than such that are customarily incidental and essential to such permitted use. Accessory buildings and uses shall be constructed in a style and manner similar to a principal building or use.

c. If such land placed in this district is adjacent to a district in which single-family residencies are a permitted use, no article or material stored or offered for sale in connection with uses permitted above shall be stored or displayed outside the building unless it is so screened by permanent ornamental walls, fences or plantings that it cannot be seen from adjoining streets or lots when viewed by a person standing on ground level.

SECTION 10-3 PARKING REGULATIONS

10-301. Other than for dwelling uses, as set out in Section 22-5 of these regulations, no off-street parking spaces shall be required of uses located in the C-4 District.

SECTION 10-4 HEIGHT, AREA AND YARD REGULATIONS

10-401. Height. Buildings or structures shall not exceed seventy-five (75) feet or seven (7) stories in height.

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

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

10-404. Maximum Lot Coverage. A building, structure or use may occupy 100 percent (100%) of the zoning lot.

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

SECTION 10-5 SIGN REGULATIONS

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

ARTICLE 11

MANUFACTURED HOME SUBDIVISION DISTRICT (MHS)

Sections:

11-1 Intent
11-2 Permitted Uses
11-3 Conditional Uses
11-4 Intensity of Use
11-5 Height Regulations
11-6 Yard Regulations
11-7 Sign Regulations
11-8 Parking Regulations
11-9 Performance Standards

SECTION 11-1 INTENT

11-101. The intent of the MHS District is to provide manufactured housing development compatible with the character of the surrounding neighborhood. For purposes of this Article the term “manufactured housing” shall not include “mobile homes,” as defined in these regulations.

SECTION 11-2 PERMITTED USES

11-201. In the MHS District no building or land shall be used and no building or structures shall be hereafter altered, enlarged or erected for other than one of the uses listed below:

a. Churches, synagogues and other similar places of worship.

b. Single-family dwellings, including but not limited to manufactured housing.

c. Public park and recreation areas, including recreation-related buildings.

SECTION 11-3 CONDITIONAL USES

11-301. In the MHS District the following uses are allowed upon the issuance of a Conditional Use Permit in accordance with the provisions of Article 26.

a. Any public building or land used by any department of the city, county, state or federal government.

b. Telephone exchanges, electric substations, cable television, pumping

stations, or other similar utilities.

c. Public or private elementary and secondary schools.

SECTION 11-4 INTENSITY OF USE

11-401. No manufactured housing shall be placed on a lot having less than six thousand (6,000) square feet of lot area. The maximum lot coverage by the principal building shall be fifty percent (50%).

SECTION 11-5 HEIGHT REGULATIONS

11-501. No building shall exceed thirty-five (35) feet in height except as otherwise provided in Article 24.

SECTION 11-6 YARD REGULATIONS

11-601.

a. *Front yard.* Front yards on arterial or collector streets shall conform with the provisions of Article 24. In all cases not provided for in Article 24, there shall be a front yard of not less than fifteen (15) feet.

b. *Side yard.* Except as otherwise provided in Article 20, there shall be a side yard on each side of a principal building of not less than eight (8) feet. Accessory structures that are at least ten (10) feet from the main building may be located within five (5) feet of a side property line.

c. *Rear yard.* Except as otherwise provided in Article 24, there shall be a rear yard having a depth of not less than twenty (20) feet or twenty percent (20%) of the average depth of the lot, whichever amount is smaller.

SECTION 11-7 SIGN REGULATIONS

11-701. Sign regulations for the MHS District are set out in Article 27.

SECTION 11-8 PARKING REGULATIONS

11-801. Parking regulations for the MHS District are set out in Article 22.

SECTION 11-9 PERFORMANCE STANDARDS

11-901. The following performance standards shall apply to all manufactured housing lots in the MHS District:

a. *Minimum size*. Manufactured housing shall have a minimum width of twelve (12) feet and contain a minimum of six hundred (600) square feet.

b. *Fences*. Fencing on each lot shall comply with the fence regulations of the City of Winfield.

c. *Skirting*. Unless placed on a permanent foundation, manufactured housing shall be provided with skirting on all sides and shall be of material harmonious to the manufactured home.

d. *Blocking*. Unless placed on a permanent foundation, manufactured housing shall be blocked at a maximum of ten (10) foot centers around the perimeter of each manufactured home and this blocking shall provide sixteen (16) inches of sixteen (16) inches bearing upon the stand.

e. *Utilities*. All utility connections shall be in conformance with City-adopted codes.

f. *Tie-downs and ground anchors*. Unless placed on a permanent foundation, manufactured housing shall be secured to the ground by tie-downs and ground anchors in accordance with the Mobile Home and Recreational Vehicle Code K.S.A. 75-1211 to 75-1234.

g. *Area*. Following the effective date of these regulations, a tract or tracts to be zoned as MHS District shall not be less than five (5) acres.

ARTICLE 12

TELECOMMUNICATIONS TOWERS

Sections:

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

SECTION 12-1 TELECOMMUNICATIONS TOWERS; PERMITS

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

a. Applicant shall present satisfactory proof that the proposed location and use is reasonably necessary.

b. None of the above uses shall be required to comply fully with the lot size and height regulations of the zoning district in which they are located except as may be required by the conditions imposed upon the applicant.

c. Such structures must be set back from all adjacent property lines and streets a distance equal to not less than its height plus fifty (50) feet, provided, however, the Zoning Administrator may approve a shorter distance reasonably necessary to protect adjoining property and public safety.

d. Applicant must document that no co-location on an existing tower or other structure exists within five (5) miles of the proposed location is feasible or that efforts were made to locate on existing towers or other structures but such efforts were not successful.

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

e. All proposed communication towers 150 feet or less in height, not including lightning rod, shall be designed to accommodate at least one (1) additional PCS/Cellular or other similar platform. All proposed communication towers in excess of 150 feet shall be designated to accommodate at least two (2) additional PCS/Cellular or other similar platforms.

f. Any application for a proposed tower in excess of 150 feet in height shall include documentation regarding the necessity for the proposed height from a licensed professional engineer. Such documentation shall be in the form of an affidavit acceptable to the Planning Commission and signed by said engineer. At the request of the Planning Commission additional evidence in the form of testimony may be required from said engineer.

g. The tower and accessory equipment must meet all requirements of the Federal Aviation Administration. To the extent allowed by such requirements, any required lighting for such tower shall be red during time of darkness.

h. The applicant must provide financial assurances, satisfactory to the City, that all costs related to the requirements of these regulations will be met.

i. No permit shall be approved for a term in excess of five years. Six months prior to the end of the term of the approved permit the Planning Commission shall hold a public hearing on the renewal of the permit, unless at such time the permit holder advises the Zoning Administrator, in writing, that a renewal of the permit is not desired. At such hearing the Planning Commission will make findings as to: (1) the permit holder's compliance with the terms and conditions of the permit; (2) requests that have been accepted and rejected by the permit holder for co-location on the subject tower; and (3) whether any change in circumstance or condition relative to the tower and/or the surrounding neighborhood requires reconsideration of any of the factors for consideration set out at 12-801 of these regulations.

SECTION 12-2 FENCING AND SCREENING

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

SECTION 12-3 SETBACKS AND LANDSCAPING

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

SECTION 12-4 SECURITY

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

SECTION 12-5 ACCESS

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

SECTION 12-6 MAINTENANCE

12-601.

a. Permittees shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

b. Permittees shall install and maintain towers, telecommunications facilities, wire, cables, fixtures and other equipment in compliance with the requirements of the adopted electrical code of the City.

c. All towers, telecommunications facilities and similar structures shall at all times be kept and maintained in good condition, order, and repair so as not to menace or endanger public health or safety.

SECTION 12-7 DESIGN

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

SECTION 12-8 CONSIDERATION OF CONDITIONAL USE PERMIT

12-801.

a. Except as hereinafter otherwise provided a Conditional Use Permit application for a telecommunication tower shall be subject to the same procedures for consideration and action as applies to any other Conditional Use Permit application pursuant to Article 26 of these regulations.

b. In lieu of the factors for consideration of a Conditional Use Permit application under Article 26 of these regulations, the Planning Commission may recommend approval of a Conditional Use Permit, and the Governing Body may approve such permit for a telecommunications tower, using the following factors as guidelines:

   1. Whether approval of the conditional use would be consistent with the intent and purpose of, and meets the requirements of, these regulations;

   2. The aesthetic impact of the proposed telecommunications tower on the surrounding neighborhood;

   3. Whether the relative gain to the public health, safety and general welfare outweighs the hardship imposed upon the applicant by not granting the permit;

   4. Whether the positions of the applicant and/or the opponents are substantiated by substantial competent evidence or rather generalized concerns or unsubstantiated claims are made to the Planning Commission and/or Governing Body;

   5. Whether an F.C.C. license has been granted to the applicant authorizing provision of wireless services to the community and whether radio frequency emissions will comply with F.C.C. regulations;

   6. Whether there is an existing tower upon which the applicant can co-locate and if so, what substantiated efforts have been made by

applicant for co-location and upon what basis were any such towers deemed unacceptable by the applicant;

7. Will the tower adversely impact adjoining property values, present a hazard to air space, negatively impact the environment, traffic or in any other manner create negative impacts upon the neighborhood or community;

8. The recommendation of professional planning staff;

9. The expert testimony presented on behalf of and in opposition to the application; and

10. Such other factors as may be relevant to the facts and evidence presented in the application.

c. Consideration of an application for a Conditional Use Permit for a telecommunications tower shall be considered and acted upon by the Planning Commission and Governing Body in adherence to the limitations upon local authorities set out in the National Wireless Telecommunications Siting Policy, Section 332(c), 47 U.S.C. 332(c) which provides in part that the regulation of the placement, construction and modification of personal wireless service facilities by a local government shall not unreasonably discriminate among providers of functionally equivalent services; and shall not prohibit nor have the effect of prohibiting the provision of personal wireless services. Further, the siting policy provides that a local government shall act on any request for authorization to place, construct or modify personal wireless service facilities within a reasonable period of time after the request is duly filed, taking into account the nature and scope of such request. Further that any decision by a local government to deny a request to place, construct or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record. And further that no local government may regulate the placement, construction and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the F.C.C.'s regulations concerning such emissions.

SECTION 12-9 FILING REQUIREMENT

12-901. A permittee shall certify in writing, every three years, that its tower is structurally sound and conforms to the requirements of the applicable state law and all other construction standards set forth by local, federal and state law by filing, by January 1st of every third year following the date of the grant of its tower permit, a sworn statement by the permittee to that effect. All permittees or owners

of towers in existence on the effective date of these regulations shall submit a statement by March 1, 17, 2007, and by January 1st every three years thereafter that said tower is free from hazards and that the tower does not pose an imminent threat to the surrounding area or public health and safety. Together with this statement every permittee shall provide a certificate of liability insurance for not less than $500,000.00 coverage for injury to persons or property as a result of any tower failure or malfunction or defect. Permittee shall list the Zoning Administrator as a party who must be notified should this insurance be cancelled or discontinued for any reason, thirty (30) days before the expiration of coverage.

SECTION 12-10 REVOCATION OF PERMIT

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

a. The Governing Body shall provide permittee with written notice of a cause for revocation and the intent to revoke and shall allow permittee sixty (60) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance. Together with the notice required herein, the Governing Body shall provide permittee with written findings of fact which are the basis of the revocation.

b. The Governing Body shall provide the permittee with the right to a public hearing before the Governing Body which public hearing shall follow sixty (60) day notice. All interest parties shall be allowed an opportunity to be heard at the public hearing and present evidence.

c. Within thirty (30) days after the public hearing date the Governing Body shall issue a written order setting forth its findings of fact and conclusions of law forming the basis for its decision.

d. Upon written determination by the Governing Body to revoke a permit, the permittee may appeal the decision to a court of competent jurisdiction.

e. Upon permittee's failure to correct a violation, the Governing Body may issue an order to disconnect utilities to said tower to any utility company providing same. Said order shall not be issued prior to thirty (30) days from the date of the Governing Body's written determination. Said order shall be served upon the chief executive officer thereof, together with the permittee at the last known address, and have attached to it the findings of the Governing Body.

SECTION 12-11 TRANSFER OF PERMIT

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

SECTION 12-12 ABANDONMENT OF TOWER

12-1201.

a. In the event the use of any tower has been discontinued for a period of one (1) year, or in the event that a permittee has taken no action within one-hundred eighty (180) days after the revocation of a tower permit, such tower shall be deemed abandoned.

b. The Governing Body shall provide the tower owner three (3) months notice and an opportunity to be heard by the Governing Body, before initiating an abandonment action.

ARTICLE 13

MANUFACTURED HOME PARK DISTRICT (MP)

Sections:

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

SECTION 13-1 INTENT

13-101. The intent of the MP District is to provide for manufactured home park developments compatible with the character of the surrounding neighborhood in which they are located. Manufactured home parks are residential uses and should be located in areas where services and amenities are available such as those services and amenities found in residential areas comprised of site-built houses. For purposes of this Article the term “manufactured housing” shall not include “mobile home,” as defined in these regulations.

SECTION 13-2 PERMITTED USES

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

a. Manufactured homes.

b. Public park and recreation areas.

c. One single-family dwelling for use of the manufactured home park operator, provided that the dwelling meets all lot area and setback requirements as if it were in the R-1, Low Density Residential District.

SECTION 13-3 CONDITIONAL USES

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

a. Any public building or land used by any department of the city, county, state or federal government.

b. Churches, synagogues and other similar places of worship.

c. Telephone exchange, electric substations, cable television or other similar utilities.

d. Public or private, elementary and secondary schools.

SECTION 13-4 HOME OCCUPATIONS

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

SECTION 13-5 ACCESSORY USES

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

SECTION 13-6 GENERAL REQUIREMENTS

13-601. The requirements of this section shall apply to all manufactured home parks established after the effective date of these regulations. The requirements of 13-603:605 shall apply to the area of any expansions of manufactured home parks which were lawfully established prior to the effective date of these regulations. For purposes of this Article “expansion” means any new development which results in an increase in land area devoted to manufactured home park uses.

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

13-603. Manufactured homes shall be placed on leased spaces and not permitted to be placed on permanent foundations.

13-604. Construction shall commence within a period of one year following the approval of the governing body of the final plan and shall be completed within a period of two (2) years. If construction is not completed within two (2) years, the applicant may request an extension from the Governing Body. Approval of an extension shall not be withheld by the Governing Body without good cause.

13-605. No manufactured home manufactured on or after June 15, 1976 shall be located, relocated, stored or parked in the MP District unless such home complies with the provisions of K.S.A. 75-1211:1234, and amendments thereto, and rules and regulations adopted thereunder. No manufactured home manufactured prior to June 15, 1976 shall be located, relocated, stored or parked in the MP District.

SECTION 13-7 SPECIFIC REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

SECTION 13-8 APPLICATION FOR PRELIMINARY APPROVAL

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

a. The park shall be located on a well-drained site, properly graded to ensure rapid drainage and freedom from stagnant pools of water.

b. The park shall have a maximum density of eight (8) manufactured homes per gross acre and space shall be provided for each manufactured home consisting of a minimum of three thousand six hundred (3,600) square feet.

c. Each manufactured home space shall be at least forty feet (40') wide and clearly defined.

d. Manufactured homes shall be so located on each space that there shall be at least a twenty (20) foot clearance between manufactured homes; provided, however, that with respect to manufactured homes parked end-to-end, the end-to-end clearance shall be not less than fifteen (15) feet. No manufactured home shall be located closer than twenty-five feet (25') from any building within the park or from any property line bounding the park. No park shall be located closer than ten feet (10') from any paved roadway.

e. All manufactured home spaces shall front upon a private roadway of not less than twenty-seven (27) feet in width, which shall have unobstructed access to a public street. Thirty (30) feet of private roadway shall be required where parking is allowed in the roadway.

f. Walkways not less than thirty inches (30") wide shall be provided from the manufactured home spaces to service, community buildings or storm shelters.

g. All roadways and walkways within the park shall be surfaced with asphalt, concrete or asphaltic concrete and adequately lighted at night with electric lamps.

h. Paved off-roadway parking shall be provided at the rate of two (2) spaces for each manufactured home space.

i. A community building may be provided which may include recreation facilities, laundry facilities and other similar uses.

j. A recreational area shall be provided at a central location in the park at the minimum rate of two hundred (200) square feet for each manufactured home space but in no event shall an individual recreational area be less than five thousand (5,000) square feet.

k. A properly ventilated and constructed storm shelter shall be provided in a central or other convenient location. Each shelter size shall be equal to at least twenty-one (21) square feet of shelter floor area per manufactured home space. Storm shelters shall be constructed in accordance with all applicable City-adopted building codes.

l. A solid or semi-solid fence or wall and a ten (10) foot landscaped buffer area shall be provided between the park and any adjoining residential zoning district. Said fence or wall shall not be less than four (4) feet high nor more than six (6) feet high and shall have a visual density of at least ninety (90) percent. The operator of the park shall be responsible for the maintenance of the fence or wall and the landscaped buffer area.

m. Each manufactured home space shall be provided with a paved patio or equivalent, other than parking space, of not less than two hundred (200) square feet. No open storage of any unsightly material shall be permitted within the park.

SECTION 13-9 FINAL PLAN

13-901. Upon approval of the preliminary plan by the Planning Commission, the applicant shall prepare and submit a final plan, which shall incorporate any changes or

alterations requested by the Planning Commission. The final plan shall be reviewed by the Planning Commission and its recommendations shall be forwarded to the City Commission for review and approval. The final plan shall be filed and recorded with the Cowley County Register of Deeds as if it were a final subdivision plat.

SECTION 13-10 DEVIATION FROM FINAL PLAN

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

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

13-1101. Whenever a park ceases to be used for such purpose for a period of twelve (12) consecutive months, the Planning Commission shall initiate action and hold a public hearing to consider rezoning said property back to its former district classification or to a more appropriate district.

SECTION 13-12 SIGN REGULATIONS

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

SECTION 13-13 PARKING REGULATIONS

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

SECTION 13-14 VISIBLE LOT NUMBERS

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

ARTICLE 14

COLLEGE OVERLAY DISTRICT (C-O)

Sections:

14-1 Intent
14-2 Permitted Uses
14-3 Conditional Uses
14-4 Intensity of Uses
14-5 Sign Regulations
14-6 Parking Regulations
14-7 Development Alternatives

SECTION 14-1 INTENT

14-101. It is the intent of the College Overlay (C-O) Overlay District to provide for the use of land owned by a college or university and used for educational purposes as an overlay district, with the R-3 District as the underlying zoning district. All development, redevelopment or enlargements shall be in accordance with an approved master development plan, as set forth in Section 14-701.

SECTION 14-2 PERMITTED USES

14-201. Permitted Uses: In the C-O Overlay District no building, land or premises shall be used and no building or structures shall be hereafter erected or altered unless otherwise provided for in these zoning regulations, except for the following uses:

a. Alumni center.

b. Buildings or land used for athletic or recreational purposes and concessions connected therewith.

c. Buildings used for educational and administrative purposes.

d. Buildings used for student or faculty housing.

e. Religious assembly buildings.

f. Data processing center.

g. Day care facilities:

Child care centers, day care homes, family day care homes, group day care homes and preschools.

h. Hospital or medical center.

i. Monument or memorial.

j. Parking lot and/or parking garage in conjunction with a principal use within the confines of the C-O Overlay District boundary.

k. Physical plant.

l. Public transportation facility.

m. Sorority and fraternity housing.

n. Student union.

o. Any permitted use in the R-3 District.

SECTION 14-3 CONDITIONAL USES

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

a. Any public building or land use by any city, county, state or federal government agency.

b. Telephone exchange, electrical substations and similar public utility facilities.

c. Any other use consistent with the uses specifically set forth in this article, reasonable and desirable to the usual operation of such educational institutions.

SECTION 14-4 INTENSITY OF USE

14-401.

a. Minimum Lot Area: none required.

b. Minimum Yard Requirement and Maximum Structure Height unless otherwise specified in the master development plan, the following shall apply:

1. Area: Area regulations of the R-3 District shall apply in the C-O Overlay District.

2. Yard: Minimum front yard – 50 feet; side yard – 50 feet; and rear yard – 50 feet.

3. Height: Structures may not exceed one hundred twenty-five (125) feet in height.

SECTION 14-5 SIGN REGULATIONS

14-501. Sign regulations for the C-O Overlay District shall be as set out in the master development plan.

SECTION 14-6 PARKING REGULATIONS

14-601. Parking regulations for the C-O Overlay District shall be as set out in the master development plan.

ARTICLE 14-7 DEVELOPMENT ALTERNATIVES

14-701.

a. The development of property within the C-O Overlay District shall conform to a master development plan as approved by the Planning Commission and Governing Body. Any amendments, revisions or modifications of said plan shall follow the same procedures for an amended development plan as set forth in the regulations for the planned unit development district in Article 16.

b. The zoning map initially adopted in conjunction with these regulations may provide for C-O overlay zoning of property owned by a college or university for which there is no approved master development plan, but which otherwise complies with the requirements of this Article, provided that: within six (6) months following the adoption of such zoning map a master development plan for such property under the C-O overlay zoning is submitted to the Planning Commission.

In the event a master development plan has not been approved by the Planning Commission and Governing Body within six (6) months following submission of a master development plan in accordance with section 14-701.b., the C-O overlay zoning classification shall be removed and the property shall be regulated in accordance with the R-3 district regulations unless and until a rezoning is approved.

ARTICLE 15

INDUSTRIAL DISTRICTS (I-1 and I-2)

Sections:

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

SECTION 15-1 INTENT

15-101. It is the intent of the industrial districts to provide for areas of light and heavy industrial uses and for other compatible uses. Light Industrial (I-1) uses generate few effects felt off-site, such as smoke, noise or odor. Heavy Industrial (I-2) uses tend to be basic or primary industries which do often produce vibration, smoke, noise, odor, glare, dust and other effects that travel off-site. See also sections 4-14:15.

SECTION 15-2 PERMITTED AND CONDITIONAL USES

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

TABLE 15-1
Industrial Zoned Districts
Permitted and Conditional Uses

P = Indicates Permitted Uses **C** = Indicates Conditional Uses

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

	USE	I-1	I-2
23.	Public utility and public service uses including: municipal power plants; substations; lift stations; railroads; telephone exchanges, microwave towers, radio towers, television towers, telephone transmission buildings; electric power plants; and public utility storage yards.	**P**	**P**
24.	Self-storage (mini-storage).	**P**	
25.	Service stations.	**P**	**P**
26.	Stockyards and slaughterhouses.		**C**
27.	Storage of bulk oil, gas, explosives and similar materials.		**C**
28.	Storage yards providing the storage yard is completely enclosed with a six-foot fence or wall.		**P**
29.	Telecommunication towers subject to the further requirements of Article 12.	**C**	**C**
30.	Truck and rail terminals.	**P**	**P**
31.	Warehouses or storage houses.	**P**	**P**
32.	Welding shops.	**C**	**P**

SECTION 15-3 DEVELOPMENT STANDARDS

15-301.

a. Except as otherwise provided in section 15-4, a building, structure or use, allowed in either or both the I-1 and I-2 Districts, may occupy all that portion of a lot except for the area required for off-street parking, off-street loading and unloading and their access roads and/or arterial or collector streets as otherwise required in this Article or Article 22.

b. Except as otherwise provided in section 15-4, when the required off-street parking and/or required loading and unloading will be provided within the building or structure, the building or structure may cover the entire lot except as otherwise required for arterial and/or collector streets in Article 23.

c. No retail sales or service shall be permitted except when incidental or accessory to a permitted use or except when specifically permitted pursuant to this Article. Further, the portion of the building or structure used for such retail sales or service shall not exceed 10% of the total square footage of the building or structure.

d. No building shall be used for residential purposes, except a watchman may reside on the premises.

e. Except where otherwise expressly prohibited by these regulations, outside storage may be maintained provided the view of non-retail storage areas is screened from

streets and residential areas by a solid or semi-solid fence, wall or vegetation at least six (6) feet in height and having a visual density of at least ninety percent (90%).

SECTION 15-4 HEIGHT AND YARD REGULATIONS

15-401.

a. **Height.**

1. When a building or structure is within one hundred fifty feet (150) of property within any zoning district which allows residential uses, said building or structure shall not exceed forty-five (45) feet in height.

2. When a building or structure is more than one hundred fifty (150) feet from a property within any zoning district which allows residential uses, said building or structure shall not exceed one hundred fifty (150) feet or the maximum height for any applicable airport approach zone, whichever is the lesser.

b. **Yard.**

1. *Front Yards.* There shall be a front yard having a depth of not less than twenty (20) feet. Lots fronting on arterial or collector streets shall comply with the front yard requirements provided in Article 24.

2. *Side Yards.* No side yard shall be required except where a use adjoins a residential district, in which case there shall be a required fifteen (15) feet of side yard on the side of the lot abutting the residential district.

3. *Rear Yards.* When the rear lot line adjoins an area which is not zoned for commercial or industrial use, there shall be a rear yard for buildings as follows:

   (a) One and two-story buildings shall have a rear yard of twenty-five (25) feet or twenty (20) percent of the depth of the lot, whichever is the smaller.

   (b) Three story or more buildings shall have a rear yard of not less than thirty (30) feet.

SECTION 15-5 SIGN REGULATIONS

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

SECTION 15-6 PARKING REGULATIONS

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

SECTION 15-7 LOADING AND UNLOADING REGULATIONS

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

SECTION 15-8 SCREENING REQUIREMENTS

15-801. Regulations for the screening of industrial uses from adjacent residential land are set out in section 20-5.

ARTICLE 16

PLANNED UNIT DEVELOPMENT (PUD) OVERLAY DISTRICT

Sections:

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

SECTION 16-1 INTENT

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

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

SECTION 16-2 GENERAL PROVISIONS

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

a. **Permitted uses.** The applicant may propose any mixture of land uses including residential, commercial, and/or industrial uses.

b. **Size.** The minimum size allowed for a planned unit development shall be two (2) acres.

c. **Bulk regulations including front, rear and side yard setbacks, and structure height.** Generally consistent with the existing zoning district on the proposed site, but may be varied for a specific site as proposed by the developer when so approved.

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

SECTION 16-3 SPECIFIC STANDARDS AND CONDITIONS

16-301.

a. The applicant shall satisfy the Planning Commission that he or she has the ability to carry out the proposed plan and shall prepare and submit a schedule of construction. The proposed construction shall begin within a period of eighteen (18) months following approval of a final plan by the Governing Body. The time period established for the commencing of the plan may be modified from time to time by the Planning Commission upon the showing of good cause by the developer. In the event the landowner shall fail to commence the planned unit development within eighteen (18) months after final approval has been granted by the Governing Body, such approval shall terminate and shall be deemed null and void unless such time period is extended by the Planning Commission upon written application by the landowners.

b. The site shall be accessible from public roads that are adequate to carry the traffic that will be generated by the proposed development. The streets and driveways on the site of the development shall be adequate to serve the residents or occupants of the proposed development. Streets may be either public or private streets, however all private streets shall be of a size that will carry anticipated traffic and shall be paved. If it is determined that traffic control signals are required to prevent traffic hazards or congestion upon adjacent streets, the control signals shall be provided at the developer's expense.

c. The development shall not impose an undue burden on public services and facilities.

d. The application for a planned unit development shall be signed by all owners of the land at the time of application. The plan may have areas designated for sale after platting or development.

e. The location and arrangement of structures, parking areas, walks, lighting, and facilities shall be compatible with the surrounding land uses, and any part of a planned unit development not used for structures, parking, loading areas, or access ways shall be landscaped or otherwise improved.

f. When a commercial or industrial planned unit development or a commercial or industrial use within a mixed use development abuts a residential district, either adjacent to or within the planned development, a solid or semi-solid fence or wall from six (6) to eight (8) feet in height and having a visual density of not less than ninety percent (90%) per square foot shall be erected. Such fence or wall shall be on or within three (3) feet of the property line separating the use from the residential zone. Screen plantings may be used provided the type, size and number are shown on the final development plan and are approved by the Planning Commission. All required screening and plantings shall be maintained.

g. Setbacks shall be as required in the base zone in which the planned unit development is located unless otherwise specifically approved by the Planning Commission and Governing Body.

h. The planned unit development shall include such provisions for the ownership and maintenance of the common open spaces and private streets as are reasonably necessary to insure its continuity, care, conservation and maintenance, and to insure that remedial measures will be available to the Governing Body if such is allowed to deteriorate, or is not maintained in a condition consistent with the best interest of the planned development or of the entire community.

i. No residential use shall have vehicular access onto an arterial street.

j. Sidewalks shall be provided for on all private streets in accordance with the size, construction and location or sidewalks on public streets. An alternative pedestrian and sidewalk plan may be developed which provides pedestrians access between each use in the planned unit development, and consideration shall be given to providing for bicycle traffic along arterial and collector streets and along the approved pedestrian sidewalk system.

SECTION 16-4 APPLICATION PROCESS

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

Planning Commission for approval. The recommendation of the Planning Commission on the final plat is then submitted to the Governing Body for its final approval and/or acceptance of street rights-of-way and utility easements.

SECTION 16-5 PRELIMINARY PLAN

16-501.

a. An application for a PUD shall be handled in the same manner as prescribed for rezoning, including notice, advertisement of public hearing, protest and adoption. If lots are to be platted for sale, then the preliminary plan shall also be considered as a preliminary subdivision plat.

b. The applicant shall prepare and submit five (5) copies of the preliminary development plan for review and approval of the Planning Commission, which plan shall be prepared by a licensed engineer or land surveyor and shall include:

1. A site plan showing:

(a) Contours at intervals of two (2) feet.

(b) General location, size and use of all proposed structures, with all setbacks shown or the design of individual lots that are to be later developed or sold including lot, block, easements and public right-of-way if required.

(c) All points of ingress and egress, driveways, parking lots, parking spaces and service areas.

(d) All streets adjoining subject property and the width of the existing right-of-way of such streets.

(e) All public or private streets desired in the planned unit development along with any required and proposed sidewalks and or pedestrian ways.

(f) Areas set aside for public open space with the type of facilities planned for each area indicated.

(g) Intensity of use of each space.

(h) Location of natural features such as ponds, tree clusters, etc.

(i) Location and proposed type of all required and proposed screening.

2. A full legal description of the boundaries of the property or properties to be included in the PUD.

3. A vicinity map showing the general arrangements of streets and use of land of property within one thousand (1,000) feet from the boundaries of the proposed PUD.

4. If the proposed development includes common open spaces, streets, recreational facilities, or other common ownership, a statement describing the provisions for the care and maintenance of such common spaces. If it is proposed that such open space be owned and/or operated by an entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.

5. Where a proposal calls for construction in parcels over a period of years, a proposed schedule showing a proposed time and sequence for final approval of all sections shall be submitted.

c. **Action by the Planning Commission.** The Planning Commission shall conduct a public hearing on the preliminary plan following the same procedure as for any other rezoning application. The Planning Commission may recommend disapproval, approval, or approval with amendments, conditions, or restrictions.

d. **Action by the Governing Body.** The Governing Body may approve the preliminary development plan and authorize the submitting of the final development plan or plans. If the Governing Body approves the preliminary plan, it shall pass an ordinance designating the tract with an overlay of the planned unit development and so order the official zoning map to be amended.

e. Substantial or significant changes in the preliminary planned unit development shall only be made after rehearing and re-approval as required for the approval of a preliminary plan.

SECTION 16-6 FINAL PLAN

16-601.

a. After approval of a preliminary plan by the Governing Body, the applicant shall submit an application for final approval. The application may include the entire planned unit development or may be for a section thereof. The application shall include five (5) copies of such drawings, specifications, easements, conditions as

set forth in the approval of the preliminary plan and with requirements of this article.

b. A plan submitted for final approval shall be deemed to be in substantial compliance with the approved preliminary plan, provided any modification of the plan does not:

1. Vary the proposed gross residential density or intensity of use by more than five percent (5%) or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area; or

2. Increase by more than ten percent (10%) the floor area proposed for any building; or

3. Increase by more than five percent (5%) the height of the proposed building; or

4. Substantially change the design of the plan so as to significantly alter the approved preliminary plan, as determined by the Planning Commission, including such items as pedestrian or vehicular traffic flow or different land uses.

c. A public hearing need not be held for approval of a final plan if it is in substantial compliance with the approved preliminary plan, and a public hearing need not be held to consider modifications of water, stormwater, sanitary sewers or other utilities. The Planning Commission shall forward its recommendation to the Governing Body for its final approval.

d. In the event the final plan contains substantial changes from the approved preliminary development plan, the applicant shall resubmit an amended preliminary plan which shall be considered in the same manner prescribed in the article for original approval.

SECTION 16-7 RECORDING

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

ARTICLE 17

HOME OCCUPATION REGULATIONS

Sections:

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

SECTION 17-1 HOME OCCUPATIONS

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

a. **Restrictions and Limitations.**

1. No more than one employee or volunteer shall engage in such home occupation in addition to the person occupying the dwelling unit as his or her place of residence.

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

3. No exterior alterations or other construction shall be made to the dwelling which changes the character or appearance from its primary residential use.

4. No new accessory buildings shall be constructed for use, in whole or in part, in the home occupation.

5. The repair of items as a home occupation may occur only when the delivery and pickup of the item is conducted off the premises by the proprietor of the home occupation or by an employee (as authorized in item 1 above) of the home occupation. No trips shall be generated to or from the home occupation by customers with items which have been or are to be repaired.

6. No equipment or material shall be used which creates any noise, vibration, smoke or odors perceptible at the boundary lines of the property, which would be in excess of that ordinarily created by a single family residential dwelling.

7. No merchandise shall be displayed or sold on the premises to members of the general public, except craft or articles made by the person operating the home occupation. In no instance shall there be any outside display of such articles in connection with the home occupation. "Members of the general public" shall not include persons who have prior individualized invitation.

8. The area within a dwelling exclusively devoted to home occupations shall be limited to twenty-five percent (25%) of the total floor area of the dwelling or three hundred fifty (350) square feet, whichever is less.

9. The area of an accessory structure devoted to home occupations shall be limited to nine hundred (900) square feet.

10. The giving of lessons of any type shall be limited to no more than five (5) persons at any one time.

11. There shall be no advertising of the home occupation on the exterior of a dwelling or accessory structure other than one (1) non-illuminated sign of not more than three (3) square feet, per building, mounted flat against the exterior wall.

b. **Power of Zoning Administrator.** The Zoning Administrator is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Section, including the power to:

1. Investigate any home occupation or alleged home occupation, to determine whether or not such is in compliance with these regulations.

2. Enter upon premises for the purpose of making examinations: provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.

SECTION 17-2 PERMITTED HOME OCCUPATIONS

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

a. Artists, sculptors and writers.

b. Custom dressmaking, tailoring sewing of fabrics for custom apparel.

c. Giving of lessons of any type, provided instruction does not exceed five (5) pupils at a time. Such limitation shall not apply to recitals or other performances.

d. Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers, realtors, insurance agents, brokers, sales representatives, contractors, and similar professional offices.

e. Fabrication and/or assembly of handicraft or hobby articles.

f. Photographic studios.

g. Beauty or barbershops having one chair, stand or station.

h. Multi-level marketing and home party product sales, including but not limited to, Avon, Mary Kay Cosmetics and Tupperware.

SECTION 17-3 PROHIBITED HOME OCCUPATIONS

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

a. Antiques, either retail or wholesale.

b. Animal care other than grooming.

c. Funeral homes or services.

d. Retail sale or rental of any goods or products, other than where the commercial exchange constituting such sales or rental is accomplished by means of catalog orders, whether in written or electronic form.

e. Automotive sales, repair or service of any type.

f. Appliance repairs (other than for hand-held household appliances).

ARTICLE 18

MIXED USE DISTRICT (MU)

Sections:

18-1 Intent
18-2 Permitted Uses
18-3 Conditional Uses
18-4 Home Occupations
18-5 Accessory Uses
18-6 Height and Yard Regulations; Design Standards
18-7 Sign Regulations
18-8 Parking Regulations
18-9 Minimum Lot Size

SECTION 18-1 INTENT

18-101. It is the intent of the MU District to encourage a compatible mixed use environment, utilizing the character of a particular area. This district facilitates compatible mixed use activity within a residential neighborhood. The district includes a balance of compatible residential, office, civic, and neighborhood commercial retail/service uses of low to moderate intensity that complement and support neighborhood residential areas and pedestrian usage within quality urban design. The objectives of the district include:

a. Retention and attraction of businesses, workplaces and residences through adaptive reuse and rehabilitation of existing buildings; and

b. Redeveloping vacant and under-utilized properties through appropriately scaled in-fill development; and

c. High quality development and urban design standards that maintain a sense of history, human scale, and pedestrian-orientation.

18-102. **Applicability of Mixed Use Districts.** The MU District shall only be permitted on an area that merits special design considerations, involving a variety of property owners and uses within a developed urban environment. The MU District shall be sufficiently cohesive and substantial to achieve objectives identified in the City's comprehensive plan.

SECTION 18-2 PERMITTED USES

18-201. In the MU District no building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these regulations, except for the following uses:

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

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

SECTION 18-3 CONDITIONAL USES

18-301. In the MU District the following uses are allowed upon the issuance of a Conditional Use Permit in accordance with the provisions of Article 26 of these regulations:

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

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

SECTION 18-4 HOME OCCUPATIONS

18-401. Regulations relating to home occupations in the MU District for permitted uses and conditional uses under the R-1 zoning district shall be the same as those for the R-1 zoning district, as set out in Article 17.

SECTION 18-5 ACCESSORY USES

18-501. Regulations relating to accessory uses in the MU District are set out in Article 20.

SECTION 18-6 HEIGHT AND YARD REGULATIONS; DESIGN STANDARDS

18-601. No building in the MU District shall exceed thirty-five (35) feet in height, except as otherwise provided in Article 20.

18-602.

a. Front yard.

1. Front yards on arterial and collector streets and unplatted tracts on local streets shall conform with the provisions of Article 20.

2. There shall be a front yard having a depth of not less than thirty (30) feet or the established building line as defined in Article 2.

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

18-603. Side yard. Except as otherwise provided in Article 20, there shall be a side yard of not less than eight (8) feet on each side of a building.

18-604. Rear yard. Except as otherwise required in Article 20 there shall be a rear yard having a depth of not less than thirty (30) feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller.

18-605. Design Standards. All new development, including permitted commercial, office, institutional, residential uses, or combination thereof, or change of uses with exterior modifications shall be consistent with the following applicable design standards:

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

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

c. *Parking lots* – Parking lots shall not dominate the frontage of pedestrian-oriented and image streets or conflict with pedestrian crossings. No parking space shall be closer to the primary frontage street than the building.

d. *Facades* – Blank walls in excess of 50 feet shall be avoided. Buildings with multiple storefronts should be unified in character and compatible with any upper floors.

e. *Outdoor activity* – Buildings should accommodate outdoor activity with balconies, arcades, terraces, decks and courtyards for patrons', residents', or workers' interaction to the extent reasonably feasible.

f. *Outdoor cafes* – Restaurants should be encouraged to operate outdoor cafes on sidewalks, within buildings setbacks or courtyard provided that pedestrian circulation and access to store entrances is not impaired, the space is well-kept, and street furniture/coverings are compatible with architectural character of the building/block.

g. *Pedestrian circulation* – Adequate pedestrian circulation must be maintained at all times. Pedestrian linkages between parking lots, alleys, parks, and the street or building fronts shall be provided for within the public right-of-way or by dedicated easement.

h. *Transition yards and landscaping* – Where a commercial lot abuts a residential use, a landscaped yard consisting of, but not limited to, trees, vegetation, wood fencing, landscaped earthen berm, or other plantings shall be provided for as a visual buffer that creates spatial separation. Front yard setback areas shall be landscaped. Landscaping plans shall be submitted to the Zoning Administrator for approval.

i. *Open storage* – Any open storage visible from the street, adjacent to residential uses shall be screened to substantially reduce visual impact by fencing, landscaping, or other appropriate means.

j. The Zoning Administrator may waive any of the above-listed design standards if he or she determines it to be unnecessary to the scope and nature of the proposed development.

SECTION 18-7 SIGN REGULATIONS

18-701. Sign regulations for properties in the MU District shall be those of the most restricted zoning district which allows the use, either as a permitted or conditional use, of the subject property.

SECTION 18-8 PARKING REGULATIONS

18-801. Parking regulations for the MU District are as follows:

a. Residential dwellings: One space per dwelling unit.

b. Private clubs, drinking establishments, and restaurants with 50 percent of gross income in food sales: One space per four occupants permitted.

c. Private clubs, drinking establishments, and restaurants with 50 percent of gross income in alcohol or cereal malt beverage sales: One space per three occupants permitted.

d. Retail and office uses: One space per 300 square feet of floor area.

e. All other uses not specified shall be consistent with Article 22.

f. Minimum off-street parking requirements for uses within the MU District may be exempted by the Zoning Administrator for any change of use or expansion of an existing building provided adequate off-street or on-street parking can be demonstrated, and such exemption does not impose an unreasonable hardship on a residential neighborhood.

g. A maximum number of off-street parking spaces for a particular use may be imposed by the Zoning Administrator to conserve open space, or to prevent unnecessary demolition of buildings and damage to the historic integrity of a district.

SECTION 18-9 MINIMUM DISTRICT SIZE

18-901. No area shall be zoned as MU District, unless it comprises an entire city block or three (3) acres, whichever is the lesser.

ARTICLE 19

FLOODPLAIN MANAGEMENT

Sections:

19-1 Findings
19-2 Purpose
19-3 General Provisions
19-4 Administration
19-5 Provisions for Flood Hazard Reduction
19-6 Floodplain Management Variance Procedures
19-7 Penalties for Violation
19-8 Amendments
19-9 Definitions

SECTION 19-1 FINDINGS

19-101. Flood Losses Resulting from Periodic Inundation. The special flood hazard areas of the City are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

19-102. General Causes of the Flood Losses. Flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

19-103. Methods Used To Analyze Flood Hazards. The Flood Insurance Study (FIS) that is the basis of this Article uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps.

a. Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this Article is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this Article. 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 most current FIS, and illustrative materials.

b. Calculation of water surface profiles that are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.

c. Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.

d. Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.

e. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

SECTION 19-2 PURPOSE

19-201. It is the purpose of this Article to promote the public health, safety, and general welfare; to minimize those losses described in Section 19-101; to establish or maintain the City's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) and K.A.R. 5-44-4 by applying the provisions of this Article to:

a. 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;

b. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and

c. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

SECTION 19-3 GENERAL PROVISIONS

19-301. Lands to Which Ordinance Applies. This article shall apply to all lands within the jurisdiction of the City identified as numbered and unnumbered A Zones, AE, AO, and AH Zones, on the Index Map dated July 17, 2002 of the Flood Insurance Rate Map (FIRM) and the Index Map dated July 17, 2002 of the Flood Boundary and Floodway Map (FBFM) as amended, and any future revisions thereto. In all areas covered by this Article, no development shall be permitted except through the issuance of a floodplain development permit, granted by City under such safeguards and restrictions as the City may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Section 19-5.

19-302. Compliance. No development located within the special flood hazard areas of the City shall be located, extended, converted, or structurally altered without full compliance with the terms of this Article and other applicable regulations.

19-303. Abrogation and Greater Restrictions. It is not intended by this Article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. All other City laws inconsistent with this Article are hereby repealed to the extent of the inconsistency only.

19-304. Interpretation. In their interpretation and application, the provisions of this Article shall be held to be minimum requirements, shall be liberally construed in favor of the Governing Body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.

19-305. Warning and Disclaimer of Liability. The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This Article shall not create a liability on the part of the City, any officer or employee thereof, for any flood damages that may result from reliance on this Article or any administrative decision lawfully made thereunder.

SECTION 19-4 ADMINISTRATION

19-401. Floodplain Development Permit. A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Section 19-101. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

19-402. Designation of Floodplain Administrator. The City Engineer is hereby appointed as the Floodplain Administrator to administer and implement the provisions of this Article.

19-403. Duties and Responsibilities of Floodplain Administrator. Duties of the Floodplain Administrator shall include, but not be limited to:

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

b. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;

c. 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;

d. Issue floodplain development permits for all approved applications;

e. 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);

f. Assure that maintenance is provided within the altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished;

g. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;

h. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed; and

i. When floodproofing techniques are utilized for a particular non-residential structure, require certification from a registered professional engineer or architect.

19-404. Application for Floodplain Development Permit. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

a. 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;

b. Identify and describe the work to be covered by the floodplain development permit;

c. Indicate the use or occupancy for which the proposed work is intended;

d. Indicate the assessed value of the structure and the fair market value of the improvement;

e. Specify whether development is located in designated flood fringe or floodway;

f. Identify the existing base flood elevation and the elevation of the proposed development;

g. Give such other information as reasonably may be required by the floodplain administrator;

h. Be accompanied by plans and specifications for proposed construction; and

i. Be signed by the permittee or his or her authorized agent who may be required to submit evidence to indicate such authority.

SECTION 19-5 PROVISIONS FOR FLOOD HAZARD REDUCTION

19-501. General Standards.

a. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section are satisfied.

b. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this Article. If Flood Insurance Study data is not available, the City shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.

c. Until a floodway is designated, no new construction, substantial-improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the City.

d. All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:

1. 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;

2. Construction with materials resistant to flood damage;

3. Utilization of methods and practices that minimize flood damages;

4. 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;

5. 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

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

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

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

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

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

e. *Storage, Material, and Equipment*

1. 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.

2. 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.

f. *Nonconforming Use*

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

1. If such structure, use, or utility service is discontinued for twelve (12) consecutive months, any future use of the building shall conform to this Article.

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

g. *Agricultural Structures*

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

h. *Accessory Structures*

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

from the standard floodplain management requirements of this Article; and a floodplain development permit has been issued.

i. *Critical Facilities*

All new or substantially improved critical nonresidential facilities including, but not limited to, governmental buildings, police stations, fire stations, hospitals, orphanages, penal institutions, communication centers, water and sewer pumping stations, water and sewer treatment facilities, transportation maintenance facilities, places of public assembly, emergency aviation facilities, and schools shall be elevated above the .2 percent annual chance flood event, also referred to as the 500-year flood level or together with attendant utility and sanitary facilities, be floodproofed so that below the 500-year flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the 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 19-403 g., h., and i.

j. *Hazardous Materials*

All hazardous material storage and handling sites shall be located out of the special flood hazard area.

k. *Cumulative Improvement*

A structure may be improved (remodeled or enlarged) without conforming to current requirements for elevation so long as the cumulative value of all work done within the last five (5) calendar years does not exceed fifty (50) percent of the structure's current market value. If the cumulative value of the improvement exceeds fifty (50) percent of the structure's current market value, the structure must be brought into compliance with Section 19-502 a.1. which requires elevation of residential structures to one (1) foot above the base flood elevation or the elevation/floodproofing of non-residential structures to one (1) foot above the base flood elevation.

19-502. Specific Standards.

a. In all areas identified as numbered and unnumbered A zones, AE, and AH Zones, where base flood elevation data have been provided, as set forth in Section 19-501.b, 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 (1) foot above base flood elevation**.** The elevation of the lowest floor shall be certified by a licensed land surveyor.

2. *Non-Residential Construction*

New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be 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. The elevation of the lowest floor shall be certified by a licensed land surveyor. Such certification shall be provided to the floodplain administrator as set forth in Section 19-403.g:i.

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

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

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

19-503. Manufactured Homes.

a. All manufactured homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, on the City's FIRM 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. Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the City's FIRM on sites:

1. Outside of a manufactured home park or subdivision;

2. In a new manufactured home park or subdivision;

3. In an expansion to and 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, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor.

c. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, that are not subject to the provisions of Section 19-503.b, be elevated so that either:

1. The lowest floor of the manufactured home is a minimum of one (1) 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 (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor.

19-504. Areas of Shallow Flooding (AO and AH zones). Located within the areas of special flood hazard as described in Section 19-301 are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

a. *AO Zones*

1. All new construction and substantial-improvements of residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the City's FIRM (at least two (2) feet if no depth number is specified).

2. All new construction and substantial-improvements of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the City's FIRM (at least two (2) feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

3. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

b. *AH Zones*

1. The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in Section 19-502.

2. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

19-505. Floodway. Located within areas of special flood hazard established in Section 19-501, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:

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

b. The City shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the City during the occurrence of the base flood discharge.

c. If Section 19-505.b is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Section 19-5.

d. In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in Section 19-501.b.

19-506. Recreational Vehicles. Recreational vehicles placed on sites within all unnumbered and numbered A Zones, AE, AH, and AO Zones on the City's FIRM 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, elevation, and anchoring requirements of this Article for manufactured homes.

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

SECTION 19-6 FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES

19-601. Establishment of Appeal Board. The City Board of Zoning Appeals is hereby designated the Winfield Floodplain Management Appeal Board, which shall hear and decide appeals and requests for variances from the floodplain management requirements of this Article.

19-602. Responsibility of Appeal Board.

a. Where an application for a floodplain development permit is denied by the Floodplain Administrator, the applicant may apply for such floodplain development permit directly to the Appeal Board.

b. The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Article.

19-603. Further Appeals. Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 and 12-760.

19-604. Floodplain Management Variance Criteria. In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this Article, and the following criteria:

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

b. Danger that materials may be swept onto other lands to the injury of others;

c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. Importance of the services provided by the proposed facility to the City;

e. Necessity to the facility of a waterfront location, where applicable;

f. Availability of alternative locations, not subject to flood damage, for the proposed use;

g. Compatibility of the proposed use with existing and anticipated development;

h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. Safety of access to the property in times of flood for ordinary and emergency vehicles;

j. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,

k. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

19-605. Conditions for Approving Floodplain Management Variances.

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

b. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provide the proposed activity will not preclude the structure's continued historic designation.

c. Variances shall not be issued within any designated floodway if any significant increase in flood discharge would result.

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

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

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

19-606. Conditions for Approving Variances for Agricultural Structures.

a. Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as

well as those criteria and conditions set forth in Article 5, Sections 19-604:605.

b. In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-floodproofed:

1. All agricultural structures considered for a variance from these floodplain management regulations shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, cannot be considered agricultural structures.

2. Use of the varied structures must be limited to agricultural purposes in Zone A only as identified on the City's FIRM.

3. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (*i.e.,* foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Section 19-501.d.2.

4. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Section 19-501.d.1. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.

5. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 19-501.d.4.

6. The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with Section 19-502.a.3.

7. The agricultural structures must comply with the floodplain management floodway encroachment provisions of Section 19-

505.b. No variances may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the one percent annual chance flood event, also referred to as the 100-year flood.

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

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

10. The City shall notify the applicant in writing over the signature of a City 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 for $100 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this Article.

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

19-607. Conditions for Approving Variances for Accessory Structures.

a. Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions a well as those criteria and conditions set forth in Sections 19-604:605.

b. In order to minimize flood damages during the one percent annual chance flood event, also referred to as the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed:

1. Use of the accessory structures must be solely for parking and limited storage purposes in Zone A only as identified on the City's FIRM.

2. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (*i.e.,* foundation, wall framing, exterior and interior finishes, flooring, etc.)

below the base flood elevation, must be built with flood-resistant materials in accordance with Section 19-501.d.s.

3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Section 19-501.d.1. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.

4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 19-501.d.4.

5. The accessory structures must meet all NFIP opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with Section 19-502.a.3.

6. The accessory structures must comply with the floodplain management floodway encroachment provisions of Section 19-505.b. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.

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

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

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

10. Wet-floodproofing construction techniques must be reviewed and approved by the City and a registered professional engineer or

architect prior to the issuance of any floodplain development permit for construction.

19-608. Conditions for Approving Variances for Temporary Structures.

a. Any variance granted for a temporary structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Sections 19-604:605.

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

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

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

(c) The City has adopted up-to-date NFIP and building regulations to direct placement and removal of the temporary structure; and

(d) The City has sufficient staff to monitor the placement, use, and removal of the temporary structure throughout the duration of the permit.

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

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

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

(c) An emergency plan for the removal of the temporary structure that includes specific removal criteria and time frames from the agency or firm responsible for providing the manpower, equipment, and the relocation and disconnection of all utilities shall be required as part of the special use permit application for the placement of any temporary structure.

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

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

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

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

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

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

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

SECTION 19-7 PENALTIES FOR VIOLATION

19-701. Violation of the provisions of this Article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this Article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues, shall be considered a separate offense. Nothing herein contained shall prevent the City or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 19-8 AMENDMENTS

19-801. The regulations, restrictions, and boundaries set forth in this Article may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in the official City newspaper at least twenty (20) days prior to such hearing. A copy of such amendments will be provided to the FEMA Region VII office. The regulations of this Article are in compliance with the NFIP regulations.

SECTION 19-9 DEFINITIONS

19-901. Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the same meaning they have in common usage and to give this Article its most reasonable application.

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

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

Actuarial rates see *"risk premium rates."*

Administrator means the Federal Insurance Administrator.

Agency means the Federal Emergency Management Agency (FEMA).

Agricultural commodities means agricultural products and livestock.

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

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

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

Area of special flood hazard is the land in the floodplain within the City subject to a one percent (1%) or greater chance of flooding in any given year.

Base flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

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

Building see *"structure."*

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

Chief executive officer or ***Chief elected official*** means the City official who is charged with the authority to implement and administer laws and regulations for the City.

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

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

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

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

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

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

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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

Flood boundary and floodway map (FBFM) means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

Flood elevation determination means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

Flood elevation study means an examination, evaluation and determination of flood hazards.

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

Flood hazard boundary map (FHBM) means an official map of the City, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

Flood hazard map means the document adopted by the City Commission showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

Flood insurance rate map (FIRM) means an official map of the City, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

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

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

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

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

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

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

Floodway encroachment lines means the lines marking the limits of floodways on Federal, State and local floodplain maps.

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

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

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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

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

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

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for the City issued by the Federal Emergency Management Agency (FEMA).

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

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

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

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

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

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

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

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

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

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

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

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

Special flood hazard area see *"area of special flood hazard."*

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

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

State coordinating agency means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the Governor of the State or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *"Structure"* for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is

principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

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

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

Temporary structure means a structure permitted in a district for a period not to exceed 180 days and is required to be removed upon the expiration of the permit period. Temporary structures may include recreational vehicles, temporary construction offices, or temporary business facilities used until permanent facilities can be constructed, **but at no time shall it include manufactured homes used as residences.**

Variance means a grant of relief by the City 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 City.

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

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

ARTICLE 20

SUPPLEMENTAL DISTRICT REGULATIONS

Sections:

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

SECTION 20-1 GENERAL

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

SECTION 20-2 HEIGHT AND YARD REGULATIONS

20-201

a. Height. Chimneys, cooling towers, elevator headhouses, fire towers, monuments, stacks, watertowers, or necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy are not subject to the height limitations contained in the district regulations.

b. Yard. The setback requirements established by the district regulations shall be adjusted in accordance with the provisions of Article 24 of these regulations.

1. *Accessory buildings and structures.*

(a) Detached accessory buildings or structures must be located behind the front building line and may be located no closer than five (5) feet from the principal building, side or rear lot line. Provided, however, if the building or structure is not an accessory building subject to Sections 20-801 and 20-802 and the building or structure has a vehicular entrance

directly from an alley such accessory building or structure shall be set no less than twenty (20) feet from the property line adjacent to the alley.

(b) Existing accessory buildings or structures which do not meet the minimum setbacks may be rebuilt, reconstructed or enlarged, providing they do not further decrease the existing setbacks.

(c) Except as otherwise permitted or further restricted by the regulations in this Article, the total area of all detached accessory buildings or structures shall not exceed the provisions of section 20-7.

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

(a) Eave projections, sills, cornices and other ornamental features may project a maximum of twelve (12) inches into a required yard or setback.

(b) Open fire escapes, balconies opening onto a fire escape, chimneys and fireplaces may project no more than three and one-half (3.5) feet into a required side yard and five (5) feet into a required rear yard.

(c) Patios or decks no more than three (3) feet above grade may project up to ten (10) feet into a front or rear yard, however front yard setbacks shall be no less than ten (10) feet,

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

SECTION 20-3 NUMBER OF STRUCTURES ON A LOT

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

SECTION 20-4 SIGHT DISTANCES

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

SECTION 20-5 SCREENING FOR COMMERCIAL AND INDUSTRIAL-ZONED PROPERTY

20-501.

a. Commercial or industrial use adjacent to a residential zone. Whenever a commercial or industrial zoned tract adjacent to a residential zoning district is used, screening which is adequate to protect the residential land from the affect of the commercial or industrial use shall be erected by the commercial or industrial property owner.

b. Type of screening required. Screening shall consist of a wall, fence or evergreen plantings six (6) to eight (8) feet in height having a visual density of at least ninety percent (90%). Screens adjacent to the front yard of a residential zone shall not exceed forty-eight (48) inches in height.

c. Location of screen. All required screening shall be located within three (3) feet of the property line adjacent to the residential zone.

d. Evergreen hedges or shrubs. Evergreen plantings shall be planted at a height of at least thirty-six (36) inches and shall reach the required height and effective screening within eighteen (18) months.

e. Maintenance of screens. All required screens shall be permanently maintained in good and effective condition, and whenever necessary, repaired or replaced.

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

SECTION 20-6 TEMPORARY USES

20-601.

a. Only the following temporary uses may be permitted.

1. Carnivals and circuses, located in a commercial or industrial zone or on public property, when located at least two hundred (200) feet from the boundary of a residential zone and for a time period not exceeding two (2) consecutive weeks.

2. Contractor's office and equipment sheds on the site of a construction project only during the construction period.

3. Model homes or development sales offices located within the subdivision or development area to which they apply, with such use to continue only until sale or lease of all units in the development.

4. Outdoor temporary sales on private property and not incorporated or in partnership with the existing business located on this property in a commercial or industrial zone, including commercial sales, swap meets or similar activities providing they do not operate for more than ten (10) consecutive days and there are no more than four (4) such sales on any one property in any calendar year.

5. Seasonal sales of farm or garden produce, bulbs, plantings or cut flowers, on an individual's place of residence and raised by the same individual, provided no structure is constructed for such use.

6. One mobile home or manufactured home to be used as a temporary office for any allowable use in an industrial or commercial zoning district, provided that such home shall not be used for more than a one (1) year period starting the day the home is set upon the property.

b. Persons seeking approval for a temporary use authorized by items 1,2 and 4 in subsection a. of this section shall make application to the Zoning Administrator at least ten (10) days in advance of the time desired for usage. Such application shall include a site plan showing existing and proposed usage. The Zoning Administrator may issue a certificate of temporary use upon the payment of the temporary use permit fee imposed by the fee ordinance and upon finding:

1. The temporary use will not impair the normal, safe and effective operation of any permanent use on the same or adjoining site.

2. The temporary use will not impact the public health, safety, or convenience and will not create traffic hazards or congestion or otherwise interrupt or interfere with the normal conduct of use and activities in the vicinity.

3. That adequate off-street parking is available for the temporary use and

any permanent use on the site.

c. The following conditions for a temporary use shall apply:

1. Each site used by an authorized temporary use shall be left free of debris, litter and all evidence of such use.

2. Such use when conducted upon a parking lot of another business shall not occupy more than twenty (20) percent of the required parking spaces of such uses.

3. No temporary use shall be located within the required setback of the site.

4. Any sign used in conjunction with the temporary use shall comply with all requirements of the Article 27 sign regulations for temporary signs, including the obtaining of a sign permit.

SECTION 20-7 ACCESSORY USES

20-701. Accessory uses are permitted in any zoning district in connection with any permitted principal use, consistent with the provisions of this section and section 20-8.

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

1. Is subordinate to and serves a principal building and principal use.

2. Is subordinate in area, extent or purpose to the principal building or buildings served.

3. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served.

4. Is located on the same tract as the principal building or principal use served.

b. **Permitted accessory uses.** Any structure or use that complies with the terms of subsection a. of this article may be allowed as an accessory use or structure. Accessory structures and uses include, but are not limited to, the following:

1. Private garages and carports, whether detached or attached, as further regulated by section 20-8.

2. A structure for storage incidental to a permitted use, provided no such structure that is accessory to a residential building shall exceed one hundred forty-four (144) square feet in gross floor area.

3. A children's playhouse.

4. A private swimming pool and bathhouse.

5. A guest house or rooms for guests in an accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units or permanent occupancy as house-keeping units.

6. Statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, hedges and radio and television antennas.

7. Storm shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.

8. Off-street parking and loading spaces as regulated by Articles 22 and 23 of these regulations.

9. Retail sales of products manufactured, processed or fabricated on site.

10. Storage of recreational equipment, such as boats, boat trailers, camping trailers, converted buses or trucks, motor homes, provided no such equipment is occupied for dwelling purposes.

11. Restaurants, drug stores, gift shops, club and lounges and newsstands when located in a permitted hotel, motel or office building.

12. Offices for permitted business and industrial uses when the office is located on the same site as the business or industry to which it is an accessory.

13. The storage of retail merchandise when located within the same building as the principal retail business.

c. **Prohibited accessory uses.** None of the following shall be permitted as an accessory use:

1. Outdoor storage or overnight parking in a residential district of trucks of a gross vehicle weight of 12,000 pounds or mobile homes, provided such storage or parking may be permitted upon the issuance of a waiver by the Zoning Administrator following a finding by the Zoning Administrator that such waiver would not be adverse to public health, safety or welfare.

2. Outdoor storage, except as specifically permitted in the district regulations.

3. Storage of containers typically transported by tractor-trailer rigs, in a residential district, except where completely enclosed within a structure. Further, in the event any such container, lawfully placed as of the effective date of these regulations, is removed, no replacement container may be placed on the property.

SECTION 20-8 ACCESSORY USES; ADDITIONAL REQUIREMENTS

20-801. No detached, enclosed accessory building in a residential district (R-1, R-2, R-3, MHP, MHS, MU) shall occupy a required front yard or be located within ten (10) feet of any dwelling existing or under construction on the building site.

20-802. No single accessory building in a residential district (R-1, R-2, R-3, MHP, MHS, MU) shall exceed 900 square feet ground area, nor shall any such building occupy more than 30% of the required yard spaces in the rear half of the lot. Further, the total area of all such accessory buildings shall not collectively occupy more than 40% of the required yard spaces in the rear half of the lot. Required yard spaces exclude areas within required setbacks. No accessory building shall be located closer than five (5) feet to any lot line. In the case of a corner lot no accessory building shall project closer to the street side yard than the front yard abutting.

20-803. Garages shall not be constructed upon lots in residential-zoned districts upon which no principle dwelling is located.

SECTION 20-9 FENCES

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

a. No fence shall be constructed without first obtaining a fence permit from the Zoning Administrator.

b. No fence shall be constructed closer to the street than the front setback line established for the district in which such fence is to be erected; provided however, that a fence not exceeding four (4) feet in height may be constructed within a required front yard setback if the Zoning Administrator determines that such a fence otherwise complies with the regulations of this section.

c. No fence shall be constructed in the sight distance area or any other location by which it would constitute a traffic hazard.

d. A property owner may install a fence within a dedicated easement at his or her own risk of having to remove or repair such fence due to the lawful activities of persons or entities under the easement.

e. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.

f. For corner lots the following rules shall apply: All sides adjacent to a street shall be considered front yards, with the one on the non-address side having the lesser setback requirement. The primary front yard shall meet the applicable district setback. However, on corner lots back to back with another corner lot, the fence may be installed up to the non-address side property line, in the front yard setback area.

g. For institutional uses in residential districts, such as schools, parks, hospitals and cemeteries, a fence may be constructed in the front yard setback provided it complies with subsections c, d and e of this section, with a maximum of six (6) foot height.

h. A fence may be erected in a commercial district to not more than ten (10) foot maximum height, however no barbed wire or electrification shall be attached.

i. A fence may be erected in an industrial district to not more than ten (10) feet maximum height.

SECTION 20-10 RESIDENTIAL-DESIGN MANUFACTURED HOUSING STANDARDS

20-1001.

a. In order to be classified as a Residential-Design Manufactured Home a structure must be manufactured to the standards embodied in the National Manufactured Home Construction and Safety Standards generally know as the HUD Code established in 1976 pursuant to 42 U.S.C. Sec. 5403. Such structures shall provide all of the accommodations necessary to be a dwelling unit and shall be connected to all utilities in conformance with applicable City regulations. Such a structure shall be on a permanent-type, enclosed perimeter foundation which has minimum dimensions of 22 body feet in width excluding bay windows, garages, porches, patios, pop-outs and roof overhangs; a pitched roof; siding and roofing materials which are customarily used on site-built homes; and which complies with the following architectural or aesthetic standards so as to ensure their compatibility with site-built housing:

1. The roof must be predominantly double-pitched and have a minimum vertical rise of four (4) inches for every twelve (12) inches of horizontal run, and must be covered with material that is customarily used on site-built dwellings, including but not limited to approved wood, asphalt composition shingles, clay or concrete title, slate or fiberglass, but excluding corrugated aluminum or corrugated fiberglass roof. The roof shall have a minimum eave projection and roof overhang on at least two sides of ten (10) inches, which may include a gutter.

2. Exterior siding shall be of a nonreflective material customarily used on site-built dwellings such as wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials, but excluding smooth ribbed or corrugated metal or plastic panels. Siding material shall extend below the top of the exterior of the foundation or curtain wall or the joint between siding and enclosure wall shall be flashed in accordance with City-adopted building codes.

3. The home shall be installed in accordance with the recommended installation procedure of the manufacturer and the building code adopted by the City.

4. The running gear, tongue, axles and wheels shall be removed from the unit at the time of installation. Either a basement or a continuous, permanent masonry foundation or curtain wall, unpierced except for required ventilation and access, which may include walk-out

basements and garages, shall be installed under the perimeter of the home.

5. At the main entrance door there shall be a landing that is a minimum of 25 square feet which is constructed to meet the requirements of City-adopted building codes.

6. On level sites, the main floor shall be no greater than twenty-four (24) inches above the finished grade at the foundation. On sloping or irregular sites, the main floor at the side closest to grade level shall not be greater than twenty-four (24) inches above the finished grade at the foundation.

7. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the City-adopted building codes and attached permanently to the primary structure and anchored permanently to the ground.

8. Any attached addition to such a home shall comply with all construction requirements of the City-adopted building codes, unless designed and constructed by a manufactured home factory.

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

b. For purposes of these regulations, the term "manufactured home", when used by itself, shall not include a "residential-design manufactured home".

ARTICLE 21

NONCONFORMITIES

Sections:

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

SECTION 21-1 GENERAL PROVISIONS

21-101. Nonconformities are of three types: nonconforming lots of record, nonconforming structures and nonconforming uses. Regulations governing nonconforming manufactured homes are set forth at Section 21-5. Types of nonconformities are defined as follows:

a. **Nonconforming lots of record:** Means an unimproved lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded with the Cowley County Register of Deeds prior to the original adoption of zoning regulations (Ordinance No. 2707) and neither said lot nor parcel complies with the lot width and/or area requirements for the district in which it is located.

b. **Nonconforming structure***:* Means an existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which the structure is located.

c. **Nonconforming use:** Means an existing, lawful use of a structure or land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.

SECTION 21-2 NONCONFORMING LOTS OF RECORD

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

a. The lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the

creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations, and

b. The lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulations, and

c. The lot can meet all yard regulations for the district in which it is located.

SECTION 21-3 NONCONFORMING STRUCTURES

21-301.

a. **Authority to continue.** Any structure that is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable intensity of use regulations and/or the applicable yard and height regulations, may be continued, so long as it remains otherwise lawful.

b. **Enlargement, repair, alterations.** Any nonconforming principal structure may be enlarged, maintained, repaired or remodeled. No such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure. An enlargement which does not, in the Zoning Administrator's determination, extend the nonconformity beyond the existing nonconformity shall not be an additional nonconformity or an increase in the degree of nonconformity.

c. **Damage or destruction.** In the event that any nonconforming principal structure is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of its fair market value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a principal structure is damaged to the extent of fifty (50) percent or less of its fair market value, no repairs or restoration shall be made unless a zoning certificate is obtained and substantial restoration is underway within one year after the date of such partial destruction and repair or restoration is diligently pursued to completion.

d. **Moving.** No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same lot or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

SECTION 21-4 NONCONFORMING USES

21-401.

a. **Authority to continue.** Any nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land which was lawful and in existence at the effective date of these regulations and does not involve a structure or only involves a structure which is accessory to such use of land, may be continued, so long as otherwise lawful and so long as it is not specified to be terminated by these regulations.

b. **Ordinary repair and maintenance.**

1. Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.

2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition.

c. **Extension.** A nonconforming use shall not be extended, expanded, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to the following:

1. Extension of such use to any structure or land area other than that actually physically occupied by such nonconforming use on the effective date of these regulations or on the effective date of subsequent amendments to these regulations that cause such use to become nonconforming.

2. Extension of such use within a building or other structure to any portion of the floor area that was not actually physically occupied by such nonconforming use on the effective date of these regulations or on the effective date of subsequent amendments to these regulations that cause such use to become nonconforming; provided, however, that such use may be extended throughout any part of such building or other structure that is found by the Zoning Administrator to have been lawfully and manifestly designed or constructed for such use on such effective date.

d. **Enlargement.** No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.

e. **Damage or destruction.** In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of its fair market value, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is fifty (50) percent or less of fair market value, no repairs or restoration shall be made unless a zoning certificate is obtained, and substantial restoration is underway within one year after the date of such partial destruction and repair or restoration is diligently pursued to completion.

f. **Moving.** No structure that is devoted in whole or in part to a nonconforming use and no nonconforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

g. **Change in use.** Any change in use from nonconforming use to a different nonconforming use is prohibited.

h. **Abandonment or discontinuance.** When a nonconforming use is discontinued or abandoned for a period of twelve (12) consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land or buildings shall comply with the regulations of the zoning district in which such land is located.

i. **Nonconforming accessory uses.** No nonconforming use which is accessory to a principal nonconforming use shall continue after the cessation or termination of the principal nonconforming use.

SECTION 21-5 NONCONFORMING MANUFACTURED HOMES

21-501. Except as otherwise provided in Section 21-502, the removal and relocation of nonresidential-design manufactured homes in the R-1, R-2 and R-3 Districts shall be governed by the following regulations:

a. Upon removal of a nonconforming manufactured home, unless another manufactured home, manufactured no more than twenty (20) years previously, is moved onto the same lot within thirty (30) days from the date

that the previous manufactured home was moved off the lot, such use is forfeited and shall not thereafter be reestablished.

b. Any manufactured home moved in accordance with a. above shall be placed on a permanent, enclosed perimeter foundation within thirty (30) days from the date it is moved onto the lot.

c. No manufactured home shall be moved onto the lot if such will result in an increase in nonconformity with respect to lot size, yard or bulk requirements.

d. No manufactured home shall be moved onto the lot if its location shall place it within twenty feet (20') of a principal building or ten feet (10') of an accessory building.

e. Upon proper application the Board of Zoning Appeals may grant an exception to the time requirements of subsections a. and b. above upon a finding by the Board of hardship for the party who would reside in the manufactured home upon its relocation.

21-502. Relocation of a nonresidential-design manufactured home as a replacement for another such home, when located on property in actual use as a manufactured home park, but not zoned as such, as of the effective date of these regulations, is allowed in accordance with the following regulations:

a. No such home may be placed within fifteen feet (15’) of another such home.

b. Any such home must be manufactured no more than twenty (20) years previously and must be moved on to the same lot within thirty (30) days from the date that the previous home was moved off the lot. The Board of Zoning Appeals may grant an exception to the time requirements of this subsection upon a finding by the Board of hardship for the party who would reside in the home upon its relocation.

ARTICLE 22

OFF-STREET PARKING REGULATIONS

Section:

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

SECTION 22-1 PURPOSE

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

SECTION 22-2 GENERAL PROVISIONS

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

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

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

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

22-205. Computation. Where the determination of number of off-street parking spaces required results in a fractional part of a space, a fraction of one-half or more shall be counted as a full space and a fraction of less than one-half shall be disregarded. Where requirements are established on the basis of seats or person

capacity, the provisions of the City-adopted building code applicable at the time shall be used to calculate maximum design capacity.

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

22-207. Zoning Administrator. The Zoning Administrator is authorized to approve minor variations from the size and number of parking spaces otherwise required under this Article when, in his or her discretion, such variation does not violate the purpose of these regulations and does not harm public health, safety or welfare. The Zoning Administrator is specifically authorized to allow some required parking spaces on commercial properties to be used, for a fixed number of days, for temporary sales purposes, including but not limited to lawn and garden and other seasonal materials.

SECTION 22-3 LAYOUT AND DESIGN REQUIREMENTS

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

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

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

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

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

Gravel areas in existence prior to the effective date of these regulations may be maintained with six (6) inches of gravel, including base, as an alternative to these surfacing requirements.

The site plan review committee may, upon receiving a specific written request from an owner of a property, authorize temporary occupancy for a time period not to exceed twelve (12) months prior to accomplishing the required paving or a portion thereof.

In reviewing a request for temporary occupancy prior to accomplishing required paving, the site plan review committee shall consider the following criteria:

a. Season of the year.

b. Affect on the adjoining property.

c. Surfacing of the connecting street.

d. Surfacing of existing adjoining parking facilities.

Should the owner receive approval of the site plan review committee for a delay in paving, the owner shall, prior to occupancy, present written verification to the Zoning Administrator that guarantees all paving shall be complete prior to the deadline given by the site plan review committee.

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

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

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

SECTION 22-4 PERMIT REQUIRED

22-401. Plans showing the layout, landscaping and design of all off-street parking, loading, or other vehicular use areas shall be submitted to, and approved by the Zoning Administrator prior to beginning construction. A permit shall be obtained prior to starting work on any parking area designed to accommodate four or more vehicles.

SECTION 22-5 REQUIRED PARKING SPACES

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

	Residential Uses:	***Minimum Off-Street Parking Spaces:***
1.	Single-family	2 spaces per unit for residences on lots 50' or less in width and 3 spaces for residences on lots greater than 50' in width.
	Two-family	2 spaces per unit for residences on lots 50' or less in width and 3 spaces for residences on lots greater than 50' in width.
	Multiple-family: Efficiency One or more bedroom	 1 space per unit. 2 spaces per unit.
2.	Dormitories, fraternities, sororities	1 space for each 2 persons based on maximum design capacity.
3.	Lodging houses, rental sleeping rooms in a dwelling unit	1 space for each 2 tenants
4.	Nursing home, rest home, similar facilities	1 space for each 3 beds based on maximum design.
5.	Manufactured home park or subdivision	2 spaces per unit.
6.	Dwellings in C-4 District	1 space per unit.
7.	Bed and breakfast inns	1 space per rental unit.

	Nonresidential Uses:	***Minimum Off-Street Parking Spaces: (1)***
1.	Automobile, truck, recreation vehicle, mobile home sales and rental lots	1 space per 3,000 square feet of display area, plus 1 space per employee.
2.	Automobile or truck wash	3 holding spaces for each stall, plus 1 drying space per stall.
3.	Banks, business or professional offices	1 space for each 200 square feet up to 1,000 square feet, plus 1 space for each 400 square feet thereafter.
4.	Bowling alleys	5 spaces for each lane or alley.
5.	Churches and similar places of worship	1 space for each 4 seats in the sanctuary.
6.	College, community college or high school	1 space for each 3 employees, plus 1 additional space for each 15 students enrolled.
7.	Day care or nursery schools	1 space for each 15 students enrolled.
8.	Elementary, junior high schools, and equivalent	2 spaces per classroom.
9.	Fraternal associations	1 space for each 4 persons based on maximum design capacity.
10.	Funeral homes and mortuaries	1 space for each 4 seats based on maximum design capacity plus 1 space per employee.
11.	Furniture and appliance stores	1 space per 400 square feet of floor area
12.	Hospitals	1 space for each 3 beds, plus 1 space for each 2 employees on a maximum shift.
13.	Laundromats	1 space for every 2 washing machines.
14.	Manufacturing, processing, assembly plants	1 space for each 1.5 workers on a maximum shift.
15.	Medical and dental clinics	5 spaces for each doctor or dentist.
16.	Motel and hotels	1 spaces per rental unit plus 1 space for each 2 employees per working shift.
17.	Motor vehicle repair or body shop	1 space for each 2 employees, plus 1 space per service bay.
18.	Restaurants with fixed seating, provided that drive-up restaurants shall provide a minimum of 10 spaces	1 space for each 2.5 seats, based on maximum designed occupancy.

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

Footnotes:

(1) On a Nonresidential parcel which is not adjacent to a residentially zoning property on any side, a multiplier of 0.90 may be applied to the required value given in the table.

SECTION 22-6 EXCEPTIONS GRANTED BY BOARD OF ZONING APPEALS

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

a. **Location.** Parking provided under this section must be within three hundred (300) feet (along lines of public access) from the boundary of the use for which the parking is provided. Access to such parking facilities from the use must be adequately lighted to provide for safety of the public.

b. **Use.** The parking area shall be used for passenger vehicles only, and in no case shall it be used for sales, repair work, storage, dismantling or servicing of vehicles, equipment, materials or supplies. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.

c. **Improvements.** Parking areas and driveways on private property providing ingress and egress to parking areas shall be surfaced with concrete or asphalt to the specifications of the City Engineer and shall be maintained in good condition and free of all weeds, dust, trash, and other debris.

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

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

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

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

a. Abandonment of the area for use for parking purposes for six (6) continuous months (180 calendar days).

b. Failure to comply with the requirements contained in this section, or other requirements imposed by the Board.

SECTION 22-7 DESIGN STANDARDS

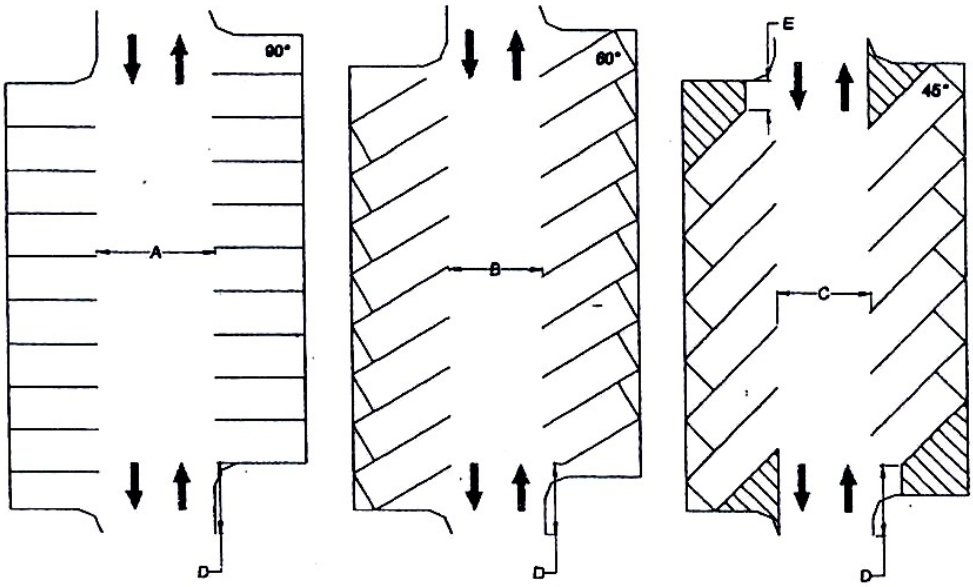
22-701. Minimum off-street parking standards:

a. Standard parking stalls shall have minimum dimensions of 9'x19'.
b. Approved wheel stops are required within 3' of a sidewalk or building.
c. Accessible parking stalls shall be designed in conformance with the current policy established by resolution for ADA guidelines for both quantity and configuration of stalls.

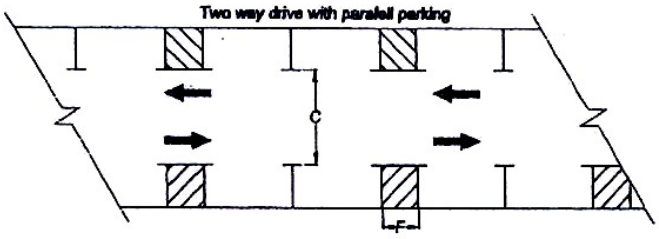
22-702. Parking Lots:

PARKING LOT DIMENSIONS

Two Way Traffic



Two way drive with parallel parking

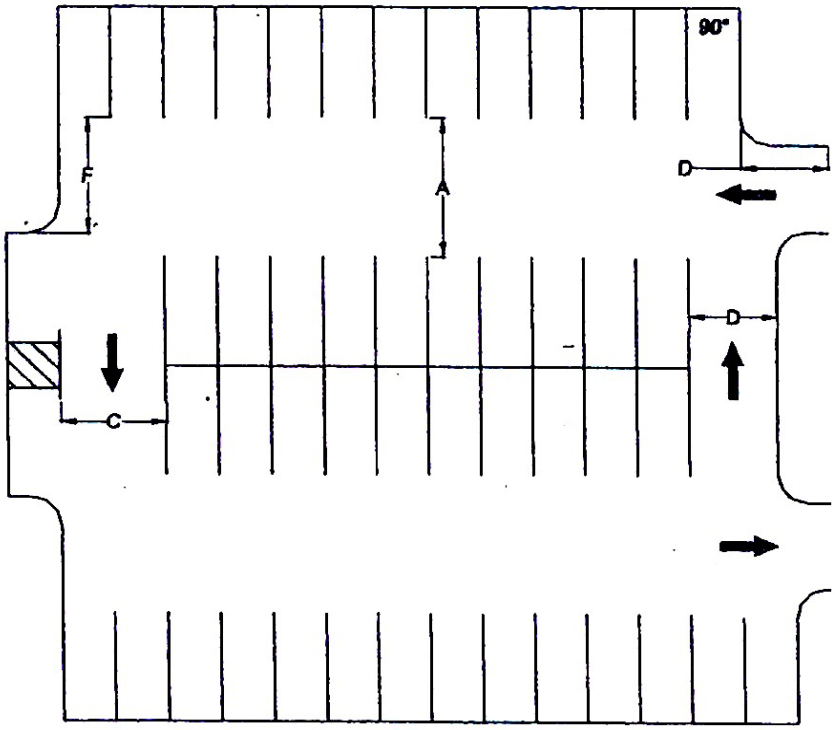


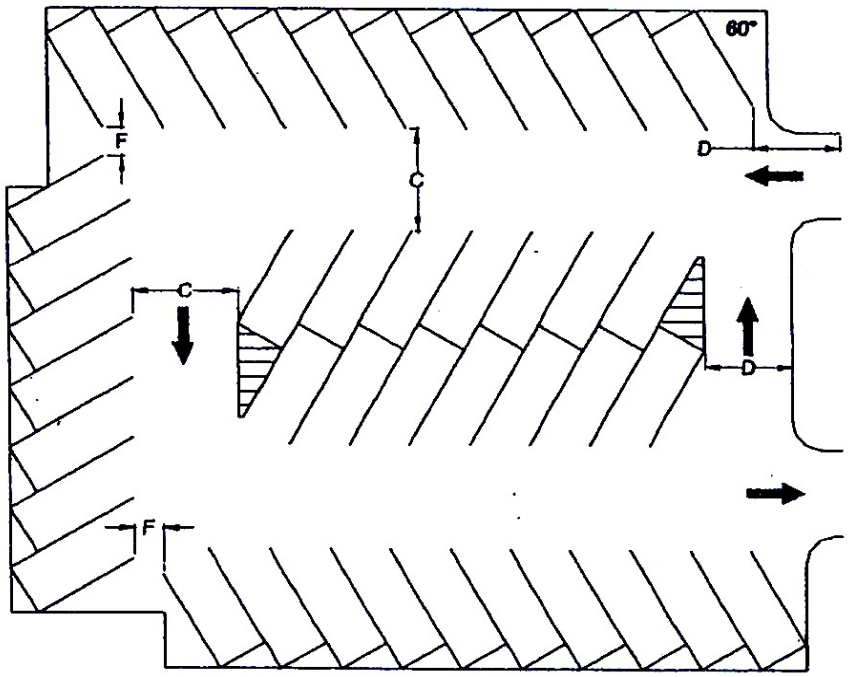
	Standard	*Minimum
A	25'	20'
B	23'	18'
C	20'	15'
D	15'	12'
E	10'	8'
F	8'	6'

*Must be approved by Zoning Administrator prior to construction.

PARKING LOT DIMENSIONS

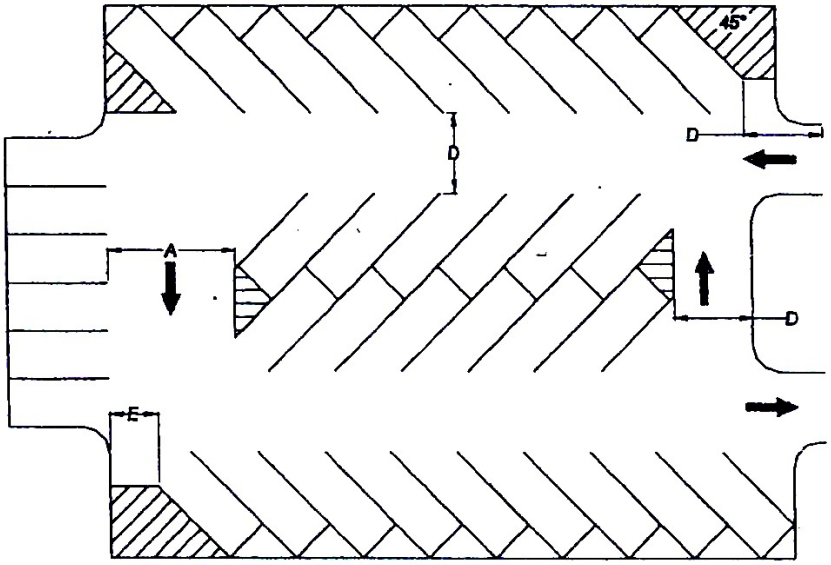
One Way Traffic

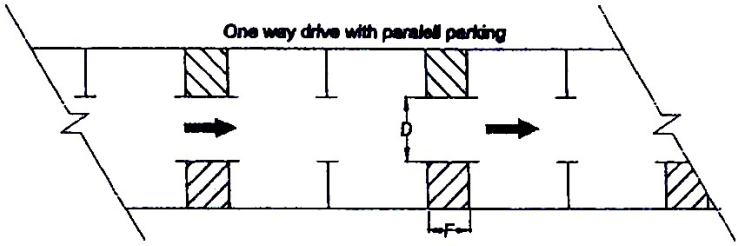




PARKING LOT DIMENSIONS

One Way Traffic





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

*Must be approved by Zoning Administrator prior to construction.

ARTICLE 23

LOADING AND UNLOADING REGULATIONS

Sections:

23-1 Space Requirements
23-2 Districts Requiring Space

SECTION 23-1 SPACE REQUIREMENTS

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

Number of Spaces	*Gross Floor Area in Square Feet*
1	3,000 to 20,000
2	20,001 to 40,000
3	40,001 to 60,000
4	60,001 to 80,000
5	80,001 to 100,000
6	100,001 to 150,000

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

SECTION 23-2 DISTRICTS REQUIRING SPACE

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

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

ARTICLE 24

BUILDING SETBACKS

Sections:

24-1 General Provisions
24-2 Arterial and Collector Streets
24-3 Exception
24-4 Sight Triangle
24-5 Gas Pumps and Canopies
24-6 Order of Precedence

SECTION 24-1 GENERAL PROVISIONS

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

a. Except as otherwise provided at subsections b. and c., below, whenever any two or more provisions in these regulations establish building setback lines that are applicable to a given building or structure, the regulation establishing the more restrictive standard shall be the regulation which controls.

b. Where a building setback line for a front, side or back yard is established on any plat approved and recorded in accordance with regulations in existence at the time of recording, which platted setback is more restrictive than the yard requirements established in these regulations, such platted setbacks shall control and building permits shall not be issued for any building or structure outside of such platted setback.

c. Where a building setback line for a front, side or back yard is established on any plat approved and recorded in accordance with regulations in existence at the time of recording, which platted setback is less restrictive then the yard requirements established in these regulations, such platted setbacks shall control, and building permits may be issued for a building or structure which would be located in the yard under these regulations.

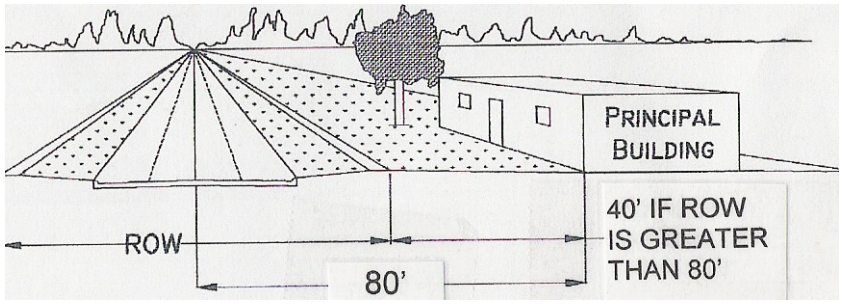
SECTION 24-2 ARTERIAL AND COLLECTOR STREETS

24-201. Building setback lines are hereby established for all arterial and collector streets as shown on the major street map of the comprehensive plan. The

setback lines as established in this Article shall be held to be the minimum for the purpose of promoting the public health, safety, order, convenience and economy in the process of development.

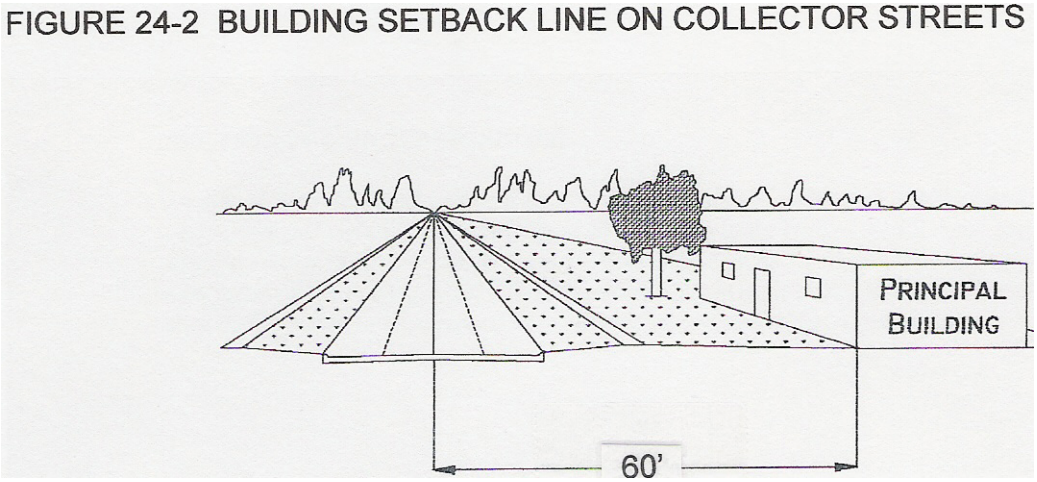
24-202. Except as provided in section 24-3, no lot which is adjacent to an arterial street having a right-of-way width of eighty (80) feet or less shall have any building or structure altered, constructed, enlarged or erected closer than eighty (80) feet from the centerline of the arterial street right-of-way (See Figure 24-1 below). Where the right-of-way width is greater than eighty (80) feet the building or structure shall set back forty (40) feet from the adjoining street right-of-way line.

FIGURE 24-1
BUILDING SETBACK LINE ON ARTERIAL STREETS



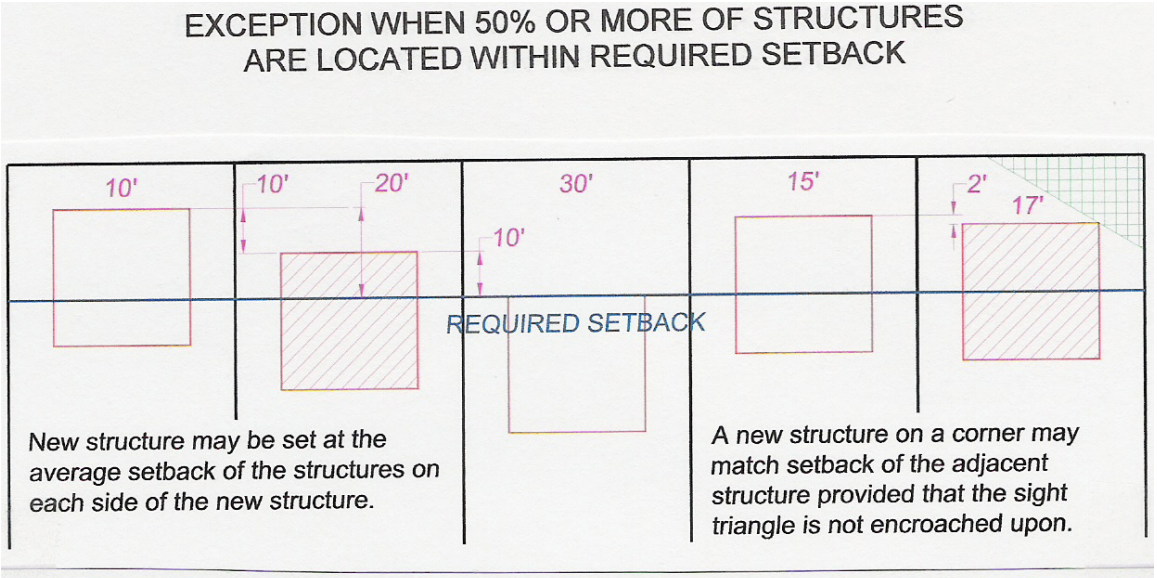
24-203. Except as provided in section 24-3, no lot which is adjacent to a collector street shall have a building or structure altered, constructed, enlarged or erected closer than sixty (60) feet from the center line of the collector street right-of-way. (See Figure 24-2 below.)

FIGURE 24-2 BUILDING SETBACK LINE ON COLLECTOR STREETS



SECTION 24-3 EXCEPTION

24-301. Structures may be located in accordance with the following diagram in any case where fifty (50) percent or more of the existing structures within the same block and fronting on the same street as the subject lot have less than the required setback under these regulations:



In no case other than for property zoned C-4 will a structure which qualifies for this exception be set closer to the front property line than 15' in a residential zone or closer than 10' in a commercial or industrial zone. In C-4 zoned property buildings are not subject to any setback requirements. If more than 50% of the structures in a block meet the required setback, then the new structure must meet the required setback or apply for a variance.

SECTION 24-4 SIGHT TRIANGLE

24-401. Corner lots shall be free from any visual obstruction between a height of two and one-half (2-1/2) feet and eight (8) feet above the grade of the top of the curb of the adjoining street. This sight triangle area shall be determined by the "Visibility Triangle for Driveways and Sideroads (Stop Condition)" table in the current KDOT Corridor Management Policy Manual. The table distances shall be applicable to all highways or streets without regard to street classification.

SECTION 24-5 GAS PUMPS AND CANOPIES

24-501. Where allowed, gasoline or other fuel dispensing pumps, excluding canopies, shall not be located less than twelve (12) feet from any property line if at least forty (40) feet from the center of any street.

24-502. Canopies covering gas or other fuel pumps shall be located so that no part of the structure is less than ten (10) feet from the property line. Such structures shall meet all other setback requirements in these regulations.

SECTION 24-6 ORDER OF PRECEDENCE

ORDER OF PRECEDENCE FOR BUILDING SETBACKS

NORMAL	As required in the zoning district.
CORNER LOTS	Side yard setback is ½ of the front yard setback except if side street lots have platted front setback, then side yard setback shall be no less than 5' less than adjacent front yard setback.
STREET	As required for Arterial and Collector streets.
PLATTED	As shown on the plat.
SIGHT TRIANGLE	When a structure encroaches on the sight triangle.

ARTICLE 25

BOARD OF ZONING APPEALS

AND ADMINISTRATIVE VARIANCES

Sections:

25-1 Board Organization and Procedure
25-2 Appeals
25-3 Variances
25-4 Exceptions
25-5 Determinations of Board
25-6 Applications for Board Hearings
25-7 Public Hearing Required
25-8 Performance Upon Grant of Variance or Exception
25-9 Appeals from Board Decisions
25-10 Administrative Variances

SECTION 25-1 BOARD ORGANIZATION AND PROCEDURE

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

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

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

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

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

SECTION 25-2 APPEALS

25-201. The Board of Zoning Appeals shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of these regulations.

a. Appeals to the board may be taken by the person aggrieved, or by any officer, department or bureau of the government affected by any decision of the Zoning Administrator. Such appeal shall be filed with the Zoning Administrator within sixty (60) days after a ruling has been made by the Zoning Administrator. The Zoning Administrator shall transmit to the secretary of the board all papers constituting the record upon which the action appealed from is taken.

b. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the board, after the notice of appeal has been filed, that a stay would, in the opinion of the Zoning Administrator, cause imminent peril to life or property.

SECTION 25-3 VARIANCES

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

a. The applicant must show that his or her property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property which existed at the time of the effective date of the district zoning regulations, or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the use of the property in the manner similar to that of other property in the zoning district where it is located.

b. Variances from these regulations may be granted only in the following instances:

1. To vary from the applicable lot area and width, height and yard regulations.

2. To vary from the applicable off-street parking and loading requirements.

c. In accordance with Section 25-10 a request for a variance may be granted by the Zoning Administrator for variances of 10% or less of the requirement. Requests for variances of greater than 10% of the requirement of the regulation may be granted, upon a finding of the board that all of the following conditions have been met. The board shall make a determination on each condition, and the finding shall be entered in the record:

1. The variance requested arises from a condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by action of the property owner or applicant.

2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.

3. The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

4. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

5. The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

d. In granting a variance, the board may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

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

SECTION 25-4 EXCEPTIONS

25-401. The board shall have the power to grant exceptions to the provisions of these zoning regulations, when expressly authorized to do so by these regulations in a particular zoning district or districts.

a. In no event shall exceptions to the provisions of the zoning regulations be granted where the exception contemplated is not specifically listed in the zoning

regulations. The board shall not grant an exception when the conditions established by this section are not found to be present.

b. The board shall not grant an exception unless it shall, in each specific case, make specific written findings of fact directly based upon the particular evidence presented to it, that support conclusions that:

1. The proposed exception complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.

2. The proposed exception at the specified location will contribute to and promote the welfare or convenience of the public.

3. The proposed exception will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.

4. The location and size of the exception, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the exception will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the exception will so dominate the immediate neighborhood, consideration shall be given to:

(a) The location, nature and height of buildings, structures, walls and fences on the site, and

(b) The nature and extent of landscaping and screening on the site;

5. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect;

6. Adequate utility, drainage and other such necessary facilities have been or will be provided; and

7. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

25-402. Exceptions Allowed. The following exceptions are expressly allowed to be granted by the board when such is consistent with Section 25-401:

a. Where a use district boundary line crosses a lot, a use of either classification on the whole lot within one hundred (100) feet of said district boundary line.

b. An off-street parking area in a residential district where such facility would relieve traffic congestion on the streets and where said parking lot conforms to the following specification:

1. The land devoted to parking to be located adjacent to, and within 200 feet of a business or industrial district.

2. Walls, fences, or planting shall be provided in a manner to afford protection for and be in harmony with surrounding residential property.

3. The same front yard depth restrictions shall be required as are required in the zoning district in which the parking area is located.

4. All driveways and the area used for the parking of vehicles shall be surfaced with a hard, durable, rustproof material, and be properly drained.

5. The area shall be used exclusively for parking of motor vehicles belonging to invitees of the owner or lessee of said lot.

6. The approval of all plans and specifications for the improvement, surfacing, drainage, entrances, and exits, or lights for said parking area shall be obtained from the City Engineer.

7. The area shall conform to such other requirements as the board, in the exercise of sound discretion, may require for protection of surrounding property, persons, and neighborhood values.

c. Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of these regulations where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of these regulations to relieve

d. Special Yard and Height Exceptions: The following yard exceptions, limited as to location and especially in locations described below may be approved by the board.

1. An exception in the yard regulations on a lot where, on the adjacent lot there is a front, side, or rear yard that does not conform with such yard regulations.

2. A yard exception on a corner lot, or lots opposite or adjoining permanent open spaces, including parks and playgrounds.

3. An exception in the depth of rear yard on a lot in a block where there are nonconforming rear yard conditions.

4. An exception where there are irregularities in depths of existing front yards on a street frontage on the side of a street between two intersecting streets, so that any one of the existing depths shall, for a building, hereafter constructed or extended, be the required minimum front yard depth.

SECTION 25-5 DETERMINATIONS OF BOARD

25-501. In exercising the foregoing powers, the board may reverse or affirm, wholly or partly, or may modify any order, requirements, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a zoning certificate.

SECTION 25-6 APPLICATIONS FOR BOARD HEARINGS

25-601.

a. The procedure for requesting a hearing before the board shall be as follows:

1. All applications to the board shall be in writing on forms provided by the Zoning Administrator. Applications shall be completed in their entirety and filed in the office of the Zoning Administrator with all supporting data. The Zoning Administrator may require any legal description submitted as part of an application to be certified by a registered surveyor, and shall determine whether the filed application is complete.

2. The Zoning Administrator may either create the required ownership list or may require an application to be accompanied by an ownership list, certified by a registered abstractor, listing the legal description and the names and addresses of the owners of all property located within two hundred (200) feet of the boundaries of the property included in the application. Whenever any portion of the property that is the subject of the application is within two hundred (200) feet of the city limits the applicant shall provide such an ownership list for the property within one thousand (1,000) feet of the boundaries of the property included in the application.

3. The board shall fix a reasonable time for the hearing of an application and notice of the time, place and subject of each hearing shall be published in the official city newspaper at least twenty (20) days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be sent to each party of interest, and each person on the ownership list fifteen (15) days prior to the hearing.

4. An application shall be accompanied by the filing fee required by the City Commission. A separate filing fee shall be required for each application.

b. In addition to the above requirements, certain applications must meet additional requirements as follows:

1. Appeals.

(a) An application for an appeal shall be filed within sixty (60) days after a ruling has been made by the Zoning Administrator.
(b) A copy of the order, requirement, decision or determination of the Zoning Administrator which the applicant believes to be in error shall be submitted.
(c) A clear and accurate written description of the proposed use, work or action in which the appeal is involved, and a statement justifying the applicant's position.
(d) Where necessary, a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.

2. Variances.

(a) The applicant shall submit a statement, in writing, justifying the variance requested, indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the five (5) conditions as set out in Section 25-301.c.

(b) The applicant shall submit a sketch, in duplicate, drawn to scale and showing the lot or lots included in the application; the structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the board in consideration of the application should be included.

3. Exceptions.

(a) The applicant shall submit a statement in writing justifying the exception applied for, and indicating under which article and section of the zoning regulations the Board of Zoning Appeals is believed to have jurisdiction.

(b) The applicant shall prepare and submit in duplicate at the time of filing the application a detailed plot plan drawn to scale, showing all existing and proposed structures, property lines with dimensions, parking spaces, points of ingress and egress, driveways and any other information which would be helpful to the board in consideration of the application.

SECTION 25-7 PUBLIC HEARING REQUIRED

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

SECTION 25-8 PERFORMANCE UPON GRANT OF VARIANCE OR EXCEPTION

25-801.

a. In making any decision varying or modifying any provisions of the zoning regulations or in granting an exception to the district regulations, the board shall impose such restrictions, terms, time limitations, landscaping, screening and other appropriate safeguards as needed to protect adjoining property.

b. The board may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the board, and shall be enforceable by or payable to the Governing Body in a sum less than or equal to the cost of constructing the required improvements.

c. In lieu of the performance bond requirements, the board may specify a time limit for the completion of such required improvements and in the event the improvements are not completed within the specified time, the board may declare the granting of the application null and void after reconsideration

d. After the board has approved an exception or granted a variance, the exception or variance so approved or granted shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which such exception or variance was granted, and the provisions of these regulations shall thereafter govern.

SECTION 25-9 APPEALS FROM BOARD DECISIONS

25-901. In exercising its powers the board, in conformity with the provisions of this article, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken; may attach appropriate conditions and may issue or direct the issuance of a permit. Any person, official or governmental agency dissatisfied with any order or determination of the board may bring an action in the District Court of

Cowley County, Kansas, to determine the reasonableness of any such order or determination within thirty (30) days of the rendering of the order or determination by the board, in accordance with state law.

SECTION 25-10 ADMINISTRATIVE VARIANCES

25-1001.

a. Except where variances are expressly prohibited by the Regulations, any requirement under these Regulations which may be varied from in accordance with the provisions of Section 25-3 may be submitted to the Zoning Administrator with a request for an administrative variance.

b. No application for an administrative variance may reduce the requirement sought to be varied from by an amount greater than ten (10) percent.

c. The Zoning Administrator may approve, disapprove, modify and approve, or refer directly to the Board of Zoning Appeals, an application for administrative variance.

d. Any final decision by the Zoning Administrator on an application for an administrative variance may be appealed to the Board of Zoning Appeals.

ARTICLE 26

AMENDMENT PROCEDURES

Sections:

26-1 General Authority and Procedure
26-2 Table of Lesser Change
26-3 Time of Performance in Rezoning
26-4 Conditional Use Permits
26-5 Fees for Rezonings and Conditional Use Permits

SECTION 26-1 GENERAL AUTHORITY AND PROCEDURE

26-101. Who May Petition or Apply.

a. Applications for amendments, revisions or changes in the zoning district boundary maps or for a Conditional Use Permit may be made by any person who owns the land for which such an amendment, revisions, change or Conditional Use Permit is sought, or by the owner's agent. If such application is made by the owner's agent, that agent shall enter upon the application the name and current mailing address of the owner and shall submit written authorization to act as agent for the owner prior to the setting of any public hearing.

b. Applications for amendments, revisions or changes to the zoning regulations, the zoning district boundary maps and/or conditional use may also be made by the Planning Commission or the Governing Body. Any such proposed amendments, revisions, changes, or conditional use shall be submitted to the Planning Commission for recommendation and report with the final decision made by the Governing Body.

26-102. Procedures for Consideration of Request for Amendments, Revisions or Changes.

a. All applications or requests for amendments, revisions or changes to the zoning regulations, the zoning district boundary maps or for a Conditional Use Permit shall be made to the Zoning Administrator on such forms as provided and acceptable to the Zoning Administrator. The payment of any applicable fee shall be made at the time of the submission of the application.

Immediately upon receipt of an application for rezoning or conditional use by the owner, or agent, and the payment of the appropriate fee, the

Zoning Administrator shall note on the application the date of filing and make a permanent record thereof.

b. All such proposed applications for amendment, revisions or changes to the zoning regulations and/or for a conditional use shall be submitted to the Planning Commission for recommendation. The Planning Commission shall hold a public hearing on the application and shall cause a written summary to be made of the proceedings. Notice of the hearing shall be published once in the official city newspaper at least 20 days prior to the date of the hearing. The date of newspaper publication and the date of the hearing shall not be included in the calculation of 20 days. Notice shall fix the time and place for the hearing, shall give the name and address of the applicant, and shall contain a statement regarding the proposed changes in regulations or restrictions, or proposed change in the boundary or classification of any zone or district, or the requested conditional use.

c. If the application is not a general amendment, revision or change to the zoning regulations, but is for a rezoning or Conditional Use Permit affecting specific property, the property affected shall be designated by legal description and by a general description sufficient to identify the property under consideration. In addition to such publication notice, written notice of the proposed rezoning or conditional use shall be mailed at least 20 days before the public hearing to all owners of record of the property affected and all owners of record of lands located within at least 200 feet of the area proposed to be altered. In accordance with state law such notice shall extend 1000 feet in those areas where the notification area extends outside the corporate limits of the City. All notices shall include a statement that a complete legal description is available for public inspection in the office of the Zoning Administrator. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission and shall not invalidate any subsequent action taken by the Planning Commission or Governing Body. The applicant shall provide a list of the owners of record, such list certified by a licensed abstractor, of said lands at the time of the filing of the application.

d. In the case of an application by the Planning Commission or the Governing Body, all the above stated requirements shall be followed except:

1. No fee shall be required.

2. If the application is for an amendment or revision to the text of the zoning regulations, notice of the public hearing shall not be required

to be mailed to all affected persons; therefore, a certified list of the owners of land shall not be required.

26-103. Public Hearing Before Planning Commission. The Planning Commission shall hold the public hearing at the place and time so stated within the legal notice. The hearing may be adjourned from time to time, and at the conclusion of the hearing the Planning Commission shall take action on the request by preparing a recommendation either to approve, approve with conditions as authorized by these regulations, or disapprove the application. Any such action must be approved by a majority of the members of the Planning Commission present and voting at the hearing.

When the Planning Commission fails to make a recommendation on an application, the Planning Commission shall be deemed to have made a recommendation of disapproval. Any hearing may, for good cause at the request of the applicant, or in the discretion of the Planning Commission, be continued.

26-104. Action by Planning Commission and Governing Body.

a. **Recommendations.** Upon the conclusion of the public hearing, the Planning Commission shall prepare and adopt its recommendations and shall submit the same, together with a record of the hearing thereon, to the Governing Body. The recommendation may be for approval, disapproval or approval in part and reasons for the recommendations shall be included. If a motion for approval fails to gain approval for any reason, the application is deemed to have been denied and will be submitted to the Governing Body. If the recommendation is for approval, the recommendation shall be in the form of an ordinance.

b. **Amendments to text.** When a proposed amendment would result in a change in the text of these regulations, but would not result in a change of zoning classification of any specific property, the recommendation of the Planning Commission shall contain a statement as to the nature and effect of such proposed amendment and its reasons for recommending approval or denial.

c. **Adoption of amendments.** The Governing Body shall not consider an amendment which would result in a change of zoning classification for a specific property, or any application for a Conditional Use Permit, until its next regular meeting after the lapse of the fourteen (14) day protest period provided by state law. A proposed amendment which changes the text of the regulations but would not result in change of zoning classification of any specific property may be considered by the Governing Body without waiting for the lapse of the fourteen (14) day protest period. Upon receipt of the recommendation of the Planning Commission and any protest petitions that have been submitted, the Governing Body shall consider the

application and may 1) approve the recommendation of the Planning Commission without change; 2) override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or 3) return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove. Upon return of a recommendation from the Planning Commission, the Governing Body may take whatever action it deems necessary. Whenever a proposed amendment is defeated by vote of the Governing Body, such amendment shall not thereafter be passed without a further public hearing and notice thereof as provided in this article.

d. If such amendment or Conditional Use Permit affects the boundaries of any zone or district, the ordinance shall describe the boundaries as amended, or if provision is made for the fixing of the same upon the official maps which as been incorporated by reference, the amending ordinance shall define the change or the boundary as amended, shall order the official maps be changed to reflect such amendment or conditional use, shall amend the section of the ordinance incorporating the same and shall reincorporate such maps as amended.

26-105. Protest Petition. Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment, revision, change, or Conditional Use Permit, if a protest petition against such amendment is filed in the office of the City Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of twenty (20) percent or more of any real property proposed to be rezoned or by the owners of record of twenty (20) percent or more of the total area, excepting public streets and ways, which is located within the notification area described in Section 26-102, the ordinance adopting such amendment shall not be passed except by at least a 3/4 majority vote of all the members of the Governing Body. Immediately upon receiving the filing of such a protest petition the City Clerk shall notify the Zoning Administrator of such petition.

26-106. Limitations on Successive Applications. Provisions for a limitation on successive applications to the Planning Commission shall be as follows:

a. No application for an amendment to these regulations including the zoning map shall be accepted by the Planning Commission if an application for the same amendment has been denied by the Planning Commission within the preceding twelve (12) months. The withdrawal of an application after it has been advertised for public hearing shall constitute a denial of the application just as if the public hearing had been held and concluded. For good cause shown by the applicant the Governing Body may waive the twelve (12) month requirements.

b. Irrespective of the preceding subsection, an application for a rehearing may be accepted by the Planning Commission if in the judgment of the Planning Commission substantial justification is given. All such applications for a rehearing must be submitted to the secretary at least fifteen (15) days in advance of the next regularly scheduled meeting of the Planning Commission following the denial of the application. If the Planning Commission at such meeting determines that there has been substantial change or justification for a rehearing, the item will be advertised and a public hearing held at the next regular scheduled meeting of the Planning Commission.

26-107. Posting of Sign. An applicant for a rezoning or for a Conditional Use Permit may be required by the Zoning Administrator to place a sign upon the lot, tract or parcel of land for which the application was filed. Said sign shall be furnished by the Zoning Administrator to the applicant and the applicant shall display the sign as instructed by the Zoning Administrator. Failure to comply with this requirement shall not deprive the Planning Commission of its jurisdiction or affect any decision, but may be due cause for the Planning Commission to refuse to hear the application or to adjourn the hearing or to require further notice.

26-108. Factors to be Considered in a Rezoning. When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based, using the following guidelines:

a. Whether the change in classification would be consistent with the intent and purpose of these regulations;

b. The character and condition of the surrounding neighborhood and its effect on the proposed change;

c. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions;

d. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification;

e. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity;

f. The suitability of the applicant's property for the uses to which it has been restricted;

g. The length of time the subject property has remained vacant or undeveloped as zoned;

h. Whether adequate sewer and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on the property if it were reclassified;

i. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development;

j. The recommendations of professional staff;

k. Whether the proposed amendment would be in conformance to and further enhance the implementation of the City's Comprehensive Plan;

l. Whether the relative gain to the public health, safety , and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such reclassification; and,

m. Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the application.

26-109. Applications for Conditional Use Permit.

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

b. In approving a conditional use, the minimum requirements set out in these regulations for the underlying district must be met unless otherwise reduced by specific reference in the approval of the Governing Body. The requirements may be made more stringent if there are potentially injurious effects which may be anticipated upon other property or the neighborhood or which may be contrary to public health, safety or welfare.

26-110. Factors to be Considered in Permit Applications. The Planning Commission may recommend approval of a conditional use that is expressly authorized to be permitted in a particular zoning district, and the Governing Body may approve such conditional use, using the following factors as guidelines:

a. Whether approval of the conditional use would be consistent with the intent and purpose of these regulations;

b. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood;

c. Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided;

d. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected;

e. The length of time the subject property has remained vacant or undeveloped as zoned;

f. Whether the applicant's property is suitable for the proposed conditional use;

g. The recommendations of professional staff;

h. Whether the proposed conditional use would be in conformance to and further enhance the implementation of the City's Comprehensive Plan;

i. Whether the proposed conditional use, if it complies with all the conditions upon which the approval is made contingent, will not adversely affect the property in the area affected;

j. For such uses as solid waste disposal facilities, including sanitary landfills, construction and demolition landfills and transfer stations, whether the proposed conditional use is consistent with the adopted Solid Waste Management Plan of Cowley County, and amendments thereto; and

k. Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the application.

26-111. Traffic Studies. In the case of an application for rezoning of land or for a Conditional Use Permit for a use which may, in the opinion of the Planning

Commission, substantially change traffic patterns, or create traffic congestion, the Planning Commission may require that the applicant procure the services of a competent professional traffic engineer for the purpose of preparing a traffic study to be presented to the Planning Commission prior to its taking action on an application for rezoning or for a Conditional Use Permit. Such traffic study shall show that the traffic generated by the proposed development will be handled on the site in an orderly and efficient manner, that vehicular ingress and egress from the site onto public streets will function in an orderly and efficient manner and that no undue burden will be placed upon the existing public street system. The results of the traffic study shall be used in determining the impact of the proposed rezoning or Conditional Use Permit and guide the development of a recommendation or decision regarding the same.

26-112. Platting. Approval of any rezoning may be conditioned upon approval of final platting of some or all the property to be rezoned.

SECTION 26-2 TABLE OF LESSER CHANGE

26-201. The following Table of Lesser Change is for the use of the Planning Commission in determining when republication of an application for rezoning is required. This Table of Lesser Change designates which zoning classifications are lesser changes authorized within the published zoning classifications. The Table of Lesser Change lists zoning classifications in descending order from the most restrictive zoning district to the least restrictive zoning district. The Planning Commission may modify, at its discretion, an application for rezoning to a particular district by recommending to the Governing Body a rezoning to a district of lesser change, as determined by the following Table of Lesser Change:

A	Agricultural District
R-1	Low Density Residential District
R-2	Medium Density Residential District
R-3	High Density Residential District
C-1	Office and Service Business District
C-2	Restricted Commercial District
C-3	General Commercial District
C-4	Central Business District
I-1	Light Industrial
I-2	Heavy Industrial

SECTION 26-3 TIME OF PERFORMANCE IN REZONING

26-301.

a. In cases where the Planning Commission and Governing Body deem that time of development is a critical factor in protecting the public welfare in a rezoning action, a time of performance may be included in the rezoning ordinance. Such time allowed for performance shall be reasonable. Such time shall be not less than five years from the effective date of the ordinance for all rezonings into districts in which single-family dwellings are allowed and not less than two years from the effective date of the ordinance for all rezonings into districts in which single-family dwellings are not allowed. Such ordinance shall state what constitutes performance in each case.

b. If at the termination of such stipulated period of time performance as required has not occurred, the Planning Commission may, within six (6) months thereafter, publish notice and conduct a public hearing for purposes of determining whether or not to change the zoning to a more restrictive district. The owner of the property in question shall be notified by certified mail of the proposed hearing not less than 20 days prior to the date of the hearing. Other notification and posting as required in this section shall be performed and all proceedings shall be the same as for other rezoning actions.

c. It shall be the purpose of this hearing to hear the owner and other interested parties and make a determination as to which of the following actions would be recommended to the Governing Body.

   1. Extend the time of performance to a specified date,

   2. Remove the time of performance, or

   3. Rezone the land.

d. After the hearing the Planning Commission shall forward its recommendations to the Governing Body. The Governing Body will then act to approve or disapprove the recommended action, consistent with these regulations.

SECTION 26-4 CONDITIONAL USE PERMITS

26-401. The application, notice, public hearing, and action procedures set forth in this Article shall be applicable to all applications for Conditional Use Permits submitted after the effective date of these regulations.

26-402. The Governing Body, when approving a Conditional Use Permit, shall specify the period of time for which the permit is valid or shall state that the term of the permit is not limited in time.

26-403. Upon approval of a Conditional Use Permit, the Zoning District Map shall be changed in the manner outlined in this Article.

26-404. The Planning Commission may revoke any Conditional Use Permit upon finding that (a) necessary building permits have not been issued within twelve (12) months of approval of the Conditional Use Permit or (b) if no building permit is required for the use allowed under the Conditional Use Permit, that the use so allowed has not been commenced within twelve (12) months of the approval of the Conditional Use Permit. No revocation shall occur once a valid building permit has been issued or conditional use commenced, regardless of the running of such twelve (12) month period.

26-405. In all instances where a use was allowed under a valid Conditional Use Permit properly issued prior to the effective date of these regulations, which such use would have been a nonconforming use under these regulations but for the issuance of such permit, the property owner shall continue to comply with the conditions set forth in that permit until the permit expires or is otherwise terminated in accordance with the provisions of these regulations.

SECTION 26-5 FEES FOR REZONINGS AND CONDITIONAL USE PERMITS

26-501. A fee, in the amount established by ordinance adopted by the Governing Body, shall accompany an application for rezoning or Conditional Use Permit which fee shall include the cost of publication notice.

26-502. No fee shall be required if the zoning change is initiated by the Planning Commission or the Governing Body. No fee shall be required if either the Planning Commission or Governing Body initiate an amendment to the zoning regulations that will not affect specific property.

ARTICLE 27

SIGNS

Sections:

27-1	**Definitions**
27-2	**Signs Excluded from Regulations**
27-3	**Signs Prohibited**
27-4	**General Sign Regulations**
27-5	**Residential District Sign Regulations**
27-6	**Countryside District (CS) Sign Regulations**
27-7	**Agricultural District (A) Sign Regulations**
27-8	**Commercial District Sign Regulations**
27-9	**Industrial District Regulations**
27-10	**Sign Maintenance**
27-11	**Billboards/Off-Premises Signs**
27-12	**Unlawful Cutting of Trees or Shrubs**
27-13	**Nonconforming Signs**
27-14	**Amortization of Nonconforming Signs**

SECTION 27-1 DEFINITIONS

27-101. Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this Section shall have the meaning indicated when used in this Article.

Attention-Attracting Device. Any device intended to attract the attention of the public to an establishment, location, product or service, except signs as permitted by this Article.

Awning Sign (illuminated and/or non-illuminated). A sign which is mounted, painted or printed on, or attached to an awning, or canopy. For the purposes of this Article, a canopy sign and a marquee sign shall be construed to be an awning sign.

Billboard. An off-premises sign owned by a person, corporation, or other entity that engages in the business of selling the advertising space on that sign.

Freestanding Sign. A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign. A sign that stands without supporting elements, such as “sandwich sign,” is also a free-standing sign. If the message is removed from a structure that was originally designed and used as a freestanding sign, this structure shall still be considered a sign.

Internally Illuminated Signs. Signs where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that (1) are filled with neon or some other gas that glows when an electric current passes through it, and (2) are intended to form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the sign that contain the message, shall also be considered internally illuminated signs.

Monument Sign. A freestanding sign having a solid appearance and a low profile, normally consisting of a face and base. Said sign may be constructed with stone, concrete, metal, routed wood planks or beams, brick or other materials consistent with the building the sign is representing.

Off-Premises Sign. A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided at a location other than the premises on which the sign is located. A sign that draws attention to a cause or advocates or proclaims a political, religious, or other noncommercial message shall also be an off-premises sign unless such sign is excluded from regulation under Section 27-2.

On-Premises Sign. A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided on the premises where the sign is located.

Roof Sign. A sign erected, constructed or maintained partially or wholly upon or over the roof of a building, a building canopy, or a freestanding canopy.

Sign. Any device that (1) is sufficiently visible to persons not located on the lot where such device is located to accomplish either of the objectives of part (2) of this definition, and (2) is designed to attract the attention of such persons or to communicate information to them.

Temporary Sign. A sign that either (1) is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or (2) is intended to remain on the location where it is erected or placed for a period of not more than 15 days. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

Time and/or Temperature Sign. A sign displaying time and/or temperature information with no additional advertising or comments other than the name of the company which owns the sign.

Vehicular Sign. Any sign which is attached to or placed upon a parked motor vehicle and placed in a position or location for the sole purpose of displaying the same to the public.

Wall Sign. A sign that is parallel to, and attached to, the surface of a wall, including illuminated awning signs. If a sign is placed on a canopy that has a roof slope of 1:4 or less (twenty-five [25] degrees or less from vertical), the face of the sign may be perpendicular to the ground.

SECTION 27-2 SIGNS EXCLUDED FROM REGULATIONS

27-201. The following signs are exempt from regulation under this Article except for those regulations set out in Section 27-4.

a. Signs not exceeding four (4) square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as (1) signs giving property identification names or numbers or names of occupants, (2) signs on mailboxes or newspaper tubes, and (3) signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.

b. Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.

c. Official signs of a noncommercial nature erected by public utilities.

d. Flags, pennants, or insignias of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.

e. Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.

f. Signs directing and guiding traffic on private property that do not exceed four (4) square feet each and that bear no advertising matter.

g. Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs.

h. Signs proclaiming religious, political, or other noncommercial message that do not exceed sixteen (16) square feet in area and that are not internally illuminated.

SECTION 27-3. SIGNS PROHIBITED

27-301. It shall be a violation of these regulations to erect, install, place or maintain the following signs:

a. Any sign or advertising structure which constitutes a traffic hazard or a detriment to traffic safety by reason of its size, location, movement, content, coloring, or method of illumination, or by obstructing the vision of drivers, or signs that obstruct or detract from the visibility of traffic control devices or emergency vehicles. The use of flashing lights or revolving lights is prohibited in any sign as constituting a hazard to traffic. Any sign which by glare or method of illumination constitutes a hazard to traffic is prohibited.

b. Any sign or advertising structure with words, scenes or graphics which are obscene, indecent and prurient, within the meaning of K.S.A. 21-4301, as amended.

c. Any sign or advertising structure (other than those erected by a governmental agency or required to be erected by a governmental agency for a public purpose) erected, installed or placed on the right-of-way of any street, road or public way, or signs overhanging or infringing upon the right-of-way of any street, road or public way, except as specifically permitted by these regulations.

d. Any sign or advertising structure erected on City property or other governmental property other than signs erected by the governmental entity itself.

e. Any sign or advertising structure which is erected, installed or maintained that obstructs any fire escape, required exit, window or door opening intended as a means of ingress or egress.

SECTION 27-4 GENERAL SIGN REGULATIONS

27-401. The following general sign requirements shall apply to all signs in all zoning districts:

a. No signs shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device.

b. Except where such is otherwise specifically prohibited, lighting shall be permitted on signs, provided, however, the reflectors shall be provided with proper lenses, concentrating the illumination on the area of the sign to prevent glare upon the street or adjacent property.

c. No sign shall be wholly or partially illuminated so as to interfere with the vision of pedestrian or vehicular traffic.

SECTION 27-5 RESIDENTIAL DISTRICT (R) SIGN REGULATIONS

27-501. The following signs shall be allowed in Residential Districts:

a. One (1) non-illuminated sign per residence or building under construction, not more than thirty-two (32) square feet in area per face and not more than eight (8) feet in height, showing the name of the architects, engineers, builders or contractors, provide that said sign shall be removed within ten (10) days of project completion.

b. On churches, schools and other similar types of buildings and uses allowed in these districts, one (1) non-illuminated, indirectly illuminated, or internally illuminated wall or monument sign, which shall not exceed thirty (30) square feet in area per face, naming the organization and indicating the activities and/or services therein provided.

c. One (1) non-illuminated home occupation sign per lot, provided said sign is wall mounted and shall not exceed three (3) square feet in area, and further provided that the home occupation is permitted as provided for in these Regulations.

d. One (1) non-illuminated or indirectly illuminated monument sign shall be permitted at the entrance to each platted subdivision identifying the subdivision by name, provided said sign shall not exceed fifty (50) square feet in area per face nor exceed five (5) feet in height.

e. One (1) temporary sign for the lease, hire, or sale of the building or premises upon which the sign is located.

f. In the R-3 District, for any permitted nonresidential use and for permitted apartment buildings and similar uses, one (1) illuminated, non-flashing, identification sign not exceeding fifteen (15) square feet of sign area, providing only the name and/or address of the building or the management thereof. No such sign shall extend above the roof. Any building on a corner lot shall be permitted one such sign for each fronting street.

SECTION 27-6 COUNTRYSIDE DISTRICT (CS) SIGN REGULATIONS

27-601. The following signs shall be allowed in the Countryside District (CS):

a. One (1) non-illuminated sign per residence or building under construction, not more than thirty-two (32) square feet in area per face and not more than eight (8) feet in height, showing the name of the architects, engineers, builders or contractors, provided that said sign shall be removed within ten (10) days of project completion.

b. On churches, schools, and other similar types of building and uses allowed in this district, one (1) non-illuminated, indirectly illuminated, internally illuminated monument sign, which shall not exceed five (5) feet in height, nor exceed forty (40) square feet in area per face, naming the organization and indicating the activities and/or services therein provided, and/or one (1) non-illuminated wall sign with only the name of the organization, not to exceed fifteen (15) square feet in area.

c. One (1) non-illuminated sign indirectly or directly illuminated monument sign shall be permitted at the entrance to each platted subdivision identifying the subdivision by name, provided said sign shall not exceed fifty (50) square feet in area per face nor exceed five (5) feet in height.

SECTION 27-7 AGRICULTURAL DISTRICT (A) SIGN REGULATIONS

27-701. The following signs shall be allowed in the Agricultural District (A):

a. One (1) non-illuminated sign per residence or building under construction, not more than thirty-two (32) square feet in area per face and not more than eight (8) feet in height, showing the name of the architects, engineers, builders or contractors, provided that said sign shall be removed within ten (10) days of project completion.

b. On churches, schools, and other similar types of buildings and uses allowed in this district, one (1) non-illuminated, indirectly illuminated, internally illuminated monument sign, which shall not exceed five (5) feet in height, nor exceed forty (40) square feet in area per face, naming the organization and indicating the activities and/or services therein provided, and/or one (1) non-illuminated wall sign with only the name of the organization, not to exceed fifteen (15) square feet in area.

c. One (1) non-illuminated home occupation sign per lot, provided said sign shall not exceed six (6) square feet in area per face nor exceed five (5) feet in height, and further provided that the home occupation is permitted as provided for in these Regulations.

SECTION 27-8 COMMERCIAL DISTRICT SIGN REGULATIONS

27-801. The following signs shall be allowed in the C-1 and C-2 Commercial Districts:

a. In the C-1 District:

(1) Business identification signs:

(a) One (1) permanent, free-standing sign not exceeding four (4) feet in height above the average grade of the yard area in which it is located. No such sign shall exceed twelve (12) square feet per sign face in the yard area adjacent to the arterial or collector street side of the property.

(b) One (1) flat wall sign, not to exceed twelve (12) square feet in sign area.

(c) Only non-illuminated or internally-illuminated signs are permitted. No sign cast a direct light upon adjacent properties.

(d) Intermittent or flashing illumination is prohibited.

b. In the C-2 District:

(1) Outdoor advertising structure or sign advertising a use conducted within the building, provided that any sign or display in excess of 30 square feet in area shall be attached flat against a wall of the building. The 30 square feet of sign area permitted for projecting or freestanding signs may be in one sign or the total area of several signs.

(2) No sign or display shall project above the roof line.

(3) Intermittent or flashing illumination is prohibited.

27-802. The following signs shall be allowed in the C-3 and C-4 Commercial Districts:

a. In the C-3 District: Outdoor advertising structure or sign, provided that any sign or display in excess of 100 square feet in area shall be attached flat against a wall of the building.

b. In the C-4 District:

(1) Outdoor advertising structures or signs as allowed in the C-3 District.

(2) Non-accessory billboards.

(3) No structures or signs shall be located on the roof of a building.

SECTION 27-9 INDUSTRIAL DISTRICT SIGN REGULATIONS

27-901. The following signs shall be allowed in the Light Industrial District (I-1):

a. Each industrial establishment shall be permitted one or more non-illuminated, indirectly illuminated, or internally illuminated wall signs, not more than one (1) on a façade that faces or fronts onto a public right-of-way. The sign area of each wall sign shall not exceed ten percent (10%) of the total surface area of the façade upon which it is located.

b. In lieu of one (1) of the wall signs permitted above, one (1) detached non-illuminated, indirectly illuminated, or internally illuminated monument sign shall be permitted for each industrial establishment. Such sign shall not exceed five (5) feet in height above the average grade, and the sign face shall not exceed fifty (50) square feet in area per face.

27-902. The following signs shall be allowed in the Heavy Industrial District (I-2):

a. Each industrial establishment shall be permitted three (3) non-illuminated, indirectly illuminated, or internally illuminated wall signs, not more than one (1) on a façade that faces or fronts onto a public right-of-way. The sign area of each wall sign shall not exceed fifteen percent (15%) of the total surface area of the façade upon which it is placed.

b. In lieu of one (1) of the wall signs permitted above, one (1) detached non-illuminated, indirectly illuminated, or internally illuminated monument sign shall be permitted for each industrial establishment. Such sign shall not exceed five (5) feet in height above the average grade, and the sign face shall not exceed one hundred (100) square feet in area per face.

SECTION 27-10 MAINTENANCE OF SIGNS

27-1001.

a. All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.

b. If a sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall, within thirty (30) days after such abandonment, be

removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign.

c. If the message portion of a sign is removed, leaving only the supporting "shell" of a sign or the supporting braces, anchors, or similar components, the owner of the sign or the owner of the property where the sign is located or other person having control over such sign shall, within thirty (30) days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign.

d. The area within ten feet (10') in all directions of any part of a freestanding sign shall be kept clear of all debris and all undergrowth more than ten inches (10") in height.

SECTION 27-11 BILLBOARDS/OFF-PREMISES SIGNS

27-1101. Off-premises outdoor billboard signs are allowed in the C-3, I-1 and I-2 Districts upon the issuance of a conditional use permit, and subject to the requirements of this section.

27-1102. Location:

a. Billboard signs shall not be located within 300 feet of any structure occupied as a residential or other non-commercial or non-industrial use.

b. Billboard signs shall not be located within fifty (50) feet of any state or federal highway, as measured from the edge of the right-of-way.

c. Billboard signs shall not be attached to the roof or wall of any building.

27-1103. Maximum Height: The top edge of any billboard sign shall not exceed fifty (50) feet above average grade.

27-1104. Maximum Sign Area:

a. The maximum sign area of any billboard sign shall not exceed a total of 750 square feet.

b. The maximum height or vertical dimension shall not exceed 15 feet. The maximum width or horizontal dimension of any one billboard sign shall not exceed 50 feet.

c. For purposes of this subsection, each face of a billboard sign, whether back-to-back, V-shaped, or some other configuration, shall be considered a separate sign.

27-1105. Lighting: Billboard signs may be indirectly illuminated, but shall not cast glare upon any adjacent highway so as to pose a hazard to vehicular traffic.

27-1106. Minimum Spacing Requirements: No billboard sign hereafter erected shall be less than 300 feet from any other existing billboard sign on the same side of the street. Such minimum spacing distance shall be measured along the center line of the frontage street or highway from a point opposite any edge of a billboard sign and perpendicular to the center line of each street or highway.

SECTION 27-12 UNLAWFUL CUTTING OF TREES OR SHRUBS

27-1201. No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation located within the right-of-way of any public street or road, unless the work is done pursuant to written authorization of the Zoning Administrator.

SECTION 27-13 NONCONFORMING SIGNS

27-1301.

a. Subject to the remaining restrictions of this Section, nonconforming signs that were otherwise lawful on the effective date of these regulations may be continued until they are required to be removed under Section 27-14.

b. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Further, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition. No illumination may be added to any nonconforming sign.

c. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Article.

d. If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this Article, and the remnants of the former sign structure shall be removed. For purposes of this Section, a nonconforming sign is “destroyed” if damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign exceeds fifty percent (50%) of the value of the sign so damaged.

e. Subject to the other provisions of this Section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed within any twelve (12)-month period fifty percent (50%) of the value of such sign.

f. If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within thirty (30) days after such abandonment by the sign owner, owner of the property where the sign is located, or other party having control over such sign.

g. If a nonconforming billboard remains blank for a continuous period of one hundred, eighty (180) days, that billboard shall be deemed abandoned and shall, within thirty (30) days after such abandonment, be altered to comply with this Article or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign.

SECTION 27-14 AMORTIZATION OF NONCONFORMING SIGNS

27-1401.

a. Subject to the provisions of this Section, a nonconforming sign that exceeds the height, size, or spacing limitations by more than ten percent (10%) or that is nonconforming in some other way shall, within three (3) years after the effective date of these regulations, be altered to comply with the provisions of this Article or be removed.

b. If the nonconformity consists of too many freestanding signs on a single lot or an excess of total sign area on a single lot, the person responsible for the violation may determine which sign or signs need to be altered or removed to bring the development into conformity with the provisions of this Article.

c. The following types of nonconforming signs or signs that are nonconforming in any of the following ways shall be altered to comply with the provisions of this Article or removed within ninety (90) days after the effective date of this Article:

1. Portable signs and temporary signs.

2. Prohibited signs.

ARTICLE 28

ENFORCEMENT, VIOLATION AND PENALTY

Sections:

28-1 Enforcement
28-2 Interpretation and Conflict
28-3 Validity
28-4 Repeal of Existing Regulations and Accrued Rights and Liabilities
28-5 Penalties
28-6 Effective Date

SECTION 28-1 ENFORCEMENT

28-101. It shall be the duty of the City of Winfield Zoning Administrator to enforce these regulations. Appeals from decisions of the Zoning Administrator shall be made to the City of Winfield Board of Zoning Appeals as provided in Article 25.

SECTION 28-2 INTERPRETATION AND CONFLICT

28-201. In interpreting and applying the provisions of these zoning regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by these zoning regulations to interfere with, or abrogate or annul any easements, covenants, or other agreement between parties. Provided, however, that where these zoning regulations impose a greater restriction upon the use of structures or premises or upon height of structures, or require larger open spaces, lots areas, setbacks and so forth than are imposed or required by other rules, regulations, or by easements, covenants, or agreements, the provisions of these zoning regulations shall govern.

SECTION 28-3 VALIDITY

28-301. Should any section, clause or provision of these regulations be declared invalid or unconstitutional by any court of competent jurisdiction, the same shall not affect the validity of these regulations as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

SECTION 28-4 REPEAL OF EXISTING REGULATIONS AND ACCRUED RIGHTS AND LIABILITIES

28-401. The adoption of these regulations repeals the existing zoning regulations of the City of Winfield, Kansas.

28-402. Despite the repeal of regulations existing at the time of adoption of these regulations, nothing contained in these regulations shall affect any rights accrued or liabilities incurred under any previously existing regulations.

SECTION 28-5 PENALTIES

28-501. Any violation of any provision of these zoning regulations shall be deemed to be a municipal offense and punishable by a fine of not to exceed $500. Each day's violation shall constitute a separate offense.

28-502. The City Commission shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these zoning regulations, and to abate nuisances maintained in violation thereof.

28-503. Whenever any building or structure is or is proposed to be erected, constructed, altered, converted or maintained or any building, structure or land is or is proposed to be, used in violation of any zoning regulations, the City Commission, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violation or to prevent the occupancy of such structure or land.

SECTION 28-6 EFFECTIVE DATE

28-601. These zoning regulations as adopted by the City Commission shall become and are in full force immediately upon passage and publication in accordance with state law.