

# **ZONING REGULATIONS**

## **CITY OF RUSSELL, KANSAS**

**PREPARED AT THE DIRECTION OF THE  
RUSSELL CITY PLANNING COMMISSION**

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## TABLE OF CONTENTS

<b>Art. I.</b>	<b>In General</b>	<b>Page</b>
	Section 1 Title	1
	Section 2 Purpose and Intent	1
	Section 3 Territorial Application	1-2
	Section 4 Existing Permits	2
	Section 5 Certificate of Occupancy	2
	Section 6 New Construction, reconstruction or Change in Use	2
	Section 7 Annexed Land	2
	Section 8 Subdividing required prior to zoning	2
	Section 9 Lot Frontage	2
	Section 10 Building Setback Lines	2
<b>Art. II.</b>	<b>Amendments</b>	
	Section 1 Authority	3
	Section 2 Initiation	3
	Section 3 Form of Application	3
	Section 4 Public Hearing	3-4
	Section 5 Report and Recommendation of Planning Commission	4
	Section 6 Action by Governing Body	4-5
	Section 7 Zoning Classification of Lesser Change	5
	Section 8 Limitations on Reapplication	6
<b>Art. III.</b>	<b>Interpretation and Construction</b>	
	Section 1 Rules of Interpretation	7
	Section 2 Rules of Construction	7
	Section 3 Zoning Procedure	7-8
<b>Art. IV.</b>	<b>Definitions</b>	9-33
<b>Art. V.</b>	<b>Districts, Maps and Boundaries</b>	
	Section 1 Establishment of Districts	34
	Section 2 Zoning Map	34
	Section 3 District Boundaries on Zoning Map	34-35
	Section 4 Zoning Classifications	35
<b>Art. VI.</b>	<b>General Use Regulations</b>	
	Section 1 Permitted Uses	36
	Section 2 Conditional Uses	36
	Section 3 Conditional Use Permits	36-38
	Section 4 Accessory Uses	38-41
	Section 5 Temporary Uses	41-44
	Section 6 Home Occupations	44-46
	Section 7 Number of structures & uses on zoning lot	46
	Section 8 Sewer and Water Facilities	46
	Section 9 Easements	46-47
	Section 10 Residential-Design Manufactured Homes	47
	Section 11 Landscaping Regulations	47-49
	Section 12 Sexually-Oriented Businesses	49
	Section 13 Wireless Communication Facilities	49-59
<b>Art. VII.</b>	<b>General Bulk Regulations</b>	
<b>Div. 1</b>	<b>Bulk Regulations</b>	60
	Section 1 Bulk Requirements	60
	Section 2 Yard requirements for open land	60
	Section 3 Restrictions	60
	Section 4 Permitted obstructions in required yards	60-61
	Section 5 Lot size requirements for public utility facilities	61
	Section 6 Obstructing Visibility at Intersections	61
	Section 7 Corner lots in residential districts	61

	Section 8 Fences, Walls and Hedges	61-64
<b>Div. 2</b>	<b>Obstructing Visibility at Intersections</b>	64
	Section 1 Prohibited	64
	Section 2 Exceptions	64-65
	Section 3 Preexisting violations not accepted	65
	Section 4 Notice, removal by property owner	65
	Section 5 Removal by city	65
<b>Div. 3</b>	<b>Buildings &amp; Uses Affected</b>	65
	Section 1 Minimum Building Requirements	65-66
	Section 2 Elevation	66
<b>Art. VIII.</b>	<b>District Regulations</b>	
<b>Div. 1.</b>	<b>A-1 Agricultural District</b>	67
	Section 1 Design	67
	Section 2 Permitted Uses	67-68
	Section 3 Conditional Uses	68-69
	Section 4 Lot Size Requirements	69
	Section 5 Bulk Regulations	69-70
<b>Div. 2.</b>	<b>F-P Floodplain District</b>	71
	Section 1 Intent and purpose of district	71
	Section 2 District Regulations	71
	Section 3 Special Use Regulations	71
	Section 4 Lot Size Requirements	72
	Section 5 Height Regulations	72
	Section 6 Yard Regulations	72
	Section 7 Sign Regulations	72
	Section 8 Parking and Loading Regulations	72
<b>Div. 3.</b>	<b>PUD Planned Unit Development District</b>	73
	Section 1 Intent and purpose of district	73
	Section 2 District Regulations	73
	Section 3 Permitted Uses	73
	Section 4 Lot Size Requirements	73
	Section 5 Bulk Regulations	73-74
	Section 6 General Requirements	74
	Section 7 Procedures for review and approval	74-75
<b>Div. 4.</b>	<b>R-1 Single-family Residential District</b>	76
	Section 1 Permitted Uses	76
	Section 2 Conditional Uses	76-77
	Section 3 Lot Size Requirements	77
	Section 4 Bulk Regulations	77-78
<b>Div. 5.</b>	<b>R-2 Two-family Residential District</b>	79
	Section 1 Permitted Uses	79
	Section 2 Conditional Uses	79-80
	Section 3 Lot Size Requirements	80-81
	Section 4 Bulk Regulations	81-82
<b>Div. 6.</b>	<b>R-3 Multiple-family Residential District</b>	83
	Section 1 Permitted Uses	83
	Section 2 Conditional Uses	83-84
	Section 3 Lot Size Requirements	84-85
	Section 4 Bulk Regulations	85-86
<b>Div. 7.</b>	<b>M-H Manufactured Home Park District</b>	87
	Section 1 Design	87
	Section 2 MH-S Manufactured home subdivisions-Permitted Uses	87
	Section 3 Same-Conditional Uses	87-88
	Section 4 Same-Lot Size Requirements	88
	Section 5 Same-Bulk Regulations	88-89
	Section 6 Same-Development Standards	89-90

	Section 7	MH-P Manufactured Home Parks-Permitted Uses	90
	Section 8	Same-Conditional Uses	90
	Section 9	Same-Lot Size Requirements	90-91
	Section 10	Same-Bulk Regulations	91
	Section 11	Same-Development Standards	91-93
	Section 12	Same-Park Plan	93-94
	Section 13	Same-Park Plan Review	94
	Section 14	Recreational Campground Plans	94-95
	Section 15	Special Provisions	95
	Section 16	Unused Manufactured Home Park	95
<b>Div. 8.</b>		<b>P Public Use District</b>	96
	Section 1	Design	96
	Section 2	Permitted Uses in P-(PF)	96
	Section 3	Conditional Uses in P-(PF)	96-97
	Section 4	Permitted Uses in P-(EF)	97
	Section 5	Conditional Uses in P-(EF)	97
	Section 6	Permitted Uses in P-(EX)	97-98
	Section 7	Conditional Uses in P-(EX)	98
	Section 8	Lot Size Requirements	98
	Section 9	Bulk Regulations	98-99
	Section 10	Use Limitations	99
<b>Div. 9.</b>		<b>C-1 Central Business District</b>	100
	Section 1	Design	100
	Section 2	Permitted Uses	100
	Section 3	Conditional Uses	101
	Section 4	Lot Size Requirements	101
	Section 5	Bulk Regulations	101-102
	Section 6	Use Limitations	102
<b>Div. 10.</b>		<b>C-2 Heavy Commercial District</b>	103
	Section 1	Design	103
	Section 2	Permitted Uses	103-106
	Section 3	Conditional Uses	106
	Section 4	Lot Size Requirements	106
	Section 5	Bulk Regulations	106-107
	Section 6	Use Limitations	107
<b>Div. 11.</b>		<b>C-3 Light Commercial District</b>	108
	Section 1	Design	108
	Section 2	Permitted Uses	108-111
	Section 3	Conditional Uses	111
	Section 4	Lot Size Requirements	112
	Section 5	Bulk Regulations	112
	Section 6	Use Limitations	112
<b>Div. 12.</b>		<b>C-4 Neighborhood Business District</b>	113
	Section 1	Design	113
	Section 2	Permitted Uses	113-114
	Section 3	Conditional Uses	114
	Section 4	Lot Size Requirements	114
	Section 5	Bulk Regulations	114-115
	Section 6	Use Limitations	115
<b>Div. 13.</b>		<b>C-5 Highway Service District</b>	116
	Section 1	Design	116
	Section 2	Permitted Uses	116
	Section 3	Conditional Uses	116-117
	Section 4	Lot Size Requirements	117
	Section 5	Bulk Regulations	117
	Section 6	Use Limitations	117

<b>Div. 14.</b>	<b>I-1 Light Industrial District</b>	118
	Section 1 Design	118
	Section 2 Permitted Uses	118-123
	Section 3 Conditional Uses	123
	Section 4 Lot Size Requirements	123
	Section 5 Bulk Regulations	123-124
	Section 6 Use Limitations	124-125
<b>Div. 15.</b>	<b>I-2 Heavy Industrial District</b>	126
	Section 1 Design	126
	Section 2 Permitted Uses	126-130
	Section 3 Conditional Uses	130
	Section 4 Lot Size Requirements	130
	Section 5 Bulk Regulations	130-131
	Section 6 Use Limitations	131-132
<b>Art. IX.</b>	<b>Signs</b>	
<b>Div. 1.</b>	<b>Generally</b>	133
	Section 1 Permits	133
	Section 2 Sign Permit Required	133
	Section 3 Sign Standards	133-134
	Section 4 Exemptions Generally	134-135
	Section 5 Classification of Signs-Functional Types	135
	Section 6 Same-Structural Types	136-137
	Section 7 Temporary Signs	137-138
	Section 8 Maintenance and Safety	138
	Section 9 Abandoned Signs	138
<b>Div. 2.</b>	<b>District Regulations</b>	138
	Section 1 A-1 Agricultural District	138
	Section 2 R-1,R-2,R-3 and MH Residential Districts	138-140
	Section 3 P Public Use District	140-141
	Section 4 C-1 Central Business District	141-142
	Section 5 C-2 and C-3 Heavy & Light Commercial Districts	142-143
	Section 6 C-4 Neighborhood Business District	143
	Section 7 C-5 Highway Service District	143-144
	Section 8 I-1 and I-2 Industrial District	144
<b>Art. X.</b>	<b>Parking and Loading Regulations</b>	
<b>Div. 1.</b>	<b>Off-Street Parking</b>	145
	Section 1 Applicability	145
	Section 2 General Provisions	145-146
	Section 3 Off-Street Parking Space Requirements	146-149
	Section 4 Modification of Required Spaces	149
<b>Div. 2.</b>	<b>Off-Street Loading</b>	149
	Section 1 Applicability	149
	Section 2 Standards for Required Off-Street Loading	150
	Section 3 Off-Street Loading Berth Requirements	150-151
<b>Art. XI.</b>	<b>Non-Conforming Uses , Bulk and Signs</b>	
	Section 1 Applicability	152
	Section 2 Nonconforming Lots of Record	152-153
	Section 3 Nonconforming Structures	153
	Section 4 Nonconforming Uses	153-155
	Section 5 Status of Special and Conditional Uses	155
	Section 6 Nonconforming Signs	155-156
<b>Art. XII.</b>	<b>Administrative Provisions</b>	
<b>Div. 1.</b>	<b>Enforcement, Violation and Penalty, Fees</b>	157
	Section 1 Enforcement	157-158
<b>Div. 2.</b>	<b>Board of Zoning Appeals</b>	159

	Section 1	Establishment	159-161
	Section 2	Administrative Variance	161
<b>Div. 3.</b>		<b>Planning Commission</b>	161
	Section 1	Establishment	161
	Section 2	Power and Duties	161
	Section 3	Conditional Use Permits	161-163
<b>Div. 4.</b>		<b>Interpretation</b>	164
	Section 1	Interpretation, Conflict and Separability	164
	Section 2	Savings Provision	164
<b>Art. XIII.</b>		<b>Additional Height, Area and Use Regulations</b>	
	Section 1	Qualifications and Supplementations to District Regulations	165-166
<b>Art. XIV.</b>		<b>Airport Height &amp; Hazard Regulations</b>	
	Section 1	Short Title	167
	Section 2	Definitions	167-169
	Section 3	Airport Zones	170
	Section 4	Airport Zone Height Limitations	171-172
	Section 5	Construction Notice Requirements	172
	Section 6	Use Restrictions	172
	Section 7	Nonconforming Uses	172
	Section 8	Permits	172-173
	Section 9	Administration and Enforcement	173
	Section 10	Appeals	173-174
	Section 11	Review by the Airport Board of Appeals	174
	Section 12	Judicial Review	174
	Section 13	Penalties	174
	Section 14	Conflicting Regulations	174
	Exhibit A		175
<b>Art. XV.</b>		<b>Certificate of Approval</b>	
	Section 1		176
	Section 2		176
	Section 3		176
		<b>Statutory Reference Table</b>	177

## ARTICLE I. IN GENERAL

### Section 1. Title.

These provisions, including the zoning district maps made a part hereof, by reference, may be known and cited as the "Zoning Regulations".

### Section 2. Purpose and Intent.

These provisions, adopted pursuant to the provisions of the Kansas Statutes Annotated, Sections 12-741 through 12-771, are intended to serve the following purposes:

- (1) To protect and promote the public health, safety, convenience, comfort and general welfare of the city;
- (2) To regulate and restrict the location and use of buildings and the uses of land within each district or zone and to regulate and restrict the height, number of stories and size of buildings, the percentage of lots that may be occupied by buildings and other structures, the size of yards, courts, and other open spaces, and the density of population;
- (3) To guide the future growth and development of the city in accordance with the comprehensive plan adopted by the planning commission and the governing body;
- (4) To protect and conserve the value of land throughout the city and the value of buildings appropriate to the various districts established by these regulations;
- (5) To provide adequate light, air and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding and undue congestion of land and population;
- (6) To bring about the gradual conformity of the uses of land and buildings throughout the city through the comprehensive zoning plan set forth in these regulations, and to minimize the conflicts among the uses of land and buildings;
- (7) To promote the most beneficial relation between the uses of land and buildings and the circulation of traffic throughout the city;
- (8) To provide a guide for public policy and action in the efficient provision of public facilities and services and for private enterprise in building development, investment and other economic activity relating to uses of land and buildings throughout the city; and
- (9) To prevent pollution, encourage the wise use and sound management of natural resources, promote aesthetic values and preserve the historical character of the city.

### Section 3. Territorial application.

These provisions shall apply to all structures and land in the city, but the planning commission may waive all requirements of these provisions for the following uses when appropriate:

- (1) Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephones or other communications, electricity, gas or water, or the collection of sewage or surface water operated or maintained by public utility, but not including substations located on or above the surface of the ground.
- (2) Railroad tracks, signals, bridges and similar facilities on a railroad right-of-way, and maintenance and repair work on such facilities and equipment. This provision shall not include any facilities and equipment listed as a permitted use in the I-2, Heavy Industrial District.
- (3) Agricultural structures or land used for agriculture. In the event that any structure or land ceases to be used only for agriculture, then such structure or land shall be subject to all

applicable regulations.

**Section 4. Existing permits.**

These provisions are not intended to abrogate or annul any building permit, variance, special use permit or certificate of occupancy lawfully issued before the adoption of these regulations, except as follows: If these regulations makes the proposed use under such permit or variance nonconforming as to use or bulk, and there has been no substantial change of position, expenditure, construction or operation, or incurrence of substantial obligations by the permit or variance holder in reliance on such permit or variance prior to the adoption of these regulations, the building permit, special use permit, or variance will be invalid. If substantial construction or substantial operations have taken place and are continuing at the time, the proposed use may be completed.

**Section 5. Certificate of occupancy.**

When a structure is completed under a permit to which Section 4 applies, a certificate of occupancy shall be issued in accordance with the zoning regulations in effect at the time the building permit was issued.

**Section 6. New construction, reconstruction or change in use.**

All new construction or alteration of a building or structure, every change in bulk, all new uses of buildings or land, and every change, enlargement or relocation of use, shall conform to these regulations. Existing nonconforming uses and bulk may continue, subject to the provisions of Article XI.

**Section 7. Annexed land.**

All land which may hereafter be annexed to the city shall, from and after the effective date of such annexation, be considered to be subject to the zoning regulations of the R-1 district unless zoned otherwise at the time of annexation or until such time as the land may legally be rezoned.

**Section 8. Subdividing required prior to zoning.**

Land shall be subdivided in accordance with the subdivision regulations of the city prior to rezoning any area to any district other than the A-1 district. The zoning request shall be tentatively approved, subject to proper subdividing for a period not to exceed one year. The planning commission may grant one extension not exceeding six (6) months, upon written application. In the event that proper subdividing is not completed within the specified time, the planning commission shall recommend appropriate action to the governing body.

**Section 9. Lot Frontage.**

All platted lots, zoning lots and lease sites shall have minimum of twenty-five (25) feet of frontage on an approved public or private street.

**Section 10. Building Setback Lines.**

Building setback lines are hereby established for all arterial and collector streets, as shown on the adopted Major Street Plan in the Russell Comprehensive Plan. The setback lines, as established in this section, shall be held to the minimum for the purpose of promoting the public health, safety, morals, order, convenience and economy in the process of development and shall conform with the following requirements:

- (1) Arterial Streets: No building or structure which fronts or sides on an arterial street shall be located nearer to the centerline of the arterial street than the sum of the required front yard (in feet) plus fifty (50) feet, except as provided in Article VII, Division 1, Section 7 & 8 of these regulations.
- (2) Collector Streets: No building or structure which fronts or sides on a collector street shall be located nearer to the centerline of the collector street than the sum of the required front yard (in feet) plus forty (40) feet, except as provided in Article VII, Division 1, Section 7 & 8 of these regulations.

## ARTICLE II. AMENDMENTS

### Section 1. Authority.

For the purpose of promoting the public health, safety and welfare, conserving the value of property throughout the city, and lessening or avoiding congestion in the public streets, the governing body may, from time to time, in the manner hereinafter set forth, amend these regulations, the district boundary lines and the zoning map, provided that in all amendatory ordinances adopted under the authority of these regulations, due allowance shall be made for existing conditions, the conservation of property values, and the uses to which property is devoted at the time of adoption of such amendatory ordinance.

### Section 2. Initiation.

Proposals for amendment may be initiated by the governing body, the planning commission, or upon application of the owner of the property affected pursuant to the procedure set forth in Section 3.

### Section 3. Form of application.

- (a) When the governing body, or the planning commission, proposes an amendment, it shall transmit its proposal, including information prescribed in subsections (b) (2) and (b) (3) below, to the planning commission for a public hearing and a report thereon.
- (b) When the owner of the property affected proposes an amendment to these regulations or to any zoning district created thereby, an application for such amendment, addressed to the governing body, shall be filed in duplicate with the planning commission. The application shall be in such form and contain such information as shall be prescribed from time to time by the planning commission, but shall in all instances contain the following information:
  - (1) The applicant's name and address;
  - (2) The precise wording of any proposed amendment to the text of these regulations;
  - (3) If affecting a change in the zoning map:
    - a. The legal description and street address of the property proposed to be reclassified;
    - b. The name and address of the owner or owners of the property;
    - c. The present zoning classification and existing uses of the property proposed to be reclassified;
    - d. The area of the property proposed to be reclassified; and
    - e. An ownership list of the owners of all property located within two hundred (200) feet or one thousand (1,000) feet if adjacent to the City limits of the property to be affected by the proposed amendment.
  - (4) Such application shall be accompanied by a fifty (\$50) dollar fee pursuant to the city fee schedule, which may be changed from time to time.

### Section 4. Public hearing.

- (a) *Generally.* The planning commission shall hold a public hearing on each proposed amendment at a reasonable time and place as established by the planning commission. It shall hold such hearing within forty-five (45) days from the date on which the proposed amendment is referred to, filed with, or initiated by the planning commission. An applicant for an amendment may waive the requirement that such hearing be held within forty-five (45) days.
- (b) *Notice of hearing.* The planning commission shall publish a notice of the public hearing at least once in the official city newspaper at least twenty (20) days prior to the date of the hearing. Such notice shall fix the date, time and place for such hearing and contain a

statement regarding the proposed changes in regulations or in the boundary or classification of any zone or district. If the proposed amendment would change the zoning classification or district boundary of specific property, such notice shall contain the legal description or a general description sufficient to identify the property under consideration, its present zoning classification and its proposed classification. In such case, written notice of such proposed amendment shall also be mailed at least twenty (20) days prior to the hearing to the owners of record of the affected property and to all owners of record of lands located within two hundred (200) feet of the area proposed to be altered. If the affected property is located adjacent to or outside the city limits, the area of notification shall be extended to one thousand (1,000) feet into the unincorporated area.

- (c) *Conduct of hearing.* The hearing, which may be adjourned from time to time, shall be conducted in accordance with such procedures as the planning commission shall prescribe by rule. Any interested person or party may appear and be heard at the hearing in person, by agent or by attorney. The planning commission may request a report on any proposed amendment from any governmental official or agency, or any other person, firm or corporation. If such report is made, a copy thereof shall be made available to the applicant and any other interested person in the office of the code official.

**Section 5. Report and recommendation of planning commission.**

Within forty (40) days after the close of a public hearing on a proposed amendment, the planning commission shall submit a report to the governing body. A copy of the report shall be filed with the city clerk and with the code official and such copies shall be available for public inspection. A copy of the report shall be mailed to the owner of the specific property affected by the proposed amendment. Such report shall contain a recommendation for approval or disapproval and the reasons therefore based on evidence presented and matters considered at the hearing. The following matters shall be considered when approving or disapproving a rezoning request:

- (1) The character of the neighborhood and the uses and zoning of nearby property;
- (2) The suitability of the subject property for development with uses permitted under existing zoning;
- (3) The availability of public facilities and services to support the uses permitted on the subject property under proposed zoning;
- (4) The conformance of the requested change to the city's comprehensive plan;
- (5) Any other information or factors relevant to the subject rezoning request.

The report submitted to the governing body shall be accompanied by a copy of the record of the hearing on the proposed amendment.

**Section 6. Action by governing body.**

(a) *Adoption of amendments.* The governing body shall not act upon a proposed amendment until it has received a written report and recommendation from the planning commission. Upon receipt of said report and recommendation and consideration of the matters contained in Section 5, the governing body may:

- (1) Adopt such recommendation by ordinance;
- (2) Override the planning commission's recommendation by a two-thirds majority vote of the entire membership; 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. If the governing body returns the recommendation, the planning commission, after considering the same, may resubmit its original recommendation giving reasons therefore or submit a new and

amended recommendation. Upon receipt of such recommendation, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by ordinance or it need take no further action thereon. If a proposed amendment is not acted upon finally by the governing body within one hundred twenty (120) days of the date upon which the planning commission's recommendation is received, such proposed amendment shall be deemed to have been denied, unless the applicant for such amendment shall have consented to an extension of such period of time. Whenever a proposed amendment has been denied, such amendment shall not thereafter be passed without a further public hearing and notice thereof as provided in Section 4.

- (b) *Protest.* If a written protest against a proposed amendment is filed in the office of the city clerk or the code official within fourteen (14) days after the date of the conclusion of the public hearing pursuant to the published notice, signed by the owners of record 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 required to be notified by this act of the proposed rezoning of specific property, excluding public streets and ways, the ordinance adopting such amendment shall not be passed except by at least a three-fourths vote of all of the members of the governing body.

**State law reference:** Appeals to district court, K.S.A. 12-757

### **Section 7. Zoning classification of lesser change.**

In accordance with the provisions of K.S.A. 12-757, the planning commission and the governing body may recommend and approve a lesser change in zoning districts without republication of a notice or redistribution of notices to property owners when such change is more restrictive than the district which is applied for as shown on the table below; ***provided, however, that such recommendation and approval shall not be for a lesser classification than the existing zoning district.*** If the applicant at the governing body meeting, at which a zoning amendment is being considered, desires to amend the application and/or the governing body, desires to consider a “lesser” zoning change, then such a proposed change shall be returned to the planning commission for reconsideration and further recommendation to the governing body without further publication or notice.

For the purposes of this section, zoning classifications of lesser change shall be as shown below, based on descending order of use restriction:

- (a) Most Restrictive to Least Restrictive.

- “A-1” Agricultural District
- “R-1” Single-family Dwelling District
- “R-2” Two-Family Dwelling District
- “R-3” Multiple-Family Dwelling District
- “C-1” Central Business District
- “C-2” Heavy Commercial District
- “C-3” Light Commercial District
- “C-4” Neighborhood Business District
- “C-5” Highway Service District
- “I-1” Light Industrial District
- “I-2” Heavy Industrial District

- (b) Zones Not Included.

Because of the highly specialized purposes of the “F-P” Floodplain; “PUD” Planned Unit Development; “P” Public Use District; and “M-H” Manufactured Home District, they are not included in the table of lesser zoning changes, and are excluded from designation through the lesser change provisions.

**Section 8. Limitations on reapplication.**

After one official rezoning application has been denied, an application for rezoning of the subject property to the same or less restrictive zoning district cannot be filed until the expiration of six (6) months from the date of final action by the governing body.

## ARTICLE III. INTERPRETATION AND CONSTRUCTION

### Section 1. Rules of Interpretation.

When interpreting the provisions of these regulations, the following shall govern:

- (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 the public health, safety, morals, and welfare of the citizens of the City of Russell.
- (2) *Overlapping or Contradictory Regulations.* Where the conditions imposed by the provisions of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.
- (3) *Private Agreements.* The provisions of these regulations are not intended to abrogate any easement, covenant, or other private agreement provided that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement the requirements of these regulations shall govern.

### Section 2. Rules of Construction.

Except where clearly required to be otherwise by the context, rules of construction shall include:

- (1) Words or numbers used singularly or plurally shall include both singular and plural interpretation.
- (2) The word “may” is permissive; the word “shall” is mandatory.
- (3) The present tense includes the past and future tenses and the future the present.
- (4) The phrase “used for” shall include the phrases “arranged for,” “designed for,” “intended for,” “maintained for,” and “occupied for.”
- (5) The word “person” includes individuals, firms, corporations, associations, governmental bodies and other legal entities.
- (6) 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.
- (7) Unless otherwise specified, all distances shall be measured horizontally.

### Section 3. Zoning Procedure.

The requirements of these zoning regulations permit only those uses listed in each district under Permitted Uses for each district. Any owner of property desiring to use his property for some use other than the listed uses may proceed as follows:

- (a) When the proposed use intensity varies slightly from regulation, the property owner may file an application with the code official for a hearing with the board of zoning appeals for one (1) of the following:
  - (1) Variance (height, area and yard).
  - (2) Exception (conditional use permit as outlined in the district regulations).
  - (3) Appeals from the code official’s decisions.

- (b) When the proposed use requires a change of Zoning Regulations and/or change in the District Zoning Map, the property owner may file an application for zoning changes and proceed as set out in Article II, Section 3.
- (c) Any person intending to perform construction of any sort other than for agricultural structures shall provide certification of proof of compliance with Zoning Requirements from the code official.

## ARTICLE IV. DEFINITIONS

### 1. Generally.

- (a) For the purposes of these regulations, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this article. 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.
- (b) Unless the context clearly indicates to the contrary:
- (1) Words used in the present tense include the future tense; words used in the singular number includes the plural; and words used in the plural number include the singular.
  - (2) The word "shall" is always mandatory and the word "may" is always permissive.
  - (3) The word "person" includes individuals, corporations, partnerships, associations, governmental bodies, agencies, and all other legal entities.
  - (4) The words "used" 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."
  - (5) The word "building" includes "structure" and a building or a structure includes any part thereof.
  - (6) The word "city" means the City of Russell.

### 2. Accessory.

"Accessory" is the term applied to a building structure or use or a portion of a principal building which is clearly incidental or subordinate to, and customary in connection with, the principal building, structure or use, which is located on the same plot with the principal building, structure or use, and which contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or use served. Any accessory building or structure attached to a principal building or structure by a shared common wall shall be deemed to be part of such principal building or structure in applying the bulk requirements to such building or structure.

### 3. Accessory Use.

"Accessory use" is the use of land customarily incidental and subordinate to the use of the principal building on the same lot or tract.

### 4. Adult-oriented business.

*Adult-oriented business* means an adult arcade, adult entertainment business, adult media or merchandise outlet, adult motion picture theater or similar type of adult oriented business as defined by City Code.

### 5. Agriculture uses.

"Agriculture use" is the use of a tract of land not less than five (5) acres for growing crops in the open, dairying, pasturage, horticulture, floriculture, and necessary accessory uses, including the structures necessary for carrying out farming operations and the residence of the person who owns or operates the farm, and the family thereof; provided, however, such agricultural use shall not include the following uses:

- (1) The maintenance and operation of commercial greenhouses or hydroponic farms, except in zoning districts in which such uses are expressly permitted;
- (2) Wholesale or retail sales as an accessory use unless the same are specifically permitted by these regulations;

- (3) The feeding, grazing, or sheltering of animals or poultry in either penned enclosures or in open pasture within one hundred (100) feet of any lot line.

**6. Airport.**

"Airport" is any area of land or water which is used, or intended for use for the landing or taking off of aircraft, and any appurtenant areas which are used or intended for use for airport buildings, other airport facilities or rights-of-way, including taxiways, aircraft storage areas, hangars and other necessary buildings and open spaces.

**7. Alley.**

"Alley" is a public or private right-of-way primarily designed to serve as secondary access to the side or rear of these properties whose principal frontage is on some other street.

**8. Alteration.**

"Alteration," as applied to a building structure, is a change or rearrangement of the supporting members, or an enlargement, or the moving of one (1) location or position to another.

**9. Animal hospital.**

"Animal hospital" is a facility for the medical and surgical treatment of animals and their care during the time of such treatment.

**10. Apartment.**

"Apartment" is a part of a building consisting of a room or suite of rooms intended, designed or used as a residence by an individual or a single-family and located in a multiple-family dwelling.

**11. Apparel stores.**

"Apparel stores" are stores selling clothing for men, women or children at retail.

**12. Appeal.**

"Appeal" is a written request for a review of the code official's interpretation of any provision of these regulations.

**13. Appliance repairs.**

"Appliance repairs" is the repairing and servicing of common household appliances such as washing machines, television sets, power tools, electric razors, radios and refrigerators.

**14. Appliance sales.**

"Appliance sales" is the sale of common household appliances such as washing machines, television sets, power tools, electric razors, radios and refrigerators, and repair of the same types of appliances as are sold on the premises where such repairs are incidental or accessory to the sale of such types of appliances.

**15. Applicant.**

"Applicant" is the owner or duly designated representative of land proposed to be subdivided, or for which conditional use permit, amendment, variance, or certificate of occupancy has been requested. Consent shall be required from the legal owner of the premises.

**16. Area.**

"Area" is a piece of land capable of being described with such accuracy that its location may be established and boundaries definitely ascertained.

**17. Automobile service and accessory stores.**

"Automobile service and accessory stores" are stores engaged primarily in the business of selling and installing tires, batteries and other automobile parts and accessories. Automobile service includes the lubrication of automobiles and the replacement of minor parts but does not include major repair work, such as motor replacement, body and fender repair or spray painting.

**18. Automobile repair.**

"Automobile repair" is the repair, rebuilding or reconditioning of motor vehicles or parts thereof, including such major repairs as spray painting, body, fender, transmission, differential, axle, spring and frame repairs; repairs of radiators requiring removal thereof and major overhauling of engines.

**19. Automobile sales.**

"Automobile sales" is the sale of new and used automobiles and other motor vehicles in operating condition; the storage of automobiles and other motor vehicles in operating condition; but not including storage of trucks of more than five (5) tons in weight or buses; and, the repair and servicing of such vehicles, but not including body work, painting, or motor rebuilding, unless specifically permitted by the zoning district regulations.

**20. Automobile service station.**

"Automobile service station" is a structure and surrounding land used for the storage and sale of petroleum fuel, including self-service, primarily to passenger vehicles and/or for accessory uses, such as the sale of lubricants, accessories, or supplies; the incidental washing of motor vehicles, and the performing of minor repairs; but not including tire recapping, body repairs, major overhaul, provision of rental equipment, or open sales lots.

**21. Awning.**

"Awning" is a roof-like cover that is temporary in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

**22. Banks and financial institutions.**

"Banks and financial institutions" are commercial banks, savings and loan associations, brokerage offices and other similar financial institutions, but not including pawnshops.

**23. Bar.**

"Bar" is an establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and in which food sales is only incidental to the consumption of such beverage.

**24. Basement.**

"Basement" is a story of a building having more than one-half (1/2) of its height below grade and which serves as substructure or foundation for the remainder of the building.

**25. Block.**

"Block" is a tract of land bounded by streets or by a combination of streets and public parks, cemeteries, railroads, rights-of-way, shorelines or boundary lines of municipalities.

**26. Board of Zoning Appeals.**

"Board of Zoning Appeals" is referred to herein as the "Board" which has been created by the governing body and which has the statutory authority to hear and determine appeals, special uses, exceptions, and variances to these zoning regulations.

**27. Boarding Home for Children.**

"Boarding Home for Children" is a residential facility where children not related to the family by blood, marriage, or adoption are cared for twenty-four (24) hours a day by adult supervision which is licensed by the Kansas Department of Health and Environment.

**28. Boarding or Lodging House.**

"Boarding or Lodging House" is a building or place, other than a hotel, where by pre-arrangement and for compensation, lodging and meals for a definite period are provided for three (3) or more persons, but not exceeding twenty (20) persons, and such accommodations are not furnished to transient or overnight customers.

**29. Building.**

"Building" is any covered structure built for the support, shelter or enclosure of persons, animals, chattels or moveable property of any kind, and which is permanently affixed to the land.

**30. Building height.**

"Building height" is the vertical distance measured from the average elevation of the finished lot grade to the highest point of a coping or a flat roof, or to the deck line of a mansard roof, or to the mean height between eaves and ridge of gable, hip, curved, or gambrel roof.

**31. Building, principal.**

"Principal building" is a building in which is conducted the main or principal use of the lot on which said building is situated.

**32. Bulk, nonconforming.**

"Nonconforming bulk" is that part of a building, structure or nonbuilding use which does not conform to one or more of the applicable bulk regulations herein.

**33. Bulk regulations.**

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

- (1) Maximum height;
- (2) Maximum lot coverage;
- (3) Minimum size of yard and setbacks.

**34. Business and professional office.**

"Business and professional office" means a building or a portion of a building used for the conduct of business by persons including, but not limited to, a single doctor or dentist, accountants, architects, attorneys, consultants, engineers, insurance agents, investment consultants, real estate brokers, where there is no display of merchandise and the storage and sale of merchandise is clearly incidental to the service provided.

**35. Campground.**

"Campground" is an area or premises in which space is provided for transient occupancy or use by tourists occupying tents, recreational vehicles, or mobile homes less than twelve (12) feet wide.

**36. Camping trailer.**

"Camping trailer" is a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping or travel use. (See recreational vehicle.)

**37. Canopy.**

"Canopy" is any structure, moveable or stationary, attached to and deriving its support from framework or 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 a permanent nature which projects from the wall of a structure and overhangs the public way.

**38. Capacity in persons.**

"Capacity in persons" is the maximum number of persons that can avail themselves of the services (or goods) of an establishment, at any one time, with reasonable comfort.

**39. Car wash.**

"Car wash" is a building or portion thereof, containing facilities for washing more than two (2) automobiles, using production line methods with a chain conveyor, blower, steam cleaning device, or other mechanical devices; or providing space, water, equipment or soap for the complete or partial hand-washing of such automobiles, whether by operator or by customer.

**40. Carnivals.**

"Carnivals" shall be deemed to include attractions or amusements in which merry-go-rounds, ferris wheels, riding devices and other amusement devices of a similar nature are used and shall also include, whether operated in connection therewith or separately, other forms of amusements or attractions such as side shows, singing and dancing acts and other exhibitions, attractions, shows or devices of various kinds for the amusement of the public, commonly operated and known as carnivals, or as parts thereof, whether advertised as such or otherwise.

**41. Cellar.**

"Cellar" is a room having more than one-half (1/2) of its height below grade.

**42. Child care.**

"Child care" is the process of caring for unrelated minor children as a service with or without financial arrangements. Child care shall include the term "baby-sitting" but shall not include preschools.

**43. Child care center.**

"Child care center" is a day nursery providing care for four (4) or more children for part or all of a day or night away from the home of the parent or legal guardian; and including full day group care, nursery schools, play groups, head start centers giving emphasis to special programming for children, kindergartens not operated by the public schools, and other establishments offering care to groups of children. Such centers shall meet all requirements of the Kansas Department of Health and Environment for licensing.

**44. Circus.**

"Circus" shall be deemed to mean that kind of a show or exhibition ordinarily known and advertised as a circus, including the exhibition of wild animals, trained animal acts, and performances by acrobats, aerial performers trained animals, clowns, etc., and including side shows and exhibitions ordinarily shown in connection with and as a part of circuses, and the term "circus" shall also include menageries, wildwest shows, dog and pony shows and other similar exhibitions, whether operated alone or in connection with circuses having the other features hereinabove mentioned, or similar thereto, and the term "circus" shall also include any street parade shown or operated in the city and the unloading and/or moving of circus equipment, exhibits and paraphernalia in the city and along or over the streets thereof, in connection with a circus which is shown outside the city.

**45. Clinic.**

"Clinic" is an establishment where patients who are normally not lodged overnight are admitted for examination and treatment. This does not include Animal Hospitals or Animal Clinics.

**46. Club or lodge-private.**

"Club or lodge-private" is a nonprofit association or organization formed for either fraternal, social, educational, philanthropic, or other similar purpose, including professional organizations, unions, and other similar organizations.

**47. Code Official.**

"Code Official" is the person or persons designated to administer these zoning regulations, whether such person or persons be entitled building official, building inspector, administrative official, code enforcement official, city engineer, city clerk or zoning administrator.

**48. Common open space.**

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

**49. Completely enclosed building.**

"Completely enclosed building" is a building separated on all sides from adjacent open space or from other buildings by fixed exterior or party walls, pierced only by windows and entrance or exit doors, and covered by a permanent roof.

**50. Conditional Use Permit.**

"Conditional Use Permit" is a permit issued by the code official with the written authorization of the planning commission. This conditional use permit provides permission under special conditions to make certain conditional exceptions of uses in certain zoning districts as stipulated in each of the district zoning regulations.

**51. Condominium.**

"Condominium" is a multiple-family dwelling structure wherein the separate dwelling units are individually owned as opposed to rental units in an apartment.

**52. Contractor's storage yard.**

"Contractor's storage yard" is a lot or portion of a lot or parcel, with or without buildings, used to store and maintain vehicles, construction equipment and other materials and facilities customarily required in the building trade by a construction contractor.

**53. Corner lot.**

"Corner lot" is a lot which adjoins the point of intersection or meeting of two (2) or more streets and in which the interior angle formed by the street lines is one hundred thirty-five (135) degrees or less. If the street lines are curved, the angle shall be measured at the point of intersection of the extensions of the street lines in the directions which they take at the intersections of the street line with the side lot and with the rear lot line of the lot. If the street line is curved at its point of intersection with the side lot line or rear lot line, the tangent to the curve at that point shall be considered the direction of the street.

**54. Day care center.**

"Day care center" is a building or place which may be other than the provider's residence in which care, supervision, custody, or control is provided for more than ten (10) children or adults for any part of a 24-hour day up to twelve (12) hours. The definition of those under care, supervision, custody, or control will be in accordance with the individual provider's State license or registration.

**55. Day care home.**

"Day care home" is a home in which regular care is given for less than eighteen (18) hours a day to a maximum of six (6) children under kindergarten age including the family's own children in this age group and four (4) additional children kindergarten age and over, with a maximum of ten (10) children including the provider's children. Day care homes shall meet all requirements of the Kansas Department of Health and Environment, Bureau of Maternal and Child Health.

**56. Density.**

"Density" is the restriction on the number of dwelling units that may be constructed per acre or per square feet of zoning lot area.

**57. Developer.**

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

**58. Development.**

"Development" is 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 or storage of equipment or materials.

**59. Dog kennel.**

"Dog kennel" is any place where more than four (4) dogs are kept, maintained, boarded and/or bred for a fee and/or offered for sale except those places/persons meeting the minimum requirements as hobby breeders.

**60. Drinking establishment.**

"Drinking establishment" is an establishment which may be open to the general public, where alcoholic liquor by the drink is sold [K.S.A. 41-2601(h)].

**61. Drive-in establishment.**

"Drive-in establishment" is a place of business being operated for the sale and purchase at retail of food and other goods, services or entertainment, which is laid out and equipped so as to allow some or all of its patrons to be served or accommodated while remaining in their automobiles on the premises or elsewhere on the premises but outside any completely enclosed structures; or an establishment which customarily packages food for carry out.

**62. Drive-up window.**

"Drive-up window" is a window for service to a customer in a vehicle with the intent that the customer not consume the food or beverages on the premises in parked vehicles.

**63. Dry cleaning (self-service).**

"Dry cleaning (self-service)" is an establishment providing facilities with which customers may dry clean their own clothes or other fabrics.

**64. Dump.**

"Dump" is a lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or any other means, and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

**65. Dwelling.**

"Dwelling" is a permanent building or portion thereof, designed and used exclusively for residential occupancy, including single-family and multiple-family dwellings, manufactured and mobile homes and rooming and boarding houses, but not including hotels and motels.

**66. Dwelling, attached.**

"Attached dwelling" is a residential building which is joined to another dwelling at one (1) or more sides by a party wall or walls.

**67. Dwelling, detached.**

"Detached dwelling" is a residential building which is entirely surrounded by open space on the same lot.

**68. Dwelling, multiple-family.**

"Multiple-family dwelling" is a residential building containing three (3) or more dwelling units.

**69. Dwelling, single-family.**

"Single-family dwelling" is a residential building containing one (1) dwelling unit only.

**70. Dwelling, two-family.**

"Two-family dwelling" is a residential building containing two (2) dwelling units only.

**71. Dwelling unit.**

"Dwelling unit" is one (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used or intended for use by one (1) family, and which includes cooking space and lawful sanitary facilities reserved for the occupants thereof.

**72. Earth-sheltered residence.**

"Earth-sheltered residence" is a residence designed where the complete structure is below or partially below ground level, whose perimeter walls comply with the yard requirements of the district in which it is located and which was not intended to serve as a substructure or foundation for a building.

**73. Easement.**

"Easement" is authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

**74. Exception.**

"Exception" is the allowance of a use within a given district by the board of zoning appeals. Exceptions shall be limited to only those specifically authorized and listed in these zoning regulations.

**75. Family.**

"Family" is an individual, or two (2) or more persons related by blood, marriage or legal adoption, a group of not more than four (4) persons not related by blood, marriage or legal adoption or not more than eight (8) "disabled" persons (as defined by K.S.A. 12-736) residing in a dwelling licensed by the State of Kansas as a group home living together as a single housekeeping unit in a dwelling unit, including foster children and domestic servants; provided however, families having not more than two (2) persons may include not more than two (2) roomers.

**76. Family care facility.**

"Family care facility" is a dwelling which is licensed by the State of Kansas as a "group home" to provide room and board, personal care, rehabilitation services, and supervision in a family environment for not more than eight (8) persons with a "disability" (as defined by K.S.A. 12-736), plus no more than two (2) support staff.

**77. Fence.**

"Fence" is a freestanding structure of metal, masonry, composition or wood or any combination thereof resting on or partially buried in the ground and rising above ground level, and used for confinement, screening or partition purposes.

**78. Final plat.**

"Final plat" is the map or plan or record of a subdivision, and any accompanying material, as described in the subdivision regulations.

**79. Flood or flooding.**

"Flood" or "flooding" is a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

**80. Flood insurance rate map.**

"Flood insurance rate map" (FIRM) is an official map of the community, on which the flood insurance study has delineated the flood hazard boundaries and the zones establishing insurance rates applicable to the community.

**81. Flood plain.**

"Flood plain" is a watercourse and land adjacent to a watercourse subject to inundation from a flood having a chance occurrence in any one year of one (1) percent.

**82. Floor area.**

"Floor area" is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings computed as follows:

- (1) For determining floor area ratio: The sum of the following areas: a. The basement floor

area when more than one-half of the basement height is above the finished lot grade level where curb level has not been established; b. elevator shafts and stairwells at each floor; c. floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof); d. penthouses; e. attic space having headroom of seven (7) feet, ten (10) inches or more; f. interior balconies and mezzanines; g. enclosed porches; and h. floor area devoted to accessory uses. Space devoted to off-street parking or loading shall not be included in the floor area. The floor area of structures devoted to bulk storage of materials including, but not limited to, grain elevators and petroleum storage tanks shall be computed by counting each ten (10) feet of height, or fraction thereof, as being equal to one floor.

- (2) For determining off-street parking and loading requirements: The sum of the following areas: a. Floor space devoted to the principal use of the premises, including accessory storage areas located within selling or working space such as counters, racks, or closets; b. any basement floor area devoted to retailing activities; and c. floor area devoted to the production or processing of goods or to business or professional offices. For this purpose, floor area shall not include space devoted primarily to storage purposes (except as otherwise noted herein), off-street parking or loading facilities, including aisles, ramps, and maneuvering space, or basement floor area other than area devoted to retailing activities, the production or processing of goods, or business or professional offices.

**83. Food stores.**

"Food stores" are stores which sell foods, fresh or frozen, and other items commonly sold in connection therewith and including, but not limited to, stores commonly referred to as dairy stores, delicatessens, fruit and vegetable markets, grocery stores, health food stores, nut shops and supermarkets. Sales must be made at retail on the premises.

**84. Foster home.**

"Foster home" is a residence or building in which more than twelve (12) hour care is provided to no more than five (5) children, two or more of which are unrelated to the foster parents. Foster homes shall be permitted in all residential structures, the same as would a family.

**85. Fraternal and/or service clubs.**

"Fraternal and/or service clubs" are associations formally organized for a common purpose, or interest, and operated not for profit for persons who are bona fide members paying annual dues, which own, hire, or lease premises, the use of which premises is restricted to such members and their guests. The affairs and management of such associations are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. Food, meals and beverages may be served on the premises, provided adequate dining space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests, provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all federal, state, county and local laws.

**86. Frontage.**

"Frontage" is the length of a front lot line or lines abutting one side of a street measured along the dividing line between the property and the street right-of-way.

**87. Garage, detached private accessory.**

"Detached private accessory garage" is a building designed or used primarily for shelter or storage of vehicles or boats, located on the same zoning lot as a single-family or duplex residence. This definition shall also include carports used primarily for the storage of vehicles or boats. The term garage shall not include agricultural buildings.

**88. Garage, residential.**

"Residential Garage" is a detached accessory building enclosed on at least three (3) sides or a portion of a dwelling used for the parking of and storage of motor vehicles belonging to the occupants of the residence. An attached garage must share a common wall with the residence it serves.

**89. Garage sale.**

"Garage sale" is the temporary retail use of single or multiple-family structures located in a residential district consisting of the sale of five (5) or more miscellaneous items acquired by the sellers for their ultimate use or consumption. This definition includes, but is not limited to porch, yard, sidewalk, basement, rummage, tag or other similar sale.

**90. Garden stores.**

"Garden stores" are stores which sell growing plants, seeds, bulbs, shrubs and gardening and landscaping tools, implements and supplies, including lawn furniture.

**91. Gasoline service station.**

"Gasoline service station" is the use of any structure and surrounding land for the storage and sale of gasoline or other motor fuels; the sale and installation of automobile lubricants, supplies and accessories; the washing, polishing, cleaning and servicing of motor vehicles; and the performance of minor maintenance activities such as engine tune-ups, brakes, mufflers, hoses, belts, alignments and similar work, but not including major repair such as body work, painting, or motor rebuilding involving machine work.

**92. Governing Body.**

"Governing Body" is the City Council of the City of Russell, Kansas.

**93. Grade.**

- (a) For buildings having walls facing one street only, the elevation of the sidewalk at the center of the wall facing the street shall be the grade.
- (b) For buildings having walls facing more than one street, the grade shall be the average of the grades (as defined in "a" above) of all walls facing each street.
- (c) For buildings having no wall facing a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building shall be the grade.
- (d) Any wall approximately parallel to a street line is considered as facing the street.

**94. Group care facility.**

"Group care facility" is a state licensed or approved facility which provides resident services for nine (9) or more persons with a "disability" (as defined by K.S.A. 12-736) not including support staff. These individuals are provided services in accordance with their individual needs such as room and board, personal care, and adult supervision.

**95. Group day care center.**

"Group day care center" is any facility providing care for seven (7) or more children for part or all of a day, away from the home of the parent or legal guardian, not meeting the definition of a day care home; and including full day care, preschool, group day care home, child care center, play groups, centers giving emphasis to special programming for children, kindergartens not accredited by the state department of public instruction, and other establishments offering care to groups of children for part or all of the day. Group day care centers shall meet all requirements of the Kansas Department of Health and Environment, Bureau of Maternal and Child Health.

**96. Group rehabilitation facility.**

"Group rehabilitation facility" is a state licensed or approved facility providing custodial care in a supervised living environment for one (1) or more persons residing voluntarily or by court placement, including, but not limited to, correctional and post-correctional centers, juvenile detention facilities, and temporary custody facilities.

**97. Height, maximum.**

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

- (1) Chimneys, flues, stacks, fire escapes, gas holders, elevator enclosures, ventilators, skylights, water tanks and similar roof structures needed to operate and maintain the building on which they are located;
- (2) Flag poles, television aerials, water towers and tanks, steeples and bell towers, carillons, monuments, cupolas, broadcasting and microwave transmitting and relay towers, and electric transmission line towers.

**98. Historic 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 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.

**99. Home occupation.**

"Home occupation" is a profession or other occupation not otherwise permitted in the district, which is conducted as an accessory use on a residential lot by one or more members of the family residing on the premises.

**100. Hospital.**

"Hospital" is one or more buildings, one of which must be a hospital (defined as a public or private institution designed, intended or used to provide physical or mental health services, inpatient and overnight accommodations and medical or surgical care to persons suffering from injury, illness or disease.) A hospital complex may also include a cafeteria or restaurant, medically related heliports, rehabilitation centers, extended care clinics, physical therapy/employee exercise facilities, and shops for medical equipment, pharmaceutical supplies, gifts, books, magazines, toiletries, flowers, candy or similar items, provided such uses are primarily for the benefit of patients, staff, and visitors and are located so as not to normally attract other retail customers. A hospital complex may also include, in the same building as the hospital or in separate buildings, other health care and health-care-related services, which may include, but shall not be limited to, the following: child care centers, employee housing, temporary patient/patient family housing, parking garages and medical office buildings.

**101. Hotel.**

"Hotel" is a building or portion thereof, or a group of buildings, which provides sleeping accommodations for transients on a daily or weekly basis, whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court, or otherwise.

**102. Institution of Higher Learning.**

"Institution of Higher Learning" is 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, which are constructed on campus, shall be considered accessory buildings.

**103. Institution (Nonprofit).**

"Institution (Nonprofit)" is a building occupied by a nonprofit corporation of a nonprofit establishment for public use.

**104. Junkyard.**

"Junkyard" is an area of land, with or without buildings, used for or occupied by a deposit, collection or storage; outside a completely enclosed building of used or discarded materials such as scrap metal, machinery, equipment, vehicles or parts thereof with or without the dismantling, processing, recycling, salvage, sale or other use or disposition thereof. Where such materials are a byproduct of an established permitted use on the property, such activity shall be considered outdoor storage. (*See salvage yard and wrecking yard*).

**105. Kennel.**

"Kennel" is any place, area, building, structure, or enclosure where more than two domesticated animals, commonly considered to be household pets, more than three months old, are boarded, cared for, housed, fed, trained, or bred. This definition includes both private and commercially operated facilities.

**106. Laboratory, Medical.**

"Laboratory, Medical" is an establishment which provides bacteriological, biological, medical, X-ray, pathological, and other similar analytical or diagnostic services.

**107. Landscaping.**

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

**108. Laundry.**

"Laundry" is an establishment in which clothing and other fabrics are laundered professionally.

**109. Laundry (self-service).**

"Laundry (self-service)" is an establishment providing facilities with which customers may launder their own clothes or other fabrics.

**110. Lodging house.**

"Lodging house" is a business establishment which provides sleeping and living quarters (but not individual cooking facilities) in an immovable structure on a weekly or monthly basis.

**111. Lot.**

"Lot" is a parcel of land shown as a unit on a recorded subdivision plat.

**112. Lot area.**

"Lot area" is the area of a horizontal plane bounded by the front, side and rear lot lines.

**113. Lot, corner.**

See "corner lot."

**114. Lot coverage.**

"Lot coverage" is that percentage of a lot which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, excluding projecting roof eaves.

**115. Lot depth.**

"Lot depth" is the distance between the midpoint of the front lot line and the midpoint of the rear lot line.

**116. Lot, double frontage.**

"Lot, double frontage" is an internal lot having a frontage on two (2) streets.

**117. Lot line.**

"Lot line" is a lot boundary line. (See "lot line, front"; "lot line, rear"; "lot line, side").

**118. Lot line, front.**

"Front lot line" is a street right-of-way line forming the boundary of a lot.

**119. Lot line, rear.**

"Rear lot line" is the lot line that is most distant from, and is, or is most nearly, parallel to, the front lot line. If a rear lot line is less than twelve (12) feet long, or if the lot comes to a point at the rear, the rear lot line shall be a line at least fifteen (15) feet long, lying wholly within the lot, parallel to the front line. If a zoning lot has two (2) or more front lot lines, the owner or developer shall designate the yard which is to be the rear yard.

**120. Lot line, side.**

"Side lot line" is a lot line which is neither a front lot line nor a rear lot line.

**121. Lot of record.**

"Lot of record" is a lot which is part of a subdivision, the plat of which has been recorded in the office of the county register of deeds, or a parcel of land the deed to which was recorded in the office of the county register of deeds. The owner of such a lot or parcel shall be deemed to be any equitable owner.

**122. Lot size requirements.**

"Lot size requirements" are restrictions on the dimensions of lots including minimum lot area, width and depth; and maximum density. Minimum lot area, width and depth establish the size of the zoning lot on which a structure or use, or two (2) or more structures or uses, may be constructed or established.

**123. Lot width.**

"Lot width" is the distance on a horizontal plane between the side lot lines measured at right angles to the lot depth at the established front building line. Lot width shall never be less than thirty-five (35) feet at the front lot line.

**124. Lot, zoning.**

"Zoning lot" is a parcel of land that is designated by its owner or developer, as a tract all of which is to be used, developed, or built upon as a unit under single ownership. As long as it satisfies the above requirements such lot may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record; or
- (3) A combination of complete lots of record, complete lots and portions of lots of record, or portions of lots of record.

**125. Lowest floor.**

"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 non-elevation design requirements of these regulations.

**126. Manufactured home.**

"Manufactured home" is a structure built on a permanent chassis and transportable in one (1) or more sections, which contains all necessary plumbing, heating, air conditioning and electrical systems, and is designed to be used as a dwelling, with or without a permanent foundation, when connected to all required utilities. Such structures have not and cannot be determined to have been built in accordance with adopted city building codes but have been constructed in conformance with the Federal Manufactured Home Construction and Safety Standards Act generally known as the HUD Code established pursuant to 42 U.S.C. Section 5403. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site

for greater than one hundred eighty (180) consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

**127. Manufactured home park.**

"Manufactured home park" is a tract of land in single ownership which is used or intended to be used by two (2) or more manufactured homes located on leased or rented spaces and which has sanitary facilities, water, electricity and other similar utilities available to permit residential occupancy of the homes. This term does not include sales lots on which unoccupied manufactured homes, whether new or used, are located for the purpose of storage, inspection or sale.

**128. Manufactured home, residential design.**

"Manufactured home, residential design" is a manufactured home on permanent foundation which has (a) minimum dimensions of twenty-two (22) body feet in width, (b) a pitched roof, and (c) siding and roofing materials which are customarily used on site-built homes.

**129. Manufactured home subdivision.**

"Manufactured home subdivision" is a tract of land containing two (2) or more individually owned lots, which are or intended to be developed with manufactured homes owned by the respective lot owners which are placed on permanent foundations and permanently connected to sanitary facilities, water, electricity and other similar utilities available to permit residential occupancy of the homes.

**130. Massage parlor.**

"Massage parlor" is an establishment offering services which are offered or performed for compensation and which are advertised or represented as massage or which involve the touching of the body with the purpose of inducing any type of pleasurable or erotic experience, provided that this term shall not include any establishment operated by a medical or healing arts practitioner or professional physical therapist licensed by the State of Kansas or by a certified massage therapist.

**131. Massage therapy.**

"Massage therapy" means a method of treating the body for remedial or therapeutic purposes, including but not limited to rubbing, stroking, kneading, or tapping with the hand or an instrument or both by a person holding a valid license issued by a state that licenses therapists or a person who has passed the National Certification Board for Therapeutic Massage and Bodywork (NCETMB) exam or is a member in good standing of the American Massage Therapy Association or the American Oriental Bodywork Therapy Association. The term massage therapy establishment shall not include hospitals, nursing homes or YMCAs nor shall this definition apply to persons holding a license to practice the healing arts, persons licensed to practice as a registered professional nurse by the State of Kansas, persons licensed to practice as a physical therapist by the State of Kansas or persons working under the direction and supervision of any licensed healing arts practitioner, nor shall apply to barbers or cosmetologists holding a valid, unrevoked license or certificate of registration issued by the State of Kansas.

**132. Mobile home.**

"Mobile home" is a structure built on a permanent chassis and transportable in one (1) or more sections, which contains all necessary plumbing, heating, air conditioning and electrical systems, and is designed to be used as a dwelling, with or without a permanent foundation, when connected to all required utilities. Such structures have not and cannot be determined to have been built in accordance with adopted city building codes, were manufactured prior to June 15, 1976, or were not manufactured in conformance with the HUD Code as is required for a manufactured home. The term mobile home does not include a recreational vehicle.

**133. Medical and dental clinic.**

"Medical and dental clinic" means a building or buildings occupied by two (2) or more physicians, dentists, or other members of a healing profession where the primary use is the delivery of health care services.

**134. Mini-warehouse.**

"Mini-warehouse" is a building or group of buildings in a controlled-access and/or fenced compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the dead storage of excess personal property of an individual or family when such is not located on the lot with their residence, such as passenger motor vehicle, recreational vehicle, motorcycle, boat, and other items of personal property generally stored in residential accessory structures.

**135. Modular home.**

"Modular home" is a structure which the manufacturer certified as constructed in accordance with adopted city building codes, which is transportable in one (1) or more sections but is not constructed on a permanent chassis, and which is designed to be used as a dwelling on a permanent foundation when connected to required utilities including plumbing, heating, air conditioning and electrical systems contained therein.

**136. Motel.**

"Motel" is a group of buildings including either separate cabins or a row of connected cabins or rooms which contain individual sleeping accommodations for transient occupancy and have individual entrances.

**137. Motor home.**

"Motor home" is a vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle. (See "recreational vehicle.")

**138. New construction.**

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 18, 2001, 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 a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**139. Non-climatized storage.**

"Non-climatized storage" use is the storage of vehicles, goods and personal belongings which only necessitate the presence of persons on the premises to load and off-load goods and materials on an intermittent basis and other uses limited to the personal or business activities of the tenant or owner. A building or space that is identified as a non-climatized storage use cannot be used as a location to operate a business that would have employees working at the location, and/or that would offer a service that would require the public to come to the location, and/or that would offer goods for sale to the public from the location, or any other business activity that would require human occupancy of the building.

**140. Nonconforming lot of record.**

"Nonconforming lot of record" is an unimproved lot which does not comply with the lot size requirements for any permitted use in the district in which it is located.

**141. Nonconforming structure.**

"Nonconforming structure" is a structure which does not comply with the lot size requirements of bulk regulations applicable to new structures in the zoning district in which it is located.

**142. Nonconforming use.**

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

**143. Nonconformity.**

"Nonconformity" is a nonconforming use, nonconforming structure, or a nonconforming lot of record.

**144. Nursing or convalescent home.**

"Nursing or convalescent home" is an institution for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, but not including facilities for surgical care or institutions for the care and treatment of mental illness, alcoholism or narcotics addiction.

**145. Occupancy permit.**

"Occupancy permit" is a permit issued by the code official after certification that such land, use, structure or building is fit for human occupancy and complies with all of the provisions of the zoning regulations and other applicable city codes, ordinances, rules and regulations.

**146. Outdoor storage.**

"Outdoor storage" is the storage of goods and materials outside of any building or structure, but not including storage of a temporary or emergency nature.

**147. Overlay district.**

"Overlay district" is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

**148. Package liquor store.**

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

**149. Parcel.**

"Parcel" is all contiguous lands (including lots and parts of lots) held in one (1) ownership.

**150. Parking area, public or customer.**

"Parking area, public or customer" is an area other than a private parking area, street, or alley, used for parking of automobiles and available for public or semi-public use.

**151. Parking lot.**

"Parking lot" is an open area used for the storage of motor vehicles which contains space rented to the general public by the hour, day, week, month or year.

**152. Parking space.**

"Parking space" is a surfaced area, enclosed in the main building or in an accessory building, or unenclosed, exclusive of driveways, permanently reserved for the temporary storage of one automobile, and connected with a street or alley by a surfaced driveway which affords satisfactory ingress or egress for automobiles.

**153. Paved parking.**

"Paved parking" is a vehicular parking area which has been surfaced with an applied material, such as concrete or asphalt, which shall be of sufficient quality and consistency to provide a dust-free, all-weather condition.

**154. Pawn shop.**

"Pawn shop" is an establishment engaged in the lending of money on the security of goods deposited with it or engaged in the business of purchasing tangible personal property on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

**155. Payday loan company.**

"Payday loan company" is a business offering short term non-collateral loans under K.S.A. 16a-2-404.

**156. Permanent foundation.**

"Permanent foundation" is a foundation of formed and poured-in-place concrete or masonry units laid up with such reinforcing materials as may be required for quality construction.

**157. Pharmacies.**

"Pharmacies" are stores which sell prescription and nonprescription drugs and medicine and medical, surgical, and dental supplies and appliances only.

**158. Planned development.**

"Planned development" is a tract of land meeting specified minimum site size whereon all elements of development may be designed as inter-related aspects of an overall improvement concept in accordance with the provisions of these regulations.

**159. Planning commission.**

"Planning commission" means the Russell City Planning Commission, as established in accordance with K.S.A. 12-744 et seq. and with the powers and authority therein granted.

**160. Plat.**

"Plat" is a layout of a subdivision indicating the location and boundaries of individual properties.

**161. Preschool.**

"Preschool" is a public or privately owned facility with defined curriculum which offers preparatory education for minor children aged 5 years and younger. The term does not include kindergarten.

**162. Premises**

"Premises" is a parcel together with all buildings and structures thereon.

**163. Principal structure.**

"Principal structure" is a structure in which a principal use of the lot on which the structure is located is conducted.

**164. Principal use.**

"Principal use" is the main use of land or structures as distinguished from a subordinate or accessory use.

**165. Private club.**

"Private club" is 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, county and local laws.

**166. Professional office.**

"Professional office" is any building or part thereof used by one or more persons engaged in the practice of law, medicine, accounting, architecture, engineering, or other occupation customarily considered as a profession.

**167. Public open space.**

"Public open space" is a parcel of land or an area of water, or a combination of land and water dedicated to public use and available for the use and enjoyment of the general public. Public open space does not include streets, alleys or off-street parking or loading areas.

**168. Public sewer and water system.**

"Public sewer and water system" is any system, other than an individual septic tank or tile field, or individual well, operated by a municipality or other governmental agency or a public utility for the disposal of wastes and the furnishing of water.

**169. Public utility.**

"Public utility" is any business which furnishes the general public telephone service, electricity, cable television, natural gas, or water and any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state.

**170. Railroad right-of-way.**

"Railroad right-of-way" is a strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

**171. Recreational vehicle.**

"Recreational vehicle" is a vehicular-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities include: fifth wheels, travel trailers, camping trailers, toppers, truck campers and motor homes.

**172. Recycling center.**

"Recycling center" is a building in which recyclable material only is collected, processed, and / or baled in preparation for shipment to others who will use those materials to manufacture new products. This term shall not include junkyards, salvage yards, wrecking yards, scrap metal processors or refuse transfer stations.

**173. Remodeling.**

"Remodeling" is any change in a structure (other than incidental repairs and normal maintenance) which may prolong its useful life, or the useful life of its supporting members such as bearing walls or partitions, columns, beams, girders or foundations; or the construction of any addition to, or enlargement of, a structure; or the removal of any portion of a structure.

**174. Residential building.**

"Residential building" is a building all or part of which contains one or more dwelling units, including single-family dwellings, two-family dwellings, multiple-family dwellings, lodging houses, mobile homes, dormitories, sororities and fraternities.

**175. Residential-design manufactured home.**

"Residential-design manufactured home" is a manufactured home on a permanent 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, and which complies with the architectural and aesthetic standards specified in Article VI, Section 10 of these regulations. A residential-design manufactured home shall be considered a single-family dwelling.

**176. Residential district.**

"Residential district" is any zoning district designated with an "R", for example "R-1", "R-2", etc., any planned development district that contains residential buildings and the M-H mobile home district.

**177. Restaurant.**

"Restaurant" is a public eating or drinking establishment, the facilities, equipment, and manner and hours of operation of which are consistent with a food service operation, including but not limited to the types of business establishments customarily referred to as cafes, cafeterias, coffee shops, dairy bars, restaurants and soda fountains, *but not including any drinking establishment which has thirty (30) percent or less of its gross receipts from the sale of food for consumption on the premises on an annual basis. Such an establishment shall be considered a bar.*

**178. Retail sales.**

"Retail sales" is the sale of goods, merchandise and commodities for use or consumption.

**179. Right-of-way.**

"Right-of-way" is a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use.

**180. Rooming and boarding house.**

"Rooming and boarding house" is a single-family residential dwelling with one (1) kitchen used to provide lodging for one (1) week or longer for compensation, with or without meals, for three (3) but not more than eight (8) persons, each with a private room excluding the resident owner or occupant and family thereof.

**181. Salvage yard.**

"Salvage yard" is any area of land, with or without buildings used for storing, crushing, dismantling, shredding, compressing or salvaging discarded machinery, equipment or two or more unlicensed inoperable vehicles. (See junkyard and wrecking yard).

**182. Sanitary landfill.**

"Sanitary landfill" is a lot or parcel of land used primarily for the disposal, abandonment, dumping, burial, or burning of garbage, sewage, trash, refuse, junk, discarded machinery, or motor vehicles or parts thereof or other waste and which is in conformance with the requirements of the Kansas Department of Health and Environment.

**183. School.**

"School" is a public elementary or secondary educational facility which is under direction and control of the State Board of Education and the State Superintendent of Public Instruction and/or a Parochial elementary or secondary educational facility which offers the same general curriculum as that provided by a comparable public educational facility.

**184. Scrap metal processor**

"Scrap metal processor" is a business engaged in the buying, selling, storing, exchanging, processing, trading or otherwise dealing in scrap metal.

**185. Screening.**

"Screening" is decorative fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such structures or evergreen vegetation. When fencing is used for screening, it shall be not less than six (6) or more than eight (8) feet in height.

**186. Setback.**

"Setback" is the distance between the lot line and the principal building on the lot.

**187. Sexually-oriented business.**

"Sexually-oriented business" is defined by the city code.

**188. Sign.**

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

- (1) Is a structure or any part thereof, or a portable display, or is attached to, painted on, or in any other manner represented on a building or other structure or on the ground;
- (2) Is used to announce, direct attention to, or advertise; and
- (3) Is not located inside a building.

**189. Sign, advertising.**

"Advertising sign" is a sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located, or to which it is affixed (off-premise sign).

**190. Sign, awning, canopy, and marquee.**

"Awning, canopy and marquee sign" is a sign that is mounted or painted on, or attached to, an awning, canopy, or marquee that is otherwise permitted by these regulations. No such sign shall project more than twenty-four (24) inches above, below, or twelve (12) inches beyond the physical dimensions of the awning, canopy, or marquee, and a minimum of eight (8) feet of clearance shall be provided above grade.

**191. Sign, bulletin board.**

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

**192. Sign, business.**

"Business sign" is a sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or an entertainment offered, on the premises where the sign is located or to which it is affixed.

**193. Sign, canopy.**

See "sign, awning, canopy, and marquee."

**194. Sign, construction.**

"Construction sign" is a temporary sign indicating the names of architects, engineers, landscape architects, contractors, and similar artisans involved in the design and construction of a structure or project only during the construction period and only on the premises on which the construction is taking place.

**195. Sign, ground.**

"Ground sign" is any sign placed upon, or supported by, the ground independently of the principal building or structure on the property. Signs on accessory structures shall be considered ground signs.

**196. Sign, identification.**

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

**197. Sign, marquee.**

See "sign, awning, canopy, and marquee."

**198. Sign, mobile.**

"Mobile sign" is a sign which is designed to be easily transported and is attached to a trailer or other nonmotor powered vehicle.

**199. Sign, nameplate.**

"Nameplate sign" is a sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and where applicable, a professional status.

**200. Sign, off-premise.**

See "sign, advertising."

**201. Sign, pole.**

"Pole sign" is a sign that is mounted on a free-standing pole, the bottom edge of which sign is eight (8) feet or more above ground level.

**202. Sign, projecting.**

"Projecting sign" is a sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.

**203. Sign, real estate.**

"Real estate sign" is a sign pertaining to the sale or lease of the lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof located thereon.

**204. Sign, roof.**

"Roof sign" is a sign erected, constructed and maintained wholly upon or over the roof of a building and having the roof as the principal means of support.

**205. Sign, wall.**

"Wall sign" is a sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than twelve (12) inches from such building.

**206. Small animal hospital.**

"Small animal hospital" is a facility for the medical and surgical treatment of ordinary household pets, such as dogs, cats, birds, and the like, excluding however, horses, donkeys, burros, goats, sheep, or other similar animals or pets not capable of being cared for entirely within the confines of a residence.

**207. Special Use Permit.**

"Special Use Permit" is a permit issued by the code official with the written authorization of the board of zoning appeals. This special use permit provides permission under special conditions to make certain special exception of uses in certain zoning districts as stipulated in each of the district zoning regulations.

**208. Storage structure, accessory.**

"Accessory storage structure" is a structure accessory to a single-family or duplex residence located on the same zoning lot, not designed for human habitation and used for storage of personal belongings. The term garage shall not include agricultural buildings.

**209. Story.**

"Story" is that portion of a building included between the surface of any floor and surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

**210. Story, Half.**

"Story, half" is a space under a sloping roof which has the line of intersection of the roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished for use. A half-story containing independent apartment of living quarters shall be counted as a full story.

**211. Street.**

"Street" is a right-of-way, other than an alley, dedicated to the public use, which provides principal access to adjacent properties.

**212. Street network.**

- (1) Arterial Street. A street which provides for through traffic movement between and around areas and across the City with direct access to abutting property; subject to necessary control of entrances, exits, and curb uses.
- (2) Expressway. A street which provides fast and efficient movement of large volumes of traffic between areas and does not provide a land service function.
- (3) Collector Street. A street which provides for traffic movement between arterial and local streets with direct access to abutting property.
- (4) Local Street. A street which provides direct access to abutting land and for local traffic movement, whether in business, industrial, or residential areas.

**213. Structure.**

- (a) "Structure" is anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, sheds, towers, and bins. For purposes of these regulations, residential air conditioning condensation units and similar cooling system apparatus, or so-called "window" or "room" conditioners shall not be considered as structures.
- (b) "Structure" (for the purposes of the flood plain regulations) means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

**214. Structural alterations.**

"Structural alterations" is any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls.

**215. Subdivision.**

"Subdivision" is any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots for the purpose of offer, sale, lease or development. Subdivision includes the division or development of residential and non-residential zoned land.

**216. Subdivision regulations.**

"Subdivision regulations" are the official subdivision regulations of the city, together with all amendments thereto, adopted pursuant to Kansas Statutes Annotated, Section 12-749.

**217. Substantial improvement.**

"Substantial improvement" is any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the 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 which have been identified by the local code official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

**218. Substantial damage.**

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its' before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before damage occurred.

**219. Tattoo parlor/body piercing studio.**

"Tattoo parlor/body piercing studio" is an establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

**220. Tavern.**

"Tavern" is an establishment in which the primary function is the public sale and serving of cereal malt beverages.

**221. Temporary use.**

"Temporary use" is a use permitted in the zoning district subject to a specific time limit; unless otherwise specified in these regulations, a time period not to exceed two (2) years.

**222. Tent shows.**

"Tent shows" shall be deemed to include theatrical, dramatic or operative performances, or entertainments, or concerts, whether operated in a tent or in the open, or in any temporary or permanent building or structure unless the same is in a regularly licensed opera house, theater or motion picture theater; provided, that these regulations shall not apply to entertainments, concerts or musical exhibitions given by any church, school, lodge or other society or organization of the city when the proceeds thereof are exclusively for the benefit of charity or for the benefit of such church, school, lodge or organization, and where no part of such proceeds goes to any private individual or corporation, except in payment of labor actually performed or for property or materials actually furnished for use in connection with such performance, concert or entertainment.

**223. Theater, motion picture.**

"Theater, motion picture" is a building or part of a building devoted to the showing of motion pictures on a paid admission basis.

**224. Theater, outdoor drive-in.**

"Theater, outdoor drive-in" is an open lot or part thereof with its appurtenant facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in automobiles or on outdoor seats.

**225. Topper.**

"Topper" is a portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof and sides and designed to be loaded onto and unloaded from the bed of a pickup truck. (See "recreational vehicle.")

**226. Tract.**

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

**227. Trailer.**

"Trailer" is a vehicle standing on wheels or on rigid supports which is used for transporting boats, cargo or property.

**228. Travel trailer.**

"Travel trailer" is a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use and of such size or weight as not to require special highway movement permits when drawn by an authorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms. (See "recreational vehicle.")

**229. Truck camper.**

"Truck camper" is a portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof and sides and designed to be loaded onto and unloaded from the bed of a pickup truck. (See "recreational vehicle.")

**230. Use.**

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

**231. Use regulations.**

"Use regulations" are the provisions of these regulations which identify permitted, special and conditional uses, impose use limitations, require adherence to performance standards and regulate home occupations and accessory and temporary uses.

**232. Variance.**

"Variance" is a grant of relief to a person from the requirements of these regulations which permits construction and/or development in a manner otherwise prohibited by these regulations where specific enforcement would result in unnecessary hardship.

**233. Wholesale sales.**

"Wholesale sales" are the sale of goods, merchandise and commodities for resale.

**234. Wind energy conversion system (WECS).**

"Wind energy conversion system (WECS)" means any device such as wind generator, wind charger, windmill or wind turbine which converts wind energy to another form of useable energy.

**235. Wrecking yard.**

"Wrecking yard" (auto salvage yard, automobile graveyard) is any area of land, with or without buildings, upon which two or more motor vehicles of any kind which are inoperable and / or unlicensed are stored for the purpose of collecting, crushing, dismantling or salvaging vehicles or parts thereof for recycling or resale. (See junkyard, salvage yard)."

**236. Yard.**

"Yard" is open space on a lot which is unoccupied and unobstructed from its lowest level to the sky, except for permitted obstructions.

**237. Yard, front.**

"Front yard" is a yard extending along the full length of a front lot line and back to a line drawn parallel to the front lot line at a distance there from equal to the depth of the required front yard. On a corner lot or a double or reverse frontage lot, each yard that abuts a front lot line shall be considered a front yard.

**238. Yard, rear.**

"Rear yard" is a yard extending along the full length of the rear lot line and back to a line drawn parallel to the rear lot line at a distance there from equal to the depth of the required rear yard. In the case of a corner lot, there shall be no rear yard as defined, and in such case the sides opposite the street sides shall be considered as side yards for setback purposes.

**239. Yard, side.**

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

**240. Zone or district.**

"Zone or district" is a portion, area, or section of the Russell, Kansas zoning jurisdiction for which uniform regulations governing the use, height, area, size, and intensity of use of buildings, land, and open spaces about buildings are herein established.

**241. Zoning administrator.**

"Zoning administrator" is the person or persons authorized and empowered by the governing body having jurisdiction to administer the requirements of these zoning regulations.

**242. Zoning area.**

"Zoning area" is the area to be zoned as set out on the official zoning map filed on record.

**243. Zoning lot.**

See "lot, zoning."

**244. Zoning regulations.**

"Zoning regulations" are the official zoning regulations of the city together with any and all amendments adopted pursuant to Kansas Statutes Annotated, Section 12-753, et seq.

# ARTICLE V. DISTRICTS, MAPS AND BOUNDARIES

## Section 1. Establishment of districts.

(a) The city is hereby divided into the following districts, the respective symbol for each type of district being set forth opposite its title:

<i>Symbol</i>	<i>Title</i>
A-1	Agricultural District
F-P	Floodplain District
R-1	Single-Family Residential District
R-2	Two-Family Residential District
R-3	Multiple-Family Residential District
M-H	Manufactured Home District
PUD	Planned Unit Development
P	Public Use District
C-1	Central Business District
C-2	Heavy Commercial District
C-3	Light Commercial District
C-4	Neighborhood Business District
C-5	Highway Service District
I-1	Light Industrial District
I-2	Heavy Industrial District

## Section 2. Zoning map.

(a) *Generally.* The areas and boundaries of districts are hereby established on the zoning maps of the city, a copy of which is on file in the office of the code official. Such maps, referred to herein as the "zoning map", together with everything shown thereon, are hereby made a part of these regulations.

(b) *Area covered.* It is the intent of these regulations that the entire area of the city, including all land and water areas, streets, alleys, railroads and other rights-of-way be included in the districts established herein. Any area not shown on the zoning map as being included in any district shall be deemed to be in the R-1 single-family residential district.

## Section 3. District boundaries on zoning map.

In the event that uncertainties exist with respect to the intended boundaries of the various districts as shown on the zoning map, the following rules shall apply:

- (1) District boundaries are the center lines of streets, alleys or other rights-of-way, unless otherwise indicated.
- (2) Where district boundaries do not coincide with streets, alleys or other rights-of-way, but do coincide with lot lines; such lot lines shall be construed to be the boundary of such district.
- (3) Where district boundaries do not coincide with streets, alleys, other rights-of-way or lot lines, the district boundaries shall be determined by use of the scale shown on the zoning map.
- (4) When a lot held in one ownership is divided by a district boundary line, the entire lot shall be construed to be within the less restrictive district unless the application of this construction would increase the area of the less restrictive portion of the lot by more than twenty-five (25) percent.
- (5) All streets, alleys, public ways, waterways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property

immediately abutting them. Where the center line of a street, alley, public way, waterway or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

**Section 4. Zoning classifications.**

For the purpose of establishing a table of zoning classifications of lesser change the following is hereby adopted:

<i>Number</i>	<i>Symbol</i>	<i>Title</i>
1	A-1	Agricultural District
2	F-P	Floodplain District
3	R-1	Single-family Residential District
4	R-2	Two-family Residential District
5	R-3	Multiple-family Residential District
6	M-H	Manufactured Home Park District
	MH-S	Manufactured Home Subdivision
7	M-H	Manufactured Home Park District
	MH-P	Manufactured Home Parks
8	PUD	Planned Unit Development
9	P	Public Use District
	PF	Public Facilities District
	EF	Educational Facilities District
	EX	Exposition Facilities District
10	C-1	Central Business District
11	C-2	Heavy Commercial District
12	C-3	Light Commercial District
13	C-4	Neighborhood Business District
14	C-5	Highway Service District
15	I-1	Light Industrial District
16	I-2	Heavy Industrial District

Number 16, District I-2, is classified as the least restrictive zone classification and any other classification on the basis of inverse numerical order shall be considered zone classification of lesser change.

## ARTICLE VI. GENERAL USE REGULATIONS

### Section 1. Permitted uses.

No structure shall hereafter be built, moved or remodeled and no structure or land shall hereafter be used, occupied or designed for use or occupancy except for a use that is permitted within the zoning district in which the structure or land is located, or which was previously authorized by a special use permit issued under prior regulations.

### Section 2. Conditional uses.

No use of a structure or land that is designated as a conditional use in any zoning district shall hereafter be established and no existing conditional use shall hereafter be changed to another conditional use in such district unless a conditional use permit is secured in accordance with the provisions of this Article VI, Section 3.

### Section 3. Conditional use permits.

- (a) *Authorization.* It is recognized that certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a zoning district and may possess characteristics of such unique and special nature relative to location, design, size, method of operation, circulation and public facilities that each specific use must be considered individually. Therefore, the planning commission may authorize, as an exception to the provisions of these regulations, the establishment of those conditional uses that are expressly authorized to be permitted as a conditional use in a particular zoning district or in one or more zoning districts. No conditional use shall be authorized as an exception to these regulations unless the planning commission is specifically authorized by these regulations to grant such conditional use and unless such grant complies with all the applicable provisions of these regulations.
- (b) *Application for conditional use permit.* An application for a conditional use permit shall be filed with the office of the code official. The application shall contain the following information:
- (1) The name, address, telephone number and signature of the property owner and applicant.
  - (2) The name and address of the architect, professional engineer or contractor, if any.
  - (3) Description of existing use and/or zoning.
  - (4) A narrative description of the proposed conditional use.
  - (5) A site plan of the property showing the following:
    - a. Property lines and building setbacks of the subject property.
    - b. Size and location of all existing and proposed structures on the property.
    - c. Parking and loading areas.
    - d. Vehicular access and circulation.
    - e. Existing and proposed signs.
    - f. Refuse and service areas.
    - g. Utilities and drainage ways.
    - h. Open spaces, landscaping, screening and fencing.
    - i. Such other information as the planning commission may require to determine if the proposed conditional use meets the intent and requirements of these regulations.

- (6) A survey or verification that property and structure dimensions on the site plan are correct.
  - (7) The names and addresses of the record owners of all property located within two hundred (200) feet or one thousand (1,000) feet if adjacent to the City limits of the property in question.
- (c) *Hearing on conditional use permits.* A public hearing on the conditional use permit application shall be held and notice thereof given as provided in Article II, Section 4 of these regulations.
- (1) *Review.* The planning commission shall review all applicable evidence regarding the site, existing and proposed structures, neighboring uses, parking areas, driveway locations, street access, traffic generation and circulation, utilities, drainage, the proposed operation, and such other evidence as deemed appropriate.
  - (2) *Standards.* The planning commission shall not grant a conditional use permit unless it shall, in each specified case, make specific written findings of fact directly based upon the particular evidence presented to it, which support all of the following conclusions:
    - a. The proposed conditional use complies with all applicable provisions of these regulations, including lot size requirements, bulk regulations, use limitations, and performance standards;
    - b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public;
    - c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located;
    - d. The location and size of the conditional use, the nature and intensity of the operation involved or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
      1. The location, nature and height of buildings, structures, walls and fences on the site; and
      2. The nature and extent of landscaping and screening on the site.
    - e. Off-street parking and loading areas will be provided in accordance with the standards set forth in Article X, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect;
    - f. Adequate utility, drainage, and other such necessary facilities have been or will be provided;
    - g. 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.
  - (3) *Conditions.* In granting a conditional use permit, the planning commission may impose appropriate conditions and safeguards including but not limited to planting screens, fencing, construction commencement and completion dates, lighting, operational controls, duration of a use, improved traffic circulation, access restrictions, parking requirements, drainage facilities or any other requirement which the commission deems appropriate upon a finding that they are necessary to fulfill the purpose and intent of these regulations.

(d) *Appeal to governing body.* An applicant who is dissatisfied with the decision of the planning commission may appeal the decision to the governing body, provided the appeal is submitted in writing to the office of the code official within fourteen (14) days from the planning commission's action. Upon receipt of an appeal from the action of the planning commission, the governing body shall set a hearing date to consider all information, testimony and minutes of the planning commission's public hearing to reach a decision on the applicant's request. The governing body may affirm the decision or return the application to the planning commission for further consideration together with a statement specifying the basis for their disagreement. Upon receipt of a second decision from the planning commission, the governing body may affirm, modify or overrule the decision of the planning commission. The governing body shall overrule the planning commission by a favorable vote of a majority of the full governing body.

(e) *Protest.* Affected property owners shall have the same right to present a protest petition to the governing body as property owners in rezoning cases. The protest procedure shall be as provided in Article XII, Div. 3, Section 3(e) of these regulations.

(f) *Period of validity.* No conditional use permit granted by the planning commission shall be valid for a period longer than one hundred eighty (180) days from the date in which the planning commission grants the conditional use, unless within such one hundred eighty (180) day period:

(1) A building permit is obtained and the erection or alteration of a structure is started; or

(2) An occupancy permit is obtained and a use commenced.

The planning commission may grant one extension not exceeding one hundred eighty (180) days, upon written application, without notice or hearing.

(g) *Fees.* The application shall be accompanied by a fee of fifty (\$50) dollars as shall be specified from time to time, by ordinance of the governing body.

#### **Section 4. Accessory uses.**

(a) *Permitted uses.* Permitted accessory uses include but are not limited to the following:

(1) A storage building or structure incidental to a permitted use, provided that no such structure that is accessory to a residential dwelling (e.g. storage building, workshop, gazebo, greenhouse, etc.) shall exceed 400 square feet and shall be no taller than the dwelling or more than 16 feet in height whichever is less; and shall be compatible with the residential dwelling in terms of design, appearance and materials;

(2) A detached garage or carport provided that no such structure that is accessory to a one or two-family dwelling shall exceed 1,200 square feet, except in the A-1 district it shall not exceed 1,500 square feet, shall be no taller than the dwelling or more than 20 feet in height whichever is less, and shall be compatible with the residential dwelling in terms of design, appearance and materials;

(3) An attached garage or carport provided that such structure is physically attached to a one or two-family dwelling by a common wall, shall not exceed the square footage of the ground floor of the dwelling it is attached to and shall be compatible with the dwelling in terms of design, appearance and materials. Attached garages shall be subject to same setback requirements as the principal structure on the lot.

(4) A private swimming pool and bathhouse, provided that no part of such structure or use is located in the front yard setback;

(5) In the R-1 district only, a guest house (without kitchen facilities) 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, for permanent occupancy as housekeeping units and provided that no part of such structure is located in the front yard setback;

- (6) Statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls and hedges;
- (7) Fallout shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district and provided that no part of such structure is located in the front yard setback;
- (8) Signs, when permitted by Article IX of these regulations and by the individual district regulations;
- (9) Off-street parking and loading spaces, as permitted by Article X of these regulations;
- (10) Restaurants, drugstores, gift shops, clubs, lounges and newsstands, when located in a permitted hotel, motel or office building;
- (11) Employee restaurants and cafeterias, when located in a permitted business, manufacturing or industrial building;
- (12) Wind energy conversion systems (WECS) under the following restrictions:

- a. The minimum distance from all zoning lot lines to any tower, pole or other support base of the WECS shall be determined by the following table:

<i>Rotor Diameter (feet)</i>	<i>Setback Distance (feet)</i>
5	100
10	165
15	220
20	270
25	310
30	340
35	365
40	385

Intermediate rotor size distances shall be interpolated. The WECS shall not be located in any required yard.

- b. The WECS shall not cause interference to microwave communications or radio and television reception in the area. Noise levels measured at the lot line shall not exceed sixty (60) dBA in a residential zone.
- c. To limit climbing access to a WECS tower, or other support structure, a six-foot high fence with locking portal shall be placed around the WECS support or if a tower is utilized, the tower climbing apparatus shall be limited to no lower than twelve (12) feet from the ground or the WECS support may be mounted on a roof top.
- d. All blades of a WECS shall be constructed of non-metallic substances. If the applicant can prove, in written form, that no electromagnetic interference will result, a metal content of up to twenty-five (25) percent will be acceptable.
- e. The WECS shall be located in compliance with the Airport Height and Hazard Regulations in Article XV.
- f. Height of the WECS shall not exceed the maximum height restriction in the zone where it is located by more than twenty (20) feet. The height of the WECS shall be measured at the center of the blade diameter.
- g. Data pertaining to the WECS's safety and structural integrity shall be certified by a

licensed engineer and filed with the building permit application. The tower or support and top adaptor shall meet the restrictions specified in the city's building code.

- h. The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's current service regulations applicable to WECS.
  - i. A plot plan shall be submitted with the application for building permit showing the proposed location and height of the WECS, fencing and all existing buildings within two hundred (200) feet of the exterior lot lines.
  - j. The owner/operator shall provide covenants, easements or similar documentation to assure sufficient wind to operate the WECS unless adequate accessibility to the wind is provided by the site.
  - k. The owner/operator shall certify that the WECS does not violate any covenants of record.
  - l. The applicant shall provide a certificate of liability insurance. Annually the owner/operator shall present evidence to the code official that the liability insurance is still in effect.
- (13) Temporary parking of occupied motor home(s) or travel trailer(s) when associated with a hospital providing treatment to the owner or related individual, provided such parking area does not constitute a traffic or safety hazard or a nuisance to neighboring property owners, the parking area is located beyond any front yard setback line and no closer than fifty (50) feet from an adjacent residential property line and that electrical hookups are provided for all units.
- (14) Temporary parking of occupied motor home(s) or travel trailer(s) when associated with a contractor's construction yard, provided that the construction yard contains at least one (1) acre, that such parking area does not constitute a traffic or safety hazard or a nuisance to neighboring property owners, the parking area is located beyond any front yard setback line and no closer than fifty (50) feet from an adjacent residential property line and that electrical, sewer and water hookups are provided for each parking stand.
- (b) *Bulk regulations.* Accessory structures and uses shall comply with the bulk regulations applicable in the zoning district, in which they are located, and:
- (1) Shall be set back at least six (6) feet from the rear lot line when no alley exists and ten (10) feet when an alley exists where vehicular access to a garage is facing the alley line;
  - (2) Shall maintain a six (6) foot side yard, except that no part of any accessory building shall be located closer than five (5) feet in residential districts and ten (10) feet in all other districts to any principal structure, either on the same lot or an adjacent lot, unless it is attached to, or forms a part of, such principal structure;
  - (3) Shall, on corner lots, be set back from the side street a distance not less than that required for the principal structure; and
  - (4) Fences shall comply with Article VII, Div. 1, Section 8; and
  - (5) In no event shall an accessory building or structure be allowed which is larger in size or area than the principal building, structure or use it serves.
  - (6) Accessory buildings may be built in a side or rear yard.
  - (7) Accessory buildings are subject to the same setback lines as the primary structure.
  - (8) Accessory buildings shall not encroach on any required utility easements.

- (9) No accessory building shall cover more than 30 percent of the rear yard.
- (10) No accessory building shall be constructed upon a parcel until the construction of the primary structure has been commenced, and no accessory building shall be used for dwelling purposes.
- (11) Accessory buildings over 150 sq. ft. must have siding and roofing materials that are customarily used on residential homes, in the same zoning district.
- (12) No accessory use building shall be constructed from materials or equipment originally designed for another use such as but not limited to packing crates, shipping containers or parts of a motor vehicle or trailer. Regardless if wheels, axles, etc., have been removed and said structures are placed on a more permanent foundation.
- (13) Accessory buildings can only be built on the same parcel as the primary structure.
- (14) Accessory use buildings are to be for domestic use only. Any home occupations are subject to use restrictions.
- (15) The number of accessory use buildings is limited to only 2 per parcel.
- (16) All accessory buildings not on a permanent foundation are to be anchored.
- (c) *Use limitations.* Accessory structures and uses shall comply with the use regulations applicable in the zoning district in which they are located, but no accessory structure shall be constructed and occupied on any lot prior to the time of the completion of the construction of the principal structure to which it is accessory.

**Section 5. Temporary uses.**

- (a) *Intent.* It is the intent of the following regulations to provide for and govern the operation of certain temporary or seasonal uses.
- (b) *General requirements.*
  - (1) Adequate off-street parking with an approved surface shall be provided for customer vehicles outside the roadway improvement area.
  - (2) Signs may not be larger than ten (10) square feet and must comply with the sign regulation provisions of these regulations.
  - (3) Structures or product displays shall not be placed inside the visual sight triangle at intersections.
  - (4) Adequate sight distances shall be available for vehicles entering and leaving the temporary use site.
  - (5) Noise, odor or light emissions from the site shall not present an interference with the enjoyment or use of the property or a hazard to adjoining properties or public ways.
  - (6) Adequate provision for sanitary waste and trash disposal shall be provided by the applicant. Trash, rubbish and waste products shall be removed from the premises daily.
  - (7) Utility services provided shall comply with applicable building, electrical, plumbing, fire, safety, sanitation, public health and other codes, laws or regulations applicable to the use and shall be installed only under permits obtained as required by such codes.
  - (8) The site shall be cleaned up and restored to its previous condition upon completion of the temporary use.
- (d) *Specific uses and regulations.* The following are considered temporary uses and are subject to the following specific regulations and time limits in addition to the regulations of any zone in which they are located:

- (1) *Christmas tree sales.* The display and open-lot sale of Christmas trees is allowed in the C-2, C-3 and C-5 districts or in any industrial district for a period not to exceed forty-five (45) days. Display of Christmas trees need not comply with the yard and setback requirements of these regulations; provided, that no structures or trees shall be placed within the sight triangle. The site shall be cleaned and returned to its previous condition within two (2) weeks after Christmas.
- (2) *Consumer Fireworks Facility.* The display and sale of approved consumer fireworks to the public for personal use on a C-2 zoned property for the period beginning on July 1 and ending on July 4 in any calendar year provided that the following additional provisions are met:
  - a. Consumer fireworks facilities may operate from tents or canopies only, with a maximum size of twenty-four hundred (2,400) square feet. Consumer fireworks may not be sold from trailers or any form of temporary building or structure. Tents or canopies must be inspected by the Fire Department prior to being stocked with merchandise and must comply with NFPA, Chapter 7.
  - b. Only one (1) consumer fireworks facility shall be permitted on a zoning lot.
  - c. The location of any tent or canopy used as a consumer fireworks facility must comply with the following setbacks:
    1. The tent or canopy shall be located at least twenty-five (25) feet from the right-of way of any public street.
    2. The tent or canopy must be located at least three hundred (300) feet from any residentially zoned property.
    3. The tent or canopy must be located at least fifty (50) feet from any other structure on the zoning lot or adjoining zoning lot.
    4. The tent or canopy must be located at least twenty (20) feet from any adjoining nonresidential property line.
    5. The tent or canopy must maintain a ten (10) foot separation from any parked vehicles on the zoning lot or adjoining zoning lot.
    6. The tent or canopy must maintain a three-hundred (300) foot separation from any fueling facility.
    7. A single secure storage unit for consumer fireworks inventory meeting NFPA standards and not exceeding one hundred twenty (120) square feet in size may be located on the site of the consumer fireworks facility but must maintain a twenty (20) foot setback from the tent or canopy and any other structure on the zoning lot or adjoining zoning lot.
  - d. The location of the consumer fireworks facility shall have access from a public street from an approved driveway curb cut. The location and entrance of the tent on the site shall not create any hazard relating to the movement or circulation of traffic or pedestrians either on the zoning lot it is located on or adjacent public streets.
  - e. Consumer fireworks facilities are only permitted on zoning lots that have surplus parking based on the City's off-street parking requirements. The location of the consumer fireworks facility may not occupy or displace areas utilized as required off street parking or loading areas for another use on the zoning lot. Off-street parking shall be provided at a ratio of 1 space per 200 square feet of space occupied by the temporary tent.
  - f. Advertising banners may be attached to the exterior of the sales tent. In addition, one (1)

ground sign not exceeding thirty-two (32) square feet shall be permitted on the same zoning lot as the consumer fireworks facility. The sign may be illuminated but shall not be a flashing sign. No balloons or other inflatable attention getting devices or rotating searchlights shall be permitted on site. All off-premise advertising signs must comply with the requirements of the sign regulations in Article IX and may not be placed in the public right-of-way. No person shall be allowed within any street right-of-way directing or flagging vehicles into the sales location.

- g. Firework sales at consumer fireworks facilities shall be restricted to the hours of 8:00 a.m. to 12:00 midnight.
  - h. A person 18-years of age or older shall be present to supervise the operation of the stand at all times.
  - i. Each consumer fireworks facility shall have a portable restroom unless there are public restrooms on the site and the facility operator has obtained formal permission to use them.
  - j. The location of the consumer fireworks facility shall be maintained in a clean, clutter free environment and free of blowing trash. The applicant shall provide at the time of application their method for the proper disposal of waste.
  - k. Upon closure of the consumer fireworks facility, all inventory must be removed from the site (tent and storage unit) by July 6. The tent and all trash and trash receptacles, portable restrooms, fences, barriers, tie-down materials and all other items associated with the temporary sale shall be removed from the site by July 7.
  - l. The Police Department, Fire Department and /or Building, Planning & Zoning Department shall periodically inspect such consumer fireworks operations for compliance with the above listed standards. Upon a report and recommendation from a police officer, fire chief or the code official, the city manager may revoke or suspend a consumer fireworks facility and shall have the authority to close any facility operating in violation of these provisions.
  - m. Applications for consumer fireworks facility shall be filed with the city clerk in accordance with city ordinance.
- (3) *Contractor's office.* A contractor's temporary office and equipment sheds incidental to a construction project. The office or shed shall not contain sleeping or cooking accommodations. The office or shed shall be removed upon completion of the construction project.
- (4) *Temporary living quarters for emergency service providers.* For temporary living quarters in a temporary structure for emergency service providers and responders, including but not limited to fire department personnel, ambulance service personnel and law enforcement agencies who provide services to the general public, if it is incidental to a construction project. The temporary structure shall be removed from the site within 30 days after the issuance of a Certificate of Occupancy for the construction project.
- (5) *Real estate project sales office.* A temporary real estate sales office in any new subdivision which has been approved by the planning commission. The office shall be closed upon sale or lease of all dwelling units in the development. The office shall contain no sleeping or cooking accommodations unless located in a model home.
- (6) *Festivals.* For tents or other temporary structures and related facilities to house and serve public celebrations, special observances, religious meetings, cultural events or entertainment programs sponsored by a local civic, religious, governmental or recognized duly chartered fraternal organization for a period of no more than fourteen (14) days, unless otherwise approved by the code official.

- (7) *Carnivals, circuses and tent shows.* For a carnival, circus or tent show, as defined in Article IV, for a period that does not exceed fourteen (14) days.
- (8) *Promotional activities.* No permit is required for promotional activities of retail merchants involving the display only of goods and merchandise, which are for sale within the principal structure conducted outside of such structure for a period of no more than two (2) consecutive weeks in any three-month period; provided that:
- a. No portion of the display shall be on publicly owned property unless the applicant shall first have obtained approval for such use from the city;
  - b. No required off-street parking or loading area will be utilized for such display, storage or dispensing;
  - c. No food or drink shall be displayed outside the building except in accordance with standards and prior written approval of the health department; and
  - d. These regulations shall in no way be deemed to authorize the outdoor display of automobiles, trailers and equipment rental or the sale of used furniture, appliances, plumbing, house wares, building materials or similar displays or sales in any business district except as otherwise permitted by these regulations.
- (9) *Garage sales.* No permit is required for a garage sale, as defined, in any residential district which is limited to one (1) event comprising a maximum of three (3) consecutive days in any three-month period. Where such sale is conducted on premises exterior to any structure, all sale items shall be removed from such exterior premises within one (1) day following the day the sale is concluded.

#### **Section 6. Home occupations.**

A home occupation may be a permitted accessory use in all residential districts if the following conditions are met:

(1) *Restrictions and limitations:*

- a. The home occupation shall be conducted entirely within the principal residential building, except as provided by these regulations, and such use must be clearly incidental and secondary to the residential use of the building;
- b. No more than twenty-five (25) percent of the gross floor area of a dwelling unit shall be devoted to the home occupation; provided, however, that rooms let to roomers are not subject to this limitation;
- c. No alteration of the principal residential building shall be made that changes the character of that building as a residence;
- d. No display or storage of equipment or material outside of a building or structure shall be permitted;
- e. No mechanical or electrical equipment other than normal domestic or household equipment shall be used and the home business must not involve the use of hazardous chemicals or flammable liquids;
- f. The home business must be operated by a resident of the dwelling, employees or other assistance shall be limited to immediate members of the family residing on the premises;
- g. No stock in trade (except article produced by members of the immediate family) shall be displayed or sold on the premises;
- h. No exterior sign or display shall be permitted, except that one (1) nonilluminated wall

sign, not more than four (4) square feet in sign area, may be used to advertise the home occupation;

- i. The home occupation shall not project any obnoxious noise, smoke, dust, odor or glare so as to create a nuisance or adverse condition upon adjoining properties or dwelling units;
- j. The home occupation shall not generate traffic in a volume that would create a need for parking greater than that which can be accommodated on the premises or which is inconsistent with the normal parking usage of the district;
- k. A home occupation conducted in a garage or accessory building shall not be in operation earlier than 7:30 a.m. or later than 7:30 p.m.
- l. The operator of a home business must obtain a home occupation certificate from the code official. The certificate is not transferable, it may not be transferred to a different occupant or to a new location.

(2) *Particular home occupations permitted.* Permitted home occupations include, but are not limited to, the following list of home occupations; provided, however, that each listed occupation is subject to the restrictions and limitations above:

- a. Home teaching or instruction, including music and dance, provided no more than three (3) students are taught at any one (1) time and no more than twelve (12) students per day;
- b. Day care homes for children, when properly registered with the Kansas Department of Health & Environment (KDHE), provided such homes shall have yard areas enclosed that are devoted to such use;
- c. Artists, sculptors, authors, composers, photographers;
- d. Barber and beauty shops; provided, that only one (1) chair and operator shall be permitted;
- e. Dressmaker, seamstress, tailor;
- f. Minister, rabbi, priest;
- g. Office facility for realtors, insurance agents, brokers, sales representatives and manufacturing representatives when no exchange of tangible goods is made on the premises;
- h. Professional office for physician, dentist, lawyer, architect, engineer, accountant, bookkeeper or other similar profession;
- i. Home crafts, baking, food preparation; provided that no machinery or equipment shall be used or employed other than that which would customarily be found in the home, including machinery or equipment that would customarily be employed in connection with a hobby or avocation not conducted for gain or profit;
- j. Repair of items such as small appliances, personal electronic goods (such as radios, televisions and stereos), furniture, and hunting and fishing gear; provided, that the use fully conforms with the performance requirements for home occupations;

(3) *Particular home occupations prohibited:*

- a. Automobile and other motor vehicle repair and painting services;
- b. Funeral homes;

- c. Medical or dental clinics;
- d. Preschools and group day care centers, unless specifically permitted by the district regulations;
- e. Rental of trailers, cars and other equipment;
- f. Restaurants;
- g. Retail sales such as antiques, secondhand merchandise, salesman's samples, etc;
- h. Stables, kennels and animal hospitals.
- i. Tattoo parlors and body piercing studios.

(4) *Special provisions.* A home occupation certificate may be issued by the board of zoning appeals for the following use, if the board finds in its review that the proposed use will not have an adverse effect on neighboring properties;

- a. Any of the uses listed in subsection (2) above may be conducted in a detached garage or accessory building if the board of zoning appeals finds that the proposed use will conform with the performance requirements for in-home home occupations.
- b. Bed and breakfasts, provided the dwelling has no more than six (6) guest rooms and no meeting rooms or convention facilities; and provided, that at least one (1) parking space for every two (2) rooms can be accommodated on site;
- c. Small engine repair, including lawn mowers; provided that repair activity is conducted within a structure.
- d. Automobile window tinting, provided that there shall be no outdoor storage of materials and/or supplies including vehicles or equipment used in the conduct of the business.

**Section 7. Number of structures and uses on the zoning lot and access to the lot.**

- (a) Not more than one (1) principal residential structure shall be located on a single zoning lot, unless permitted by the district regulations in which located, nor shall a principal residential building be located on the same zoning lot with any other principal building.
- (b) In agricultural, commercial or industrial districts, any number of structures (except residential structures) and uses may be constructed or established on a single zoning lot, but no single zoning lot shall be smaller than the minimum lot area prescribed for the district in which it is located.
- (c) No land which is located in a residential district shall be used for a driveway, walkway or access purpose to any land which is located in any commercial or industrial district.

**Section 8. Sewer and water facilities.**

The code official shall approve all proposed sewer and water systems other than those defined as public.

**Section 9. Easements.**

- (a) No building or structure, nor any addition thereto, shall be constructed or placed within any platted or recorded public easement, unless expressly authorized by the governing body. Prior to granting such authorization, the city shall consult with public utilities whose lines may be affected. In granting such authorization, the governing body may impose conditions necessary to protect any existing. A property owner may place buildings or structures not requiring a building permit and fences, trees, shrubs and other nonstructural improvements within a utility easement at his or her own risk (i.e., removal, relocation, or replacement) without special authorization provided required permits have been obtained.
- (b) No property owner may construct maintain or allow any natural or non-natural structures or

vegetative barriers (including but not limited to trees, shrubbery, berms, fences, walls or pole signs) within any drainage easement dedicated, purchased or otherwise granted to the public which the code official finds obstructs, impedes, or otherwise interferes with the drainage of storm water. Drainage easements shall not be filled or otherwise physically altered without the written approval of the code official.

**Section 10. Residential-design manufactured homes.**

On and after January 1, 1992, residential design manufactured homes, as defined in these regulations, shall be permitted in any residential district when in compliance with the following architectural and aesthetic standards:

- (1) The home shall have a minimum of eight hundred eighty (880) square feet of main floor living area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than two and one-half (2 1/2) times the shortest exterior dimension.
- (2) The roof shall be double-pitched and have a minimum vertical rise of three (3) inches for each twelve (12) inches of horizontal run, and shall be covered with material that is residential in appearance, including but not limited to wood, asphalt, composition or fiberglass, or metal roofing material. The roof shall have a minimum eave projection or overhang of ten (10) inches on at least two (2) sides, which may include a four (4) inch gutter.
- (3) The exterior siding shall be made of nonreflective material customarily used on site-built dwellings, such as wood, composition or simulated wood, clapboards, conventional vinyl or metal lap 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 foundation or curtain wall and the joint shall be flashed in accordance with city building codes.
- (4) The home shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry foundation or permanent masonry piers with masonry curtain wall, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.
- (5) Any site-built addition to the home or detached accessory building shall comply with city building codes.

**Section 11. Landscaping regulations.**

Landscaping regulations are as follows:

- (1) *Minimum requirements.*
  - a. The open, unpaved areas of each property shall be graded to provide for the adequate drainage of all storm water and shall be free of hazards, nuisances, or unsanitary conditions.
  - b. Open, unpaved areas shall be appropriately landscaped to provide an attractive appearance to enhance the character of the neighborhood. All set-back areas in the "I-1 & I-2" Districts shall be landscaped with an effective combination of trees, ground covers, and shrubs.
  - c. No vegetation shall overhang a public street or sidewalk below a height of eight (8) feet or obstruct views of pedestrian and vehicular movements.
  - d. Parking areas abutting public walkways or streets shall be appropriately separated by a landscaped area or a decorative architectural screen. The landscaped area or architectural screen shall not exceed three (3) feet in height.

- e. In the “I-1” and “I-2” Districts, areas used for parking and loading must be visually screened from adjacent streets with lineal or grouped masses of trees and shrubs.
- f. In the “I-1” and “I-2” Districts, areas used for storage (including storage of company vehicles, except passenger vehicles) and refuse collection must be located behind the required front yard setback and must be visually screened from adjacent streets and properties with lineal or grouped masses of trees and shrubs.
- g. In the “I-1” and “I-2” Districts, all utility lines shall be placed underground. Areas used for telephone or electrical service must be visually screened from adjacent streets, and properties with lineal or grouped masses of trees and shrubs, provided that, where said service areas abut public walkways or streets, the landscaped area shall not exceed three (3) feet in height.

(2) *Maintenance.* The maintenance requirements for all landscaping areas shall be as follows:

- a. The landowner is responsible for the maintenance of all landscaped areas and shall keep them in a proper, neat and orderly appearance and free from litter and debris at all times.
- b. Maintenance shall include mowing, trimming, weeding, mulching, restaking, pruning, fertilizing, disease and insect control and other necessary operations.
- c. All landscaped areas shall be provided with a permanent water supply, except as otherwise shown on the landscape plan and approved by the city. Irrigation systems shall be designed and operated to avoid watering impervious surfaces and streets. Landscape designers and property owners are required to utilize xeriscaping and take advantage of its water saving principles and practices.
- d. The city shall have the authority to require that all dead trees, shrubs and plants be removed.

(3) *Exceptions and modifications.* The provisions of this section may be excepted or modified as follows:

- a. The expansion or redevelopment of a site utilizing all or parts of an existing building(s) shall not be required to meet the landscaping requirements of this section, except as follows:
  - 1. When the value of renovation or reconstruction exceeds fifty (50) percent of the appraised value of existing improvements, as determined by the county appraiser; or
  - 2. When there is more than a thirty (30) percent increase in the gross floor area of existing buildings on the site.
- b. Where there exists extraordinary topography, existing vegetation, land ownership, site boundaries and dimensions, adjacent development characteristics or other exceptional circumstances or conditions, the code official may modify or vary the strict provisions of these regulations as is deemed appropriate, provided the intent and purpose of this section is maintained.

(4) *Completion or assurances for installation.*

- a. Prior to the issuance of a certificate of occupancy for any structure where landscaping is required, except as provided in subsection (b) below, all work indicated on the approved landscape plan shall be completed, inspected and approved by the code official. Prior to approval, the quantities, locations, types and sizes of plants and other landscape materials shall be checked for compliance.
- b. A landowner may obtain a certificate of occupancy for a structure prior to completion of required landscaping work if completion is not possible due to seasonal or weather

conditions, and if acceptable assurances are submitted guaranteeing the completion of said landscaping. The acceptable assurance, such as an irrevocable letter of credit, performance bond, certified check, or escrow account, shall be equal to one hundred twenty-five (125) percent of the cost to complete the landscaping work and shall be accompanied by a written agreement assuring that such landscaping will be completed prior to the expiration date of said assurance. If an inspection reveals that said landscaping work is not completed prior to the expiration date of said assurance, the city shall utilize said assurance to pay for the completion of the landscaping work.

(5) *Enforcement.*

- a. Until the provisions of this section, including the condition of any permits issued there under, have been fully met, the city may withhold issuance of any building permit, certificate of occupancy or inspection required under the city building codes or the city may issue, cease and desist orders for further development.
- b. All landscaping shall be subject to periodic inspection by the code official, or an authorized representative, to determine compliance with the requirements of this section. When the landscaping has not been installed, maintained, or replaced to comply with these requirements, a written corrective order shall be issued to the alleged violator. The order shall specify the subsections of this section that are in violation.

**Section 12. Sexually-oriented businesses.**

- (a) It shall be unlawful for any person to operate or cause to be operated an adult-oriented business unless permitted within the zoning district in which the business is located.
- (b) No Sexually Oriented Business shall be located within eight hundred (800) feet of a park, preschool, school, childcare center, daycare center, library, church, tavern, any business licensed by the State of Kansas to sell alcohol or the closest boundary to a land use district zoned R-1, R-2, R-3 or M-H.
- (c) No Sexually Oriented Business shall be located within 500 feet of any other Sexually Oriented Business. Such distance shall be measured in a straight line in all directions without regard to intervening structures, topography or objects from the nearest portion of the structure occupied by the sexually oriented business to the nearest boundary of the land use district or the nearest portion of the land structure occupied by any of the land use(s) identified in Section 12 (b).
- (d) The owner or operator of a Sexually Oriented Business shall not permit the merchandise of the establishment to be visible from a point outside the establishment. Said business will be located only in an "I-1" or "I-2" district.

**Cross reference:** Ordinance No. 1775 (Sexually Oriented Businesses)

**Section 13. Wireless communication facilities.**

- (a) *Purpose and objectives.* The purpose of these regulations is to establish standards and requirements for the siting of commercial wireless telecommunications facilities. These regulations are designed to comply with the Telecommunications Act of 1996 and any other applicable laws. The objectives are as follows:
  - (1) Encourage the location of wireless communication facilities in non-residential areas and on sites where the adverse impact is minimal;
  - (2) Encourage the joint use of new and existing wireless communication facilities;
  - (3) Encourage wireless communication facilities to be designed and installed in a manner that minimizes any adverse visual impact.
  - (4) Encourage wireless telecommunication facilities to be provided to the community in a safe, effective and efficient manner;

- (5) Facilitate the ability of the providers of wireless communications services to provide such services to the community through an efficient and timely application process;
  - (6) Avoid potential damage to adjacent properties from tower failure through careful siting of wireless communications facilities;
  - (7) Ensure that the regulation of wireless communication facilities does not have the effect of prohibiting the provision of personal wireless services, and does not unreasonably discriminate among functionally equivalent providers of such service; and
  - (8) Create a hierarchy that influences both where new wireless communication facilities are located and the types of antennas that are used so that new facilities have the least amount of visual impact on the community.
- (b) *Definitions.* For purposes of this section, the following words and terms as used herein are defined to mean the following:
- (1) *Abandonment*, in the case of a non co-located facility, shall mean: (a) failure to start operations within ninety (90) days of completion of the structure, or (b) to cease operation for a period of ninety (90) or more consecutive days. In the case of a co-located facility, abandonment shall mean: (a) failure to start operations within one hundred eighty (180) days of completion of the structure, or (b) to cease operation for a period of one hundred eighty (180) or more consecutive days.
  - (2) *Administrative permit* shall mean a process and approval by the zoning administrator as described in this section.
  - (3) *Antenna* shall mean any exterior apparatus designed for telephonic, radio, data, internet, or video communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower or building for the purpose of providing wireless communication services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for "cellular", "enhanced specialized mobile radio", "specialized mobile radio" and "personal communications services", telecommunications services, and its attendant base station.
  - (4) *Antenna support structure* shall mean any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.
  - (5) *Array* shall mean a set of antennas for one (1) carrier or service that are placed on a structure at a given height and spaced so as to avoid interference.
  - (6) *Governing Body* shall mean the city council of the City of Russell.
  - (7) *Camouflage* describes a wireless communication facility that is disguised, hidden, or integrated with an existing structure as an architecturally compatible element or a wireless communication facility that is placed within an existing or proposed structure so as to be effectively hidden from view.
  - (8) *Co-location* means the placement of a new wireless communication facility on an existing tower, existing building or structure.
  - (9) *Design* shall mean the appearance of wireless communication facilities and equipment buildings, including such features as their materials, colors, texture, scale, and shape.
  - (10) *EIA* shall mean the Electronics Industry Association.
  - (11) *Equipment enclosures* shall mean a structure, shelter, cabinet, or vault used to house and

protect the electronic equipment necessary for processing wireless communication signals and associated equipment. Associated equipment may include air conditioning, back power supplies and emergency generators.

- (12) *Existing tower* shall mean any tower in existence at the time of application for an administrative permit or special permit.
- (13) *FAA* shall mean the Federal Aviation Administration.
- (14) *FCC* shall mean the Federal Communications Commission.
- (15) *Fair market value* shall mean the price at which a willing seller and a willing buyer will trade.
- (16) *Fall zone* shall mean the area on the ground within a prescribed radius from the base of a wireless communication facility within which there is a potential hazard from falling debris or collapsing material.
- (17) *Guyed tower* shall mean a tower that is supported, in whole or part, by guyed wires and ground anchors.
- (18) *Height* shall mean the vertical distance above grade to the highest point of the antenna support structure, including the lightning rod and antenna.
- (19) *Lattice tower* shall mean a tower that is constructed to be self-supporting by lattice type supports and without the use of guyed wires or other supports.
- (20) *Modification* shall mean the changing of any portion of a wireless communication facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design, height, number or location of antennas.
- (21) *Monopole tower* shall mean a tower consisting of a single free-standing pole or spire self supported on a permanent foundation, constructed without guy wire, ground anchors, or other supports.
- (22) *Mount* shall mean the structure or surface upon which wireless communication facilities are mounted. There are three (3) types of mounts: (i) Building mounted--a wireless communication facility affixed to the roof or side of a building, (ii) Ground mounted—a wireless communication facility fixed to the ground such as a tower, and (iii) Structure mounted--a wireless communication facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.
- (23) *Operator* shall mean an individual, partnership, association, joint-stock company, trust, or corporation engaged in control and maintenance of all instrumentalities, facilities and apparatus incidental to wireless telecommunication transmission, including but not limited to, a tower, antennae, associated buildings, cabinets and equipment. For the purposes of this article, an "operator" may or may not hold a lease, license or title on or for the site on which a tower is located.
- (24) *Owner* shall mean either the owner of the real property on which the wireless communication facility, tower or antenna is located or the owner of the wireless communication facility, tower or antenna itself.
- (25) *Provider* shall mean every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and individual which provides personal wireless service over wireless communication facilities.
- (26) *Screening* shall mean materials which effectively hide personal wireless facilities from view, or landscaping in accordance with the requirements of the zoning regulations.
- (27) *Security barrier* shall mean a wall, fence, or berm that has the purpose of sealing a wireless

communication facility from unauthorized entry or trespass.

- (28) *Site* shall mean a tract or parcel of land that contains wireless communication facilities including any antenna, support, structure, building, accessory buildings, and parking and may include other uses associated with or ancillary to wireless communication services.
- (29) *Special permit* shall mean a process and approval by the planning commission or governing body as described in this section.
- (30) *Tower* shall mean any structure that is designed, constructed or used for the primary purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guyed towers or monopole towers. The term encompasses wireless communication facilities including microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like. For purposes of this section the term "tower" does not include radio and television transmission towers, amateur radio transmitting towers or broadcast facilities.
- (31) *Unlicensed wireless services* shall mean commercial mobile services that operate on public frequencies and do not need a FCC license.
- (32) *Wireless communication service* and *wireless communication facilities* used in these regulations shall be defined in the same manner as the Title 47, United States Code, Section 332 (c)(7)(C), as may be amended now or in the future and includes facilities for the transmission and reception of radio microwave signals used for communication, cellular phone, personal communication services, enhanced specialized mobile radio, and any other wireless services licenses by the FCC and unlicensed wireless services.

(c) *Permit required.*

- (1) No person shall locate an antenna or tower for wireless communication purposes or alter an existing wireless communication facility upon any lot or parcel within the City of Russell except as provided in these regulations.
- (2) Maintenance or repair of a wireless communication facility and related equipment, excluding structural work or changes in height, dimensions or number of antenna, towers, or buildings are excluded from the requirement to obtain a permit. Building permits may still be required.
- (3) Installation of wireless communication facilities requires either an administrative permit (Class A Permit) issued by the code official or approval of a special permit (Class B or Class C Permit) by the planning commission or governing body.
  - a. *Class A Permit:* The code official may issue an administrative permit in the following cases:
    - 1. An application to co-locate additional antennas on an existing facility;
    - 2. An application to place an antenna on an existing structure in the C-1 District;
    - 3. An application to place an antenna on an existing structure in a C-2, C-3, C-4, C-5 or I-1 district that extends no more than twenty (20) feet above the maximum permitted structure height in that district;
    - 4. An application to construct a monopole tower up to one hundred twenty (120) feet in height in an I-1 or I-2 district if the proposed tower site is within four hundred (400) feet of a residential area or up to two hundred (200) feet in height if the proposed tower site is more than four hundred (400) feet from the nearest residential area.

Within thirty (30) days after receiving a complete application, the code official

shall either approve, approve with conditions or deny the request for a (Class A) administrative permit, or shall refer the application to the planning commission for a public hearing.

If a request for an administrative permit is not acted upon within thirty (30) days, or is denied, or the conditions imposed thereon are unacceptable to the applicant, then the applicant may, by written notice to the code official, convert the request for an administrative permit to an application for a (Class B) special permit. Moreover, an applicant may, in lieu of and without first seeking an administrative permit hereunder, request a special permit for its proposed facility.

- b. *Class B Permit.* The planning commission may issue a special permit after holding a public hearing in accordance with the procedures established in Article II, Section 4 of these regulations in the following cases:
  1. An application to construct a monopole tower in an I-1 or I-2 district which does not meet the criteria for a Class A administrative permit;
  2. An application to construct a monopole tower up to two hundred (200) feet in height in an A-1, C-2, C-3, C-4, C-5 or I-1 district if the proposed tower will maintain a setback from adjacent property and public right-of-way equal to or greater than the proposed height of the tower; or
  3. An application to construct a rooftop facility on an existing structure in C-2, C-3, C-4, C-5 or I-1 district which would extend more than twenty (20) feet above the maximum permitted structure height in that district.
- c. *Class C Permit.* The governing body may issue a special permit following a public hearing and recommendation by the planning commission in the following cases:
  1. An application to construct a tower in a C-1 district or any residential district;
  2. An application to construct a tower in a historic district or within five hundred (500) feet of a property listed on the National Register of Historic Places; or to place a rooftop facility on a local landmark or building listed on the National Register of Historic Places;
  3. An application to construct a tower within any approach zone to the Russell Municipal Airport;
  4. An application to construct a lattice type tower anywhere within the city;
  5. An application to construct a tower in the C-2, C-3, C-4, C-5 or I-1 districts which does not comply with the performance standards in subsection (h); or
  6. An application to construct a tower over two hundred (200) feet in height anywhere within the city.
- d. *Denial of special permit.* Any decision to deny a special permit under this section shall be made in writing and shall state the specific reasons for the denial. Any denial by the planning commission may be appealed to the governing body. Any denial by the governing body shall be deemed a final administrative decision, subject to judicial review and appeal. In the event that a special permit application is denied by the planning commission or governing body, no new request for the same or substantially similar administrative or special permit shall be accepted or processed within six (6) months after denial of that application.
- e. *Protests.* The notification and protest area for special permit applications shall be four hundred (400) feet from the proposed tower site. If a Class B permit is approved by the

planning commission, affected property owners shall have the same right to present a protest petition to the governing body and appeal that decision as property owners in rezoning cases. The protest procedure shall be as provided in K.S.A. 12-708 and Article II, Section 6(b) of these regulations.

(d) *Locational preferences.* Wireless communication facilities shall be located and designed to minimize any adverse effects on surrounding properties, particularly residential properties. In its review of requests for new tower construction the City of Russell will give preferred status to locations where the existing topography, surrounding land uses, existing buildings or other structures provide the greatest amount of visual screening. Proposed towers in sensitive areas will be discouraged. The City of Russell's locational preferences for siting new wireless communication facilities are listed below:

(1) Preferred location sites:

- a. Publicly owned sites on which wireless communication facilities can be unobtrusively located with regard to visibility, aesthetic appearance and public safety. Such sites may include locating on existing buildings, light poles or water towers, co-locating on existing towers, screened roof-top facilities or other camouflaged sites for antennas and recreation areas, athletic fields, school grounds, maintenance yards and other publicly owned facilities for towers.
- b. Privately owned sites which possess the same characteristics as (a). above.
- c. Sites in commercially or industrial zoned districts where wireless communication facilities would be minimally obtrusive, would have a minimal impact on the surrounding area and are an appropriate distance from residential areas.

(2) Limited preference sites:

- a. Sites on other public property.
- b. Sites on other commercially or industrially zoned property.

(3) Sensitive location sites. Sites located in areas with predominantly residential uses, environmentally sensitive areas, entryway corridors to the city, local landmarks or historic districts, properties listed or eligible to be listed on the National Register of Historic Places and the environs of the Russell Municipal Airport.

(e) *Application requirements.*

- (1) Pre-application conference. Prior to the acceptance of an application by the city, applicants shall participate in a pre-application conference with the code official for the purposes of discussing application requirements, specifics of the site and plans for current and future facilities.
- (2) Applications for either an administrative permit or a special permit for a wireless communication facility shall be filed with the code official and shall include the following:
  - a. A plot plan of the site and the proposed facility drawn to an accurate scale and showing all pertinent information. The application material shall provide sufficient information, as determined by the code official, to allow a complete review of the proposal. The application material shall also include sufficient detail to indicate compliance with all applicable design and performance standards. Failure to provide adequate information may result in the rejection of the application.
  - b. A copy of the lease between the applicant and the owner. The lease shall contain the following provisions: (1) the owner and the applicant shall have the ability to enter into

leases with other providers for collocation with the consent of each party which shall not unreasonably be withheld; and (2) the landowner shall be responsible for the removal of the tower or facility in the event the lessee fails to remove it upon abandonment.

- c. A statement explaining the need for the facility to provide or enhance wireless communication services in the area including a map of the service area of the proposed facility.
  - d. A statement identifying which location preference, identified in subsection (d) the proposed facility is meeting. If the proposed location is not a preferred location site, the applicant shall describe:
    - (1) Whether any preferred location sites are located within the service area of the proposed wireless communication service facility;
    - (2) What good faith efforts and measures were taken to investigate each of these preferred location sites and why such efforts were unsuccessful;
    - (3) Why the use of a preferred location site is not technologically, legally or economically feasible;
    - (4) How and why the proposed site is required to meet service demands for the proposed facility and citywide network; and
    - (5) The distance between the proposed facility and the nearest residential unit and residentially zoned properties.
  - e. A statement indicating proposed measures designed to minimize potentially adverse visual effects on adjacent properties with consideration given to design, unobtrusiveness, minimum height necessary to accommodate antennae, avoidance of artificial light and the color of the facility.
  - f. A statement describing the proposed fall zone around the facility.
  - g. If the application is for a new tower, a report from the manufacturer or a licensed professional engineer describing the tower's maximum capacity including the number of antennas it can accommodate for co-location, taking into consideration radio frequency interference, mass, height, and other characteristics, as well as options to overcome any problems those considerations may pose to service delivery.
  - h. A signed statement from the tower owner stating that the owner and future successors will allow shared use of the tower if (1) capacity exists based on current and planned use by owner; (2) a future applicant for space on the tower agrees in writing to pay any reasonable charge for shared use and (3) the potential use is technologically compatible.
  - i. A description of the security barrier surrounding the base of the tower and accessory equipment. The description should include the method of fencing, finished color and, if applicable, the method of camouflage and illumination.
  - j. A description of the anticipated maintenance and monitoring program for the antennae and back up equipment, including frequency of maintenance services.
- (f) *Inventory of towers.* Each applicant for an administrative or special permit shall submit an inventory of its facilities and an inventory of the facilities of those companies proposing to co-locate on the proposed facility (tower or antenna mount) within the city. No permit will be approved unless the applicant demonstrates to the satisfaction of the city by substantial evidence that no existing facility (whether or not owned by the applicant) can accommodate, as is or through modification, the proposed facility. Substantial evidence to demonstrate that

no existing facility is suitable shall consist of any of the following:

- (1) An affidavit demonstrating that the applicant made diligent efforts to install or co-locate on existing towers and other existing structures within the geographic search area as determined by a qualified radio frequency engineer.
  - (2) An affidavit demonstrating that existing towers and structures located within the geographic search area, as determined by a qualified radio frequency engineer, and within one (1) mile radius of the proposed tower site do not have the capacity to provide reasonable technical service consistent with the applicant's technical system, including but not limited to, applicable FCC requirements.
  - (3) Written technical evidence from a qualified radio frequency engineer that existing towers and structures within the geographic search area are not of sufficient height to meet the applicable FCC requirements.
  - (4) Written technical evidence from a qualified structural engineer that existing towers and structures within the geographic search area do not have sufficient structural strength to support the proposed facility.
  - (5) A written statement from a qualified radio frequency engineer submitting technical evidence substantiating his opinion that the existing towers and structures within the geographic search area is incompatible due to electromagnetic/radio frequency interference or interference with public safety communications or the usual and customary transmission or reception of radio, television, or other communications service enjoyed by surrounding properties and that antenna on the existing tower or structure cannot be relocated on the existing structure to accommodate additional users.
  - (6) An affidavit that the fees, costs, or contractual provisions required by the owner to share an existing tower or structure within the geographic search area or to adapt an existing tower or structure within the geographic search area for sharing, are unreasonable.
  - (7) The applicant demonstrates that there are other limiting factors that render existing towers and structures within the geographic search area and within a one (1) mile radius of the proposed tower site unsuitable.
  - (8) The applicant demonstrates that state of the art technology used in their wireless telecommunications business and within the scope of the applicant's FCC license is unsuitable for the site involved.
  - (9) The applicant demonstrates that there are other limiting factors that render existing towers and structures within the geographic search area and within a one (1) mile radius of the proposed tower site unsuitable.
- (g) *Standards for evaluation of special permit applications.*
- (1) The planning commission or governing body may approve, by special permit, a wireless communication facility in any zoning district after review and consideration of all of the following:
    - a. Conformity with the city's Comprehensive Plan.
    - b. Preference of site location in accordance with subsection (d).
    - c. Compatibility with abutting property and surrounding land uses.
    - d. Adverse impacts such as visual, environmental or safety impacts.
    - e. Color and finish of the proposed tower.

- f. Screening potential of existing vegetation, structures and topographic features.
  - g. Potential for adequate screening of proposed facilities, ground level equipment, and tower base.
  - h. Scale of facility in relation to surrounding land uses.
  - i. Impact on entry corridors into the city.
  - j. Impact on landmark structures, historically significant structures or districts, or architecturally significant structures.
- (2) An application to construct new towers may be denied if the applicant has not shown by substantial evidence that it has made a good faith effort to mount the facilities on an existing structure and/or tower.
- (3) Locations in sensitive location sites shall be considered only if the applicant:
- a. Provides evidence showing what good faith efforts and measures were taken to secure a preferred location site or limited preference site within one (1) mile of the proposed facility; and
  - b. Demonstrates with engineering evidence why each such preferred location site or limited preference site was not technologically or economically feasible.
- (h) *Performance standards.* Unless otherwise specified, all wireless communication facilities shall comply with the following performance standards. The planning commission may recommend and the governing body may grant a waiver from these standards when supported by sufficient justification and if the purpose and objectives of this section would be better served thereby.
- (1) Height. The maximum height for a communications tower is two hundred (200) feet, excluding a lightning rod not to exceed twenty (20) ft. All new towers in excess of one hundred (100) feet shall be designed to accommodate at least two (2) providers and those in excess of one hundred fifty (150) feet at least three (3) providers.
- (2) Design type. All towers, except those designed as an architecturally compatible element, shall be a monopole design unless otherwise specifically approved by the governing body. Guyed towers shall not be permitted.
- (3) Setbacks. Towers shall be set back from any property line or a public right-of-way a distance equal to the tower height. Towers, except those designed as an architecturally compatible element, shall be set back four hundred (400) feet from any surrounding property zoned for single-family or two-family residential use.
- (4) Facility appearance.
- a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color to reduce visual obtrusiveness so as to be consistent with the natural or built environment of the site.
  - b. The design of the equipment structure and any other associated permitted structures shall, to the maximum extent practicable, use materials, colors, textures, screening, and landscaping that minimize the visual impact and enhance compatibility with the surrounding natural or built environment. Additionally the design of the site shall also comply with any design guidelines as may be applicable to the particular zoning district in which the facility is located.
  - c. For co-located telecommunications facilities, the antenna and supporting electrical and mechanical equipment must be a neutral color that is identical to, or closely compatible

with, the color or the supporting structure to minimize the visual impact and enhance compatibility with surrounding development.

- (5) Lighting. No signals, artificial lights, or illumination shall be permitted on any facility unless required by the FAA or other applicable authority. If required, the lighting shall be designed to minimize off-site impacts. Security lighting around the base of the tower may be provided if the lighting is shielded so that no light is directed towards adjacent properties or rights-of-way.
- (6) Security fencing. Towers and associated accessory buildings and equipment shall be enclosed by a security fence or wall that is a minimum of six (6) feet in height and is equipped with an anti-climbing device or apparatus. Access shall be through a locked gate or door in the required fence or wall. Additional measures may be required as a condition of the issuance of an administrative permit as deemed necessary by the code official or the planning commission or governing body in the case of a special permit, so long as the additional measures are reasonably related to a security issue.
- (7) Outdoor storage. No outdoor storage of vehicles, materials, or equipment is permitted. Equipment not used in direct support of the facility shall not be stored or parked on site unless repairs to the facility are being made.
- (8) Signs. No signs, including commercial advertising, logo, political signs, flyers, flags, or banners, but excluding warning signs, shall be allowed on any part of the tower or antenna site. Any signs placed in violation of this section shall be removed immediately at the owner or operator's expense. Notwithstanding any contrary provisions of the city's zoning regulations, the following warning signs shall be utilized in connection with the tower or antenna site, as applicable:
  - a. If high voltage is necessary for the operation of the tower or associated equipment, "HIGH VOLTAGE--DANGER" warning signs shall be permanently attached to each side of the fence or wall surrounding the structure.
  - b. "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall surrounding the structure and spaced no more than forty (40) feet apart; (a) the height of the lettering of the warning signs shall be at least twelve (12) inches and the signs shall be installed at least five (5) feet above the finished grade; (b) the warning signs may be attached to freestanding poles if the content of the sign may be obstructed by landscaping.
  - c. A sign on the gate indicating the name and address of the tower owner and a phone number where the tower owner can be reached twenty-four (24) hours a day in case of an emergency shall be permanently attached to the fence.
- (9) Parking. Each facility site shall provide paved parking for use by maintenance personnel. A minimum of one (1) space shall be provided per user located on the facility site. No vehicle storage shall be permitted.
- (10) Landscaping. Facilities must comply with all applicable landscaping requirements of the zoning regulations. The code official, planning commission or governing body may require landscaping in excess of those requirements in order to enhance compatibility with adjacent uses or zoning districts. At a minimum, the landscaping shall consist of a landscape strip of not less than ten (10) feet in width planted with materials which will provide a visual barrier to a minimum height of six (6) feet, as approved by the city. The landscape strip shall be exterior to any security fence or wall.

(11) Facility replacement.

- a. *Modification to existing site.* Up to fifty (50) percent of the height of an existing tower may be replaced with no resulting increase in height as part of modifications made to provide for co-location of a new facility. Replacement of more than fifty (50) percent shall be considered a new tower and shall meet all of the applicable requirements for new construction.
- b. *Rebuilding damaged or destroyed existing site.* Existing tower and facilities that are damaged or destroyed may be rebuilt through administrative review and approval by the code official provided the replacement tower or facility is the same as the original in type, location, and intensity or brings a previously nonconforming tower or facility into a greater conformance with these standards, and no more than fifty (50) percent of the tower or facility is involved. If more than fifty (50) percent of the tower or facility is involved, it shall be considered a new facility and shall meet all the applicable requirements for new construction. All replacement shall comply with the applicable building codes and a new administrative permit or special permit and building permit shall be obtained and be completed within one hundred eighty (180) days from the date the tower or facility was damaged or destroyed. If no permit is obtained or it expires, or replacement is not timely completed, the tower or facility shall be deemed abandoned.

(12) Removal of abandoned facility. Any facility deemed abandoned pursuant to these provisions or any facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner or last operator thereof shall remove it within ninety (90) days of receipt of a "written notice to remove" from the city. Failure to remove an abandoned tower or facility within ninety (90) days shall be grounds to remove it at the owner's or last operator's expense. If there are two (2) or more users of a single tower or facility, then this provision shall not become effective until all users cease using it.

(i) *General requirements.* Wireless communication providers shall comply at all times with the current applicable FCC and FAA standards and regulations. Prior to the issuance of a building permit to construct a facility, the owner/applicant or operator/applicant shall provide the city with the required clearances, licenses and certifications from all agencies of the federal government with the authority to regulate towers and antennas.

(1) Building Codes; safety standards. To ensure the structural integrity of towers the owner or operator of a tower shall ensure that it is maintained in compliance with standards contained in applicable federal, state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association ("EIA") as amended from time to time. If, upon inspection, the code official concludes that a tower fails to comply with such codes and standards, then upon notice being provided to the operator or owner of the tower, the operator shall have thirty (30) days to bring the tower into compliance with such standards. Failure to bring a tower into compliance within thirty (30) days shall constitute grounds for removal of the tower at the owner or operator's expense.

(2) Structural design. Towers shall be constructed to current EIA standards, which may be amended from time to time, and all applicable building codes adopted by the city. Furthermore, any improvements and/or additions to existing towers shall comply with the requirements of these provisions and shall require submission of construction plans sealed and verified by a professional engineer which demonstrate compliance with the EIA standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.

# ARTICLE VII. GENERAL BULK REGULATIONS

## DIVISION 1. BULK REGULATIONS

### Section 1. Bulk requirements.

- (a) In these regulations, bulk requirements are expressed in terms of maximum structure height, maximum lot coverage, minimum setbacks and minimum front, side and rear yards. No structure, or part thereof, shall hereafter be built, or moved or remodeled, and no structure or land shall hereafter be used, occupied, arranged or designed for use of occupancy:
- (1) So as to exceed the maximum lot coverage percentage, or the maximum of structure height specified for the zoning district in which the structure is located;
  - (2) So as to provide any setback or front, side or rear yard that is less than that specified for the zoning district in which such structure or use of land is located or maintained;
  - (3) Which is smaller in area than the minimum area, or minimum lot area per dwelling unit, required in the zoning district in which the structure or land is located;
  - (4) Which is narrower than the minimum lot width required in the zoning district in which the structure or land is located; or
  - (5) Which is shallower than the minimum lot depth required in the zoning district in which the structure or land is located.
- (b) No existing structure shall hereafter be remodeled so as to conflict or further conflict with the lot area per dwelling unit requirements for the zoning district.

### Section 2. Yard requirements for open land.

If a zoning lot is, or will be, occupied by a permitted use without structures, then the minimum setback and minimum side and rear yards that would otherwise be required for such zoning lots shall be provided and maintained unless some other provision requires or permits a different minimum setback, front, side or rear yard. The front, side and rear yards shall not be required on zoning lots used for garden purposes without structures, or on zoning lots used for open public recreation areas.

### Section 3. Restrictions on allocation and disposition of required yards or open space.

- (a) No part of the lot area, or of a yard, or other open space, or off-street parking or loading space provided in connection with any structure or use in order to comply with these regulations shall, by reason of change of ownership or otherwise, be included as part of the minimum lot area or of a yard, or open space, or off-street parking or loading space required for any other structure or use, except as specifically provided herein.
- (b) All of the lot area and all yards and other open spaces provided in connection with any structure or use in order to comply with these regulations shall be located on the same lot as such structure or use.
- (c) No part of the lot area, or of a yard, or other open space, or off-street parking or loading space provided in connection with any structure or use (including, but not limited to, any structure or use existing on the effective date of these regulations or of any amendment thereof) shall be subsequently reduced below, or further reduced if already less than, the minimum requirements of these regulations for the equivalent new construction.

### Section 4. Permitted obstructions in required yards.

The following shall not be considered to be obstructions when located in a required yard:

- (1) *In all yards.* Open terraces not over thirty-six (36) inches above the average level of the

adjoining ground but not including a permanently roofed-over terrace or porch; awnings or canopies; steps thirty-six (36) inches or less above grade which are necessary for access to a permanent structure or for access to a lot from a street or alley; arbors and trellises; flagpoles; and signs, when permitted by Article IX of these regulations.

- (2) *In any yard except a front yard.* Accessory uses permitted by Article VI of these regulations; recreational and laundry drying equipment; and open space and enclosed fences not exceeding six (6) feet in height. If any provision in these regulations requires a fence in a front yard, or a fence that has a minimum height in excess of five (5) feet, then such fence shall be a permitted obstruction within the meaning of this section.
- (3) *In front yards.* Open, unenclosed porches projecting eight (8) feet or less and fences on corner or double frontage lots in accordance with the requirements of Section 8-f(1)(a)(b).

#### **Section 5. Lot size requirements and bulk regulations for public utility facilities.**

Notwithstanding any other provision of these regulations, none of the following public utility or public service uses shall be required to comply with the lot size requirements and bulk regulations of the zoning district in which they are located:

- (1) Cable TV poles;
- (2) Electric and telephone substations and distribution systems;
- (3) Gas regulator stations;
- (4) Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, or other similar equipment for the transmission of electricity, gas or water;
- (5) Pumping stations;
- (6) Radio, television and microwave transmitting or relay stations and towers;
- (7) Transformer stations;
- (8) Water towers or standpipes;
- (9) Any other similar use.

#### **Section 6. Obstructing visibility at intersections.**

See Division 2 et seq.; for regulations concerning obstructing visibility at intersections.

#### **Section 7. Corner lots in residential districts.**

- (a) On any corner lot in the R-1, R-2, R-3 and MH-S districts a single-family or two family dwelling shall be required to maintain a front yard setback adjacent to only (1) street. The front yard setback shall be required adjacent to the street abutting the principal entrance which shall be identified as the official address assigned to the property. For the non-address side of a corner lot, the following setback requirements shall apply:
  - (1) When the non-address side of a dwelling is on a residential or collector street, the required front yard setback may be reduced to fifteen (15) feet if the lot is back to back with another corner lot and to twenty (20) feet in every other case.
  - (2) All detached garages, attached garages and carports facing the street on the non-address side of a dwelling shall be set back at least twenty (20) feet from the property line.
- (b) In the case of a corner lot which is a platted lot of record that is fifty (50) feet in width or less, one (1) of the two (2) required front yards may be reduced to no less than fifteen (15) feet, subject to the requirements of subsection (2) above relating to garage setbacks.

#### **Section 8. Fences, Walls and Hedges**

- (a) Erecting, maintaining for spite prohibited. No person shall erect or maintain any fence,

wall or hedge for the definite purpose of annoying any other person, or for the purpose of injuring another by obstructing the view, shutting out the sunshine, hindering ventilation or causing inconvenience in any other manner.

- (b) Electrical fences prohibited. No electrically charged fence shall be erected or maintained.
- (c) Erecting, maintaining on public property. No privately owned fence, wall or hedge shall be erected or maintained on any public property; provided however, a split rail fence not exceeding a height of three (3) feet may be erected within the right-of-way of a local residential street when placed at least six (6) feet from the curb or traveled way.
- (d) Hedges along streets, alleys. It shall be unlawful for the owner or occupant of any real estate in the city to permit or allow any hedge standing or growing thereon as a fence along any of the public streets or alleys of the city to be or become more than three (3) feet in height or to permit or allow the same to extend into the streets or alleys.
- (e) Fences classified. For the purposes of this article, fences are hereby classified into the following types:
  - (1) Class 1. Masonry walls;
  - (2) Class 2. Ornamental iron;
  - (3) Class 3. Woven wire or chain link.
  - (4) Class 4. Wood picket or split rail (more than fifty (50) percent open);
  - (5) Class 5. Solid fences (wood or metal less than fifty (50) percent open).
- (f) Requirements for fences, hedges enclosing dwelling plots. In any location zoned residential, fences shall conform to the following requirements:
  - (1) Front yard. Front yard fences and hedges erected in front of the required front yard building line (see Article VIII, District Regulations) shall be of any class. Class 2, 3 and 4 fences shall not exceed a height of four (4) feet; Class 1 and 5, fences shall not exceed a height of three (3) feet. Fences and hedges on corner lots in which the rear yard abuts the front yard of the adjoining lot shall conform to the requirements for front yard fences and hedges for such part of the fence or hedge as abuts the adjoining front yard.
    - a. Fences on corner lots. Where a property is located on a corner lot, thus requiring compliance with two (2) or more front yards, a solid fence may be erected, not to exceed six (6) feet in height along the nonaddress front yard extending to the property line. Such fence shall not be erected in violation of Div. 2, obstructing visibility at intersections.
    - b. Fences on double frontage lots. Where a property consists of a lot where two (2) opposite lot lines abut public streets which are more or less parallel and thus requires compliance with two (2) front yard setbacks, a solid fence may be erected not to exceed six (6) feet in height along the yard which has been designated as the rear yard by the owner or developer. When one (1) of the streets abutting such a lot has been officially designated by the city as an arterial street, said fence shall not be erected in violation of Div. 2, obstructing visibility at intersections.
  - (2) Side yard. Side yard fences erected back of the required front yard building line and within the required side yard of the lot (see Article VIII, District Regulations) may be of any class not over six (6) feet in height. The height restrictions herein provided shall not be applicable to planting of shrubs and/or trees used as a hedge.

- (3) Rear yard. Rear yard fences and hedges erected along the rear property line may be of any class not over six (6) feet in height, except as provided by subsection (1). The height restrictions herein provided shall not be applicable to planting of shrubs and/or trees used as a hedge.
- (4) Prohibited fences. No barbed wire or other sharp pointed fences shall be erected or maintained in any residential or commercial district, except for those listed in subsection (g).
- (5) Fences on retaining walls. In case of a fence erected on top of a retaining wall, the height shall be measured from the grade of the low side; provided, that in any case, a fence of Class 2, 3, 4, or 5 may be erected on top of a retaining wall to a height not to exceed six (6) feet above the grade of the high side.
- (6) Retaining walls. Retaining walls shall be adequately designed and drained so as to resist all lateral pressure to which they may be subjected. Retaining walls shall not be built higher than the grade of the ground on the high side of the wall when such would exceed the height allowed for a Class 1 fence, the height of which is measured from the low side of the wall.
- (7) Variations. When, in the judgment of the board of zoning appeals, the public health, safety and welfare will be substantially served, the neighborhood property will not be materially damaged, and a certified copy of a written agreement between neighboring property owners has been filed with the board of zoning appeals, it may, at its discretion vary the requirements herein; provided, that no violation of the Zoning Regulations may be permitted.
- (g) Barbed wire. Barbed wire fences may be installed in industrial districts provided that the barbed wire must be installed at a height of no lower than six (6) feet from the ground. In addition, for security purposes, the following uses may be enclosed by fences containing barbed wire at a height no closer than six (6) feet from the ground regardless of whether they are located in a residential, commercial or industrial district:
  - (1) Airports
  - (2) Armories and other military installations
  - (3) Contractor's storage yards
  - (4) Correctional facilities
  - (5) Public water and wastewater facilities, including water tower sites
  - (6) Public utility substations
  - (7) Radio, television, microwave transmitting and communication tower sites
  - (8) Secured storage facilities (mini-storage, RV storage and warehouses)
  - (9) Vehicle and equipment storage yards
- (h) Requirements for commercial and industrial fences. Commercial or industrial fences may be of any class and the height thereof shall not exceed ten (10) feet; provided that when such fences are built in required front yard setback spaces (see Article VIII, District Regulations), they shall be limited to Class 3 type fences which shall not exceed a height of eight (8) feet unless the fence is required elsewhere in this article for screening purposes. A fence required for screening purposes shall be of Class 5 type construction. (See Article VII, Division 1, Section 4 regarding permitted obstructions in front yards.)
- (i) Maintenance of fences. Fences shall be kept in repair and any dilapidated, dangerous or unsightly fence shall be removed or repaired when so ordered by the code official or his or her designee.
- (j) Violations declared nuisances; removal. Any fence, hedge or wall erected or maintained in

violation of the provisions of this article is hereby declared to be a nuisance and shall be removed by the owner thereof within ten (10) days after receipt of notice from the code official or his or her designee to remove same.

- (k) All fences shall have the approval of the code official before a permit will be issued for the construction of said fence.
- (l) All fences shall conform to the construction standards of the building code and other applicable ordinances and resolutions.

## **DIVISION 2. OBSTRUCTING VISIBILITY AT INTERSECTIONS**

### **Section 1. Prohibited.**

In all areas on public or private property at any corner formed by intersecting public streets or public streets intersecting with private driveways, it shall be unlawful to install, set out or maintain or to allow the installation, setting out or maintenance of any sign, fence, hedge, shrubbery, natural growth or other obstruction to view, or the parking of any vehicle within that triangle formed as hereby described, such areas to be herein referred to as the clear sight zone.

- (1) In uncontrolled intersections, the triangle is formed by the curb lines (or the shoulder of the road where no gutter exists) of the intersecting streets drawn from the apex of the intersecting curb lines back a distance of sixty (60) feet with a line drawn between such points.
- (2) At intersections controlled only by full signalization or four-way stop signs, the clear sight zone consists of a triangle formed by the curb lines (or the shoulder of the road where no gutter exists) of the intersecting streets drawn from the apex of the intersecting curb lines back a distance of fourteen (14) feet with a line drawn between such points.
- (3) At intersections formed by public alleys and streets, the clear sight zone consists of two (2) triangles at each approach, one (1) on either side of the intersecting alley. The legs of these triangles are formed by the intersection of the curb line of the street (or the shoulder of the road where no gutter exists) and the centerline of the alley. These triangles are formed by measuring along the curb line (or shoulder) of the street from the center of the alley eighty (80) feet to the left and sixty-five (65) feet to the right and connecting each of these points to a point which is determined by measuring along the centerline of the alley back a distance of twenty (20) feet from the curb line (or shoulder) of the street.

If on-site conditions exist which have not been adequately anticipated by the adoption of these regulations, the situation will be reviewed by specific appropriate regulations which will be determined by the code official.

### **Section 2. Exceptions.**

The provisions of Section 1 shall not apply to permanent buildings; public utilities poles; equipment required for traffic control; hedges trimmed to a height of less than three (3) feet; trees, the limbs of which are at all times kept trimmed of limbs and sucker growth on the trunk to a height of at least ten (10) feet or the limbs of which overhang the public street and are at all times kept trimmed of sucker growth to a height of at least thirteen (13) feet; plant species not planted in the form of a hedge, which are so planted and trimmed as to leave at all times a clear and unobstructed cross view; fences not exceeding three (3) feet in height; supporting members appurtenant to permanent buildings; official warning signs or signals; places where the contour of the ground is such that there can be no cross visibility or signs mounted ten (10) feet or more above the ground whose supports do not constitute an obstruction; and noncommercial signs constructed parallel with the base line which, in the opinion of the police department, do not

obstruct the clear sight zone. All heights herein mentioned shall be measured from the gutter grade at the apex of the clear sight zone triangle.

**Section 3. Preexisting violations not accepted.**

No obstruction to cross visibility shall be determined to be an exception from the application of this division because of its being in existence prior to the adoption of these regulations, unless expressly exempted by the terms of this division.

**Section 4. Notice, removal by property owner.**

When in the opinion of the code official an obstruction to visibility exists as prohibited herein, then the code official shall give notice in writing to the property owner or owners specifying in what manner a traffic hazard is alleged to exist. Such notice shall direct the removal by the property owner or owners of such structures, trees or other obstructions which constitute said traffic hazard. Such property owner or owners shall be allowed ten (10) days in which to comply with the order, except obstructions of a temporary nature which shall be removed on notice.

**Section 5. Removal by city.**

If within ten (10) days after the service of such notice, either by mailing or by personal delivery, the owner or owners of the lot or parcel of land have failed, refused, or neglected to remove such obstructions, then the city shall cause to be removed such obstructions on the lot or pieces of land of said owner, and the cost of such removal shall be assessed and charged against the lot or parcel of ground on which the obstruction was located and the city clerk shall at the time of certifying other city taxes, extend the same on the tax rolls of the county against the lot or parcel of ground and it shall be collected by the county treasurer and paid to the city as other taxes are collected and paid.

## **DIVISION 3. BUILDINGS & USES AFFECTED**

**Section 1. Minimum Building Requirements.**

No building or structure shall be erected, enlarged, reconstructed, or moved into a planning area with less than the following:

*(a) Dwelling Units.*

- (1) All dwelling units shall provide a minimum floor area, exclusive of porches, breezeways, and garages, as provided in the city's residential building code.
- (2) Every dwelling unit shall be provided with at least one (1) water closet, which water closet shall be located within the dwelling and in a room which affords privacy;
- (3) Every dwelling unit shall contain a kitchen sink which is connected to running water and an approved sewer system;
- (4) Every dwelling unit shall be enclosed with an exterior wall surface, other than tar paper or corrugated metal;
- (5) No basement or cellar shall be occupied for residential purposes until the main portion, aboveground, is completed.

*(b) Motels.*

- (1) The number of motel units permitted on a tract of land shall not exceed the number obtained by dividing the total square feet of area of the site by one thousand five hundred (1,500);
- (2) Motels shall be served with an approved public water supply and approved public sanitary sewer system.

(3) Each motel unit shall contain not less than two hundred (200) square feet of floor area.

(c) *Tents.*

No tent, except play tents for children, shall be used for any purpose except those authorized by the governing body.

**Section 2. Elevation.**

Unless otherwise directed by the code official, the first floor elevation of a building or group of buildings shall be at least eighteen (18) inches above the grade of the center of the street or roadway.

## ARTICLE VIII. DISTRICT REGULATIONS

### DIVISION 1. A-1 AGRICULTURAL DISTRICT

#### Section 1. Design.

The A-1 district is designed to reflect the pattern of land uses that are found in the rural areas of the city.

#### Section 2. Permitted uses.

Permitted uses in the A-1 district are as follows:

- (1) Agriculture, as defined in these regulations;
- (2) Cemeteries, including crematories and mausoleums when used in conjunction with a cemetery, but not including mortuaries;
- (3) Dwellings, single-family;
- (4) Family-care facilities;
- (5) Oil or gas well drilling and production as permitted and regulated by city code;
- (6) Public service and public utility uses, as follows, provided such use is, or will be, located more than three hundred (300) feet from the boundary of any residential district (see section 3):
  - a. Ambulance service;
  - b. Electric and telephone substations and distribution centers;
  - c. Gas regulator stations;
  - d. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves and other similar equipment for the transmission, as distinguished from distribution to consumers, of telephone or other communications, electricity, gas or water, operated or maintained by a public utility, as defined in these regulations;
  - e. Police and fire stations;
  - f. Pumping stations;
  - g. Radio, television and microwave transmitting or relay stations and towers;
  - h. Telephone exchanges;
  - i. Transformer stations;
  - j. Water reservoirs and standpipes;
- (7) Recreational and social facilities, as follows:
  - a. Country clubs, including golf, swimming and tennis clubs;
  - b. Golf courses, but not including golf driving ranges, pitch and putt, or miniature golf courses;
  - c. Parks and playgrounds;
  - d. Privately owned dwellings for seasonal occupancy and not designed or used for permanent occupancy, such as summer homes and cottages, and hunting and fishing lodges and cabins;
  - e. Public athletic fields.

- (8) Religious institutions, as follows:
  - a. Churches, chapels, temples, synagogues, cathedrals, and shrines;
  - b. Convents, seminaries, monasteries, and nunneries;
  - c. Rectories, parsonages and parish houses.
- (9) Residential design manufactured homes.
- (10) Riding stables, provided no structure housing horses shall be located nearer than three hundred (300) feet to the boundary of any residential district;
- (11) Well head stations, well separators and other similar above-the-ground facilities customarily used for the distribution, transmission or storage of oil or natural gas, provided no such equipment shall be located nearer than five hundred (500) feet from the boundary of any residential district. Such equipment may be in enclosed buildings or in the open, but it must be completely enclosed behind a chain link fence with a two (2) inch or less mesh, or its equivalent, not less than six (6) feet in height;
- (12) Accessory and temporary uses, and home occupations, as permitted by Article VI of these regulations;
- (13) Signs, as permitted by Article IX of these regulations;
- (14) Off-street parking, as required by Article X of these regulations.

**Section 3. Conditional uses.**

Conditional uses in the A-1 district are as follows:

- (1) Airports;
- (2) Campgrounds, subject to the provisions of Div. 7, Section 14;
- (3) Community sewage treatment plants;
- (4) Dog kennels or animal hospitals, provided no structure or pen housing any animals shall be located nearer than six hundred (600) feet to the boundary of any residential district;
- (5) Educational institutions as follows:
  - a. Boarding schools and academies;
  - b. Colleges and universities;
  - c. Primary, intermediate and secondary schools.
- (6) Excavation, extraction, or mining of sand, gravel, or other raw materials from the earth for resale. The conditions imposed on such excavation, extraction, or mining may include, but are not limited to, requirements for setbacks from schools and residential districts, screening, fencing, redevelopment, and restrictions on the grade of the excavation and vehicular access thereto;
- (7) Greenhouses and nurseries;
- (8) Group-care facilities;
- (9) Group day-care centers when located in a nonresidential building;
- (10) Home occupations;
- (11) Hospitals, sanitariums, rest homes and nursing homes;

- (12) Libraries and museums;
- (13) Noncommercial recreational buildings, community centers, auditoriums, stadiums, and arenas;
- (14) Power plants;
- (15) Public service and public utility uses listed in Section 2(7), but which are, or will be located nearer than three hundred (300) feet to the boundary of a residential district;
- (16) Public utility substations;
- (17) Recreational facilities such as campgrounds, youth camps, gun clubs and skeet and trap shooting ranges;
- (18) Sanitary landfill, subject to state requirements.
- (19) Wrecking, salvage, or junk yard, providing the storage yard is completely enclosed with a six (6) foot solid fence or wall and located no less than three hundred (300) feet from a residential district zone and subject to the following:
  - a. The operation shall be conducted completely within the enclosed area. The fence or wall shall be of uniform texture and color and shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the area. The fence or wall shall be installed in such a manner as to retain all scrap, junk, or other material within the yard.;
  - b. No junk shall be loaded, unloaded, or otherwise placed either temporarily or permanently outside the enclosed fence or wall or within public right-of-way

**Section 4. Lot size requirements.**

Lot size requirements in the A-1 district are as follows:

- (1) Minimum lot area: two (2) acres.
- (2) Minimum lot width: two hundred (200) feet.
- (3) Minimum lot depth: two hundred (200) feet.

**Section 5. Bulk regulations.**

Bulk regulations in the A-1 district are as follows:

- (1) Maximum structure height: forty-five (45) feet.
  - a. When a building or structure is within one hundred fifty (150) feet of a dwelling district zone, said building or structure shall not exceed thirty-five (35) feet in height.
  - b. When a building or structure is more than one hundred fifty (150) feet from a dwelling district zone, said building or structure shall not exceed eighty (80) feet in height. Buildings and structures used for nonagricultural purposes shall not exceed thirty-five (35) feet in height.
- (2) Yard requirements:
  - a. Minimum front yard:
    - 1. Eighty (80) feet, measured from the center line of the street or forty (40) feet, measured from the front lot line, whichever is greater.
    - 2. When an addition to an existing nonconforming structure located on a corner lot is to be constructed, said addition may be allowed to match the front yard setback of the existing structure, provided that the front yard so affected does not abut an arterial street with right-of-way less than one hundred (100) feet, and further

provided that the construction conforms to all remaining bulk regulations.

b. Minimum side yard on each side of a zoning lot:

1. Single-family dwellings: fifteen (15) feet.
2. All other permitted and conditional uses: fifteen (15) feet.

c. Minimum rear yard: forty (40) feet.

## **DIVISION 2. F- P FLOODPLAIN DISTRICT**

### **Section 1. Intent and purpose of district**

The F- P Floodplain District is intended for application in those areas of the community which have been defined as subject to inundation from surplus storm water as defined by the Flood Insurance Study and accompanying Floodway Map and any subsequent additions or amendments thereto, prepared for the City of Russell, Kansas, by the Federal Insurance Administration. This zone is intended for application throughout the Russell Zoning Jurisdiction in locations where official floodplain delineation has been established. The regulations are intended to minimize the extent of floods and reduce the height and violence thereof; to minimize the hazard of loss of lives and property caused by floods; and to secure safety from floods through the confinement of floods within reasonable limits by regulating and restricting areas of development along or in natural water courses and drainage ways,

### **Section 2. District regulations**

In the F-P District, no building or land shall be used and no building or structure shall be erected, altered, or enlarged which is arranged or designed for other than one of the permitted uses in the parent district, to which this district is made a part, provided that such uses and structures meet the minimum requirements of Section 3 of these regulations.

### **Section 3. Special use regulations**

Notwithstanding the requirements of the parent district, the other requirements of this Zoning Ordinance and the detailed regulations present in City Ordinance No. 1709 and any amendments thereto, the following regulations shall supplement the regulations of the parent district, of which this district is made a part. These regulations shall supersede those of the parent district where there is a conflict among regulations.

- (1) Where by reason of flooding potential, and where the special flood studies and map indicate the possibility of detrimental or limiting conditions for development, no person, firm, or corporation shall initiate any development or substantial improvement, or cause the same to be done, without first obtaining a separate permit for development for each such building or structure in accordance with the detailed requirements of City Ordinance No. 1709 and any amendments thereto. The application for a development permit shall be prepared in writing upon terms furnished for that purpose and shall be filed in the office of the code official. The application shall be accompanied by explanatory background information as required by Ordinance No. 1709 and any amendments thereto, which shall include as a minimum:
  - a. Identification and description of the work to be covered by the permit.
  - b. Description of the land on which the proposed work is to be done by lot, block, tract, and house and street address or similar description that will readily identify and definitely locate the proposed building or work.
  - c. Indication of the use or occupancy for which the proposed work is intended.
  - d. Provision of plans and specifications for proposed construction.
  - e. Signature of the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
  - f. Provision of other information as reasonably may be required by the code official.

In areas within the Russell Zoning Jurisdiction which are designated as F-P Floodplain, all developed uses of land and buildings shall meet the minimum standards and requirements for development within flood hazard areas as outlined and defined by Ordinance No. 1709 and any amendments thereto.

**Section 4. Lot size requirements**

The lot coverage and intensity of use of the parent district, of which this district is made a part, shall be the maximum allowable.

**Section 5. Height regulations**

The height requirements of the parent district, of which this district is made a part, shall be the maximum height requirements subject to additional requirements as prescribed by these regulations.

**Section 6. Yard regulations**

The yard requirements of the parent district, of which this district is made a part, shall be the minimum yard requirements subject to additional requirements as prescribed by these regulations.

**Section 7. Sign regulations**

The sign regulations of the parent district, of which this district is made a part, shall be the minimum requirements for sign regulations.

**Section 8. Parking and loading regulations**

The parking and loading regulations of the parent district, of which this district is made a part, shall be the minimum requirements subject to additional requirements as prescribed by these regulations.

## **DIVISION 3. PUD PLANNED UNIT DEVELOPMENT DISTRICT**

### **Section 1. Intent and purpose of district**

The provisions of this division are intended for application in instances where tracts of land of considerable size are developed, redeveloped, or renewed as integrated and harmonious units, and where the overall design of such units warrants modification of the standards contained elsewhere in these regulations. To be eligible under this section, the Planned Unit Development must:

- (1) Reflect compatibility with the comprehensive plan.
- (2) Be composed of such uses and in such proportions as are appropriate to the integrated function of the development within the context of established community growth patterns.
- (3) Be so designed in its space allocation, orientation, texture, materials, landscaping, and other features as to produce an environment of stable and desirable character, complementing the design and values of adjacent areas of the community.

### **Section 2. District regulations**

This district is intended to provide for the most advantageous techniques of land development consistent with the intent and purpose of these regulations, the Subdivision Regulations, and the Comprehensive Plan. No land or building shall be designed or used for other than one of the uses in Section 3 below.

### **Section 3. Permitted uses**

- (1) All private institutional facilities and public uses.
- (2) All residential units permitted by right or exception in any residential district.
  - a. The gross density of the PUD may not exceed fifteen (15) dwelling units per acre.
- (3) Commercial and office use.

### **Section 4. Lot size requirements**

The minimum area of a tract of land to be zoned as a "PUD" Planned Unit Development District within a parent district shall be three (3) acres.

### **Section 5. Bulk regulations**

Bulk regulations in the PUD district are as follows:

- (1) Maximum structure height: forty-five (45) feet.
- (2) Yard requirements:
  - a. Front yard:
    1. Property located adjacent to the following various types of streets shall maintain the following yard requirements regardless of whether it is a front, side, or rear yard, or any combination thereof:
      - i. Residential street: twenty-five (25) feet from the property line or fifty-five (55) feet from the center line, whichever is greater.
      - ii. Collector street: twenty-five (25) feet from the property line or fifty-five (55) feet from the center line, whichever is greater.
      - iii. Arterial street: twenty-five (25) feet from the property line or seventy-five (75) feet from the center line, whichever is greater.
  - b. Minimum side yard:
    1. Residential buildings: fifteen (15) feet on each side of the planned development tract.

2. All other permitted uses: twenty-five (25) feet on each side of the zoning lot, except accessory uses which shall be permitted and governed by Article VI of these regulations.

c. Minimum rear yard: twenty-five (25) feet.

(3) Interior structures: The minimum separation for individual structures shall not be less than the average height of adjacent buildings.

### **Section 6. General requirements**

Interior lots and general development of the tract may vary according to several site design practices as influenced by existing topography. In general, the following guidelines shall apply:

(1) Every single-family structure shall have access to a public street, or if group or courtyard parking is used, each unit shall be provided with an easement. If a public street is not provided in the "PUD", then it shall be under the control of a homeowners or development association.

(2) All open spaces shall be protected by fully recorded covenants running with the land.

(3) The street layout for internal roads and connections to county or township roads shall be submitted in the form of road engineering plans.

(4) The developer shall provide central water and sewerage facilities for the "PUD". These shall be submitted as approved written agreements.

(5) All PUD's shall form an association to provide for maintenance of common open space facilities and any areas which are to be held in common by the residents or occupants. All such areas shall be clearly marked on the development plan.

(6) If the association created for maintaining open space and other common facilities fails to operate and keep open areas, facilities, or roads in a reasonable condition, the Governing Body shall assess a tax or create a benefit district and perform the proper maintenance.

### **Section 7. Procedures for review and approval**

When a property owner or developer intends to develop a tract of land containing at least the minimum area and involving more than two (2) commercial establishments, or in the case of a residential area, more than two (2) dwelling units, application may be made for zoning the property to an "PUD" Planned Unit Development District.

The zoning change, if approved, shall be an amendment to the official Zoning Map.

An applicant for a change in zoning to "PUD" Planned Unit Development District must satisfy the Planning Commission and the Governing Body that he/she has the ability to carry out the proposed plan and shall prepare and submit a schedule for construction.

Such applicant also shall prepare and submit a Preliminary Development Plan for review and approval by the Planning Commission and the Governing Body which shall include:

(1) A topographic map showing contours at intervals of two (2) feet.

(2) A plot plan showing:

- a. Building and sign structure locations on the tract.
- b. Access for streets.
- c. Parking arrangement and number of spaces.
- d. Interior drives and service areas.
- e. Area set-aside for public open space.

(3) Location map showing the development and zoning of the adjacent property within two hundred (200) feet, including the location and the type of buildings and structures thereon and the current ownership thereof.

- (4) The full legal description of the boundaries of the properties to be included in the area to be zoned "PUD" Planned Unit Development.
- (5) A map showing the general arrangement of streets within an area of two hundred (200) feet from the boundaries of the area to be zoned "PUD" Planned Unit Development District.
- (6) A map showing location of proposed sewer, water, and other utility lines.
- (7) A description of general character of proposed buildings and any signs to be placed on the site.
- (8) A construction schedule.

The applicant may further be asked to furnish other information such as typical building floor plans, building elevations to show the general architectural character of the buildings, some indications as to size and type of landscape plant materials, pavements, and other major site improvements.

The applicant may be asked to submit the tentative financial plan and description of the intended means of financing any proposed common areas of common improvements and statements covering ownership and maintenance of common easements or other common areas, such as open space or recreational facilities.

Within sixty (60) days after the filing of a preliminary application, a public hearing shall be held after proper notice before the Planning Commission.

Following the hearing, but within sixty (60) days, the Planning Commission may grant approval, modify, or disapprove the preliminary plan.

If the preliminary plan is disapproved, the Planning Commission shall set forth their reasons, in writing, to the applicant.

Upon approval of the Preliminary Development Plan by the Planning Commission, the applicant shall prepare and submit a final Development Plan which shall incorporate any changes or alterations requested. Alterations in the preliminary schedule of construction shall be submitted at this time. The final Development Plan and the Planning Commission's recommendations shall be forwarded to the governing body for their review and final action.

All plans and documents shall become a part of the amendment and shall form the basis for issuance of a zoning permit in conformity therewith.

Changes in the Development Plan, which increase the number of dwelling units or establishments, the arrangement of buildings, the number of parking stalls, any increase in the size or number of other improvements, and the alignment of driveways or roadways shall require a resubmission for approval of the application for rezoning. Any minor changes or adjustments or decrease in the number of dwelling units, common facilities, and recreation facilities may be approved by the code official without resubmission.

Upon approval of the final plan, the Governing Body shall specify the stages of the "PUD", if any, and the number of building permits to be issued for each stage. The Governing Body shall also place on the record all agreements for performance, covenants, and restrictions.

In the event that within eighteen (18) months following approval by the governing body, the applicant does not proceed with construction in accordance with the plan so approved, the Planning Commission shall initiate action to re-zone the property to the original zoning district. A public hearing, as required by law, shall be advertised and held at which time the applicant shall be given an opportunity to show why construction has been delayed. Following the hearing, the Planning Commission shall make findings of fact and shall make a recommendation to the governing body.

## DIVISION 4. R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

### Section 1. Permitted uses.

Permitted uses in the R-1 district are as follows:

- (1) Dwellings, single-family detached;
- (2) Family-care facilities;
- (3) Golf courses, but not including accessory clubhouses, or golf driving ranges, pitch and putt or miniature golf courses;
- (4) Nursing homes;
- (5) Parks and playgrounds;
- (6) Oil & gas exploration, extraction, and/or production as permitted by city code;
- (7) Residential design manufactured housing;
- (8) Accessory and temporary uses, as permitted by Article VI of these regulations;
- (9) Signs, as permitted by Article IX of these regulations;
- (10) Off-street parking and loading, as required by Article X of these regulations.

### Section 2. Conditional uses.

Conditional uses in the R-1 district are as follows:

- (1) Churches, chapels, temples, synagogues, cathedrals and shrines;
- (2) Governmental buildings;
- (3) Group-care facilities;
- (4) Group day-care centers providing care for no more than twelve (12) children in an occupied dwelling or with no maximum limitation if located in a nonresidential building; provided that preschools providing care for no more than twelve (12) children per session may be located in an unoccupied dwelling.
- (5) Home occupations;
- (6) Hospitals, sanitariums, rest homes and nursing homes, provided that they shall be screened from adjacent residential property and shall be located on an arterial street;
- (7) Licensed child care centers;
- (8) Public utility uses, as follows, provided that the location is first approved by the planning commission, and provided further, that a landscape plan or screening plan, if necessary, is first approved by the planning commission.
  - a. Ambulance service;
  - b. Gas regulator stations;
  - c. Police and fire stations;
  - d. Pumping stations;
  - e. Substations;
  - f. Water towers and standpipes.
- (9) Schools: primary, intermediate and secondary;

(10) Swimming clubs, tennis clubs and clubhouses accessory to golf courses;

(11) YMCA, YWCA and other similar uses, as defined in these regulations.

**Section 3. Lot size requirements.**

Lot size requirements in an R-1 district are as follows:

(1) Minimum lot area:

a. Single-family detached dwellings: six thousand (6,000) square feet.

b. Group day care centers located in an existing structure resided in by one (1) or more members of the family operating such a facility: six thousand (6,000) square feet.

c. All other permitted and conditional uses: fifteen thousand (15,000) square feet.

(2) Minimum lot width:

a. Single-family detached dwellings: sixty (60) feet.

b. Group day care centers located in an existing structure resided in by one (1) or more members of the family operating such a facility: sixty (60) feet.

c. All other permitted and conditional uses: one hundred (100) feet.

(3) Minimum lot depth: one hundred (100) feet.

**Section 4. Bulk regulations.**

Bulk regulations in the R-1 district are as follows:

(1) Maximum structure height: thirty-five (35) feet.

(2) Yard requirements:

a. Front yard:

1. Property located adjacent to the following various types of streets shall maintain the following yard requirements regardless of whether it is a front, side, or rear yard, or any combination thereof:

i. Residential street: twenty-five (25) feet from the property line or fifty-five (55) feet from the center line, whichever is greater.

ii. Collector street: twenty-five (25) feet from the property line or fifty-five (55) feet from the center line, whichever is greater.

iii. Arterial street: twenty-five (25) feet from the property line or seventy-five (75) feet from the center line, whichever is greater.

2. When an addition to an existing nonconforming structure located on a corner lot is to be constructed; said addition may be allowed to match the front yard setback of the existing structure, provided that the front yard so affected does not abut an arterial street with right-of-way less than one hundred (100) feet, and further provided that the construction conforms to all remaining bulk regulations.

3. Where not less than seventy (70) percent of the zoning lots between two (2) intersecting public street rights-of-way have developed, any newly constructed single-family dwelling may maintain the same front yard setback of either adjacent existing dwelling provided that all of the following conditions exist:

i. The adjacent property to be matched has not been granted a variance for

front yard setback.

- ii. Neither adjacent land use is used for nonresidential purposes.
- iii. The proposed dwelling is not to be placed on a corner lot.
- iv. The structure is proposed to be placed no closer than fifteen (15) feet from the front property line.

b. Minimum side yard:

1. Residential buildings: six (6) feet on each side of the zoning lot.
2. Group day care centers located in an existing structure resided in by one (1) or more members of the family operating such a facility: seven and five-tenths (7.5) feet on each side of the zoning lot.
3. All other permitted and conditional uses: twenty-five (25) feet on each side of the zoning lot, except accessory uses which shall be permitted and governed by Article VI of these regulations.

c. Minimum rear yard: twenty-five (25) feet.

(3) Maximum lot coverage: thirty-five (35) percent.

## DIVISION 5. R-2 TWO-FAMILY RESIDENTIAL DISTRICT

### Section 1. Permitted uses.

Permitted uses in the R-2 district are as follows:

- (1) Dwellings:
  - a. Single-family detached;
  - b. Single-family attached, not exceeding two (2) units per building;
  - c. Two-family detached;
- (2) Family-care facilities;
- (3) Golf courses, but not including accessory clubhouses or commercial golf driving ranges, pitch and putt or miniature golf courses;
- (4) Nursing homes;
- (5) Oil and gas exploration, extraction, and/or production as permitted by city code;
- (6) Park and playgrounds;
- (7) Residential design manufactured homes;
- (8) Accessory and temporary uses, as permitted by Article VI of these regulations;
- (9) Signs, as permitted by Article IX of these regulations;
- (10) Off-street parking and loading, as required by Article X of these regulations.

### Section 2. Conditional uses.

Conditional uses in the R-2 district are as follows:

- (1) Churches, chapels, temples, synagogues, cathedrals and shrines;
- (2) Governmental buildings;
- (3) Group care facilities;
- (4) Group day care centers providing care for no more than twelve (12) children in an occupied dwelling or with no maximum limitation if located in a nonresidential building; provided that preschools providing care for no more than twelve (12) children per session may be located in an unoccupied dwelling.
- (5) Group rehabilitation facility;
- (6) Home occupations;
- (7) Hospitals, sanitariums, rest homes and nursing homes, provided that they shall be screened from adjacent residential property and shall be directly accessible to a collector or arterial street;
- (8) Licensed child care centers;
- (9) Multiple-family dwellings; provided however, that any such use which exists after the adoption of these regulations, shall be deemed to be a nonconforming use but shall, without further action be deemed a lawful conforming use;
- (10) Non-profit institutions of an educational, philanthropic, or eleemosynary nature, excluding penal institutions;

- (11) Public utility uses, as follows, provided that the location is first approved by the planning commission and provided further that a landscape plan or screening plan, if necessary, is first approved by the planning commission:
  - a. Ambulance services;
  - b. Gas regulator stations;
  - c. Police and fire stations;
  - d. Pumping stations;
  - e. Substations;
  - f. Water towers and standpipes.
- (12) Rooming and boarding houses;
- (13) Schools: primary, intermediate and secondary;
- (14) Single-family attached dwellings exceeding two (2) but not exceeding six (6) units per building;
- (15) Swimming clubs, tennis clubs and clubhouses accessory to golf courses;
- (16) YMCA, YWCA and other similar uses, as defined in these regulations.

**Section 3. Lot size requirements.**

Lot size requirements in the R-2 district are as follows:

- (1) Minimum lot area:
  - a. Single-family and two-family detached dwellings: six thousand (6,000) square feet.
  - b. Single-family attached dwellings: three thousand (3,000) square feet per dwelling.
  - c. Group day care centers located in an existing structure resided in by one (1) or more members of the family operating such a facility is a:
    - 1. Single-family detached dwelling: six thousand (6,000) square feet; and
    - 2. Single-family attached or two-family dwelling: three thousand (3,000) square feet per family.
  - d. Multifamily: three thousand (3,000) square feet per family but not less than six thousand (6,000) square feet.
  - e. Other permitted and conditional uses: fifteen thousand (15,000) square feet.
- (2) Minimum lot width:
  - a. Single-family and two-family detached dwellings: fifty (50) feet.
  - b. Single-family attached dwellings: twenty-five (25) feet, except that for corner lots the minimum shall be forty (40) feet.
  - c. Two-family dwelling: fifty (50) feet.
  - d. Group day care centers located in an existing structure resided in by one (1) or more members of the family operating such a facility in a single-family or two-family dwelling: fifty (50) feet.
  - e. Multiple-family dwellings and other permitted and conditional uses: sixty (60) feet.

- (3) Minimum lot depth: one hundred (100) feet.
- (4) Maximum lot coverage:
  - a. Permitted uses: forty (40) percent.
  - b. Conditional uses: forty-five (45) percent.

**Section 4. Bulk regulations.**

Bulk regulations in the R-2 district are as follows:

- (1) Maximum structure height:
  - a. Permitted uses: forty-five (45) feet;
  - b. Conditional uses: fifty (50) feet.
- (2) Yard requirements:
  - a. Front yard:
    - 1. Property located adjacent to the following various types of streets shall maintain the following yard requirements regardless of whether it is a front, side, or rear yard, or any combination thereof:
      - i. Residential street: twenty-five (25) feet from the property line or fifty-five (55) feet from the centerline, whichever is greater.
      - ii. Collector street: twenty-five (25) feet from the property line or fifty-five (55) feet from the centerline, whichever is greater.
      - iii. Arterial street: twenty-five (25) feet from the property line or seventy-five (75) feet from the centerline, whichever is greater.
    - 2. When an addition to an existing nonconforming structure located on a corner lot is to be constructed; said addition may be allowed to match the front yard setback of the existing structure; provided, that the front yard so affected does not abut an arterial street with right-of-way less than one hundred (100) feet; and further provided, that the construction conforms with all remaining bulk regulations.
  - b. Minimum side yard:
    - 1. Residential buildings: six (6) feet on each side of the zoning lot; except that:
      - i. Residential buildings which have the entrances to two (2) or more units facing the side yard shall have a minimum side yard of ten (10) feet on the side of the building on which such entrances are located.
      - ii. Single-family attached residential dwellings may have the side yard reduced to zero at the common lot line.
    - 2. Group day care centers located in an existing structure resided in by one (1) or more members of the family operating such a facility: six (6) feet on each side of the zoning lot; except that residential buildings which have the entrances to two (2) or more units facing the side yard shall have the minimum side yard of ten (10) feet on the side of the building on which such entrances are located.
    - 3. All other permitted and conditional uses shall have a side yard on each side of twenty (20) feet, except accessory uses which shall be permitted and governed by Article VI of these regulations.

4. There shall be an additional side yard setback of one (1) foot for each two (2) feet of height over forty (40) feet.
- c. Minimum rear yard: twenty-five (25) feet.

## DIVISION 6. R-3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

### Section 1. Permitted uses.

Permitted uses in the R-3 district are as follows:

- (1) Dwellings:
  - a. Single-family;
  - b. Two-family;
  - c. Multiple-family;
  - d. Rooming and boardinghouses.
- (2) Family-care facilities;
- (3) Golf courses, but not including accessory clubhouses or commercial golf driving ranges, pitch and putt or miniature golf courses;
- (4) Group-care facilities;
- (5) Nursing homes;
- (6) Oil and gas exploration, extraction, and/or production as permitted by city code;
- (7) Residential design manufactured homes;
- (8) Parks and playgrounds;
- (9) Accessory and temporary uses, as permitted by Article VI of these regulations;
- (10) Signs, as permitted by Article IX of these regulations;
- (11) Off-street parking and loading, as required by Article X of these regulations.

### Section 2. Conditional uses.

Conditional uses in the R-3 district are as follows:

- (1) Churches, chapels, temples, synagogues, cathedrals and shrines;
- (2) Group day care centers providing care for no more than twelve (12) children in an occupied dwelling or with no maximum limitation if located in a nonresidential building; provided that preschools providing care for no more than twelve (12) children per session may be located in an unoccupied dwelling.
- (3) Group rehabilitation facility;
- (4) Home occupations;
- (5) Hospitals, sanitariums, rest homes and nursing homes, provided that they shall be screened from adjacent residential property;
- (6) Licensed child care centers;
- (7) Multiple-family dwellings for elderly and/or handicapped persons with the following permitted exceptions to the required bulk and lot size:
  - a. Minimum lot area: Five hundred (500) square feet per dwelling unit.
  - b. Bulk regulations:
    1. Maximum structure height: One hundred (100) feet except as provided in subsection (8) b.2.ii.

2. Minimum yard requirements:

- i. Front yard: Thirty (30) feet on all sides abutting a street.
- ii. Side yard: Fifteen (15) feet except there shall be an additional side yard setback of one (1) foot for each two (2) feet of height over fifty (50) feet.
- iii. Rear yard: Twenty-five (25) feet.

- (8) Non-profit institutions of an educational, philanthropic, or eleemosynary nature, excluding penal institutions;
- (9) Private clubs (clubs and organizations, and fraternal and service clubs as defined only);
- (10) Professional offices, provided that they be located on an arterial or collector street and occupy a structure of less than two thousand (2,000) square feet of gross floor area;
- (11) Public utility uses, as follows, provided that the location is first approved by the planning commission and provided further that a landscape plan or screening plan, if necessary, is first approved by the planning commission:
  - a. Ambulance services;
  - b. Gas regulator stations;
  - c. Police and fire stations;
  - d. Pumping stations;
  - e. Substations;
  - f. Water towers and standpipes.
- (12) Schools: primary, intermediate and secondary;
- (13) Swimming clubs, tennis clubs and clubhouses accessory to golf courses; YMCA, YWCA and other similar uses, as defined in these regulations.

**Section 3. Lot size requirements.**

Lot size requirements in the R-3 district are as follows:

- (1) Minimum lot area:
  - a. Single-family detached dwellings; six thousand (6,000) square feet.
  - b. Single-family attached or two-family dwellings: not less than three thousand (3,000) square feet per family.
  - c. Multiple-family: one thousand (1,000) square feet per family but not less than six thousand (6,000) square feet.
  - d. Group day care centers located in an existing structure resided in by one (1) or more members of the family operating such a facility in a:
    - 1. Single-family detached dwelling: six thousand (6,000) square feet; and
    - 2. Group day care centers operating in a single-family attached or two-family dwelling: three thousand (3,000) square feet per family.
  - e. Other permitted and conditional uses: fifteen thousand (15,000) square feet.
- (2) Minimum lot width:
  - a. Single-family dwellings: fifty (50) feet.

- b. Two-family dwelling: fifty (50) feet.
- c. Group day care centers located in an existing structure resided in by one (1) or more members of the family operating such a facility in a single-family or two family dwelling: fifty (50) feet.
- d. Multiple-family dwellings and other permitted and conditional uses: sixty (60) feet.

(3) Minimum lot depth: one hundred (100) feet.

**Section 4. Bulk regulations.**

Bulk regulations in the R-3 district are as follows:

(1) Maximum structure height: seventy-five (75) feet except as provided in subsection (2) b.4.

(2) Yard requirements:

a. Front yard:

1. Property located adjacent to the following various types of streets shall maintain the following yard requirements regardless of whether it is a front, side, or rear yard, or any combination thereof:

i. Residential street: twenty-five (25) feet from the property line or fifty-five (55) feet from the center line, whichever is greater.

ii. Collector street: twenty-five (25) feet from the property line or fifty-five (55) feet from the center line, whichever is greater.

iii. Arterial street: twenty-five (25) feet from the property line or seventy-five (75) feet from the center line, whichever is greater.

2. When an addition to an existing nonconforming structure located on a corner lot is to be constructed; said addition may be allowed to match the front yard setback of the existing structure, provided that the front yard so affected does not abut an arterial street with right-of-way less than one hundred (100) feet, and further provided that the construction conforms to all remaining bulk regulations.

b. Minimum side yard:

1. Residential buildings: six (6) feet on each side of the zoning lot, except that residential buildings which have the entrances to two (2) or more units facing the side yard shall have a minimum side yard of ten (10) feet on the side of the building on which such entrances are located.

2. Group day care centers located in an existing structure resided in by one (1) or more members of the family operating such a facility: six (6) feet on each side of the zoning lot, except that residential buildings which have the entrances to two (2) or more units facing the side yard shall have a minimum side yard of ten (10) feet on the side of the building on which such entrances are located.

3. All other permitted and conditional uses shall have a side yard on each side of twenty (20) feet, except accessory uses which shall be permitted and governed by Article VI of these regulations.

4. There shall be an additional side yard setback of one (1) foot for each two (2) feet of height over forty (40) feet.

c. Minimum rear yard: twenty-five (25) feet.

(3) Maximum lot coverage: forty (40) percent.

## **DIVISION 7. M-H MANUFACTURED HOME DISTRICT**

### **Section 1. Design.**

The M-H district is designed to provide for the placement of manufactured homes built in compliance with the Federal Manufactured Housing Construction and Safety Standards. Two (2) sub districts are created within the manufactured home district, "MH-S" (manufactured home--subdivision) and "MH-P" (manufactured home--park). In the "MH-S" district all manufactured homes are to be placed on individually subdivided lots. The "MH-P" district allows manufactured homes to be placed on rented spaces within the manufactured home parks.

### **Section 2. MH-S Manufactured home subdivisions--Permitted uses.**

Permitted uses in the MH-S district are as follows:

- (1) Dwellings, single-family detached;
- (2) Family-care facilities;
- (3) Golf courses, including accessory clubhouse or golf driving range, but not pitch and putt or miniature golf courses;
- (4) Manufactured homes;
- (5) Modular homes;
- (6) Parks and playgrounds;
- (7) Accessory, temporary, and home occupation uses, as permitted by Article VI of these regulations;
- (8) Signs, as permitted by Article IX of these regulations;
- (9) Off-street parking and loading as required by Article X of these regulations.

### **Section 3. Same--Conditional uses.**

Conditional uses in the MH-S district are as follows:

- (1) Churches, chapels, temples, synagogues, cathedrals and shrines;
- (2) Group-care facilities;
- (3) Group day-care centers providing care for no more than twelve (12) children in an occupied dwelling or with no maximum limitation if located in a nonresidential building;
- (4) Home occupations;
- (5) Hospitals, sanitariums, rest homes and nursing homes, provided they shall be screened from adjacent residential property and shall be directly accessible to a collector or arterial street;
- (6) Public utility uses, as follows: provided that a landscape plan or screening plan, if necessary, is first approved by the planning commission;
  - a. Ambulance service;
  - b. Gas regulator stations;
  - c. Police and fire stations;
  - d. Pumping station;
  - e. Substations;
  - f. Water towers and standpipes.

- (7) Schools: primary, intermediate and secondary;
- (8) Swimming clubs, tennis clubs and community clubhouses;
- (9) YMCA, YWCA and other similar uses as defined in these regulations.

**Section 4. Same--Lot size requirements.**

Lot size requirements in the MH-S district are as follows:

- (1) Minimum lot area:
  - a. Single-family detached dwellings, modular homes, manufactured homes, family-care facilities, and parks and playgrounds: six thousand (6,000) square feet.
  - b. Group day care centers located in an existing structure resided in by one (1) or more members of the family operating such a facility: six thousand (6,000) square feet.
  - c. All other permitted and conditional uses: fifteen thousand (15,000) square feet, except no minimum for gas regulator stations, pumping stations, or substations.
- (2) Minimum lot width:
  - a. Single-family detached dwellings, modular homes, manufactured homes, and family-care facilities: sixty (60) feet.
  - b. Group day care centers located in an existing structure resided in by one (1) or more members of the family operating such a facility: sixty (60) feet.
  - c. All other permitted and conditional uses: one hundred (100) feet, except no minimum for gas regulator stations, pumping stations or substations.
- (3) Minimum lot depth: one hundred (100) feet, except no minimum for gas regulator stations, pumping stations or substations.

**Section 5. Same--Bulk regulations.**

Bulk regulations in the MH-S district are as follows:

- (1) Maximum structure height: thirty-five (35) feet.
- (2) Yard requirements:
  - a. Front yard:
    - 1. Property located adjacent to the following various types of streets shall maintain the following yard requirements regardless of whether it is a front, side, or rear yard, or any combination thereof:
      - i. Residential street: twenty (20) feet from the property line or fifty (50) feet from the center line, whichever is greater.
      - ii. Collector street: twenty-five (25) feet from the property line or fifty-five (55) feet from the center line, whichever is greater.
      - iii. Arterial street: twenty-five (25) feet from the property line or seventy-five (75) feet from the center line, whichever is greater.
    - 2. When an addition to an existing nonconforming structure located on a corner lot is to be constructed; said addition may be allowed to match the front yard setback of the existing structure, provided that the front yard so affected does not abut an arterial street with right-of-way less than one hundred (100) feet, and further provided that the construction conforms to all remaining bulk regulations.

3. When seventy (70) percent or more of the zoning lots between two (2) intersecting public street rights-of-way have developed, any newly constructed single-family dwelling or manufactured home dwelling may maintain the same front yard setback of either adjacent existing dwelling, provided that all of the following conditions exist:
    - i. The adjacent property to be matched has not been granted a variance for front yard setback.
    - ii. Neither adjacent land use is used for nonresidential purposes.
    - iii. The proposed dwelling is not to be placed on a corner lot.
    - iv. The structure is proposed to be placed no closer than fifteen (15) feet from the front property line.
  - b. Minimum side yard:
    1. Residential buildings: six (6) feet on each side of the zoning lot.
    2. Group day care centers located in an existing structure resided in by one (1) or more members of the family operating such a facility: six (6) feet on each side of the zoning lot.
    3. All other permitted and conditional uses: twenty-five (25) feet on each side of the zoning lot, except accessory uses which shall be permitted and governed by Article VI of these regulations.
  - c. Minimum rear yard: fifteen (15) feet.
- (3) Maximum lot coverage: forty (40) percent.

**Section 6. Same--Development standards.**

Development standards in the MH-S district are as follows:

- (1) The tract to be used for a manufactured home subdivision shall not be less than two (2) acres in area, unless it is an extension of or addition to an existing manufactured home subdivision.
- (2) Streets, private roadways, sidewalks, utilities, drainage facilities and other improvements shall be designed, constructed and installed to comply with Article III of the City of Russell Subdivision Regulations.
- (3) All manufactured homes located within a manufactured home subdivision shall comply with the following requirements:
  - a. Each manufactured home shall have a minimum width of fourteen (14) feet and a minimum main floor area, excluding any attached garage or porch, of eight hundred (800) square feet.
  - b. The roof shall be double pitched and shall overhang both side walls or the front end wall of the unit by at least six (6) inches, and shall be covered with material that is residential in appearance, including but not limited to wood, asphalt, composition or fiberglass shingles. Roofing materials shall not consist of corrugated aluminum, fiberglass or metal;
  - c. The exterior siding shall consist of nonreflective siding material such as wood, composition or simulated wood, clapboard, conventional vinyl or metal lap 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 foundation or curtain wall and the joint between siding and enclosure wall shall be flashed in

accordance with the city building code.

- d. Each manufactured home shall be installed in accordance with the recommended installation procedures of the manufacturer upon a basement, slab, piers or other permanent masonry foundation that complies with the city building code so as to be classified and taxed as real property under K.S.A. 79-340. Each unit shall be permanently anchored to and supported by permanent footings extending to the frost line. Anchoring straps or cables affixed to ground anchors shall not be considered sufficient. Exterior over-the-top tie downs shall not be permitted. If interior piers are used for the foundation, the crawlspace shall be enclosed by a permanent, full perimeter exterior curtain wall consisting of concrete or masonry. The enclosure wall shall be unpierced except for required access and ventilation;
- e. The running gear, tongue, axles and wheels shall be removed;
- f. Each manufactured home shall be permanently connected to all utilities in conformance with applicable city codes;
- g. Each lot shall have access from an improved public or private street and two (2) off-street parking spaces.

**Section 7. MH-P Manufactured home parks--Permitted uses.**

Permitted uses in the MH-P district are as follows:

- (1) Dwellings, single-family detached;
- (2) Family-care facilities;
- (3) Manufactured homes;
- (4) Mobile homes, as permitted by Section 15;
- (5) Modular homes;
- (6) Parks and playgrounds;
- (7) Customary accessory uses, such as laundry facilities, manager's office, clubhouse, community buildings, etc;
- (8) Accessory, temporary and home occupation uses, as permitted by Article VI of these regulations;
- (9) Signs, as permitted by Article IX of these regulations;
- (10) Off-street parking and loading, as required by Article X of these regulations.

**Section 8. Same--Conditional uses.**

Conditional uses in the MH-P district are as follows:

- (1) Recreational campgrounds, subject to the regulations specified in Section 14;
- (2) All conditional uses listed in the MH-S district, provided that they shall be governed by the requirements of the MH-S district.

**Section 9. Same--Lot size requirements.**

Lot size requirements in the MH-P are as follows:

- (1) Minimum lot area:
  - a. Manufactured home parks: two (2) acres, unless it is an extension of or an addition to an existing park.
  - b. Each manufactured home space shall provide a minimum area of four thousand (4,000)

square feet.

c. Other permitted uses: six thousand (6,000) square feet.

(2) Minimum lot width:

a. Manufactured home spaces: forty (40) feet, except that corner lots shall provide a minimum width of forty-five (45) feet.

b. Other permitted uses: sixty (60) feet.

(3) Minimum lot depth: one hundred (100) feet.

**Section 10. Same--Bulk regulations.**

Bulk regulations in the MH-P district are as follows:

(1) Maximum structure height: thirty-five (35) feet.

(2) Minimum separation and setback requirements for manufactured homes:

a. All manufactured homes shall be located so as to maintain a clearance of not less than fifteen (15) feet from another manufactured home or appurtenance thereto, or twenty (20) feet from another mobile home or appurtenance thereto. No manufactured home shall be located closer than twenty (20) feet from any principal building within the park or five (5) feet from any accessory building. Accessory buildings shall be located so as to comply with the bulk regulations in Section 5.

b. All structures shall maintain the following minimum setbacks:

1. Internal residential streets: twenty (20) feet from the property line or forty (40) feet from the center line, whichever is greater.

2. External residential streets: twenty-five (25) feet from the property line or fifty-five (55) feet from the center line, whichever is greater.

3. Collector street: twenty-five (25) feet from the property line or fifty-five (55) feet from the center line, whichever is greater.

4. Arterial street: twenty-five (25) feet from the property line or seventy-five (75) feet from the center line, whichever is greater.

5. MH-P district boundary: twenty-five (25) feet from the boundary of any other residential district.

(3) Maximum lot coverage: forty (40) percent.

**Section 11. Same--Development standards.**

(1) *Utilities*: New manufactured home parks shall be permitted only when served by an approved sewer and water supply system. Within each manufactured home park all utility lines, from manufactured home to source, including electricity and telephone lines, shall be placed underground.

(2) *Drainage*: Parks shall be located on a well-drained site, properly graded to insure rapid drainage, and shall be kept free of stagnant pools of water.

(3) *Density*: Manufactured home parks hereafter approved shall have a minimum area of four thousand five hundred (4,500) square feet of space per manufactured home, exclusive of internal streets and rights-of-way.

(4) *Recreation area*: Each manufactured home park shall devote a minimum of five hundred (500) square feet per manufactured home space for recreational or open area. This recreational or open area may be included in each manufactured home space or may be

developed separately. Separate recreational or open areas shall not be less than four thousand (4,000) square feet and required setbacks, roadways, rights-of-way and off-street parking spaces shall not be considered as recreational or open areas. A minimum of fifty (50) percent of the separate recreational or open space area shall be constructed or provided prior to the development of one-half (1/2) of the project, and all recreational facilities or open areas shall be constructed or provided by the time the project is seventy-five (75) percent developed.

(5) *Storm shelters:* In each new park or in park expansions of ten (10) units or more, properly ventilated and constructed storm shelters shall be provided in a central or other convenient location at a rate of eighteen (18) square feet of shelter space for each newly constructed manufactured home space. Storm shelters shall be built in accordance with the building codes of the city.

(6) *Streets:*

a. General layout:

1. A manufactured home park shall be directly accessible to a public street by means of internal private paved streets within the park. Each mobile home lot shall obtain exclusive access from internal private streets, with no direct access to external public streets.
2. Internal streets shall be designed to permit connection with existing storm sewer and other drainage facilities.
3. Internal streets shall be designed for the convenient movement of traffic and emergency vehicles. Dead-end streets shall be provided with adequate surfaced turning space, a minimum of sixty (60) feet in diameter with no parking, and eighty (80) feet in diameter with parking. The maximum length of a dead-end street shall be six hundred (600) feet.
4. Intersections generally shall be at right angles and at no point shall streets intersect at an angle less than sixty (60) degrees. Intersections of more than two (2) streets at one (1) point shall be avoided.

b. Width of roadways:

1. Internal streets with no on-street parking allowed shall have a minimum of twenty-four (24) feet of paving.
2. Internal streets with parking allowed on one (1) side only shall have a minimum of twenty-eight (28) feet of paving.
3. Internal streets with parking allowed on both sides of the street shall have a minimum of thirty-six (36) feet of paving.
4. A minimum of forty (40) feet of right-of-way shall be provided for internal streets. All structures shall maintain a twenty (20) foot setback from the right-of-way line.

c. Surfacing:

1. All internal streets shall be hard-surfaced with asphalt or concrete or suitable substitute approved by the code official.
2. Street surfaces shall be durable and graded to insure adequate surface drainage and shall be maintained free of cracks, holes and other hazards. All internal streets shall be owned and maintained by the owner of the manufactured home park.

(7) *Fire protection:* The fire chief may designate certain internal streets within the park as fire lanes.

- (8) *Parking*: Adequate parking shall be provided for the use of park residents and guests. Each mobile home lot shall have off-street parking for two (2) automobiles.
- (9) *Walkways*: A system of hard-surfaced walkways shall be provided connecting individual manufactured home spaces with park streets and all community facilities provided for park residents. A portion of the roadway surface may be reserved for walkways provided the roadway is widened accordingly and pedestrian and vehicular traffic will not interfere with one another.
- (10) *Lighting*: All private internal streets and walkways shall be lighted by not less than three tenths (0.3) foot candles of artificial light.
- (11) *Landscaping*:
- a. Perimeter screening. All manufactured home parks shall provide a permanently landscaped buffer area of at least twenty-five (25) feet in width around those portions of the park perimeter that border public rights-of-way or residential zoning districts. Such areas may contain trees, shrubbery, grass, benches, fencing, berms or other landscaping features. Setback areas not bordering public rights-of-way or residential districts may be used to fulfill recreational or open area requirements.
  - b. Park landscaping. Exposed ground surfaces within each manufactured home park shall be paved, covered with stone, gravel or other solid material or protected with a vegetative growth capable of preventing soil erosion and objectionable dust. All areas not used for street access, parking, walkways, buildings or service shall be completely and permanently landscaped and the entire site maintained in good condition. Planting of trees and shrubs is required to the extent needed to provide for:
    1. Screening of objectionable views and neighboring uses.
    2. Adequate shade for the manufactured homes in the park.
- (12) *Manufactured home stands (pad)*: A stand shall be provided on every manufactured home lot to accommodate the manufactured home and attached accessory structures. The stand shall consist of concrete ribbons or slabs a minimum of eighteen (18) inches wide and capable of carrying the weight of the manufactured home. Anchoring facilities for the placement and tie down of the manufactured home shall be installed in accordance with K.S.A. 75-1226 through 75-1232 before any home is occupied.
- (13) *Lot identification*: Each stand within a manufactured home park shall be assigned an address by the code official. The assigned address shall be clearly posted or displayed so as to publicly identify the unit to which the address is assigned.

**Section 12. Same--Park plan.**

Any person hereafter desiring to develop or enlarge a manufactured home park shall submit a park plan, which shall accompany the application for amendment to the MH-P district. No permits for a manufactured home park shall be issued until the park plan has been approved as part of the rezoning process and the proposed development or expansion is in compliance with the terms of these regulations. Such plan shall be drawn to a scale of not less than one (1) inch equals one hundred (100) feet and two (2) copies shall accompany the application for MH-P zoning. Such plan shall include the following information:

- (1) Name and address of the owner and applicant.
- (2) Location and legal description of the manufactured home park.
- (3) The area and dimensions of the tract of land proposed to be rezoned.

- (4) Topographic survey of the property with contour intervals of two (2) feet, natural features and existing structures and streets.
- (5) The number, location and dimensions of all lots, including proposed building setbacks from exterior property lines and from internal streets.
- (6) The location and width of internal streets and walkways.
- (7) Plans for controlling surface drainage.
- (8) The location of existing and proposed water, sewer, gas, electrical, and other utility lines and easements protecting these utilities.
- (9) The location of recreation, storage, laundry, refuse, and other common facilities and/or service buildings and areas.
- (10) The location and description of the street and area lighting system.
- (11) Plans for screening including the use of plant materials, fencing and other landscaping structures and features.
- (12) Other information as may be requested by the planning commission or the governing body.

**Section 13. Same--Park plan review.**

The planning commission shall review the rezoning request, including the park plan, and recommend approval or denial to the governing body or may request modifications to the proposed park plan as are deemed necessary to comply with the MH-P district regulations.

Approval by the governing body shall amend the zoning map, establishing an MH-P district for the property designated in the application and shall constitute approval of the park plan. The approved park plan shall be incorporated by reference in the ordinance creating the MH-P district.

**Section 14. Recreational campground plans.**

The applicant for a conditional use permit to allow a recreational campground in an MH-P or A-1 district shall submit a preliminary campground plan, drawn to a scale of not less than one (1) inch equals one hundred (100) feet, and showing the general layout of the proposed campground. Two (2) copies of the plan shall accompany the conditional use permit application. Such plan shall comply with the following minimum requirements:

- (1) The tract to be used as a campground shall not be less than two (2) acres in area and shall be permitted only when served by an approved sanitary sewer and water supply system.
- (2) Permitted uses within the campground shall include:
  - a. Motor homes;
  - b. Fifth wheels;
  - c. Travel trailers;
  - d. Tents and tent trailers;
  - e. Customary accessory uses such as laundry facilities, manager's office, clubhouse, swimming pool, etc.
- (3) Contours at two (2) foot intervals shall be indicated on the plan.
- (4) The campground shall be located on a well-drained site, properly graded, where necessary, to insure rapid drainage and freedom from stagnant pools of water.
- (5) Sight-obscuring screening of not less than six (6) feet in height shall be provided between

the campground and any other residential zoning district.

- (6) A minimum setback of twenty-five (25) feet must be maintained along all boundaries of the campground that adjoin a public street or a residential zoning district.
- (7) Service buildings shall be provided at a rate of one (1) for each one hundred (100) camping spaces. Each service building shall:
  - a. Be located in a reasonable central location within the campground;
  - b. Be of permanent construction;
  - c. Have an accessible, adequate, safe and potable supply of cold water;
  - d. Have one (1) flush-type toilet, one (1) lavatory, and one (1) shower or bathtub for females; and one (1) flush-type toilet, one (1) lavatory, and one (1) shower or bathtub for males for each thirty (30) camping spaces. All lavatories, bathtubs, and showers shall be connected with both hot and cold running water;
  - e. Comply with all applicable chapters of the building code regarding the construction of buildings and the installation of electrical, plumbing, heating, and air conditioning systems;
  - f. Be maintained in a clean, sanitary condition and kept free of any condition that will endanger the health or safety of any occupants or the public.
- (8) Vented storm shelters shall be provided in a central or other convenient location at the rate of twelve (12) square feet per designated or intended camping space.
- (9) Structures shall not exceed thirty-five (35) feet in height.

Upon approval of the preliminary campground plan by the planning commission, the applicant shall prepare and submit two (2) copies of a final campground plan, which shall incorporate any changes or alterations requested, to the code official. Upon the determination by the code official that the final campground plan accurately reflects the desires of the planning commission, a conditional use permit will be issued. An approved copy shall be provided, within seven (7) days, to the code official, who may issue the required permits upon proper application.

#### **Section 15. Special provisions.**

- (1) Manufactured home parks shall comply with the provisions of Chapter IX of the Code of the City of Russell.
- (2) All manufactured homes placed in new, expanded or existing manufactured home parks after May 1, 1994, shall have been manufactured after June 15, 1976 and shall bear a label certifying that it was built in compliance with the Federal Manufactured Home Construction and Safety Standards (42 U.S.C. Sec. 5401). For the purposes of this section, "existing manufactured home park" means any park properly licensed and in operation prior to May 1, 1994.
- (3) Mobile homes located in manufactured home parks existing prior to May 1, 1994 and on individual zoning lots shall hereafter be deemed lawful nonconforming uses and shall be subject to the provisions of Article XI, Section 4 of these regulations. Mobile Homes located or placed in existing manufactured home parks and meeting the criteria in Section 15(2) above shall be considered lawful conforming uses in the MH-P district.

#### **Section 16. Unused manufactured home park.**

Whenever a property zoned MH-P ceases to be used for such purposes for a period of two (2) years, the planning commission may initiate action and hold a public hearing to rezone the property back to a more appropriate zoning district.

## **DIVISION 8. P PUBLIC USE DISTRICT**

### **Section 1. Design.**

The P district is designed and intended to be a special purpose zoning district. This district is intended to accommodate many of the city's public, semi-public and governmental facilities. It is intended for use in areas of the city which have been assigned a public/semi-public or parks/open space future land use designation in the Comprehensive Plan. The three (3) principal purposes of this district are:

- (1) To provide suitable locations for governmental and educational facilities which serve a public need in the community;
- (2) To accommodate the unique operational needs of public buildings, facilities and uses which are owned, controlled or used by the City of Russell or other governmental body; and
- (3) To insure that sufficient land area, open space, buffering and access control are provided by public uses so as to minimize potential adverse impacts on adjacent land uses.

### **Section 2. Permitted uses in the Public Facilities District P-(PF).**

Permitted uses in the P-(PF) sub-district are as follows:

- (1) Animal shelter;
- (2) Aquatic centers and spray parks;
- (3) Community centers;
- (4) Community gardens;
- (5) Dog parks;
- (6) Fire stations;
- (7) Golf courses;
- (8) Governmental buildings and offices;
- (9) Indoor recreation centers;
- (10) Libraries;
- (11) Neighborhood centers;
- (12) Public parks and playgrounds;
- (13) Pump stations, wells;
- (14) Accessory and temporary uses as permitted by Article VI of these regulations;
- (15) Signs as permitted by Article IX of these regulations;
- (16) Off-street parking and loading as required by Article X of these regulations.

### **Section 3. Conditional uses in the Public Facilities District P-(PF).**

Conditional uses in the P-(PF) sub-district are as follows:

- (1) Athletic stadiums;
- (2) Cemeteries;
- (3) Jails and other detention facilities;
- (4) Public arenas;
- (5) Public works and public utilities maintenance facilities and yards;

- (6) Sanitary landfills;
- (7) Utility substations;
- (8) Water towers;
- (9) Wastewater treatment plants;
- (10) Water treatment plants;
- (11) Wireless communication facilities (By Special Permit under Article VI, Section 13);
- (12) Zoos.

**Section 4. Permitted uses in the Educational Facilities District P-(EF).**

Permitted uses in the P-(EF) sub-district are as follows:

- (1) Administrative offices;
- (2) Elementary and intermediate schools, public and private, and related support facilities and uses, including but not limited to accessory storage buildings, accessory school bus parking and outdoor sports recreational fields;
- (3) Secondary schools, public and private, and related support facilities and uses including hut not limited to accessory storage buildings, accessory school bus parking, greenhouses, gymnasiums and outdoor sports and recreation fields.
- (4) Accessory and temporary uses as permitted by Article VI of these regulations;
- (5) Signs as permitted by Article IX of these regulations;
- (6) Off-street parking and loading as required by Article X of these regulations.

**Section 5. Conditional uses in the Educational Facilities District P-(EF).**

Conditional uses in the P-(EF) sub-district are as follows:

- (1) Athletic stadiums;
- (2) Bus barns;
- (3) Public arenas;
- (4) School maintenance facilities and yards;
- (5) Wireless communication facilities (By Special Permit under Article VI, Section 13).

**Section 6. Permitted uses in the Exposition Facilities District P-(EX).**

Permitted uses in the P-(EX) sub-district are as follows:

- (1) Agricultural demonstration plots;
- (2) Animal shows, including hut not limited to dog shows, horse shows and rodeos;
- (3) Aquatic centers;
- (4) Commercial expositions and trade shows;
- (5) Concerts;
- (6) Convention centers, meetings spaces, including licensed drinking and dining facilities;
- (7) Dog parks;
- (8) Fairs, carnivals, circuses;
- (9) Parking and storing of motor vehicles;

- (10) Public parks and playgrounds;
- (11) Public recreation centers;
- (12) Sporting events;
- (13) Temporary overnight camping facilities;
- (14) Accessory and temporary uses as permitted by Article VI of these regulations;
- (15) Signs as permitted by Article IX of these regulations;
- (16) Off-street parking and loading as permitted by Article X of these regulations.

**Section 7. Conditional uses in the Exposition Facilities District P-(EX).**

Conditional uses in the P-(EX) sub-district are as follows:

- (1) Athletic stadiums;
- (2) Public arenas;
- (3) Wireless communication facilities (by Special Permit under Article VI, Section 13).

**Section 8. Lot size requirements.**

Lot size requirements in the P district are as follows:

- (1) Minimum lot area: Ten thousand (10,000) square feet
- (2) Minimum lot width: Thirty-five (35) feet at property line.  
Seventy-five (75) feet at building setback line.
- (3) Minimum lot depth: One hundred (100) feet.

**Section 9. Bulk regulations.**

Bulk regulations in the P district are as follows:

- (1) Maximum structure height: Sixty (60) feet. This Limitation shall not apply to water towers, chimneys, flues, stacks, fire escapes, elevator enclosures, equipment penthouses rooftop support lighting or other appurtenances needed to operate and maintain the building on which they are located. Communication towers and rooftop antennas shall not be subject to this height limit but shall be subject to the requirements in Article VI, Section 13.

- (2) Minimum yard requirements:

- a) Front yard:

- 1) Property located adjacent to the following various types of streets shall maintain the following yard requirements regardless of whether it is a front, side, or rear yard, or any combination thereof:
  - (i) Residential Street: twenty-five (25) feet from the property line or fifty-five (55) feet from the centerline, whichever is greater.
  - (ii) Collector Street: twenty-five (25) feet from the property line or fifty-five (55) feet from the centerline, whichever is greater.
  - (iii) Arterial Street: twenty-five (25) feet from the property line or seventy-five (75) feet from the centerline, whichever is greater.
- 2) When an addition to an existing nonconforming structure located on a corner lot is to be constructed, said addition may be allowed to match the front yard setback of the existing structure; provided, that the front yard so affected does not abut an arterial street with right of-way less than one hundred (100) feet; and further provided, that the construction conforms

with all remaining bulk regulations.

- 3) Maximum lot coverage: Fifty (50) percent.
- 4) Maximum site coverage: Eighty (80) percent (including buildings, paving and sidewalks on a lot);
- 5) Minimum landscaped area: Twenty (20) percent (excluding parking lot islands).

**Section 10. Use limitations.**

Use limitations in the P district shall be as follows:

- (1) Exterior lighting in the P district shall be shaded and downcast so that no direct light is cast upon any property located in a residential district and so that no glare is visible to any traffic on any public street.

## **DIVISION 9. C-1 CENTRAL BUSINESS DISTRICT**

### **Section 1. Design.**

The C-1 district is designed to provide for a restricted commercial alternative to multiple-family developments adjacent to arterial streets and highways and at the same time avoid the typical strip commercial development. To achieve this end, a very limited number of nonretail businesses are permitted.

### **Section 2. Permitted uses.**

Permitted uses in the C-1 district are as follows:

- (1) Banks and financial institutions;
- (2) Barbershops, Beauty shops;
- (3) Business and professional offices, provided that any warehouse or storage space associated with such offices shall not exceed fifty (50) percent of the gross floor area of the principal structure;
- (4) Churches, chapels, temples, synagogues, cathedrals and shrines;
- (5) Gift shops, Newsstands;
- (6) Group day-care centers provided that such use shall be separated from any commercial or industrial use in accordance with the requirements of the city's adopted building code;
- (7) Hospitals, sanitariums, rest homes and nursing homes;
- (8) Medical and dental clinics, and guidance centers;
- (9) Mortuaries and funeral homes; including crematories, providing that such facility is completely enclosed and that no odor or noise is discernible outside the structure;
- (10) Non-profit institutions of a religious, educational, eleemosynary or philanthropic nature;
- (11) Office facilities for salesmen, sales representatives, or manufacturer's representative, when no retail, wholesale, or exchange of goods is made or transacted on the premises;
- (12) Offices for ministers, rabbis, priests, etc;
- (13) Parks and playgrounds;
- (14) Pharmacies;
- (15) Private clubs (clubs and organizations, and fraternal and service clubs as defined only);
- (16) Public buildings;
- (17) Public utility uses, including substations and ambulance services;
- (18) Restaurants.
- (19) Studios or offices for artists, sculptors, authors, composers, photographers, or other similar uses;
- (20) YMCA, YWCA and other similar organizations;
- (21) Accessory and temporary uses, as permitted by Article VI of these regulations;
- (22) Signs, as permitted by Article IX of these regulations;
- (23) Off-street parking and loading as required by Article X of these regulations.

### **Section 3. Conditional uses.**

Conditional uses in the C-1 district are as follows:

- (1) Licensed child care centers;
- (2) Package liquor stores;
- (3) Mail order houses;
- (4) Multiple-family dwellings for elderly and/or handicapped persons with the following permitted exceptions to the required bulk and lot size:
  - a. Minimum lot area: five hundred (500) square feet per dwelling unit.
  - b. Bulk regulations:
    1. Maximum structure height: one hundred (100) feet except as provided in subsection (4) b.2.ii.
    2. Minimum yard requirements:
      - i. Front yard: thirty (30) feet on all sides abutting a street.
      - ii. Side yard: fifteen (15) feet except there shall be an additional side yard setback of one foot for each two (2) feet of height over fifty (50) feet.
      - iii. Rear yard: twenty-five (25) feet.
    3. Maximum lot coverage: forty (40) percent.
- (5) Research laboratories (limited to research such as medical records, statistical research, etc.);
- (6) Small animal hospitals, providing that such facility is completely enclosed and that no odor or noise is discernible outside the structure;
- (7) All permitted uses in the R-3 district, provided that they shall be governed by the requirements of the R-3 district.

### **Section 4. Lot size requirements.**

Lot size requirements in the C-1 district are as follows:

- (1) Minimum lot width: twenty-five (25) feet.
- (2) Minimum lot depth: one hundred (100) feet.

### **Section 5. Bulk regulations.**

Bulk regulations in the C-1 district are as follows:

- (1) Maximum structure height: forty-five (45) feet, except multiple-family development which shall be governed by the regulations for the R-3 district, provided that there shall be one additional foot of setback on the side yards for each two (2) feet of height over forty-five (45) feet.
- (2) Minimum yard requirements:
  - a. Front yard:
    1. Property located adjacent to the following various types of streets shall maintain the following yard requirements regardless of whether it is a front, side, or rear yard, or any combination thereof:
      - i. Residential street: twenty-five (25) feet from the property line or fifty-five (55) feet from the center line, whichever is greater.

- ii. Collector street: twenty-five (25) feet from the property line or fifty-five (55) feet from the center line, whichever is greater.
  - iii. Arterial street: twenty-five (25) feet from the property line or seventy-five (75) feet from the center line, whichever is greater.
2. When an addition to an existing nonconforming structure located on a corner lot is to be constructed; said addition may be allowed to match the front yard setback of the existing structure, provided that the front yard so affected does not abut an arterial street with right-of-way less than one hundred (100) feet, and further provided that the construction conforms to all remaining bulk regulations.
- b. Side yard: No side yard is required for any building in the “C-1” District, except where a lot sides on any residential district, in which case there shall be a fifteen (15) foot side yard.
  - c. Rear yard: No rear yard is required for any building in the “C-1” District, except where a lot abuts on a residential district, in which case there shall be a fifteen (15) foot rear yard.

**Section 6. Use limitations.**

Use limitations in the C-1 district are as follows:

- (1) Exterior lighting fixtures shall be shaded so that no direct light is cast upon any property located in a residential district and so that no glare is visible to any traffic on any public street.
- (2) Off-street parking and loading areas associated with the uses permitted in this district shall not be permitted to cover more than fifty (50) percent of the total area of any required front yard.

## DIVISION 10. C-2 HEAVY COMMERCIAL DISTRICT

### Section 1. Design.

The C-2 district is designed for commercial uses which deal with the sale and/or service of heavy equipment or retail sale of products or services.

### Section 2. Permitted uses.

Permitted uses in the C-2 district are as follows:

- (1) Agricultural implement sales and service;
- (2) Ambulance services;
- (3) Amusement parks and skating rinks;
- (4) Animal hospitals, provided that all pens shall be in an enclosed structure;
- (5) Antique shops;
- (6) Apparel stores;
- (7) Appliance stores;
- (8) Armories;
- (9) Auditoriums and community theatres;
- (10) Automobile and truck sales and rental including accessory repair and painting operations and facilities, provided that such operations or facilities shall comply with all the use limitations in Section 6;
- (11) Automotive body shop;
- (12) Automotive repair;
- (13) Automotive parts, wholesale;
- (14) Automotive sales, service and parts;
- (15) Banks and financial institutions;
- (16) Barbershops;
- (17) Beauty shops;
- (18) Bicycle shops;
- (19) Blueprinting and photostating establishments;
- (20) Boat sales rental and service;
- (21) Bonding agencies;
- (22) Bookstores;
- (23) Bowling alleys;
- (24) Business and professional offices;
- (25) Camera and photographic supply stores;
- (26) Car washes;
- (27) Carpet and rug stores;

- (28) China and glassware stores;
- (29) Commercial off-street parking as a principal use;
- (30) Contractors offices;
- (31) Department stores;
- (32) Dog kennels, providing that such facilities are completely enclosed and that no odor or noise is discernible outside the structure;
- (33) Dry cleaning establishments;
- (34) Dry goods stores;
- (35) Electrical contractors;
- (36) Electronic parts and supplies;
- (37) Equipment sales and rental;
- (38) Florist shops;
- (39) Food stores and delicatessens;
- (40) Fraternal and service clubs;
- (41) Furniture stores;
- (42) Furrier shops;
- (43) Garden stores, greenhouses and nurseries;
- (44) Gasoline service stations;
- (45) Gift and souvenir shops;
- (46) Governmental buildings;
- (47) Group day-care centers provided that such use shall be separated from any commercial or industrial use in accordance with the requirements of the city's adopted building code.
- (48) Hardware stores;
- (49) Hobby shops;
- (50) Hospitals, sanitariums, rest homes and nursing homes;
- (51) Hotels and motels;
- (52) Interior decorating shops, including upholstering, making of draperies, slipcovers and other similar articles;
- (53) Jewelry stores;
- (54) Leather and luggage stores;
- (55) Lumber yards;
- (56) Mail-order houses;
- (57) Mechanical contractors;
- (58) Medical and dental clinics, and guidance centers;
- (59) Mini-warehouses;
- (60) Mobile home and trailer sales and rental but not including the use of any mobile home as a

residence;

- (61) Mortuaries and funeral homes; including crematories, providing that such facility is completely enclosed and that no odor or noise is discernible outside the structure;
- (62) Music stores and musical instrument sales;
- (63) Newspaper offices and printing;
- (64) Newsstands;
- (65) Office equipment and supply;
- (66) Optical sales;
- (67) Package liquor stores;
- (68) Paint and wallpaper stores;
- (69) Parking garages and lots;
- (70) Pawnshops;
- (71) Pest control and exterminators;
- (72) Pet grooming shops;
- (73) Pet stores;
- (74) Pharmacies;
- (75) Physical and health services;
- (76) Printing plants;
- (77) Private clubs;
- (78) Public utility uses, including substations;
- (79) Radio and television broadcasting stations;
- (80) Radio and television repair shops;
- (81) Recording studios;
- (82) Recreational vehicle rental, sales and service;
- (83) Restaurants, including drive-in establishments;
- (84) Restricted production and repair limited to the following: Alteration and custom tailoring of clothing for retail sale only; jewelry from precious metals; watches; dentures; optical lenses; and other similar activities;
- (85) Schools: music, dance or business;
- (86) Self-service laundry and dry cleaning establishments;
- (87) Shoe repair shops;
- (88) Sporting goods stores;
- (89) Tailor shops;
- (90) Taverns;
- (91) Telephone exchanges and telephone transmission equipment structures;
- (92) Theatres, indoor only;

- (93) Variety stores;
- (94) YMCA YWCA, and other similar organizations;
- (95) Any other similar retail business not specifically listed is permitted if it complies with the conditions and the restrictions contained in Section 6;
- (96) Accessory and temporary uses, as permitted by Article VI of these regulations;
- (97) Signs as permitted by Article IX of these regulations;
- (98) Off-street parking and loading, as required by Article X of these regulations.

**Section 3. Conditional uses.**

Conditional uses in the C-2 district are as follows:

- (1) Dog racing tracks;
- (2) Horse racing tracks;
- (3) Outdoor theatres;
- (4) Tattoo parlors and body piercing studios;
- (5) Tire repairs shops, recapping, etc.;
- (6) Warehouse and wholesale houses.

**Section 4. Lot size requirements.**

Lot size requirements in the C-2 district are as follows:

- (1) Minimum lot width: seventy-five (75) feet.
- (2) Minimum lot depth: one hundred (100) feet.

**Section 5. Bulk regulations.**

Bulk regulations in the C-2 district are as follows:

- (1) Maximum structure height: fifty (50) feet.
- (2) Yard requirements:
  - a. Front yard:
    - 1. Property located adjacent to the following various types of streets shall maintain the following yard requirements regardless of whether it is a front, side, or rear yard, or any combination thereof:
      - i. Residential street: twenty-five (25) feet from the property line or fifty-five (55) feet from the center line, whichever is greater.
      - ii. Collector street: twenty-five (25) feet from the property line or fifty-five (55) feet from the center line, whichever is greater.
      - iii. Arterial street: twenty-five (25) feet from the property line or seventy-five (75) feet from the center line, whichever is greater.
    - 2. When an addition to an existing nonconforming structure located on a corner lot is to be constructed; said addition may be allowed to match the front yard setback of the existing structure, provided that the front yard so affected does not abut an arterial street with right-of-way less than one hundred (100) feet, and further provided that the construction conforms to all remaining bulk regulations.

- b. No side or rear yard setback shall be required other than under the conditions specified in subsection (2) a., except that when located adjacent to a property in a residential district there shall be a setback of ten (10) feet.
- c. Each motel and hotel shall have a minimum side yard on each side of the zoning lot of not less than ten (10) feet, and a minimum rear yard of not less than twenty (20) feet.
- d. Gasoline pumps, air and water service, canopies and other fixtures used in connection with gasoline delivery shall be located no less than twelve (12) feet from the property line of any abutting street. However, a canopy may be constructed which further extends to, but not beyond, the front property line.

(3) Maximum lot coverage: seventy (70) percent.

**Section 6. Use limitations.**

Use limitations in the C-2 district are as follows:

- (1) All lighting shall be so located to avoid casting direct light upon any property located in a residential district.

## DIVISION 11. C-3 LIGHT COMMERCIAL DISTRICT

### Section 1. Design.

The C-3 district is designed to provide a district of no less than one (1) acre for a relatively broad range of retail shopping facilities which primarily consist of specialty shops and stores.

### Section 2. Permitted uses.

Permitted uses in the C-3 district are as follows:

- (1) Ambulance service;
- (2) Amusement parks;
- (3) Antique shops;
- (4) Apparel stores;
- (5) Appliance stores;
- (6) Artist studios;
- (7) Auditoriums and community theatres;
- (8) Automobile parking lots and garage;
- (9) Automobile sales and rental, within a completely enclosed building, except that the outdoor display and sale of automobiles may be approved as a temporary use provided that sales events shall be limited to a maximum of four (4) consecutive days in any six month period.
- (10) Automobile repair, service and accessory stores, provided that all service shall be conducted within a completely enclosed building;
- (11) Banks and financial institutions;
- (12) Barbershops;
- (13) Beauty shops;
- (14) Bicycle shops;
- (15) Blueprinting and photostating establishments;
- (16) Boat sales and rental;
- (17) Bookstores;
- (18) Bowling centers;
- (19) Building materials store;
- (20) Business and professional offices;
- (21) Camera and photographic supply stores;
- (22) Carpet and rug stores;
- (23) China and glassware stores;
- (24) Churches, chapels, temples, synagogues, cathedrals and shrines;
- (25) Cigar and tobacco stores;
- (26) Craft stores;

- (27) Department stores;
- (28) Dog kennels, providing that such facilities are completely enclosed and that no odor or noise is discernible outside the structure;
- (29) Dry cleaning establishments;
- (30) Dry goods stores;
- (31) Farm and construction equipment;
- (32) Fire stations, police stations, jails;
- (33) Florist shops;
- (34) Food stores, including grocery stores, meat markets, bakeries, and delicatessens;
- (35) Furniture stores;
- (36) Furrier shops, including the incidental storage and conditioning of furs;
- (37) Garden supplies and landscape nursery;
- (38) Gasoline service stations;
- (39) Gift shops;
- (40) Governmental buildings;
- (41) Group day-care centers provided that such use shall be separated from any commercial or industrial use in accordance with the requirements of the city's adopted building code;
- (42) Hardware stores;
- (43) Hobby shops;
- (44) Hotels and motels;
- (45) Interior decorating shops, including upholstering, making of draperies, slipcovers and other similar articles which are conducted as a part of, or secondary to, a retail operation;
- (46) Jewelry stores;
- (47) Laundromats;
- (48) Leather goods and luggage stores;
- (49) Library's and museums;
- (50) Locksmith shops;
- (51) Mail-order houses;
- (52) Manufactured housing and recreational vehicle sales;
- (53) Mechanical contractors;
- (54) Medical and dental clinics, and guidance centers;
- (55) Mortuaries and funeral homes; including crematories, providing that such facility is completely enclosed and that no odor or noise is discernible outside the structure;
- (56) Music stores and musical instrument sales and repair;
- (57) Newspaper office;
- (58) Newsstands;

- (59) Office supply stores;
- (60) Optical sales;
- (61) Package liquor stores;
- (62) Paint and wallpaper stores;
- (63) Parking lots and garages;
- (64) Parks, playgrounds and community buildings;
- (65) Pawn shops;
- (66) Pet grooming shops;
- (67) Pet stores;
- (68) Pharmacies;
- (69) Photography studios;
- (70) Physical and health services such as private gymnasiums and reducing salons;
- (71) Plumbing shops;
- (72) Private clubs (clubs and organizations, and fraternal and service clubs as defined only);
- (73) Printing plants;
- (74) Public buildings;
- (75) Public utility uses, including substations and ambulance services;
- (76) Radio and television broadcasting stations;
- (77) Radio and television service shops;
- (78) Recording studios;
- (79) Research laboratories;
- (80) Restaurants, including establishments with drive up window service and drive-in establishments, serving food or beverages to customers for consumption on the premises or in parked motor vehicles;
- (81) Restricted production and repair limited to the following: Alteration and custom tailoring of clothing for retail sale only; jewelry from precious metal; watches; dentures; optical lenses; and other similar activities;
- (82) Schools: music, dance or business;
- (83) Self-service laundry and dry cleaning establishments;
- (84) Shoe stores;
- (85) Small animal hospitals, providing that such facility is completely enclosed and that no odor or noise is discernible outside the structure;
- (86) Sporting goods stores;
- (87) Tailors;
- (88) Telephone exchanges and telephone transmission equipment structures;
- (89) Theatres, indoor only;

- (90) Toy stores;
- (91) Travel bureaus and transportation ticket offices;
- (92) Upholstery shops;
- (93) Used automobile sales;
- (94) Variety stores;
- (95) Accessory and temporary uses, as permitted by Article VI of these regulations;
- (96) Signs, as permitted by Article IX of these regulations;
- (97) Off-street parking and loading, as required by Article X of these regulations.

**Section 3. Conditional uses.**

Conditional uses in the C-3 district are as follows:

- (1) Bus stations;
- (2) Contractor's offices;
- (3) Mini-warehouses;
- (4) Motor vehicle body shop;
- (5) Motor vehicle repair shop;
- (6) Multiple-family dwellings provided they shall be governed by the R-3 multiple-family residential district requirements. Such requirements shall include consideration of density, yards, off-street parking, lot coverage and all other requirements for multifamily development as required in the R-3 residential district, except that there shall be one (1) additional foot of setback for each two (2) feet of height over thirty-five (35) feet;
- (7) Multiple-family dwellings for elderly and/or handicapped persons with the following permitted exceptions to the required bulk and lot size:
  - a. Minimum lot area: five hundred (500) square feet per dwelling unit.
  - b. Bulk regulations:
    - 1. Maximum structure height: one hundred (100) feet except as provided in subsection (7) b.2.ii.
    - 2. Minimum yard requirements:
      - i. Front yard: thirty (30) feet on all sides abutting a street.
      - ii. Side yard: fifteen (15) feet except there shall be an additional side yard setback of one (1) foot for each two (2) feet of height over fifty (50) feet.
      - iii. Rear yard: twenty-five (25) feet.
    - 3. Maximum lot coverage: forty (40) percent.
- (8) Retail lumber yards;
- (9) Tattoo parlors and body piercing studios;
- (10) Taverns;
- (11) Warehouse, storage and wholesale houses.

**Section 4. Lot size requirements.**

Lot size requirements in the C-3 district are as follows: no minimum, but zoning district must be a minimum of one (1) acre, unless contiguous to or within two hundred (200) feet of a similar district. The minimum zoning area may not be varied by more than ten (10) percent.

**Section 5. Bulk regulations.**

Bulk regulations in the C-3 district are as follows:

- (1) Maximum structure height: sixty (60) feet.
- (2) Yard requirements:
  - a. Front yard: none required.
  - b. Side yard: none required except when a side yard in this district abuts a residential district, a side yard of fifteen (15) feet shall be provided.
  - c. Rear yard: none required except when a rear yard in this district abuts a residential district, a rear yard of fifteen (15) feet shall be provided.
  - d. Canopies used in conjunction with retail gasoline service may extend up to twelve (12) feet into the required front yard setback. At no time shall the canopy extend over the right-of-way.
- (3) Maximum lot coverage: seventy (70) percent.

**Section 6. Use limitations.**

Use limitations in the C-3 district are as follows:

- (1) All business establishments shall be retail or service establishments dealing directly with the consumer. All goods produced on the premises shall be sold at retail on the premises where produced.
- (2) All business, service, storage and display of goods shall be conducted within a completely enclosed building, except:
  - a. Restaurants which may have food and beverage service on an outdoor patio not more than fifty (50) percent the size of the indoor eating space.
  - b. Garden centers accessory to a department or grocery store which may have outdoor display and sales of plants, nursery stock and gardening supplies in an area not greater than fifteen (15) percent of the floor area of the store, provided that the outdoor display area may not be located between the front of the principal building and an arterial street.
  - c. Other required conditions:
    1. The area used for outdoor service, display and sales shall be enclosed or otherwise separated from the off-street parking area and circulation drives.
    2. The area used for outdoor service, display and sales shall be adjacent to the principal building and such area shall comply with the setback requirements for the principal building.
    3. The area used for outdoor service, display and sales shall be calculated as floor area in determining the number of required off-street parking spaces.
- (3) Exterior lighting fixtures shall be shaded so that no direct light is cast upon any property located in a residential district and so that no glare is visible to any traffic on any public street.

## DIVISION 12. C-4 NEIGHBORHOOD BUSINESS DISTRICT

### Section 1. Design.

The C-4 district is designed to permit areas of convenience shopping facilities of no less than one (1) acre so located to serve one (1) or more residential neighborhoods.

### Section 2. Permitted uses.

Permitted uses in the C-4 district are as follows:

- (1) Antique shops;
- (2) Apparel stores;
- (3) Art galleries;
- (4) Banks and financial institutions;
- (5) Barbershops;
- (6) Beauty shops;
- (7) Bicycle shops;
- (8) Bookstores;
- (9) Business and professional offices;
- (10) Camera and photographic supply stores;
- (11) Churches, chapels, temples, synagogues, cathedrals and shrines;
- (12) Dry cleaning and laundry receiving stations where no processing or cleaning of clothing is done on the premises;
- (13) Florist shops;
- (14) Food stores, including grocery stores, meat markets, bakeries and delicatessens;
- (15) Gift shops and variety stores;
- (16) Group day care centers, provided that such use shall be separated from any commercial or industrial use in accordance with the requirements of the city's adopted building code;
- (17) Medical and dental clinics, and guidance centers;
- (18) Mortuaries and funeral homes, including crematories, providing that such facility is completely enclosed and that no odor or noise is discernible outside the structure;
- (19) Optical shops;
- (20) Pharmacies;
- (21) Public utility uses, including substations and ambulance services;
- (22) Self-service laundry and dry cleaning establishments;
- (23) Shoe repair shops;
- (24) Studios or offices for artists, sculptors, authors, composers, photographers and other similar uses;
- (25) Tailor shops;
- (26) YMCA, YWCA and other similar organizations;

- (27) Accessory and temporary uses, as permitted by Article VI of these regulations;
- (28) Signs, as permitted by Article IX of these regulations;
- (29) Off-street parking and loading, as required by Article X of these regulations.

**Section 3. Conditional uses.**

Conditional uses in the C-4 district are as follows:

- (1) Hardware stores;
- (2) Package liquor stores;
- (3) Research laboratories (limited to medical records, statistical research, etc.);
- (4) Restaurants, excluding drive-up window service and drive-in establishments;
- (5) Small animal hospitals, providing that such facility is completely enclosed and that no odor or noise is discernible outside the structure;
- (6) Tattoo parlors and body piercing studios;
- (7) Taverns;
- (8) Telephone exchanges and telephone transmission equipment structures;
- (9) All permitted and conditional uses in the R-3 district, provided that they shall be governed by the requirements of the R-3 district.

**Section 4. Lot size requirements.**

Lot size requirements in the C-4 district are as follows:

- (1) Minimum lot width: seventy-five (75) feet.
- (2) Minimum lot depth: one hundred (100) feet.
- (3) Minimum zoning area: Ten thousand (10,000) square feet unless contiguous to or within two hundred (200) feet of a similar zoning district.

**Section 5. Bulk regulations.**

Bulk regulations in the C-4 district are as follows:

- (1) Maximum structure height: fifty (50) feet.
- (2) Yard requirements:
  - a. Front yard:
    - 1. Property located adjacent to the following various types of streets shall maintain the following yard requirements regardless of whether it is a front, side, or rear yard, or any combination thereof:
      - i. Residential street: twenty-five (25) feet from the property line or fifty-five (55) feet from the center line, whichever is greater.
      - ii. Collector street: twenty-five (25) feet from the property line or fifty-five (55) feet from the center line, whichever is greater.
      - iii. Arterial street: twenty-five (25) feet from the property line or seventy five (75) feet from the center line, whichever is greater.
    - 2. When an addition to an existing nonconforming structure located on a corner lot is to be constructed; said addition may be allowed to match the front yard setback of the existing structure, provided that the front yard so affected does

not abut an arterial street with right-of-way less than one hundred (100) feet, and further provided that the construction conforms to all remaining bulk regulations.

- b. Side yard: none required, except when, a side yard in this district abuts a residential district a side yard of fifteen (15) feet shall be provided.
- c. Rear yard: none required except when a rear yard in this district abuts a residential district, a rear yard of fifteen (15) feet shall be provided.
- d. Canopies used in conjunction with retail gasoline service may extend up to twelve (12) feet into the required front yard setback. At no time shall the canopy extend over the right-of-way.

(3) Maximum lot coverage: forty (40) percent.

**Section 6. Use limitations.**

Use limitations in the C-4 district are as follows:

- (1) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
- (2) All business, service, storage and display of goods shall be conducted within a completely enclosed building, except that an area equivalent to not more than five (5) percent of the total floor area may be used for open display and sales.
- (3) Exterior lighting fixtures shall be shaded so that no direct light is cast upon any property located in a residential district and so that no glare is visible to any traffic on any public street.
- (4) No individual business establishment shall occupy more than twenty-five thousand (25,000) square feet of floor space.

## **DIVISION 13. C-5 HIGHWAY SERVICE DISTRICT**

### **Section 1. Design.**

The C-5 district is designed to permit the development of service uses associated with interchange areas and other locations along major limited access highways. At certain access points food, lodging, motor vehicle service and fuel providers can be clustered to provide convenient service to the traveling public. The uses permitted in this district are required to be in an enclosed structure or effectively screened and the premises are to be appropriately landscaped so as to protect and enhance the appearance of interstate entrances and major arteries of access to the city.

### **Section 2. Permitted uses.**

Permitted uses in the C-5 district are as follows:

- (1) Bus stations;
- (2) Car washes;
- (3) Commercial off-street parking as a principal use;
- (4) Gasoline service stations and accessory convenience stores;
- (5) Gift and souvenir shops;
- (6) Hotels, motels and convention facilities;
- (7) Package liquor stores, provided that such must be located inside a building used for convenience store, hotel, motel or restaurant purposes;
- (8) Restaurants, including drive-up and drive-in establishments;
- (9) Truck stops and accessory service;
- (10) Accessory and temporary uses, as permitted by Article VI of these regulations;
- (11) Signs as permitted by Article IX of these regulations;
- (12) Off-street parking and loading, as required by Article X of these regulations.

### **Section 3. Conditional uses.**

Conditional uses in the C-5 district are as follows:

- (1) Agricultural implement sales and service;
- (2) Automobile and truck sales, rental and repair service;
- (3) Automotive parts stores;
- (4) Beverage distributors;
- (5) Boat sales, rental and service;
- (6) Building supply stores and lumber yards;
- (7) Business and professional offices;
- (8) Commercial recreation facilities;
- (9) Department and discount stores;
- (10) Equipment sales and rental;
- (11) Food stores and delicatessens;
- (12) Fraternal and service clubs;

- (13) Furniture stores;
- (14) Governmental buildings;
- (15) Manufactured home and mobile home sales;
- (16) Private clubs;
- (17) Public utility uses, including substations;
- (18) Recreational vehicle campgrounds;
- (19) Recreational vehicles sales, rental and service;
- (20) Warehouses and wholesale houses.

**Section 4. Lot size requirements.**

Lot size requirements in the C-5 district are as follows:

- (1) Minimum lot width: seventy-five (75) feet.
- (2) Minimum lot depth: one hundred (100) feet.
- (3) Minimum zoning area: one (1) acre, unless contiguous to or within two hundred (200) feet of a similar district. The minimum zoning area may not be varied by more than ten (10) percent.

**Section 5. Bulk regulations.**

Bulk regulations in the C-5 district are as follows:

- (1) Maximum structure height: fifty (50) feet.
- (2) Yard requirements:
  - a. Front yard: thirty (30) feet on all sides abutting a street; except when located adjacent to an arterial street, there shall be a setback of seventy-five (75) feet from the street center line. The greater distance shall prevail.
  - b. Side yard: ten (10) feet, except when located adjacent to property in a residential district where a twenty-foot setback shall be required.
  - c. Rear yard: ten (10) feet, except when located adjacent to property in a residential district where a twenty-foot setback shall be required.
  - d. Gasoline pumps, air and water service, canopies and other fixtures used in connection with gasoline delivery shall be located no less than twelve (12) feet from the property line of any abutting street; however, a canopy may be constructed which further extends to but not beyond, the front property line.
- (3) Maximum lot coverage: fifty (50) percent.

**Section 6. Use limitations.**

Use limitations in the C-5 district are as follows:

- (1) All walks, access drives and parking areas shall be surfaced with asphalt, concrete or gravel paving.
- (2) No outdoor storage shall be permitted in that area of the property between the front of the principal building or buildings and the public street on which the principal building or buildings front. All outdoor storage and loading areas elsewhere on the property shall be screened by fencing or landscaping treatment in such a manner that it shall not be visible from any public street. Areas devoted to outdoor storage, off-street parking and loading and the display of goods offered for sale or rental shall be screened when such areas abut a residential district at a side or rear lot line.

## **DIVISION 14. I-1 LIGHT INDUSTRIAL DISTRICT**

### **Section 1. Design.**

The I-1 district is designed to permit industrial activities of a limited nature. This includes uses which in many cases are compatible with adjacent use districts.

### **Section 2. Permitted uses.**

Permitted uses in the I-1 district are as follows:

- (1) Any retail or commercial use, except those listed as conditional uses in the I-1 or I-2 districts;
- (2) Adding machine manufacture;
- (3) Animal hospitals or clinics;
- (4) Armories;
- (5) Artificial flower manufacture;
- (6) Automobile assembly;
- (7) Automobile and farm equipment sales;
- (8) Automobile and truck washes;
- (9) Automobile body shop;
- (10) Automobile rental agency;
- (11) Automobile sales and repair (no wrecking yard);
- (12) Bakery, wholesale;
- (13) Beverage manufacturing and bottling (excluding malts and spirits);
- (14) Bicycle manufacture;
- (15) Blacksmith (no salvage yard);
- (16) Book publishing;
- (17) Boot and shoe manufacture;
- (18) Bottling works;
- (19) Broom manufacture;
- (20) Building materials yard;
- (21) Cabinet maker;
- (22) Candy manufacture;
- (23) Canning and preserving factory;
- (24) Cap and hat manufacture;
- (25) Car washes;
- (26) Carpenter shop;
- (27) Carpet cleaning;
- (28) Cleaning and pressing;

- (29) Clock factory;
- (30) Clothing manufacture;
- (31) Coffin manufacture;
- (32) Cold storage warehouse;
- (33) Commission house;
- (34) Concrete burial vault company;
- (35) Condensed milk manufacture;
- (36) Contractor's storage yard and offices;
- (37) Cosmetic manufacture;
- (38) Creamery, wholesale;
- (39) Dairy, wholesale;
- (40) Dental laboratory;
- (41) Dog kennels;
- (42) Drug manufacture;
- (43) Dry cleaning establishment;
- (44) Dry goods, wholesale;
- (45) Dyeing and cleaning;
- (46) Electrical repair;
- (47) Electrical sign manufacture;
- (48) Enameling and painting;
- (49) Engraving plant;
- (50) Envelope manufacture;
- (51) Express storage and delivery station;
- (52) Farm and construction equipment sales and service;
- (53) Feed and seed stores;
- (54) Feed manufacturer;
- (55) Feed, wholesale;
- (56) Flour and grain storage and elevators;
- (57) Food products manufacture;
- (58) Frozen food lockers;
- (59) Fruit and vegetable drying;
- (60) Fur warehouse;
- (61) Furniture warehouse/storage;
- (62) Garage, repair;
- (63) Garment factory;

- (64) Greenhouses, retail and wholesale;
- (65) Grocery store, wholesale;
- (66) Gymnasium equipment manufacture;
- (67) Hangars with repair facilities;
- (68) Hat cleaning;
- (69) Hatchery;
- (70) Hay, grain, feed, wholesale;
- (71) Ice cream manufacture;
- (72) Ice manufacture;
- (73) Jewelry manufacture;
- (74) Knit goods manufacture;
- (75) Laboratories;
- (76) Laundry;
- (77) Limb (artificial) manufacture; (prosthesis manufacture);
- (78) Lime and cement warehouse;
- (79) Loose-leaf book manufacture;
- (80) Lumber yard;
- (81) Macaroni manufacture;
- (82) Machinery and implement sales, rental, storage and repair;
- (83) Mattress manufacture;
- (84) Medicine manufacture;
- (85) Metal fabrication and assembly;
- (86) Milk bottling plant;
- (87) Milk depot, wholesale;
- (88) Millinery making;
- (89) Mineral distillation and bottling;
- (90) Mini-warehouses;
- (91) Mobile home sales and service;
- (92) Monument sales;
- (93) Motorcycle repair;
- (94) Moving company, with storage facilities;
- (95) Newspaper offices and printing;
- (96) Office building on same site as industry (factory);
- (97) Office equipment and supply manufacture;

- (98) Optical goods manufacture;
- (99) Organ manufacture;
- (100) Overalls manufacture;
- (101) Paper products manufacture;
- (102) Pencil factory;
- (103) Pest control and exterminators;
- (104) Pharmaceutical products manufacture;
- (105) Phonograph manufacture;
- (106) Photo engraving company;
- (107) Piano manufacture;
- (108) Plumbing shop;
- (109) Printing plants;
- (110) Produce warehouse;
- (111) Public utility plants and services, including substations;
- (112) Publishing company;
- (113) Pump station;
- (114) Radio manufacture;
- (115) Recycling center;
- (116) Refrigerator manufacture;
- (117) Relay station (radio, television, etc.);
- (118) Research facilities;
- (119) Rug cleaning;
- (120) Saddle manufacture;
- (121) Screw and bolt manufacture;
- (122) Sheet metal shop;
- (123) Shirt factory;
- (124) Sign painting;
- (125) Small animal hospitals;
- (126) Soap manufacture;
- (127) Soda water manufacture;
- (128) Sporting goods manufacture;
- (129) Stair manufacture;
- (130) Storage warehouse;
- (131) Tailor shop;
- (132) Tattoo parlors and body piercing studios, provided that all facilities used for tattooing and body

piercing shall be located at least two hundred (200) feet from a church, school, day care center, park or residential zoning district;

- (133) Taxicab storage, repair;
- (134) Tea and spice packing;
- (135) Television aerials (classed with building to which attached);
- (136) Television manufacture;
- (137) Television sending or relay towers;
- (138) Textile manufacture;
- (139) Thermometer or thermostat manufacture;
- (140) Tin products, wholesale;
- (141) Tinsmith shop;
- (142) Tire repair shop, recapping, etc;
- (143) Transfer company, baggage storage;
- (144) Truck sales, rental and service;
- (145) Truck and rail terminals;
- (146) Trunk manufacture;
- (147) Upholstery manufacture;
- (148) Wallpaper manufacture;
- (149) Warehouse;
- (150) Washing machine manufacture;
- (151) Watch manufacture;
- (152) Water company appurtenances;
- (153) Waterproofing treatment and manufacture;
- (154) Welding shop (no salvage);
- (155) Wholesale houses;
- (156) Wholesale produce storage and market;
- (157) Window shade manufacture;
- (158) Wire brush manufacture;
- (159) Wood products manufacture;
- (160) Woodworking shops;
- (161) Worsted goods manufacture;
- (162) Woven goods manufacture;
- (163) Wrecker service (no impound yard but wrecking yard);
- (164) Accessory and temporary uses, as permitted by Article VI of these regulations;
- (165) Signs, as permitted by Article IX of these regulations;

(166) Off-street parking and loading, as required by Article X of these regulations;

**Section 3. Conditional uses.**

Conditional uses in the I-1 district are as follows:

- (1) Junkyard subject to the development limitations in Section 6(5);
- (2) Livestock auction sales subject to the development limitations in Section 6;
- (3) Salvage yard subject to the development limitations in Section 6(5);
- (4) Scrap metal processing subject to the development limitations of Section 6(5);
- (5) Wrecking yard subject to the development limitations of Section 6(5);
- (6) Perfumery subject to the development limitations in Section 6(6);
- (7) Popcorn factory subject to the development limitations of Section 6(6);
- (8) Refuse service subject to the development limitations of Section 6(6);
- (9) Seed company (processing) subject to the development limitations of Section 6(6);
- (10) Vulcanizing shop (rubber) subject to the development limitations of Section 6(6).

**Section 4. Lot size requirements.**

Lot size requirements in the I-1 district are as follows:

- (1) Minimum lot area: ten thousand (10,000) square feet.
- (2) Minimum lot width: one hundred (100) feet.
- (3) Minimum lot depth: one hundred (100) feet.

**Section 5. Bulk regulations.**

Bulk regulations in the I-1 district are as follows:

- (1) Maximum structure height:
  - a. When a building or structure is within one hundred fifty (150) feet of a residential district zone, said building or structure shall not exceed forty-five (45) feet in height.
  - b. When a building or structure is more than one hundred fifty (150) feet from a residential district zone, said building structure shall not exceed seventy-five (75) feet in height.
- (2) Minimum yard requirements:
  - a. Minimum front yard:
    1. Thirty (30) feet on all sides abutting a street, except when located adjacent to an arterial street there shall be a setback of seventy-five (75) feet from the street center line. The greater distance shall prevail.
    2. When an addition to an existing nonconforming structure located on a corner lot is to be constructed; said addition may be allowed to match the front yard setback of the existing structure, provided that the front yard so affected does not abut an arterial street with right-of-way less than one hundred (100) feet, and further provided that the construction conforms to all remaining bulk regulations.
  - b. Side yard: no minimum requirement, but if a side yard abuts a residential district, a side yard of twenty (20) feet shall be provided.
  - c. Minimum rear yard: no minimum requirement, but if a rear yard abuts a residential district, a

rear yard of twenty (20) feet shall be provided.

- d. Canopies used in conjunction with retail gasoline service may extend up to twelve (12) feet into the required front yard setback. At no time shall the canopy extend over the right-of-way.

(3) Maximum lot coverage: fifty (50) percent.

**Section 6. Use limitations.**

Use limitations in the I-1 district are as follows:

- (1) All operations, activities and storage shall be conducted wholly inside a building, or buildings, unless the nearest point of such operation or activity is more than one hundred (100) feet from the boundary of any other zoning district other than an I-1 or I-2 district and except that storage may be maintained outside the building in side or rear yards if such storage area is separated from public streets and other property (except property located in an I-1 or I-2 district) by screening of not less than six (6) feet in height.
- (2) Servicing and maintenance of vehicles shall be permitted only when such is necessary to the conduct of a permitted use.
- (3) No building shall be used for residential purposes except that a watchman may reside on the premises.
- (4) Junkyards, salvage yards, scrap metal processors and wrecking yards, including auto salvage yards, automobile graveyards and car crushing operations that involve the keeping and stacking of salvaged parts and materials and the storage of motor vehicles out of doors have operating characteristics that can be an unsightly detraction from the value, use and enjoyment of adjacent properties. Therefore, these uses are prohibited anywhere except in an I-1 (Light Industrial) and I-2 (Heavy Industrial) zoning district and shall be established only by a conditional use permit approved by the planning commission in accordance with the procedures set out in Article VI, Section 3 and shall be subject to such protective conditions that may be warranted by the nature and scale of the salvage operation. The following standards shall apply to the operation of the above list of uses:
  - a. Junkyard, salvage yards, scrap processing and wrecking yard operations shall contain a minimum of two (2) acres, except they may be as small as 20,000 sq. ft. where the site abuts one or more existing operations that exceed two (2) acres in total.
  - b. All boundaries, as established by the issuance of a conditional use permit, shall be designated by fencing or other readily identifiable means such as concrete monuments or posts.
  - c. No operation shall be located within five hundred (500) feet of any established residential district.
  - d. The premises where the operation is conducted shall be enclosed, except for entrances and exits, by means of a nontransparent fence, wall or berm of a minimum height of eight (8) feet measured from ground level. In lieu of a solid wall or fence, chain link fencing may be installed if used in conjunction with a densely planted vegetative screen. Entrances and exits shall have nontransparent gates which shall be closed when the business is not in operation. Required fencing and screening shall be maintained and kept in good repair at all times.
  - e. No screening fence or wall may be located within a required front yard setback area along a public street or highway.
  - f. No inoperable vehicles or parts thereof or other salvage material shall be displayed or

stored outside the fence enclosure in a required front yard or in any manner designed to attract customers or the general public from any public street or highway.

- g. Vehicle crushing shall be permitted, however, vehicles and other salvage material may be stacked no higher than the height of the required screening fence. No storage or stacking of vehicles or other salvage materials shall be permitted in required parking spaces, driving aisles or fire lanes as determined by the fire chief.
- h. All driveways and internal driving aisles shall be surfaced with crushed stone, gravel or other all weather material. All driving and maneuvering areas shall be properly maintained and kept free of potholes, weeds, dust, trash and debris.

These regulations shall apply to any new or expanded junkyard, salvage yard, scrap metal processing or wrecking yard operations established after the effective date of this ordinance.

(5) Perfumeries, popcorn factories, refuse service companies, seed companies (processing) and vulcanizing shops (rubber) have operating characteristics that can be an unsightly detraction from the value, use and enjoyment of adjacent properties. Therefore, these uses are prohibited anywhere except in an I-1 (Light Industrial) and I-2 (Heavy Industrial) zoning district and shall be established only by a conditional use permit approved by the planning commission in accordance with the procedures set out in Article VI, Section 3 and shall be subject to such protective conditions that may be warranted by the nature and scale of the operation. The following standards shall apply to the operation of the above list of uses:

- a. All boundaries, as established by the issuance of a conditional use permit, shall be designated by fencing or other readily identifiable means such as concrete monuments or posts.
- b. No operation shall be located within five hundred (500) feet of any established residential district.
- c. No screening fence or wall may be located within a required front yard setback area along a public street or highway.

## **DIVISION 15. I-2 HEAVY INDUSTRIAL DISTRICT**

### **Section 1. Design.**

The I-2 district is designed for those industries which are apt to have an extensive impact on the surrounding area. If possible, I-2 district should be separated from residential districts and the more restricted business districts by intervening or restrictive industrial or commercial zones.

### **Section 2. Permitted uses.**

Permitted uses in the I-2 district are as follows:

- (1) Any retail or commercial use except those listed as conditional in Section 3;
- (2) All permitted uses in the I-1 district except those listed as conditional in Section 3;
- (3) Airplane repair and manufacture;
- (4) Automobile manufacturing;
- (5) Bag cleaning;
- (6) Bank equipment manufacture;
- (7) Barrel manufacture;
- (8) Beet sugar manufacture;
- (9) Beverage manufacture and bottling;
- (10) Bleaching powder manufacture;
- (11) Blooming mill;
- (12) Blueing manufacture;
- (13) Boat manufacture;
- (14) Box manufacture;
- (15) Brass foundry;
- (16) Brewery;
- (17) Brick yard and kiln;
- (18) Bronze manufacture;
- (19) Brush manufacture;
- (20) Can manufacture;
- (21) Candle manufacture;
- (22) Car manufacture;
- (23) Car wheel foundry;
- (24) Cast iron pipe manufacture;
- (25) Casting foundry;
- (26) Celluloid manufacture;
- (27) Chalk manufacture;
- (28) Charcoal manufacture and pulverizing;

- (29) Cheese manufacture;
- (30) Chocolate and cocoa products;
- (31) Cider and vinegar manufacture;
- (32) Clay products;
- (33) Coal yards;
- (34) Coffee roasting;
- (35) Concrete batching or "ready mixed" plant, asphalt mix plant;
- (36) Concrete products company;
- (37) Copper manufacture;
- (38) Cotton yarn manufacture;
- (39) Culvert pipe manufacture;
- (40) Electrical supply manufacture;
- (41) Elevator manufacture;
- (42) Emery cloth manufacture;
- (43) Engine manufacture;
- (44) Excelsior manufacture;
- (45) Fire brick manufacture;
- (46) Fire clay products manufacture;
- (47) Flour and grain milling;
- (48) Foundry;
- (49) Fuel storage and distribution;
- (50) Furnace manufacture;
- (51) Furniture manufacture;
- (52) Gasoline service stations;
- (53) Glass manufacture;
- (54) Hair products factory;
- (55) Hardware manufacture;
- (56) Heating supplies and appliances manufacture;
- (57) Hosiery mill;
- (58) Iron (ornamental) works;
- (59) Lath manufacture;
- (60) Laundry machinery manufacture;
- (61) Leather and leather goods manufacture;
- (62) Light and power manufacture;
- (63) Linen goods manufacture;

- (64) Linoleum manufacture;
- (65) Lubricating machinery manufacture;
- (66) Lumber mill;
- (67) Machine shop;
- (68) Machinery manufacture;
- (69) Mailbox manufacture;
- (70) Malt products manufacture;
- (71) Manufactured home fabrication, sales and storage;
- (72) Meat cutter and coffee grinder manufacture;
- (73) Meat packing plant;
- (74) Metal polish manufacture;
- (75) Metal weather-stripping manufacture;
- (76) Milling company;
- (77) Mini-warehouses;
- (78) Monument works;
- (79) Motorcycle manufacture;
- (80) Nail manufacture;
- (81) Needle manufacture;
- (82) Oilcloth manufacture;
- (83) Packing (meat, poultry, game) plant;
- (84) Pattern shop;
- (85) Pipe (concrete) manufacture;
- (86) Pipe (metal) manufacture;
- (87) Planing mill;
- (88) Plaster of paris manufacture;
- (89) Plating works;
- (90) Poultry food manufacture;
- (91) Printing ink manufacture;
- (92) Quilt manufacture;
- (93) Radiator (heating) manufacture;
- (94) Rivet manufacture;
- (95) Rope manufacture;
- (96) Rubber cement manufacture;
- (97) Rubber manufacture;

- (98) Rug manufacture;
- (99) Salt manufacture;
- (100) Sand and gravel storage yard;
- (101) Sand paper manufacture;
- (102) Sausage or sausage casing manufacture;
- (103) Sawmill;
- (104) Sewer pipe manufacture;
- (105) Shingle manufacture;
- (106) Shoe manufacture;
- (107) Shovel manufacture;
- (108) Soybean oil manufacture;
- (109) Starch manufacture;
- (110) Stone cutting and screening;
- (111) Stove and range manufacture;
- (112) Sweeping compound manufacture;
- (113) Syrup and preserve manufacture;
- (114) Tack manufacture;
- (115) Tattoo parlors and body piercing studios, provided that all facilities used for tattooing and body piercing shall be located at least two hundred (200) feet from a church, school, day care center, park or residential zoning district;
- (116) Terra cotta manufacture;
- (117) Tile manufacture;
- (118) Tin foil manufacture;
- (119) Tin products manufacture;
- (120) Tire manufacture;
- (121) Tool manufacture;
- (122) Vinegar manufacture;
- (123) Warehouse, storage;
- (124) Washing powder manufacture;
- (125) Washing soda manufacture;
- (126) Waste paper products manufacture;
- (127) Wire manufacture;
- (128) Wood preserving treatment manufacture;
- (129) Accessory and temporary uses, as permitted by Article VI of these regulations;
- (130) Signs, as permitted by Article IX of these regulations;

(131) Off-street parking and loading, as required by Article X of these regulations.

**Section 3. Conditional uses.**

Conditional uses in the I-2 district are as follows:

- (1) Anhydrous ammonia production and storage subject to the development limitations in Section 6(3);
- (2) Explosives manufacture and storage (including fireworks) subject to the development limitations in Section 6(3);
- (3) Junkyard subject to the development limitations in Section 6(3);
- (4) Manufacture or storage of bulk oil, gas and explosives subject to the development limitations in Section 6(3);
- (5) Oil and gas exploration, extraction and/or production subject to the development limitations in Section 6(3);
- (6) Petroleum refining subject to the development limitations in Section 6(3);
- (7) Sanitary landfill subject to the development limitations in Section 6(3);
- (8) Salvage yard subject to the development limitations in Section 6(3);
- (9) Scrap metal processing subject to the development limitations in Section 6(3);
- (10) Stockyard and slaughter houses subject to the development limitations in Section 6(3);
- (11) Wrecking yard subject to the development limitations in Section 6(3).

**Section 4. Lot size requirements.**

Lot size requirements in the I-2 district are as follows:

- (1) Minimum lot area: ten thousand (10,000) square feet.
- (2) Minimum lot width: one hundred (100) feet.
- (3) Minimum lot depth: one hundred (100) feet.

**Section 5. Bulk regulations.**

Bulk regulations in the I-2 district are as follows:

- (1) Maximum structure height:
  - a. When a building or structure is within one hundred fifty (150) feet of a residential district zone, said building or structure shall not exceed forty-five (45) feet in height.
  - b. When a building or structure is more than one hundred fifty (150) feet from a residential district zone, said building structure shall not exceed one hundred fifty (150) feet in height if not in conflict with airport approach zones.
- (2) Minimum yard requirements:
  - a. Minimum front yard:
    1. Thirty (30) feet on all sides abutting a street, except when located adjacent to an arterial street there shall be a setback of seventy-five (75) feet from the street center line. The greater distance shall prevail.
    2. When an addition to an existing nonconforming structure located on a corner lot is to be constructed; said addition may be allowed to match the front yard setback of the existing structure, provided that the front yard so affected does not abut an arterial street with right-of-way less than one hundred (100) feet,

and further provided that the construction conforms to all remaining bulk regulations.

- b. Side yard: no minimum requirement, but if a side yard abuts a residential district, a side yard of twenty (20) feet shall be provided.
- c. Minimum rear yard: no minimum requirement, but if a rear yard abuts a residential district, a rear yard of twenty (20) feet shall be provided.
- d. Canopies used in conjunction with retail gasoline service may extend up to twelve (12) feet into the required front yard setback. At no time shall the canopy extend over the right-of-way.

(3) Maximum lot coverage: seventy-five (75) percent.

**Section 6. Use limitations.**

Use limitations in the I-2 district are as follows:

- (1) All operations, activities and storage shall be conducted wholly inside a building, or buildings, unless the nearest point of such operation or activity is more than one hundred (100) feet from the boundary of any other zoning district other than an I-1 or I-2 district and except that storage may be maintained outside the building in side or rear yards if such storage area is separated from public streets and other property (except property located in an I-1 or I-2 district) by screening of not less than six (6) feet in height.
- (2) No building shall be used for residential purposes except that a watchman or custodian may reside on the premises.
- (3) Junkyards, salvage yards, scrap metal processors and wrecking yards, including auto salvage yards, automobile graveyards and car crushing operations that involve the keeping and stacking of salvaged parts and materials and the storage of motor vehicles out of doors have operating characteristics that can be an unsightly detraction from the value, use and enjoyment of adjacent properties. Therefore, these uses are prohibited anywhere except in an I-1 (Light Industrial) and I-2 (Heavy Industrial) zoning district and shall be established only by a conditional use permit approved by the planning commission in accordance with the procedures set out in Article VI, Section 3 and shall be subject to such protective conditions that may be warranted by the nature and scale of the salvage operation. The following standards shall apply to the operation of the uses set forth in Section 3 above on conditional uses:
  - a. Junkyard, salvage yards, scrap processing and wrecking yard operations shall contain a minimum of two (2) acres, except they may be as small as 20,000 sq. ft. where the site abuts one or more existing operations that exceed two (2) acres in total.
  - b. All boundaries, as established by the issuance of a conditional use permit, shall be designated by fencing or other readily identifiable means such as concrete monuments or posts.
  - c. No operation shall be located within five hundred (500) feet of any established residential district.
  - d. The premises where the operation is conducted shall be enclosed, except for entrances and exits, by means of a nontransparent fence, wall or berm of a minimum height of eight (8) feet measured from ground level. In lieu of a solid wall or fence, chain link fencing may be installed if used in conjunction with a densely planted vegetative screen. Entrances and exits shall have nontransparent gates which shall be closed when the business is not in operation. Required fencing and screening shall be maintained and kept in good repair at all times.

- e. No screening fence or wall may be located within a required front yard setback area along a public street or highway.
- f. No inoperable vehicles or parts thereof or other salvage material shall be displayed or stored outside the fence enclosure in a required front yard or in any manner designed to attract customers or the general public from any public street or highway.
- g. Vehicle crushing shall be permitted, however, vehicles and other salvage material may be stacked no higher than the height of the required screening fence. No storage or stacking of vehicles or other salvage materials shall be permitted in required parking spaces, driving aisles or fire lanes as determined by the fire chief.
- h. All driveways and internal driving aisles shall be surfaced with crushed stone, gravel or other all weather material. All driving and maneuvering areas shall be properly maintained and kept free of potholes, weeds, dust, trash and debris. These provisions shall apply to any new or expanded junkyard, salvage yard, scrap metal processing or wrecking yard operations established after the effective date of this ordinance.

# ARTICLE IX. SIGNS

## DIVISION 1. GENERALLY

### Section 1. Permits.

- (a) No sign, except for normal repair and for signs listed in Sections 4 and 5, shall be painted, constructed, erected, remodeled, relocated or expanded until a sign permit for such sign has been obtained pursuant to the procedure set forth in this article.
- (b) It shall be unlawful for any person or persons to fasten, paste, place, post, paint, or attach in any way any sign, handbill, poster, advertisement, or notice of any kind or sort, whether political or otherwise, or to cause the same to be done, in or upon any curbstone, lamp post, telephone, telegraph, or electric light pole, tree, or bridge. It shall be unlawful to paste, place, paint, or attach any sign on any building, street, or property of the City; provided, however, that any property owner or the occupant of any property abutting on any public street in the City may paint or stamp the address of such property upon the curbing directly in front of the building or to have same painted thereon, subject to approval by the code official.

### Section 2. Sign permit required.

- (a) The sign permit must be obtained from the office of the code official, where a charge of twenty-five dollars (\$25) shall be made for each permit granted.
- (b) A sign permit shall be either issued or refused by the code official within ten (10) days after the receipt of an application therefore or within such further period as may be agreed to by the applicant. No sign permit for any sign shall be issued unless the sign complies with the regulations of this article.
- (c) A sign permit shall become null and void sixty (60) days after the date on which it is issued unless within such sixty (60) day period, construction, building, moving, remodeling or reconstruction of a structure or sign is commenced or a use is commenced.

### Section 3. Sign standards.

- (a) The gross surface area of a sign shall be the sum of all surface areas of all sign faces, except that for signs designed as double faced signs, with both faces parallel and the distance between the faces does not exceed two (2) feet, then only one (1) face of the sign shall be considered in determining the gross surface area. When two (2) or more signs are located on a zoning lot, the gross surface area of all signs on the lot shall not exceed the maximum allowable for the district regulations. For computing the area of any wall sign which consists of letters, numbers and symbols mounted or painted on a wall, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters, numbers or symbols.
- (b) Sign height shall be measured from ground level at the base of or below the sign to the element of the sign.
- (c) All signs must conform to the regulations and design standards of the building code of the city and all wiring of all electrical signs must conform to the electrical code of the city.
- (d) Illuminated signs shall be shaded wherever necessary to avoid direct casting of light upon property located in any residential district or upon any public street or park. Any illuminated sign located on a lot adjacent to or across the street from any residential district, which sign is visible from such residential district, shall be illuminated only during business hours or between the hours of 7:00 a.m. and 10:00 p.m.
- (e) No signs with flashing, pulsating or moving lights or lights which create the illusion of movement shall be permitted in all districts except as outlined in (f). A sign whereon the

current time and/or temperature is indicated by intermittent lighting is permitted in all districts except residential districts. Computer-operated electronic message signs are permitted in all districts except residential and C-4 districts. No signs with moving parts, revolving beacons, strobe lights or signs which emit an audible sound shall be permitted in any district.

- (f) In the C-1, C-2, C-3, C-4, C-5, I-1 and I-2 districts, flashing, moving, or animated signs shall be permitted only upon approval of the code official providing it is first determined that the location and colors will in no way create a traffic hazard or confusion with traffic lights and with lights on emergency vehicles and that direct rays of the sign will not be directed into any residential district.
- (g) No sign shall block any required access way or window.
- (h) No sign shall be attached to a tree or utility pole whether on public or private property.
- (i) On corner and through lots, each lot line that abuts a street or highway shall be considered a separate street frontage.
- (j) No metal sign shall be located within eight (8) feet vertically and four (4) feet horizontally of electric wires or conductors in free air carrying more than forty-eight (48) volts, whether or not such wires or conductors are insulated or otherwise protected.
- (k) No sign shall be maintained at any location where by reason of its position, size, shape or color it may obstruct, impair, obscure, interfere with the view of, or be confused with any traffic-control sign, signal or device, or where it may interfere with, mislead or confuse traffic.
- (l) No sign shall be located in any vision triangle formed by the curb lines of any two (2) intersecting streets, except signs mounted ten (10) feet or more above the ground whose supports do not constitute an obstruction. (See also Article VII, Div.2).
- (m) No sign shall be permitted to be located on public property in any district. In the C-2 and C-3 districts, signs may extend over public property no farther than six and one-half (6 1/2) feet or to within two (2) feet of the back of the curb, whichever distance is smaller. Any sign so extending must be a minimum of ten (10) feet above grade.
- (n) All signs which are more than four (4) feet above grade shall be securely fastened so as to prevent movement.
- (o) Any time a sign is removed from its structural support, except for the purposes of maintenance, repair, replacement, repainting or cleaning, or due to an act of God, the structural support shall be removed within thirty (30) days, provided further, that if a sign removed for the purposes of maintenance, repair, replacement, repainting or cleaning, or due to an act of God, if not reinstalled within sixty (60) days of the removal, then the structural support shall be removed within thirty (30) days.

#### **Section 4. Exemptions Generally.**

The following signs shall be exempt from the requirements of this article.

- (a) Flags of a government or of a political, civic, philanthropic, educational or religious organization, displayed on private property;
- (b) Signs of a duly constituted governmental body, including traffic or similar regulatory devices, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, hazards, parking, swimming, dumping, etc.;
- (c) Memorial signs and tablets displayed on private property;
- (d) Address numerals and other signs required to be maintained by law or governmental order, rule or regulation, provided that the content and size of the signs does not exceed

the requirements of such law, order, rule or regulation;

- (e) Small signs, not exceeding five (5) square feet in area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances, and the like;
- (f) Scoreboards in athletic stadiums;
- (g) Noncommercial opinion signs and political signs not exceeding eight (8) square feet displayed on private property.
- (h) Window signs identifying a business, product or service offered on the premises that is affixed to the interior of the window of a shop or store front and not covering over thirty three (33) percent of the total window area on a single wall;
- (i) Garage sales and For Sale/For Rent signs on private property.

**Section 5. Classification of signs--Functional types.**

The following signs are classified by function:

- (a) *Advertising sign.* A sign which directs attention to a business, commodity, service or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located, or to which it is affixed (off-premise sign).
- (b) *Bulletin board sign.* A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcements of persons, events or activities appearing or occurring at the institution. Such signs may also present a greeting or similar message.
- (c) *Business sign.* A sign that directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or an entertainment offered, on the premises where the sign is located or to which it is affixed.
- (d) *Construction sign.* A temporary sign indicating the names of architects, engineers, landscape architects, contractors, and similar artisans involved in the design and construction of a structure or project only during the construction period and only on the premises on which the construction is taking place.
- (e) *Identification sign.* A sign having the name and address of a building, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.
- (f) *Menu board sign.* An on-site sign designed and used for the display of menu items and pictures and/or prices of menu items.
- (g) *Nameplate sign.* A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and where applicable, a professional status.
- (h) *Noncommercial opinion signs.* shall mean a sign which does not advertise products, goods, businesses or services and which expresses an opinion or other point of view and shall include a political campaign sign.
- (i) *Political campaign sign.* shall mean a sign which does not advertise products, goods, businesses or services and which either endorses by name a specific registered candidate for elective office or expresses a position in relation to a ballot question.
- (j) *Real estate sign.* A sign pertaining to a sale or lease of the lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof located thereon.

## Section 6. Same--Structural types.

The following signs are classified as types:

- (a) *Awning, canopy and marquee sign.* A sign that is mounted or painted on, or attached to, an awning, canopy or marquee that is otherwise permitted by this article. No such sign shall project more than twenty-four (24) inches above, below, or twelve (12) inches beyond the physical dimensions of the awning, canopy or marquee, and a minimum of eight (8) feet of clearance shall be provided above grade.
- (b) *Banner sign.* An on-site sign on which advertising copy, logos, symbols or emblems may be printed, painted or attached, and which advertises goods or services sold, produced or conducted on the premises, or a special event and which is constructed of fabric or any non-rigid material with no fully enclosed framework; and designed to be attached securely at each end or corner of the banner to a wall, canopy, or fence.
- (c) *Changeable copy sign.* Any sign on which message copy can be changed through the use of attachable letters and numerals or by electronic switching of lamps, light emitting devices, or illuminated tubes. This includes public message displays or any sign which features automatic switching such as time and temperature signs.
- (d) *Decorative sign.* A sign or display fabricated of canvas, cloth, fabric, plastic, plywood, or other light, impermanent material and designed or intended to be displayed in connection with an event for a short period of time.
- (e) *Electronic changeable copy sign/Computer-operated electronic message signs.* A sign containing a computer or digital software generated message or other automated or remote method of changing copy.
- (f) *Flashing sign.* A sign which contains an intermittent or flashing, pulsating, blinking or traveling light source which includes signs that give the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent light source.
- (g) *Ground sign.* Any sign placed upon, or supported by, the ground independently of the principal building or structure on the property. Signs on accessory structure shall be considered ground signs.
- (h) *Illuminated sign.* Any sign which is directly lighted by any electrical light source, internal or external, regardless of technology.
- (i) *Mobile sign.* A sign that is not permanently affixed to the ground or a building and is designed or constructed to be easily moved from one (1) location to another, including signs mounted upon or designed to be mounted or affixed to the sides or rear of a trailer or motorized chassis, even if the sign has had its wheels removed.
- (j) *Pole sign.* A sign that is mounted on a freestanding pole, the bottom edge of which sign is eight (8) feet or more above ground level.
- (k) *Projecting sign.* A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.
- (l) *Pylon sign.* A freestanding sign, other than a pole sign, permanently fixed to the ground by shafts, posts or other supports wrapped with an aesthetic veneer, but not having the appearance of a solid base.
- (m) *Roof sign.* A sign erected, constructed and maintained wholly upon or projecting above any portion of the roof of a building or having the roof as the principal means of support, and which does not project more than twelve (12) inches beyond the face of the building. A mansard shall be considered part of the wall of the building.

- (n) *Rotating sign.* Any sign or portion of a sign which moves in a revolving or similar manner.
- (o) *Wall sign.* A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than twelve (12) inches from such building.

**Section 7. Temporary signs.**

- (a) The following signs shall be exempt from the sign permit requirements of Section 2, but shall comply with all of the requirements of this article and the applicable district regulations:
  - (1) Advertising signs for special public events sponsored by governmental, philanthropic, and nonprofit organizations, subject to the following provisions:
    - a. Only one (1) sign shall be allowed on a zoning lot. Such sign shall not exceed thirty-two (32) square feet in area.
    - b. Signs will only be permitted seven (7) days in advance of the event and must be removed within twenty-four (24) hours after the close of the event.
  - (2) Decorative business signs such as banners, pennants, streamers, ribbons, flags, balloons, or other attention-attracting devices, are subject to the following limitations:
    - a. Signs placed over an existing sign face, placed at least eight (8) feet above ground level on existing poles or other supports which serve another primary purpose or placed on an existing building, canopy, fence or other structure located behind the front yard setback line shall have no special event or time limitations.
    - b. Signs placed in any other location shall only be used for special promotional events which shall only include the future opening of a new business, grand opening for a new business, and licensed going-out-of-business sales. The sign shall be limited to a single sign no larger than thirty-two (32) square feet displayed for a maximum of thirty (30) days for each such event.
- (b) Mobile signs may be permitted upon issuance of a sign permit and when in compliance with all of the other requirements of this article, the applicable district regulations, and of the following provisions:
  - (1) Only one (1) mobile sign shall be allowed on a zoning lot.
  - (2) Mobile signs shall not exceed thirty-two (32) square feet in area.
  - (3) Mobile signs shall not be placed within twenty-five (25) feet of an existing pole sign or ground sign, within fifty (50) feet of another mobile sign or within the clear vision triangle of any street or driveway.
  - (4) Mobile signs shall not be placed on the premises of an establishment which has an existing pole sign or ground sign located in the front yard.
  - (5) Mobile sign permits shall be valid for not more than thirty (30) days. Each establishment may be issued not more than four (4) permits during a calendar year for a combined total of sixty (60) days.
  - (6) Mobile signs shall be of rigid construction and anchored or weighted to prevent movement or overturning by wind.
  - (7) Electrical lines shall not lie on the ground where vehicular or pedestrian traffic is permitted. Use of aboveground extension cords is prohibited. All wiring shall comply with the electrical code of the city.
  - (8) Use of red, yellow, or green external lighting shall be prohibited. Any light shall be

constant in intensity or color at all times.

(9) No offensive, sexually-oriented or abusive language.

**Section 8. Maintenance and safety.**

All signs, including attendant braces, supports, guys and anchors, shall be kept in a safe and sound structural condition and maintained in a presentable state of appearance. Defective parts shall be repaired or replaced and display surfaces shall be kept neatly painted or posted and readable at all times. Every sign and its immediate surroundings shall be maintained in a clean and sanitary condition and free of all offensive substances, rubbish and weeds. All maintenance required is the responsibility of the owner of the sign. Where ownership cannot be determined, the property owner is responsible for the maintenance of the sign. If the code official shall find that any sign is unsafe, insecure, has been abandoned, or has been erected or is being maintained in violation of this article, he shall give written notice to the owner thereof to repair, alter or remove the sign so as to comply with the standards herein set forth.

**Section 9. Abandoned signs.**

Any sign which no longer advertises a bona fide business conducted, product sold or service provided shall be deemed to be abandoned and shall be removed at the expense of the owner. Sign panels shall be removed within one (1) year of the vacation of the premises or discontinuance of the advertised activity. Sign frames and poles shall be removed within one (1) year of vacation of the premises or discontinuance of the advertised activity unless new sign panels are installed advertising a bona fide activity. Provided however, an appeal for an extension of up to one (1) year for removal of sign frames and poles may be granted by the board of zoning appeals when found to be justified. The installation of new sign panels on the same sign frame and pole shall not require the issuance of a new sign permit. If however, a new permit shall be required then the sign shall comply with the provisions of this article.

## **DIVISION 2. DISTRICT REGULATIONS.**

**Section 1. A-1 Agricultural District.**

The following sign regulations shall apply in the A-1 agricultural district:

- (1) Functional types permitted: Any type listed in Div. 1, Section 5.
- (2) Structural types permitted: Any type listed in Div. 1, Section 6.
- (3) Number of signs permitted: One (1) per zoning lot provided that advertising signs shall not be permitted within five hundred (500) feet of a residence and not closer than five hundred (500) feet from another advertising sign.
- (4) Maximum gross surface area:
  - a. Advertising sign: Four hundred (400) square feet.
  - b. All other types: Thirty-two (32) square feet.
- (5) Maximum height: Thirty (30) feet.
- (6) Required setback: None required, except that any sign which exceeds two hundred (200) square feet in gross surface area shall maintain the same setback that is required for principal structures and in no case shall a sign project over public property.
- (7) Illumination: Illumination of signs is prohibited.

**Section 2. R-1, R-2, R-3 and M-H Residential Districts.**

The following sign regulations shall apply in the R-1, R-2, R-3 and M-H residential districts:

- (1) Functional types permitted:
  - a. Bulletin board signs;
  - b. Business signs;
  - c. Construction signs;
  - d. Identification signs;
  - e. Nameplate signs;
  - f. Real estate signs.
- (2) Structural types permitted:
  - a. Ground signs;
  - b. Wall signs;
  - c. Awning, canopy and marquee signs (when used in conjunction with a conditional use along a collector or arterial street only).
- (3) Number of signs permitted:
  - a. Ground sign: one (1) per zoning lot.
  - b. Wall signs: one (1) per zoning lot.
  - c. Awning, canopy and marquee signs: one (1) per zoning lot.
  - d. A maximum of three (3) signs is permitted per zoning lot.
- (4) Maximum gross surface area:
  - a. Bulletin board signs: Thirty-two (32) square feet.
  - b. Business signs: Eight (8) square feet.
  - c. Construction signs: Thirty-two (32) square feet.
  - d. Identification signs: Thirty-two (32) square feet.
  - e. Nameplate signs: Three (3) square feet.
  - f. Real estate signs: Eight (8) square feet per lot, provided that one sign of not more than one hundred (100) square feet in area announcing the sale of lots and/or homes in a subdivision may be located on such development. Such signs shall be removed at the end of three (3) years from the date of issuance of permit, or when seventy-five (75) percent of the lots in the subdivision or development have been sold, whichever occurs sooner.
  - g. Business signs: When used in conjunction with a conditional use and only along a collector or arterial street; one (1) square foot of sign area for each lineal foot of building frontage, not to exceed thirty-two (32) square feet.
- (5) Maximum height:
  - a. All signs shall be placed flat against a building or designed as part of an architectural feature thereof except that signs may be detached if they do not exceed a height of eight (8) feet or project into any required building setback area.
  - b. No height limit is specified for signs placed flat against or painted on the wall of a building, or other attached signs provided all other provisions of this section are

complied with.

(6) Required setback:

- a. All signs, except real estate and construction signs, shall maintain the same setback required for principal structures.
- b. Detached grounds signs used in conjunction with a conditional use shall be set back at least ten (10) feet from the front property line.

(7) Illumination: No sign shall be illuminated, except that identification signs and bulletin board signs may be internally or externally illuminated, provided that no direct light shall be cast upon any residential property. In addition, churches, schools, nursing homes, rehabilitation centers, assisted living facilities, governmental facilities, YMCAs and parks and recreational facilities and athletic fields, may have one (1) freestanding electronic changeable copy identification or bulletin board sign subject to the following limitations:

- a. The electronic message center portion of the sign may not exceed fifty (50%) of the total sign area.
- b. The sign must set back at least ten (10) feet from the front property line and must be set perpendicular to the adjoining public street, provided that signs on corner lots may be set at a forty-five (45) degree angle at street intersections.
- c. The sign may not exceed a height of eight (8) feet.
- d. All electronic message center signs must be equipped with a photo cell dimmer or some other automatic dimmer control and may not operate between 10:00 p.m. and 7:00 a.m.
- e. No minimum hold time or interval of change shall be required.
- f. Text and moving pictorial images shall be permitted, however, no sign shall have blinking, flashing or fluttering lights or any other illuminating device that changes the intensity, brightness or color of the sign background.

**Section 3. P Public Use District**

The following sign regulations shall apply in the P district:

(1) Functional types permitted:

- a. Bulletin board signs;
- b. Construction signs;
- c. Identification signs;
- d. Nameplate signs;

(2) Structural types permitted:

- a. Ground signs;
- b. Pole signs (but only when used in conjunction with an approved conditional use, on properties located on a collector or arterial street and at athletic stadiums and public arenas);
- c. Wall signs;

(3) Maximum gross surface area:

- a. Bulletin board signs: Thirty-two (32) square feet, sixty-four (64) square feet when used in conjunction with an approved conditional use or on properties located on an arterial or collector street.

- b. Construction signs: Thirty-two (32) square feet.
  - c. Identification signs: Thirty-two (32) square feet, sixty-four (64) square feet when used in conjunction with an approved conditional use or on properties located on an arterial or collector street.
  - d. Nameplate signs: Three (3) square feet.
  - e. Athletic stadiums and public arenas shall be permitted to have a sign up to one hundred (100) square feet in size. Such signs must be located on the same zoning lot as the athletic stadium or public arena.
- (4) Maximum height: No height limit is specified for signs placed flat against or painted on the wall of a building, or other attached signs provided all other provisions of this section are complied with. Detached signs may not exceed eight (8) feet in height, except that pole signs for approved conditional uses, properties located on a collector and arterial street and at athletic stadiums and public arenas may be up to twenty (20) feet in height.
- (5) Required setback: Detached ground signs and pole signs shall be set back at least ten (10) feet from the front property line.
- (6) Illumination: No sign shall be illuminated, except that identification signs and bulletin board signs may be internally or externally illuminated, provided that no direct light shall be cast upon any residential property. In addition, schools, athletic stadiums, public arenas, community centers, convention centers, governmental buildings and offices, aquatic centers, and parks and recreation facilities may have one (1) freestanding electronic changeable copy identification or bulletin board sign subject to the following limitations:
- a. The electronic message center portion of the sign may not exceed seventy-five (75%) of the total sign area.
  - b. The sign must set back at least ten (10) feet from the front property line and must be set perpendicular to the adjoining public street, provided that signs on corner lots may be set at a forty-five (45) degree angle at street intersections.
  - c. The sign may not exceed a height of eight (8) feet, except that pole signs for approved conditional uses, properties located on a collector and arterial street and at athletic stadiums and public arenas may be up to twenty (20) feet in height.
  - d. All electronic message center signs must be equipped with a photo cell dimmer or some other automatic dimmer control that automatically adjusts for day/night brightness. The sign owner or sign installer shall provide written certification from the equipment manufacturer that the sign is so equipped.
  - e. The sign shall only operate between 7:00 a.m. to midnight, with the exception of scheduled public events.
  - f. No minimum hold time or interval of change shall be required.
  - g. Text and moving pictorial images shall be permitted; however, no sign shall have blinking, flashing or fluttering lights or any other illuminating device that changes the intensity, brightness or color of the sign background.
  - h. The sign shall be used primarily to convey information about community events, except that at sign locations eligible for pole signs, signs may also be used for off-premise commercial business messages.

**Section 4. C-1 Central Business District**

The following sign regulations shall apply in the C-1 central business district:

- (1) Functional types permitted: any type listed in Div. 1, Section 5.
- (2) Structural types permitted: any type listed in Div. 1, Section 6, except roof signs, projecting signs and mobile signs.
- (3) Number of signs permitted:
  - a. Ground sign: One per zoning lot.
  - b. Pole sign: One per zoning lot.
  - c. Others: Two (2) per zoning lot.
- (4) Maximum gross surface area: one square foot of sign area for each lineal foot of building frontage, not to exceed thirty-two (32) square feet.
- (5) Maximum height:
  - a. All signs shall be placed flat against a building or designed as part of an architectural feature thereof except that signs may be detached if they do not exceed a height of eight (8) feet or project into any required building setback area.
  - b. No height limit is specified for signs placed flat against or painted on the wall of a building, or for other attached signs provided all other provisions of this section are complied with.
- (6) Required setback: entire sign shall be set back ten (10) feet from the front property line.
- (7) Illumination: Illuminated signs shall be permitted.

**Section 5. C-2 and C-3 Heavy & Light Commercial Districts**

The following sign regulations shall apply in the C-2 and C-3 commercial districts:

- (1) Functional types permitted. Any type listed in Div. 1, Section 5, except that advertising signs for other than special public events sponsored by governmental, philanthropic and nonprofit organizations shall be prohibited in the C-2 district and advertising signs other than computerized electronic message displays shall be prohibited in the C-1 district.
- (2) Structural types permitted. Any type listed in Div. 1, Section 6, except that mobile signs and roof signs shall be prohibited in the C-2 district.
- (3) Number of signs permitted. In the C-2 and C-3 district, four (4) signs per business provided, however, the following additional restrictions shall apply:
  - a. No more than one (1) projecting sign or ground/pole sign shall be allowed per street frontage.
  - b. Ground/pole signs shall be allowed only on zoning lots without buildings or those with buildings having a front yard setback of ten (10) feet or more.
  - c. Ground/pole signs and projecting signs shall not be allowed in combination along the same street frontage.
- (4) Maximum gross surface area:
  - a. In the C-2 and C-3 districts, three (3) square feet of sign area for each lineal foot of building frontage for allowable signage other than a ground/pole sign or a projecting sign; where no building frontage exists, one (1) square foot of sign area for each lineal foot of street frontage. Irrespective of building or street frontage, no property or zoning lot shall be restricted to less than thirty-six (36) square feet of sign area. No more than sixty-seven (67) percent of allowable sign area may be displayed on any building wall or street frontage. In regards to projecting signs and ground/ pole signs, the following

maximum area limitations shall apply:

Building Frontage	Projecting Signs*	Ground/Pole Signs
25 feet or less	30 sq. ft.	45 sq. ft.
26-50 feet	36 sq. ft.	54 sq. ft.
51 feet or more	48 sq. ft.	72 sq. ft.

\*The maximum area for a projecting sign on a building wall without street frontage shall be four (4) square feet.

- (5) Maximum height. In the C-2 and C-3 districts, ground / pole signs may not exceed thirty (30) feet in height above grade. In the C-2 and C-3 districts, projecting or wall signs may not project above the lowest point of the roof of the structure to which it is attached.
- (6) Required setback: None required, except that any sign which exceeds two hundred (200) square feet in gross surface area shall maintain the same setback required for principal structures, and in no case shall a sign project over public property.
- (7) Illumination: Illuminated signs shall be permitted.

#### **Section 6. C-4 Neighborhood Business District**

The following sign regulations shall apply in the C-4 neighborhood business district:

- (1) Functional types permitted: Any type listed in Div. 1, Section 5, except advertising signs.
- (2) Structural types permitted: Any type listed in Div. 1, Section 6, except mobile signs, projecting signs, and roof signs.
- (3) Number of signs permitted: Two (2) per business.
- (4) Maximum gross surface area: One square foot of sign area for each lineal foot of building frontage.
- (5) Maximum height: Thirty (30) feet.
- (6) Required setback: No minimum setback, except that pole sign supports must maintain a ten (10) foot setback from the front property line.
- (7) Illumination: Illuminated signs shall be permitted.

#### **Section 7. C-5 Highway Service District**

The following sign regulations shall apply in the C-5 highway service district:

- (1) Functional types permitted: Any type listed in Div. 1, Section 5.
- (2) Structural types permitted: Any type listed in Div. 1, Section 6.
- (3) Maximum gross surface area:
  - a. Four (4) square feet of sign area for each lineal foot of building frontage.
  - b. Where no building frontage exists, four (4) square feet of sign area for each lineal foot of street frontage.
- (4) Maximum height:
  - a. Signs located on an arterial, collector or residential street: Fifty (50) feet.
  - b. Signs oriented toward a designated interstate highway and located on property within six hundred sixty (660) feet of the interstate right-of-way: Fifty (50) feet above the interstate roadbed and associated bridges and ramps, with a maximum sign height of seventy (70) feet. Where the interstate roadbed is below the grade elevation of adjoining property, the maximum sign height shall be fifty (50) feet.

c. Artificially raising the ground level through filling or berming for the sole purpose of increasing sign height shall not be permitted.

(5) Required setback: None required, except that any sign which exceeds two hundred (200) square feet in gross surface area shall maintain the same setback required for principal structures, and in no case shall a sign project over public property.

(6) Illumination: Illuminated signs shall be permitted.

**Section 8. I-1 and I-2 Industrial Districts.**

The following sign regulations shall apply in the I-1 and I-2 industrial districts:

(1) Functional types permitted: Any type listed in Div. 1, Section 5.

(2) Structural types permitted: Any type listed in Div. 1, Section 6.

(3) Number of signs permitted: Two (2) per establishment.

(4) Maximum gross surface area: Four (4) square feet for each lineal foot of street frontage.

(5) Maximum height:

a. Roof sign: Thirty (30) feet above the highest point of the structure on which the sign is located.

b. All other signs: Thirty (30) feet.

(6) Required setback: None required.

(7) Illumination: Illuminated signs shall be permitted.

(8) Sexually Oriented Businesses as governed by city code.

# ARTICLE X. PARKING AND LOADING REGULATIONS

## DIVISION 1. OFF-STREET PARKING

### Section 1. Applicability.

In any zoning district, except “C-1 Central Business District”, all structures built and all uses established hereafter shall provide accessory off-street parking in accordance with the regulations of this division. When an existing structure or use is expanded, accessory off-street parking shall be provided in accordance with the regulations of this division for the total area or capacity of such expansion.

### Section 2. General provisions.

- (a) *Utilization.* Required accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants or employees of such uses.
- (b) *Area.* A required off-street parking space shall be at least eight (8) feet in width and at least twenty (20) feet in length, exclusive of access drives or aisles, ramps, columns, office or work areas.
- (c) *Access.* Each required off-street parking space shall open directly upon a driving aisle having a width in accordance with the angle of parking as follows:

<u>Aisle width</u>	<u>Parking angle</u>				
	0°	30°	45°	60°	90°
One-way traffic	12'	11'	12'	17'	24'
Two-way traffic	20'	20'	20'	20'	24'

Driveways connecting an off-street parking area to a street shall not be less than ten (10) feet in width for one-way traffic and eighteen (18) feet in width for two-way traffic except that ten-foot wide driveways are permissible for two-way traffic when the driveway is not longer than fifty (50) feet, it provides access to no more than 6 spaces, and sufficient turnaround space is provided so that vehicles will not back into a public street.

- (d) *Open and enclosed parking.* No open off-street parking, driving or maneuvering areas shall cover more than sixty (60) percent of the total area of any front yard in any district except in the C-1, C-2, C-3, I-1, and I-2 districts. No motor vehicle or recreation vehicle shall be parked in any front yard except upon a driveway or adjacent surfaced parking area. The area devoted to driveway purposes shall not be considered in determining whether off-street parking requirements have been met except for single-family or two-family detached and single-family attached dwellings. Enclosed buildings and carports containing off-street parking shall be subject to the yard requirements applicable to structures in the district in which located.
- (e) *Design and maintenance:*
  - (1) *Design.* Off-street parking spaces shall comply with such design standards relating to curb length, stall depth, driveway width, island width, barriers, and ingress and egress as may be established from time to time by the city. Off-street parking spaces may be open to the sky or enclosed in a building.
  - (2) *Surfacing.* All open off-street parking spaces, access drives and aisles shall be paved with asphalt, concrete or suitable substitute approved by the code official.

The paved surfacing requirement shall not apply to the following uses: any permitted use in the R-1, R-2, R-3, or M-H residential zoning district with a parking requirement of six (6) or fewer spaces or any permitted use in the A-1 agricultural, I-1 or I-2 industrial

zoning district. Although exempt from the paving requirement, access drives and parking spaces for the above uses shall be graded and surfaced with crushed stone, gravel, or other all-weather material. All parking areas shall be properly maintained and kept free of potholes, weeds, dust, trash and debris. Loose material shall be contained within the designated parking area and kept from spilling into public streets.

- (3) *Lighting.* Any lighting used to illuminate off-street parking areas shall be directed away from residential properties in such a way as not to interfere with the residential use.
- (4) *Storage and repair.* No storage of merchandise, materials, equipment, refuse containers, inoperable vehicles or the repair of vehicles shall be permitted in required off-street driving aisles or parking spaces.
- (5) *Computation.* When determination of the number of off-street parking spaces required by this division results in a requirement of a fractional space, the fraction of one-half (1/2) or less may be disregarded, and a fraction in excess of one-half (1/2) shall be counted as one (1) parking space.
- (6) *Collective and joint use provisions.* One (1) off-street parking area may serve several different uses provided the area contains the total required spaces for all uses. In addition, different uses may make joint use of the same parking spaces provided written assurances are given that such uses operate at different or nonconflicting times. All regulations covering the location of accessory parking spaces in relation to the uses served shall be adhered to.
- (7) *Location.* All parking spaces required to serve buildings or uses shall be located on the same zoning lot or in the same zoning district as such building or use, except that such parking spaces may be provided in an adjacent zoning district if such district allows parking lots or parking garages as a permitted use. But in no instance shall required off-street parking be located more than six hundred (600) feet (as measured along lines of public access) from the use which it serves.
- (8) *Employee parking.* Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing, or expected to be on duty or residing, or both, on the premises at any one (1) time, at the same time as the building permit is issued.
- (9) *Maximum number of spaces.* The total number of accessory parking spaces provided for a single-family, a two-family or multiple-family dwelling shall not exceed that required by this division, for such use or for any equivalent new use by more than fifty (50) percent or four (4) spaces, whichever number is greater.
- (10) *Exempt zone.* Notwithstanding any other provision of these regulations, no accessory off-street parking facilities shall be required for any structure in the C-1 central business district except residences, and those uses specifically required to provide parking.
- (11) *Determination of required spaces.* When determining the required number of off-street parking spaces for apartment houses, lodging, boarding or rooming houses, fraternities, sororities, and dormitories, an occupant shall mean an individual separate and distinct from the immediate family of the owner, landlord or operator.

### **Section 3. Off-street parking space requirements.**

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

- (1) *Dwelling and lodging uses.*
  - a. Bed and breakfast: One (1) space for each two (2) guest rooms, plus two (2) spaces for the owner/occupant.
  - b. Dormitories, fraternities, sororities and other lodging facilities for students: One (1)

space for each occupant for the first twenty (20) occupants and three-fourths (3/4) space for each occupant thereafter.

- c. Family-care facilities: One (1) space for every two (2) residents, except where residents are unable to drive, plus one (1) space for each employee on the premises and one (1) space for guest parking for every eight (8) residents.
- d. Group-care facilities: Same as family-care facilities.
- e. Group-rehabilitation facilities: Same as family-care facilities.
- f. Group day-care centers: One (1) space for each employee on the premises, plus one (1) space for loading and unloading for every twelve (12) children and two (2) spaces for resident or facility vehicles.
- g. Home occupations: Two (2) spaces for the owner/occupant.
- h. Hotels and motels: One (1) space for each room, plus fifty (50) percent of spaces otherwise required for accessory restaurants, assembly rooms and related facilities.
- i. Manufactured and mobile home parks: Two (2) spaces for each home.
- j. Multiple-family dwellings for elderly and/or handicapped persons: One (1) parking space for each dwelling unit for the first twenty (20) units and three-fourths (3/4) space for each unit thereafter.
- k. Rooming and boarding houses: One (1) space for each sleeping room beyond the first two (2) rooms, plus two (2) spaces for the owner/occupant.
- l. Single-family, two-family and townhome dwellings: Two (2) spaces for each dwelling unit.
- m. Multiple-family dwellings: Two (2) spaces for each dwelling unit for the first twenty (20) units and one and one-half (1 1/2) spaces for each unit thereafter.

(2) *Commercial and industrial uses:*

- a. Automobile repair garages and service stations: Two (2) spaces for each service bay, plus one (1) space for each employee, but not less than a total of five (5) spaces.
- b. Banks and financial institutions: One (1) space for each two hundred (200) square feet of floor area devoted to public banking services, plus one (1) space for each three hundred (300) square feet of floor area devoted to office use, plus four (4) stacking spaces for each drive-up window.
- c. Barber shops or beauty parlors: Two (2) spaces per chair.
- d. Bowling alleys: Three (3) spaces per lane, plus fifty (50) percent of spaces otherwise required for accessory uses such as restaurants and game rooms.
- e. Business and professional offices: One (1) space for each three hundred (300) square feet of floor area.
- f. Car washes: Three (3) stacking, holding and drying spaces for each stall in self-serve establishments; three (3) stacking, holding and drying spaces for each stall in attended or automated establishments.
- g. Cartage, express, parcel delivery and freight terminal establishments: One (1) space for each two (2) employees plus one (1) space for each vehicle maintained on the premises.
- h. Convenience stores: One (1) space for each two hundred (200) square feet of floor area.

- i. Dental and medical offices: One (1) space for each two hundred (200) square feet of floor area.
- j. Eating and drinking establishments: One (1) space for each fifty (50) square feet of customer service or dining floor area or one (1) space for each three (3) persons based on the maximum occupancy at designed capacity, whichever is greater, provided that restaurants with drive-through service shall have eight (8) stacking spaces for each drive-up window with four (4) of such spaces located at the ordering station, and provided that drive-in restaurants shall have at least ten (10) parking spaces. All spaces shall be designed so as not to impede vehicle circulation on-site or on abutting streets.
- k. Furniture, hardware and appliance stores: One (1) space for each four hundred (400) square feet of floor area.
- l. Manufacturing, production, assembly or processing of goods, materials or products:
  - One (1) space for each 1,000 square feet of manufacturing floor area for buildings up to 25,000 square feet in size;
  - One (1) space for every 1,500 square feet of manufacturing floor area for buildings between 25,001 square feet and 100,000 square feet in size;
  - One (1) space for every 2,000 square feet of manufacturing floor area for buildings over 100,000 square feet in size.

Where it can be demonstrated by a business owner or operator that based on a particular building floor plan or the operating characteristics of a particular facility that the number of parking spaces required under subsection l. would be excessive, the code official may approve a reduction in the number of parking spaces otherwise required under this subsection when in his or her discretion such reduction would maintain the intent and purpose of these regulations and would not harm public health and safety by causing vehicles to overflow on to adjacent public streets or property. The code official shall have the discretion to require the applicant to reserve or set aside an area on the site equal in size to the area of land needed to provide the number of parking spaces otherwise required. Such area shall be suitable for development of a future parking facility should the conditions which provided the basis for the reduction change.
- m. Mini-warehouses: One (1) space for each ten (10) storage cubicles, equally distributed throughout the storage area and designed such that access drives have sufficient width to allow vehicles to both unload and pass, plus two (2) spaces at the business office for use by the staff and prospective clients.
- n. Mortuaries and funeral homes: One (1) space for each four (4) seats in the parlor plus one (1) space for each employee and vehicle on the premises.
- o. Motor vehicle showrooms and sales facilities, including car, mobile home and recreational vehicle lots: One (1) space for each four hundred (400) square feet of floor area plus one (1) space for each three thousand (3,000) square feet of open lot area devoted to the display of vehicles for sale or rent.
- p. Retail stores: One (1) space for each two hundred fifty (250) square feet of floor area.
- q. Theaters: One (1) space for each four (4) seats.
- r. Warehouse, storage and wholesale establishments: One (1) space for each two thousand (2,000) square feet of floor area or one (1) space for every two (2) employees, whichever is greater.

(3) *Other uses:*

- a. Auditoriums, gymnasiums and other places of assembly: One (1) space for each three (3) persons or seats based upon the maximum designed seating capacity.
- b. Churches: One (1) space for each four (4) seats in the sanctuary or largest assembly room.
- c. Hospitals: One (1) space for each bed, plus one (1) space for each two (2) employees (other than doctors) and one (1) space for each doctor assigned to the staff.
- d. Nursing and convalescent homes: Six (6) spaces for the first three thousand (3,000) square feet of gross floor area and one (1) space for each additional one thousand (1,000) square feet with a minimum of six (6) spaces per establishment.
- e. Primary and intermediate schools, nursery schools and group day care centers, public or private: One (1) space for each faculty member and other employee or two (2) spaces per classroom, whichever is greater.
- f. Private clubs and lodges: One (1) space for each three (3) persons based on the maximum designed capacity.
- g. Secondary schools, public or private: One (1) space for each faculty member and other employee plus one (1) space for each eight (8) students.
- h. Swimming pools and clubs: One (1) space for each fifty (50) square feet of water area.
- i. Trade and business schools: One (1) space for each faculty member and other employee plus one (1) space for each three (3) students.
- j. Other permitted or special uses not listed above:

Spaces shall be provided in accordance with the determination of the code official with respect to the number of spaces required to serve employees and/or customers.

**Section 4. Modification of required spaces.**

- (a) A request may be made for a reduction in the number of off-street parking spaces otherwise required by these regulations. Such requests shall be accompanied by data supporting reduced parking demand for the proposed uses. The board of zoning appeals may approve a reduction upon finding that: (1) an adequate number of vacant parking spaces will be available at all times other than peak hours during peak seasons of use; (2) traffic circulation in the driving aisles will not become congested by motorists searching for a vacant space; and (3) parking cars will not overflow into adjacent streets.
- (b) In addition, business and professional offices, dental and medical offices, eating and drinking establishments, furniture, hardware and appliance stores or retail stores shall not provide excessive parking. The number of parking spaces provided shall not exceed the requirement set out in these regulations by more than twenty-five (25) percent without approval by the board of zoning appeals. Applicants requesting to exceed this limitation shall provide data justifying the need for additional parking.

**DIVISION 2. OFF-STREET LOADING**

**Section 1. Applicability.**

In any zoning district, all structures built and all uses established hereafter, shall provide accessory off-street loading spaces. When an existing structure is expanded, accessory off-street loading spaces shall be provided in accordance with the regulations of this division for the area of such expansion.

**Section 2. Standards for required off-street loading.**

- (a) *Location.* All required loading spaces or berths shall be located on the same lot as the use served. No permitted or required loading space or berth shall be located within forty (40) feet of the nearest point of intersection of any two (2) streets or highways.
- (b) *Area.* Unless otherwise specified, a required off-street loading space or berth shall be ten (10) feet in width by at least twenty-five (25) feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least fourteen (14) feet.
- (c) *Access.* Each required off-street loading space or berth shall be designated with appropriate means of vehicular access to a street, highway or alley in a manner which will least interfere with traffic movement.
- (d) *Surfacing.* All open off-street loading shall be improved with a compacted select gravel base, not less than four (4) inches thick, surfaced with an all-weather, dust-free material constructed of concrete, asphalt, prime and seal or a combination thereof.
- (e) *Repair and service.* No motor vehicle repair work or service of any kind shall be permitted in conjunction with any off-street loading facilities.
- (f) *Utilization.* Space allocated for any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- (g) *Minimum facilities.* Uses for which off-street loading facilities are required by this section but which are located in buildings that have a floor area that is less than the minimum above which off-street loading facilities are required, shall be provided with adequate receiving facilities, accessible by motor vehicle, from any adjacent alley, service drive, or open space on the same lot.

**Section 3. Off-street loading berth requirements.**

- (a) On the same lot with every building, or part thereof, erected hereafter in any commercial or industrial district, there shall be provided on the lot adequate space for motor vehicles to load and unload in order to avoid interference with the public streets or alleys. Such space shall include the following minimum off-street loading spaces:
  - (1) For banks, medical and dental clinics, and business and professional offices: one (1) loading berth shall be provided for each building that contains three thousand (3,000) to one hundred thousand (100,000) square feet of gross floor area, and for each additional one hundred thousand (100,000) square feet of gross floor area or fraction thereof up to five hundred thousand (500,000) square feet, one (1) additional loading berth shall be provided, plus one (1) additional loading berth for each additional five hundred thousand (500,000) square feet of gross floor area, or any fraction thereof, in excess of five hundred thousand (500,000) square feet.
  - (2) For amusement establishments, bowling alleys, pool halls, dance halls, gymnasiums, indoor and outdoor theatres, swimming pools, skating rinks and other similar amusement establishments: one (1) loading berth shall be provided for each building that contains three thousand (3,000) to one hundred thousand (100,000) square feet of gross floor area, and for each additional one hundred thousand (100,000) square feet of gross floor area, or any fraction thereof, one (1) additional loading berth shall be provided.
  - (3) For hotels and motels, meeting halls, service and fraternal clubs and lodges, funeral parlors and mortuaries: one (1) loading berth shall be provided for buildings containing three thousand (3,000) to one hundred fifty thousand (150,000) square feet of gross floor area, plus one (1) additional loading berth for each additional one hundred fifty thousand (150,000) square feet of gross floor area, or fraction thereof. Each such loading berth for buildings in excess of twenty thousand (20,000) square feet of gross floor area shall not be

less than ten (10) feet in width by sixty (60) feet in length.

- (4) For all other uses in the C-1 through C-5 districts, except mini-warehouses which require none, loading facilities shall be provided in accordance with the following table:

Gross Floor Area of Structure in Square Feet	Required Number and Size of Loading Berths
3,000 to 9,999	1 (10 feet by 25 feet each)
10,000 to 24,999	2 (10 feet by 25 feet each)
25,000 to 39,999	2 (10 feet by 60 feet each)
40,000 to 100,000	3 (10 feet by 60 feet each)

For each additional two hundred thousand (200,000) square feet of gross floor area, or any fraction thereof, over one hundred thousand (100,000) square feet of gross floor area, one (1) additional loading berth shall be provided. Each such additional loading berth shall be at least ten (10) feet in width by sixty (60) feet in length.

- (5) For all uses in the I-1 and I-2 industrial districts, except mini-warehouses which require none, loading facilities shall be provided in accordance with the following table:

Gross Floor Area of Structure in Square Feet	Required Number and Size of Loading Berths
3,000 to 9,999	1 (10 feet by 25 feet each)
10,000 to 39,999	1 (10 feet by 60 feet each)
40,000 to 100,000	2 (10 feet by 60 feet each)

For each additional one hundred thousand (100,000) square feet of gross floor area, or any fraction thereof, one (1) additional loading berth shall be provided. Each such additional berth shall be at least ten (10) feet in width and sixty (60) feet in length.

## ARTICLE XI. NONCONFORMING USES, BULK AND SIGNS

### Section 1. Applicability.

This article applies only to lots, buildings, structures, signs and non-building uses in existence at the time of the adoption of these regulations. The lawful use of any premises existing prior to the adoption of these regulations may be continued as hereinafter provided although neither such use nor bulk conforms to these regulations.

### Section 2. Nonconforming lots of record.

#### (a) *In residential districts:*

- (1) In any residential district, notwithstanding the regulations imposed by any other provision of these regulations, a single-family, detached dwelling which complies with the restrictions in subsection (a) (2) may be erected on a lot that is not less than twenty-five (25) feet in width and that consists entirely of a tract of land that:
  - a. Has less than the prescribed minimum lot area, width or depth, or all three (3); and that
  - b. Is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning ordinance; and
  - c. 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.
- (2) Construction permitted by subsection (a) (1) shall comply with all of the regulations (except lot area, width and depth) applicable to single-family dwellings in the zoning district in which the lot in question is located; provided, however, that the following side yard requirements shall apply in place of the side yard requirements otherwise applicable:
  - a. The dwelling shall be placed on the lot so as to provide a yard on each side of the dwelling.
  - b. The sum of the widths of the two (2) side yards on each lot shall be not less than the smaller of:
    1. Twenty-five (25) percent of the width of the lot; or
    2. The minimum total for both side yards prescribed by the bulk regulations for said zoning district.
  - c. No side yard shall be less than ten (10) percent of the width of the lot, and in no case less than three (3) feet.

#### (b) *In districts other than residential districts:*

- (1) In any district other than a residential district, notwithstanding the regulations imposed by any other provision of these regulations, a building designed for any permitted use may be erected on a lot of the type described in subsection (a).
- (2) Construction permitted by subsection (b) (1) shall comply with all of the regulations (except lot area, width and depth) applicable in the zoning district in which the lot in question is located; provided, however, that the width of any side yard need not be greater than that derived by applying the following formula (wherein the width of any side yard required = x):

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

**Section 3. Nonconforming structures.**

- (a) *Authority to continue.* Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions in subsection (b) through (d).
- (b) *Enlargement, repair, alterations.* Normal maintenance and repairs, structural alterations, enlargement, or remodeling of a building or structure with nonconforming bulk is permitted if the same does not increase the degree of existing nonconformity or create any new nonconforming bulk in such building or structure, except that as to structures located on a lot that does not comply with the applicable lot size requirement, the side yard requirements shall be determined by Section 2(a) (2) or (b) (2), whichever is applicable.
- (c) *Damage or destruction.* No buildings or structures occupied by a nonconforming use or nonconforming as to bulk, destroyed or damaged by fire or other causes to the extent of fifty (50) percent or more of last full value as shown by the assessor's records, excluding the assessed valuation of the land, shall be repaired or rebuilt except in conformity with these regulations, provided that structures located on a lot that does not comply with the applicable lot size requirements shall not in any event be required to provide a side yard that exceeds the yard requirements in Section 2(a) (2) or (b) (2), whichever is applicable. Any building, structure or any part thereof occupied by a nonconforming use or nonconforming as to bulk which is damaged to an extent less than fifty (50) percent of last full value as shown by the assessor's records, excluding the assessed valuation of the land, may be repaired or restored and substantial reconstruction is undertaken within one (1) year after such damage and is diligently pursued to completion. Otherwise such building, structure or part thereof shall thereafter be occupied only by a conforming use, and shall conform to the bulk requirements of these regulations.
- (d) *Moving.* No structure described in subsection (a) shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

**Section 4. Nonconforming uses.**

- (a) *Authority to continue.* Any lawfully existing nonconforming use or part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use of land, may be continued, so long as otherwise lawful, subject to the regulations contained in subsections (b) through (i) and Section 3(d).
- (b) *Repair, maintenance and remodeling:*
  - (1) Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use; provided, however, that it does not extend the nonconforming use or violate any other provisions of this article.
  - (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 (where such restoration will not be in violation of any other provision of this article).

- (3) No structure that is devoted in whole or in part to a nonconforming use shall be remodeled unless the entire structure and use thereof shall thereafter conform to all regulations of the zoning district in which it is located.
- (c) *Extension or enlargement.* No structure that is devoted in whole or in part to a nonconforming use shall be extended, expanded, enlarged or added to in any manner unless such structure and the use thereof conform to the regulations of the district in which it is located. Such prohibited activities shall include without being limited to:
  - (1) Extension of such use to any structure or land area other than one occupied by such nonconforming use on May 1, 1994 (or on the effective date of a subsequent amendment hereto that causes 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 occupied by such nonconforming use on May 1, 1994 (or on the effective date of a subsequent amendment hereto that causes such use to become nonconforming); provided, however, that such use may be extended throughout any part of such building or other structure that was lawfully and manifestly designed or arranged for such use on such date.
- (d) *Damage or destruction.* No building or structure occupied by a nonconforming use or nonconforming as to bulk, destroyed or damaged by fire or other causes to the extent of fifty (50) percent or more of last full value as shown by the assessor's records, excluding the assessed valuation of the land, shall be repaired or rebuilt except in conformity with these regulations; provided that structures located on a lot that does not comply with the applicable lot size requirements shall not in any event be required to provide a side yard that exceeds the yard requirements in Section 2(a) (2) or (b) (2), whichever is applicable. Any building, structure or any part thereof occupied by a nonconforming use or nonconforming as to bulk, which is damaged to an extent less than fifty (50) percent of last full value as shown by the assessor's records, excluding the assessed valuation of the land, may be repaired or restored and substantial reconstruction is undertaken within one year after such damage and is diligently pursued to completion. Otherwise such building, structure or part thereof shall thereafter be occupied only by a conforming use, and shall conform to the bulk requirements of these regulations.
- (e) *Moving.* No structure that is devoted in whole or in part to a nonconforming use, shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. No nonconforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless such use shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.
- (f) *Change in use.* If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of a more restricted classification. A nonconforming use, if changed to a conforming use or a more restrictive nonconforming use, may not thereafter be changed back to a less restricted use than that to which it was changed.
- (g) *Abandonment or discontinuance:*
  - (1) When a nonconforming use of land, not involving a structure, or involving only a structure which is accessory to the nonconforming use of land, is discontinued or abandoned, for a period of twelve (12) consecutive months (regardless of any reservation of an intent not to

abandon or to resume such use), such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

- (2) When a nonconforming use of a part or all of a structure which was designed and intended for a use which is permitted in the zoning district in which such structure is located, regardless of how it was originally used or is presently being used, is discontinued or abandoned for a period of twelve (12) consecutive months (regardless of any reservation of intent not to abandon or to resume such use), such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such structure shall comply with the regulations of the zoning district in which such structure is located.
  - (3) When a nonconforming use of a part or all of a structure which was not designed and intended for any use which is permitted in the zoning district in which such structure is located, regardless of how it was originally used or is presently being used, is discontinued or abandoned for a period of twenty-four (24) consecutive months (regardless of any reservation of an intent not to abandon or to resume such use), such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such structure shall comply with the regulations of the zoning district in which such structure is located.
- (h) *Nonconforming accessory uses.* No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.
- (i) *Nonconforming residential uses.* Notwithstanding the provisions of subsections (b) and (c), any structure which is devoted to a residential use and which is located in a commercial or industrial district, may be remodeled, extended, expanded and enlarged; provided that after any such remodeling, extension, expansion or enlargement, such structure shall not be used to accommodate a greater number of dwelling or lodging units than such structure accommodated prior to any such work.
- (j) *Status of newly created nonconforming uses.* Notwithstanding the provisions of subsections (c) and (d), any structure which is devoted in whole or in part to a use which is made nonconforming by the enactment of these regulations, may be remodeled, extended, expanded, enlarged, repaired, or rebuilt; provided, however that the provisions of this section apply only to the use which existed on the adoption of these regulations.

#### **Section 5. Status of special and conditional uses.**

- (a) *Status of existing special uses.* Where a use exists on the adoption of these regulations, and was permitted only as a special use in the zoning district in which it is located, such use shall not be deemed to be a nonconforming use, but shall, without further action, be deemed a lawful conforming use in such zoning district.
- (b) *Status of future conditional uses.* Any use for which a conditional use permit has been issued as provided in Article VI of these regulations shall not be deemed to be a nonconforming use, but shall, without further action, be deemed a lawful conforming use.

#### **Section 6. Nonconforming signs.**

- (a) *When deemed nonconforming; exception.* All existing signs which are not specifically permitted or which do not comply with all of the provisions of these regulations for the zoning district in which they are located as of the adoption of these regulations, shall be considered nonconforming signs. Provided, however, theatre marquee signs in existence on the adoption of these regulations, and located in the C-1 district shall be deemed lawfully conforming signs, except for requirements pertaining to safety, structural integrity, and maintenance and shall not be subject to the abandonment requirements set forth in Article IX, Div. 1, Sec. 10.

- (b) *Repairs and damage.* Nonconforming signs may not, after the adoption of these regulations, be enlarged, structurally altered or extended unless such sign shall be made to comply with all of the provisions of these regulations, except that normal repairs and repainting of nonconforming signs are permitted. When a permanent nonconforming sign is destroyed or damaged by any means to the extent of fifty (50) percent or more of its present day replacement value, it shall not thereafter be restored unless such sign shall be made to conform to all of the provisions of these regulations.
- (c) *Removal of nonconforming signs.* Any sign that does not conform to the sign regulations for the zoning district in which it is located shall be removed in accordance with the following schedule:
- (1) A sign having a total area of thirty-two (32) square feet or less which is located in any residential district shall be removed within two (2) years from the date such sign became nonconforming with respect to these regulations.
  - (2) All other signs located in any residential district shall be removed within four (4) years from the date such sign became nonconforming with respect to these regulations.
- (d) *Nonconforming open storage yards, outdoor display or junk yards.* Any nonconforming open storage yard, outdoor display or junk yard or any other nonconforming uses of land, not involving a structure or involving only structures which are accessory to such use of land shall be discontinued or made to conform to the regulations of the zoning district in which located within two (2) years from the date such use became nonconforming with respect to these regulations. However, no such use shall be required to terminate if within the period it shall be located within a completely enclosed building or surrounded by a solid fence screening the stored goods or materials from general view.

## ARTICLE XII. ADMINISTRATIVE PROVISIONS

### DIVISION 1. ENFORCEMENT, VIOLATION AND PENALTY, FEES

#### Section 1. Enforcement.

(a) *Enforcement officer.* These regulations shall be enforced by the code official who shall be appointed by the city manager and who shall be authorized to expend such funds, employ deputies and clerical assistants, and to carry out his duties under these regulations as shall be approved from time to time by the city as follows:

- (1) Approve and issue all zoning and occupancy certificates and make and maintain records thereof;
- (2) Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of these regulations;
- (3) Receive, file and forward to the board of zoning appeals the records of all appeals and all applications for variances;
- (4) Maintain permanent and current records of the zoning regulations, including but not limited to, all zoning maps, amendments, conditional uses, variances, appeals and applications thereof and records of hearings thereon;
- (5) Prepare and have available in book, pamphlet or map form, on or before March thirty-first (31<sup>st</sup>) of each year:
  - a. The compiled text of the zoning regulations and amendments thereto, including all amendments adopted through the preceding December thirty-first (31<sup>st</sup>); and
  - b. A zoning map or maps, showing the zoning districts, divisions and classifications in effect on the preceding December thirty-first (31<sup>st</sup>).
- (6) Maintain a supply of copies of the compiled text of the zoning regulations, and the rules of the board of zoning appeals. A fee for each copy shall be charged to defray the cost of printing;
- (7) Provide such clerical, technical and consultative assistance as may be required by the board of zoning appeals and other boards, commissions and officials in the exercise of their duties relating to these regulations;

(b) *Certificates of occupancy granted only in conformance with regulations:*

- (1) *Occupancy certificates.* No structure or addition thereto constructed, built, moved, remodeled or reconstructed after May 1, 1994, shall be occupied or used for any purpose; and no land vacant on May 1, 1994, shall be used for any purpose; and no use of any land or structure shall be changed to any other use, unless an occupancy certificate shall first have been obtained from the office of the code official certifying that the proposed use or occupancy complies with all the provisions of these regulations.

(c) *Occupancy certificate:*

- (1) *Application for occupancy certificate.* Every application for an occupancy certificate for a new or changed use of land or structures shall be filed with the office of the code official and be in such form and contain such information as the code official shall provide by general rule.
- (2) *Issuance of occupancy certificate.* No occupancy certificate for a structure or addition thereto constructed, built, moved, remodeled or reconstructed after May 1, 1994 shall be issued until such work has been completed and the premises inspected and

certified by the office of the code official to be in full and complete compliance with the plans and specifications upon which a building permit was issued. No occupancy certificate for a new use of any structure or land shall be issued until the premises have been inspected and certified by the office of the code official to be in full and complete compliance with all the applicable regulations for the zoning district in which it is located. Pending the issuance of a permanent occupancy certificate, a temporary occupancy certificate may be issued to be valid for a period not to exceed six (6) months from its date pending the completion of any addition or during partial occupancy of the premises. An occupancy certificate shall be issued, or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, within fourteen (14) days after the receipt of an application thereof, or after the office of the code official is notified in writing that the structures or premises are ready for occupancy.

(d) *Plans:*

Each application for a building permit shall be accompanied by a plan in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be erected, and such other information as may be necessary to provide for the enforcement of these zoning regulations. A record of applications and plans shall be kept in the office of the code official.

(e) *Violation and Penalty:*

- (1) The owner or agent of a building or premises in or upon which a violation of any provision of these regulations has been committed or shall exist; or the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist; or the agent, architect, building contractor, or any other person who commits, takes part or assists in any violation, or who maintains any building or premises in or upon which a violation has been committed or shall exist, shall be punished by a fine not to exceed five hundred (\$500) dollars, or by imprisonment for not more than six (6) months for each offense, or by both such fine and imprisonment. Each and every day that such violation continues shall constitute a separate offense.
- (2) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of these zoning regulations, the appropriate authorities of said area, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceedings 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 said building, structure, or land.

(f) *Fees:*

Every application for an occupancy certificate, variance, conditional use permit, or amendment, or the filing of a notice of appeal shall be accompanied by a fee of fifty (\$50) dollars as shall be specified from time to time, by ordinance of the governing body.

## DIVISION 2. BOARD OF ZONING APPEALS

### Section 1. Establishment.

- (a) *Authorization.* The board of zoning appeals for the City of Russell is hereby established in accordance with K.S.A. 12-759.
- (b) *Membership.* The board shall consist of five (5) members who shall be appointed by the mayor with the approval of the governing body. All members shall be residents of the city. None of the members appointed shall hold any other elected or appointed office or position in the city government, except that one member shall be a member of the planning commission.
- (c) *Power and duties.* The board shall have the power to:
- (1) Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the code official in the enforcement of the zoning regulations. The board may reverse or may modify the order, requirement, decision or determination and to that end shall have all the powers of the administrative official from whom the appeal is taken.
  - (2) Authorize in specific cases a variance from the specific terms of these zoning regulations which shall not be contrary to the public interest where, due to special conditions, a literal enforcement of the provisions of the regulations will result in unnecessary hardship for the applicant. The board shall be limited to granting variances on matters including, but not limited to, building height, setbacks, lot size and lot coverage, as provided by the zoning regulations. A request for a variance may be granted after a public hearing upon a finding by the board that all of the following conditions have been met:
    - a. The variance requested arises from such 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 an action or actions of the property owner or applicant.
    - b. The granting of the permit for variance will not adversely affect the rights of adjacent property owners or residents.
    - c. The strict application of the provisions of the zoning regulations from which the variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.
    - d. The variance requested will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
    - e. Granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.
  - (3) In permitting a variance, the board may impose appropriate conditions and safeguards including, but not limited to, planting screens, fencing, construction commencement and completion dates, lighting, road access restrictions, parking requirements or any other requirement which the board deems appropriate under the circumstances, upon a finding that they are necessary to fulfill the purpose and intent of the zoning regulations.
  - (4) The board is not authorized to issue the following types of variances:
    - a. A variance which would allow a use not otherwise permitted in the zoning district.
    - b. A variance to a zoning ordinance definition.
    - c. A variance to expand or enlarge a nonconforming use.

- d. A variance that would increase residential density above the maximum allowed in a zoning district.
- e. A variance that would create a zero lot line setback.
- f. A variance to the owner of a substandard lot where such lot was created in violation of the zoning regulations.
- g. A variance that would increase the number of permitted signs on a zoning lot.

(d) *Commencement of proceeding before the board.*

(1) *Appeals.*

- a. By whom: Appeals to the board may be taken by any person aggrieved, or by any officer, department, or board of the city, or any governmental agency or body affected by any decision or interpretation of the code official. Such appeal shall be filed with the secretary of the board within thirty (30) days from the date of the decision by the code official and such appeal shall specify, in writing, the grounds for appeal of the code official's decision. The code official, when notified by the board of zoning appeals, shall transmit to the board all the papers constituting the record upon which the action appealed from was taken, within the time period established by the rules of the board.
- b. Effect of appeal: An appeal stays all proceedings in furtherance of the action appealed from, including a permittee's right to proceed with development or other activities under a building permit, the issuance of which is a subject of the appeal.

(2) *Variances.* Any person may apply to the board for a variance by filing an application with the secretary of the board. The application shall include the following:

- a. The name, address, telephone number and signature of the property owner and applicant.
- b. The name and address of the architect, professional engineer or contractor, if any.
- c. A site plan of the property showing the following:
  - 1. Property lines of the subject property.
  - 2. Size and location of existing structures and the distance between all existing and proposed structures on the property.
  - 3. Setbacks for all existing and proposed structures on the property.
  - 4. Any other dimension and/or information that may be relevant to the request.
- d. A survey or verification that property and structure dimensions on the site plan are correct.
- e. The names and addresses of the record owners of all property located within two hundred (200) feet or one thousand (1,000) feet if adjacent to the City limits of the property in question.
- f. A narrative statement of how the statutory requirements in K.S.A. 12-759(e), as amended are met.

(3) *Representation.* An applicant must appear in person at the public hearing, or be represented by an agent or attorney, in order for the board to act on the application.

(e) *Written decisions.* The board shall render its decision and findings in writing within thirty (30) days of the conclusion of the hearing. Decisions shall be filed in a public office designated by the governing body and shall be a public record.

- (f) *Dissatisfaction with the determination of the board.* Any person, official or governmental body dissatisfied with any order or determination of the board of zoning appeals may bring an action in district court to determine the reasonableness of any such order or determination.

**Section 2. Administrative variance.**

- (a) *Authorization.* If an applicant's variance request is within ten (10) percent of the municipal requirements of the zoning regulations, the applicant may apply for an administrative variance from the code official. In order to grant such a variance, the code official shall use the same criteria as the board of zoning appeals. The applicant must demonstrate that his application satisfies the statutory requirements of K.S.A. 12-759, and in addition, an administrative variance can only be granted with the consent of adjoining property owners.
- (b) *Application procedure.* An application for an administrative variance shall be filed with the office of the code official. The application submission requirements shall be the same as for a variance request to the board of zoning appeals, with the following additional requirements:
- (1) After a completed application is submitted, the code official shall prepare a signature sheet and map of adjoining properties for the applicant.
  - (2) The applicant must obtain the signatures of all property owners listed on the sheet.
  - (3) After return of the completed signature sheet, the code official may issue a certificate for an administrative variance if it meets the required statutory conditions.
- (c) *Appeals to the board of zoning appeals.* If an adjoining property owner refuses to sign the signature sheet or if the code official refuses to grant an administrative variance request, the applicant may still make application to the board of zoning appeals for the variance.

## **DIVISION 3. PLANNING COMMISSION**

**Section 1. Establishment.**

- (a) *Authorization.* The planning commission for the City of Russell is hereby established in accordance with K.S.A. 12-744.
- (b) *Membership.* The board shall consist of five (5) members who shall be appointed by the mayor with the approval of the governing body. All members shall be residents of the city. None of the members appointed shall hold any other elected or appointed office or position in the city government.

**Section 2. Power and duties.**

- (a) The Governing Body may, from time to time, amend, supplement, or change the district boundaries or regulations contained in these regulations. A proposal for an amendment or a change in zoning may be initiated by the governing body or by the planning commission or upon application of the owner of the property affected. All such proposed changes shall first be submitted to the planning commission for public hearing, recommendation and report. The planning commission shall hold a public hearing thereon and shall cause an accurate, written summary to be made of the proceedings.

**Section 3. Conditional use permits.**

- (a) *Authorization.* It is recognized that certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a zoning district and may possess characteristics of such unique and special nature relative to location, design, size, method of operation, circulation and public facilities that each specific use must be considered individually. Therefore, the planning commission may authorize, as an exception to the provisions of these

regulations, the establishment of those conditional uses that are expressly authorized to be permitted as a conditional use in a particular zoning district or in one or more zoning districts. No conditional use shall be authorized as an exception to these regulations unless the planning commission is specifically authorized by these regulations to grant such conditional use and unless such grant complies with all the applicable provisions of these regulations.

(b) *Application for conditional use permit.* An application for a conditional use permit shall be filed with the office of the code official who shall forward a copy to the secretary of the planning commission. The application shall contain the following information:

- (1) The name, address, telephone number and signature of the property owner and applicant.
- (2) The name and address of the architect, professional engineer or contractor, if any.
- (3) Description of existing use and/or zoning.
- (4) A narrative description of the proposed conditional use.
- (5) A site plan of the property showing the following:
  - a. Property lines and building setbacks of the subject property.
  - b. Size and location of all existing and proposed structures on the property.
  - c. Parking and loading areas.
  - d. Vehicular access and circulation.
  - e. Existing and proposed signs.
  - f. Refuse and service areas.
  - g. Utilities and drainage ways.
  - h. Open spaces, landscaping, screening and fencing.
  - i. Such other information as the planning commission may require to determine if the proposed conditional use meets the intent and requirements of these regulations.
- (6) A survey or verification that property and structure dimensions on the site plan are correct.
- (7) The names and addresses of the record owners of all property located within two hundred (200) feet or one thousand (1,000) feet if adjacent to the City limits of the property in question.

(c) *Hearing on conditional use permits.* A public hearing on the conditional use permit application shall be held and notice thereof given as provided in Article II, Section 4 of these regulations.

- (1) *Review.* The planning commission shall review all applicable evidence regarding the site, existing and proposed structures, neighboring uses, parking areas, driveway locations, street access, traffic generation and circulation, utilities, drainage, the proposed operation and such other evidence as deemed appropriate.
- (2) *Standards.* The planning commission shall not grant a conditional use permit unless it shall, in each specified case, make specific written findings of fact directly based upon the particular evidence presented to it, that support all of the following conclusions:
  - a. The proposed conditional use complies with all applicable regulations of these provisions, including lot size requirements, bulk regulations, use limitations, and performance standards;
  - b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public;
  - c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located;

- d. The location and size of the conditional use, the nature and intensity of the operation involved or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
1. The location, nature and height of buildings, structures, walls and fences on the site; and
  2. The nature and extent of landscaping and screening on the site.
- e. Off-street parking and loading areas will be provided in accordance with the standards set forth in Article X of 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;
- f. Adequate utility, drainage, and other such necessary facilities have been or will be provided;
- g. 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.
- (3) *Conditions.* In granting a conditional use permit, the commission may impose appropriate conditions and safeguards including but not limited to planting screens, fencing, construction commencement and completion dates, lighting, operational controls, duration of a use, improved traffic circulation, access restrictions, parking requirements, drainage facilities or any other requirement which the commission deems appropriate upon a finding that they are necessary to fulfill the purpose and intent of these regulations.
- (d) *Appeal to city governing body.* An applicant who is dissatisfied with the decision of the planning commission may appeal the decision to the governing body, provided the appeal is submitted in writing to the office of the code official within fourteen (14) days from the planning commission's action. Upon receipt of an appeal from the action of the planning commission, the governing body shall set a hearing date to consider all information, testimony and minutes of the planning commission's public hearing to reach a decision on the applicant's request. The governing body may affirm the decision or return the application to the planning commission for further consideration together with a statement specifying the basis for their disagreement. Upon receipt of a second decision from the planning commission, the governing body may affirm, modify or overrule the decision of the planning commission. The governing body shall overrule the planning commission by a favorable vote of a majority vote of the full governing body.
- (e) *Protest.* Affected property owners shall have the same right to present a protest petition to the city governing body as property owners in rezoning cases. The protest procedure shall be as provided in Article II, Section 6 (b) of these regulations.
- (f) *Period of validity.* No conditional use permit granted by the planning commission shall be valid for a period longer than one hundred eighty (180) days from the date in which the planning commission grants the conditional use, unless within such one hundred eighty (180) day period:
- (1) A building permit is obtained and the erection or alteration of a structure is started; or
  - (2) An occupancy permit is obtained and a use commenced.
- The planning commission may grant one extension not exceeding one hundred eighty (180) days, upon written application, without notice or hearing.

## DIVISION 4. INTERPRETATION

### Section 1. Interpretation, conflict and separability.

- (a) *Interpretation.* In their interpretation and application, the provisions of these regulations shall be considered to be the minimum requirements for the protection and promotion of the public health, safety and welfare.
- (b) *Conflict with public and private provisions:*
- (1) *Public provisions.* The provisions of these regulations are not intended to interfere with, abrogate or annul any other law, ordinance, resolution, rule or regulation; where any provision of these regulations imposes restrictions different from those imposed by any other statute, ordinance, resolution, rule, regulation or other provision of law, whichever provisions are more restrictive, or impose higher standards, shall control.
  - (2) *Private provisions.* These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement or restriction, provided, however, that where these regulations are more restrictive or imposes higher standards or requirements than such easements, covenants, private agreements or restrictions, the requirements of these regulations shall govern.
- (c) *Separability.* If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or its application to other persons or circumstances. The city hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application.

### Section 2. Savings provision.

These regulations shall not be construed as abating any action now pending under prior existing zoning regulations, or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting the liability of any person or as waiving any rights of the city under any provision existing on the date of adoption of these regulations or as vacating or annulling any rights obtained by any person by lawful action of the city, except as shall be expressly provided for in these regulations.

## **ARTICLE XIII. ADDITIONAL HEIGHT, AREA AND USE REGULATIONS**

### **Section 1. Qualifications and Supplementations to District Regulations.**

The regulations hereinafter set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in these regulations.

- (a) Chimneys, cooling towers, elevator head houses, fire towers, grain elevators, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers and spires, church steeples, radio and television towers, or necessary mechanical appurtenances, which do not conflict with airport approach zones, may be erected to a height not to exceed one hundred fifty (150) feet.
- (b) The setback line for yard requirements shall be determined by measuring the horizontal distance from the property line to the nearest architectural projection of the building.
- (c) Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the code official for a distance of not more than three-and-one-half (3-1/2) feet provided the same are so placed as not to obstruct light and ventilation.
- (d) For the purpose of the side yard regulations, a two-family dwelling or a multiple-family dwelling shall be considered as one building occupying one lot.
- (e) No side yards are required where dwelling units are erected above commercial structures.
- (f) The front, side, and rear yard requirements shall not apply to the interior walls of dwelling units established under the Kansas Apartment Ownership Act or under the Kansas Townhouse Ownership Act.
- (g) Every building hereafter erected or moved shall be on a lot adjacent to a public street or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.
- (h) Major recreational equipment such as boats, boat trailers, fifth wheels, travel trailers, pick-up campers or coaches, camping buses or converted trucks, and tent trailers shall not be stored in a residential district except within an enclosed building, or behind the front setback line, or in the side yard.
  - (1) On a corner lot such equipment shall be kept back of the front setback lines on both street sides.
  - (2) No such recreational equipment shall be utilized for living, sleeping or housekeeping purposes when parked on a residential lot or in any location not approved for such use.
- (i) Conversion of a two-family or multiple-family structure to individually owned single-family dwelling units may be permitted subject to the requirements of the Subdivision Regulations and to the following:
  - (1) An application for such unit conversion shall be filed for review and comment by city staff and the planning commission and approval by the governing body. Such application shall be accompanied by the following information as a minimum:
    - a. A plot plan showing site and structure arrangements and proposed re-platting.
    - b. A full legal description of the subject property, including legal descriptions of proposed individual properties after re-platting.
    - c. A description of proposed structural and utility alterations to provide for

individual services and maintenance.

- d. A description of proposed public access patterns, both vehicular and pedestrian.
  - e. A copy of protective covenants which shall be written to run with the land in which shall be specified methods for providing for maintenance of shared property and/or easements, responsibilities for shared expenses, and continued use of the property for specified purposes. Such covenants shall be written to provide for the long-term maintenance and use of the premises for residential purposes only, within the overall context of neighborhood development.
  - f. Any other supplementary information as may be required to assess short and long term neighborhood impacts associated with the proposed conversion.
- (2) The applicant for unit conversion shall submit with his application a consent agreement signed by seventy-five (75) percent of all owners of property within two hundred (200) feet of the premises whereon the unit conversion is proposed.
  - (3) Where a two-family or multiple-family structure is converted to individually owned, single-family dwelling units, a separation of utility service lines is required from each individually owned, single-family dwelling unit to a public utility line or to a utility line, private well, septic system, or lagoon which is located in an area of a lot or building that is owned by or accessible to a party legally responsible for maintenance of utility lines or systems on behalf of the owners of each converted single-family dwelling unit.
  - (4) The planning commission and governing body shall not approve an application for conversion from a two-family or multiple-family structure to individually-owned, single-family dwelling units where it is determined that an existing or proposed utility service line, private well, septic system, or lagoon exists or is proposed to exist in an area where the maintenance of said utility line would require entry into an individually-owned dwelling unit.
  - (5) All conversions of two-family or multiple-family structures to individually-owned, single-family dwelling units are subject to all applicable City codes, including building permit application and inspection procedures.
  - (6) The above procedures and regulations are applicable even where the conversion does not require new construction.
  - (7) After reviewing a conversion application against all applicable City codes, the code official shall report to the planning commission and governing body all details of non-compliance with City codes.

## ARTICLE XIV. AIRPORT HEIGHT & HAZARD REGULATIONS

### Section 1. Short Title.

This Article shall be known and may be cited as the Russell Municipal Airport Height and Hazard Zoning Regulations and Airport Hazard Overlay District. (Ord. No. 1834)

### Section 2. Definitions.

- (1) *ABANDONMENT* – Any item which has ceased to be used for its designed and intended purpose. The factors used in determining whether or not an item has been abandoned, include but are not limited to the following: (1) Present operability and functional utility of the item; (2) the date of last effective use of the item; (3) the condition of disrepair or damage; (4) the last time an effort was made to repair or rehabilitate the item; (5) the status of registration or licensing of the item; (6) the age and degree of obsolescence; (7) the cost of rehabilitation or repair of the item when compared to its market value; or (8) the nature of the area and location of the item.
- (2) *AIRPORT* - means the Russell Municipal Airport (RSL).
- (3) *AIRPORT ZONING COMMISSION* – means the City of Russell Planning Commission.
- (4) *AIRPORT BOARD OF APPEALS* – means the City of Russell Board of Zoning Appeals appointed by the City Council to serve as the appeals board for these regulations.
- (5) *AIRPORT ELEVATION* - means the highest point of the airport's usable landing area measured in feet above sea level (RSL 1,862 feet above sea level).
- (6) *AIRPORT HAZARD* - means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking-off or permanently raises the published or planned approach minimums at any airport or is otherwise hazardous to such landing or taking-off of aircraft.
- (7) *AIRPORT HAZARD AREA* (Also referred to as the "Airport Hazard Overlay District") - means any area of land or water surrounding the Russell Airport upon which an airport hazard might be established—including any which may permanently raise the published or planned approach minimums of the airport—if not prevented as provided in these regulations and as depicted on the "Airport Hazard Area Graphic" adopted by and made a part of these regulations; and including the FAA Part 77 Civil Airport Imaginary Surfaces, which consist of the Horizontal Surface, Conical Surface, Primary Surface, Approach Surface, Transitional Surface and Precision Approach Surfaces; and the Terminal Instrument Procedures (TERPS) surfaces and the Vertically Guided Approach Surfaces (VGAS) for the airport as referenced on the Kansas Department of Transportation (KDOT) "Kansas Airspace Awareness Tool" at <http://www.ksdot.org/airspaceool>.
- (8) *AIRPORT HAZARD AREA GRAPHIC* - means the map depicting the airspace Airport Airspace Protection Area (see Exhibit A), and made a part hereof.
- (9) *AIRPORT LAYOUT PLAN (ALP)* - means a plan adopted by the City Council that depicts existing airport facilities and proposed developments as determined from the airport planners' review of the aviation activity forecasts, facility requirements, and alternatives analysis.
- (10) *APPROACH MINIMUMS* – means the minimum ceiling or visibility under which an aircraft may be landed with the use of a published approach procedure. It also means planned Non-precision or precision instrument approach minimums so indicated on an approved Airport Layout Plan or any other planning document.
- (11) *APPROACH SURFACE* - means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 4 of these regulations. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

- (12) *CITY COUNCIL* - means the Governing Body for the City of Russell, Kansas.
- (13) *CODE OFFICIAL* (“the Administrator”) – means the administrative staff assigned by the City of Russell to administer these regulations.
- (14) *COUNTY COMMISSION* - means the Governing Body for Russell County, Kansas.
- (15) *CONICAL SURFACE* - means a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty feet horizontally to each foot vertically (20:1) for a horizontal distance of 4,000 feet.
- (16) *CONSTRUCT a MUNICIPAL SOLID WASTE LANDFILL (MSWLF)* – means excavate or grade land, or raise structures, to prepare a municipal solid waste landfill as permitted by the appropriate regulatory or permitting authority.
- (17) *FAA* - means the Federal Aviation Administration.
- (18) *HAZARD TO AIR NAVIGATION* - means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- (19) *HAZARDOUS WILDLIFE* – means species of wildlife (birds, mammals, reptiles), including feral animals and domesticated animals not under control, that are associated with aircraft strike problems, are capable of causing structural damage to airport facilities, or act as attractants to other wildlife that pose a strike hazard.
- (20) *HEIGHT* - means for the purpose of determining the height limits in all zones set forth in these regulations and shown on the Russell Airport Hazard Area Graphic, the datum shall be mean heights as measured from the elevations of RSL Runways 17-35, 3-21, ultimate, unless otherwise specified.
- (21) *HORIZONTAL SURFACE* - means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
- (22) *LARGER THAN UTILITY RUNWAY* - means a runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft (RSL Runways 17-35, 3-21).
- (23) *NONCONFORMING USE* - means any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of these regulations or an amendment thereto.
- (24) *OBSTRUCTION* - means any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 4 of these regulations.
- (25) *PERSON* - means an individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
- (26) *PLANNING COMMISSION* - means the City of Russell Planning Commission that holds public hearings to consider draft Height & Hazard Regulations.
- (27) *PRIMARY SURFACE* - means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in Section 3 of these regulations. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
- (28) *RUNWAY* - means a defined area on an airport prepared for landing and taking-off of aircraft along its length.
- (29) *RUNWAY, NON-PRECISION INSTRUMENT APPROACH* - means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or

area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned. (RSL Runways 17-35, 3-21)

- (30) *RUSSELL AIRPORT* (Russell Municipal Airport RSL) - means the public-use airport owned and operated by the City of Russell, Kansas.
- (31) *RSL* – means the three-letter identifier assigned by the Federal Aviation Administration to the public use airport owned and operated by the City of Russell, Kansas, as a “Location Identifier” for airport navigation aid, weather station, and manned air traffic control facility in air traffic control, telecommunications, computer programming, weather reports, and related services.
- (32) *SOLID WASTE* – means any garbage, or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under PDES regulations.
- (33) *STRUCTURE* - means an object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
- (34) *TERMINAL INSTRUMENT PROCEDURES (TERPS)* - means surfaces that are constructed from the electronic signals transmitted by ground-based and satellite-based air navigation electronic equipment, which are the instrument procedures that aircraft pilots use to fly between airports and land on runways.
- (35) *TRANSITIONAL SURFACES* - means these surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically (7:1) from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.
- (36) *TREE* - means any object of natural growth.
- (37) *VERTICALLY GUIDED APPROACH SURFACES (VGAS)* – means satellite-based approach surfaces which are established to protect Instrument Approach Procedures (IAP) that provide vertical guidance and lower approach minima. Examples of landings systems protected by VGAS include Instrument Landing System (ILS) based approaches and GPS based procedures utilizing a Wide Area Augmentation System (WAAS) with Localizer Performance with Vertical Guidance (LPV); and which can improve airport capacity when ground based systems are out of service, and provide accurate, reliable access to more airports previously not served by precision approaches.
- (38) *WILDLIFE ATTRACTANTS* – means any human-made structure, land-use practice, or human-made or natural geographic feature that can attract or sustain hazardous wildlife within the Airport Hazard Area. These attractants can include architectural features, landscaping, waste disposal sites, wastewater treatment facilities, agricultural or aquaculture activities, surface mining, or wetlands.
- (39) *ZONES: APPROACH, TRANSITIONAL, HORIZONTAL, CONICAL, VGAS and TERPS* - means the zones that are set forth in Section 3 of these regulations.

### Section 3. Airport Zones.

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

- (a) FAR Part 77 Surfaces, sub-Part C Civil Airport Imaginary Surfaces Zones—the Horizontal Surface, Conical Surface, Primary Surface, Approach Surface, and Transitional Surface as designated by the FAA:
  - (1) Runway Larger than Utility with a Visibility Minimum Greater Than 3/4 Mile Non-precision Instrument Approach Zone (34:1) - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (RSL Runways 17-35)
  - (2) Visual Utility Runway - The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 2,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (RSL Runway 3-21 Existing)
  - (3) Utility Runway With A Visibility Minimum at or Greater Than 1-Mile Non-precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (RSL Runway 3-21 Ultimate)
  - (4) Transitional Zone - The transitional zones are the areas beneath the transitional surfaces.
  - (5) Horizontal Zone - The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
  - (6) Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.
- (b) Runway Approach Minimum Zones - The approach zones to the runways, the minimum ceiling or visibility under which an aircraft may be landed with the use of a published approach procedure; and the planned Non-precision or precision instrument approach minimums so indicated on the approved Airport Layout Plan (ALP) or the Airport Hazard Area Graphic, which depicts the Terminal Instrument Procedures (TERPS) surfaces and the Vertically Guided Approach Surfaces (VGAS) for the airport as referenced on the Kansas Department of Transportation (KDOT) “Kansas Airspace Awareness Tool” at <http://www.ksdot.org/airspace/tool>.
- (c) Terminal Instrument Procedures Surface (TERPS) Zones – which can extend 10 nautical miles from a runway, constructed from the electronic signals transmitted by ground and space based air navigation electronic equipment, which instrument procedures aircraft pilots use to fly between airports and land on runways.
- (d) Vertically Guided Approach Surfaces (VGAS) Zones – which provide lower minima for approach procedures that do not rely on ground based navigational systems, including Instrument Landing System (ILS), to improve airport capacity when ground based systems are out of service—for better access to runways with terrain or airspace constraints using curved RNAV legs and narrower protected surfaces; and for improved safety by eliminating circling maneuvers and providing laterally and vertically guided approaches not available through conventional ground-based Navigational Aid (NAVAID) procedures or through existing Area Navigation (RNAV) procedures.

#### **Section 4. Airport Zone Height Limitations.**

Except as otherwise provided in these regulations, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by these regulations to a height in excess of the applicable height herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

- (a) FAR Part 77 Surfaces, sub-Part C Civil Airport Imaginary Surfaces Zones – the Horizontal Surface, Conical Surface, Primary Surface, Approach Surface, and Transitional Surface as designated by the FAA:
  - (1) Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Non-precision Instrument Approach Zone - Slopes thirty-four feet outward for each foot upward (34:1) beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended centerlines of each runway (RSL Runways 17-35).
  - (2) Visual Utility Runway - Slopes 20 feet outward for each foot upward (20:1) beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. (RSL Runway 3-21 Existing).
  - (3) Utility Runway With A Visibility Minimum at or Greater Than 1-Mile Non-precision Instrument Approach Zone - Slopes 20 feet outward for each foot upward (20:1) beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. (RSL Runway 3-21 Ultimate).
  - (4) Transitional Zones - Slope seven feet outward for each foot upward (7:1) beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the elevations each runway. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface of each runway, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.
  - (5) Horizontal Zone - Established at 150 feet above the airport elevation.
  - (6) Conical Zone - Slopes twenty feet outward for each foot upward (20:1) beginning at the periphery of the horizontal zone and at 150 feet above the airport elevations and extending to a height of 350 feet above the airport elevations.
- (b) Runway Approach Minimum Zones - The slopes established by the minimum ceiling or visibility under which an aircraft may be landed with the use of a published approach procedure; and by the planned Non-precision or precision instrument approach minimums so indicated on an approved Airport Layout Plan or any other planning document.
- (c) Terminal Instrument Procedures (TERPS) Surface Zones – The slopes established by the electronic signals transmitted by ground and space based air navigation electronic equipment, which instrument procedures aircraft pilots use to fly between airports and land on runways, and as referenced on the Kansas Department of Transportation (KDOT) “Kansas Airspace Awareness Tool” <http://www.ksdot.org/airspace/tool>.
- (d) Vertically Guided Approach Surfaces (VGAS) Zones – The slopes established by the VGAS approach surfaces longitudinally centered on the extended runway centerline beginning at the runway threshold and extending outward and upward at a slope of 40:1 (2.5%) for a horizontal distance of 20,200 feet. The surface is 2,000 feet wide (1000 feet either side of centerline) at the runway threshold and

expands to a width of 8,000 feet at 10,200 feet from threshold. From 10,200 to 20,200 feet the surface is 8,000 feet wide (4,000 feet either side) and parallel to the runway centerline extended, as referenced on the Kansas Department of Transportation (KDOT) "Kansas Airspace Awareness Tool" <http://www.ksdot.org/airspaceool>.

#### **Section 5. Construction Notice Requirements.**

In order to comply with Section 3, *Airport Zones* and Section 4, *Airport Zone Height Limitations*, this Section is established to require notice of construction or alteration to any object(s) that potentially affects the navigable airspace of the Russell Municipal Airport. An application for a permit that potentially affects the navigable airspace of the Russell Municipal Airport shall be submitted to the code official and must be supplemented by a completed and submitted Federal Aviation Administration (FAA) Form 7460-1 (2-99), *Notice of Proposed Construction or Alteration*.

#### **Section 6. Use Restrictions.**

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

#### **Section 7. Nonconforming Uses.**

These regulations shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to these regulations, or otherwise interfere with the continuance of a legal nonconforming use.

- (a) Regulations Not Retroactive - Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to December 18, 2012 and is diligently prosecuted.
- (b) Marking and Lighting and Tree Trimming - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the code official to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Russell Municipal Airport. In the event of a nonconforming tree, the tree shall be topped, cropped, or trimmed at the expense of the Russell Municipal Airport.
- (c) Nonconforming Uses Abandoned or Destroyed - Whenever the code official determines that a nonconforming tree or structure has been abandoned or more than 51 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow the reconstruction of such abandoned or destroyed nonconforming structure or tree to exceed the applicable height limit or otherwise deviate from these Height and Hazard Regulations; except that, private residences that are not closer than 4,200 feet from the end of a runway in an approach or transitional zone shall be exempt from nonconforming use restrictions.

#### **Section 8. Permits.**

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

- (a) Permits Required When – Permit applications shall be submitted for proposed structures in any of the zones or surfaces except as specifically provided in sub-section 2 hereunder. Each permit application

shall be submitted on forms required by the City to determine whether the resulting use, structure, or tree would conform to these regulations. If such determination is in the affirmative, the permit shall be granted.

- (b) No Permit Required When - No permit shall be required for structures shorter than 75 feet; provided that, in an approach or transitional zone the proposed structure or tree is more than 4,200 feet from the end of a runway; provided further that, this permit exception shall not be construed as permitting any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by these regulations.
- (c) Permit Conditioned on FAA Form 7460-1, "Notice of Construction" - Any proposed construction, alteration or repair requiring a permit must have filed an FAA Form 7460-1 (FAA 77.13 Construction or Alteration Requiring Notice) with the appropriate FAA Regional Office. No construction, alteration or repair work may commence until the determination is received from the FAA and said determination is reviewed by the code official.
- (d) Permit may be Conditioned on Marking or Lighting and Tree Trimming - Any permit or variance granted may be conditioned on a requirement that the owner of the structure or tree in question install, operate, and maintain, at the owner's expense, such markings and lights or tree trimming as may be deemed reasonably necessary to effectuate the purpose of these regulations. If deemed proper by the Russell Planning Commission, this condition may be modified to require the owner to permit the City, at its own expense, to top, crop, or trim the tree or install, operate, and maintain the necessary markings and lights.

#### **Section 9. Administration and Enforcement.**

It shall be the duty of the code official to administer the regulations prescribed herein in consultation with the City Planning Commission. Applications for permits and variances shall be made to the code official upon a form published for that purpose. Applications required by these regulations are to be submitted to the code official shall be promptly granted or denied by the code official. In the event the applying party receives what they determine to be an adverse decision, the party shall have the right to apply to Airport Board of Appeals for review of the decision.

#### **Section 10. Appeals.**

- (a) Who May Appeal - Any person aggrieved, or any taxpayer affected by any decision of the code official may appeal to the Airport Board of Appeals.
- (b) Powers of the Airport Board of Appeals - The Airport Board of Appeals shall have the following powers: (1) to hear and decide appeals from any order, requirement, decision or determination made by the code official in the enforcement of these regulations, (2) to hear and decide special exceptions to the terms of these regulations upon which such Airport Board of Appeals under such regulations may be required to pass; and (3) to hear and decide specific variances. The Board may, in conformity with the provisions of these regulations, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.
- (c) Variances - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use of property, not in accordance with these regulations, may apply to Airport Board of Appeals for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the published or planned approach minimums, operation of air navigation facilities, and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in necessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of these regulations. Additionally, no application for variance to the requirements of these regulations may be considered by the Airport Board of Appeals

unless a copy of the application has been furnished to the City Public Works Director for review and comment. If the code official does not respond to the application for a variance within 14 days after receipt, the Airport Board of Appeals may act on its own to grant or deny said variance application.

- (d) Meetings of the Airport Board of Appeals – Meetings of the Airport Board of Appeals for the purposes of these regulations and the review of any decision by the code official shall be at the regularly scheduled Airport Advisory Board meeting time, unless a special meeting is called. The Airport Board of Appeals shall keep minutes of its proceedings showing 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 immediately be filed in the office of the City Clerk of the City of Russell, Kansas, and on due cause shown.
- (e) Reasonable Time For Rulings – The Airport Board of Appeals shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The code official shall transmit to the Airport Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- (f) Appeal To Stay All Proceedings – An appeal shall stay all proceedings in furtherance of the action appealed from unless the code official certifies to the Airport Board of Appeals, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the code official cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Airport Board of Appeals or notice to the code official and on due cause shown.

#### **Section 11. Review by the Airport Board of Appeals.**

The Airport Board of Appeals shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming or modifying any order, requirement, decision or determination which comes before it under the provisions of these regulations. The concurring vote of a majority of the members of the Airport Board of Appeals shall be sufficient to reverse any order, requirement, decision or determination of the code official or decide in favor of the applicant on any matter upon which it is required to pass under these regulations or to effect variation to these regulations. Any person aggrieved, or any taxpayer affected, by any decision of the Airport Board of Appeals shall be entitled to a judicial review of said decision as set forth below.

#### **Section 12. Judicial Review.**

Any person aggrieved, or any taxpayer affected, by any decision of the Airport Board of Appeals, may appeal to the District Court of Russell County, Kansas, pursuant to Kansas law.

#### **Section 13. Penalties.**

Each violation of these regulations or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by a fine as set by the City Council; and each day a violation continues to exist shall constitute a separate offense.

#### **Section 14. Conflicting Regulations.**

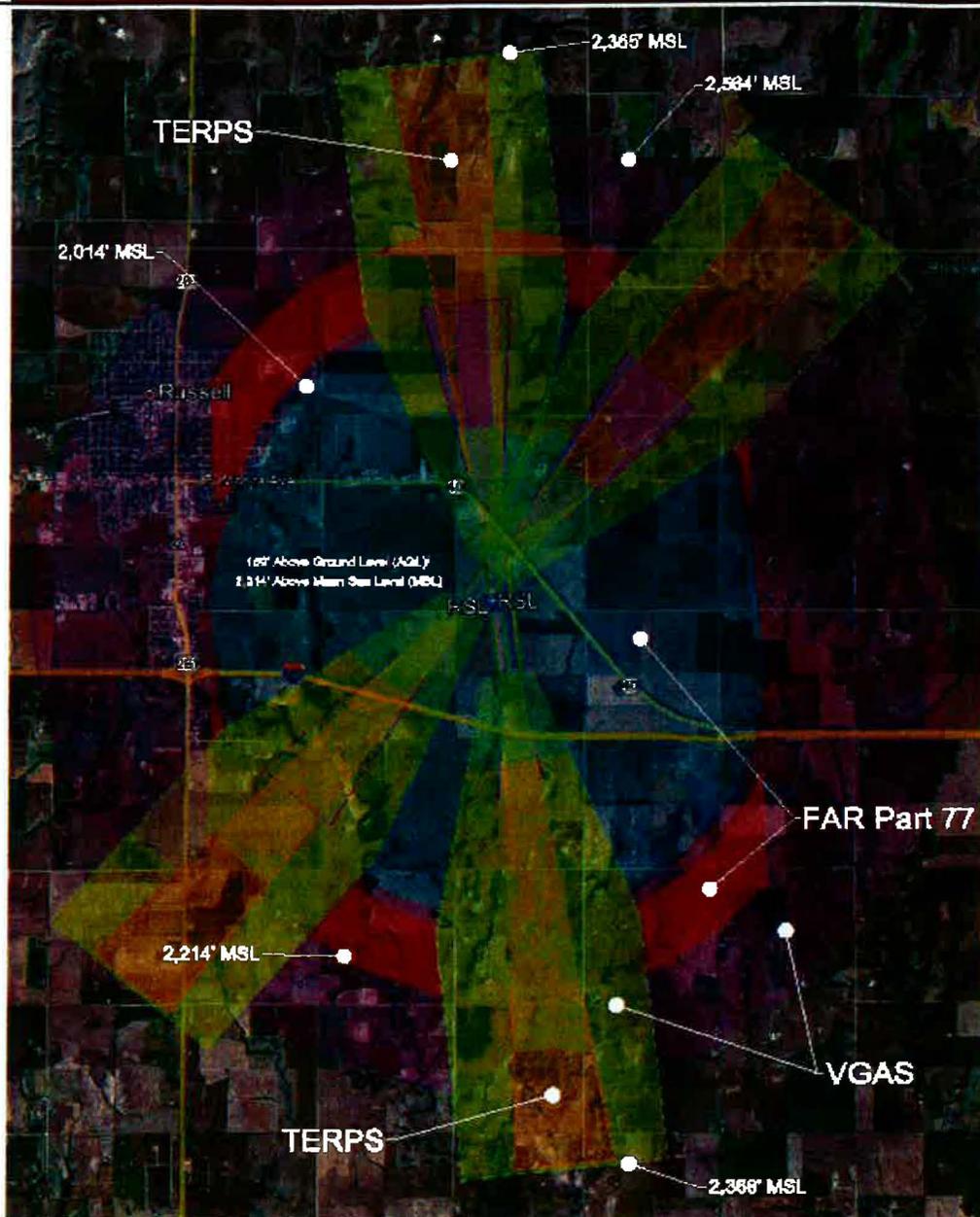
Where there exists a conflict between any of the regulations or limitations prescribed in these regulations and any other regulations applicable to the same area, whether the conflict exists with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

# RUSSELL MUNICIPAL AIRPORT (RSL)

City of Russell, Kansas

## Exhibit A

### Airport Hazard Area Map



#### LEGEND

-  Terminal Instrument Procedures (TERPS) Surfaces
-  Vertically Guided Approach Surfaces (VGAS)
-  FAR Part 77 CMI Airport Imaginary Surfaces

This Exhibit A is a depiction, for illustrative purposes only, of the Airport Hazard Areas adopted by the HEIGHT AND HAZARD REGULATIONS for the Russell Municipal Airport (RSL), as referenced on the Kansas Department of Transportation (KDOT) "Kansas Airspace Awareness Tool" at [www.kdot.org/airawareness](http://www.kdot.org/airawareness). For regulatory purposes, including interpretation and enforcement of locally adopted regulations, the administrator of these regulations should consult the Federal Aviation Administration (FAA), KDOT Aviation Division and the FAA's Obstruction Evaluation/Airport Obstacle Analysis (OEAA) website for administering FAA Part 746B, Notice of Proposed Construction or Alteration, and related enforcement procedures.



Not to Scale

**LOCHNER**

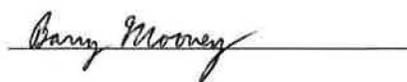
## ARTICLE XV. CERTIFICATE OF APPROVAL

### Section 1.

Zoning Ordinance No. 1591 and all amendments thereto are hereby repealed.

### Section 2.

It is hereby certified that this Zoning Ordinance and the Zoning District Map referred to in these Zoning Regulations were duly approved by the Planning Commission on the 8th day of January, 2015.



Barry Mooney, Secretary



Doug Meyer, Chairperson

### Section 3.

This Ordinance shall become effective upon its publication by reference once in the official city newspaper.

Passed this 17th day of February, 2015.

Attest:



Katrina Woelk, City Clerk



Raymond C. Mader, Mayor

**STATUTORY REFERENCE TABLE  
(ZONING REGULATIONS)**

This table shows the location within these regulations, either in the text or notes following the text, of references to the state law or related matters.

<b>K.S.A.</b>	<b>Section this Code</b>
12-736	Art. IV(75, 76, 94)
12-741--12-771	Art. I, Sec. 2
12-744	Art. IV(159) Art. XII, Div. 3, Sec. 1(a)
12-749	Art. IV(216)
12-753	Art. IV(244)
12-757	Art. II, Sec. 6(b)
12-759	Art. XII, Div. 2, Sec. 1(a) Art. XII, Div. 2, Sec. 1(d)(2)f Art. XII, Div. 2, Sec. 2(a)
16a-2-404	Art. IV (155)
41-2601(h)	Art. IV(60)
75-1226--75-1232	Art. VIII, Div. 7, Sec. 11(12)
79-340	Art. VIII, Div. 7, Sec. 6(3)(d)