

ZONING REGULATIONS
of the
CITY OF ANDALE, KANSAS

**Official Copy as Incorporated
by Ordinance No. 09-06**

Model Code
prepared by the
ANDALE CITY PLANNING COMMISSION

Technical Assistance by

**Foster & Associates
Planning Consultants
Wichita, Kansas**

and

City Zoning Administrator

**edition of
July 15, 2009**

**effective date
July 30, 2009**

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ZONING REGULATIONS
of the
CITY OF ANDALE, KANSAS

ARTICLE 1. TITLE, PURPOSE, AUTHORITY AND JURISDICTION

100 Title. These regulations, including the zoning district maps made a part hereof, shall be known and may be cited as the "Zoning Regulations of the City of Andale, Kansas," and shall hereinafter be referred to as "these regulations."

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

- A. To promote the public health, safety, morals, comfort and general welfare;
- B. To establish a variety of zoning district classifications according to the use of land and buildings with varying intensities of uses and standards whose interrelationships of boundary zones form a compatible pattern of land uses and buffer areas which enhance the value of each zone;
- C. To regulate and restrict the location, use and appearance of buildings, structures and land within each district and to zone for residential, commercial, industrial and other purposes including floodplains;
- D. To regulate and restrict the height, number of stories and size of buildings and structures including their distance from any lot line or street right of way; the percentage of each lot that may be occupied by buildings and other structures; and size of yards, courts and other open spaces;
- E. To protect property and historical values and conserve energy and natural resources;
- F. To provide for adequate light and air and acceptable noise levels;
- G. To avoid the undue concentration of population and vehicular traffic and to prevent overcrowding the use of land and public facilities;
- H. To facilitate the adequate provision of transportation, water supply, sewage disposal, schools, parks and other public improvements;
- I. To provide adequate public notice on proposed changes in these regulations and zoning maps and an opportunity to be heard on such zoning matters;
- J. To establish and provide procedures for the Board of Zoning Appeals to consider appeals, variances and conditional uses as exceptions; and

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

102 Authority. These regulations are adopted under authority established by K.S.A., 12-741 et seq., as amended, 12-736, 12-3009 to 12-3012 inclusive, 12-3301 and 12-3302.

103 Zoning Jurisdiction. These regulations shall apply to all buildings, structures and land within the corporate limits of the City of Andale, Kansas, as presently exist or are hereafter established by annexation.

ARTICLE 2. INTERPRETATION, CONSTRUCTION AND DEFINITIONS

100 Rules of Interpretation.

- A. Minimum Requirements. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals, comfort and general welfare.
- B. Overlapping or Contradictory Regulations. Where the conditions imposed by the provisions of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.
- C. Private Agreements. The provisions of these regulations are not intended to abrogate any lawful and valid easement, deed restriction, covenant or other private agreement of legal relationship; provided, that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such private agreements, the requirements of these regulations shall govern. The City does not have a responsibility to enforce such private agreements.
- D. Unlawful Uses. No use of land or structure which was not lawfully existing at the time of the adoption of these regulations shall become or be made lawful solely by reason of the adoption of these regulations; and to the extent that, and in any respect that, said unlawful use or structure is in conflict with the requirements of these regulations, said use or structure remains unlawful hereunder.
- E. Not a Licensing Regulation. Nothing contained in these regulations shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any structure or facility or to carry on any trade, industry, occupation or activity.
- F. Effect on Existing Permits. For all purposes except single-family residential developments platted and recorded after January 1, 1992, nothing in these regulations shall be deemed to require any change in plans, construction or designated use of any land or structure in the event that: (See Section 2-100G for Vesting of Development Rights.)
 - 1. A zoning permit for such use of land or structure was lawfully issued prior to the effective date of these regulations or the effective date of any amendment thereof; and
 - 2. Such permit had not by its own terms expired prior to such effective date; and
 - 3. Such permit was issued on the basis of an application showing complete plans for proposed construction and/or use; and

4. There has been a substantial change of position, substantial expenditure, substantial work performed or incurrence of substantial obligations by the permit holder in reliance on such permit other than purchase of land or preparation of design plans; and
 5. Such issuance of a permit and change of position, expenditures, work or incurrence of obligations were made prior to the effective date of an amendment of these regulations which amendments would have made illegal the issuance of such permit; and
 6. Construction pursuant to such permit is completed prior to the expiration of such permit; and
 7. When the use of land or a structure is completed under a permit to which this Section 2-100F applies, an occupancy certificate shall be issued in accordance with the zoning regulations in effect at the time the zoning permit was issued.
- G. Vesting of Development Rights. For the purpose of single-family residential developments according to K.S.A. 12-764, as amended, development rights in such land use shall vest upon recording of a final plat of such land after January 1, 1992. If construction of a principal structure is not commenced on such land within five years of recording a final plat before July 01, 2009, the development rights in such land shall expire and, thus, all revisions to zoning or subdivision regulations becoming effective during the period vested shall then apply to such platted land. For such plats recorded on or after July 01, 2009, such construction must take place within 10 years to be vested.

101 Rules of Construction.

- A. In the construction of these regulations, the provisions and rules of this Section shall be preserved and applied, except when the context clearly requires otherwise:
1. The singular number includes the plural and the plural the singular.
 2. The present tense includes the past and future tenses and the future the present.
 3. The word "**shall**" is mandatory while the word "**may**" is permissive.
 4. The phrase "**used for**" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
 5. The word "**person**" includes an individual, firm, corporation, association, partnership, trust, governmental body and agency, and all other legal entities.
 6. The word "**City**" means the City of Andale, Kansas.

7. The words "**Governing Body**" mean the Mayor and Council members of the City of Andale, Kansas which together constitute the governing body.
 8. The word "**Clerk**" means the City Clerk of the City of Andale, Kansas.
 9. The words "**Planning Commission**" mean the Andale City Planning Commission.
 10. The words "**Comprehensive Plan**" mean the adopted and approved Comprehensive Development Plan for the City of Andale, Kansas and surrounding Planning Area, which includes, among other elements, a plan for land use.
 11. The word "**Board**" means the Andale Board of Zoning Appeals.
 12. The words "**zoning jurisdiction**" mean the area as defined in Section 1-103 for which the jurisdiction of these regulations is applicable for zoning purposes.
 13. Unless otherwise specified, all distances shall be measured horizontally.
- B. Any word or phrase which is defined in this Article or elsewhere in these regulations shall have the meaning as so defined whenever used in these regulations, unless such definition is expressly limited in its meaning or scope.
- C. Words or terms not herein defined shall have their ordinary meaning in relation to the context as defined in a dictionary.

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

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

1. A maximum of one accessory dwelling may be allowed on the same zoning lot as a single-family dwelling unit;
2. The appearance of an accessory dwelling shall be compatible with the principal dwelling and the character of the neighborhood;
3. The lot on which the accessory dwelling is to be located must meet the minimum lot area as required for the lot size in the relevant zoning district;
4. The off-street parking space and standards required for Section 5-101A1 must be met;

5. Separate or shared utility connections may be utilized subject to meeting all requirements of any applicable building codes for the City;
6. Temporary, prefabricated structures may be used as accessory dwellings for limited periods of time; and
7. An accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit and not be subdivided or sold as a condominium. A suitable deed restriction stating this restriction must be filed with the Sedgwick County Register of Deeds prior to issuance of any occupancy certificate for the accessory dwelling.

ACCESSORY USE OR STRUCTURE: As defined in Article 6.

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

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

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

- a. The maintenance and operation of commercial greenhouses or hydroponic farms, except in zoning districts where permitted.
- b. Retail sales as an accessory use, unless the same are otherwise permitted by these regulations.
- c. The feeding of garbage to animals.
- d. The feeding, grazing or sheltering of domestic animals or fowl, e.g., horses, cows, swine, goats, chickens, pigeons, rabbits or fur bearing animals, but not including cats and dogs and other pets; unless such animals or fowl are otherwise permitted by City laws or regulations.
- e. The operation or maintenance of a stockyard or feedlot.

Farmhouses are considered to be single-family dwellings.

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

ALTERATION: See STRUCTURAL ALTERATION.

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

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

APARTMENT: See DWELLING, MULTIPLE-FAMILY.

APPEAL: See Section 10-106 for description.

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

AUTOMOBILE SERVICE STATION: A structure and surrounding land used for the storage and sale of petroleum fuel, including self-service, primarily to passenger vehicles and for accessory uses such as the sale of lubricants, accessories or supplies, the incidental washing of motor vehicles and the performing of minor repairs, but not including tire recapping, body repairs or major overhaul. Such use does not include open sales lots for new or used vehicles or provide for rental vehicles or equipment, unless specifically permitted by the district regulations.

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

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

BED AND BREAKFAST HOME OR INN: A dwelling where for compensation one or more rooms are available for lodging and breakfast served to lodgers only. When conducted as a home occupation, such facilities are designated as

"homes." When designated as an "inn," such facilities may be operated as a home occupation or as a business enterprise. When specifically permitted, meals for a limited number of customers may be operated in conjunction with bed and breakfast inns.

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

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

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

BULK REGULATIONS: Regulations controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Bulk regulations include regulations controlling: (1) maximum height, (2) maximum lot coverage, and (3) minimum size of yards and set-backs. (See Section 3-103G for utility and communication facilities exemption.)

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

CANOPY: Any structure, movable or stationary, open on three sides without supporting posts, which is attached to and projects from a wall of a building for the purpose of sheltering a drive-up facility, platform, stoop, entranceway or sidewalk from the elements including a motor vehicle; or an independent roof-like structure supported by posts with no sidewalls for the purpose of sheltering a gasoline service area, drive-in facility or motor vehicles. In any event, the sheltering of motor vehicles is for temporary parking and unloading only and not a permanent parking or storage space. (See Section 3-103F1 for Permitted Obstructions.)

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

CARPORT: A structure for shelter and temporary or permanent parking space for motor vehicles and recreational vehicles either attached to a building or independent thereof. Such carports are not permitted obstructions under Section 3-103F1. (See CANOPY.)

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

CHILD CARE FACILITIES: Definitions for facilities which provide care for children are established by state law and promulgated by regulations of the Kansas Department of Health and Environment. Standards for such definitions may be periodically amended by changes to state regulations and are automatically incorporated herein. The following facilities are licensed or registered by the department:

1. **Group Boarding Home:** A non-secure facility providing 24-hour residential care for not less than five nor more than 10 persons unrelated to the caregivers. Emergency shelter and maternity care may be provided.
2. **Child Care Center:** A facility in which care and educational activities for 13 or more children two weeks to 16 years of age are provided for more than three, but less than 24 hours per day, including before and after school care for school age children.
3. **Preschool:** A facility such as a "nursery school" providing learning experiences for children of less than kindergarten age, but who are 30 months or older, where sessions do not exceed three hours per day.
4. **Day Care Home:** A home or facility in which care is provided for a maximum of 10 children under 16 years of age.
5. **Group Day Care Home:** Similar to day care homes except that care is provided to a maximum of 12 children under 16 years of age.
6. **Family Day Care Home:** A home in which care is provided for less than 24 hours per day for a maximum of six children who are less than 16 years of age, but of whom not more than three children are less than 18 months.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DWELLING UNIT: One or more rooms in a residential building or residential portion of a building which are arranged, designed, used or intended for use by one family, and which includes cooking space and lawful sanitary facilities reserved for the occupants thereof.

EARTH-SHELTERED DWELLING: A single-family dwelling constructed so that 50% or more of the exterior surface area of the building, excluding garages and other accessory structures, is covered with earth. Such a dwelling is a complete structure that does not serve just as a foundation or substructure for above-grade construction. A partially completed building shall not be considered earth-sheltered. Bulk regulations shall be measured from the structural part of the dwelling as distinguished from the earth covering.

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

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

FENCE: A free-standing structure of customary materials such as metal, masonry, glass, plastic or wood or any combination thereof, resting on or partially buried in the ground and rising above ground level, and used for confinement, screening or partition purposes, but which does not pose a threat to public safety or health and is designed and constructed in such a manner as to produce an aesthetically pleasing appearance. Fences constructed of metal roofing materials, fork-lift pallets, portions of vehicles or appliances and the like are not permitted. (See Section 3-103F 2-5 for fences as Permitted Obstructions.)

FLOODPLAIN: See Appendix for definitions in the Floodplain Management Regulations.

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

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

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

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

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

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

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

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

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

1. Chimneys, flues, stacks, fire escapes, gas holders, elevator enclosures, ventilators, skylights, solar panels, water tanks and similar roof structures needed to operate and maintain the building on which they are located and signs where permitted by Article 7; (See Section 7-102C for Height of Sign.)
2. Flagpoles, water towers and tanks, steeples, bell towers, carillons, monuments, cupolas, electric transmission line towers and private wind energy conversion systems. (See Section 6-100B14 for private wind energy conversion systems.); and
3. An exception to the maximum height in all districts are antennas for licensed amateur radio and citizens band operators as well as wireless cable TV antennas on masts. Communication structures include (1) antennas, and (2) broadcasting and microwave transmitting and relay towers for television, radio and cellular telephone systems and other similar forms of electronic communication. In all districts, applicants may apply to the Planning Commission for a special use to construct a communication structure which may exceed the height limitations for such structures. The Commission may adopt criteria in the form of a policy statement to assist in the review of such special use applications. (See Section 6-100B6 for satellite dish antennas, Section 6-100B7 for communication structures, antennas and aerials and Section 3-103G for lot size and bulk regulations exemption.)

HOME OCCUPATION: As defined in Article 6.

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

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

LOT: See LOT, ZONING.

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

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

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

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

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

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

LOT LINE, FRONT: A street right of way line forming the boundary of a lot. (See LOT, CORNER.)

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

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

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

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

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

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

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

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

MANUFACTURED HOME: A factory-built structure or structures equipped with the necessary service connections and made so as to be transportable as a unit or units on its own running gear and designed to be used as a dwelling unit with or without a permanent-type, enclosed perimeter foundation. The

transportation system is designed so that the home may be moved from time to time at the convenience of the owner. The term shall include two or more separately towed units which are designed to be bolted or otherwise fastened together to form a complete living unit. Such homes are built on a chassis consisting of drawbar and coupling mechanism, frame (e.g., steel I-beams), running gear assembly and lights. Removal of any or all of these component parts does not change the definition. All such homes shall be either skirted according to the manufacturer's design and construction standards or placed on a permanent-type, enclosed perimeter foundation and, according to standards of the State of Kansas under K.S.A. 75-1226, et seq., as amended, shall be anchored to the ground or secured to a permanent-type foundation. All manufactured homes must meet the standards of the National Manufactured Home Construction and Safety Standards of 1976, otherwise referred to as the "HUD Code". Additions may be made to such homes for patios, porches, carports, garages, storage structures and living space provided such additions are designed and constructed by a manufactured home factory or meet applicable City building codes. Overhead structures which cover or enclose a home are not permitted; however, a protective roof covering which is used to remedy a deteriorating roof condition is permitted. Under no circumstances shall two or more single-wide homes be permitted to connect together in any manner on the same zoning lot, nor shall such homes be attached to or integrated with the design of a site-built dwelling unit. (See MOBILE HOME and RESIDENTIAL-DESIGN MANUFACTURED HOME.)

MOBILE HOME: A factory-built structure or structures equipped with the necessary service connections and made so as to be transportable as a unit or units on its own running gear and designed to be used as a dwelling unit with or without a permanent-type, enclosed perimeter foundation. The transportation system is designed so that the home may be moved from time to time at the convenience of the owner. The term shall include two or more separately towed units which are designed to be bolted or otherwise fastened together to form a complete living unit. Such homes are built on a chassis consisting of drawbar and coupling mechanism, frame (e.g., steel I-beams), running gear assembly and lights. Removal of any or all of these component parts does not change the definition. All such homes shall be either skirted according to the manufacturer's design and construction standards or placed on a permanent-type, enclosed perimeter foundation and, according to standards of the State of Kansas under K.S.A. 75-1226, et seq., as amended, shall be anchored to the ground or secured to a permanent-type foundation. Additions may be made to such homes for patios, porches, carports, garages, storage structures and living space provided such additions are designed and constructed by a manufactured home factory or meet applicable City building codes. Overhead structures which cover or enclose a home are not permitted; however, a protective roof covering which is used to remedy a deteriorating roof condition is permitted. Under no circumstances shall two or more single-wide homes be permitted to connect together in any manner on the same zoning lot, nor shall such homes be attached to or integrated with the design of a site-built dwelling unit. (See MANUFACTURED HOME and RESIDENTIAL-DESIGN MANUFACTURED HOME.)

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

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

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

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

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

NURSING OR CONVALESCENT HOME: An institution for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, but not including institutions for the care and treatment of mental illness, alcoholism or narcotics addiction. Regulations of the Kansas Department of Health and Environment designate such homes as "Adult Care Homes."

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

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

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

PRINCIPAL STRUCTURE: A structure in which a principal use of the lot on which the structure is located is conducted.

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

RECREATIONAL VEHICLE, (RV): A vehicle or a unit that may be independently motorized or may be mounted on or drawn by another vehicle, which is primarily designed and used for travel, camping, recreation, temporary living or occasional use. Recreational vehicles include motor homes, mini-motor homes, converted buses, converted camper vans, pickup and truck campers, camping trailers, fifth-wheel trailers, boats and boat trailers, jet skis and jet ski trailers, all terrain vehicles (ATV) and similar vehicles. Conventional vans and pickup trucks with or without slide-in pickup campers or toppers are not considered to be recreational vehicles nor are small trailers used for hauling animals, equipment or household goods of the occupant of the dwelling whereon such trailer is parked. (See Section 6-100B for storage of recreational vehicles.)

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

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

2. Large recycling collection center: A center for collection containers larger than 100 square feet in ground area, on-site trailers, bulk-feed reverse vending machines, vehicles on-site during operating hours only and the like. As an accessory use, such a center may be approved by the Board of Zoning Appeals as a conditional use in all business and industrial districts and on church and public property.
3. Recycling processing center: A principal use in industrial districts only for handling the collection and processing of large volumes of bulky materials, some of which may originate at other recycling centers. Mechanical equipment may be used such as forklifts, balers, smashers and other related equipment. Outdoor storage may be permitted including composting operations.

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

RESIDENTIAL BUILDING: A building all or part of which contains one or more dwelling units, including single-family dwellings, two-family dwellings, multiple-family dwellings, earth-sheltered housing, lodging houses, dormitories, sororities and fraternities, as well as modular homes.

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

RESIDENTIAL-DESIGN MANUFACTURED HOME: A structure manufactured to the standards embodied in the National Manufactured Home Construction and Safety Standards generally known as the HUD Code established on June 15, 1976 pursuant to 42 U.S.C. Sec. 5403. Such units shall provide all of the accommodations necessary to be a dwelling unit and shall be connected to all utilities in conformance with applicable City regulations. Such a structure shall be on a permanent-type, enclosed perimeter foundation which has minimum dimensions of 22 body feet in width, a pitched roof, siding and roofing materials which are customarily used on site-built homes, and which complies with the following architectural or aesthetic standards so as to ensure their compatibility with site-built housing:

1. The roof must be predominantly double-pitched and have a minimum vertical rise of 2.2 inches for every 12 inches of horizontal run, and must be covered with material that is customarily used on site-built dwellings, including but not limited to approved wood, asphalt composition shingles or fiberglass, but excluding corrugated aluminum,

corrugated fiberglass or metal roof. The roof shall have a minimum eave projection and roof overhang on at least two sides of 10 inches which may include a gutter.

2. Exterior siding shall be of a nonreflective material customarily used on site-built dwellings such as wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials, but excluding smooth, ribbed or corrugated metal or plastic panels. Siding material shall extend below the top of the exterior of the foundation or curtain wall or the joint between siding and enclosure wall shall be flashed in accordance with City building codes.
3. The home shall be installed in accordance with the recommended installation procedures of the manufacturer and the standards set by the International Conference of Building Officials (ICBO) and published in their most current edition of guidelines for such installations. A continuous, permanent concrete or masonry foundation or masonry curtain wall, unpierced except for required ventilation and access which may include walk-out basements and garages, shall be installed under the perimeter of the home, also in accordance with the above guidelines.
4. At the main entrance door there shall be a landing that is a minimum of 25 square feet which is constructed to meet the requirements of any applicable City building codes.
5. The moving hitch, axles, wheels and transporting lights must be removed at the time of installation of the home on the lot.
6. The finished floor of the home shall be a maximum of 24 inches above the exterior finish grade of the lot on which it is located, as measured at the main entrance into the dwelling.
7. Any attached addition to such a home shall comply with all construction requirements of any applicable City building codes, unless designed and constructed by a manufactured home factory.
8. If 50% or more of the frontage of existing site-built housing on both sides of the street on which the residential-design manufactured home is to be installed have a garage and/or a similar percentage have a covered porch or recessed entry, such a home shall also provide a garage and/or porch or entry based on the percentages determined by the Zoning Administrator. On a corner lot, the street shall mean that street on which the frontage of the facade has been designated for the household address number. External roofing and siding material of such garage, porch or entry shall be similar in appearance to the materials on the roofing and siding of the residential-design manufactured home.

For purposes of these regulations, the term "manufactured home", when used by itself, shall not include a "residential-design manufactured home" as herein defined. Nothing in these regulations shall be construed to preempt or supersede valid restrictive covenants running with the land as to the

placement or location of a residential-design manufactured home. (See MANUFACTURED HOME and MOBILE HOME.)

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

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

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

SALVAGE YARD:

1. Any land or building used for the collection or storage or sale of wastepaper, trash, rags, fibrous material, scrap metal or other discarded material; or for the collecting or dismantling or storing or salvaging of machinery or unlicensed motor vehicles not in operating condition, or for the sale of parts thereof, or materials from the demolition of buildings or structures.
2. In residential districts, this definition shall prohibit the storing of no more than one inoperable or unlicensed motor vehicle for a period of more than 72 hours which are in the process of restoration to operating conditions, unless such vehicle is stored inside a structure or screened from public view.

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

SETBACK, BUILDING: A line nearest the front of and across a lot or parcel of land establishing the minimum open space to be provided between the front line of a building or structure and the line of the front street right of way. The setback distance shall be measured from the existing right of way line or the proposed right of way line, whichever is the greater. (Note: Proposed right of way lines are based on the Comprehensive Plan and are further specified in the City Subdivision Regulations for arterial, collector, local and marginal access streets.) (See YARD, FRONT.)

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

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

SITE PLAN: A drawing required to be submitted for Planning Commission approval by a developer for certain land use developments before a zoning permit can be issued which is designed to encourage a compatible arrangement of buildings, parking, lighting, signage, landscaping, screening, vehicle and pedestrian access, drainage and other improvements with the objective of promoting safety and convenience to the public, integration with surrounding properties and the preservation of property values.

SPECIAL USE: A use of a structure or land which is not permitted outright within a zoning district because of characteristics that might have an adverse affect upon nearby properties or the future development of the district unless certain conditions can be placed on the use which would make it suitable to the purpose of the district and compatible to the other uses so designated. Such uses are "special" in that they are often large, one-of-a-kind, private or public uses serving as community facilities and/or whose location would have planning implications for a neighborhood or the entire City. Designated special uses are processed in the same manner as zoning amendments for the hearing, except that a particular use is applied for within a district and conditions may be recommended by the Planning Commission and attached to their approval by the Governing Body. (See Section 11-101 for Special Uses.)

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

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

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

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

STRUCTURE: Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground, but not including hard surfaced walks, mail boxes or public items such as street or road surfacing, utility poles, fire hydrants, street light fixtures or traffic signs. Fences, driveways and parking spaces and signs not otherwise identified as traffic signs are considered to be structures. (See Section 3-100 E1 for Exemptions.)

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

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

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

VARIANCE: See Section 10-107 for description.

VISION TRIANGLE: A triangular area at the intersection of streets maintained in such a manner as to provide a safe and open line of vision for drivers of vehicles approaching the intersection. Within the vision triangle, no one shall install, construct, plant, park or maintain any sign, fence, hedge, shrubbery, tree, natural growth or other obstruction including automobiles, trucks and other large vehicles or trailers which would materially impede vision between the heights of 33 inches and eight

feet above the street level. These restrictions shall not apply to signs as provided for in Section 7-102J2 as well as official traffic signs, signals and utility poles. Such area on a corner lot shall have two sides which are measured from the intersection of the lot lines and a third side across the lot joining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. In all residentially zoned districts, the two sides forming the lot line intersection shall be a minimum distance of 30 feet and in all other zoning districts such distance shall be 20 feet, except that there shall be no vision triangle requirements in the B-1 Central Business District.

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

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

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

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

ZONING ADMINISTRATOR: The person appointed by the Mayor with the consent of the City Council to administer and enforce the requirements of these regulations. (See Section 9-100 for Office of the Zoning Administrator.)

ZONING PERMIT: A certificate by which the Zoning Administrator certifies to an applicant that their proposed structure and/or use are in conformance with these regulations. Such a certificate may be combined with the issuance of a building permit as required by a building code; provided, that all information required for approval of a zoning permit is also contained thereon. (See Section 9-101A for Zoning Permits.)

ARTICLE 3. GENERAL PROVISIONS

100 Activities Governed by these Regulations.

- A. New Structures. All structures built hereafter shall comply with all of the provisions of these regulations. Any structure hereafter moved from one site to another site shall be considered to be a structure built hereafter. Any structure rebuilt or restored after damage, by any means, shall be considered to be a structure built hereafter, unless Article 8 of these regulations permits such structures to be rebuilt or restored. (See Section 2-102 for definition of STRUCTURE.)
- B. New Uses of Old Structures. If a use of any structure is hereafter changed to another, then the new use must comply with the use regulations of these regulations, unless permitted by provisions in Article 8. The mere establishment of the new use does not require an existing structure to conform to the lot size requirements or the bulk regulations.
- C. Structural Alterations. If any structure is hereafter structurally altered as defined in Section 2-102:
1. The entire structure as altered shall comply with the use regulations of these regulations.
 2. Any alterations, enlargements or additions to the structure shall comply with the bulk regulations of these regulations, except as permitted by Section 8-102B for nonconforming structures.
 3. The off-street parking facilities shall not be reduced below or if already less than, shall not be further reduced below the requirements applicable to a similar new structure or use.
- D. Uses of Open Land. If any use of open land is hereafter established or if any use of open land is hereafter changed to another use, such new use shall comply with all the provisions of these regulations, unless permitted by Sections 8-103 and 106.
- E. Exemptions. The following structures and uses shall be exempt from the provisions of these regulations:
1. Poles, wires, cables, conduits, vaults, lift stations, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephones or other communications, electricity, gas or water, or the collection of sewage or surface water, but not including major utility substations located on or above the surface of the ground. (See Section 3-103G for lot size and bulk regulations for utility facilities.)
 2. Railroad tracks, signals, bridges and similar facilities and equipment located on railroad rights of way, and maintenance and repair work on such facilities and equipment.

3. Buildings, structures or land used, but not just leased, by the federal government.
4. Use of land for agricultural purposes as defined in Section 2-102, including accessory buildings and structures thereon not in a designated floodplain. When any land or accessory buildings or structures cease to be used only for agriculture, then it shall be subject to the applicable provisions of these regulations.

101 Districts, Zoning Maps and Boundaries.

- A. Establishment of Districts. The zoning jurisdiction is hereby divided into the districts as described in Article 4. References to "residential districts" shall mean those districts in which residential uses are the main permitted use. References to "business districts" shall mean those districts in which commercial uses are the main permitted uses. References to "industrial districts" shall mean those districts in which industrial uses are the main permitted use. The "floodplain district" is considered as an overlay zone to be used in conjunction with the other districts.
- B. Zoning Maps.
 1. The boundaries of the districts described in Article 4 are as indicated on the Official Zoning Map(s) which is on file with the Zoning Administrator and identified on its face as part of these regulations. The zoning map(s) with all notations, references and other matters shown thereon is as much a part of these regulations as if specifically set forth herein. (See Section 9-100A9 for zoning map(s) certificate and revisions.)
 2. It is the intent of these regulations that the entire area of the zoning jurisdiction, including all the land and water areas, rivers, streets, alleys and railroads and other rights of way, be included in the districts established in these regulations. Any area not shown on the zoning map(s) as being included in any district shall be deemed to be in the most restrictive district.
- C. Boundaries. In the event that uncertainties exist with respect to the intended boundaries of the various districts as shown on the Official Zoning Map(s), the following rules shall apply:
 1. Where boundary lines are indicated as approximately following streets, alleys, easements, railroads, rivers, streams or bodies of water, such boundaries shall be construed as following the center-lines thereof or otherwise are construed to coincide with lot or tract lines, unless otherwise indicated.
 2. Where the district boundaries do not coincide with the location of boundaries as stated in Section 3-101C1 above, the district boundaries shall be determined by the use of the scale shown on the zoning map, unless an exact distance is shown.

3. Where a district boundary line divides a lot or unsubdivided property in single ownership, the regulations for either portion of the lot may, at the owner's discretion, extend to the entire lot, but not more than 20 feet beyond the boundary line of the district.
- D. Zoning of Rights of Way. All streets, alleys, public ways, waterways and railroad rights of way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting them. Where the centerline of a street, alley, public way, waterway or railroad right of way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

102 General Requirements for All Zoning Districts.

- A. Permitted Uses. No structure shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied or designed for use or occupancy except for a use that is permitted within the zoning district in which the structure or land is located or provided for otherwise in these regulations. (See Section 2-102 for definition of PERMITTED USE.)
- B. Special Uses. No use of a structure or land that is designated as a special use in any zoning district shall hereafter be established, and no existing special use shall hereafter be changed to another special use in such district, unless a special use is approved in the same manner as for an amendment to a zoning district except that the Official Zoning Map is not amended. The latter procedure is set forth in Section 11-101 with the additional requirement that all conditions further imposed upon the special use be made a part of the effectuating ordinance. (See Section 2-102 for definition of SPECIAL USE.)
- C. Conditional Uses. No use of a structure or land that is designated as a conditional use in any zoning district shall hereafter be established, and no existing conditional use shall hereafter be changed to another conditional use in such district, unless a conditional use as an exception is approved by the Board of Zoning Appeals as provided for in Section 10-108. (See Section 2-102 for definition of CONDITIONAL USE.)
- D. Lot Sizes.
1. No structure, or part thereof, shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied, arranged or designed for use or occupancy on a zoning lot, unless otherwise provided for in these regulations, which in its district is:

- a. Smaller area than the minimum area or minimum lot area per dwelling unit required;
 - b. Narrower than the minimum lot width required; or
 - c. Shallower than the minimum lot depth required.
 2. Where independent dwelling units are to be sold as condominiums, minimum lot size requirements shall not apply to each individual ownership, but shall be applied collectively to the common open space surrounding the structure(s) such that the total open space is an aggregate of the minimum lot area required for each dwelling unit; however, the minimum lot width and depth for the district shall be applied to the entire zoning lot.
- E. Bulk Regulations. In these regulations, bulk requirements are expressed in terms of maximum structure height, maximum lot coverage, minimum setbacks and minimum front, side and rear yards.
1. No structure, or part thereof, shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied or designed for use or occupancy:
 - a. That would exceed the maximum lot coverage percentage or the maximum structure height specified for the zoning district in which the structure is located, unless exempted by the definition of maximum height, or
 - b. That would provide any minimum setback of a front, side or rear yard that is less than that specified for the zoning district in which such structure or use of land is located or maintained, except as front yard setbacks may be applied in Sections 3-103B and C and front and side yard setbacks for nonconforming structures and uses in Article 8.
 2. Where independent dwelling units are to be sold as condominiums, bulk regulations shall not apply to each individual ownership, but shall be applied to the entire zoning lot.
- F. Use Limitations. No permitted, special or conditional use hereafter established, altered, extended, enlarged or moved shall be operated or designed so as to conflict with the use limitations for the zoning district in which such use is or will be located. No permitted, special or conditional use already established on the effective date of these regulations shall be altered, extended or enlarged so as to conflict, or further conflict with, the use limitations for the zoning district in which such use is located. (See Sections 8-102, 103 and 106.)

- G. Off-Street Parking and Loading. No structure shall hereafter be built or moved and no structure or land shall hereafter be used, occupied or designed for use or occupancy, unless the minimum off-street parking and off-street loading space required by Article 5 are provided. No structure or use already established on the effective date of these regulations shall be enlarged, unless the minimum off-street parking and loading space which would be required by Article 5 are provided.
- H. Accessory Structures or Uses. No accessory structures or use, as defined in Article 6, shall hereafter be built, altered, extended, enlarged or moved, unless such accessory structure or use is permitted by Article 6.
- I. Temporary Structures or Uses. No temporary structure or use shall hereafter be built, altered, extended, enlarged or moved, unless such temporary structure or use is permitted by Article 6 of these regulations.
- J. Home Occupations. No home occupation, as defined by Article 6, shall hereafter be established, altered, extended, enlarged or moved in any residential district, unless such home occupation complies with the permitted uses, conditions and use limitations as provided for in Article 6.
- K. Signs. No signs shall hereafter be built, and no existing signs shall be altered, enlarged or moved, unless such sign complies, or will thereafter comply, with the restrictions imposed by Article 7.

103 Supplemental Requirements.

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

1. Whenever a zoning lot is not developed as a condominium, but is used for a single-family detached or attached dwelling, two-family dwelling or any type of manufactured or mobile home, only one principal structure and use may be located on the lot, but only when the structure and use conform to all requirements of the district in which the lot is located.
2. Whenever a zoning lot is used for other than a residential unit as described in Section 3-103A1 above, more than one principal structure and use may be located on the lot in common ownership, but only when the structures and uses conform to all requirements of the district in which the lot is located.
3. Whenever any structures are developed as condominiums, more than one principal structure may be located on the lot; provided, the

definition of a condominium in Section 2-102 is met as well as the requirements of Sections 3-102D2 and E2.

- B. Platted Building Setback Lines. If a recorded subdivision plat imposes a building setback line or a front yard for a lot which is different from the minimum setback or yard required by the applicable section of these regulations, then, notwithstanding any other provision of these regulations, the minimum building setback or front yard shall be the same as that shown on such subdivision plat; provided, that it has been recorded and not otherwise been officially vacated.
- C. Average Setback in Existing Residential Districts.
1. On streets where a front yard more than that required by these regulations has been maintained for existing structures on lots having a frontage of 50% or more of the total frontage on one side of that portion of the street line between two intersecting streets, there shall be maintained a front yard setback of not less than the average setback of the existing structures; provided, that these regulations shall not be interpreted to require a front yard setback of more than 50 feet.
 2. On streets where a front yard less than that required by these regulations has been maintained for existing structures on lots having a frontage of 50% or more of the total frontage on one side of that portion of the street line between two intersecting streets, the front yard setback need not be greater than the average setback of the existing structures; provided, that these regulations shall not be interpreted to permit a front yard setback of less than 20 feet.
- D. Yard Requirements for Open Land. If a zoning lot is, or will be, occupied by a permitted use without structures, then the minimum front, side and rear yards that would otherwise be required for the zoning lot shall be provided and maintained, unless some other provision of these regulations requires or permits a different minimum front, side or rear yard. Such yards shall not be required on zoning lots used for open public recreation areas.
- E. Restrictions on Allocation and Disposition of Required Yards or Open Space.
1. No part of the lot area, or of a yard, or other open space, or off-street parking or loading space provided in connection with any structure or use in order to comply with these regulations shall, by reason of change of ownership or otherwise, be included as part of the minimum lot area, or of a yard, or open space, or off-street parking or loading space required for any other structure or use, except as specifically provided herein.

2. All of the lot area and all yards and other open spaces provided in connection with any structure or use in order to comply with these regulations shall be located on the same zoning lot as such structure or use.
 3. No part of the lot area, or of the yard, other open space, or off-street parking or loading space provided in connection with any structure or use, including but not limited to any structure or use existing on the effective date of these regulations or of any amendment thereof, shall be subsequently reduced below, or further reduced if already less than, the minimum requirements of these regulations for the equivalent new construction.
- F. Permitted Obstructions in Required Yards. The following shall not be considered to be obstructions when located in a required yard: (See Section 9-101A3 for principal or accessory buildings or structures or uses locating on or projecting over public easements.)
1. In all yards: Open terraces or patios not over four feet above the average level of the adjoining ground, but not including a permanent roof over a terrace or patio; awnings; canopies including underlying islands for petroleum pumps; steps four feet or less above grade which are necessary for access to a permanent structure or for access to a lot or to a lot from a street or alley including access to conform to the standards of the federal Americans with Disabilities Act of 1990 as incorporated into state statutes; fire escapes, one story bay windows and overhanging eaves and gutters projecting 24 inches or less into the yard; chimneys, entrance hoods, window wells and daylight windows projecting 36 inches or less into the yard; arbors and trellises; flagpoles and basketball goals; ornamental light or gas fixtures; parking, when permitted by Article 5; accessory and temporary uses, when permitted by Article 6; signs, when permitted by Article 7; and when otherwise specifically permitted by the district regulations. Attached garages, carports, patio covers, porches, decks and wing walls are not permitted obstructions.
 2. In any yard except a front yard: Accessory uses meeting the bulk regulations of Section 6-100C; children's recreational and laundry drying equipment; and open and closed fences not exceeding six feet in height with additional height permitted for security design measures.
 3. Fences in a front yard: On lots with single or two-family dwellings and all types of manufactured and mobile homes, fences not exceeding four feet in height are permitted which are constructed with at least 75% open space. In all other circumstances, including decorative walls as perimeter boundaries and entryways to subdivisions, open and closed fences are permitted which do not exceed six feet in height with additional height permitted for security design measures. (See Section 6-100B for required zoning permit.)

4. Construction standard for all fences: No fence shall be constructed which will constitute a hazard to traffic or a danger to persons or animals.
 5. Conditional use for fences: The Board of Zoning Appeals may as a conditional use approve the construction of higher fences and/or less open space in all yards and in any district if the Board finds that the public welfare is preserved.
- G. Lot Size Requirements and Bulk Regulations for Utility Facilities. Notwithstanding any other provision of these regulations, none of the following utility or communication facilities shall be required to comply fully with the lot size requirements and bulk regulations of the zoning district in which they are located, except as may be determined where a special or conditional use is required in certain districts and by subsection three of the definition for height, maximum in Section 2-102: (See Section 3-100E1 for Exemptions.)
1. Communication structures.
 2. Electric and telephone substations.
 3. Gas regulator stations.
 4. Pumping stations.
 5. Water towers or standpipes.
- H. Access to Business and Industrial Districts. No land which is located in a residential district shall be used for a driveway, walkway or access purpose to any land which is located in any business or industrial district.
- I. Annexed Land. All land which may hereafter be annexed shall retain its existing County zoning classification until such time as the property owner, Planning Commission or Governing Body may file an application for rezoning to a City zoning classification. Rezoning may also be considered during the process of annexation. While the Planning Commission may hold their required public hearing on a rezoning amendment or a special use prior to annexation, the zoning ordinance approving the amendment or special use cannot be effectuated until the land is first officially annexed by the Governing Body as a separate annexation ordinance. While both ordinances may be published on the same day, the annexation ordinance must be published first if they are published on separate days. (See Appendix for Table of Comparability of Zoning Districts.)
- J. Sewer and Water Facilities. All principal structures built hereafter shall be served by and connected to the City's sewer and water system, if such facilities can be feasibly provided as may be determined by the Governing Body.

- K. Dedication of Rights of Way and Easements. As a condition related to a rezoning amendment or a special use, the dedication of additional street rights of way; easements for utilities, drainage, access control, fire lanes, building setback lines and other purposes; and the construction, removal or replacement of public improvements necessary to the proper development of the property, may be required either by platting or replatting and recording the plat for the land according to the City Subdivision Regulations or, in lieu of platting, by a legal document effectuating such dedications and improvements. Such condition may be required whether the property is being divided or held in single ownership. A stated time limit not exceeding one year may be established to ensure compliance with the above conditions during which time the effectuation of the zoning amendment or special use having been approved with such conditions by the Governing Body shall be withheld from publication by the Clerk. Failure to comply with the conditions during the stated period shall result in making the zoning amendment or special use null and void. No extension of the time period may be granted without reapplication for a zoning case requesting reconsideration only of the specific condition requiring such dedication.
- L. Floodplain Requirements. Within any floodplain area as delineated by the Federal Emergency Management Agency, no use of land shall commence or no structure shall hereafter be constructed, structurally altered, extended, enlarged or moved under these regulations, unless it also complies with the floodplain regulations. (See Appendix for Floodplain Management Regulations.)
- M. Moving Structures. No structure shall be moved into the City, nor from one location to another location within the City, unless such structure shall, when relocated, be made to conform fully with these regulations and other codes of the City including any building codes. No zoning permit shall be issued, unless in the opinion of the Zoning Administrator the height, age, architectural style and texture of the materials pertaining to the outward appearance of such structure reasonably conform to other buildings in the block to which it is to be moved and in the block opposite, to such an extent that its relocation shall not be detrimental to the appearance or have no substantial adverse effect on property values to the adjacent properties. Modifications in the appearance of such a structure as proposed by the applicant may be considered in making such a decision and conditions may be attached to the issuance of the permit by the Administrator to achieve conformance. (See City ordinance on moving structures.)
- N. Status of Moving Manufactured or Mobile Homes. Notwithstanding other provisions of these regulations, the Zoning Administrator is authorized to issue a zoning permit for various types of manufactured and mobile homes under the following provisions; except, that all such homes must meet the floodplain regulations requirements and none may be replaced in a floodway overlay boundary:

1. Wherever a residential-design manufactured home is moved from a zoning lot within a district in which it is a permitted use, another such home meeting the requirements of the district may be moved onto the lot at any time.
 2. In the case of a lawful, nonconforming manufactured or mobile home structure, such a move must take place within 180 days from the date that the previous manufactured or mobile home was moved off the lot and when reestablished must be a residential-design manufactured home as defined herein. In reestablishing such a home use, any nonconforming bulk regulations shall not be increased in nonconformity and no newly acquired land can be added to the zoning lot for placement of such a home.
 3. No manufactured or mobile home, or portion thereof, shall be moved onto any lot or parcel or an existing home converted for storage or any other purpose than for a residence in any district and no such home shall be temporarily or permanently located in any district not otherwise permitting such homes. These provisions do not preclude the use of prefabricated mobile structures designed for offices in business or industrial districts, but not manufactured or mobile homes unless specifically permitted.
0. Vision Triangle. On all corner lots in all districts, no use of land shall commence or no structure shall hereafter be constructed, structurally altered, extended, enlarged or moved after the effective date of these regulations unless it also conforms to the requirements of the vision triangle as defined by Section 2-102.

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

- A. Screening shall be provided along all side or rear lot lines adjacent to such residential districts.
- B. Landscaping shall be provided along a front lot line to the depth of at least 10 feet whenever such front lot line is adjacent to or across from such residential districts. No other uses except driveways and signs as permitted by Article 7 shall be allowed in such a landscaped area.

- C. Screening shall be provided on all required development sufficient to reasonably hide from ground level view all loading docks, trash receptacles, outdoor storage, outdoor display, outdoor working areas, parking spaces and similar uses from such residential districts.
- D. Screening on the side or rear lot line may be reduced in height and intensity in the front yard area extending to the front lot line, i.e., the street right of way; however, screening shall not be required along such lot lines in that portion of the front yard which may be landscaped.
- E. Whenever properties are developed adjacent to an alley, screening may be omitted at driveways deemed essential for ingress and egress to uses established on the property.
- F. Screening may consist of fencing and/or landscaping provided that such screening will serve to adequately reduce:
 - 1. The visual effects on the environment caused by adjacent nonresidential or higher density residential uses;
 - 2. Noise;
 - 3. Lighting;
 - 4. Glare; and
 - 5. Blowing trash.
- G. All screening and landscaping shall meet the requirements of the vision triangle in Section 3-103 O. (See Section 2-102 for definition of VISION TRIANGLE.)
- H. Landscaping along the front lot line shall involve bringing the soil surface to a smooth finished grade and installing sufficient trees, shrubs, ground cover and grass to soften building lines, provide shade and generally produce a pleasing visual effect of the premises.
- I. The selection of landscape materials shall consider the "mature" growth and habit of such plants so that vegetation will not overhang or obstruct the public street or a sidewalk area in such a manner as to conflict with pedestrian and vehicular access.
- J. The type of fencing should be compatible with the kind and intensity of the land use and the architectural style of the development and adjacent properties.
- K. Whenever such screening is required, a screening plan for the area shall accompany the application for a zoning permit. Such plan shall be transmitted to the Planning Commission for their review and approval prior to the issuance of the zoning permit.

- L. The screening plan shall be in such detail as to provide enough information to determine if the plan meets the above criteria. Such plan shall contain the location, type and height of any fence and the location, mature size and the type of any plant materials along with their common and botanical names. The sizing, grading and condition of the plant materials shall be specified according to the American Association of Nurserymen Standards.
- M. The Planning Commission may, in its discretion, temporarily or permanently waive the requirements for screenings and/or landscaping if:
1. The adjacent land use in the residential district may not necessitate nor benefit from such a requirement; or
 2. The adjacent land use may already have provided adequate screening for which additional screening may be a duplication; or
 3. The future land use for the adjacent area can not readily be determined at this time and that upon mutual agreement of the Planning Commission and the applicant, that the requirements may be waived and the matter reviewed at a specified date in the future. In the meanwhile, the Planning Commission shall require that either a letter of assurance or a covenant be submitted to run with the land; or a guarantee in the form of a corporate security bond, cashier's check, escrow account or other security be submitted to ensure that such requirements will be met when a determination is made. The Planning Commission may determine the sufficiency of the assurance based on the length of time anticipated before a decision, the size and cost of the potential work involved, and the need to ensure that the requirement is met regardless of any change in ownership.
 4. Section 3-104M3 above shall not prevent the Planning Commission from requiring temporary screening on all or a portion of a side or rear yard wherein a nonresidential use is proposed for development adjacent to an existing single-family dwelling and thereby a potential nuisance or hazard may be created for the homeowner.
- N. All plant materials shall be healthy and/or fencing in place prior to issuance of an occupancy certificate. A temporary certificate may be issued as provided for in Section 9-101B2 without the landscaping installation; provided, written assurances are given which are satisfactory to the Zoning Administrator that the planting will take place when the proper season arrives.
- O. Maintenance.
1. It shall be the responsibility of the property owner to maintain in good condition all of the required screening and landscaping improvements on his property. When it is determined by the Zoning Administrator that improvements required by Section 3-104 are not

being maintained, it is his duty to give notice in writing to the property owner. Such notice shall specify in what manner the improvements are in need of maintenance and a date for compliance. The owner shall have not less than 30 days to comply with the notice; provided, however, that any person aggrieved by any such order and disagreeing with any of the requirements of the notice, may file an appeal under Section 10-106 within the 30-day filing period with the Board of Zoning Appeals.

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

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

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

- A. Applicability. All principle land uses shall submit site plans for approval by the Planning Commission except single-family dwellings and duplexes, unless the latter are arranged in courtyard or grouped settings. Such plans are applicable to all new developments as well as major alterations to an existing site which intensify factors that affect the overall design relationship as may be determined by the Planning Commission. Minor revisions to the plans due to unforeseeable circumstances discovered by the applicant during the implementation of a plan may be approved by Zoning Administrator after the initial plan approval by the Planning Commission. Site plans may be considered concurrently with applications for rezoning amendments and special uses.
- B. Enforcement and Appeal. No zoning permit shall be issued by the Zoning Administrator until the related site plan is approved by the Planning Commission. Anyone aggrieved by a decision of the Planning Commission may appeal to the Governing Body within 30 days for a determination based on the reasonableness of the site plan decision including any conditions attached thereto. Notification shall be given in the same manner as required for an appeal case to the Board of Zoning Appeals (See Section 10-103).

- C. Fee. Processing fee is included in the fee schedule.
- D. Submittal Time and Review Comments. Site plans shall be submitted to the Zoning Administrator 20 days before a regular Planning Commission meeting so that they can be distributed to interested parties for review and the resulting comments summarized by the Zoning Administrator for a report to the Planning Commission.
- E. Number of Plan Copies. A minimum of 11 copies are needed for proper review.
- F. Site Plan Requirements: Depict the following information where relevant to the particular site plan and label accordingly:
1. Oriented to north with north arrow and scale plus dimensions and boundary lines for the zoning lot.
 2. Show the location and dimensions of all rights of way, access control, easements and setback lines either required by these regulations or by platting or separate instruments.
 3. Topography by contour lines required only if slopes exceed 5% or buffer berms are used.
 4. Show direction of flow of storm water drainage both on and exiting the site.
 5. Locate existing and proposed structures by bulk dimensions plus number of stories, gross floor area and entrances as well as the kind, color and texture of all primary exterior materials.
 6. Show existing and proposed curb cuts, aisles, off-street parking and loading spaces and walkways, including type of surfacing and number of parking spaces.
 7. Indicate location, height and materials for screening walls or fences and landscaped areas including grass, trees and shrubs according to the standards described for screening and landscaping in Section 3-104.
 8. Show location, direction and intensity of proposed lighting.
 9. Locate all major signs by type, height and approximate size.
 10. Indicate location and provide description of outdoor display, storage and trash disposal areas.

G. Conditions of Approval.

1. Proposed uses are permitted in the zoning district in which the site is located or have been approved as special or conditional uses.
2. Proposed arrangement of structures, parking, loading, circulation, display and storage areas, lighting, signage, landscaping, screening and drainage is compatible on the site and with adjacent land uses.
3. Vehicular ingress and egress to and from the site and circulation which provides for safe, efficient and convenient movement of traffic and emergency vehicles not only within the site, but on adjacent roadways as well.
4. Provision for the safe movement of pedestrians within the site.
5. There is a sufficient mixture of grass, trees and shrubs within the interior and perimeter (including public rights of way) of the site so that the proposed development will be in harmony with adjacent land uses and will provide a pleasing appearance to the public. Any part of the site plan area not used for buildings, structures, parking, loading, driveways and display or storage areas shall be landscaped with a mixture of grass, trees and shrubs.
6. All outdoor trash disposal areas are screened and outdoor storage areas screened where necessary. Display areas are arranged in a neat and orderly manner and located appropriately.

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

I. Design Criteria. From time to time, the Planning Commission with the approval of the Governing Body may adopt design criteria in the form of policy statements to assist in reviewing site plans which may include illustrations.

ARTICLE 4. ZONING DISTRICTS

100 Permitted Uses in All Districts.

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

101 R-1 Residential District. This district is designed for a medium density mixture of dwelling types and to allow certain public facilities. It is intended that no uses be permitted in this district that will tend to interfere with the health, safety, order or general welfare of persons residing in the district or to devalue property for residential purposes. Regulations are intended to control density of population and to provide adequate open space around buildings and structures to accomplish these purposes.

A. Permitted Uses.

- 1. Single-family detached dwellings, modular homes, residential-design manufactured homes and group homes as defined in Section 2-102.
- 2. Churches, chapels, temples and synagogues.
- 3. Golf courses, including accessory club houses, but not driving ranges and miniature golf courses operated for commercial purposes.
- 4. Public, private and parochial schools: educational buildings for primary, intermediate and secondary schools including administrative centers, transportation centers, recreation areas, spectator sports facilities and the like. All such uses must be located on land which is platted according to the City Subdivision Regulations.

B. Special Uses.

- 1. Public buildings erected or land used by any agency of the City, township, County or state government.
- 2. Cemeteries, private or public.
- 3. Utility uses as follows: electric and telephone substations; gas regulator stations; pumping stations; and water towers and standpipes.

C. Conditional Uses.

1. Two-family dwellings.
2. Accessory dwellings
3. Adult and child care centers and preschools.
4. Adult care homes for seven or more adults as a home occupation.
5. Bed and breakfast homes.
6. Earth-sheltered dwellings, provided that the design is compatible with adjacent properties including such items as drainage, parking and accessory structures.
7. Metal buildings specifically designed for use as single-family detached dwellings; provided, that the design is compatible with adjacent properties including such items as aesthetic appearance, parking and accessory structures.
8. Swimming, tennis, racquetball and similar recreational club activities and related clubhouses.

D. Lot Size Requirements.

1. Minimum lot area:
 - a. Dwellings permitted by Section 4-101A1: 10,000 square feet.
 - b. Two-family dwellings: 12,000 square feet.
 - c. All other uses: 10,000 square feet.
2. Minimum lot width:
 - a. Dwellings permitted by Section 4-101A1: 70 feet.
 - b. Two-family dwellings: 80 feet.
 - c. All other uses: 80 feet.
3. Minimum lot depth: 80 feet.

E. Bulk Regulations.

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

- a. Minimum front yard: 25 feet on all sides abutting a street, except that on a corner lot, one of the front yards as determined by the Zoning Administrator may be reduced to 15 feet; provided, that a driveway must maintain a length of at least 18 feet from the front lot line.
- b. Minimum side yard:
 - (1) Residential buildings: A minimum of at least 8 feet on both sides.
 - (2) All other uses: 10 feet.
- c. Minimum rear yard: 25 feet.
- 3. Maximum lot coverage: 35 percent.

F. Use limitations.

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

102 **R-2 Multiple-Family Residential District.** This district is intended to permit various types of low density multiple dwelling units with compatible home occupations, community facilities and certain special uses, yet retain a basic residential quality. The district is not intended generally for single-family type uses except as incidental to the area. Offices, as special uses, are intended to be near the business or industrial districts and to serve as a buffer for residential areas.

A. Permitted Uses.

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

B. Special Uses.

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

C. Conditional Uses.

1. Any conditional uses allowed in the R-1 Residential District not otherwise having been designated as permitted uses, but not earth-sheltered dwellings or the provision for metal buildings.
2. Bed and breakfast homes or inns.

D. Lot Size Requirements.

1. Minimum lot area:
 - a. Dwellings permitted by Section 4-102A1: 8,000 square feet.
 - b. Two-family dwellings: 10,000 square feet.

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

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

2. Minimum lot width:

a. Dwellings permitted by Section 4-102A1: 60 feet.

b. Two-family dwellings: 70 feet.

c. Multiple-family dwellings: 90 feet.

d. All other uses: 80 feet.

3. Minimum lot depth: 100 feet.

E. Bulk Regulations.

1. Maximum structure height: 35 feet.

2. Yard requirements:

a. Minimum front yard: 20 feet on all sides abutting a street.

b. Minimum side yard:

(1) Dwellings permitted by Section 4-102A1: 5 feet.

(2) Single-family attached and two-family dwellings: 5 feet on each side, except for the common lot line of an attached dwelling.* (See Section 2-102 for definition of a DWELLING, ATTACHED.)

(3) Multiple-family dwellings: 5 feet.

(4) All other uses: 15 feet.

c. Minimum rear yard: 25 feet.

3. Maximum lot coverage: 40%.

F. Use limitations.

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

* See Article 9 in City Subdivision Regulations for Procedures for Approval of Lot Splits.

103 **B-1 Central Business District.** This district is intended to group the main retail merchandising activities into a concentrated area serving the general shopping needs of the City and its trade area. Related activities which are compatible and strengthen the business area are included.

A. Permitted Uses.

1. Business and professional offices and financial institutions including drive-through facilities.
2. Bus station and taxicab stands.
3. Department and variety stores.
4. Establishments employing not more than five persons in service and construction businesses working on the premises such as plumbing and electrical work, watch and shoe repairing, barber and beauty shops, and fitness centers.
5. Dwelling units constructed in conjunction with and above the first floor of business establishments.
6. Newspaper, publishing and printing firms.
7. Private and public assembly places, fraternal and service clubs, senior citizen centers and churches, chapels, temples and synagogues.
8. Restaurants, clubs, taverns and drinking establishments.
9. Retail stores. (See Section 2-102 for definition of RETAIL.)
10. Shops employing not more than five persons for manufacturing items which are sold at retail on the premises as well as elsewhere.

B. Special Uses.

1. Public buildings erected or land used by any agency of the City, township, County or state government.
2. Auction houses.
3. Automobile salesrooms, vehicle sales lots and service stations.
4. Commercial amusement and recreational centers, indoor only.
5. Hotels, motels and theaters.
6. Mortuaries and funeral homes.

7. Other special uses not otherwise specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-103 and compatible with the uses permitted in Section 4-103A.

C. Conditional Uses.

1. Garages, repair.
2. Storage warehouses.

D. Lot Size Requirements.

1. Minimum lot area: None required.
2. Minimum lot width: 25 feet.
3. Minimum lot depth: 75 feet.

E. Bulk Regulations.

1. Maximum structure height: 45 feet.
2. Yard requirements:
 - a. Minimum front yard: None.
 - b. Minimum side yard and rear yards: None, but if there is one provided, it shall not be less than five feet.
 - c. Minimum rear yard: None, but if there is one provided, it shall not be less than five feet.
3. Maximum lot coverage: A building, structure, or use may occupy all that portion of the lot not otherwise required for the yard regulations.

F. Use Limitations.

1. No new building shall be used for residential purposes. (See Section 8-104 for alteration and expansion of nonconforming residential structures.)
2. All business, servicing, storage and display of goods; except for the sale of self-service gasoline by service stations, shall be conducted within completely enclosed structures or screened from public view, unless approved as a conditional use by the Board of Zoning Appeals or as part of an application for a special or conditional use. (See Section 6-101E for temporary outside display and sales area.)

104 **B-2 General Business District.** This district is designed to provide for those businesses which draw their customers from motorists on the highway and at the same time serve a local need for retail and service businesses. Such businesses may not generally locate in the Central Business District because of their size and outdoor activities or operate as a home occupation.

A. Permitted Uses.

1. Any use permitted in the B-1 Central Business District except dwelling units and retail stores.
2. Business, technical or trade school.
3. Car washes.
4. Contractor shops including outside storage.
5. Convenience stores and related petroleum sales.
6. Garden stores.
7. Gift souvenir shops.
8. Marine supplies and sales.
9. Medical, dental and health clinics.
10. Restaurants.
11. Self-service laundries or dry cleaning establishments.
12. Service stations.
13. Fraternal and service clubs and churches, chapels, temples and synagogues.

B. Special Uses.

1. Public buildings erected or land used by any agency of the City, County or State government.
2. Animal hospitals, provided that all pens shall be in an enclosed structure when located within 300 feet of a residential district.
3. Automotive salesrooms and vehicle sales lots.
4. Commercial amusement and recreation centers including bowling, miniature golf, roller skating and amusement rides.
5. Mini-storage facilities for inside rental storage.

6. Utility substations and distribution centers.

7. Other special uses not otherwise specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-104 and compatible with the uses permitted in Section 4-104A.

C. Conditional Uses.

1. Drive-in establishments.

D. Lot Size requirements:

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

2. Minimum lot width: 75 feet.

3. Minimum lot depth: 100 feet.

E. Bulk Regulations.

1. Maximum structure height: 35 feet.

2. Yard requirements:

a. Minimum front yard: 35 feet, except that motor vehicles and boats stored or displayed in the open for sale shall be located not less than ten feet from the front lot line.

b. Minimum side yard: None, but if a side yard is provided, it shall not be less than five feet.

c. Minimum rear yard: None, but if a rear yard is provided, it shall not be less than five feet.

3. Maximum lot coverage: 50%.

E. Use Limitations.

1. No new building shall be used for residential purposes. (See Section 8-104 for alteration and expansion of nonconforming residential structures.)

2. Outdoor operations, display and storage is permitted which is related activity to the principal use, but not in any required yard. A display area, however, may be approved in a front yard by the Board of Zoning Appeals as a conditional use.

105 **I-1 Industrial District.** This district is designed for industrial uses which do not require large amounts of land, generate modest amounts of traffic, are consistent with the capacity and availability of public and private services, create limited nuisance effects in the way of odor, smoke, dust, glare, vibration or sounds; and not encourage the intermixing of residential uses.

A. Permitted Uses.

1. Agricultural feed and grain manufacture, storage and sales.
2. Agricultural and construction equipment sales, repairs and storage.
3. Assembly, manufacture or repair of electrical and mechanical appliances, instruments, and the like.
4. Building material production, storage and sales including manufactured housing and lumberyards.
5. Clothing and textile manufacture.
6. Construction contractor's offices, including equipment and storage area.
7. Food manufacture, distribution and storage.
8. Furniture manufacture and repair.
9. Garages, repair.
10. Greenhouses and hydroponic farming.
11. Hatcheries.
12. Laundry, dry cleaning and dyeing works.
13. Manufactured products such as: bags, brooms, brushes, cosmetics, drugs, jewelry, paper goods, plastics, sporting and office equipment and the like.
14. Metal fabrication and assembly.
15. Printing and publishing companies.
16. Research laboratories.
17. Sale lots for new and used cars, vans, trucks, recreational vehicles and manufactured and mobile homes.
18. Sign shops and service.
19. Transportation storage, bus and trucking area.

20. Utility substations and distribution centers.
21. Wholesale businesses, storage warehouses and mini-storage facilities for inside and outside storage.

B. Uses Not Permitted.

1. Acid manufacture.
2. Cement, lime gypsum, or plaster of Paris manufacture.
3. Creosote or tar treatment.
4. Distillation of bones.
5. Explosives manufacture or storage, including fireworks.
6. Fat rendering.
7. Fertilizer manufacture.
8. Garbage, offal or dead animal incineration or reduction.
9. Glue or soap manufacture.
10. Petroleum processing and refining.
11. Smelting of base metals.
12. Stockyards or slaughterhouses.
13. Tanning, curing or storage of rawhides or skins.

C. Special Uses.

1. Public buildings erected or land used by any agency of the City, or a township, or county, or state or federal government.
2. Bulk storage for retail or wholesale distribution and not used as an accessory part of a normal manufacturing process of such items as anhydrous ammonia and other products which may be considered as highly explosive, combustible or of a volatile nature.
3. Recycling processing centers. (See Section 2-102 for definition.)
4. Salvage yards. (See Section 2-102 for definition.)
5. Public and private hazardous waste facilities. (See Section 2-102 for definition.)

6. Other uses not specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-105 and compatible with the uses permitted in Section 4-105A. Such other uses may also include retail and service businesses which provide a particular direct service to the industrial uses or serve as a convenience to the employees thereof.

D. Conditional Uses.

1. Asphalt and concrete mixing plants.
2. Large recycling collection centers. (See Section 2-102 for definition.)
3. Rental centers including outdoor display and storage.

E. Lot Size Requirements.

1. Minimum lot area: 10,000 square feet.
2. Minimum lot width: 80 feet.
3. Minimum lot depth: 100 feet.

F. Bulk Regulations.

1. Maximum structure height: 45 feet exclusive of grain elevators.
2. Yard requirements:
 - a. Minimum front yard: 25 feet on all sides abutting a street.
 - b. Minimum side yard: No minimum requirement, but if a side yard is provided, it shall be not less than 10 feet.
 - c. Minimum rear yard: No minimum requirement, but if a rear yard is provided, it shall be not less than 20 feet.
3. Maximum lot coverage: 75%.

G. Use Limitations.

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

2. Outdoor operations, display and storage is permitted which is related activity to the principal use; except that only parking and display areas for new products are permitted in the minimum front yard setback.
3. There shall be no emission of dust, noise, odor or vibration which shall be detectable as a nuisance beyond the property line.

106 P-O Protective Overlay District. This district may be applied as an overlay district in combination with any underlying zoning district. By limiting specific uses or requiring more restrictive development standards to individual projects or specific properties, this district is intended to:

- (1) ensure compatibility among incompatible or potentially incompatible land uses;
- (2) ease the transition from one zoning district to another;
- (3) address sites or land uses with special requirements; and
- (4) guide development of unusual situations or unique circumstances.

Development standards include, but are not limited to, lot sizes, bulk requirements, use limitations, off-street parking and loading provisions, accessory structures and uses, sign standards, miscellaneous requirements of Section 3-103 and screening and landscape requirements of Section 3-104.

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

1. Prohibiting specific principle and accessory uses which are otherwise allowed as permitted, special or conditional uses; or designating an otherwise permitted use as a special or conditional use;
2. Decreasing the number or average density of dwelling units that may be constructed on the site;
3. Increasing minimum lot size or lot width;
4. Increasing minimum setback requirements in any yard;
5. Restrictions on access to abutting properties and streets, including specific design features; and
6. Any other development standards required or authorized by these regulations.

B. Method of Adoption. Modifications and restrictions imposed through this district are considered part of this zoning text and accompanying map. All property included in the district shall be identified on the Official Zoning Map by adding the letters "P-O" and a number to the base zoning district symbol. The number shall be assigned when the application is filed and numbers shall run consecutively beginning

with number 1. The effectuating ordinance for zoning or rezoning property to the P-O District shall specifically state the modifications or restrictions imposed pursuant to Section 4-106A. Such modifications and restrictions imposed shall be considered part of the text of these regulations and a violation of them shall be a violation of these regulations. The modifications and restrictions shall continue in full force and effect until revised in accordance with the same amendment procedures as for the approval of the original P-O District.

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

ARTICLE 5. OFF-STREET PARKING AND LOADING

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

A. General Provisions.

1. Utilization: Accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants or employees of such uses. Such parking facilities or any vacant lot shall not be used to display or store motor vehicles including recreational vehicles and utility trailers for sale other than where permitted specifically in a district. Such provision shall not prevent the display of a small temporary for sale sign not exceeding two square feet in size on a personal vehicle when parked periodically on a driveway or an identifiable parking area on a zoning lot of a residence or a business location. (See Section 2-102 for definition of STORAGE, OUTDOOR.)
2. Parking space dimension: An off-street parking space shall be at least eight feet six inches in width and at least 19 feet in length, exclusive of access drives or aisles, ramps or columns, unless special parking is designated for variable sizes of vehicles.
3. Access: Each off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. No parking space shall be designed to exit or back directly onto a public street or use the public right of way for parking space, unless specifically approved by the Governing Body. Such arrangements are to be discouraged, except in unusual circumstances wherein the traffic safety of the public can still be protected.
4. Open and enclosed parking: Off-street parking spaces open to the sky may be located in any yard, except that in residential districts no such spaces shall be located in a front yard setback other than for single and two-family dwellings and manufactured or mobile homes not in parks. Principal buildings with private garages and carports integrated into or attached to the buildings which contain or shelter off-street parking spaces shall be subject to the yard setback requirements applicable in the district wherein the buildings are located. Detached garages and carports which contain or shelter off-street parking spaces shall be subject to

the provisions of the accessory uses contained in Section 6-100 and, in particular, the bulk regulations of Section 6-100C. (See Section 3-103F1 for canopies.)

5. Design and Maintenance:

- a. Design: Off-street parking spaces shall comply with such design standards relating to curb cuts and curb length, stall depth, driveway width, island width, barriers, and the location of ingress and egress as may be established from time to time by the City. Off-street parking spaces may be open to the sky or enclosed in a building or structure. Parking on driveways for single and two-family dwellings and all types of manufactured and mobile homes is considered to be permitted temporary parking and required parking spaces on such lots are not to be in the front yard setback. All parking spaces must be in an identifiable area where all spaces are contained thereon. (See Section 5-100A5c for screening.)
- b. Surfacing: All open off-street parking spaces, whether required spaces or not, and driveways shall be graded and paved with an asphalt, asphaltic concrete, concrete or other comparable hard-surfaced, all weather, dustless material which shall be maintained in good condition; provided, however, graveled parking areas are permitted in the industrial districts and for church parking lots and manufactured and mobile homes in related parks. Driveways, parking spaces and display areas for all open sales or rental lots for motor vehicles, trailers, recreational vehicles and manufactured and mobile homes shall be paved or graveled.
- c. Screening: Screening for parking spaces and loading areas is incorporated into the general screening and landscaping provisions of Section 3-104.
- d. Lighting: Any lighting used to illuminate off-street parking spaces shall be shaded so that direct light is not cast upon property located in a residential district and so that glare is not a problem to traffic on any public street.
- e. Repair and service: No motor vehicle repair work or service of any kind shall be permitted in association with any off-street parking spaces or structures, except as incidental repairs to a personal vehicle. (See Section 2-102 for definition of SALVAGE YARD.)
- f. Computation: When determination of the number of off-street parking spaces required by these regulations results in a requirement of a fractional space, the fraction of one-half or less may be disregarded, and a fraction in excess of one-half shall be counted as one parking space.