

**ZONING ORDINANCE**

**CITY OF SMITH CENTER, KANSAS**

A COMPREHENSIVE ZONING ORDINANCE REGULATING AND RESTRICTING THE USE OF LAND AND THE USE AND LOCATION OF BUILDINGS AND STRUCTURES; REGULATING AND RESTRICTING THE HEIGHT AND BULK OF BUILDINGS AND STRUCTURES AND DETERMINING THE AREA OF YARDS, COURTS AND OTHER PLACES SURROUNDING THEM; REGULATING AND RESTRICTING THE DENSITY OF POPULATION; DIVIDING THE CITY OF SMITH CENTER, KANSAS INTO DISTRICTS FOR SUCH PURPOSES; ADOPTING A ZONING DISTRICT MAP OF THE CITY OF SMITH CENTER, KANSAS SHOWING BOUNDARIES AND THE CLASSIFICATION OF SUCH DISTRICTS; DEFINING CERTAIN OF THE TERMS USED IN SAID ORDINANCE; ESTABLISHING A BOARD OF ZONING APPEALS; PROVIDING FOR CHANGES AND AMENDMENTS TO THE SAID ORDINANCE AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS.

BE IT ORDAINED BY THE GOVERNING BODY THAT

**ARTICLE I - TITLE**

**SECTION 1.**

This ordinance including the zoning district map made a part hereof, may be known and cited as the Smith Center Zoning Ordinance and shall repeal and replace Ordinance Number 835, and all amendments thereto.

**ARTICLE II - INTERPRETATION AND SCOPE**

**SECTION 1.**

In the interpretation and application of this ordinance, the provisions of this ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare. Where this ordinance imposes a greater restriction upon land, buildings or structures than is imposed or required by existing provisions of law, ordinance, contract or deed, or resolution, the provisions of this ordinance shall govern.

**ARTICLE III - AUTHORITY AND JURISDICTION**

**SECTION 1. AUTHORITY:**

The Regulations set forth herein are adopted under authority of state statutes and in accordance with the adopted Land Use Plan for the City of Smith Center, Kansas.

**SECTION 2. JURISDICTION:**

These Regulations shall apply to all structures and land within the incorporated area of the City of Smith Center, Kansas, plus such unincorporated area as may be added to the zoning jurisdiction by ordinance.

**SECTION 3. NOTICE TO THE COUNTY:**

Whenever amendments to the text of these Regulations or to the Zoning District Map are proposed which will affect property located outside the corporate boundary of the City of Smith Center, written notice of such proposed action shall be given to the Governing Body of the county at least 20 days prior to the proposed action.

**SECTION 4. AGRICULTURAL EXCLUSION:**

Except for floodplain regulations in areas designated as a floodplain district, the regulations contained in this Ordinance shall not apply to the use of land under one ownership in excess of three (3) acres which is used for agricultural purposes."

**ARTICLE IV - RULES AND DEFINITIONS**

**SECTION 1. RULES:**

For the purpose of this Ordinance the following rules shall apply:

1. Words and numbers used singularly shall include the plural. Words and numbers used plurally shall include the singular. Words used in the present tense shall include the future.
2. The word "persons" includes a corporation, members of a partnership or other business organization, a committee, board, trustee, receiver, commission agent or other representative.
3. The word "shall" is mandatory.
4. The words "use," "used," "occupy" or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged" or "designed" to be used or occupied.
5. The provisions of these Regulations are not intended to abrogate any easement, covenant, or other private agreement provided that where the requirements of these Regulations are more restrictive or to impose higher standards or regulations than such easement, covenant, or other private agreement the requirements of these Regulations shall govern.
6. Interpretation of zoning district boundary line locations shall be governed by the following:

- a. Where district boundary lines are indicated as approximately following street and alleys, highways, or railroads, such boundaries shall be construed as following the centerlines thereof.
- b. Where district boundary lines are indicated as approximately following lot lines or section lines, such lines shall be construed as the said boundaries.
- c. Where a boundary of a district appears to follow a stream, lake, or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the governing body, unless otherwise indicated.
- d. Where a district boundary line divides a lot or unsubdivided property, and the dimensions are not shown on the map, the location of such boundary shall be indicated by using the scale appearing on the Zoning Map.

## SECTION 2: DEFINITIONS:

For the purpose of interpreting the provisions of this Ordinance, certain terms or words used herein are defined as follows:

1. Accessory Building. A subordinate building, the use of which customarily is incidental to that of the main building or to the main use of the premises. For the purposes of this Ordinance, the term accessory building shall include dish antennas and similar structures.
2. Accessory Use. A use of land customarily incidental and subordinate to the use of the principal building on the same lot or tract.
3. Agriculture. The use of a tract of land, where the principal activity is to produce income from the growing of crops, horticulture, nurseries, truck farms, or the raising of fish, poultry, and cattle or other livestock, including commercial feed lots. Such definition includes the structures necessary for carrying on farming operations and, as accessory uses, the dwelling(s) of those owning and/or operating the premises, including single-wide manufactured homes. The retail sale of items produces as part of the farming operation is permitted including the operation of commercial greenhouses and hydroponics farming.. .
4. Alley. A public thoroughfare which provides only a secondary means of access to abutting property, the right-of-way of which is twenty (20) feet or less in width.
5. Alley Line. The line of division between the public travel way comprising the alley and the private lot.
6. Alterations. (See Structural Alterations.)
7. 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.
8. Apartment. (See Dwelling, Multiple-Family.)
9. Apartment House. A building or portion thereof intended, designed, used, or suitable for use as a residence for three (3) or more families living in separate apartments.

10. 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/or for accessory uses, such as the sale of lubricants, accessories, or supplies; the incidental washing of motor vehicles, and the performing of minor repairs; but not including tire recapping, body repairs, major overhaul, provision of rental equipment, or open sales lots.
11. Basement. A building story having part, but not less than one-half (1/2), of its height below grade, and which is intended as the lower floor of a conventional dwelling unit, as opposed to the structural walls of an earth sheltered dwelling unit.
12. Board of Zoning Appeals. The legally appointed municipal board empowered to hear and decide appeals from, and to provide interpretations of, the terms of the zoning ordinance and official map as defined within this ordinance and in accordance with the laws of the State of Kansas.
13. Boarding Home for Children. A residential facility where children not related to the family by blood, marriage, or adoption are cared for twenty-four (24) hours a day by adult supervision which is licensed by the Kansas Department of Health and Environment.
14. Boardinghouse. A building other than a hotel where, for compensation and by prearrangement for definite periods, meals, or lodging and meals, are provided for three (3) or more persons, but not exceeding twenty (20) persons.
15. Buildable Area That area of a parcel or lot within which a structure can be constructed without conflicting with any requirements established by these Regulations.
16. Building. Any structure designed or intended for the enclosure, shelter or protection of persons, animals or property. When a structure is divided into separate parts by unpierced walls from the ground up, each part is deemed a separate building.
17. Building Height. The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gable, hip or gambrel roof.
18. Building - Main. A building in which is conducted the principal use of the lot or parcel upon which it is situated. Every dwelling in a residential district is a main building.
19. Building Official. The person or persons designated to administer this zoning ordinance, whether such person or persons be entitled City Manager, Building Official, Building Inspector, Administrative Official, City Engineer, City Clerk or Zoning Official.
20. Building Site. The land area, consisting of one or more lots or parcels of land under common ownership or control, considered as the unit of land occupied or to be occupied by a main building or buildings and accessory building, or by a principal use or uses accessory thereto, together with such parking and loading spaces, yards, and open spaces as are required by these Regulations.

21. 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 yard and setbacks.
22. Business and Professional Office. The office of an engineer, dentist, doctor, attorney, real estate or insurance agent, architect, or other similar professional person, and any office used primarily for accounting, correspondence, research, editing, or administration.
23. Campgrounds. Any parcel of ground which provides space for transient occupancy and is used or intended to be used for the parking of one (1) or more camping trailers, tents, or similar recreational vehicles. No camper shall occupy a campground for a period exceeding thirty (30) days on a temporary basis. The term campgrounds does not include sales lots of which unoccupied camping trailers, whether new or used, are parked for the purpose of storage, inspection, or sale.
24. Canopy. Any structure, movable or stationary, attached to and deriving its support from framework or posts or other means independent of a connected structure for the purpose of shielding a platform, stoop, or sidewalk from the elements, or a roof-like structure of a permanent nature which projects from the wall of a structure and overhangs the public way.
25. Car Wash. An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.
26. Cellar. A story having more than one-half (1/2) of its height below grade.
27. Child Care. The process of caring for unrelated minor children as a service with or without financial arrangements. Child care shall include the term "baby-sitting" but shall not include preschools. Also see Day Nursery.
28. Child Care Center. A day nursery providing care for seven (7) or more children for part or night away from the home of the parent or legal guardian; and including full day group care, nursery schools, play groups, head start centers giving emphasis to special programming for children, kindergartens not operated by the public schools, and other establishments offering care to groups of children. Such centers shall meet all requirements of the Kansas Department of Health and Environment for licensing.
29. Clinic. (See Medical, Dental or Health Clinic.)
30. Club or Lodge. A nonprofit association or organization formed for either fraternal, social, educational, philanthropic or other similar purposes, including unions and professional organizations.
31. Common Open Space. An area of land or water or combination thereof planned for passive or active recreation, but does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities, such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.

32. Comprehensive Plan. The duly adopted comprehensive plan for the development of the community which includes maps, charts, illustrations and texts for the following:
  - a. Land use studies.
  - b. Goals and objectives.
  - c. Population study and forecasts.
  - d. Economic base study.
  - e. Housing study.
  - f. Major thoroughfare plan.
  - g. Central Business District plan.
  - h. Community facilities study.
33. Condominium. A multiple family dwelling structure wherein the separate dwelling units are individually owned as opposed to rental units in an apartment.
34. Day Nursery. An establishment, other than a public or parochial school, which provides day care for four or more unrelated children aged five (5) years and under, as opposed to a child care or baby-sitting service. Also see Child Care.
35. Density. Restrictions on the number of dwelling units that may be constructed per acre or per square foot of a zoning lot area.
36. Developer. The legal or beneficial owner or owners of all of the land proposed to be included in a planned development or the duly authorized agent thereof. The holder of an option or contract or purchase, a lessee having a remaining term of not less than forty (40) years, or other person having an enforceable proprietary interest in such land, Shall be deemed to be a developer for the purpose of these Regulations..
37. District. A section or sections of the City for which the regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform.
38. Dump. A lot or parcel of land used primarily for the disposal, abandonment, dumping, burial or burning of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles or parts thereof, or other waste.
39. Dwelling. Any building or portion thereof which is designed and used exclusively for residential purposes.
40. Dwelling, Single-Family. A building having accommodations for and occupied exclusively by one (1) family. This may include modular homes. single-family.
41. Dwelling, Two-Family. A building having accommodations for and occupied exclusively by two (2) families. This may include modular homes, two-family.
42. Dwelling, Multiple-Family. A building having accommodations for and occupied exclusively by more than two (2) families. This may include modular homes, multiple-family.
43. Dwelling, Seasonal. A residence intended for occasional occupancy.

44. Dwelling Unit. A room or group of rooms with culinary and sanitary facilities which are designed or intended for occupancy by a single family.
45. Exception. An exception shall mean the allowance of a use within a given district by the Board of Zoning Appeals. Exceptions shall be limited to only those specifically authorized and listed in this zoning ordinance.
46. Family. One (1) or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, fraternity or sorority house, lodging house, hotel or motel.
47. Fence. A free-standing structure of metal, masonry, glass, or wood or any combination thereof resting on or partially buried in the ground and rising above ground level and used for confinement, screening, or partition purposes.
48. Floodplain. Land area subject to inundation from surplus storm water as defined by the HUD flood insurance study and as depicted on the flood insurance rate map for the community.
49. Floor Area. Floor area shall mean the gross floor area of the building of the several floors in the building.
50. Fraternal and/or Service Clubs. 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 at their annual meeting. 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.
51. Frontage. All the property on one side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street. Where a street is dead ended, the frontage shall be considered as all that property abutting on one side between an intersecting street and the dead end of the street.
52. Garage, Private. An building designed or used for the storage of not more than four (4) motor-driven vehicles.
53. Garage, Public. A building, or portion thereof, other than a private or storage garage, designed or used for equipping, repairing, hiring, servicing, selling or storing motor-driven vehicles.
54. Garage, Storage. A building, or portion thereof, designed or used exclusively for housing four (4) or more motor-driven vehicles.

55. Governing Body. The City Council of the City of Smith Center, Kansas.
56. Group Homes. Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability, who need not be related by blood or marriage and not to exceed two (2) staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of this state.
57. Home Occupation. An occupation or activity carried on in the principal and/or accessory building which meets all the following conditions:
- a. The occupation is carried on by a member of members to the immediate family residing on the premises.
  - b. The occupation is customarily incidental to the use of the premises as a dwelling place.
  - c. Not more than one (1) non-illuminated nameplate is used. The nameplate shall be attached to the building and shall not exceed one square foot in area.
  - d. The occupation does not occupy more than twenty-five (25) percent of the floor area of one (1) floor of the principal building.
  - e. No display, except for a nameplate as allowed in c above, shall indicate, from the exterior of the building, that the premises is being used in part for any purpose other than a dwelling.
  - f. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of a person off the lot, if the occupation is conducted in single family residence. In the case of electrical interference, no equipment, or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
  - g. No traffic shall be generated by such home occupation in substantially greater volumes than would normally be expected in a residential neighborhood.
  - h. There shall be on file in the office of the City Clerk a consent agreement to the proposed home occupation signed by seventy-five (75) percent of all Owners of property within two hundred (200) feet of the premises whereon such use is to be operated.
  - i. The Owner shall have received from the City of Smith Center, Kansas permit to operate such home occupation in accordance with the provisions of this ordinance and other applicable rules and regulations.
  - j. Review of a Home Occupation Permit shall be considered by the City of Smith Center, Zoning Appeals Board, with regard to revoking the permit if a complaint petition stating problems with regards to the home occupation has been submitted and signed by fifty (50) percent of all owners of property within two hundred (200) feet of the premises whereon the home occupation is conducted.
  - k. The following uses shall not in any event be considered home occupations within this definition:
    - (1) Funeral Homes
    - (2) Nursery schools unless specifically permitted by the district regulations.
    - (3) Restaurants.

- (4) Small grocery stores.
  - (5) Stables, animal kennels, or hospitals.
  - (6) Tourist homes, unless specifically permitted in the district.
  - (7) Renting of trailers or equipment.
  - (8) Auto and other vehicle repair.
58. Hospital. An establishment used primarily for inpatient care and to provide health, medical, mental, and surgical care of the sick or injured, excluding animal hospitals.
59. Hotel or Motel. A commercial building used as a temporary abiding place for persons who are being lodged for compensation with or without meals .
60. Institution of Higher Learning. A college, university or incorporated academy providing general academic instruction equivalent to the standards prescribed by the State Board of Education. Dormitories, fraternity houses, sorority houses and other student housing which are constructed on campus shall be considered accessory buildings.
61. Institution (Nonprofit). A building occupied by a nonprofit corporation or a nonprofit establishment for public use.
62. Junk or Salvage Yard. 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 storage or salvaging of machinery or vehicles not in running condition, or for the sale of parts thereof, or materials from the demolition of buildings or structures. In the agricultural and residential districts, no more than two (2) licensed or unlicensed motor vehicles which are in the process of restoration to operating condition may be stored; provided, however, such vehicles are stored inside a structure or screened from public view.
63. Kennel. Any place, area, building, structure or enclosure where more than two domesticated animals, commonly considered to be household pets, more than three months old, are boarded, cared for, housed, fed, trained or bred as a business.
64. Laboratory Medical. An establishment which provides bacteriological, biological, medical, X-ray, pathological and other similar analytical or diagnostic services.
65. Laundry (Self-Service). An establishment equipped with individual coin-operated washing, drying or dry cleaning machines.
66. Laundry. An establishment where commercial laundry and dry cleaning work is undertaken.
67. Lodging House. A residential building or place where lodging is provided (or which is equipped regularly to provide lodging) by prearrangement for definite periods, for compensation, for three (3) or more persons in contra-distinction to hotels open to transients.
68. Lot. A parcel of land shown as a unit on a recorded subdivision plat.
69. Lot Area. The total area within the property lines of the lot, plot or tract.

70. Lot or Plot. A parcel of land occupied or intended for occupancy by one main building, together with its accessory buildings, including the open spaces required by this ordinance. A lot or plot may include more than one platted lot.
71. Lot Corner. A lot, as defined above, abutting upon two (2) or more streets at their intersection. (See illustration at the end of this article.)
72. Lot Coverage. The total area of building expressed as a percentage of the total lot, plot or tract. (Includes both principal and accessory buildings.)
73. Lot, Depth Of. A mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lines of the lot. (See Illustration at the end of this Article.)
74. Lot, Interior. A lot other than a corner lot which has frontage on one street only. (See illustration at the end of this article.)
75. Lot, Double Frontage. An internal lot having a frontage on two (2) streets. (See illustration at the end of this Article.)
76. Lot of Record. A lot which is a part of a subdivision, the map of which has been recorded in the office of the register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the register of deeds.
77. Lot Width. The occupation is carried on by a member of members of the immediate family residing on the premises.
78. Manufacture. Any method of processing, developing, fabricating, assembling, either raw materials, semi-finished materials or parts into a semi-finished or finished product.
79. Manufactured Home. A factory-built structure or structures equipped with the necessary utility service connections and made so as to be transportable as a unit or units on its or their own running gear and designed to be used as a dwelling unit irrespective of how affixed to the land. The transportation system is designed so that the manufactured home may be moved from time to time. The term shall include two (2) or more separately towed units which, when bolted or otherwise fastened together, 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 manufactured homes shall be either skirted or placed on a permanent-type, enclosed perimeter foundation and, according to standards of the State of Kansas, shall be anchored to the ground.
80. Manufactured Home, Dependent. A manufactured home which does not have a flush toilet and bath or shower.
81. Manufactured Home, Independent. A manufactured home which has a flush toilet and a bath or shower.
82. Manufactured Home Park. Any area, parcel, or tract of ground equipped as required for support of manufactured homes and used or intended to be used by two (2) or more

occupied manufactured homes. Such manufactured home park shall be under one ownership and control, but under no circumstances shall the manufactured home spaces be sold or offered for sale individually. The term does not include a sales area on which unoccupied manufactured homes, whether new or used, are parked for the purposes of storage, inspection, or sale. A manufactured home may, however, remain on a space for purposes of sale by the resident owner or the manufactured home park owner. No more than fifteen (15) percent of the manufactured homes may be fore rent at any one time.

83. Manufactured Home, Residential Design. A manufactured home on permanent foundation which has (a) minimum dimensions of twenty-two (22) body feet in width, (b) a pitched roof, and (c) siding and roofing materials which are customarily used on site-built homes.
84. Medical, Dental or Health Clinic. Any building designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrists, psychiatrists, and podiatrists; and in which no patients are lodged overnight.
85. Modular Home. A dwelling structure located on a permanent foundation and permanently connected to public utilities, consisting of preselected, prefabricated units or modules designed to meet the requirements of the Smith Center Building Code, and transported to and/or assembled on the site of its permanent foundation; as opposed to a dwelling structure which is custom-built on the site of its permanent location; and also as opposed to a manufactured housing units, either single-wide, double-wide or of multiple width, located on a permanent foundation and permanently connected to public utilities.
86. Motel. A group of buildings including either separate cabins or a row of connected cabins or rooms which contain individual sleeping accommodations for transient occupancy and have individual entrances.
87. Motor Vehicle Repair Shop. A building or portion of a building, arranged, intended, or designed to be used for making repairs to motor vehicles.
88. Non conforming Building. The use of a building or portion thereof lawfully existing at the time of the passage of this zoning ordinance and amendments thereto, which does not conform with the provisions of this ordinance or amendments thereto.
89. Non conforming Lot of Record. A platted lot which does not comply with the lot size requirements for any permitted use in the district in which it is located.
90. Non conforming 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.
91. Non conforming Use. Any land lawfully occupied by a use, at the time of the passage of this ordinance or amendments thereto, which does not conform with the provisions of this ordinance or amendments thereto.

92. Nursing Home. An establishment or agency licensed by the State of Kansas for the reception, board, care or treatment of three or more unrelated elderly individuals.
93. Parcel. All contiguous lands (including lots and parts of lots) held in one (1) ownership.
94. Parking Space. An area surfaced for the purpose of storing one parked automobile. For the purpose of this ordinance one parking space shall have a minimum width of nine (9) feet and a minimum length of twenty (20) feet. In computing off-street parking, additional space shall be required off-street for access drives to each parking space.
95. Paved Parking. A vehicular parking area which has been surfaced with an applied material, such as concrete or asphalt, which shall be of sufficient quality and consistency to provide a dust-free all-weather condition.
96. Permanent Foundation. A foundation *of* formed and poured-in-place concrete or masonry units laid up with such reinforcing materials as may be required for quality construction.
97. Person. Any natural individual, firm, trust, partnership, association, or corporation
98. Place or Court. An open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.
99. Planned Development. A tract of land, meeting specified minimum site size, whereon all elements of development may be designed as interrelated aspects of an overall improvement concept in accordance with the provisions of this ordinance.
100. Planning Commission. The City Planning Commission of Smith Center, Kansas .
101. Platting. Whenever the terms platting, platted or subdivided are used in the zoning ordinance it shall refer to the process established by the duly adopted subdivision regulations by the City Planning Commission.
102. Preschool. An establishment, other than a public or parochial school, which provides education for four or more unrelated children aged five (5) years and under, as opposed to a child care or baby-sitting service.
103. Premises. A parcel together with all buildings and structures thereon.
104. Principal Structure. The main use of land or structures as distinguished from a subordinate or accessory use.
105. Private Club. An association, other than fraternal or service club, organized and operated either for or not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. Food, meals, and beverages may be served on such premises provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests provided that

such sale or service is in compliance with all applicable federal, state, county, and local laws.

106. Professional Office. Any building or part thereof used by one or more persons engaged in the practice of law, medicine, accounting, architecture, engineering or other occupation customarily considered as a profession.
107. Public Utility. Any business which furnishes the general public telephone service, telegraph service, electricity, natural gas or water, and any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state.
108. Restaurant. A public eating establishment at which the primary function is the preparation and serving of food.
109. Restaurant, Drive-In. An eating establishment, where for compensation, food is prepared and dispensed, having only incidental consumption within the principal building on the premises.
110. Rooming House. Any dwelling in which more than three (3) persons, either individually or as families, are housed or lodged for hire, with or without meals
111. Sanitary Landfill. A lot or parcel of land used primarily for the disposal, abandonment, dumping, burial or burning of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles or parts thereof, or other waste, and which is in conformance with the requirements of the Kansas Department of Health and Environment.
112. School. A public elementary or secondary educational facility which is under direction and control of the State Board of Education and the State Superintendent of Public Instruction and/or a Parochial elementary or secondary educational facility which offers the same general curriculum as that provided by a comparable public educational facility.
113. Service Station. An establishment consisting of a building or group of buildings and surfaced area where automotive vehicles may be refueled and serviced; such service shall not include tire recapping, body repairs or major overhaul.
114. Setback. The distance between the back of the street curb and building line.
115. Sign. A sign shall include any sign or other device which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an advertisement or announcement which directs attention to an object, product, place, activity, person, institution, organization or business, but shall not include any display of official notice or official flag.
  - a. Sign, Advertising. A sign or billboard which directs the attention of the public to any goods, merchandise, property, business service, entertainment, or amusement, conducted or produced which is bought or sold, furnished, offered, or dealt in elsewhere than on the premises where such sign is located, or to which it is affixed.
  - b. Sign, Sandwich. An advertising or business ground sign which is constructed in such a manner to form an "A" or a tent like shape, hinged or not hinged at the top and each angular face held at an appropriate distance by a supporting member.

- c. Sign, Business. A sign which directs attention to a business or profession conducted or to products, services, or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed. A "For Sale" sign or a "For Rent" sign relating to the property on which it is displayed shall be deemed a business sign.
  - d. Sign, Flashing. Any illuminated sign on which the artificial light is not constant in intensity and color at all times. For the purpose of this ordinance, any revolving illuminated sign shall be considered a flashing sign.
  - e. Sign, Illuminated. A sign designed to give forth artificial light, or designed to reflect light derived from any source.
  - f. Sign, Temporary. A sign, with or without illumination, which is not permanently attached to the building or anchored in the ground, and which is capable of being easily removed or transported from one location to another, provided that the following shall not be construed to be temporary signs under this definition:
    - (1) Real estate signs not exceeding four (4) square feet in area which advertise the sale, rental, or lease of the premises upon which said signs are located.
    - (2) Signs denoting the architect, engineer or contractor, when placed upon the work under construction and not exceeding sixteen (16) square feet in area.
    - (3) Banners.
116. Site. See "Parcel."
117. Special Use Permit. A special use permit is a written permit issued by the Zoning Administrator with the written authorization of the Appeals Board. This special use permit provides permission under special conditions to make certain special uses of land in certain zoning districts as stipulated in each of the district Zoning Regulations.
118. Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.
119. Story, Half. A space under a sloping roof which has the line of intersection of the roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished for use. A half-story containing independent apartment or living quarters shall be counted as a full story.
120. Street. A right-of-way, other than an alley, dedicated to the public use, which provides principal access to adjacent properties.
121. Street Line. A dividing line between a lot, tract or parcel of land and the contiguous street.
122. Street Network.
- a. Arterial Street. A street which provides for through traffic movement between and around areas and across the City with direct access to abutting property; subject to necessary control of entrances, exits and curb uses.

- b. Collector Street. A street which provides for traffic movement between arterial and local streets, with direct access to abutting property.
  - c. Local Street. A street which provides direct access to abutting land and for local traffic movement, whether in business, industrial or residential areas.
123. Structure. Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences.
124. Structural Alterations. Any change or rearrangement of the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this ordinance, the following shall not be considered structural alterations.
- a. Attachment of 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. Minor repair or replacement of non structural members.
125. Subdivision. The division of a tract of land into one or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land. The term subdivision includes re subdivision and the term "re subdivision," as used herein, shall include any further subdivision of a lot or parcel of land previously subdivided, for sale, use, or other purposes, which varies from the latest, approved subdivision of the same. See the land subdivision regulations.
126. Subdivision Plat. A plan or map prepared in accordance with the provisions of the duly adopted Subdivision Regulations and recorded with the Register of Deeds.
127. Tavern. An establishment in which the primary function is the public sale and serving of cereal malt beverages.
128. This Ordinance. The document duly approved and adopted by the Planning Commission and the City Council of the City of Smith Center, Kansas, which establishes zoning requirements.
129. Tourist Cabins. See "Motel."
130. Tourist Home. A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.
131. Tract. A plot or parcel of land, other than a lot in a subdivision which is recorded in the office of the Register of Deeds.
132. Trailer. (See Manufactured Housing.)
133. Use. The specific purpose for which land or a building is used. The term "permitted use," or its equivalent, shall not be deemed to include any illegal non conforming use.
134. 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.

135. Variance. The authorization, by the Board of Zoning Appeals, of a variance from the specific terms of this zoning ordinance. Variances are limited to those authorized in the powers and duties of the Board of Zoning Appeals as defined in this ordinance.
136. Yard. A space on the same lot with a main building, open, unoccupied and unobstructed by buildings or structures from the ground upward.
137. Yard, Front. A yard extending across the full width of the lot, the depth of which is the least distance between the back of the street curb and the front building line. (See illustration at the end of this article.)
138. Yard, Rear. A yard extending across the full width of the lot between the rear of the main building and the rear lot line, the depth of which is the least distance between the rear lot line and the rear of such main building. (See illustration at the end of this article.)
139. Yard, Side. A yard between the main building and the side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally, at ninety (90) degrees with the side lot line, from the nearest point of the side lot line toward the nearest part of the main building. (See illustration at the end of this article.)
140. Zone or District. A portion, area or section of the City of Smith Center, Kansas, for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land, and open spaces about buildings are herein established.
141. Zoning Administrator. The person or persons authorized and empowered by the Governing Body having jurisdiction to administer the requirements of these Zoning Regulations.
142. Zoning Area. The area to be zoned as set out on the Official Zoning Map filed of record.
143. Zoning Regulations. The term zoning regulations or this or these regulations shall mean the requirements stipulated in the regulations herewith attached.

### **SECTION 3. WORDS OR TERMS NOT DEFINED:**

Words or terms not herein defined shall have their ordinary meaning in relation to the context.

## **ARTICLE V - DISTRICTS AND BOUNDARIES**

### **SECTION 1. DISTRICT CLASSIFICATIONS:**

In order to classify, regulate and restrict the location of trades, industries, residential uses and other uses, and the location of buildings designed for specified uses to regulate and limit the height and bulk of buildings; to regulate and limit the intensity of the use of lots; to regulate and determine the area of yards and other open spaces surrounding buildings; and to regulate and restrict the density of population, the City of Smith Center, Kansas, is divided into districts designated as follows:

- "A-L" Agriculture District
- "F-P" Floodplain District
- "R-L" Residential Low Density District
- "R-1" Single-Family Dwelling District
- "R-2" Two-Family Dwelling District
- "R-3" Multiple Family Dwelling District
- "PUD" Planned Unit Development District
- "M-H" Manufactured Housing District
- "M-P" Manufactured Housing Park District
- "C-S" Highway Service District
- "C-1" Retail Business District
- "C-2" General Commercial District
- "I-P" Industrial Park District
- "I-1" Light Industrial District
- "I-2" Heavy Industrial District

**SECTION 2. ZONING DISTRICT MAP:**

The boundaries of the zoning districts are shown on the map and/or sections thereof attached hereto and made a part of this ordinance, which map is designated as the "Zoning District Map." The Zoning District Map and all the notations, references and other information shown thereon are a part of this ordinance and have the same force and effect as if said map and all the notations, references and other information shown thereon were all fully set forth or described herein. Copies of the Zoning District Map are properly attested and are on file with the City Clerk of Smith Center, Kansas.

**SECTION 3. ANNEXATION RULE:**

All territory which may hereafter be annexed to the City shall be designated "R-1" Single-Family Dwelling District until or unless otherwise established by ordinance.

**ARTICLE VI - "A-L AGRICULTURAL DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:**

The "A-L" Agricultural District is established for the purpose of protecting agricultural uses in the county by restricting and regulating density, land coverage and land use.

**SECTION 2. DISTRICT REGULATIONS:**

In District "A-L" no building or land shall be used and no building or structure shall be erected, altered or enlarged which is arranged or designed for other than one of the uses listed in SECTION 3 below.

### SECTION 3. USE REGULATIONS:

1. General farm operations, not including:
  - a. The spreading, accumulation, feeding, or use of garbage in any manner on the open surface of the land.
  - b. A use or activity engaged in within three hundred (300) feet of a residential or retail business structure, if such use or activity results in continuous odor, dust, or noise.
  - c. The construction of agricultural buildings or structures closer than ninety (90) feet to the centerline of a principal public way.
2. Single family dwelling units on two or more acres for exclusive use by the farm family or employees.
3. Residential design manufactured homes.
4. Manufactured housing incidental to general farm operations on the same tract or parcel with the principal dwelling provided the manufactured housing unit is used exclusively by the farm family or employees, Provided further that, in the case where individual wells and/or septic systems are used, spacing is in accordance with applicable sanitary regulations.
5. Churches and similar places of worship and parish houses.
6. Group homes.
7. Day Nurseries.
8. Golf courses and other open land recreational uses, except miniature golf courses, driving tees or other intensive commercial uses such as automobile race track or amusement park.
9. Greenhouses, nurseries and garden centers.
10. Institutions of higher learning, including dormitory accommodations when located on the same tract as the educational buildings.
11. Privately-owned parks, playgrounds, golf courses, or other outdoor recreational areas, such as campgrounds, youth camps, gun clubs, and archery, trap, and skeet ranges.
12. Public and semi-public parks, playgrounds, campgrounds, fishing preserves or other recreational areas and community buildings owned and operated by a public agency or nonprofit organizations.
13. Public or parochial elementary, junior high and high schools and private schools with equivalent curriculum.
14. Riding stables and academies providing no structures housing horses shall be located nearer than six hundred (600) feet to the boundary of any residential district.
15. Stands for sale of agricultural products or commodities raised on the premises.

16. Customary accessory uses and structures located on the same tract with the principal use, including barns, sheds, tennis courts, swimming pools, private garages, garden houses, barbecue ovens, fireplaces and similar uses.
17. Temporary structures incidental to construction work, but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the building is completed.
18. The renting of not to exceed two sleeping rooms with a total occupancy of not to exceed three persons for whom board may be furnished but with the prohibition of separate culinary accommodations for such tenants.
19. Utility lines and facilities necessary for public service, and including refuse disposal area conducted under a landfill or sanitary fill method, public and semi-public storage and repair facilities, sewage disposal, water supply and treatment facilities, dams and power plants.
20. Water sheds, wildlife habitats, wildlife production areas, and game management areas or other conservation uses.
21. The following uses may be allowed by special use permit when submitted, reviewed and approved by the Board of Zoning appeals and subject to conditions as the Board may impose.
  - a. Any public building erected or land used by any department of the City, County, State or Federal Government.
  - b. Airport or heliport.
  - c. Cemetery or crematory.
  - d. Electronic communications towers, provided that towers within one hundred fifty (150) feet of a dwelling district zone may have a height of no more than eighty (80) feet; and customary accessory uses incidental to electronic communications towers, such as parking areas, electronics, and generator buildings (not to include broadcast studios).
  - e. Home occupations.
  - f. Nursing homes, rest homes, convalescent homes and homes for the aged on a tract of land three acres or larger.
  - g. Day nurseries.
  - h. Radio, television, navigation or military control station, transmitter or tower.
  - i. Animal hospital or kennel, provided that no animal hospital shall be located closer than 300 feet from any residential zone, and that no kennel may be located closer than one thousand (1,000) feet from any residential zone. Additionally:
    - (1) The minimum lot size shall be not less than two (2) acres.
    - (2) No kennel buildings or runs shall be located nearer than seventy-five (75) feet to any property lines.
    - (3) All kennel runs or open areas shall be screened around such areas or at the property lines to prevent the distraction or excitement of the dogs. Such screening may be mature, dense deciduous foliage (double row), solid masonry, brick, or stone wall, louvered woods, stockade or chain

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

- j. Wrecking, salvage or junk yard, providing the storage yard is completely enclosed with six-foot solid fence or wall and located not less than 300 feet from a residential district zone and subject to the following:
  - (1) The operation shall be conducted completely within the enclosed area. The fence or wall shall be of uniform texture and color and shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the area. The fence or wall shall be installed in such a manner as to retain all scrap, junk or other material within the yard.
  - (2) No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosing fence or wall or within public right-of-way.
  - (3) Burning of paper, trash, junk or other waste materials shall be permitted only after approval of the Fire Department and in accordance with State requirements. Said burning, when permitted, shall be done during day-light hours only.
  
- k. Exploration and extraction of oil and natural gas.

**SECTION 4. INTENSITY OF USE REGULATION:**

Tracts in this district shall be subject to the following minimum size requirements:

- 1. Tracts served by private water wells and septic systems - five (5) acres.
- 2. Tracts served by a public water system and a private septic system - three (3) acres.
- 3. Tracts served by a public water system and public sewer system - two (2) acres.

**SECTION 5. HEIGHT REGULATIONS:**

Except as otherwise provided in the height, area, bulk and dimensional requirements of this ordinance, no building or structure shall exceed the following height restrictions.

- 1. When a building or structure is within 150 feet of a dwelling district one, said building or structure shall not exceed 35 feet in height.
- 2. When a building or structure is more than 150 feet from a dwelling district zone, said building or structure shall not exceed 80 feet in height. Buildings and structures used for nonagricultural purposes shall not exceed 35 feet in height.

**SECTION 6. YARD REGULATIONS:**

- 1. Front Yard:

- a. There shall be a front yard having a depth of not less than 40 feet except as required for arterial and collector streets or roads. (See Additional Height, Area and Use Regulations.)
- b. Where a lot or tract has double frontage, the required front yard shall be provided on both streets or roads.
- c. Where a lot or tract is located at the intersections of two or more streets or roads, there shall be a front yard on each street or roadside of said lot or tract. No accessory building shall project beyond the front yard line on either street or road.

2. Side Yard:

There shall be a side yard on each side of every building or structure which side yard shall not be less than 15 feet.

3. Rear Yard:

Except as hereinafter provided in the additional height, area and use regulations of this ordinance, there shall be a rear yard having a depth of not less than 40 feet.

**SECTION 7. SIGN REGULATIONS: See Article XXI.**

**SECTION 8. PARKING AND LOADING REGULATIONS: See Article XXII.**

**ARTICLE VII - "F-P" FLOODPLAIN DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:**

The "F-P" Floodplain District is intended for application in those areas of the community which are subject to inundation from surplus storm water as defined by the Flood Insurance Study and accompanying Floodway Map, Community Panel Number 200344-A effective November 28, 1975, and any subsequent additions or amendments thereto, prepared for the City of Smith Center by the Federal Insurance Administration. This zone is intended for application throughout the zoning jurisdiction in locations where official floodplain delineation has been established. The regulations are intended to minimize the extent of floods and reduce the height and violence thereof; to minimize the hazard of loss of lives and property caused by floods; and to secure safety from floods through the confinement of floods within reasonable limits by regulating and restricting areas of development along or in natural water courses and drain ways.

**SECTION 2. DISTRICT REGULATIONS:**

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

### **SECTION 3. SPECIAL USE REGULATIONS:**

Notwithstanding the requirements of the parent district, the other requirements of this zoning ordinance, and the detailed regulations present in City Ordinance Number, Floodway and Floodway Fringe Districts, the following regulations shall supplement the regulations of the parent district of which this district is made a part. These regulations shall supersede those of the parent district where there is a conflict among regulations.

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

In areas within the municipal zoning jurisdiction which are designated as "F-P" Floodplain, all developed uses of land and buildings shall meet the minimum standards and requirements for development within flood hazard areas as outlined and defined by Ordinance

### **SECTION 4. INTENSITY OF USE REGULATIONS:**

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

### **SECTION 5. HEIGHT REGULATIONS:**

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

**SECTION 6. YARD REGULATIONS:**

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

**SECTION 7. SIGN REGULATIONS:**

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

**SECTION 8. PARKING AND LOADING REGULATIONS:**

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

**ARTICLE VIII - "R-L" RESIDENTIAL LOW DENSITY DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:**

The "R-L" Residential Low Density District is established to provide for single-family rural residential development at a low density and to allow certain public facilities. It is the intent of the district regulation to protect the health, safety, and general welfare of persons residing in the district; to prevent uses which would devalue property; to regulate population density; and to provide adequate open space around buildings and structures. This zone is intended for application in developing areas adjacent to the City, and is intended to minimize conflicts of incompatible uses of land and protect the public health and welfare until the area is annexed.

**SECTION 2. DISTRICT REGULATIONS:**

In the "R - L" District, no building or land shall be used and no building or structure shall be erected, altered, or enlarged which is arranged or designed for other than one of the following uses listed in SECTION 3 below.

**SECTION 3. USE REGULATIONS:**

1. General farm operations. This Shall Not include or permit:
  - a. Any activity within three hundred (300) feet of another residential district which activity is noxious or offensive by reason of dust, odor, or noise.
2. Single-family nonfarm dwellings.
3. Residential design manufactured homes.
4. Group homes.

5. Temporary structures incidental to construction work but only for the period of work. Basements and cellars may not be occupied for residential purposes until the building is completed.
6. Golf courses, except miniature golf courses or driving tees.
7. Public parks, playgrounds, and recreational areas owned and operated by a public agency.
8. Customary accessory uses and structures located on the same lot with the principal use including tennis courts, swimming pools, private garages, garden houses, barbecue ovens, and fireplaces.
9. The following nonfarm uses may be allowed by special use permit when submitted, reviewed, and approved by the Board of Zoning Appeals, and under such conditions as the Board may impose:
  - a. Raising and care of livestock for show and pleasure, provided:
    - (1) When an "R-L" District or a portion thereof is reclassified to another more restrictive residential zone, those uses granted by special use permit for animal shelters or similar related uses in "a" above shall be completely discontinued within a period of six (6) months from the date of reclassification.
    - (2) Uses permitted in "a" above shall not be kept for commercial purposes.
    - (3) Livestock permitted in "a" above shall be properly sheltered and proper sanitation shall be maintained at all times.
    - (4) Livestock cages or pens permitted in "a" above shall not be closer than fifty (50) feet from any residence.
  - b. Churches and similar places of worship.
  - c. Home occupations.
  - d. Hospitals for people on a lot, plot, or tract of land five (5) acres or larger.
  - e. Licenses child care center.
  - f. Nursing homes, sanitarium, rest home, homes for the aged, or convalescent home on a lot, plot, or tract of land five acres or larger.
  - g. Preschools.
  - h. Raising of trees, shrubs, and grasses not sold on the premises.
  - i. Schools - public or parochial, elementary, junior high and high schools, and private schools with equivalent curriculum.
  - j. Cemetery, crematory, or mausoleum when used in conjunction with a cemetery.
  - k. Any public building erected or land used by any department of the City, County, State, or Federal Government.
  - l. Telephone exchange, electric substations, regulator stations, and other public utilities.

**SECTION 4. INTENSITY OF USE REGULATIONS:**

Lots in this district shall be subject to the following minimum size requirements:

1. Lots served by private water wells and septic systems - five (5) acres, with a minimum lot width of one hundred forty (140) feet.
2. Lots served by a public water system and a private septic system - three (3) acres, with a minimum lot width of one hundred forty (140) feet.
3. Lots served by a public water system and a public sewer system - nine thousand (9,000) square feet. Lots shall have an average lot width of not less than seventy (70) feet.

**SECTION 5. LOT COVERAGE:**

The principal building and accessory buildings shall not cover more than thirty (30) percent of the lot area.

**SECTION 6. HEIGHT REGULATIONS:**

No building shall exceed thirty-five (35) feet in height.

**SECTION 7. YARD REGULATIONS:**

1. Front Yard.
  - a. There shall be a front yard having a depth on not less than twenty-five (25) feet, except as required for arterial and collector streets in ARTICLE XXVI.
  - b. Where a lot or group of lots have a double frontage, the required front yard shall be provided on both streets.
  - c. Where a lot is located at the intersection of two (2) or more streets, there shall be a front yard on each street side of a corner lot; provided, however, that the buildable width of a single lot of record as of the effective date of this Ordinance shall not be reduced to less than thirty-five (35) feet, except as may be required to preserve a minimum front yard of not less than six (6) feet from the lot line.

2. Side Yard.

Except as hereinafter required in the additional height, area, and use regulations of this Ordinance, there shall be a side yard having a width of not less than eight (8) feet on each side of the principal building.

3. Rear Yard.

There shall be a rear yard having a depth of not less than twenty-five (25) feet.

**SECTION 8. SIGN REGULATIONS: See ARTICLE XXI.**

**SECTION 9. PARKING AND LOADING REGULATIONS: See ARTICLE XXII.**

**ARTICLE IX - "R-1" SINGLE-FAMILY DWELLING DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:**

The "R-1" Single-Family Dwelling District is established for the purpose of low density single-family dwelling use and to allow certain public facilities. It is intended that no uses be permitted in this district that will tend to devalue property for residential purposes or interfere with the health, safety, order or general welfare of persons residing in the district. Regulations are intended to control density of population and to provide adequate open space around buildings and structures in the district to accomplish these purposes.

**SECTION 2. DISTRICT REGULATIONS:**

In District "R-1" no building or structure shall be used, and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses listed in SECTION 3 below.

**SECTION 3. USE REGULATIONS:**

1. Single-family dwellings, but not including manufactured housing.
2. Residential Design Manufactured Housing.
3. Group Homes.
4. Churches and similar places of worship and parish houses.
5. Golf courses, except miniature golf courses and driving tees operated for commercial purposes.
6. Hospitals for people only on a lot, plot or tract of land five (5) acres or larger.
7. Nursing homes on a lot, plot or tract of land five (5) acres or larger.
8. Public parks, playgrounds, recreational areas.
9. Raising of crops, trees, shrubs and grasses not sold on the premises.
10. Schools - public or parochial, elementary, junior high and high schools and private schools with equivalent curriculum.
11. Garage, Private

12. Customary accessory uses and structures located on the same lot with the principal use including tennis courts, swimming pools, private garages, garden houses, barbecue ovens, and fireplaces, but which do not include uses unrelated to the principal use or any activity commonly conducted for gain.
13. Temporary structures incidental to construction work, but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the building is completed.
14. The following uses may be allowed by special use permit when submitted, reviewed and approved by the Board of Zoning Appeals, and under such conditions as the Board may impose:
  - a. Day Nurseries
  - b. Preschool
  - c. Home Occupations
  - d. Medical offices, clinics, and professional offices such as lawyers, accountants, insurance agencies, and brokerage or investment firms.
  - e. Telephone exchange, electric substations, or other major public utilities.

**SECTION 4. INTENSITY OF USE REGULATIONS:**

Every lot shall have an area of not less than six thousand (6,000) square feet and an average width of not less than fifty (50) feet.

**SECTION 5. LOT COVERAGE:**

The principal building and accessory buildings shall not cover more than thirty (30) percent of the lot area.

**SECTION 6. HEIGHT REGULATIONS:**

No building shall exceed thirty-five (35) feet in height.

**SECTION 7. YARD REGULATIONS:**

1. Front Yard
  - a. There shall be a front yard having a depth of not less than twenty-five (25) feet except as required for arterial and collector streets in Article XXIV.
  - b. Where a lot or group of lots has a double frontage, the required front yard shall be provided on both streets.
  - c. Where a lot is located at the intersection of two (2) or more streets, there shall be a front yard on each street side of a corner lot; provided, however, that the buildable width of a single lot of record as of the effective date of this ordinance shall not be reduced to less than thirty-five (35) feet, except as may be required to preserve a minimum front yard setback of not less than six (6) feet. No accessory building shall project beyond the front yard line on either street.

2. Side Yard:

- a. Except as hereinafter required in the additional height, area and use regulations of this ordinance, there shall be a side yard having a width of not less than six (6) feet on each side of the principal building.
- b. Where more than one principal building is constructed on a tract for hospital use, nursing home use, church use, school use, and other public uses the spacing between principal buildings shall not be less than the average height of the adjacent buildings.

3. Rear Yard:

There shall be a rear yard having a depth of not less than twelve and one-half (12-1/2) feet.

**SECTION 8. SIGN REGULATIONS: See ARTICLE XXI.**

**SECTION 9. PARKING AND LOADING REGULATIONS: See ARTICLE XXII.**

**ARTICLE X - "R-2" TWO-FAMILY DWELLING DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:**

The "R-2" Two-Family Dwelling District is intended for the purpose of allowing a slightly higher density than in district "R-1", yet retaining the residential qualities. This district allows duplex uses, single-family homes, certain community facilities and certain special uses.

**SECTION 2. DISTRICT REGULATIONS:**

In District "R-2" no building or land shall be used, and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses listed in Section 3 below.

**SECTION 3. USE REGULATIONS:**

1. Single-family dwellings.
2. Residential design manufactured homes
3. Group homes.
4. Two-family dwellings.
5. Community recreation buildings owned and operated by a public agency.

6. Churches and similar places of worship and parish homes.
7. Golf courses, except miniature golf courses and driving tees operated for commercial purposes.
8. Home occupations. (See definition for interpretation.)
9. Hospitals on a parcel of land not less than two (2) acres in size (but not animal hospitals or mental hospitals).
10. Institutions of higher learning, including dormitory accommodations.
11. Public buildings.
12. Public parks, playgrounds and recreation areas.
13. Raising of crops, trees, shrubs and grasses not sold on the premises.
14. Schools - public or parochial, elementary, junior high and high schools and private schools with equivalent curriculum.
15. Nonprofit institutions of an educational, philanthropic or eleemosynary nature, but not penal institutions.
16. Nursing homes and homes for the aged on a tract of land not less than two (2) acres in size.
17. Customary accessory uses and structures located on the same lot or group of lots with the principal use, including tennis courts, swimming pools, private garages, garden houses, barbecue ovens and fireplaces, but does not include use unrelated to the principal use of any activity commonly conducted for gain.
18. Temporary structures incidental to construction work but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the building is complete.
19. The following uses may be allowed by special use permit when submitted, reviewed and approved by the Board of Zoning Appeals, and under such conditions as the Board may impose:
  - a. Any use permitted by special use permit in the "R-1" district.

#### **SECTION 4. INTENSITY OF USE REGULATIONS:**

Except as hereinafter provided, all dwellings hereafter erected, enlarged, relocated or reconstructed shall be located upon lots containing the following areas:

1. A lot on which there is erected a single-family dwelling shall contain an area of not less than six thousand (6,000) square feet.
2. A lot on which there is erected a two-family dwelling shall contain an area of not less than three thousand seven hundred fifty (3,750) square feet per family. This regulation shall also be applicable to two-family structures being converted to individually owned units. Also see ARTICLE XXIV. Additional Height, Area and Use Regulations.

**SECTION 5. LOT COVERAGE:**

The principal building and accessory buildings shall not cover more than forty (40) percent of the lot area.

**SECTION 6. HEIGHT REGULATIONS:**

No building shall exceed forty-five (45) feet in height.

**SECTION 7. YARD REGULATIONS:**

1. Front Yard:
  - a. There shall be a front yard having a depth of not less than twenty-five (25) feet except as required for arterial and collector streets in ARTICLE XXVI.
  - b. Where a lot or lots have double frontage, the required front yard shall be Provided on both streets
  - c. Where a lot is located at the intersection of two (2) or more streets, there shall be a front yard on each street side of the corner lot; provided, however, that the buildable width of a lot of record as of the effective date of this ordinance shall not be reduced to less than thirty (30) feet, except as may be required to preserve a minimum front yard of not less than six (6) feet. No accessory building shall project beyond the front yard line on either street.
2. Side Yard:
  - a. There shall be a side yard on each side of a principal building which shall have a minimum width of six (6) feet.
  - b. Where more than one principal building is constructed on a tract of land for hospitals, nursing homes, churches, schools, institutions of higher learning, public buildings, or other public or quasi-public uses the spacing of said buildings shall not be less than the average height of adjacent buildings.
3. Rear Yard. There shall be a rear yard for each principal building in this district which shall have a depth of not less than twelve and one-half (12-1/2) feet.

**SECTION 8. SIGN REGULATIONS: See ARTICLE XXI.**

**SECTION 9. PARKING AND LOADING REGULATIONS: See ARTICLE XXII.**

**ARTICLE XI - "R-3" MULTIPLE-FAMILY DWELLING DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:**

The "R-3" Multiple Family Dwelling District is intended for the purpose of allowing high residential density land use with the co-mingling of compatible single family and two-family dwellings, apartments, home occupations, certain community facilities and certain special uses, yet retaining the basic residential qualities.

**SECTION 2. DISTRICT REGULATIONS:**

In District "R-3" no building shall be used, and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses in Section 3 below.

**SECTION 3. USE REGULATIONS:**

1. Any use permitted in the "R-2" Two-Family District.
2. Multiple-Family Dwellings.
3. Private clubs, fraternities, sororities and lodges, except those where the chief activity is a service, customarily carried on as a business.
4. The following uses may be allowed by special use permit when submitted, reviewed and approved by the Board of Zoning Appeals, and under such conditions as the Board may impose:
  - a. Any use permitted by special use permit in the "R-1" district.

**SECTION 4. INTENSITY OF USE REGULATIONS:**

1. A lot on which there is erected a single-family dwelling shall contain an area of not less than six thousand (6,000) square feet.
2. A lot on which there is erected a two-family dwelling shall contain an area of not less than three thousand seven hundred fifty (3,750) square feet per dwelling unit.
3. A lot on which there is erected a multiple-family dwelling shall have a minimum area of ten thousand five hundred (10,500) square feet for not to exceed four (4) families. In the case of more than four (4) families in a multiple dwelling there shall be at least two thousand five hundred (2,500) square feet per family.

4. Dormitories, lodging houses, nursing homes and boarding houses shall provide five hundred (500) square feet of lot area for each occupant.
5. Where a single lot of record as of the effective date of this ordinance, as defined in the definitions section of this ordinance, has less area than that specified for multiple-family dwellings, and its boundary lines, along their entire length, touched lands under other ownership on the effective date of this ordinance and have not since been changed such lot may be used only for single-family dwelling purposes, or for any other non dwelling use permitted in this district, provided the structure conforms with other yard and height requirements of this district.

#### **SECTION 5. LOT COVERAGE:**

The principal building and accessory buildings shall not cover more than forty (40) percent of the lot area.

#### **SECTION 6. HEIGHT REGULATIONS:**

No building shall exceed forty-five (45) feet in height.

#### **SECTION 7. YARD REGULATIONS:**

1. Front Yard:
  - a. There shall be a front yard having a depth of not less than twenty-five (25) feet except as required for arterial and collector streets in ARTICLE XXVI.
  - b. Where a lot or lots have double frontage, the required front yard shall be provided on both streets.
  - c. Where a lot is located at the intersection of two (2) or more streets, there shall be a front yard on each street side of the corner lot; provided, however, that the buildable width of a lot of record as of the effective date of this ordinance shall not be reduced to less than thirty (30) feet, except as may be required to preserve a minimum front yard setback of not less than six (6) feet. No accessory building shall project beyond the front yard line on either street.
2. Side Yard:
  - a. There shall be a side yard on each side of a principal building which shall have a minimum width of six (6) feet.
  - b. Where more than one principal building is constructed on a tract of land for hospitals, nursing homes, churches, schools, institutions of higher learning, public buildings, or other public or quasi-public uses the spacing of said buildings shall not be less than the average height of adjacent buildings.
3. Rear Yard: There shall be a rear yard for each principal building in this district which shall have a depth of not less than twelve and one-half (12-1/2) feet.

**SECTION 8. SIGN REGULATIONS: See ARTICLE XXI.**

**SECTION 9. PARKING AND LOADING REGULATIONS: See ARTICLE XXII.**

**ARTICLE XII - "PUD" PLANNED UNIT DEVELOPMENT DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:**

The provisions of this Article are intended for application in instances where tracts of land of considerable size are developed, redeveloped or renewed as integrated and harmonious units, and where the overall design of such units warrants modification of the standards contained elsewhere in this ordinance. To be eligible under this section, the community unit plan must:

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

**SECTION 2. DISTRICT REGULATIONS:**

This district is intended to be appended to a residential or commercial district to provide for the most advantageous techniques of land development consistent with the intent and purpose of this ordinance, the subdivision regulations and the comprehensive plan.

**SECTION 3. USE REGULATIONS:**

1. Uses by Right: Uses and structures permitted under the provisions of the regulations of the Parent District of which this district is made a part shall be permitted.
2. Special Exceptions: Conditional uses allowed as special exceptions in the Parent District to which this district is made a part may be permitted.
3. Prohibited Uses and Structures: Any use or structure prohibited in the Parent District to which this district is made a part.

**SECTION 4. INTENSITY OF USE REGULATIONS:**

The minimum area of a tract of land to be zoned as an appended "PUD" Planned Unit Development District within a Parent District shall be as follows:

<u>Parent Zoning District</u>	<u>Minimum Area (Acres)</u>
R Residential	3
C Commercial	2

The lot requirements of the Parent District of which this district is made a part shall be the minimum lot requirements unless otherwise prescribed and/or approved by the Planning Commission.

In the event the tract of land to be developed as an "PUD" Planned Unit Development District lies in more than one Parent District, the provisions of the more restrictive Parent District shall be applicable.

**SECTION 5. HEIGHT REGULATIONS:**

The height requirements of the Parent District of which this district is made a part shall be the maximum height requirements unless otherwise prescribed and/or approved by the Planning Commission.

**SECTION 6. YARD REGULATIONS:**

The yard requirements of the Parent District of which this district is made a part shall be the minimum yard requirements unless otherwise prescribed and/or approved by the Planning Commission.

In an appended residential district, the number of dwelling units that may be permissible on the proposed tract to be developed as an "PUD" Planned Unit Development District shall be determined by using the lot area per dwelling unit requirements of the parent zoning district unless otherwise approved by the Planning Commission, provided, however, that the total lot area of the proposed tract shall be reduced by the areas covered or occupied by buildings, streets, roadways, drives, parking areas, and unusable land areas such as streams, drainage ways, creeks or land with grade slopes exceeding a twenty-five (25) percent grade.

**SECTION 7. SIGN REGULATIONS:**

The sign regulations of the Parent District of which this district is made a part shall be the minimum requirements for sign regulations unless otherwise prescribed and/or approved by the Planning Commission.

**SECTION 8. PARKING AND LOADING REGULATIONS:**

The parking and loading requirements of the Parent District of which this district is made a part shall be the minimum requirements unless otherwise prescribed and/or approved by the Planning Commission.

## **SECTION 9. PROCEDURES FOR REVIEW AND APPROVAL:**

When a property owner or developer intends to develop a tract of land containing at least the minimum area for that parent district and involving more than one (1) commercial establishment, or in the case of a residential area, more than one (1) dwelling unit, application may be made for zoning the property to an "PUD" Planned Unit Development District.

The zoning change, if approved, shall be an amendment to the Zoning Map as an appendage to the existing Parent District. The zoning change may also incorporate a request to rezone the existing Parent District to another Parent District with the "PUD" Planned Unit Development District.

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

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

1. A topographic map showing contours at intervals of two (2) feet.
2. A plot plan showing:
  - a. Building and sign structure locations on the tract.
  - b. Access for streets.
  - c. Parking arrangement and number of spaces.
  - d. Interior drives and service areas. e. Area set aside for public open space.
3. Location map showing the development and zoning of the adjacent property within two hundred (200) feet, including the location and the type of buildings and structures thereon, and the current ownership thereof.
4. The full legal description of the boundaries of the properties to be included in the area to be zoned "PD" Planned Unit Development.
5. A map showing the general arrangement of streets within an area of one thousand (1,000) feet from the boundaries of the area to be zoned "PUD" Planned Unit Development District.
6. A map showing location of proposed sewer, water and other utility lines.
7. A description of general character of proposed buildings and any signs to be placed on the site.
8. A construction schedule.

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

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

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

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

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

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

### **ARTICLE XIII - "M-H" MANUFACTURED HOUSING**

#### **SECTION 1. INTENT AND PURPOSE OF DISTRICT:**

It is intended that this district be established to permit manufactured housing units on permanent foundations where a lot or a group of lots is owned by the manufactured housing owner.

This district is intended to be appended to any of the residential districts to provide an opportunity for individual siting and use of manufactured housing for single-family dwellings consistent with the use and density characteristics of the surrounding neighborhood.

#### **SECTION 2. DISTRICT REGULATIONS:**

In District "M-H" no building shall be used and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses in SECTION 3 below.

**SECTION 3. USE REGULATIONS:**

1. Manufactured housing on permanent foundations.
2. Uses and structures permitted under the provisions of the regulations of the Parent District of which this district is made a part.

**SECTION 4. INTENSITY OF USE REGULATIONS:**

A manufactured housing unit in an "M-H" District may be located on a lot which contains an area of not less than five thousand (5,000) square feet of area with an average width of not less than fifty (50) feet.

**SECTION 5. LOT COVERAGE:**

A manufactured housing unit and accessory buildings shall not cover more than forty (40) percent of the lot area.

**SECTION 6. HEIGHT REGULATIONS:**

The height requirements of the Parent District of which this district is made a part shall be the maximum height requirements.

**SECTION 7. YARD REGULATIONS:**

The yard requirements of the Parent District of which this district is made a part shall be the minimum yard requirements.

**SECTION 8. SIGN REGULATIONS:**

The sign regulations of the Parent District of which this district is made a part shall be the minimum requirements for signs unless otherwise prescribed and/or approved by the Planning Commission.

**SECTION 9. PARKING AND LOADING REGULATIONS:**

The parking and loading requirements of the Parent District of which this district is made a part shall be the minimum requirements unless otherwise prescribed and/or approved by the Planning Commission.

**SECTION 10. SPECIAL MANUFACTURED HOUSING REQUIREMENTS:**

Manufactured housing units sited on individually owned lots shall be subject to the following special requirements:

1. Manufactured housing units shall be mounted on a foundation of permanent design.
2. All open space below such manufactured housing units not completely enclosed by the permanent foundation shall be skirted, blocked or otherwise screened using solid materials which will assure positive closure.
3. Each manufactured housing unit shall be an independent dwelling, connected to all available utilities.
4. Each manufactured housing unit shall be provided with anchors and tie-downs of adequate capacity to provide stability against high winds and *adverse weather* conditions.
5. Each independent manufactured unit shall be sited in such a manner as to preserve the visual character of the neighborhood, which shall include provisions for landscaping and other site improvements as well as off-street parking.

#### **ARTICLE XIV - "M-P" MANUFACTURED HOUSING PARK DISTRICT**

##### **SECTION 1. INTENT AND PURPOSE OF DISTRICT:**

It is the intent of the "M-P" Manufactured Housing Park District to permit low density manufactured housing uses in a park-like atmosphere. The manufactured housing park district is intended for those areas where the owner proposes to develop and rent or lease individual sites, and is intended to be appended to any of the standard residential zones.

##### **SECTION 2. DISTRICT REGULATIONS:**

In District "M-P" no building shall be used and no building shall be erected, altered or enlarged, which is arranged, intended or designed for other than uses listed in SECTION 3 below.

##### **SECTION 3. USE REGULATIONS:**

1. Independent manufactured housing located on a well-drained concrete slab .
2. Parks and playgrounds.
3. Manufactured housing service buildings such as coin-operated washers and dryers, for exclusive use of residents of the manufactured housing park.
4. Office for manager of the manufactured housing park.
5. Storage building for vehicles used to tow manufactured housing units.
6. Storage building for blocks, skirts, pipe and other material and equipment required to set up a manufactured house.

7. Accessory uses and buildings including swimming pools, bath houses, patios, etc., for exclusive use of manufactured housing residents.
8. Day care centers.
9. Home occupations.
10. Churches and other similar places of worship.

#### **SECTION 4. INTENSITY OF USE REGULATIONS:**

1. A tract to be used for a manufactured housing park shall be large enough to accommodate twelve (12) or more manufactured units.
2. Each manufactured housing park space shall be not less than thirty-five (35) feet wide.
3. Manufactured housing parks shall have a maximum density of eight (8) manufactured units per gross acre and each space shall have not less than three thousand (3,000) square feet.
4. The applicant for a manufactured housing park shall prepare or cause to be prepared an application for rezoning and a development plan and shall present three (3) copies of the plan for review and approval by the Planning Commission. The plot plan shall show topography and the location and size of:
  - a. Manufactured housing sites.
  - b. Service buildings.
  - c. Off-street parking areas.
  - d. Electrical outlets.
  - e. Sewer outlets.
  - f. Water outlets. . Waterlines.
  - h. Sewer lines.
  - j. Recreational areas.
  - i. Landscaped areas and walls or fences.
  - k. Roadways.
  - l. Sidewalks.
5. The manufactured housing park shall conform with the following requirements:
  - a. The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.
  - b. Each manufactured housing space shall be provided with a paved patio of at least one hundred eighty (180) square feet and having a storage locker of at least one hundred (100) cubic feet.
  - c. Manufactured housing shall be so harbored on each space so that there shall be at least a twenty (20) foot clearance between manufactured housing units, provided, however, that with respect to manufactured housing units parked end-to-end, the end-to-end clearance may not be less than fifteen (15) feet. No manufactured housing shall be located closer than twenty (20) feet from any building within the manufactured housing park or from any property line bounding the manufactured housing park.

- d. All manufactured housing spaces shall abut upon a roadway of not less than thirty-two (32) feet where vehicles are permitted to park on the roadway adjacent to manufactured housing; otherwise off-street or off-roadway parking lots shall be maintained at a minimum ratio of one and one-half car spaces for each manufactured housing space and the roadway may then have a minimum of twenty-four (24) feet in width. All such roadways shall have unobstructed access to a public street or highway, provided further that the sole vehicular access shall not be by an alley and that all dead-end roadways shall include adequate vehicular turning space or cul-de-sac.
- e. All roadways and walks within the manufactured housing park shall be hard surfaced or gravel surfaced and provided with night lighting using lamps spaced at intervals of not more than one hundred (100) feet.
- f. A recreation area shall be provided having a minimum of fifty (50) square feet per manufactured housing space, provided, however, this requirement may be waived when the manufactured housing park is adjacent to or within four hundred (400) feet of a public park or recreational area.
- g. All electrical distribution systems and telephone service systems to each manufactured housing space, except outlets and risers, shall be underground. Each manufactured housing space shall be provided with a 110-volt and 220-volt service with a minimum 100-ampere individual service outlet.
- h. Whenever master television antenna systems are to be installed, the complete plans and specifications for the system must be approved by the City. Distribution to individual manufactured housing spaces shall be underground and shall terminate adjacent to the electrical outlet.
- i. Laundry facilities for the exclusive use of the manufactured housing occupants may be provided in service building.
- j. An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and manufactured housing spaces within the park. Each manufactured housing space shall be provided with a cold water tap at least four inches above the ground. An adequate supply of hot water shall be provided at all times in the service buildings for all washing and laundry facilities.
- k. All manufactured housing units within the "M-P" district shall be connected to an approved public water supply and an approved sanitary sewer system with at least a four (4) inch sewer connection to each manufactured housing unit. The sewer connection shall be provided with suitable fittings so that a water-tight connection can be made between the manufactured housing drain and the sewer connection. Such individual unit connections shall be so constructed that they can be closed when not linked to a manufactured housing unit, and shall be trapped in such a manner as to maintain them in an odor-free condition.
- l. Each manufactured housing unit shall be secured by anchoring the superstructure against uplift, sliding, rotation and overturning
- m. Outdoor laundry drying space of adequate area and suitable location shall be provided and indicated upon required plat.
- n. The owner or operator shall include with the required plat, the method of refuse collection and the location of refuse containers.
- o. If only independent manufactured housing spaces are to be provided no service building will be required; however, when such service building is required it shall comply with the following regulations:

- (1) Be located twenty (20) feet or more from any manufactured housing unit.
  - (2) Be adequately lighted.
  - (3) Have the interior finished with moisture-resistant material to permit frequent washing and cleaning.
  - (4) Provide at least one lavatory, water closet and shower for each sex; one laundry tray, one floor drain and hot and cold water.
  - (5) Have adequate heating facilities for the building and equipment which will furnish an ample supply of heated water during time of peak demands.
  - (6) Have all rooms well ventilated with all openings effectively screened.
- p. The Owner or operator shall include with the required plat a plan for financing the proposed improvements.

**SECTION 5. HEIGHT REGULATIONS:**

The height requirements of the Parent District of which this district is made a part shall be the maximum height requirements.

**SECTION 6. YARD REGULATIONS:**

No manufactured housing unit or other structure shall be located closer to a public street than the required front yard established for the Parent District of which this district is a part. Interior spaces shall be as set out in Section 4 - "Intensity of Use Regulations".

**SECTION 7. SIGN REGULATIONS:**

The sign regulations of the Parent District of which this district is made a part shall be the minimum requirements for signs, unless otherwise prescribed and/or approved by the Planning Commission.

**SECTION 8. PARKING AND LOADING REGULATIONS:**

Requirements in the "M-P" Manufactured Housing Park zone shall be as set out above in Section 4 - "Intensity of Use Regulations".

**ARTICLE XV - "C-S" HIGHWAY SERVICE DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:**

The "C-S" Highway Service District is intended for the purpose of providing limited highway services grouped on a single tract. Floor area is restricted, off-street parking is required and landscaping is required in order to reduce possible adverse effects on adjacent properties. Processing of materials and all services provided must be completely enclosed in an appropriately designed building.

## **SECTION 2. DISTRICT REGULATIONS:**

In District "C-S" no building shall be used, and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses in Section 3 below

## **SECTION 3. USE REGULATIONS:**

The following uses shall be permitted in District "C-S":

1. Animal hospitals or clinics.
2. Automobile sales, service and repair, provided that there is no outside repair or repair storage.
3. Bakery, including retail outlet.
4. Camp grounds.
5. Car wash.
6. Commercial recreation facilities (bowling centers, miniature golf courses and similar uses).
7. Drive-in restaurants.
8. Electric and telephone substations.
9. Farm implement sales; outdoor display shall be permitted provided that no machinery shall be displayed, parked or stored in any required yard.
10. Feed and seed stores, including garden and lawn supplies.
11. Florists shops.
12. Furniture, appliances and home furnishings.
13. Grocery stores.
14. Liquor stores.
15. Marine supplies, including sales and service of outboard motor boats.
16. Motels.
17. Parking lots (customer and private).
18. Parks, playgrounds and community buildings.
19. Plumbing establishments.

20. Professional Offices.
21. Public Storage facilities.
22. Restaurants.
23. Self-service laundries and dry-cleaning stores.
24. Service stations.
25. Sporting Goods stores
26. Truck sales, service and repair, provided there is limited outside repair or repair storage.
27. The following uses of land may be allowed in this district by special use permit when submitted, reviewed, and approved by the Board of Zoning Appeals.
  - a. Collection and distribution of recyclable items.
  - b. Manufactured home sales, subject to the following regulations:
    - (1) Sales Activities: In the "C-S" Highway Service District, manufactured home sales activities shall be limited to the display, storage, and sale of completed, undamaged manufactured home units, including all activities necessary to prepare said units for display on the property and transport off the property. Said activities shall include the placement or removal of towing equipment, tires and axles, blocks, skids, jacks, skirting and steps, and the connection and disconnection of utilities. Said activities shall not include construction on or in the manufactured home.
    - (2) Density: No more than eight (8) manufactured homes may exist on each acre of property used for manufactured home sales at any given time.

**SECTION 4. INTENSITY OF USE REGULATIONS:**

1. A tract for Highway Service District shall not be less than three (3) acres in area and may be in single or multiple ownership.
2. A lot shall have a minimum area of 15,000 square feet and an average width of not less than 150 feet.
3. The total ground area occupied by buildings and structures shall not exceed forty (40) percent of the total lot or ground area. For the purpose of this regulation, total ground area shall include all areas to be devoted to public open spaces, sidewalks or open courts, but not include public streets. An individual lot within a tract shall be subject to front side and rear Yard requirements.

**SECTION 5. HEIGHT REGULATIONS:**

No building or structure shall exceed forty-five (45) feet in height.

**SECTION 6. YARD REGULATIONS:**

1. Front Yard:
  - a. There shall be a front yard having a depth of not less than twenty-five (25) feet except as required for arterial streets and collector streets in ARTICLE XXIV.
  - b. Where a lot has double frontage or is a corner lot, a front yard shall be provided on both streets. No accessory buildings or structures shall project beyond the front line of either street.
2. Side Yard and Rear Yard: Where a "C-S" Zone abuts any residential District Zone a side and/or rear yard of not less than fifteen (15) feet shall be provided. Such side and rear yard shall be completely enclosed with a board fence or other acceptable enclosure which shall be not less than six (6) feet in height.

**SECTION 7. SIGN REGULATIONS: See ARTICLE XXI.**

**SECTION 8. PARKING AND LOADING REGULATIONS: See ARTICLE XXII.**

**SECTION 9. LANDSCAPE REGULATIONS: See ARTICLE XXIII.**

**SECTION 10. TRAFFIC REGULATIONS: See ARTICLE XXIV.**

**ARTICLE XVI - C-1" RETAIL BUSINESS DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:**

The "C-1" Retail Business District is intended for the purpose of grouping retail merchandising activities into a concentrated area serving the general shopping needs of the trade area. Principal permitted uses include department stores, apparel stores, general retail sales and services, and similar uses appropriate for comparison shopping. The grouping is intended to strengthen the business level of the central business activity.

**SECTION 2. DISTRICT REGULATIONS:**

In District "C-1" no building shall be used and no building or structure altered, enlarged or erected, which is arranged, intended or designed for other than one of the uses listed in SECTION 3 below:

**SECTION 3. USE REGULATIONS:**

1. Adding machine and other small business machine repair, sales and services .
2. Amusement places.

3. Antique shops and stores, providing all merchandise is displayed and sold inside a building.
4. Apartments on floors other than the ground floor.
5. Apparel and accessory stores.
6. Appliance stores.
7. Art and art supply stores.
8. Artist studios.
9. Auditoriums and similar places of public assembly.
10. Automobile accessory and supply stores.
11. Automobile parking lots and garages.
12. Automobile sales, service and repair, provided that there is limited outside repair or repair storage.
13. Automobile mechanic shops.
14. Bakery and pastry shops (retail only).
15. Banks and other saving and lending institutions.
16. Barber shops, beauty shops and chiropody, massage or similar personal services.
17. Bicycle shops.
18. Books and stationery stores.
19. Bowling centers and recreational buildings.
20. Business and technical schools including schools for photography, dancing and music.
21. Car Washes
22. Cigar and tobacco stores.
23. Clothing and costume rental shops.
24. Clothing stores.
25. Commercial recreational uses.
26. Custom dressmaking, millinery, tailoring and similar trades.
27. Delicatessens and catering establishments.

28. Department stores.
29. Drug stores and prescription shops.
30. Dry goods and notion stores.
31. Electric appliance sales and repair shops.
32. Electric substations, telephone exchange and utility regulator stations .
33. Fire stations, police stations, jails.
34. Fix-it shops (radio, television and small household appliances).
35. Florist and gift shops.
36. Furniture and home furnishing areas.
37. Funeral homes and mortuaries.
38. Government buildings.
39. Grocery, fruit and vegetable stores (retail only).
40. Hardware stores.
41. Heating and air conditioning shops, providing all merchandise is located in a building.
42. Hobby, stamp and coin shops.
43. Hotels and motels.
44. Household appliance stores.
45. Interior decorator's shop.
46. Jewelry and metal craft stores and shops.
47. Leather goods and luggage stores.
48. Libraries and museums (public).
49. Liquor stores.
50. Lock and key shops.
51. Mail order catalog stores.
52. Medical, dental and health clinics.
53. Medical and orthopedic appliance stores.

54. Meeting halls and auditoriums (including union halls, Elk's Lodge, American Legion Home, VFW, Masons, etc.).
55. Messenger and telegraph service stations.
56. Music instrument sales and repair shops.
57. Music stores and studios.
58. Newspaper offices.
59. Newsstands.
60. Offices and office buildings.
61. Office supply and office equipment sales and service stores.
62. Optician and optometrist shops.
63. Paint and glass stores.
64. Parking lots and garages.
65. Parks and open spaces.
66. Pawn shops.
67. Pet shops.
68. Photographic equipment sales and supply stores.
69. Photographic studios.
70. Picture framing shops.
71. Prescription shops.
72. Printing and publishing houses (including newspapers).
73. Printing shops and printing supply stores.
74. Public buildings, including post office, city offices, county offices, state offices.
75. Radio and television studios.
76. Railway, taxi and bus passenger stations.
77. Restaurants and tea rooms.
78. Service stations.

79. Self-service laundries.
80. Sewing machine shops and stores.
81. Shoe repair and shoeshine shops.
82. Shoe stores.
83. Sporting and athletic goods stores.
84. Tailor shops.
85. Taverns.
86. Television and radio sales and service establishments.
87. Theaters.
88. Thrift shops.
89. Toy stores.
90. Travel bureaus.
91. Used car lots.
92. Utility company offices.
93. Variety stores.
94. Wallpaper and paint stores.
95. Watch and watch repair shops.
96. Accessory uses customarily incident to the above uses.
97. The following uses may be allowed by special use permit when submitted, reviewed, and approved by the Board of Zoning Appeals, and under such conditions as the Board may impose:
  - a. Retail lumber yards, providing all materials and equipment are stored in a completely enclosed building or are screened by a minimum six (6) foot high solid fence.

#### **SECTION 4. INTENSITY OF USE REGULATIONS:**

No requirements except those to meet fire regulations.

**SECTION 5. HEIGHT REGULATIONS:**

No building shall exceed forty-five (45) feet in height except as otherwise provided in the additional height area and use regulations of this ordinance.

**SECTION 6. YARD REGULATIONS:**

1. Front Yard:

No front yard is required for any building in the "C-1" Retail Business District.

2. Side Yard:

No side yard is required for any building in the "C-1" Retail Business District, except where a lot sides on any residential district in which case there shall be a 15-foot side yard.

3. Rear Yard:

No rear yard is required for any building in the "C-1" Retail Business District, except where a lot abuts on a residential district in which case there shall be a 15-foot rear yard.

**SECTION 7. SIGN REGULATIONS: See ARTICLE XXI**

**SECTION 8. PARKING AND LOADING REGULATIONS: None required.**

**SECTION 9. LANDSCAPING REGULATIONS: None required.**

**SECTION 10. TRAFFIC REGULATIONS: See ARTICLE XXIV.**

**ARTICLE XVII - "C-2" GENERAL COMMERCIAL DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:**

The "C-2" general commercial district is intended for the purpose of allowing basic retail, service and office uses.

This district is also intended to provide locations for commercial activity that does not require a central location downtown but does require a location easily accessible to the downtown shoppers.

Business uses needing large floor areas, particularly those of a service nature and not compatible with central business district uses, are included in this district.

## **SECTION 2. DISTRICT REGULATIONS:**

In District "C-2" no building shall be used and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses listed in Section 3 below:

## **SECTION 3. USE REGULATIONS:**

1. Adding machine and other small business machine repair, sales and services.
2. Amusement places.
3. Antique shops and stores, providing all merchandise is displayed and sold inside a building.
4. Apartments on floors other than the ground floor.
5. Apparel and accessory stores.
6. Appliance stores.
7. Art and art supply stores.
8. Artist studios.
9. Auditoriums and similar places of public assembly.
10. Automobile sales, service and repair, provided that there is limited outside repair or repair storage.
11. Automobile mechanic shops.
12. Automobile parking lots and garages.
13. Bakery and pastry shops (retail only).
14. Banks and other saving and lending institutions.
15. Barber shops, beauty shops and chiropody, massage or similar personal services.
16. Bicycle shops.
17. Books and stationery stores.
18. Bowling centers and recreational buildings.
19. Business and technical schools including schools for photography, dancing and music.
20. Cigar and tobacco stores.

21. Clothing and costume rental shops.
22. Clothing stores.
23. Commercial recreational uses.
24. Custom dressmaking, millinery, tailoring and similar trades.
25. Delicatessens and catering establishments.
26. Department stores.
27. Drug stores and prescription shops.
28. Dry goods and notion stores.
29. Electric appliance sales and repair shops.
30. Electric substations, telephone exchange and utility regulator stations.
31. Fire stations, police stations, jails.
32. Fix-it shops (radio, television and small household appliances).
33. Florist and gift shops.
34. Funeral homes and mortuaries.
35. Furniture and home furnishing stores.
36. Government buildings.
37. Grocery, fruit and vegetable stores (retail only).
38. Hardware stores.
39. Heating and air conditioning shops, providing all merchandise is located in a building.
40. Hobby, stamp and coin shops.
41. Hotels and motels.
42. Household appliance stores.
43. Interior decorator's shop.
44. Jewelry and metal craft stores and shops.
45. Leather goods and luggage stores.
46. Libraries and museums (public).

47. Liquor stores.
48. Lock and key shops.
49. Mail order catalog stores.
50. Medical, dental and health clinics.
51. Medical and orthopedic appliance stores.
52. Meeting halls and auditoriums (including union halls, Elk's Lodge, American Legion Home, VFW, Masons, etc.).
53. Messenger and telegraph service stations.
54. Music instrument sales and repair shops.
55. Music stores and studios.
56. Newspaper offices.
57. Newsstands.
58. Offices and office buildings.
59. Office supply and office equipment sales and service stores.
60. Optician and optometrist shops.
61. Paint and glass stores.
62. Parking lots and garages.
63. Parks and open spaces.
64. Pawn shops.
65. Pet shops.
66. Photographic equipment sales and supply stores.
67. Photographic studios.
68. Picture framing shops.
69. Prescription shops.
70. Printing and publishing houses (including newspapers).
71. Printing shops and printing supply stores.

72. Public buildings, including post office, city offices, county offices, state offices.
73. Radio and television studios.
74. Railway, taxi and bus passenger stations.
75. Restaurants and tea rooms.
76. Self-service laundries.
77. Service stations.
78. Sewing machine shops and stores.
79. Shoe repair and shoeshine shops.
80. Shoe stores.
81. Sporting and athletic goods stores.
82. Tailor shops.
83. Taverns.
84. Television and radio sales and service establishments.
85. Theaters.
86. Thrift shops.
87. Toy stores.
88. Travel bureaus.
89. Used car lots.
90. Utility company offices.
91. Variety stores.
92. Wallpaper and paint stores.
93. Watch and watch repair shops.
94. Accessory uses customarily incident to the above uses.

#### **SECTION 4. INTENSITY OF USE REGULATIONS:**

No requirements for commercial uses in a "C-2" district except to meet fire regulations.

One thousand five hundred (1,500) square feet of lot area shall be required for each apartment built above ground floor level.

**SECTION 5. HEIGHT REGULATIONS:**

No building in a "C-2" district shall exceed forty-five feet except as provided in the additional height, area and use regulations of this ordinance.

**SECTION 6. YARD REGULATIONS:**

1. Front Yard:

No front yard is required for any building in the "C-2" General Commercial District except as required for arterial or collector streets. (See the additional height, area and use regulations of this ordinance.)

2. Side Yard:

No side yard is required for any building in the "C-2" General Commercial District, except where a lot sides on any residential district in which case there shall be a 15-foot side yard.

3. Rear Yard:

No rear yard is required for any building in the "C-2" General Commercial District, except where a lot abuts on a residential district in which case there shall be a 15-foot rear yard.

**SECTION 7. SIGN REGULATIONS. See ARTICLE XXI.**

**SECTION 8. PARKING AND LOADING REGULATIONS: See ARTICLE XXII.**

**SECTION 9. LANDSCAPING REGULATIONS: None required.**

**SECTION 10. TRAFFIC REGULATIONS: See ARTICLE XXIV.**

**ARTICLE XVIII - "I-P" INDUSTRIAL PARK DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:**

It is the intent of the "I-P" Industrial Park District to allow certain industrial land uses in a park-like atmosphere and to control the type of use, setback, parking, loading and unloading. It is also intended that this zone be compatible with adjoining dwelling and commercial land uses.

## **SECTION 2. DISTRICT REGULATIONS:**

The regulations set forth in this article, or set forth elsewhere in this ordinance, when referred to in this article are the regulations for "I-P" Industrial Park District. No building shall be used and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses listed in SECTION 3 below.

## **SECTION 3. USE REGULATIONS:**

The following uses may be permitted providing the entire operation is conducted within a building or an enclosed and landscaped yard. No portion of the property shall be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to: vibration, sound, electromagnetic disturbance, radiation, air pollution, or dust emission of odorous, toxic, or noxious matter. All uses must comply with all City, State, and Federal regulations regarding protection of the environment and the surrounding properties. A commercial outlet for products manufactured on the property shall be allowed in the "I-P" District, provided that the commercial use is clearly subordinate to the principal use (manufacturing or wholesaling) and does not take up more than fifteen (15) percent of the gross floor area.

1. Uses primarily engaged in research activities, including but not limited to research laboratories and facilities, developmental laboratories and facilities, and compatible light manufacturing relating to the following examples: bio-chemical; chemical; development facilities for national welfare on land, sea or air; film and photography; medical and dental; metallurgy; pharmaceutical; x-ray.
2. Manufacture, research, assembly, testing, and repair of components, devices, equipment and systems, and parts and components, such as, but not limited to, the following examples; coils, tubes, and semi-conductors; communication, navigation control, transmission and reception equipment, and control equipment and systems; data processing equipment and systems; glass edging, beveling, and silvering; graphics and art equipment; metering instruments; optical devices, equipment, and systems; phonographs, audio units, radio equipment, and television equipment; photographic equipment; radar, infra-red, and ultraviolet equipment and systems; scientific and mechanical instruments; testing equipment.
3. Other manufacturing to include, but not limited to, the following examples:
  - a. Manufacture, fabrication, and/or assembly of the following or similar products; Aircraft and related components, automotive parts, boats, clocks and watches, coffins, ceramic products, concrete products, electrical appliances, farm equipment, heating and ventilating equipment, linoleum, machinery and machine tools, musical instruments, neon signs, novelties, optical goods, refrigeration, screw machine products, sheet metal products, shoes, silk screens, sporting goods, springs, stencils, toys.
  - b. The manufacture of products or products made from the following or similar materials: aluminum, bags, batteries, boxes, paper, brass, cans, copper, glass, grinding wheels, iron, linoleum, matches, mattresses, steel, tin, tools, wool, yarn.
  - c. The manufacturing, compounding, processing, or treatment of the following or similar items: non-corrosive acids, candles, cigars and cigarettes, detergents, disinfectants, dye,

food products, lubricating oil, pharmaceutical products, plastics, toiletries, vitamin products, waxes and polishes, wines.

d. Woodworking shops (provided that, if a planer, router, sticher, or molder is maintained, all doors and windows in the outside walls of the room in which said machinery is located shall be kept closed while said machine is in use), for manufacture of boxes, furniture, wood products, or similar items.

4. Distribution and warehousing plants.

5. Administrative, professional, and business offices associated with and accessory to a permitted use.

6. Regional or home offices of industries which are limited to a single use and accessory to any of the above industrial developments.

7. Blue printing, Photostatting, photo engraving, printing, publishing, and bookbinding.

8. Agriculture, as a continuation of the existing land use, and all necessary structures and appurtenances shall be permitted.

9. General contractor and construction industries relation to the building industry, such as general contractors, electrical contractors, plumbing contractors, etc.

#### **SECTION 4. INTENSITY OF USE REGULATIONS:**

1. A tract for an Industrial Park District shall not be less than ten (10) acres in an area with no individual lot being less than one (1) acre in size.

2. Maximum building coverage of fifty (50) percent of a site is allowed. Parking structures shall not be calculated as building area; however, said structures shall be used only for the parking of company vehicles, employees' vehicles, or vehicles belonging to persons visiting the subject firm.

#### **SECTION 5. HEIGHT REGULATIONS:**

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

2. When a building or structure is more than one hundred fifty (150) feet from a residential district zone, said building or structure shall not exceed seventy-five (75) feet in height.

#### **SECTION 6. YARD REGULATIONS:**

1. Front Yard:

A front yard of twenty (50) feet shall be required for uses permitted in the "I-P" District, except that unsupported roofs or sun screens may project six (6) feet into the front yard area.

2. Side Yard:

A side yard of forty (40) feet shall be required for uses permitted in this district, except that if a single building is constructed on two or more lots, or if a site on which a single building was originally constructed is further subdivided into two or more lots in accordance with the provisions of SECTION 4, paragraph 2 of this Article, no side yard setback is required from interior lot lines; provided further, that, in any event, there shall be at least twenty (20) feet of open space between all buildings on the property which area shall be a side yard setback area. In the case of a corner lot, the street side setback shall be fifty (50) feet, except that unsupported roofs and sunscreens may project six (6) feet into the setback area. Interior lot lines for corner lots shall be considered side lot lines.

3. Rear Yard:

Rear yard setback shall be twenty (20) feet.

**SECTION 7. SPECIAL REQUIREMENTS:**

1. The applicant shall prepare and submit a preliminary development plan for review and approval by the Planning Commission and the Governing Body which shall include:

a. A plot plan showing:

- (1) Contours at intervals of one (1) foot.
- (2) Setback lines or general building locations on the tract to conform with the yard requirements of this district.
- (3) Points of ingress and egress.
- (4) All streets adjoining subject property and the width of existing right-of-way.
- (5) Designation of individual tracts or parcels if the area is to contain more than one building site.
- (6) Landscaped buffer strips and screening walls.

b. Location map showing the development and zoning of the adjacent property, including the location and the type of buildings and structures thereon.

c. The full legal description of the boundaries of the properties to be included in the area to be zoned "I-P" District.

d. A map showing the general arrangement of streets within an area of two hundred (200) feet from the boundaries of the area to be zoned "I-P" District.

e. A map showing location of proposed sewers, water, and other utility lines.

2. Upon approval of the preliminary development plan by the Planning Commission, the applicant shall prepare and submit a final development plan, which shall incorporate any changes or alterations requested. The final development plan and the Planning Commission recommendation shall be forwarded to the Governing Body for review and final action.

3. Any substantial deviation, as determined by the Zoning Administrator, from the approved "I-P" plan shall constitute a violation of the building or zoning permit authorizing construction of the project. Changes in plans shall be resubmitted for reconsideration and approval by the Planning Commission and Governing Body prior to the issuance of a building or zoning permit.

4. Plans showing layout and design of all required off-street parking areas shall be submitted and approved by the Zoning Administrator, prior to issuing a zoning or building permit. Before approving the parking layout, the Zoning Administrator shall satisfy himself that the spaces provided are usable and meet standard design criteria. All required off-street parking areas, including access drives, shall be improved with asphalt, concrete, or similar dust-free surface, and all parking spaces shall be clearly marked.

**SECTION 8. SIGN REGULATIONS: See ARTICLE XXI.**

**SECTION 9. PARKING AND LOADING REGULATIONS; See ARTICLE XXII.**

**SECTION 10. LANDSCAPING REGULATIONS: See ARTICLE XXII.**

**SECTION 11. TRAFFIC REGULATIONS: See ARTICLE XXIV.**

## **ARTICLE XIX - "I-1" LIGHT INDUSTRIAL DISTRICT**

### **SECTION 1. INTENT AND PURPOSE OF DISTRICT:**

The "I-1" Light Industrial District is intended for the purpose of allowing certain industrial uses which do not:

1. Require intensive land coverage.
2. Generate large volumes of vehicular traffic.
3. Create obnoxious sounds, glare, dust or odor.

Height and land coverage are controlled to ensure compatibility with adjoining uses.

## **SECTION 2. DISTRICT REGULATIONS:**

In District "I-1," no building or land shall be used and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses listed in SECTION 3 below:

## **SECTION 3. USE REGULATIONS:**

1. Animal hospitals or clinics.
2. Automobile sales, service and repair.
3. Bottling works.
4. Billboards subject to requirements outlined in ARTICLE XIX.
5. Building material sales (except for ready-mix concrete and similar uses which emit dust, odor or smoke).
6. Carpenter, cabinet, plumbing or sheet metal shops.
7. Car wash establishments.
8. Contractor's office and equipment storage yard, providing the storage yard is completely enclosed with a six (6) foot solid fence or wall.
9. Dog kennels.
10. Dry cleaning and/or laundry plants.
11. Farm implement sales and services.
12. Frozen food lockers.
13. Greenhouses and nurseries, retail and wholesale.
14. Light manufacturing operations, providing that such use is not noxious or offensive by reason of vibration or noise beyond the confines of the building or emission of dust, fumes, gas, odor or smoke.
15. Machinery sales and storage lots.
16. Monument sales.
17. Motor vehicle and farm implement sales and storage.
18. Public utility and public service uses as follows:
  - a. Municipal power plant.
  - b. Substations.
  - c. Railroads.

- d. Telephone exchanges, microwave towers, radio towers, television towers, telephone transmission buildings, electric power plants.
  - e. Public utility storage yards when the entire storage area is enclosed by at least a six (6) foot wall or fence.
- 20. Sign printing and manufacturing.
  - 21. Truck and rail terminals.
  - 22. Upholstery shops.
  - 23. Vehicle body repair, provided all repair operations are conducted in a closed building, and that all outside storage shall be enclosed by a six-foot (6') solid fence.
  - 24. Warehouses.
  - 25. Wholesale merchandise sales and storage.

**SECTION 4. INTENSITY OF USE REGULATIONS:**

- 1. A building structure or use allowed in this district may occupy all that portion of the lot except for that area required for off-street parking and off-street loading and unloading and their access roads and as otherwise required for arterial and/or collector streets in ARTICLE XXIV.
- 2. In the case where the required off-street parking and/or loading and unloading will be provided within the building or structure, then the structure may cover the entire lot except as otherwise required for arterial and/or collector streets in ARTICLE XXIV.

**SECTION 5. HEIGHT REGULATIONS:**

- 1. When a building or structure is within one hundred fifty (150) feet of a residential district zone, said building or structure shall not exceed forty-five (45) feet in height.
- 2. When a building or structure is more than one hundred fifty (150) feet from a residential district zone, said building structure shall not exceed seventy-five (75) feet in height.

**SECTION 6. YARD REGULATIONS:**

- 1. Front Yard:

No front yard shall be required for uses permitted in this district except as required for arterial and collector streets in ARTICLE XXIV.

- 2. Side Yard:

No side yard shall be required for uses in this district except where such use abuts a residential district zone, in which case there shall be required fifteen (15) feet of side yard on the side of the lot which abut the residential district.

3. Rear Yard:

No rear yard shall be required in this district except where such rear yard abuts a residential district zone, in which case there shall be required fifteen (15) feet of rear yard.

**SECTION 7. SIGN REGULATIONS: See ARTICLE XXI.**

**SECTION 8. PARKING AND LOADING REGULATIONS: See ARTICLE XXII.**

**SECTION 9. LANDSCAPING REGULATIONS: See ARTICLE XXIII.**

**SECTION 10. TRAFFIC REGULATIONS: See ARTICLE XXIV.**

**ARTICLE XX - "I-2" HEAVY INDUSTRIAL DISTRICT**

**SECTION 1. PURPOSE AND INTENT OF DISTRICT:**

The "I-2" Heavy Industrial District is intended for the purpose of allowing basic or primary industries which are generally not compatible with residential and/or commercial activity. Certain extremely obnoxious or hazardous uses will require special permission to locate in this district.

**SECTION 2. DISTRICT REGULATIONS:**

In District "I-2", no building or land shall be used and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one (1) of the uses listed in SECTION 3 below:

**SECTION 3. USE REGULATIONS:**

1. Animal hospitals or clinics.
2. Auto sales and repair.
3. Blacksmith shops.
4. Bottling works.

5. Building materials, storage and sales.
6. Carpenter, cabinet, plumbing and sheet metal shops.
7. Contractor's office and equipment storage yard.
8. Dog kennels.
9. Dry cleaning and laundry plants.
10. Feed and seed stores.
11. Frozen food lockers.
12. Grain elevators.
13. Greenhouses and nurseries, retail and wholesale.
14. Lumber yards.
15. Machinery sales and storage lots.
16. Manufacturing or fabrication establishments which are not noxious or offensive by reason of vibration, noise, dust, fumes, gas, odor or smoke.
17. Manufactured housing production, sales and storage.
18. Motor vehicle and farm implement sales and storage.
19. Poultry storage or slaughtering.
20. Public utility and public service uses.
21. Radiator repair shops.
22. Restaurants.
23. Service stations.
24. Storage yards providing the storage yard is completely enclosed with a six (6) foot fence or wall.
25. Truck and rail terminals.
26. Upholstering shops.
27. Vehicle body repair, provided all operations are conducted in a closed building and that all outside storage shall be enclosed by a six-foot (6') solid fence.
28. Warehouses or storage houses.

29. Wholesale houses.
30. The following uses of land may be allowed in this district by special use permit when submitted, reviewed and approved by the Board of Zoning Appeals.
  - a. Automobile wrecking yards, junk yards and scrap processing yards; when said yard is completely enclosed with six (6) foot solid fence and no junk or scrap is stored outside the fence or wall, and subject to other restrictions imposed by the Board of Zoning Appeals.
  - b. Petroleum refining.
  - c. Stockyard and slaughter houses.
  - d. Ready-mix concrete and asphalt mix plants.
  - e. Storage of bulk oil, gas and explosives.
  - f. Other uses which may be noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise or vibration.

**SECTION 4. INTENSITY OF USE REGULATIONS:**

1. A building, structure or use allowed in this district may occupy all that portion of a lot except for the area required for off-street parking, off-street loading and unloading and their access roads and/or arterial or collector streets in ARTICLE XXIV.
2. In the case where the required off-street parking and/or loading and unloading will be provided within the building or structure, then the building or structure may cover the entire lot except as required for arterial and/or collector streets in ARTICLE XXIV.

**SECTION 5. HEIGHT REGULATIONS:**

1. When a building or structure is within one hundred fifty (150) feet of a residential district zone, said building or structure shall not exceed forty-five (45) feet in height.
2. When a building or structure is more than one hundred fifty (150) feet from a residential district zone, said building or structure shall not exceed one hundred fifty (150) feet in height if not in conflict with airport approach zones.

**SECTION 6. YARD REGULATIONS:**

1. Front Yard:

No front yard shall be required for uses permitted in this district, except as required for arterial or collector streets in ARTICLE XXIV.

2. Side Yard:

No side yard shall be required for uses in this district except where such use abuts a residential district zone, in which case there shall be required fifteen (15) feet of side yard on the side of the lot which abuts the residential district.

3. Rear Yard:

No rear yard shall be required in the district except where such rear yard abuts a residential district zone, in which case there shall be required fifteen (15) feet of rear yard.

**SECTION 7. SIGN REGULATIONS: See ARTICLE XXI.**

**SECTION 8. PARKING AND LOADING REGULATIONS: See ARTICLE XXII.**

**SECTION 9. LANDSCAPING REGULATIONS: See ARTICLE XXIII.**

**SECTION 10. TRAFFIC REGULATIONS: See ARTICLE XXIV.**

### **ARTICLE XXI - SIGN REGULATIONS**

#### **SECTION 1. GENERAL REQUIREMENTS:**

1. It shall be unlawful for any person to erect, move, alter, change, repair, place, suspend, or to cause or permit to be erected, moved, altered, changed, repaired, placed, suspended or attached any sign in violation of this zoning ordinance and this Article.
2. It shall be unlawful for any person or persons to fasten, paste, place, post, paint or attach in any way any sign, handbill, poster, advertisement or notice of any kind or sort, whether political or otherwise, or to cause the same to be done, in or upon any curbstone, lamp post, telephone, telegraph or electric light pole, tree or bridge. It shall be unlawful to paste, place, paint or attach any sign on any building, street or property of the City; provided, however, that any property owner or the occupant of any property abutting on any public street in the City or County may paint or stamp the address of such property upon the curbing directly in front of the building or to have same painted thereon, subject to approval by the Building Official.

#### **SECTION 2. DISTRICT REGULATIONS:**

Signs shall be permitted in the various districts as follows:

1. Sign Regulations for "A-L" District.
  - a. Unilluminated nameplates subject to the following restrictions:
    - (1) The nameplate shall not exceed one square foot in area.
    - (2) The nameplate shall show only the name and/or address of the occupant.
    - (3) There shall be no more than one nameplate for each dwelling unit.
    - (4) The nameplate shall be affixed to the principal building, flat against the wall.
  - b. Unilluminated "For Sale" and "For Rent" signs and single- or double-faced

business signs subject to the following regulations:

- (1) Only one sign shall be permitted per residential building lot.
  - (2) Accessory business signs shall not exceed 50 square feet.
- c. Temporary signs, illuminated or not illuminated, for informational purposes subject to the following regulations:
- (1) Only one such sign shall be permitted per location.
  - (2) Temporary signs shall not exceed forty-five (45) square feet of surface area.
  - (3) No temporary sign, except on approval by the Governing Body, shall extend over or into any street, alley, sidewalk, or other public thoroughfare. It shall not obstruct any wall opening.
  - (4) Every temporary sign shall be secured to prevent movement or overturning in a manner approved by the building official.
  - (5) All electrical cords to such signs shall be located so as not to expose them to physical damage. No such electrical cord shall be laid upon any sidewalk, driveway or parking lot. All such wiring shall be subject to the electrical code of the city.
  - (6) Temporary signs shall not exceed six (6) feet in height, and shall be so located so as to avoid creation of line-of-sight or other traffic related obstructions.
- d. The following uses may be allowed by special use permit when submitted, reviewed and approved by the Board of Zoning Appeals, and under such conditions as the Board may impose:
- (1) An off-site sign, unilluminated and calling attention to a use permitted or a product located elsewhere within the zoning jurisdiction may be erected provided that such sign: shall not exceed 50 square feet in area for a single- or double-faced sign, the bottom edge of the sign shall be at least three (3) feet above the average ground level and the top edge not higher than ten (10) feet above the average ground level.
  - (2) An off-site sign shall not be located closer than 500 feet from two or more intersecting roads and not closer than 50 feet from a right-of-way line or the entrance drive to private property; not more than one (1) such sign shall be permitted on one road side within any one mile.
  - (3) An applicant for a special use permit to erect an off-site sign shall submit to the Board a plot plan showing the location, size and construction details of the proposed sign installation; a letter from the property owner indicating intent to lease said property together with a copy of the terms of said lease, such permit shall be issued for a period of 5 years and its renewal shall be subject to a review of the site and changed conditions within the surrounding area.
2. Sign regulations for "R-L", "R-1", R-2", and "R-3" Districts.
- a. Unilluminated nameplates subject to the following restrictions:
- (1) The nameplate shall not exceed one (1) square foot in area.

- (2) The nameplate shall show only the name and/or address of the occupant.
  - (3) There shall be no more than one nameplate for each dwelling unit.
  - (4) The nameplate shall be affixed to the principal building, flat against the wall.
- b. Unilluminated "For Sale" and "For Rent" single- or double-faced business signs subject to the following regulations:
- (1) Only one (1) sign shall be permitted per lot.
  - (2) No sign shall exceed four (4) square feet in area.
  - (3) Signs shall be located no closer than five (5) feet from any property line and shall not obstruct the view of traffic approaching a street intersection.
  - (4) When said sign is affixed to a building, it shall not project higher than ten (10) feet above the ground level.
  - (5) Ground signs shall not project higher than four (4) feet above ground grade.
- c. Bulletin boards and signs for churches and other public institutions subject to the following regulations:
- (1) One (1) sign or bulletin board shall be permitted on each street side if located on the same site as the principal building.
  - (2) If sign or bulletin board is illuminated, the lights shall be directed away from adjoining residential uses.
  - (3) No sign or bulletin board shall exceed twenty-four (24) square feet in area.
  - (4) No sign shall be located closer than eight (8) feet from any side or rear property line.
  - (5) A sign or bulletin board located in the front yard shall be no closer to the street line than one-half (1/2) the required front yard.
  - (6) A sign or bulletin board, affixed to a building, shall not project higher than ten (10) feet above the ground level.
  - (7) Ground signs shall be permanently anchored to the ground and shall not exceed a height of six (6) feet above normal grade.
  - (8) Buildings constructed on the property line prior to the adoption of this ordinance shall be allowed one (1) identification sign providing said sign is a flat wall sign and permanently attached to the building.
  - (9) On corner lots, no sign shall be constructed or located that will obstruct the view of traffic approaching the street intersection.
3. Sign regulations for "C-S" and "I-P" Districts. Business signs (single-or doubled-faced) shall be allowed in "C-S" and "I-P" Districts.
- a. Flashing signs are not permitted in "C-S" or "I-P" districts within five hundred (500) feet of a residential district zone.
  - b. Nonflashing illuminated signs shall be permitted providing said sign shall not beam upon any residential building, or into any residential district or into any street. Clocks and/or thermometers installed for public convenience and information are exempt from the time limitation.
  - c. Lighted signs in direct vision of a traffic signal shall not be in red, green or amber illumination.

- d. The gross surface area, in square feet, on one side of any business sign on a lot shall not exceed three (3) times the lineal feet of frontage of the building; each side of a lot which abuts upon a street shall be considered as a separate frontage, and the gross surface area of all signs located on each side of a structure shall not exceed three (3) times the lineal feet in the separate frontage. The total surface area shall not exceed four hundred (400) square feet for each face of the sign. Individual letters, with no background, shall be measured by the minimum rectangular area necessary to encompass such letter or by a combination of rectangles as are necessary to encompass letters of irregular dimensions.
- e. Any sign located within three (3) feet of a driveway or parking area or within fifty (50) feet of the intersection of two or more streets shall have its lowest elevation at least ten (10) feet above curb level.
- f. Signs within fifty (50) feet of a residential district shall be affixed to or be a part of the building.
- g. A maximum of two (2) signs (only one [1] on a facade) shall be allowed for a business or profession conducted on the premises.
- h. No sign shall be permitted in or overhanging the road, street or alley right-of-way and no sign shall be located in a manner to constitute a traffic hazard.
- i. Sandwich board signs may be allowed providing said sign is permanently affixed to the surface on which it rests.
- i. Temporary signs for informational purposes may be allowed subject to (a) through (c) above, and also subject to the following:
  - (1) Only one such sign shall be permitted per location.
  - (2) Temporary signs shall not exceed forty-five (45) square feet of surface area.
  - (3) No temporary sign, except on approval by the Governing Body, shall extend over or into any street, alley, sidewalk, or other public thoroughfare. It shall not obstruct any wall opening.
  - (4) Every temporary sign shall be secured to prevent movement or overturning in a manner approved by the building official.
  - (5) All electrical cords to such signs shall be located so as not to expose them to physical damage. No such electrical cord shall be laid upon any sidewalk, driveway or parking lot. All such wiring shall be subject to the electrical code of the City.
  - (6) Temporary signs shall not exceed six (6) feet in height, and shall be so located so as to avoid creation of line-of-sight or other traffic related obstructions.

4. Sign regulations for "C-1" and "C-2" Districts.

- a. Where buildings or structures are established or are hereafter established in the "C-1" or "C-2" Districts, advertising and business signs shall conform with the following requirements, providing they are constructed and maintained in accordance with the Building Code of the City.
  - (1) The advertising sign shall be affixed flat against the face of the building as opposed to perpendicular and/or double-faced. Where the building design incorporates a marquee or canopy, the advertising sign may be mounted either on the front edge thereof, or suspended beneath, subject

to the provisions of item (6) below. Signs suspended beneath a marquee or canopy shall not exceed eight (8) square feet in surface area and shall contain an announcement of the business name only, and provided that the lowest elevation of such sign shall not be less than eight (8) feet above the sidewalk surface.

- (2) Where a sign is illuminated by light directed upon it, the direct rays of light shall not beam upon any part of any existing residential district.
- (3) Lighted signs in direct vision of traffic shall not be in red, green or amber illumination.
- (4) Flashing signs shall be allowed only upon approval of the City Building Inspector, providing it is first determined that the sign will in no way create a traffic hazard or confusion with traffic lights or with lights on emergency vehicles.
- (5) The gross surface area, in square feet, except as may be otherwise specified above, on one side of any sign of an advertising or business sign shall not exceed three (3) times the lineal feet of separate frontage of the lot occupied by the building; each side of the lot which abuts upon a street shall be considered as a separate frontage, and the gross surface area of all signs located on each side of a building shall not exceed three (3) times the lineal feet in the separate frontage, and the gross surface area of all signs located on each side of a building shall not exceed three (3) times the lineal feet in the separate frontage. The total surface area shall not exceed four hundred (400) square feet for each face of the sign. Individual letters, with no background, shall be measured by the minimum rectangular area necessary to encompass such letter or by a combination of rectangles as are necessary to encompass letters of irregular dimensions.
- (6) Any sign other than one affixed flat against the face of the building, and located within three (3) feet of a driveway or parking area or within fifty (50) feet of the intersection of two or more streets measured along the adjacent curb line shall have the lowest elevation at least ten (10) feet above the curb level.
- (7) Where signs are affixed to canopies and marquees, the canopy or marquee shall be constructed and maintained in accordance with the Building Code of the City.

b. Temporary signs for informational purposes may be allowed subject to (2) through (4) above, and also subject to the following:

- (1) Only one such sign shall be permitted per location.
- (2) Temporary signs shall not exceed forty-five (45) square feet of surface area.
- (3) No temporary sign, except on approval by the Governing Body, shall extend over or into any street, alley, sidewalk, or other public thoroughfare. It shall not obstruct any wall opening.
- (4) Every temporary sign shall be secured to prevent movement or overturning in a manner approved by the building official.
- (5) All electrical cords to such signs shall be located so as not to expose them to physical damage. No such electrical cord shall be laid upon any

sidewalk, driveway or parking lot. All such wiring shall be subject to the electrical code of the City.

- (6) Temporary signs shall not exceed six (6) feet in height, and shall be so located so as to avoid creation of line-of-sight or other traffic related obstructions.

5. Sign regulations "I-1" and "I-2" Districts.

- a. Advertising and business signs (single- or double-faced) shall be allowed in "I-1" and "I-2" Industrial Districts subject to the following regulations and subject to construction standards set forth in the Building Code or other regulations of the City.

- (1) Flashing signs shall be permitted only upon approval of the City Building Inspector providing it is first determined that the location and colors will in no way create a traffic hazard or confusion with traffic lights and with lights on emergency vehicles and that the direct rays of the sign will not be directed into any residential district.
- (2) Nonflashing signs shall be permitted, providing that where the sign is illuminated by a light or lights reflected upon it, direct rays of lights shall not beam upon any residential building, or into any residential district or into any street.
- (3) Lighted signs in direct vision of a traffic signal shall not be in red, green or amber illumination.
- (4) The gross surface area, in square feet on one side of any business sign on a lot shall not exceed three (3) times the lineal feet of frontage of the lots; each side of a lot *which* abuts upon a street shall be considered as a separate frontage, and the gross surface area of all signs located on each side of a lot shall not exceed three (3) times the lineal feet in the separate frontage. Individual letters, with no background, shall be measured by the minimum rectangular area necessary to encompass such letter or by a combination of rectangles as are necessary to encompass letters of irregular dimensions.
- (5) Any sign other than one affixed flat against the face of the building, and located within three (3) feet of a driveway or parking area or within fifty (50) feet of the intersection of two (2) or more streets measured along the adjacent curb line shall have its lowest elevation at least ten (10) feet above curb level.
- (6) Signs within fifty (50) feet of a residential district shall be affixed to or be a part of the building.
- (7) A maximum of two (2) signs (only one [1] on a facade) shall be allowed for a business or profession conducted on the premises.
- (8) No sign shall project over any alley, road, street or highway right-of-way.
- (9) Sandwich signs may be allowed providing said sign is permanently affixed to the surface on which it rests.

- b. Billboards will be permitted in "I-1" and "I-2" Industrial Districts if they conform to the following provisions:

- (1) The owner shall agree, at the time of issuance of the permit, to place and maintain on such billboard the name of the person owning, in charge of or in control of said billboard.
  - (2) No billboard shall be erected, altered, constructed, reconstructed or moved until an application and plans shall have been filed with the City Building Inspector and shall have been approved by the City Building Inspector as to size, location and construction.
  - (3) Billboards shall not exceed twenty (20) feet in height above ground.
  - (4) The owner, lessee and manager of such billboard and the owner of the sign shall maintain and keep the ground area around the sign clean, sanitary, inoffensive and free and clean of weeds and noxious substances.
  - (5) Plans for billboards in the fire limits shall be referred to the Fire Department for review and recommendation.
  - (6) No billboard shall project beyond the front, side or rear building line established for the district as set forth in the zoning ordinance.
  - (7) No billboard shall exceed five hundred (500) square feet in area (on a single face).
  - (8) It shall be unlawful to construct or maintain, or cause to be constructed or maintained, any billboard in such a manner as to:
    - (a) Obstruct the view of street crossings or railroad crossings.
    - (b) Be unable to stand a pressure of a least forty (40) pounds per square foot of advertising surface.
    - (c) Be dangerous to the public by falling or blowing down.
    - (d) Increase the danger of loss by fire or to increase fire insurance rates.
    - (e) Approach nearer than five (5) feet from any building, unless attached to the building.
  - (9) Billboards hereafter erected, constructed, reconstructed, altered or moved in the City shall be constructed in such a manner and of such material that they shall be safe and substantial.
  - (10) Billboards supported by the ground shall have all posts set in concrete.
- c. Temporary signs for informational purposes may be allowed subject to (1) through (3) above, and also subject to the following:
- (1) Only one such sign shall be permitted per location.
  - (2) Temporary signs shall not exceed forty-five (45) square feet of surface area.
  - (3) No temporary sign, except on approval by the Governing Body, shall extend over or into any street, alley, sidewalk, or other public thoroughfare. It shall not obstruct any wall opening.
  - (4) Every temporary sign shall be secured to prevent movement or overturning in a manner approved by the building official.

- (5) All electrical cords to such signs shall be located *so* as not to expose them to physical damage. No such electrical cord shall be laid upon any sidewalk, driveway or parking lot. All such wiring shall be subject to the electrical code of the City.
- (6) Temporary signs shall not exceed six (6) feet in height, and shall be so located so as to avoid creation of line-of-sight or other traffic-related obstructions.

### **SECTION 3. PERMITS AND FEES REQUIRED:**

1. A permit shall be required for the erection, construction or alteration of any sign in the City zoning jurisdiction.
2. Application for permits by other than the property owner shall be accompanied, in each instance, by either a letter authorizing the placement of a sign on the land or building, signed by the owner or his or her duly authorized agent, or accompanied by a lease showing the right of the applicant. Such application shall conform to the regulations herein provided and no signboard shall be erected or painted on any area until the application is acted upon and granted.
3. A charge of fifteen dollars (\$15.00) shall be made for each permit granted.
4. If a sign, for which a permit is granted, is not erected within sixty (60) days from date of the permit, the permit shall, unless renewed, become void.
5. Advertising painted or placed on a structure shall be deemed subject to these regulations if permanent and over eight (8) square feet in area.
6. All signs shall be constructed, located and placed in accordance with local ordinances and the laws of the State of Kansas.
7. Permits, except for permits for temporary signs, are issued for the life of the sign so long as it is kept in good condition, and changing conditions do not make it a hazard or undesirable to adjoining property owners. In such case, the City may direct its removal.
8. Permits for temporary signs shall be issued annually.

### **SECTION 4. NON CONFORMING SIGNS:**

The lawful use of land for advertising, business signs or bulletin boards which are not installed or maintained in accordance with this Article and other City, County, State and Federal requirements pertaining to construction, location and size shall be removed or converted to conform with this Article and other City, State and Federal regulations by

### **SECTION 5. REMOVAL OF SIGNS FROM VACANT BUILDINGS:**

Signs located on vacant buildings shall be removed by the property owner or his authorized agent within thirty (30) days after said premises are vacated.

## ARTICLE XXII - PARKING AND LOADING REGULATIONS

### SECTION 1. REQUIREMENTS:

Except as otherwise provided in this ordinance, when any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by fifty (50) percent or more, accessory off-street parking and/or loading spaces shall be provided as required by the following schedule, except that these requirements shall not apply in the "C-1" Commercial District.

### SCHEDULE OF MINIMUM OFF-STREET PARKING AND LOADING REQUIREMENTS

<u>Structures and Uses</u>	<u>Minimum Off-Street Parking Regulations</u>	<u>Minimum Off-Street Loading Requirements</u>
Bowling Centers	4 spaces per lane	1 space per establishment
Churches, Synagogues and Temples	1 space per 4 seats in main unit of worship	None required
Convalescent and Rest Home Services	1 space per 3 beds, plus 1 space per employee	1 space per establishment
Eating and Drinking Places	Parking spaces equal to 30% of capacity in persons	2 spaces per establishment
Education Uses, Day Nurseries and Primary Schools	Parking spaces equal to 20% of capacity in students	2 spaces per structure
Funeral Homes and Chapels	8 spaces per reposeing room	2 spaces per establishment
Hospital	1 space per 2 beds	3 spaces per structure
Hotels	1 space per 2 rental units	1 space per establishment
Industrial Uses	1 space per 2 employees on largest shift	2 spaces per establishment
Libraries	1 space per 500 sq. ft. of floor area	1 space per structure

Lodging and Boarding Houses	1 space per 2 rental units	None required
Manufactured Housing Park	2 spaces per dwelling	None required
Medical Clinics	5 spaces per staff doctor or dentist	None required
Motels	1 space per rental unit	None required.
Private Clubs and Lodges	1 space per 500 sq. ft. of floor area	1 space per establishment
Residential Structures (Multi-family)	2 spaces per dwelling unit	None required
Residential Structures (Single-family)	1 space per dwelling unit	None required
Retail Sales Establishment	1 space per 200 sq. ft. of gross floor area	1 space per establishment
Roadside Stands	4 spaces per establishment	None required
Service Establishments	1 space per 200 sq. ft. gross floor area	1 space per establishment
Theaters, Auditoriums, and Places of Assembly	1 space per 5 people in designed capacity	1 space per establishment
Veterinary Establishments	3 spaces per staff doctor	None required
Wholesaling and Distribution Operations	1 space per 2 employees	2 spaces per establishment

1. Off-street parking lots for single- or multiple-family dwellings, home occupations, schools, churches and similar places of public assembly, hospitals, nursing homes, boarding and lodging houses, dormitories, fraternity or sorority houses shall not be located in any required front yard area.
2. Off-street parking spaces for uses permitted in "C-S", "I-P", "I-I" and "I-2" Districts shall be located back of the required front yard line and shall be on the same lot as the building they serve.

## **SECTION 2. PLANS AND APPROVAL REQUIRED:**

For all uses other than single family residential structures, plans showing layout and design of all required off-street parking areas shall be submitted to and approved by the Building Official prior to issuing a building permit. Before approving the parking layout, the Building Official shall satisfy himself or herself that spaces provided are usable and meet standard design criteria. All required off-street parking areas, including access drives, shall be improved with an approved, all-weather surface and all parking spaces shall be clearly marked.

## **SECTION 3. CONSTRUCTION REQUIREMENTS:**

Parking lots for other than single-family dwellings shall be surfaced with an all-weather, dust-free material of a type and composition acceptable to the Building Official.

## **SECTION 4. PERFORMANCE:**

In lieu of construction of the required parking lot, the Governing Body of the City may accept a corporate surety bond, cashier's check, escrow account or other security of a type and in an amount approved by the Governing Body. Such security shall be conditioned upon the actual completion of such work or improvement within the specified time, and shall be enforceable by the Governing Body by all equitable means.

# **ARTICLE XXII - LANDSCAPING REQUIREMENTS**

## **SECTION 1. MINIMUM LANDSCAPE REQUIREMENTS:**

All property within the zoning jurisdiction of the City of Smith Center shall hereinafter be subject to the following minimum requirements:

1. The open, unpaved areas of each property shall be graded to provide for the adequate drainage of all stormwater and shall be free of hazards, nuisances or unsanitary conditions.
2. Open, unpaved areas shall be appropriately landscaped to provide an attractive appearance to enhance the character of the neighborhood.
3. No vegetation shall overhang a public street or sidewalk below a height of ten (10) feet, or obstruct views of pedestrian and vehicular *ar-r* movements.
4. Where districts "PUD", "M-P", "C-S", "I-P", "I-1", and "I-2" adjoin "R-L", "R-1", "R-2", and "R-3" Districts they shall be appropriately separated by a landscaped area of at least ten (10) feet wide or a decorative architectural screen of at least six (6) feet high.
5. Parking areas abutting public walkways or streets shall be appropriately separated by a landscaped area or a decorative architectural screen. The landscaped area or architectural screen shall not exceed three (3) feet in height.

**ARTICLE XXIV - TRAFFIC REGULATIONS**

**SECTION 1. MINIMUM REQUIREMENTS FOR TRAFFIC REGULATIONS:**

All business properties hereinafter improved shall include provision for vehicular access in accordance with the following:

1. Plans for the erection or structural alteration of any business use dependent on vehicles entering onto the business site or parking lot shall be approved by the Governing Body. The Governing Body may require such changes therein in relation to yards, location of curb cuts, width of drives, location of signs and accessory uses and build ings and construction of buildings as it may deem best suited to insure safety, to minimize traffic difficulties and to safeguard adjacent properties.

**ARTICLE XV - BUILDINGS AND USES AFFECTED**

**SECTION 1. MINIMUM BUILDING REQUIREMENTS:**

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

1. Dwelling Units:
  - a. All dwelling units shall provide a minimum floor area, exclusive of porches, breezeways and garages, as follows:

<u>Type of Dwelling Unit</u>	<u>Minimum Area</u>
Single-Family	Six hundred (600) square feet
Two-Family unit	Six Hundred (600) sq. ft. per unit
Multiple-Family per unit feet	Four hundred eighty (480) sq. ft. per unit

- b. Every dwelling unit shall be provided with at least one (1) water closet, which water closet shall be located within the dwelling and in a room which affords privacy.
  - c. Every dwelling unit shall contain a kitchen sink which is connected to running water and an approved sewer system.
  - d. Every dwelling unit shall be enclosed with an exterior wall surface, other than tar paper or corrugated metal.
  - e. No basement or cellar shall be occupied for residential purposes until the main portion, above ground, is completed.
2. Manufactured Housing: No manufactured house may be used or occupied for residential purposes unless said manufactured house is located in a manufactured housing district or manufactured housing park district.

3. Motels:
  - a. The number of motel units permitted on a tract of land shall not exceed the number obtained by dividing the total square feet of area of the site by one thousand five hundred (1,500).
  - b. Motels shall be served with an approved public water supply and approved public sanitary sewer system.
  - c. Each motel unit shall contain not less than two hundred (200) square feet of floor area.
4. Tents: No tent, except play tents for children, shall be used for any purpose except those authorized by the Governing Body.

## **SECTION 2. BUILDINGS AND STRUCTURES MOVED IN:**

Buildings and structures may be moved into various districts providing:

1. The proposed use conforms with the district zoning regulations of the district into which it is to be moved, and
2. The building or structure meets building, fire, safety and health regulations, and
3. The Board of Zoning Appeals finds that the building or structure will not devalue properties in the area where the structure is proposed to be moved.

## **SECTION 3. ELEVATION:**

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

# **ARTICLE XXVI - ADDITIONAL HEIGHT, AREA AND USE REGULATIONS**

## **SECTION 1. QUALIFICATIONS AND SUPPLEMENTATIONS TO DISTRICT REGULATIONS:**

The regulations hereinafter set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this ordinance.

1. In districts where public buildings, semi-public buildings, public service buildings, hospitals, institutional buildings, schools, and churches and similar places of worship are permitted, one (1) foot of additional height will be permitted for each one (1) foot of additional building setback provided.
2. Chimneys, cooling towers, elevator headhouses, fire towers, grain elevators, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers, and spires, church steeples, radio and television towers or necessary mechanical appurtenances,

which do not conflict with airport approach zones, may be erected to a height not to exceed one hundred fifty (150) feet.

3. Accessory buildings may be built in a side or rear yard but such accessory buildings shall conform with the side setback requirements. When a garage is constructed in a rear yard, it shall not be located closer to the alley than ten (10) feet from the alley line.
4. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes.
5. The setback line for yard requirements shall be determined by measuring the horizontal distance from the property line to nearest architectural projection of the building.
6. Common Front Yard Setback Line: Where more than one-half of the existing principal structures fronting on the street establish a common line-of-sight front yard setback, additional principal structures may be allowed to match the common setback of the existing structures, provided that the setback so established shall not be in conflict with intersection sight distance requirements, or the special setback requirements for collector and arterial streets.
7. Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the City Building Inspector for a distance of not more than three and one-half (3-1/2) feet and where the same are so placed as not to obstruct light and ventilation.
8. For the purpose of the side yard regulations, a two-family dwelling, or a multiple-family dwelling shall be considered as one building occupying one lot.
9. Temporary buildings and temporary construction signs that are used in conjunction with construction work may be permitted in any district during the period that the building is being constructed, but such temporary building and/or sign shall be removed upon completion of the construction work.
10. Where a lot or tract is used for a nonresidential purpose, more than one principal use may be located upon the lot or tract but only when the building or buildings conform to all yard and open space requirements for the district in which the lot or tract is located.
11. No side yards are required where dwelling units are erected above commercial structures, and front, side and rear yard requirements shall not apply to the interior walls of dwelling units established under the Kansas Apartment Ownership Act, or under the Kansas Townhouse Ownership Act.
12. Whenever the number of employees is restricted in connection with any use in the commercial districts, such maximum number applies only to employees principally engaged in processing, selling or treating materials or products on the premises and not to employees engaged in delivery or similar activities.

13. Radio and television towers shall be permitted in any commercial or industrial district providing the height of said radio or television tower does not conflict with any airport approach or landing zone or with any other ordinance and providing that towers within one hundred and fifty (150) feet of a residential district shall not exceed eighty (80) feet in height.
14. On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and a half (2-1/2) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of the centerline intersection.
15. In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this ordinance shall be met for each structure as though it were on an individual lot.
16. Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.
17. Privately owned swimming pools shall be enclosed in accordance with the codes of the City of Smith Center.
18. Conversion of a two-family or multiple-family structure to individually owned single-family dwelling units may be permitted subject to the requirements of the subdivision regulations, and to the following:
  - a. An application for such unit conversion shall be filed for review and comment by City staff and the Planning Commission, and approval by the Governing Body. Such application shall be accompanied by the following information as a minimum:
    - (1) A plot plan showing site and structure arrangements, and proposed replatting.
    - (2) A full legal description of the subject property, including legal descriptions of proposed individual properties after replatting.
    - (3) A description of proposed structural and utility alterations to provide for individual services and maintenance.
    - (4) A description of proposed public access patterns, both vehicular and pedestrian.
    - (5) A copy of protective covenants which shall be written to run with the land in which shall be specified methods for providing for maintenance of shared property and/or easements, responsibilities for shared expenses, and continued use of the property for specified purposes. Such covenants shall be written to provide for the long-term maintenance and use of the premises for residential purposes only, within the overall context of neighborhood development.
    - (6) Any other supplementary information as may be required to assess short and long-term neighborhood impacts associated with the proposed conversion.

- b. The applicant for unit conversion shall submit with his application a consent agreement signed by seventy-five (75) percent of all owners of property within two hundred (200) feet of the premises whereon the unit conversion is proposed.
- c. Where a two-family or multiple-family structure is converted to individually owned, single-family dwelling units, a separation of utility service lines is required from each individually owned, single-family dwelling unit to a public utility line or to a utility line, private well, septic system, or lagoon which is located in an area of a lot or building that is owned by or accessible to a party legally responsible for maintenance of utility lines or systems on behalf of the owners of each converted single-family dwelling unit.
- d. The Planning Commission and Governing Body shall not approve an application for conversion from a two-family or multiple-family structure to individually-owned, single-family dwelling units where it is determined that an existing or proposed utility service line, private well, septic system, or lagoon exists or is proposed to exist in an area where the maintenance of said utility line would require entry into an individually-owned dwelling unit.
- e. All conversions of two-family or multiple-family structures to individually-owned, single-family dwelling units are subject to all applicable City of Smith Center codes, including building permit application and inspection procedures.
- f. The above procedures and regulations are applicable even where the conversion does not require new construction.
- g. After reviewing a conversion application against all applicable City codes, the Building Official/Code Enforcement Officer shall report to the Planning Commission and Governing Body all details of non-compliance with City codes.

**SECTION 2. FENCES:**

Except as otherwise specifically provided in other codes, ordinances or resolutions, the following regulations shall apply to the construction of fences:

- 1. No fence shall be constructed closer to the street than the front setback line established for the district in which such fence is to be erected.
- 2. No fence shall be constructed which will constitute a traffic hazard and no permit shall be granted for the construction of a fence unless the City Building Inspector has certified that the proposed fence will not constitute a traffic hazard.
- 3. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.

4. No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation, or any fence which shall adversely affect the public health, safety and welfare.
5. No fence, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than six (6) feet; provided, however, that the Board of Zoning Appeals may, by exception, authorize the construction of a fence higher than six (6) feet if the Board finds the public welfare is preserved.
6. All fences shall conform to the construction standards of the building code and other applicable ordinances and resolutions.

### **SECTION 3. BUILDING SETBACK LINES:**

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

1. Arterial Streets: No building or structure which fronts or sides on an arterial street shall be located nearer to the centerline of the arterial street than the sum of the required front yard (in feet) plus fifty (50) feet.
2. Collector Streets: No building or structure which fronts or sides on a collector street shall be located nearer to the centerline of the collector street than the sum of the required front yard (in feet) plus forty (40) feet.

### **SECTION 4. LOTS OF RECORD:**

A lot or group of lots which were platted and recorded in the office of the Register of Deeds prior to the effective date of this ordinance may be used for any purpose permitted in the district in which it is located; provided, however, that, except as otherwise provided in the district regulations, no residential building permit shall be issued for construction of a residential structure on a lot or group of lots that do not conform with the minimum yard and height requirements unless specifically authorized by the Board of Zoning Appeals.

### **SECTION 5. CANOPY AND MARQUEE:**

A canopy or marquee may be permitted to "overhang a public way" in Districts "C-1" and "C-2" providing:

1. The canopy or marquee is constructed and maintained in accordance with the City Building Code and other codes, ordinances and resolutions.
2. No portion of the canopy or marquee shall be less than eight (8) feet above the level of the sidewalk or other public way, except as required by Section I, item 13 above.

3. The canopy or marquee shall not extend beyond a point two (2) feet inside the curb line of a public street.

## **ARTICLE XXVII - NONCONFORMING USES**

### **SECTION 1. NONCONFORMING USES WHICH MAY BE CONTINUED:**

1. The following lawful nonconforming uses of land may be continued:
  - a. A use of land which existed prior to the effective date of this zoning ordinance.
  - b. A use of land existing at the time of the annexation.
  - c. A use of land existing at the time an amendment is made to the zoning ordinance which changes such land to the more restricted district.
2. The lawful use of a building located upon any land, except as provided in SECTION 2 below, may be continued although such use does not conform with the provisions of this zoning ordinance and such use may be continued throughout the building if no structural alterations are made therein, except those required by law or ordinance. If no structural alterations are made in such building, a nonconforming use of the building may be changed to another nonconforming use of the same or more restricted use classification. The foregoing provisions shall also apply to any uses of buildings which may be made nonconforming by any subsequent amendment or change of this zoning ordinance.

### **SECTION 2. NONCONFORMING USES WHICH MAY NOT BE CONTINUED:**

1. Whenever a nonconforming use of building has been changed to a more conforming use, such use shall not thereafter be changed to a less conforming use.
2. A nonconforming building which has been damaged to the extent of more than fifty (50) percent of its structural value by fire, explosion, act of God, or the public enemy shall not be restored, except in accordance with all zoning regulations of the zoning district. In the event a question may arise on the structural value of such a building, the same shall be determined by three (3) appraisers: one (1) shall be selected by the Governing Body, one (1) shall be selected by the owner of the building, and the third appraiser shall be selected by the two selected appraisers. If the first two (2) appraisers selected cannot agree on the selection of the third such appraiser, the Judge of the appropriate court shall be requested to appoint the third appraiser. The decision of the appraisers, or a majority of them, shall be final and conclusive and shall be binding upon all concerned to the purpose of determining whether the damaged property may be restored. The cost of such appraisal shall be paid by the property owner.
3. A property which is nonconforming may remain idle or inactive for a period not to exceed one (1) year, during which time the original nonconforming use may be reactivated. After expiration of a one (1) year period of inactivity the property may be used only for a conforming use as specified by the zoning district regulations.

## **ARTICLE XXVIII - ENFORCEMENT, VIOLATION AND PENALTY**

### **SECTION 1. ENFORCEMENT:**

The city Building Inspector shall administer and enforce this zoning ordinance. Appeals from the decision of the City Building Inspector may be made to the Board of Zoning Appeals.

### **SECTION 2. CERTIFICATE OF OCCUPANCY:**

1. Subsequent to the effective date of this zoning ordinance no change in the use or occupancy of land nor any change in the use or occupancy of an existing building shall be made, nor shall any new building be occupied, until a certificate of occupancy has been issued by the City Building Inspector. The certificate of occupancy shall state that the land and/or building complies with the provisions of this zoning ordinance.
2. No permit for excavation or the erection or alteration of any building shall be issued before an application has been made and approved for a certificate of occupancy and compliance and no building or premises shall be occupied until such certificate is issued.
3. A record of all certificates of occupancy shall be kept on file in the office of the City Building Inspector and copies shall be furnished for two (2) dollars on request by any person having an interest in the land or building affected.
4. Buildings used for single-family purposes shall be exempt from this requirement.

### **SECTION 3. PLATS:**

Each application for a building permit shall be accompanied by a plan in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected and such other information as may be necessary to provide for the enforcement of this Zoning Ordinance. A record of applications and plats shall be kept in the office of the City Building Inspector.

### **SECTION 4. VIOLATION AND PENALTY:**

1. The owner or agent of a building or premises in or upon which a violation of any provision of this ordinance has been committed or shall exist; or the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist; or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which a violation has been committed or shall exist, shall be punished by a fine not to exceed five hundred (500) dollars, or by imprisonment for not more than six (6) months for each offense, or by both such fine and imprisonment. Each and every day that such violation continues shall constitute a separate offense.

2. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used, in violation of this zoning ordinance, the appropriate authorities of said area, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation or to prevent the occupancy of said building, structure or land.

## **ARTICLE XXIX - BOARD OF ZONING APPEALS**

### **SECTION 1. BOARD OF ZONING APPEALS ESTABLISHED:**

A Board of Zoning Appeals is hereby established. Such Board shall consist of not less than three (3) nor more than seven (7) members who shall be appointed by the Mayor, by and with the consent of the City Governing Body. All members of the Board so appointed shall be residents of the City; provided, however, that if the City shall administer zoning regulations outside the City limits, one member of the board shall be a resident of the zoning jurisdiction outside the city limits. The members first appointed shall serve respectively for terms of one (1), two (2), and three (3) years, divided equally or as nearly equal as possible, among the members. Thereafter, members shall be appointed for terms of three (3) years each. Vacancies shall be filled by appointment for the unexpired term. All members of said Board shall serve with compensation.

### **SECTION 2. ELECTION OF OFFICERS:**

The Board shall annually elect one (1) of its members as chairman and shall appoint a secretary who may be an officer or an employee of the City.

### **SECTION 3. RULES OF PROCEDURE:**

The Board shall adopt bylaws and rules of procedure for the conduct of business.

### **SECTION 4. MEETINGS:**

Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine.

### **SECTION 5. RECORDS:**

The Board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the Board, decisions of the Board and voting upon each question. Records of all official actions of the Board shall be filed in its office and shall be a public record.

**SECTION 6. FILING FEE:**

For the purpose of wholly or partially defraying the cost of the proceedings prescribed herein, including publication costs, the applicant, upon filing an appeal, shall pay to the City Clerk a fee in the amount of thirty-five (35) dollars. Promptly upon filing the appeal and required filing fee, the City Clerk shall refer said appeal to the secretary of the Board of Zoning Appeals.

**SECTION 7. PUBLIC HEARING AND NOTICE:**

The Board of Zoning Appeals shall fix a reasonable time for hearing of an appeal or other matter referred to it. Notice of the time, place and subject of such hearing shall be published once in the official newspaper at least twenty (20) days prior to the date fixed for hearing. A copy of said notice shall be mailed to each party to the appeal and to the Planning Commission.

**SECTION 8. POWERS AND JURISDICTIONS:**

The Board of Zoning Appeals shall administer the details of appeals or other matters referred to it regarding the application of the zoning ordinance. The Board shall have the following specific powers:

1. To hear and decide on appeals where it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning ordinance.
2. To interpret the provisions of the zoning ordinance in such a way as to carry out the intent and purposes of the adopted comprehensive plan, and as shown upon the zoning district map fixing the several districts and accompanying and made a part of this ordinance, where the street layout actually on the ground varies from the street layout as shown on the zoning district map.
3. To permit a variation in the yard requirements of any district where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, or topographical or other conditions, provided such variation will not seriously affect any adjoining property or the general welfare or where variations may be permitted which allow unusual arrangement on the lot and still clearly and unmistakably accomplish the intent of this ordinance. The Board must find that the granting of such variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable or unusual hardship or difficulty.
4. To grant exceptions to the provisions of the zoning regulations in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning regulations. In no event shall exceptions to the provisions of the zoning regulation be granted where the use or exception contemplated is not specifically listed as an exception in the zoning regulations. Further, under no conditions shall the board of zoning appeals have the power to grant an exception when conditions of this exception, as established in the zoning regulations by the Governing Body, are not found to be present.

**SECTION 9. PROCEDURE:**

1. Appeals to the Board of Zoning Appeals may be taken by any person aggrieved, or by any officer of the City or County or any governmental agency or body affected by any decision of the official administering the provisions of this zoning ordinance.
2. Appeals shall be taken within a reasonable time, as provided by the rules of the Board, by filing a notice of appeal specifying the grounds thereof and payment of the required filing fee.
3. Appeals and requests to the Board for variances and exceptions to this zoning ordinance shall be prepared and submitted on forms approved and furnished by the Secretary of the Board.
4. After filing the required appeal or request and payment of the required fee, the Board of Zoning Appeals shall advertise and hold a public hearing as provided in SECTION 7 above.
5. Notice of the decision of the Board of Zoning Appeals shall be in writing and transmitted to the appellant. A copy of such decision shall also be transmitted to the City Building Inspector for filing and action, if action is required.
6. Any person, official or governing agency dissatisfied with any order or determination of said Board may bring an action in the District Court of the County, to determine the reasonableness of any such order or determination.

**SECTION 10. VARIANCES TO THIS ZONING ORDINANCE:**

1. The Board may authorize, in specific cases, a variance from the specific terms of this Zoning Ordinance which will not be contrary to the public interest and where, because of special conditions, a literal enforcement of the provisions of the Zoning Ordinance will, in an individual case, result in unnecessary hardship, providing that the spirit of the Zoning Ordinance is observed, public safety and welfare are secured, and substantial justice is done. Such variance shall not permit any use not permitted by this Zoning Ordinance.

The following requirements must be met before the Board may grant a variance:

- a. The applicant must show that his property was acquired in good faith.
- b. The request for a variance must arise from a condition which is unique to the property in question, is not ordinarily found in the same zone or district, and is not created by an action or actions of the property owner or applicant.
- c. The granting of a variance shall not adversely affect the rights of adjacent property owners or residents.
- d. The strict application of this Zoning Ordinance will cause unnecessary hardship upon the property owner represented in the application.

- e. The granting of a variance shall not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
  - f. The granting of a variance will not violate the spirit and intent of this Zoning Ordinance
2. Variances are limited to yard regulations and may not be more than one-half (1/2) the required yard and shall not encroach upon the required setback for adjacent buildings.
  3. In granting a variance, the Board of Zoning Appeals must satisfy itself, from the evidence heard before it, that the granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the owner. The Board shall also find that the variance, if granted, is in harmony with the intended spirit and purpose of this zoning ordinance and does not constitute a direct and obvious amendment to the district regulations or district boundaries.
  4. In exercising the above powers, the Board may reverse or affirm wholly or partly, or may modify, the order, requirement, decision or determination appealed from the City Building Inspector. The Board may make such order, requirement, decision or determination as ought to be made, and to that end shall have the same powers as the City Building Inspector from whom the appeal is taken. If the Board approves the variance they shall notify the City Building Inspector of their decision and shall instruct him to issue a permit. A time limit may be specified as a condition for granting the appeal.
  5. Every variation granted or denied by the Board shall be accompanied by the written finding of fact, based on testimony and evidence and specifying the reason for granting or denying the variance, a copy of which shall be filed in the office of the City Clerk, to be available for public inspection.

**SECTION 11. EXCEPTIONS TO THIS ZONING ORDINANCE:**

1. Exceptions to this zoning ordinance as authorized by the district regulations shall be made by special use permit after the request has been duly advertised and a public hearing held as required by law.
2. Prior to review of the request of an exception, by the Board of Zoning Appeals, the applicant shall:
  - a. File an application on forms provided.
  - b. File with the application a statement certifying that the applicant is the lawful owner of the real estate upon which the excepted use is proposed or that he or she has the lawful right to receive a conveyance thereof if the application is granted.
  - c. File a form of declaration of restrictions indicating use which is to be made by the legal owner if the application is granted. Said restrictions must show that use of the land will be solely that which was applied for as an excepted use. The restriction must provide that, if such use is abandoned or is proposed to be changed, the subsequent use shall be in conformity with the zoning restrictions

in effect as to the land prior to authorization of the exception, unless a new application for an excepted use is made and granted.

3. A plot plan shall be filed with the application showing:
  - a. Legal dimension of the tract to be used.
  - b. Location of all proposed improvements including curb-cut access, off-street parking and other such facilities as the applicant proposes to install.
  - c. Grade elevations.
  - d. Building setback from all property lines.
  - e. Front, side and rear elevations of all improvements to be erected.
  - f. Perspective drawings of the proposed improvements, in such detail as will clearly show the finished appearance of the improvements proposed.
  - g. Location and type of planting, screening or walls.
  - h. Such other items as the Board shall deem reasonably necessary to process the application properly.
  
4. In considering any application for an exception hereunder, the Board of Zoning Appeals shall give consideration to the comprehensive plan, and the health, safety, morals, comfort and general welfare of the inhabitants of the City, including but not limited to the following factors:
  - a. The stability and integrity of the various zoning district.
  - b. Conservation of property values.
  - c. Protection against fire and casualties.
  - d. Observation of general police regulations.
  - e. Prevention of traffic congestion.
  - f. Promotion of traffic safety and the orderly parking of motor vehicles.
  - g. Promotion of the safety of individuals and property.
  - h. Provisions for adequate light and air.
  - i. Prevention of overcrowding and excessive intensity of land uses.
  - j. Provision for public utilities and schools.
  - k. Invasion by inappropriate uses.
  - l. Value, type and character of existing or authorized improvements and land uses.
  - m. Encouragement of improvements and land uses in keeping with overall planning.
  - n. Provision for orderly and proper urban renewal, development and growth.
  
5. Exceptions may be granted by the Board of Zoning Appeals only where special use permits are specifically authorized by the district regulations. Exceptions in the "I-2" Heavy Industrial District shall be limited to the following:
  - a. Automobile wrecking yards, junk yards and scrap processing yards subject to the following:
    - (1) Located on a tract of land at least three hundred (300) feet from a residential district zone.
    - (2) The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least six [6] feet high) and uniform texture and color and shall be so maintained by the proprietor as to ensure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard.

- (3) No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosing building, hedge, fence or wall or within the public right-of-way.
- (4) Burning of paper, trash, junk or other waste materials shall be permitted only after approval of the Fire Department. Said burning, when permitted, shall be done during daylight hours only.
- b. Petroleum refining.
- c. Stock yards and slaughter houses.
- d. Ready-mix concrete and asphalt mix plants.
- e. Manufacturing or storage of bulk oil, gas and explosives.
- f. Other uses which may be noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise or vibration.

**SECTION 12. PERFORMANCE:**

- 1. In making any decision varying or modifying any provisions of this zoning ordinance or in granting an exception to the district regulations, the Board of Zoning Appeals shall impose such restrictions, terms, time limitations, landscaping, improvement of offstreet parking lots, and other appropriate safeguards as required to protect adjoining property.
- 2. In lieu of actual construction of an approved off-street parking lot, the Board of Appeals may accept, in the name of the City, a corporate surety bond, cashier's check, escrow account or other like security in an amount to be fixed by the City and conditioned upon actual completion of such improvement, within a specified time, and the Governing Body may enforce such bond by all equitable means. Bonds or other security shall be filed with the City Clerk.

**ARTICLE XXX - AMENDMENTS**

**SECTION 1. AMENDMENTS:**

The Governing Body may from time to time amend, supplement or change the district boundaries or regulations contained in this zoning ordinance. A proposal for an amendment or a change in zoning may be initiated by the Governing Body or by the Planning Commission or upon application of the owner of the property affected. All such proposed changes shall first be submitted to the Planning Commission for Public Hearing, recommendation and report. The Planning Commission shall hold a public hearing thereon and shall cause an accurate, written summary to be made of the proceedings.

**SECTION 2. APPLICATIONS:**

- 1. Any party desiring any change in zoning district boundaries or regulations contained in this zoning ordinance, as to any lot, tract or area of land, shall file with the City Clerk an application upon forms provided, and such application shall be accompanied by such data and information as may be prescribed by the Planning Commission. At the time of filing said application with the City Clerk, the applicant shall provide the City Clerk with

the names and addresses of all owners of any land located within two hundred (200) feet of the outer limits of said area to which the applicant desires change of zoning.

Where the proposed zoning amendment will include property located adjacent to or outside the City's limits, the applicant shall provide the City Clerk with the names and addresses of all owners of any land located within one thousand (1,000) feet in the unincorporated area.

2. An applicant for a change in zone to "PUD" Planned Unit Development District, "M-P" Manufactured Housing Park District, or "I-P" Industrial Park District must satisfy the Planning Commission that he or she has the ability to carry out the proposed plan and shall prepare and submit a schedule for construction. The proposed construction shall begin within a period of eighteen (18) months following approval by the Governing Body and forty (40) percent of the total planned construction shall be completed within a period of three (3) years following such approval.

Such applicant shall also prepare and submit a preliminary development plan for review and approval by the Planning Commission. Applicants for the "PUD" or "M-P" zones shall submit a plan prepared in accordance with the requirements of the individual district regulations. Applicants for the "I-P" zones shall submit a plan which shall include the following:

- a. A topographic map showing contours at intervals of two (2) feet.
- b. A plot plan showing:
  - (1) Building locations on the tract to conform with the yard requirements of the district.
  - (2) Access from streets
  - (3) Location and number of off-street parking spaces.
  - (4) Interior drives and service areas.
  - (5) Landscaped buffer strips and walls or fences.
- c. Location map showing the development and zoning of the adjacent property within two hundred (200) feet, including the location and the type of buildings and structures thereon.
- d. The full legal description of the boundaries of the properties to be included in the area to be rezoned.
- e. A map showing the general arrangement of streets within an area of one thousand (1,000) feet from the boundaries of the area to be zoned.
- f. A map showing location of proposed sewer, water and other utility lines.
- g. A description of the general character of proposed buildings.

Upon approval of the zoning application and preliminary development plan by the planning commission, the applicant shall prepare and submit a final development plan, which shall incorporate any changes or alterations requested. The final development plan and the Planning Commission recommendation shall be forwarded to the Governing Body for their review and final action.

In the event that, within eighteen (18) months following approval by the Governing Body of an "PUD", "M-P" or "C-S" District, the applicant does not

proceed with construction substantially in accordance with the plan so approved, the Planning Commission shall initiate action to rezone the property. A public hearing, as required by law, shall be advertised and held, at which time the applicant shall be given an opportunity to show why construction has been delayed. Following the hearing, the Planning Commission shall make findings of fact and shall submit their recommendation to the Governing Body for official action.

### **SECTION 3. FILING FEE:**

For the purpose of wholly or partially defraying the costs of the proceedings prescribed herein, including publication costs, the applicant, upon the filing of the application shall pay to the City Clerk a fee in the amount of thirty-five (35) dollars. Promptly upon the filing of any such application, the City Clerk shall refer the application to the Planning Commission for study and recommendation.

### **SECTION 4. PUBLIC HEARING AND NOTICE:**

Before the Planning Commission shall, by proper action, formulate its recommendation to the Governing Body on any such proposed or requested change of zoning district boundary or regulation, whether initiated by the Governing Body or Planning Commission or by others, the Planning Commission shall hold a public hearing on such proposal. The secretary of the Planning Commission shall cause a notice of public hearing to be published once in the official newspaper and at least twenty (20) days shall elapse between the date of such publication and the date set for the hearing. Such notice **shall fix the time** and place for such hearing and shall contain a statement regarding the proposed changes in the regulations or restrictions or in the boundary of any district and, if such proposed amendment will affect specific property, the legal description and general street address shall be given; provided that, in addition to such publication notice, written notice of such proposed change shall be mailed to all the owners of land located within two hundred (200) feet of the area proposed to be altered and an opportunity granted to interested parties to be heard.

Where the change will include property located adjacent to or outside the City's limits, the written notice shall also be mailed to all owners of land outside the City's boundary located within one thousand (1,000) feet of the area proposed to be altered. Failure to receive such notice shall not invalidate any subsequent action taken when the notice has been properly addressed and deposited in the mail.

### **SECTION 5. ZONING CLASSIFICATIONS OF LESSER CHANGE**

In accordance with the provisions of K.S.A. 12-757, the Planning Commission and the Governing Body may recommend and approve a lesser change in zoning districts without re-publication of a notice or re-distribution of notices to property owners when such change is more restrictive than the district which is applied for as shown on the table below: provided, however, that such recommendation and approval shall not be for a lesser classification than the existing zoning district. If the applicant at the Governing Body meeting, at which a zoning amendment is being considered, desires to amend the application and/or the Governing Body desires to consider a "lesser" zoning change, then such a proposed change shall be returned to the Planning

Commission for reconsideration and further recommendation to the Governing Body without further publication or notice.

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

1. Most Restrictive to Least Restrictive.
  - “A-L” Agriculture District
  - “R-L” Residential Low Density District
  - “R-1” Single-Family Dwelling District
  - “R-2” Two-Family Dwelling District
  - “R-3” Multiple-Family Dwelling District
  - “C-S” Highway Service District
  - “C-2” General Commercial District
  - “I-1” Light Industrial District
  - “I-2” Heavy Industrial District
2. Zones Not Included.

Because of the highly specialized purposes of the “F-P” Floodplain, “PUD” Planned Unit Development; “M-H” Manufactured Home, “M-P” Manufactured Home Park; “C-1” Retail Business; and “I-P” Industrial Park Districts, they are not included in the table of lesser zoning changes, and are excluded from designation through the lesser change provisions.

## SECTION 6. PROTEST

If a protest against such amendment is filed in the office of the City Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, said protest being duly signed and acknowledged by the owners of twenty (20) percent of the area, excepting public streets and ways located within the corporate limits of the City and located within two hundred (200) feet of the boundaries of the property proposed to be rezoned, or within one thousand (1000) feet in the unincorporated area if the property to be rezoned is located adjacent to or outside the City’s limits, such amendment shall not be passed except by at least three-fourths (3/4) vote of the members of the Governing Body.