HAYS KANSAS Zoning and Subdivision Regulations

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CHAPTER 1 TITLE, PURPOSE, AUTHORITY, JURISDICTION AND TRANSITIONAL PROVISIONS

ARTICLE 1.1 TITLE, PURPOSE, AUTHORITY, AND JURISDICTION

Division 1.1.100 Title and Purpose

Sec. 1.1.101 Title

The Hays Unified Development Code (UDC)~~Zoning and Subdivision Regulations~~ shall be known as, and may be referred to as, "the UDC~~Hays Zoning and Subdivision Regulations~~" or "this Code~~these Regulations~~."

Effective on: 5/6/2016

Sec. 1.1.102 Purpose

A. **Generally.** The provisions of this Code are enacted to protect the public health, safety, and general welfare of the community in accordance with the latest adopted version of the Comprehensive Plan. The purposes are as follows:

B. **Purpose.**

1. *Public Health, Safety, and Environmental Quality*. Protect public health and safety, and environmental quality by:

   a. Ensuring greater public safety, convenience, and accessibility through the physical design and location of land uses;

   b. Facilitating the adequate and safe provision of transportation, water, sewage, drainage, schools, parks, and other public facilities;

   c. Minimizing losses due to destruction by nature or acts of God;

   d. Promoting the sustainable use of local, natural, and energy resources;

   e. Preserving and protecting existing trees and vegetation, floodplains, stream/creek corridors, drainage swales, native prairie, wetlands, and other areas of environmental significance from adverse impacts of development;

   f. Providing harmonious development of the community; and

   g. Providing the proper location and width of streets, building lines, open spaces, safety and recreational facilities, utilities, drainage, and for the avoidance of congestion of population through requirements of minimum lot width, depth, and area and the compatibility of design.

2. *Economic Development*. Encourage economic opportunities, particularly those that have meaningful effects in the local and regional economy, by:
   a. Promoting the vitality and development of the City's major employment centers and nonresidential zoning districts; and
   b. Encouraging the efficient use of the land in the City, including redevelopment.

3. *Quality of Life*. Protect the quality of life of the City's residents, business owners, employees, and visitors by:
   a. Promoting a balanced, diverse supply of affordable, quality housing;
   b. Protecting water quality standards;
   c. Ensuring the provision of adequate open space for light, air, and fire safety;
   d. Preserving and enhancing the character and quality of stable residential neighborhoods;
   e. Enhancing the visual character of the City through the regulation of design, where such regulation is appropriate;
   f. Encouraging active transportation modes such as pedestrian, bicycle, and public transportation;
   g. Encouraging development of a sustainable and accessible system of recreational facilities, parks, trails, green space, and open space that meets community-wide needs for current and future generations; and
   h. Ensuring that the appearance, visual scale, and orientation of developments are compatible with that of the Comprehensive Plan, other long-range plans, and the plans, goals, and objectives of the City Commission.

4. *Fiscal and Functional Health*. Protect the fiscal and functional health of the City by:
   a. Fostering convenient, compatible, and efficient relationships among land uses;
   b. Fostering interconnectedness between residential and nonresidential land uses and employment centers to promote multi-modal access and decrease dependence on single-passenger motor vehicles;
   c. Conserving the value of buildings and land, which relates to environmental quality, amenities, character, economic opportunity, mobility, and utilities infrastructure; and
   d. Promoting a balanced supply of residential and nonresidential land uses that is compatible with abutting land uses and has good access to transportation networks.

Effective on: 5/6/2016

Division 1.1.200 Authority and Jurisdiction

Sec. 1.1.201 Authority

A. **Generally.** In addition to Article 12, Section 5 of the Kansas Constitution, Kansas state law provides a specific grant of authority to cities to enact planning and zoning regulations for the protection of the public health, safety, and welfare as set out in K.S.A. § 12-741, *Planning and zoning in cities and counties; authorization*. This Section sets out and describes the applicable elements of state law for cross-reference purposes and shall not be interpreted to limit the authorizations or applicability of state law or future amendments thereto.

B. **State Authorizations and Mandates.** This Code includes provisions mandated or authorized by state law, including, but not limited to:

1. K.S.A § 12-749, *Same; subdivision regulations; adoption and amendment; notice and hearing*, allows cities to regulate subdivisions;
2. K.S.A. § 12-753, *Same; zoning regulations; districts; restrictions*, allows cities to separate areas of its jurisdiction into districts and regulate them differently;
3. K.S.A. § 12-755, *Same; zoning regulations; authority*, allows cities to provide for planned unit developments and historic preservation, control the aesthetic of new development and redevelopment, issue special or conditional use permits, and establish overlay districts;
4. K.S.A. § 12-757, *Same; zoning; downzoning or rezoning, amendments and revisions; procedure; notice and hearing; protest petition; signs to notify of proposed rezoning*, allows cities to supplement, change, or generally revise the boundaries and text of this Code; and if in accordance with the Comprehensive Plan, shall be presumed to be reasonable;
5. K.S.A. § 12-761, *Same; violations; penalties; actions*, allows cities to administer and enforce this Code, yet sets maximum fines and other restrictions on penalties for violations.

Effective on: 5/6/2016

Sec. 1.1.202 Jurisdiction

The provisions of this Code apply to all land, development, and the use of all land, buildings, and structures within the corporate limits of the City of Hays, Ellis County, Kansas, except as specifically provided herein or preempted by state or federal law. Provided, however, that nothing herein shall be construed to preclude the City from engaging in extraterritorial planning activities pursuant to K.S.A. 12-747, *Same; comprehensive plan; contents; procedure for adoption; annual review of plan*, and amendments thereto.

Effective on: 5/6/2016

ARTICLE 1.2 TRANSITIONAL PROVISIONS

Division 1.2.100 Transitional Provisions

Sec. 1.2.101 Pending Applications

A. **Generally.** Except as provided in Subsection B., below, each application for development approval shall be evaluated by the regulations that were in effect at the time the complete application was submitted.

B. **Stale Applications.** Applications for development approval that were not pursued with due diligence shall expire pursuant to Section 11.2.206, *Termination of Stale Applications*.

Effective on: 5/6/2016

Sec. 1.2.102 Development Approvals that Predate this Code

A. **Generally.** It is the intent of the City Commission to respect existing development approvals. Approved development may be carried out within the scope of the approved plans, including applicable standards in effect at the time of approval, provided that the approval is valid and has not expired as set out in Section 1.2.108, *Vesting*, and Section 11.2.206, *Termination of Stale Applications*.

B. **Duration of Approvals.** Development approvals that are valid on the effective date of this Code are valid for the duration specified in or at the time approval. If no duration was in effect at the time of approval, the respective approval shall expire in accordance with Section 1.2.108, *Vesting*, or Section 11.2.206, *Termination of Stale Applications*., as applicable.

C. **Scope of Approvals.** This Section shall not be interpreted to confer rights upon an applicant that are not set out within the approved documents associated with each permit.

Effective on: 5/6/2016

Sec. 1.2.103 Prior Conditions of Approval

A. **Generally.** Conditions of development approvals, <u>including plats</u>, that were granted prior to the effective date remain in force, regardless of the standards of this Code.

B. **Modification or Elimination of Conditions.** Conditions of approvals that were imposed prior to the effective date may be modified or eliminated pursuant to new applications that meet the procedures and standards of this Code.

Effective on: 5/6/2016

Sec. 1.2.104 Annexed Property

A. **Generally.** All territory which may hereafter be annexed into the City shall be in the A-L district, except when such land has been zoned in the county; it shall retain the same zoning district classification as it had in the county until otherwise changed by adopted ordinance.

B. **Extraterritorial Jurisdiction Area~~Three-Mile Extension~~.** All territory which may hereafter be included under the control of ~~these Regulations due to extension of~~ the extraterritorial jurisdiction area~~three-mile jurisdiction~~ as a result of annexation shall be in the A-L district until otherwise changed by adopted ordinance.

Effective on: 5/6/2016

Sec. 1.2.105 Existing Planned Unit Developments (PUDs)

A. **Final Plan Approval.** Planned unit developments (PUDs) that were granted prior to the effective date of this Code may be carried out according to the terms and conditions of their approvals. Unless otherwise stated in their conditions of approval, if final plan approval has not been obtained by ordinance within one year of the preliminary plan approval, the development approval is expired.

B. **Phased Approval.** For a plan that was to be developed in phases, after the effective date of this Code, final plan approval may be sought for each subsequent phase of development, provided that a final plan was obtained by ordinance for the first phase of development within one year of the preliminary plan approval.

C. **Official Zoning Map Notation.** Planned unit developments that meet the requirements of Subsections A. and B., above are notated on the official zoning map as a "PUD." Coinciding with the PUD designation is the appropriate district classification as set out in Article 2.1, *Zoning Districts*.

Effective on: 5/6/2016

Sec. 1.2.106 Existing Violations

A. **Generally.** Any violations that were violations of preceding zoning and subdivision regulations, prior to the effective date of this Code, shall continue to be a violation under this Code and shall be subject to the penalties and enforcement set out in Chapter 13, *Enforcement and Remedies*, or other applicable sections of the City's *Code of Ordinances*.

B. **Fines and Penalties.** Payment of fines shall be required for any civil penalty assessed under the previous regulations, even if the original violation is no longer considered a violation under this Code.

Effective on: 5/6/2016

Sec. 1.2.107 Private Restrictions

A. **Generally.** This Code does not abrogate private restrictions (covenants) that affect the use, development, or maintenance of property. Only the provisions of this Code will be enforced on property that is subject to private restrictions.

B. N**o Duty to Search for, Interpret, or Enforce Private Restrictions.** Unless the City is a party to them, it will not take any of the following actions:

1. Search for the existence of private restrictions;
2. Interpret private restrictions; or
3. Enforce private restrictions.

C. **No City Liability.** The City may adopt policies to assist parties seeking information regarding the existence of private restrictions, but shall not be held accountable regarding the accuracy of such information.

Effective on: 5/6/2016

Sec. 1.2.108 Vesting

A. **Single Family Residential Development**. For the purpose of single-family residential developments, development rights in such land use shall vest upon recording of a final plat of such land. If construction is not commenced on such land within 10 years of recording a final plat, the development rights in such shall expire.

B. **All Other Development**. The right to use land for a particular purpose shall vest upon the issuance of all permits required for such development, construction has begun, and substantial amounts of work have been completed under a validly issued permit.

Effective on: 5/6/2016

CHAPTER 2 ZONING DISTRICTS AND LAND USES

ARTICLE 2.1 ZONING DISTRICTS

Division 2.1.100 Purpose and Application of Article

Sec. 2.1.101 Purpose

The purpose of Article 2.1, *Zoning Districts*, is to set out the zoning districts which create varying areas of character throughout the City and extraterritorial jurisdiction ~~three-mile planning~~ area.

Effective on: 5/6/2016

Sec. 2.1.102 Application

This Article establishes the official zoning map which divides all land within the City and extraterritorial jurisdiction ~~three-mile planning~~ area into zoning districts. These zoning districts then establish the basic framework for how most other provisions of this Code are applied.

Effective on: 5/6/2016

Division 2.1.200 Establishment of Zoning Districts

Sec. 2.1.201 Zoning Districts Established

A. **Generally.** All land within the City and extraterritorial jurisdiction ~~three-mile planning~~ area are divided into the 12 zoning districts that are established by Table 2.1.201A, *Zoning Districts Established*.

Table 2.1.201A Zoning Districts Established				
District Name	Symbol	District Purpose	District Character	Relationship to Future Land Use Plan
Agriculture				
Agriculture District	A-L	The purpose of the agriculture district is to provide for new and existing agricultural uses and agricultural support uses. In general, these areas are intended to allow for agricultural development on the fringes of the City, or in the ~~three-mile planning~~ area where an urban level of services (including both public water and sewer) are not yet available and will not be for the foreseeable future.	Rural / Natural	AP, UR, and undesignated areas within the extraterritorial jurisdiction ~~three-mile planning~~ area
Established Neighborhoods				
Neighborhood Conservation District	NC	The purpose of the neighborhood conservation district is to preserve the integrity of existing neighborhoods while providing reasonable opportunities for improvement and expansion of existing homes without variances. *See* Table 2.1.201B, below, for more specificity.	Varies based on existing conditions, but generally Auto-Urban	LDR, MDR, HDR, MH for established neighborhoods in need of conservation
New Residential				
Residential Suburban District	R-S	The purpose of the suburban residential district is to provide for the development of residential neighborhoods with suburban character. These areas are required to utilize an urban level of services and are generally comprised of lower density single-family detached residential uses.	Suburban	LDR, UR
Residential General District	R-G	The purpose of the general residential district is to provide for the development of residential neighborhoods with auto-urban character. These areas are required to utilize an urban level of services and are generally comprised of low- to medium-density residential uses, including single-family detached uses or planned development single-family attached uses.	Auto-Urban	LDR, MDR, and UR
Residential Multi-Family District	R-M	The purpose of the multi-family residential district is to provide for the development of residential neighborhoods with auto-urban character. These	Auto-Urban	HDR and UR

Table 2.1.201A Zoning Districts Established				
District Name	Symbol	District Purpose	District Character	Relationship to Future Land Use Plan
Agriculture				
		areas are required to utilize an urban level of services and are generally comprised of higher density residential uses such as apartments.		
Nonresidential				
Neighborhood Shopping District	C-1	The purpose of the neighborhood shopping district is to provide for the development of neighborhood convenience uses with suburban character, where the building and site design standards ensure appropriately scaled commercial uses that are compatible and cohesive with abutting and adjacent residential uses. These areas are required to utilize an urban level of services.	Suburban	COM and UR
Commercial General District	C-2	The purpose of the general commercial district is to provide for development of general retail and service uses with auto-urban character. These areas are required to utilize an urban level of services.	Auto-Urban	COM
Central Business District	C-3	The purpose of the central business district is to provide for commercial and mixed use development within the City's central business district, *e.g.*, "Downtown." Development within the central business district is urban in character (*e.g.*, buildings are built to the street and parking is generally provided on-street or in public or private parking lots or parking structures), and is required to utilize an urban level of services.	Urban	D
Light Industrial District	I-1	The purpose of the light industrial district is to provide for the development of heavy commercial, office, and/or light industrial uses with auto-urban character. These uses are generally comprised of enhanced site and building standards (*e.g.*, operations are conducted indoors with limited on-site storage or truck traffic, it does not generate noticeable external effects or nuisances, etc.) to create a higher quality industrial parks or employment centers. These areas are required to utilize an urban level of services.	Auto-Urban	BP and CI

Table 2.1.201A Zoning Districts Established				
District Name	Symbol	District Purpose	District Character	Relationship to Future Land Use Plan
Agriculture				
Heavy Industrial District	I-2	The purpose of the general industrial district is to provide for the development of a range of industrial enterprises with auto-urban character. These uses may include such things as manufacturing, fabrication, and/or warehousing with both indoor and outdoor operations, on-site storage and display, and may have heavy truck traffic. Environmental effects likely associated with these industrial uses include noise, light, odor, vibration, and other visible and sensory impacts. As such, these uses are generally well buffered against abutting uses. These areas are required to utilize an urban level of services.	Auto-Urban	IND
Other				
Mixed Use District	M-U	The purpose of the mixed use district is to provide for the development of higher density residential housing horizontally or vertically mixed with commercial or other nonresidential uses (*e.g.*, public or institutional uses). The mixed use district anticipates an urban form of development where large expanses of parking should not be visible from the street. In addition, these areas should be buffered from, yet may be connected to, abutting residential and other uses. These areas are required to utilize an urban level of services and are intended to be designed and developed in a manner that is pedestrian-friendly.	Urban	MU-C and other mixed use activity centers
Public and Institutional District	P-I	The purpose of the public and institutional district is to provide for public-owned and operated uses (*e.g.*, governmental and school buildings and facilities, utility stations, libraries, cemeteries, active and passive recreation parks, public safety complexes, post offices, etc.). These uses are oftentimes unique in nature and scale and thus, not appropriately placed within any other district. Some of these uses may be appropriate in other zoning districts subject	Varies	CIV, PK/GW

Table 2.1.201A Zoning Districts Established				
District Name	Symbol	District Purpose	District Character	Relationship to Future Land Use Plan
Agriculture				
		to applicable performance standards.		

B. **Neighborhood Conservation (NC) Subdistricts Established.** The Neighborhood Conservation (NC) district is divided into five subdistricts that are established by Table 2.1.201B, *Neighborhood Conservation (NC) Subdistricts Established*. Any reference in this Code to the "NC district" also includes reference to the NC subdistrict.

Table 2.1.201B Neighborhood Conservation (NC) Subdistricts Established		
Subdistrict Name	General Characteristics	Purpose
Neighborhood Conservation Subdistricts		
NC.1	The NC.1 subdistrict consists of single-family detached houses on agricultural and suburban lands using the A-L and R-S zoning districts that pre-dated the effective date of this Code.	The primary purpose of the neighborhood conservation subdistricts is to preserve the existing character of the established neighborhoods that were developed under regulations that pre-dated the effective date of this Code, while allowing for the infill of vacant lots, expansion of existing buildings, or redevelopment resulting in the same general character of development.
NC.2	The NC.2 subdistrict consists single-family detached houses and manufactured homes located outside a manufactured home park using the R-1, R-2, and M-S zoning districts that pre-dated the effective date of this Code.	
NC.3	The NC.3 subdistrict consists of single-family detached homes and single-family attached homes (*e.g.*, duplexes and triplexes) on lots that were developed using the R-3, R-3A, and R-3N zoning districts that pre-dated the effective date of this Code.	
NC.4	The NC.4 subdistrict primarily consists of single-family detached homes, single-family attached homes (*e.g.*, duplexes and triplexes) , and multi-family (*e.g.*, apartments) using the R-4 zoning district that pre-dated the effective date of this Code.	
NC.5	The NC.5 subdistrict primarily consists of manufactured housing that was developed using the M-P district or manufactured home park provisions that pre-dated the effective date of this Code.	

C. **Zoning of Annexed Land.** The City may process an application for an initial City zoning designation, or may designate a newly annexed property's zoning district upon its own initiative, in conjunction with annexation proceedings and the procedures set out in Article 11.2, *Permits and Procedures*. Land that is not zoned otherwise by the City Commission during the annexation process is zoned A-L, Agriculture, upon annexation until affirmatively rezoned to another district. Simultaneous processing of the annexation and the zoning change is permitted.

D. **Comprehensive Plan Consistency.** The zoning districts and associated provisions are intended to implement the Comprehensive Plan, which may be amended from time to time. When a lot or parcel is zoned in a manner that is consistent with the Comprehensive Plan, then the City Commission may find that approvals granted pursuant to the standards of this Code are consistent with the intent of this adopted plan. Therefore, the City expresses its intent that this Code, or any amendment hereto, may not be challenged merely on the basis of an alleged nonconformity with the Comprehensive Plan or other planning policy.

Effective on: 5/6/2016

Sec. 2.1.202 Official Zoning Map

A. **Generally.** Zoning districts are shown on the map entitled "Official Zoning Map of Hays, Kansas" (referred to hereinafter as "zoning map"), which is attached hereto and made part of this Code. An official copy of the zoning map is on file and available for inspection during regular business hours at the Department.

B. **Force and Effect.** The zoning map and all notations, references, and other information shown on it are a part of and have the same force as the text of this Code.

C. **Status of the Official Zoning Map.** The zoning map that is on file at the Department shall control in the event of a conflict between the map that is on file and any other reproduction of the zoning map.

D. **Effective Date.** This Code may be adopted before the zoning map. In such case, this Code will not become effective until the zoning map is adopted.

E. **Interpreting the Zoning Map.** Where uncertainty exists with respect to the boundaries of the various zoning districts, as shown on the zoning map, the following apply:

1. The zoning district boundaries are the section lines or the centerlines of roads, streets or alleys, unless otherwise shown.

2. Where the property has been or may hereafter be divided into blocks and lots, the zoning district boundaries shall be construed to be the lot lines, and where the zoning districts designated on the zoning map are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the zoning district, unless the boundaries are otherwise indicated on the Zoning Map.

3. In cases where the Subsections E.1 and E.2, above, do not apply, the zoning district boundary line on the zoning map, shall be determined by the use of the scale appearing on the zoning map.

F. **Designation of Undesignated Land.** For the purposes of ensuring that all land has a zoning designation, any land that is not assigned a zoning district on the zoning map is zoned A-L, Agricultural District.

G. **Conflicts Resolved.** In the event of a conflict between the district boundaries on the zoning map and the zoning of property provided by a duly enacted rezoning ordinance adopted before the effective date of this Code, the zoning map shall control.

Effective on: 5/6/2016

Division 2.1.300 Airport Overlay District

Sec. 2.1.301 Intent and Purpose

A. **Generally.** The regulations set out in this Division are the regulations in the Airport Overlay (A-O) District.

B. **Intent and Purpose.**

1. The Airport Overlay District is designed to establish an airport zone surrounding Hays Regional Airport in Ellis County and to protect those using the airport from hazards that might be erected or constructed on surrounding properties, as well as protect the property owners surrounding the airport from the hazardous consequences of incompatible uses.

2. The Airport Overlay District establishes additional restrictions on uses of property that may be stricter than those of the underlying district. When this occurs, the more strict requirements apply.

Effective on: 5/6/2016

Sec. 2.1.302 Airport Hazard Zones

A. **Generally.** In order to carry out the provisions of this Section, there are hereby created and established certain airport hazard zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Hays Regional Airport.

B. **Map Notation.** Airport hazard zones are shown on the City's Airport Zoning Maps which are hereby made a part of this Code.

C. **Airport Hazard Zones.** The airport hazard zones are hereby established and defined as follows:

1. *Utility Runway Visual Approach Zone*. The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway (this zone applies to Runway 4-22 at Hays Regional Airport).

2. *Utility Runway Non-Precision Instrument Approach Zone*. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach

zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway (this zone applies to Runway 4-22 at Hays Regional Airport).

3. *Runway Larger than Utility with a Visibility Minimum Greater than Three-Fourths Mile Non-Precision Instrument Approach Zone*. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway (this zone applies to Runway 16-34 at Hays Regional Airport).

4. *Transitional Zones*. The transitional zones are the areas beneath the transitional surfaces.

5. *Horizontal Zone*. The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual, and 10,000 feet for all others, from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

6. *Conical Zone*. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward a horizontal distance of 4,000 feet.

D. **Overlapping Zones.** An area located in more than one of the various airport hazard zones is considered to be only in the zone with the more restrictive height limitations.

E. **Use Restrictions.**

1. *Interference*. No use may be made of land or water within any zone in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

2. *Landfills*. No sanitary landfill may be operated or maintained within two miles of any airport boundary in compliance with 49 U.S.C. §44718(d), as amended by Section 503 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Pub. L. No. 106-181 (April 5, 2000), no new Municipal Solid Waste Landfills (MSWLF) shall be established within six miles of the airport without appropriate state agency exemption.

3. *Wildlife*. Land use practices that attract or sustain hazardous wildlife populations on or near airports can significantly increase the potential for wildlife strikes, and are therefore considered incompatible with safe airport operations. Proposed land use practices that could potentially attract hazards shall be reviewed by the airport owners for compliance with FAA regulations.

F. **Nonconforming Uses.**

1. *Regulations Not Retroactive*. The regulations prescribed in this Division shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations at the effective date of this Code, or otherwise

interfere with the continuation of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Code and is diligently pursued.

2. *Marking and Lighting*. Notwithstanding Subsection F.1., above, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the airport owner to indicate the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner.

G. **Site Plan.** Site plan approval guidelines are subject to the requirements of Section 11.2.408, *Site Plans*.

H. **Permits.**

1. *Future Permits*.

a. Generally: Except as specifically provided in this Subsection, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any airport hazard zone unless a permit therefore shall have been applied for and granted.

b. Application: Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to this Division. If the application meets all requirements to this Division, the permit shall be granted. Uses inconsistent with this Division will be subject to a variance as described in subsection #4 below.

c. Height: Nothing contained in any of the following exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Division, except as set out in Section 2.1.303, *Airport Height Limitations*.

i. In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than 200 feet of vertical height above the ground; except when, because of terrain, land contour, or topographical features, such tree or structure would extend above the height limits prescribed for such zones.

ii. In areas lying within the limits of the approach zones but a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 200 feet height above the ground; except when such tree or structure would extend above the height limit prescribed for such approach zone.

iii. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 200 feet of vertical height above the ground; except when such tree or structure, because of terrain, land contour, or topographical features, would extend above the height limit prescribed for such transitional zones.

2. *Existing Uses*.

   a. Generally: No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Code, as amended from time to time, or than it is when the application for a permit is made.

   b. Application: Except as indicated, all applications for such a permit shall be granted.

3. *Nonconforming Uses Abandoned or Destroyed*. Whenever the airport owner determines that a nonconforming tree or structure has been abandoned or more than 50 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from this Code.

4. Variances.

   a. Generally: Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in accordance with ~~the regulations of~~ this Division, may apply to the Board of Zoning Appeals for a variance.

   b. Application: Each application for variance shall be accompanied by a determination from the FAA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. No application for variance may be considered by the Board of Zoning Appeals unless a copy of the application has been furnished to the airport owner for advice as to the aeronautical effects of the variance.

   c. Granting a Variance: Variances shall be allowed where it is duly found that a literal application or enforcement of this Code will result in unnecessary hardship, and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Division. If the airport owner does not respond to the variance application within 30 days after receipt, the Board of Zoning Appeals may act on its own to grant or deny the variance.

5. *Obstruction Marking and Lighting*. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Division and be reasonable in circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Zoning Appeals and approved by the City Commission, this condition may be modified to require the owner to permit the airport owner, at its own expense, to install, operate, and maintain the necessary markings and lights.

Effective on: 5/6/2016

Sec. 2.1.303 Airport Height Limitations

A. **Generally.** Except as otherwise provided in this Division, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Division to a height in excess of the applicable height herein established for such zone.

B. **Height Limitations.** Applicable height limitations are hereby established for each of the zones in question as follows:

1. *Utility Runway Visual Approach Zone*. Slopes 20 feet outward for each one-foot upward beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

2. *Utility Runway Non-Precision Instrument Approach Zone*. Slopes 20 feet outward for each one-foot upward beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

3. *Runway Larger than Utility with a Visibility Minimum Greater than Three-Fourths Mile Non-Precision Instrument Approach Zone*. Slopes 34 feet outward for each one-foot upward beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

4. *Transitional Zones*. Slopes 20 feet outward for each one-foot upward beginning at the sides of, and at he same elevation as, the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. In addition to the foregoing, there are established height limits sloping 20 feet outward for each one-foot upward beginning as the sides of, and the same elevation as, the approach surface and extending to where they intersect the conical surface or horizontal surface.

5. *Horizontal Zone*. Established at 150 feet above the airport elevation.

6. *Conical Zone*. Slopes 20 feet outward for each one-foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation, and extending to a height of 350 feet above the airport elevation.

7. *Excepted Height Limitations*. Except in the approach zones, nothing in this Division shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree, to a height up to 50 feet above the surface of the land.

Effective on: 5/6/2016

Sec. 2.1.304 Enforcement

A. **Generally.** It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed in this Division.

B. **Application.** Applications for permits and variances shall be made on a form submitted to the Zoning Administrator and shall be promptly considered and granted or denied. Application for action by the Board of Zoning Appeals shall be transmitted by the Zoning Administrator.

C. **Conflicting Regulations.** Where a conflict between any of the regulations or limitations prescribed in this Division, this Code, and state or federal laws, the more stringent limitation or requirement shall govern and prevail.

Effective on: 5/6/2016

Division 2.1.400 Stream Corridor Overlay District

Sec. 2.1.401 Purpose and Application

A. **Purpose**. It is the purpose of this Division to reasonably regulate development, uses and activities within identified stream corridors and to thereby preserve, conserve, manage disturbance, and attempt to restore Hays' natural stream corridors, pursuant to Hays' Home Rule authority, Article 12, § 5 of the Kansas Constitution, and in accordance with state and federal statutes, so that the following objectives may be achieved:

1. Regulate the land use, location, and engineering of all development within the stream corridors to ensure consistency with the intent and objectives of accepted conservation and Best Management Practices (BMPs), prevent further degradation of water resources, and to work within the carrying capacity of existing natural resources;
2. Assist in the implementation of pertinent federal, state, and local laws concerning clean water, pollutant discharges, storm and surface water management, erosion and sediment control and flood control;
3. Improve surface and ground water quality by reducing the amount of nutrients, sediment, organic matter, pesticides, and other harmful substances that reach watercourses, wetlands, and subsurface and surface water bodies by using scientifically-proven processes including:
   a. Filtration;
   b. Deposition;
   c. Absorption;
   d. Adsorption;
   e. Plant uptake;
   f. Denitrification; and by
      i. Improving infiltration;
      ii. Encouraging sheet flow; and
      iii. Stabilizing concentrated flows.
4. Improve and maintain the safety, reliability, and adequacy of the water supply for domestic, agricultural, and other uses, in addition to supporting recreational uses and sustaining diverse populations of aquatic flora and fauna;
5. Preserve and protect areas that intercept storm and surface water runoff, wastewater, subsurface flow, and/or deep groundwater flows from upland sources and reduce, to the maximum extent practicable, the effects of the entry of associated nutrients, sediment, organic matter, pesticides, or other pollutants into surface waters, as well as provide wildlife habitat, moderate water temperature in surface waters, attenuate flood flow, and, where appropriate and feasible, provide opportunities for recreational activities;

6. Manage development within floodplains, on land adjacent to stream segments with greater than 15 percent slopes, and other environmentally sensitive areas to minimize hazards to life, property, and stream features;
7. Save short and long-term costs by minimizing the installation of costly infrastructure such as pipes;
8. Recognize that natural features contribute to the welfare and quality of life of Hays' residents;
9. Provide natural, scenic, and recreation areas within and adjacent to stream corridors for the community's benefit;
10. Encourage the infiltration of rainfall to increase groundwater recharge and provide for a water supply more resilient to drought impacts; and
11. Create added value to lands adjacent to stream corridors.

B. **Application**.

1. This Division shall apply to all land or new development within the stream corridor, as defined by this Division and applied to designated stream segments identified on the most current map of the High Resolution National Hydrography Data Set adopted by the City of Hays. No development shall occur on a parcel of land that is within or partially within the defined stream corridor, except in accordance with this Division; provided, however, that this Division shall not apply to land or to development, which:

    a. Is on land covered by an approved, unexpired preliminary plat or preliminary plan, where such approval was given prior to the effective date of this Division; or

    b. If platting is not required prior to issuance of a building permit, is covered by a unexpired building permit issued prior to the effective date of this Division, in accordance with rules and regulations of the City of Hays governing building permits.

2. No development application shall be approved that proposes development on any parcel of land wholly or partially within the defined stream corridor unless the proposed development is in compliance with the applicable provisions of this Division.

Effective on: 5/6/2016

Sec. 2.1.402 Stream Corridor Defined

A. **Stream Corridor Width**. Stream corridor widths are determined by the size of the drainage area relative to the stream. The location of designated stream segments shall be as delineated on the Official Zoning Map@819">Zoning Map. At all designated stream segment locations, the stream corridor shall consist of inner and outer zones. The width of each zone within the stream corridor is defined below. See Table 2.1.402, *Minimum Stream Corridor Width*.

Table 2.1.402
Minimum Stream Corridor Width

Drainage Area	Minimum Buffer Width from Edge of Stream Bank Outwards, Measured Separately in Each Direction
Less than 20 acres	40 feet
20 to 160 acres	60 feet
161 to 5,000 acres	100 feet
Greater than 5,000 acres	120 feet

B. **Guidelines.** The general guidelines used to determine the width of each zone are as follows:

1. Inner Zone. The inner zone is defined as that area that is within 25' from the edge of the stream bank, measured horizontally from the edge of the stream bank.
2. Outer Zone. The outer zone is a variable width zone that is determined by subtracting 25 feet from the required minimum stream corridor width set out in Table 2.1.402, *Minimum Stream Corridor Width*, above, and measured horizontally from the outer boundary of the inner zone. The outer zone includes a distance that comprises all lands with slopes that are greater than 15 percent and include floodplains; provided that these features occur, in part, within the inner or outer zones.

C. **Areas Subject to Flooding**. In areas subject to flooding from Big Creek, Lincoln Draw/Montgomery Ditch, or Chetolah Creek, the buffer width need not coincide with the width of the floodplain. The minimum buffer width shall be no smaller than the width specified in Table 2.1.402, *Minimum Stream Corridor Width*, above.

Effective on: 5/6/2016

Sec. 2.1.403 Ponds

Where manmade ponds interrupt streams, the stream corridor as defined in Section 2.1.402, *Stream Corridor Defined*, shall stop at the pond and resume on the other side of the pond. Where ponds are removed or filled in as part of development, the stream shall be restored through that area and the stream corridor buffer shall be created using the typology for adjacent stream sections.

Effective on: 5/6/2016

Sec. 2.1.404 Prohibitions

Any use or activity that is not identified as being permitted by this Division within any stream corridor zone, as set out in Sec. 2.1.405, *Regulated Uses, Structures, and Activities*, is prohibited in all identified stream corridors. Mowing or clearing of the inner zone shall be specifically prohibited, except in cases of continued agricultural uses or unless approved by the Stormwater Superintendent.

Effective on: 5/6/2016

Sec. 2.1.405 Regulated Uses, Structures, and Activities

A. **General Applicability to Stream Corridor**. No development shall be undertaken on land in a stream corridor unless a development application has been approved authorizing the applicant to perform the development proposed in the application; provided that no development application shall be approved unless the development proposed is, in all respects, in conformity with the requirements of this Division.

B. **Uses and Activities Permitted in the Inner Zone**.

1. Conservation uses, wildlife sanctuaries, nature preserves, forest preserves, fishing areas, and passive areas of parklands.
2. Unpaved recreational trails and greenways.
3. Education/scientific research.
4. Stream bank stabilization and other storm water Best Management Practices (BMPs).
5. Activities associated with the restoration and enhancement of stream corridors.
6. Excavation and fill required to plant any new trees or vegetation.
7. Installation of water and wastewater facilities, provided that, the owner of the facilities provides information to the Public Works Department that is sufficient to allow the Public Works Director to determine that the installation of the facilities in the outer zone is infeasible. Feasibility will be determined through consideration of factors, such as geology, topography, and the presence of unique habitat in the stream corridor. Water and wastewater facilities will be permitted to cross the inner zone and stream as necessary, provided that the number of crossings is minimized to the greatest extent possible.
8. Public infrastructure.

C. **Uses and Activities Permitted in the Outer Zone**.

1. All uses and activities permitted in the stream side zone.
2. Paved recreational trails.
3. Fences; provided however, that such fences must be constructed so as not to impede floodwaters.
4. Installation of utilities, including water and wastewater facilities.

D. **Additional Uses and Activities Permitted in the Outer Zone, with Public Works Director Approval**.

1. Passive uses, such as camps, campgrounds, picnic areas and golf courses.
2. Minor recreational structures and surfaces that are ancillary to passive recreational uses as set out in Subsection D.1, above; provided that the total impervious area created by such structure(s) in residential areas shall not exceed 200 square feet per single family residential lot. Examples of such permitted structures include, but are not limited to, decks, gazebos, picnic tables, playground equipment, and small concrete slabs built to accommodate such permitted structures.

E. **Single Family Residential Rear Yard Allowance**. The rear yard of a single-family residential use may extend into the outer zone; provided, however, that the rear of the actual residential structure may not be located nearer than 20 feet from the outer edge of the outer zone and no ancillary structure may be located in the outer zone (only those ancillary structures otherwise permitted by this Division may be located in the outer zone), and further that any development satisfies the open space and setback requirements of this Division and Code.

F. **Uses Subject to Federal and/or State Approval**. The following in-stream activities are regulated and require approval from the United States Army Corp of Engineers (USACE) or Environmental Protection Agency (EPA), the Kansas Department of Health and Environment (KDHE), or other appropriate federal and state agencies; provided that, the requisite state and/or federal approvals are provided to the City of Hays:

1. Dredging;
2. Filling;
3. Excavation;
4. Draining; and
5. Clearing.

Effective on: 5/6/2016

Sec. 2.1.406 Activities Permitted in All Stream Corridor Zones

The following activities are allowed within all zones of the stream corridor:

A. **Agricultural Activities**. Existing and ongoing agricultural activities. The activities cease to be existing when the area on which they were conducted has been converted to a nonagricultural use or has lain idle for more than five years or so long that modifications to the hydrological regime are necessary to resume agricultural activities, unless the idle land is registered in a federal or state soils conservation program.

B. **Maintenance**. Maintenance/repair of public right-of-way, streets, public structures.

C. **Site Investigation**. Site investigation work necessary for initial land use applications, such as surveys, soil logs and percolation tests, and special studies as required by this Division; provided, however, that the land must be restored to its pre-investigation condition.

D. **Reconstruction**. Reconstruction, remodeling or maintenance of existing structures, provided that the activity does not expand the existing use beyond the previously approved use so as to physically extend into or adversely affect the stream corridor.

E. **Maintenance of Landscaping**. Routine maintenance of existing landscaping within a lot's boundaries, including pruning, removal of diseased trees or other diseased vegetation, and replacement of individual plants when necessary to maintain a unified landscape theme.

F. **Vegetation Control**. Control of vegetation defined as state noxious weeds by K.S.A. 2-1314 et seq., by the recommended methods or alternative methods established by the State Board of Agriculture, Noxious Weed Division.

G. **emergency Actions**. Emergency action necessary to prevent imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation may be taken at any time without advance notice to the Public Works Director; provided that, the notice, as required by this Division, shall be given at the earliest opportunity after the emergency action.

Effective on: 5/6/2016

Sec. 2.1.407 Enforcement

The Director of Public Works is authorized and empowered to enforce the requirements of this Division in accordance with the procedures set out in Sec. 11.2.312, *Stream Corridor Development Requirements*. In doing so, the Director of Public Works shall have all the enforcement powers and may employ all or any of the remedies set forth in this Code.

Effective on: 5/6/2016

Sec. 2.1.408 Abrogation and Greater Restrictions

It is not intended that this Division repeal, abrogate, or impair any existing regulations, easements, covenants or deed restrictions. However, where this Division imposes greater restrictions, the provisions of this Division shall prevail.

Effective on: 5/6/2016

ARTICLE 2.2 LAND USES

Division 2.2.100 Purpose and Application of Article

Sec. 2.2.101 Purpose

The purpose of this Article is to establish the permitted, limited, special, and prohibited uses in each zoning district and the additional standards that apply to limited and special uses. This Article also provides standards for the approval or conduct of temporary uses to ensure that they do not become a nuisance or safety hazard, or diminish or change the character and function of the area in which they are located.

Effective on: 5/6/2016

Sec. 2.2.102 Application

A. **Overlay Districts**. Set out in Division 2.1.300, *Airport Overlay District*, and Division 2.1.400, *Stream Corridor Overlay District*, are the standards and restrictions applicable to the use of land, buildings and structures, and activities within the airport hazard zones and stream corridor inner and outer zones, respectively. These overlay districts include regulatory provisions that are applicable to the districts and uses set out in this Article.

B. **Land Use.** Set out in Division 2.2.200, *Permitted, Limited, Special, and Prohibited Uses*, are the uses that are allowed, allowed with additional review ("limited uses" and "special uses," see Subsection C., below), and not allowed in each zoning district. It also lists uses that are not allowed anywhere in the City and provides a process for determining how a new or unlisted use should be considered.

C. **Temporary Uses.** Set out in Division 2.2.300, *Temporary Uses*, are the standards for the approval and conduct of temporary uses.

D. **Limited and Special Uses.** Set out in Division 2.2.300, *Compatibility Standards for Limited and Special Uses*, are the additional standard for certain uses that, because of their operational characteristics, design issues, and potential to be a nuisance, require additional standards to ensure their compatibility with other uses in the same district or on nearby properties in other districts. Limited and special uses are defined as follows:

   1. *Limited Uses*. Limited uses are uses that have impacts that are different in kind or scale from permitted uses in the same district, which are mitigated by the specific standards contained in Division 2.2.300, *Compatibility Standards for Limited and Special Uses*. Applications for approval of limited uses are decided by the Zoning Administrator, who applies these specific standards.

   2. *Special Uses*. Special uses have a higher potential for impact than limited and permitted uses, and may or may not be permitted on a particular parcel. Applications for approval of special uses are decided by the Board of Zoning Appeals, which applies the standards in Division 2.2.300, *Compatibility Standards for Limited and Special Uses*, and Section 11.2.409, *Special Use Permits*.

Effective on: 1/22/2016

Division 2.2.200 Permitted, Limited, Special, and Prohibited Uses

Sec. 2.2.201 Interpretation of Land Use Tables

A. **Generally.** This Section, including Figure 2.2.201, *Illustrative Interpretation of Land Use Tables*, sets out how the land use tables are interpreted.

1. Displayed in Section 2.2.202, *Residential and Commercial Uses of the Home*, through Section 2.2.205, *Agriculture, Industrial, Utility, Transportation, and Communication Uses*, are the tables that set out which uses are permitted, limited, special, and prohibited in each zoning district.
2. The tables list uses in white and light brown rows (the name of the use is listed in the first column), sometimes organized by category (darker brown rows).
3. The second column, "*Limited and Special Use Standards,*" refers to the Section which provides the use-specific standards that apply to limited or special uses for districts in which the use is limited or special.
4. The remaining columns list the zoning districts by category.
5. In the table cells where rows and columns intersect, a letter or symbol indicates if the use is permitted, limited, special, or prohibited in the district.

Figure 2.2.201
Illustrative Interpretation of Land Use Tables

Example: A person wants to know if *Example Use A* is allowed on a parcel of land that is located in the C-2 district. The use is listed as "L," (shown in bold blue type with yellow background, below) which means that it is allowed, provided that it meets some additional standards that are set out in Division 2.2.300, *Compatibility Standards for Limited and Special Uses* (*see* subsection B for details about the symbols in the illustration).

Illustrative Land Use Table

P = Permitted Use; L = Limited Use; S = Special Use; -- = Prohibited Use

Land Use	Limited and Special Use Standards	Zoning Districts										
		Agriculture	Residential			Nonresidential						
		A-L	R-S	R-G	R-M	C-1	C-2	C-3	I-1	I-2	M-U	P-I
A Group of Related Uses Follows												
Example Use A	A cross reference will be shown in Division 2.2.300, *Compatibility Standards for Limited and Special Uses.*	--	--	--	--	--	**L**	S	S	S	--	--
Example Use B	There is no L or S in this row, therefore there is no cross-reference (*e.g.,* N/A).	P	P	--	P	P	--	--	--	--	P	P

TABLE NOTES:
This is where additional regulatory provisions, clarity, or interpretations may be found specific to a row, column, or cell. Table notes are enforceable by the Zoning Administrator.

B. **Table Symbology.** All the tables use the following symbols:

1. "**P**" means that the use is ***Permitted*** in the specified zoning district. The uses are approved by the Zoning Administrator, subject to the standards of this Code that apply to all permitted uses.

2. "**L**" means that the use is allowed as a ***Limited Use*** in the specified zoning district. Limited uses are approved by the Zoning Administrator, subject to:

   a. The standards for permitted uses that are set out in this Code; and

   b. The applicable use-specific standards set out in Division 2.2.300, *Compatibility Standards for Limited and Special Uses.*

3. "**S**" means that the use is a ***Special Use*** in the specified zoning district. Special uses are approved by the Board of Zoning Appeals after a public hearing, subject to:

   a. The standards for permitted uses that are set out in this Code; and

   b. The applicable use-specific standards set out in Division 2.2.300, *Compatibility Standards for Limited and Special Uses*.

4. "**--**" means that the use is ***Prohibited*** in the specified zoning district.

Effective on: 5/6/2016

Sec. 2.2.202 Residential and Commercial Uses of the Home

A. **Generally.** This Section sets out the residential and commercial uses of the home and allowed neighborhood types allowed per each zoning district.

B. **Residential and Commercial Uses of the Home.** As set out in Table 2.2.202A, *Residential and Commercial Uses of the Home*, are the residential and commercial uses of the home that are allowed in each zoning district.

Table 2.2.202A
Residential and Commercial Uses of the Home

P = Permitted Use; L = Limited Use; S = Special Use; -- = Prohibited Use

Land Use	Limited and Special Use Standards	Zoning Districts										
		Agriculture	Residential			Nonresidential						
		A-L	R-S	R-G	R-M	C-1	C-2	C-3	I-1	I-2	M-U	P-I
Residential Uses												
Single-Family Detached												
- Single-Family Detached	Sec. 2.2.302	P[2]	P	P	P[1]	--	--	--	--	--	L[1]	--
- Manufactured Home	Sec. 2.2.302	L	L	L	--	--	--	--	--	--	--	--
- Modular Home	Sec. 2.2.302	L	L	L	--	--	--	--	--	--	--	--
Single-Family Attached												
- Duplex	Sec. 2.2.302	--	L[1]	L	L	--	--	--	--	--	L[1]	--
- Triplex	Sec. 2.2.302	--	--	L[1]	L[1]	--	--	--	--	--	L[1]	--
- Townhouse	Sec. 2.2.302	--	--	L[1]	L[1]	--	--	--	--	--	L[1]	--

Table 2.2.202A
Residential and Commercial Uses of the Home

P = Permitted Use; L = Limited Use; S = Special Use; -- = Prohibited Use

Land Use	Limited and Special Use Standards	Zoning Districts										
		Agriculture	Residential			Nonresidential						
		A-L	R-S	R-G	R-M	C-1	C-2	C-3	I-1	I-2	M-U	P-I
- Live-Work Unit	Sec. 2.2.302	--	--	--	--	--	--	L	--	--	L[1]	--
Multi-Family												
- Apartment	Sec. 2.2.302	--	--	L[1]	P	--	--	L	--	--	L[1]	--
- Mixed Use Lofts	N/A	--	--	--	--	--	--	P	--	--	--	--
Commercial Use of the Home												
Child-Care Facility, Family Day Care Home	Sec. 2.2.303	L	L	L	L	--	--	L	--	--	L[1]	--
Child-Care Facility, Group Day Care Home	Sec. 2.2.303	L	L	L	L	--	--	L	--	--	L[1]	--
Child-Care Facility, Youth Residential	Sec. 2.2.303	L	L	L	L	--	--	L	--	--	L[1]	--
Home Occupations	Sec. 2.2.303	P	L	L	L	--	--	L	--	--	L	--

TABLE NOTES:
N/A - Not Applicable.
1. These dwelling units may only be utilized in these districts as part of a planned development option.
2. *See* Table 3.1.201, *Residential Development Standards*.

C. **Neighborhood Types.** As set out in Table 2.2.202B, *Residential Neighborhood Types*, are the neighborhood residential types that are allowed in each zoning district.

Table 2.2.202B Residential Neighborhood Types												
P = Permitted Use; L = Limited Use; S = Special Use; -- = Prohibited Use												
Land Use	Limited and Special Use Standards	Zoning Districts										
		Agriculture	Residential			Nonresidential						
		A-L	R-S	R-G	R-M	C-1	C-2	C-3	I-1	I-2	M-U	P-I
Residential Neighborhood Types												
Standard Residential Neighborhood	N/A	--	P	P	P	--	--	--	--	--	--	--
Planned Development	Sec. 2.2.302	--	P	P	--	--	--	--	--	--		--
Mixed Use	Sec. 2.2.302	--	--	--	--	--	--	P	--	--	P[1]	--
Manufactured Home Park or Subdivision	Sec. 2.2.302	--	--	S	--	--	--	--	--	--	--	--
Recreational Vehicle (RV) Park	Sec. 2.2.302	S	--	--	--	--	--	--	S	--	--	--
TABLE NOTES: N/A - Not Applicable.												

Effective on: 5/6/2016

Sec. 2.2.203 Institutional, Recreational, and Amusement Uses

The institutional, recreation, and amusement uses allowed in each zoning district are set out in Table 2.2.203, *Institutional, Recreation, and Amusement Uses*.

Table 2.2.203 Institutional, Recreation, and Amusement Uses												
P = Permitted Use; L = Limited Use; S = Special Use; -- = Prohibited Use												
Land Use	Limited and Special Use Standards	Zoning Districts										
		Agriculture	Residential			Nonresidential						
		A-L	R-S	R-G	R-M	C-1	C-2	C-3	I-1	I-2	M-U	P-I
Institutional Uses												
Assisted Living Facility	Sec. 2.2.304	--	L	L	L	L	P	--	L	--	P	--
Cemetery or Mausoleum	Sec.	S	S	S	S	L	L	--	--	--	--	L

Table 2.2.203
Institutional, Recreation, and Amusement Uses

P = Permitted Use; L = Limited Use; S = Special Use; -- = Prohibited Use

Land Use	Limited and Special Use Standards	Zoning Districts										
		Agriculture	Residential			Nonresidential						
		A-L	R-S	R-G	R-M	C-1	C-2	C-3	I-1	I-2	M-U	P-I
	2.2.304											
College/University/Vocational School	Sec. 2.2.304	--	--	--	--	--	P	S	L	--	L	P
Funeral Home/Mortuary/Funeral Chapel/Crematory	Sec. 2.2.304	--	--	S	S	L	L	--	L	--	L	--
Government and Public Institutions	Sec. 2.2.304	S	S	S	S	L	P	P	L	L	L	P
Group Day Care Center	Sec. 2.2.304	--	--	S	S	L	P	S	--	--	L	--
Hospitals	Sec. 2.2.304	--	--	--	--	--	P	--	P	--	L	L
Library	Sec. 2.2.304	--	L	L	L	P	P	P	P	--	L	P
Medical Office/Clinic/Medical Lab	Sec. 2.2.304	--	--	--	--	P	P	P	P	--	L	--
Museum	Sec. 2.2.304	--	--	--	--	L	P	P	P	--	L	--
Non-Profit Institutions	Sec. 2.2.304	--	--	--	--	P	P	P	P	--	L	--
Nursing or Convalescent Home	Sec. 2.2.304	--	--	--	L	L	P	--	L	--	L	--
Place of Public Assembly (event facilities; meeting halls; private clubs; lodges; places of worship)	Sec. 2.2.304	--	L	L	L	L	P	S	L	--	L	P
Schools, Private	Sec. 2.2.304	--	P	P	P	L	P	L	L	--	L	P
Schools, Public	Sec. 2.2.304	--	P	P	P	L	P	L	L	--	L	P
Recreation and Amusement Uses												

Table 2.2.203 Institutional, Recreation, and Amusement Uses												
P = Permitted Use; L = Limited Use; S = Special Use; -- = Prohibited Use												
Land Use	Limited and Special Use Standards	Zoning Districts										
		Agriculture	Residential			Nonresidential						
		A-L	R-S	R-G	R-M	C-1	C-2	C-3	I-1	I-2	M-U	P-I
Campground	Sec. 2.2.305	S	--	--	--	--	--	--	--	--	--	S
Commercial Amusement, Indoor	Sec. 2.2.305	--	--	--	--	L	P	P	--	--	L	--
Commercial Amusement, Outdoor	Sec. 2.2.305	--	--	--	--	--	S	--	--	--	L	--
Golf Course	Sec. 2.2.305	L	L	L	L	--	--	--	--	--	L	--
Recreation and Fitness, Indoor	Sec. 2.2.305	--	--	--	--	--	P	L	L	--	L	--
Recreation and Fitness, Outdoor	Sec. 2.2.305	L	L	L	L	L	P	L	--	--	L	L
TABLE NOTES: N/A - Not Applicable												

Effective on: 5/6/2016

Sec. 2.2.204 Commercial Uses

The commercial uses allowed in each zoning district are set out in Table 2.2.204, *Commercial Uses*.

Table 2.2.204 Commercial Uses												
P = Permitted Use; L = Limited Use; S = Special Use; -- = Prohibited Use												
Land Use	Limited and Special Use Standards	Zoning Districts										
		Agriculture	Residential			Nonresidential						
		A-L	R-S	R-G	R-M	C-1	C-2	C-3	I-1	I-2	M-U	P-I
Commercial Uses												
Alcoholic Beverage Sales	Sec. 2.2.306	--	--	--	--	P	P	P	--	--	S	--
Animal Grooming	N/A	--	--	--	--	--	P	P	--	--	P	--

Table 2.2.204
Commercial Uses

P = Permitted Use; L = Limited Use; S = Special Use; -- = Prohibited Use

Land Use	Limited and Special Use Standards	Zoning Districts										
		Agriculture	Residential			Nonresidential						
		A-L	R-S	R-G	R-M	C-1	C-2	C-3	I-1	I-2	M-U	P-I
Facilities												
Animal Boarding or Veterinarian Services, Large Animal	Sec. 2.2.306	--	--	--	--	--	--	--	L	L	--	--
Animal Boarding or Veterinarian Services, Small Animal	Sec. 2.2.306	--	--	--	--	L	L	L	L	--	L	--
Drinking Establishment	Sec. 2.2.306	--	--	--	--	S	P	L	--	--	S	--
Drive-In/Drive-Through Facility	Sec. 2.2.306	--	--	--	--	L	L	L	L	--	L	L
Farmers' Market	Sec. 2.2.306	L	--	--	--	L	L	L	--	--	L	L
Grocery Store	Sec. 2.2.306	--	--	--	--	L	P	L	--	--	L	--
Heavy Retail	Sec. 2.2.306	--	--	--	--	--	L	--	L	--	L	--
Hotel/Motel	Sec. 2.2.306	--	--	--	--	L	L	L	L	--	L	--
Mixed Use	Sec. 2.2.306	--	--	--	--	--	L	P	--	--	L	--
Nursery/Greenhouse, Retail	Sec. 2.2.306	S	--	--	--	--	P	--	P	S	L	--
Office, General	Sec. 2.2.306	--	--	--	--	P	P	P	P	--	L	P
Parking Lot, Stand Alone	Sec. 2.2.306	--	--	--	--	--	S	S	--	--	--	--
Parking Structure, Stand Alone	Sec. 2.2.306	--	--	--	--	--	L	S	--	--	S	L
Pawn Shop	Sec. 2.2.306	--	--	--	--	--	S	--	--	--	--	--

Table 2.2.204 Commercial Uses												
P = Permitted Use; L = Limited Use; S = Special Use; -- = Prohibited Use												
Land Use	Limited and Special Use Standards	Zoning Districts										
		Agriculture	Residential			Nonresidential						
		A-L	R-S	R-G	R-M	C-1	C-2	C-3	I-1	I-2	M-U	P-I
Personal Services	Sec. 2.2.306	--	--	--	--	P	P	P	--	--	L	--
Restaurant	Sec. 2.2.306	--	--	--	--	P	P	P	--	--	L	L
Retail Sales and Services	Sec. 2.2.306	--	--	--	--	P	P	P	P	--	L	--
Showrooms	Sec. 2.2.306	--	--	--	--	--	P	--	P	--	L	--
Vehicle Gas and Fueling Station	Sec. 2.2.306	--	--	--	--	L	P	--	P	P	L	--
Vehicle Sales, Rental, and Service	Sec. 2.2.306	--	--	--	--	--	L	--	L	--	--	--
Vehicle Wash	Sec. 2.2.306	--	--	--	--	L	P	--	L	--	L	--
TABLE NOTES: N/A - Not Applicable												

Effective on: 5/6/2016

Sec. 2.2.205 Agriculture, Industrial, Utility, Transportation, and Communication Uses

The agriculture, industrial, transportation, utility, and communication uses that are allowed in each zoning district are set out in Table 2.2.205, *Agriculture, Industrial, Transportation, Utility, and Communication Uses*.

Table 2.2.205
Agriculture, Industrial, Transportation, Utility, and Communication Uses

P = Permitted Use; L = Limited Use; S = Special Use; -- = Prohibited Use

Land Use	Limited and Special Use Standards	Zoning Districts										
		Agriculture	Residential			Nonresidential						
		A-L	R-S	R-G	R-M	C-1	C-2	C-3	I-1	I-2	M-U	P-I
Agricultural Uses												
Agriculture, General	N/A	P	--	--	--	--	--	--	--	--	--	--
Farming Equipment Sales and Service	N/A	--	--	--	--	--	--	--	P	--	--	--
Farm Stand	N/A	P	--	--	--	--	--	--	--	--	--	--
Horse Riding Stables and Academies (including private)	Sec. 2.2.307	S	S	--	--	--	--	--	--	--	--	--
Nursery / Greenhouse, Wholesale	N/A	S	--	--	--	--	P	--	P	P	--	--
Industrial												
Commercial Retail, Heavy (building supply)	N/A	--	--	--	--	--	--	--	P	P	--	--
Heavy Truck or Recreational Vehicle Sales, Service, and Repair	N/A	--	--	--	--	--	P	--	P	P	--	--
Landfill	Sec. 2.2.308	--	--	--	--	--	--	--	--	S	--	S
Light Industry	N/A	--	--	--	--	--	--	--	P	--	--	--
Manufacturing and Fabrication	N/A	--	--	--	--	--	--	--	P	P	--	--
Manufacturing and Storage (bulk oil, gas, and explosives)	Sec. 2.2.308	--	--	--	--	--	--	--	--	S	--	--
Oil / Gas Operations (exploration and extraction)	Sec. 2.2.308	S	--	--	--	--	--	--	S	S	--	--
Petroleum Refining and Fuel Storage	Sec. 2.2.308	--	--	--	--	--	--	--	--	S	--	--
Recycling Collection	N/A	--	--	--	--	--	--	--	P	P	--	P

Table 2.2.205
Agriculture, Industrial, Transportation, Utility, and Communication Uses

P = Permitted Use; L = Limited Use; S = Special Use; -- = Prohibited Use

Land Use	Limited and Special Use Standards	Zoning Districts										
		Agriculture	Residential			Nonresidential						
		A-L	R-S	R-G	R-M	C-1	C-2	C-3	I-1	I-2	M-U	P-I
Facility												
Researching and Testing Laboratories	N/A	--	--	--	--	--	--	--	P	P	--	--
Slaughterhouse	Sec. 2.2.308	--	--	--	--	--	--	--	--	S	--	--
Storage, Flammable Materials or Substances	Sec. 2.2.308	--	--	--	--	--	--	--	--	S	--	--
Storage, Self	Sec. 2.2.308	--	--	--	--	--	--	--	L	--	--	--
Storage Yard	N/A	--	--	--	--	--	--	--	L	L	--	L
Vehicle Repairs and Service, Heavy	Sec. 2.2.308	--	--	--	--	--	--	--	P	S	--	--
Warehousing and Distribution	Sec. 2.2.308	--	--	--	--	--	S	--	P	P	--	--
Wholesale Services	Sec. 2.2.308	--	--	--	--	--	--	--	P	S	--	--
Transportation Uses												
Airport	Sec. 2.2.309	S	--	--	--	--	--	--	--	--	--	S
Helistop	Sec. 2.2.309	S	--	--	--	--	S	--	S	S	--	S
Railroad Yard	Sec. 2.2.309	--	--	--	--	--	--	--	--	S	--	--
Transportation Stop (bus and taxi)	N/A	P	P	P	P	P	P	P	P	P	P	P
Transportation Terminal (rail and truck)	N/A	--	--	--	--	--	--	--	P	P	--	--
Utility Uses												
Power Generation,	Sec.	P	L	L	L	L	L	--	L	L	L	P

Table 2.2.205
Agriculture, Industrial, Transportation, Utility, and Communication Uses

P = Permitted Use; L = Limited Use; S = Special Use; -- = Prohibited Use

Land Use	Limited and Special Use Standards	Zoning Districts										
		Agriculture	Residential			Nonresidential						
		A-L	R-S	R-G	R-M	C-1	C-2	C-3	I-1	I-2	M-U	P-I
Small-scale (Renewable; Noncombustable)	2.2.310											
Power Generation, Utility-scale	Sec. 2.2.310	--	--	--	--	--	--	--	--	S	--	--
Public Utilities	N/A	P	P	P	P	P	P	P	P	P	P	P
Substations (electrical and telephone)	Sec. 2.2.310	S	S	S	S	S	S	--	P	P	S	S
Wireless Telecommunication Facility (WTF)/Communication Uses												
Radio and Television Studio	Sec. 2.2.311	--	--	--	--	--	L[1]	L[1]	--	--	--	--
WTF, Attached	Sec. 2.2.311	L	L	L	L	L	L	L	L	L	L	L
WTF, Freestanding Non-Stealth	Sec. 2.2.311	S	--	--	--	--	S	S	S	S	--	L
WTF, Freestanding Stealth	Sec. 2.2.311	L	L	L	L	L	L	L	L	L	L	L

ABLE NOTES:
N/A - Not Applicable
[1] When associated with a college/university/vocational school.

Effective on: 5/6/2016

Sec. 2.2.206 NC Uses by Subdistrict

Set out in Table 2.2.206, *Allowed New Uses in NC Subdistricts*, are the allowable uses for NC subdistricts for parcels proposed for development.

Table 2.2.206
Allowed New Uses in NC Subdistricts

P = Permitted Use; L = Limited Use; S = Special Use; -- = Prohibited Use

Permitted Uses	Limited and Special Use Standards	NC Subdistricts				
		NC.1	NC.2	NC.3	NC.4	NC.5
Agriculture Uses						
Agriculture, General	N/A	P	--	--	--	--
Animal Feeding Operations (including open feedlots)	N/A	--	--	--	--	--
Farm Stand	N/A	P	--	--	--	--
Horse Riding Stables and Academies (including private)	Sec. 2.2.307	S	--	--	--	--
Nursery/Greenhouse, Wholesale	N/A	P	--	--	--	--
Residential Uses						
Single-Family Detached	N/A	P[1]	P	P	P	--
Single-Family Attached (duplex)	N/A	--	--	P	P	--
Manufactured Home	N/A	--	--	--	--	P[2]
Multi-Family (apartments)	N/A	--	--	P	P	--
Commercial Uses of the Home						
Child-Care Facility, Group Day Care Home	N/A	--	--	--	P	--
Child-Care Facility, Youth Residential	N/A	--	--	--	P	--
Home Occupations	N/A	P	P	P	P	P
Institutional Uses						
Cemetery or Mausoleum	Sec. 2.2.304	S	--	--	S	--
College/University/Vocational School	N/A	--	--	--	--	--
Crematory	Sec. 2.2.304	--	--	--	S	--
Funeral Home/Mortuary	Sec. 2.2.304	--	--	S	S	--
Group Day Care Center	Sec. 2.2.304	--	S	S	P	S
Government and Public	Sec. 2.2.304	S	S	S	S	--

Table 2.2.206
Allowed New Uses in NC Subdistricts

P = Permitted Use; L = Limited Use; S = Special Use; -- = Prohibited Use

Permitted Uses	Limited and Special Use Standards	NC Subdistricts				
		NC.1	NC.2	NC.3	NC.4	NC.5
Institution						
Hospital	Sec. 2.2.304	--	--	--	--	--
Nursing / Convalescent Home	Sec. 2.2.304	--	--	--	P	--
Place of Public Assembly (event facilities; meeting halls; private clubs; lodges; places of worship)	N/A	--	P	P	P	P
School, Private	N/A	--	P	P	P	P
School, Public	N/A	--	P	P	P	P
Recreational and Amusement Uses						
Campgrounds	Sec. 2.2.305	S	--	--	--	--
Golf Course	N/A	P	P	P	P	--
Recreation / Personal Fitness, Indoor	N/A	--	--	P	P	--
Recreation / Personal Fitness, Outdoor	N/A	P	P	P	P	--
Commercial Uses						
Restaurant	Sec. 2.2.306	--	--	S	--	--
Retail Sales and Services	Sec. 2.2.306	--	--	S	--	--
Vehicle Gas and Fueling Station	Sec. 2.2.306	--	--	S	--	--
Industrial Uses						
Landfill	Sec. 2.2.308	--	--	--	--	--
Oil/Gas Operations (exploration and extraction)	Sec. 2.2.308	S[3]	--	--	--	--
Storage Yard	Sec. 2.2.308	--	--	--	--	--
Vehicle Wrecking and Salvage Yard; Junkyard	Sec. 2.2.308	--	--	--	--	--
Transportation Uses						
Airport	Sec. 2.2.309	S	--	--	--	--
Helistop	Sec. 2.2.309	S	--	--	--	--
Utility Uses						
Public Utilities	Sec. 2.2.310	S	S	S	S	--

Table 2.2.206 Allowed New Uses in NC Subdistricts						
P = Permitted Use; L = Limited Use; S = Special Use; -- = Prohibited Use						
Permitted Uses	Limited and Special Use Standards	NC Subdistricts				
		NC.1	NC.2	NC.3	NC.4	NC.5
Substations (electrical and telephone)	Sec. 2.2.310	S	S	S	S	--

TABLE NOTES:
N/A - Not Applicable
[1] See Table 3.1.201, *Residential Development Standards*.
[2] Manufactured homes within a manufactured home park.
[3] Permitted use in the extraterritorial jurisdiction ~~three-mile planning~~ area.

Effective on: 5/6/2016

Sec. 2.2.207 Prohibited Uses in All Districts

The following uses are prohibited in all districts, in the City's jurisdiction:

- Disposal of radioactive wastes;
- Animal feeding operations;
- Vehicle wrecking and salvage yard; junk yard;
- Animal breeding;
- All uses that are prohibited by local ordinance, or require the use or sale of materials that are prohibited by local ordinance; and
- All uses that are prohibited by state or federal law or require the use or sale of materials that are prohibited by state or federal law.

Effective on: 5/6/2016

Sec. 2.2.208 Unlisted or Functionally Similar Uses

A. **Authorization of Proposed Use**. If a proposed use is not specified in Section 2.2.202, *Residential and Commercial Use of the Home*; Section 2.2.203, *Institutional, Recreational, and Amusement Uses*; Section 2.2.204, *Commercial Uses*; or Section 2.2.205, *Agriculture, Industrial, Utility, Transportation, and Communication Uses*, and the Zoning Administrator has made a determination that the use is ~~either a subcategory of a permitted, limited, or special use, or a use that is~~ functionally similar to a permitted, limited, or special use, the Zoning Administrator will authorize the proposed use, and apply all standards that would have applied to the similar use.

B. **If Not Authorized Then Prohibited**. If the Zoning Administrator determines that a proposed use is not ~~a subcategory of, or~~ functionally similar to a permitted, limited, or special use, then the use is a prohibited use.

C. **Decision Criteria**. The following decision criteria shall be evaluated when the Zoning Administrator, or at the Zoning Administrator's discretion, the Planning Commission, decides whether a proposed use is ~~a subcategory of, or is~~ functionally comparable to, a permitted, limited, or special use:

1. Parking demand;
2. Average daily and peak hour trip generation (cars and trucks);
3. Impervious surface;
4. Regulated air or water emissions;
5. Noise;
6. Lighting;
7. Dust;
8. Odors;
9. Solid waste generation;
10. Potentially hazardous conditions, such as projectiles leaving the site;
11. Use and storage of hazardous materials;
12. Character of buildings and structures;
13. Nature and impacts of operation; and
14. Hours of operation.

Effective on: 5/6/2016

Division 2.2.300 Compatibility Standards for Limited and Special Uses

Sec. 2.2.301 Limited and Special Uses, Generally

A. **Timing of Compliance.** The standards of this Division apply at the time a limited or special use is requested to be established in an existing or new structure, and when an existing limited or special use is proposed to be expanded by more than 10 percent of the existing square footage currently devoted to the use. This Division applies to an expansion of use whether it is to or within an existing building, in an outdoor area devoted to the use, or a combination of thereof.

B. **Other Applicable Standards.** The standards of this Division are applied in addition to the other applicable standards of this Code.

C. **Procedures.** For special uses, the procedures set out in Section 11.2.409, *Special Use Permits*, apply.

D. **Uses Not Listed.** If there are special uses specified in the tables of Division 2.2.200, *Permitted, Limited, Special, and Prohibited Uses*, that are not included in this Division, all applicable standards and all conditions of approval that may be determined by the Planning Commission and City Commission shall apply.

E. **Limited and Special Use Tables.** Set out in Division 2.2.300, *Compatibility Standards for Limited and Special Uses*, contain standards that apply to each of the limited and special uses. The tables are interpreted as follows:

1. *Use*. The first column, **Use**, lists the use to which the standards specified in the same row apply.
2. *District*. The second column, **District**, lists the district in which the standards specified in the same row apply. This may mean that different standards apply to the use, depending upon the district in which it is located.
3. *Location*. The third column, **Location**, specifies where the use may be located (*e.g.*, in the C-3 district, residential is only allowed above a nonresidential use), or certain minimum spacing (*e.g.*, 600 feet between similar uses), etc.
4. *Design*. The fourth column, **Design**, specifies the design requirements that are specific to this use.
5. *Other Standards*. The fifth column, other, specifies additional standards that are specific to the use (*e.g.*, operational limitations, licensing requirements, etc.).

Effective on: 5/6/2016

Sec. 2.2.302 Residential Use Compatibility Standards

A. **Generally.** The standards of this Section apply to residential uses that are set out in Table 2.2.202, *Residential and Commercial Uses of the Home*, as a limited (L) or special (S) use, and are subject to the provisions set out in Section 2.2.301, *Limited and Special Uses, Generally*.

B. **Standards.** Set out in Table 2.2.302, *Residential Limited and Special Use Standards*, are the standards that apply to each use.

Table 2.2.302 Residential Limited and Special Use Standards				
Use	District	Location	Design	Other
Individual Uses				
Apartment	C-3 M-U	N/A	Apartments are allowed as follows: 1. In the C-3 district, they are integrated into mixed use buildings and located above the ground floor. 2. All units are accessed via interior hallways. 3. The design of the apartment buildings shall be in conformance with all applicable provisions of Section 10.1.102, *Multi-Family Design Standards*. 4. ~~Vehicular access to the units is provided via an alley, parking structure, or parking court.~~ 5. ~~Parking is in a parking structure behind or underneath the building.~~	N/A
Live-Work Units	C-3	N/A	Live-work units shall comply with the following: 1. Live-work units shall be designed as single-family attached units in the form of a triplex or townhouse. 2. Each unit must be designed with an external appearance as a residence rather	N/A
	M-U	In mixed housing neighborhoods, live-work units shall be separated from single-family detached housing by a Type A bufferyard or public street.		Employees are restricted to the residents of the dwelling.

Table 2.2.302 Residential Limited and Special Use Standards				
Use	District	Location	Design	Other
Individual Uses				
			than a commercial business. 3. Required parking for the dwelling units shall be provided via an alley, parking structure, or parking court. 4. Parking for patrons shall be accommodated on-street or in a parking structure. 5. Signage shall be as follows: a. M-U District: A single unlighted placard with a maximum size of two square feet may be affixed securely and flat against the street-facing facade of the dwelling. b. C-3 District: A single placard with a maximum size of two square feet may be affixed securely and flat against the street-facing facade of the dwelling, or a single projecting sign with a	

Table 2.2.302 Residential Limited and Special Use Standards				
Use	District	Location	Design	Other
Individual Uses				
			maximum of two square feet may be affixed to the street-facing facade of the dwelling. 6. The area devoted to work does not exceed: a. M-U District: 25 percent of the total habitable area of the unit; or b. C-3 District: 40 percent of the total habitable area of the unit. 7. The area devoted to work shall be located on the ground floor.	
Manufactured Home	A-L R-S R-G	Option 1: The manufactured home is located within a manufactured home park or subdivision, and meets the standards of Section 9.1.304, *Manufactured Home Park or Subdivision*, Section 10.1.103, *Manufactured Home Unit Design Standards*, and other applicable sections of this Code; or Option 2: The manufactured home is not located in a manufactured home park or subdivision but meets the standards of Section 10.1.103, *Manufactured Home Unit Design Standards* (including Subsection F., *Architectural and Aesthetic Compatibility*) and other applicable sections of this Code.		
	N-C	The use existed on the effective date of this Code or a new manufactured home on a parcel proposed for development meets the provisions of Option 2, above.		
Modular Home	A-L R-S R-G	N/A	Each modular home shall be required to be placed on a permanent foundation and meet all other standards that apply to single-family detached or single-family attached	Each modular home shall be required to provide a manufacturer certification at the time of permitting certifying that the dwelling unit has been constructed in accordance

Table 2.2.302 Residential Limited and Special Use Standards				
Use	District	Location	Design	Other
Individual Uses				
			housing (whichever may be applicable).	with the City's nationally recognized building code.
Single-Family Attached	R-G R-M R-S	They are not located closer than 150 feet to NC subdistrict boundaries, unless separated from such subdistrict by a collector or arterial street.	1. Within the allowable neighborhood types, they are separated from single-family detached dwellings by a Type A bufferyard or a local street (*see* Division 4.1.400, *Bufferyards*. 2. ~~Townhouses if provided, are constructed in groups of not less than four units.~~	N/A
	M-U	N/A	1. Duplexes, if provided, are limited to side-by-side duplexes, with orientation of the front door to the street. 2. Triplexes, if provided, are limited to front door orientation to the front of the street. 3. ~~Townhouses if provided, are constructed in groups of no less than four and no more than six units.~~	*See* Section 3.1.301, *Nonresidential and Mixed Use Development Standards*.
Single-Family Detached	M-U	The use existed on the effective date of this Code.	N/A	*See* Section 3.1.301, *Nonresidential and Mixed Use Development Standards*.
Neighborhood Types				

Table 2.2.302 Residential Limited and Special Use Standards				
Use	District	Location	Design	Other
Individual Uses				
Manufactured Home Park or Subdivision	R-G	N/A	*See* Section 5.204, *Manufactured Home Park or Subdivision*.	*See* Section 9.1.304, *Manufactured Home Park or Subdivision*.
Recreational Vehicle (RV) Park	A-L I-1	The recreational vehicle (RV) park is located no closer than 500 feet to any property zoned R-S, R-G, or NC, unless separated from such districts by a collector or arterial street, or a bufferyard as set out in Sec. 9.1.305, *Recreational Vehicle (RV) Parks*, Subsection D..	N/A	N/A
TABLE NOTES: N/A - Not Applicable.				

Effective on: 5/6/2016

Sec. 2.2.303 Commercial Use of the Home Compatibility Standards

A. **Generally.** The standards of this Section apply to commercial uses of the home that are set out in Table 2.2.202, *Residential and Commercial Uses of the Home*, as a limited (L) or special (S) use, and are subject to the provisions set out in Section 2.2.301, *Limited and Special Uses, Generally*.

B. **Standards.** Set out in Table 2.2.303, *Commercial Use of the Home Limited and Special Use Standards*, are the standards that apply to each use.

Table 2.2.303 Commercial Use of the Home Limited and Special Use Standards				
Use	District	Location	Design	Other
Child-Care, Family Day Care Home	A-L R-S R-G R-M N-C C-3 M-U	1. Limited to single-family detached buildings that meet all of the standards of this Code. 2. The family home is not located on an arterial street.	1. The use shall be limited to the principal dwelling and cannot be located in a garage or in any accessory buildings. 2. There is at least 100 square feet of open space per child, which is entirely enclosed by a building, fence, or wall with a height of at least six feet. 3. Signage will be limited to a single, non-illuminated placard or nameplate with a maximum size of two square feet that must be affixed securely and flat against the street-facing facade of the dwelling. 4. There is adequate space on-site for temporary parking and drop-off and pick-up during peak times.	1. The operator for the use meets all certification, licensing, and/or monitoring requirements of the state. 2. No more than one person other than members of the immediate family residing in the dwelling unit will be employed on the site of the home-based business.
Child-Care Facility, Group Day Care Home or Child-Care Facility, Youth Residential	A-L R-S R-G R-M N-C C-3 M-U	Same provisions as for child-care, family day care home, above.	Same provisions as for a child-care, family day care home, above.	Same provisions as for a child-care, family day care home, above.
Home Occupations	A-L R-S R-G	The home occupation shall be carried on entirely within the principal	1. No sign shall be permitted unless required by state	1. No person shall be engaged in such home occupation other than

Table 2.2.303 Commercial Use of the Home Limited and Special Use Standards				
Use	District	Location	Design	Other
	R-M N-C C-3 M-U	structure and under no circumstances shall the home occupation be carried on within a detached accessory building.	statute, and if so required, shall not exceed two square feet in area, shall not be illuminated and shall be placed flat against the main wall of the building. 2. No alteration of the principal residential building shall be made which changes the character of such a building as a residence. 3. No commodities shall be displayed or sold on the premises except that which is produced on the premises. 4. No outdoor storage of materials or equipment used in the home occupation shall be permitted. 5. No manufacturing or processing of any sort shall be done, and no stock-in-trade shall be displayed or sold on the premises.	a person occupying such dwelling unit as his/her residence. 2. No mechanical or electrical equipment shall be used other than that which is normally used for purely domestic or household purposes. 3. The following types of home occupations are permitted: a. Dressmakers, seamstresses, and tailors; b. Music teachers, provided that instruction shall be limited to five pupils at a time; c. Dance and drama instructors, provided that instruction shall not be limited to no more than 10 pupils at one point; d. Artists, sculptors, and authors or composers; e. Offices for architects, engineers, lawyers, realtors, insurance agents, brokers, and members of similar

Table 2.2.303 Commercial Use of the Home Limited and Special Use Standards				
Use	District	Location	Design	Other
				professions; f. Ministers, rabbis, and priests; g. Offices of salesmen, sales representatives, manufacturer's representatives, when no exchange of tangible goods is made on the premises; h. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, etc., provided that no machinery or equipment shall be used other than that which would customarily be used in connection with the home crafts listed in this Subsection when pursued as a hobby or a vocation; i. Day care centers or babysitters caring for less than five unrelated children.

Table 2.2.303 Commercial Use of the Home Limited and Special Use Standards				
Use	District	Location	Design	Other
				4. The following home occupations are prohibited: a. Funeral homes; b. Restaurants; c. Small grocery stores; d. Stables and animal breeding; e. Tourists or vacation rental homes; f. Renting of trailers or equipment; g. Animal boarding or veterinarian services, small animal and animal boarding or veterinarian services, large animal; h. Vehicle sales, rental, and service; i. Personal services; j. Services such as small appliances, radio, and television repair; and k. Photographic studios and laboratories.

Effective on: 5/6/2016

Sec. 2.2.304 Institutional Use Compatibility Standards

A. **Generally.** The standards of this Section apply to institutional uses that are set out in Table 2.2.203, *Institutional, Recreation and Amusement Uses*, as a limited (L) or special (S) use, and are subject to the provisions set out in Section 2.2.301, *Limited and Special Uses, Generally*.

B. **Standards.** Set out in Table 2.2.304, *Institutional Limited and Special Use Standards*, are the standards that apply to each use.

Table 2.2.304
Institutional Limited and Special Use Standards

Use	District	Location	Design	Other
Assisted Living Facility	R-S R-G R-M C-1 M-U	If the capacity of the use is more than 15 residents, primary access to the site is from a collector or arterial streets.	1. In the C-1 District, the building shall be an adaptive reuse of a residential dwelling, or part thereof, or if built new, is designed to be residential in character 2. The use is separated from single-family detached dwelling units by a Type B bufferyard.	The operator for the use meets all certification, licensing, and/or monitoring requirements of the state.
Cemetery or Mausoleum	A-L R-S R-G R-M NC.1 NC.4 C-1 C-2	A mausoleum use shall be separated from single-family detached dwelling units by a Type B bufferyard.	The site shall be located on and have access to a collector or arterial street.	Nothing in this Subsection shall be construed to make an existing cemetery a nonconforming use with respect to the requirements of this Code.
College/University/Vocational School	C-3 I-1 M-U	A Type C bufferyard between the use and abutting residential uses/district will be planted, unless equivalent buffering	Circulation and parking plans are submitted to and approved by the City, which demonstrate: 1. Peak traffic impacts	N/A

Table 2.2.304 Institutional Limited and Special Use Standards				
Use	District	Location	Design	Other
		is already provided.	to the adjacent rights-of-way are mitigated to allow the rights-of-way to function at an acceptable level of service that is no greater than one level worse than the traffic conditions that existed prior to the establishment of the use; 2. On-campus circulation includes improvements that provide for the mobility and safety of pedestrians and bicyclists; and 3. Parking will be accommodated on campus or in parking lots adjacent to or near the campus so as to preserve the traffic carrying capacity of local streets for the purpose of public safety.	
Funeral Home/Mortuary/Funeral Chapel/Crematory	R-G R-M NC.2 NC.3 NC.4 C-1 C-2 I-1	In the M-U district, it shall be designed as part of an overall planned development.	In the R-G and R-M districts: 1. There is no cremation on-site; and 2. The use takes access from a collector or arterial	1. The operator for the use meets all certification, licensing, and/or monitoring requirements

Table 2.2.304 Institutional Limited and Special Use Standards				
Use	District	Location	Design	Other
	M-U		street. In the NC.2, NC.4, C-2, I-1, and M-U districts: 1. If cremation is performed, a supplemental filtration system is installed to reduce airborne mercury and particulate matter; and 2. The use takes access from a collector or arterial street.	of the state. 2. Only a crematory is a special use in the NC.1, NC.2, and NC.4 Subdistricts. 3. Funeral homes and mortuaries are a special use in the NC.3 and NC.4 Subdistricts.
Government and Public Institutions	A-L R-S R-G R-M NC.1 NC.2 NC.3 NC.4 C-1 I-1 I-2 M-U NC	In the M-U district, it shall be designed as part of an overall planned development.	1. The facility shall be located on and have access to a collector or arterial street. 2. When the site abuts a residential district or use, it shall be screened by a Type C bufferyard.	N/A
Group Day Care Center	R-G R-M NC.2 NC.3 NC.4 N-C C-1 C-3 M-U	In the NC districts, the use existed as a group day care center on the effective date of this Code.	1. The facility shall be located on and have access to a collector or arterial street. 2. The facility shall have at least one building entrance dedicated solely for its use. 3. Outdoor activities	The operator for the use meets all certification, licensing, and/or monitoring requirements of the state.

Table 2.2.304 Institutional Limited and Special Use Standards				
Use	District	Location	Design	Other
			shall be: a. Located a minimum of 100 feet from any residentially used or zoned property (measured along a straight line from the closest lot lines) or separated by a Type B bufferyard or other one-story buildings (if child care center is located on the interior of a multi-tenant complex); b. Screened by a secure masonry wall, fence, or evergreen hedge no less than five feet in height and maintained in good condition; and c. Used only between the hours of 6:00 AM and 6:00	

Table 2.2.304 Institutional Limited and Special Use Standards				
Use	District	Location	Design	Other
			PM.	
Hospitals/Medical Office/ Clinic/Medical Lab	M-U P-I	In the M-U district, it shall be designed as part of an overall planned development.	N/A	Hospitals that are operated by a governmental entity are allowed in the A-L, NC.1 and P-I districts.
Museum/ Non-Profit Institutions	M-U	In the M-U district, it shall be designed as part of an overall planned development.	The site shall be located on and have access to a collector or arterial street.	N/A
Nursing / Convalescent Home	R-M C-1 I-1 M-U	If the capacity of the use is more than 15 residents, primary access to the site is from a collector or arterial streets.	The use is separated from single-family detached dwelling units by a Type B bufferyard.	The operator for the use meets all certification, licensing, and/or monitoring requirements of the state.
Place of Public Assembly	R-S R-G R-M	N/A	1. The use has a minimum site area that is three times the minimum lot size of the respective district. 2. The parcel proposed for development is located along and arterial or collector street. 3. Parking shall be: a. Provided on-site without requiring parking on contiguous or noncontiguous parcels.	N/A

Table 2.2.304 Institutional Limited and Special Use Standards				
Use	District	Location	Design	Other
			b. Conducted so that it does not create parking or traffic congestion or otherwise unreasonably interfere with the peace and enjoyment of surrounding homes as places of residence.	
	N-C	The use existed as a place of public assembly on the effective date of this Code.	N/A	The existing use may be expanded on-site or to abutting lots if: 1. The expansion will allow the use to take access from an arterial or collector street; 2. The owner of the property also owned the abutting lot onto which the expansion is proposed on the effective date of this Code. 3. The expansion will

Table 2.2.304 Institutional Limited and Special Use Standards				
Use	District	Location	Design	Other
				involve the installation of a Type B bufferyard between the use and abutting residential uses, unless an equivalent buffer is already provided (*see* Division 4.1.400, *Bufferyards*).
	C-3	N/A	Parking shall be: 1. Accommodated through on-lot, on-street, or private off-street parking (via ownership or private agreements) within 300 feet of the place of public assembly; and 2. Not place material demands upon the on-street or public parking during peak demand hours for retail, restaurant, and other commercial uses.	N/A
	C-1 I-1 M-U	In the M-U district, it shall be designed as part of an overall planned development.	1. The parcel proposed for development is located along and arterial or collector	

Table 2.2.304 Institutional Limited and Special Use Standards				
Use	District	Location	Design	Other
			street. 2. Parking shall be: a. Provided on-site without requiring parking on contiguous or noncontiguous parcels. b. Conducted so that it does not create parking or traffic congestion.	
Schools, Public and Private	C-1 I-1 M-U	In the C-1, I-1, and M-U districts, it shall be designed as part of an overall planned development.	1. The parcel proposed for development is located along and arterial or collector street. 2. Parking shall be: a. Provided on-site without requiring parking on contiguous or noncontiguous parcels. b. Conducted so that it does not create parking or traffic congestion. 3. Peak traffic impacts to the adjacent rights-of-way are mitigated to allow the rights-of-way to	N/A

Table 2.2.304 Institutional Limited and Special Use Standards				
Use	District	Location	Design	Other
			function at an acceptable level of service that is no greater than one level worse than the traffic conditions that existed prior to the establishment of the use.	
	C-3	N/A	Parking shall be: 1. Be accommodated through on-lot, on-street, or private off-street parking (via ownership or private agreements) within 300 feet of the place of public assembly; and 2. Not place material demands upon the on-street or public parking during peak demand hours for retail, restaurant, and other commercial uses. Other: 1. The parcel proposed for development is located along and arterial or collector street.	
TABLE NOTE: N/A - Not Applicable				

Effective on: 5/6/2016

Sec. 2.2.305 Recreation and Amusement Use Compatibility Standards

A. **Generally.** The standards of this Section apply to recreation and amusement uses that are set out in Table 2.2.205, *Agriculture, Industrial, Utility, Transportation, and Communication Uses*, as a limited (L) or special (S) use, and are subject to the provisions set out in Section 2.2.301, *Limited and Special Uses, Generally*.

B. **Standards.** Set out in Table 2.2.305, *Recreation and Amusement Limited and Special Use Standards*, are the standards that apply to each use.

Table 2.2.305
Recreation and Amusement Limited and Special Use Standards

Use	District	Location	Design	Other
Campground	A-L NC.1 P-I	1. The minimum area of the parcel proposed for development is two acres. 2. Recreational vehicles shall be located no less than 20 feet from any public street, right-of-way, or property line. 3. All campgrounds shall have access from an arterial or collector street.	1. A solid fence or wall at least six feet in height when abutting residentially zoned property or use. 2. A bufferyard is required that is one type more restrictive than required by the zoning district (*e.g.*, if a Type A is required by the zoning district, a Type B is required for this use). 3. Provide one service building. a. Cannot be located closer than 25 feet from any designated camping space. b. Shall not be located further than 600 feet from any camping space. c. Have one flush toilet, one lavatory, and one shower or bathtub per nine camping spaces. 4. A maximum density of	1. Sales of recreational vehicles are not allowed. 2. The maximum duration of a stay for any one camper cannot exceed a total of 15 days during any given month.

			20 camping spaces per gross area, and a minimum area of 1,250 square feet for each space. 5. Campgrounds shall be located on a well-drained site, properly graded to ensure rapid drainage and freedom from stagnant pools of water. 6. Each camping space shall be at least 25 feet in width and 50 feet in depth.	
Commercial Amusement, Indoor	C-1 M-U	1. Outdoor activity areas are separated from residential uses by a Type C bufferyard or public street right-of-way. 2. The building is located no less than 100 feet from any residential use.	1. All principal and accessory uses occur indoors and are conducted in a completely enclosed building that has no openings, other than pedestrian entrances and stationary glass windows, facing any residentially zoned district or use. 2. Noise from the use shall not be audible at the property line of any nearby residential uses between the hours of 9:00 p.m. and 9:00 a.m. 3. Lighting for outdoor activities is shielded so as to prevent the direct glare of beams onto any adjacent residential district or use. 4. Primary access to the use is from a collector or arterial street.	N/A

Commercial Amusement, Outdoor	C-2 M-U	Commercial amusement, outdoor uses that include amusement rides, gasoline-powered go-cart tracks, gasoline-powered bumper boats, or are designed to accommodate more than 500 persons shall be spaced not less than 400 feet from residentially zoned or used property, measured along a straight line between the closest lot lines.	1. The minimum area of the parcel proposed for development is one acre. 2. The height to the tallest element on each amusement ride is limited to the maximum height for principal buildings in the underlying zone, except that taller amusement rides may be approved by the Planning Commission. 3. Lighting must be designed to prevent off-site glare and sky glow and additional setbacks or minimum parcel area may be required for facilities with decorative lighting. 4. A bufferyard is required that is one type more restrictive than required by the zoning district (*e.g.*, if a Type A is required by the zoning district, a Type B is required for this use). 5. Amphitheater stages and drive-in screens shall face away from the nearest residential uses. 6. If the use is located within 400 feet, measured along a straight line between the closest lot lines, then the use shall not operate between 9:00	N/A

			p.m. and 9:00 a.m., Sundays through Thursdays, and 11:00 p.m. and 9:00 a.m. on Fridays and Saturdays.	
Golf Course	A-L R-S R-G R-M M-U	As a part of a planned development in the A-L, R-S, R-G, R-M and M-U districts.	N/A	N/A
Recreation and Fitness, Indoor	C-3 I-1 M-U	The use is separated from all residential uses by a Type B bufferyard or public streetright-of-way.	1. All principal and accessory uses occur indoors and are conducted in a completely enclosed building that has no openings, other than pedestrian entrances and stationary glass windows, facing any residentially zoned district or use. 2. Noise from the use shall not be audible at the property line of any nearby residential uses between the hours of 9:00 p.m. and 9:00 a.m.	
Recreation and Fitness, Outdoor	A-L R-S R-G R-M C-1 I-1 M-U P-I	Public park areas designed and intended for active recreational use are separated from abutting residential districts and uses by a Type C bufferyard.	1. Off-street parking complies with Section 5.2.102, *Required Off-Street Parking and Loading Spaces*. 2. Access to service and parking areas for over 50 vehicles is from a collector or arterial street. 3. All lighting is shielded so as to prevent the direct glare of beams	After hours lighting is limited to that necessary only for security purposes.

			onto any adjacent residential district or use.	
TABLE NOTE: N/A - Not Applicable				

Effective on: 5/6/2016

Sec. 2.2.306 Commercial Use Compatibility Standards

A. **Generally.** The standards of this Section apply to commercial uses that are set out in Table 2.2.204, *Commercial Uses*, as a limited (L) or special (S) use, and are subject to the provisions set out in Section 2.2.301, *Limited and Special Uses, Generally*.

B. **Standards.** Set out in Table 2.2.306, *Commercial Limited and Special Use Standards*, are the standards that apply to each use.

Table 2.2.306
Commercial Limited and Special Use Standards

Use	District	Location	Design	Other
Alcoholic Beverage Sales	M-U	As part of a planned development where the building is located no less than 200 feet from any residential use.	N/A	All applicable state laws apply.
Animal Boarding and Veterinarian Services, Large Animal	I-1	No boarding facility or dog runs shall be located within 100 feet from any lot line or within 300 feet of any type of public or private school, group day care center, or public park (except a dog park).	1. The use is conducted within a fully enclosed building, which is designed with noise resistant materials. Plans and specifications for noise reduction materials shall be approved by the City through the site plan approval process. 2. There will be no outdoor livestock pens.	N/A
	I-2		Outdoor livestock pens: 1. Will be screened by a Type C bufferyard around the facilities or at the property lines so as to prevent	

Table 2.2.306 Commercial Limited and Special Use Standards				
Use	District	Location	Design	Other
			distracting or exciting the animals. 2. Shall be set back at least 50 feet from all lot lines and are allowed only to the rear of the use, provided that the abutting property is zoned A-L or C-2.	
Animal Boarding and Veterinarian Services, Small Animal	C-1 I-1 C-3 M-U	No boarding facility or dog runs shall be located within 100 feet from any lot line or within 300 feet of any type of public or private school, group day care center, or public park (except a dog park).	The use is conducted within a fully enclosed building, which is designed with noise resistant materials. Plans and specifications for noise reduction materials shall be approved by the City through the site plan approval process.	No livestock or large animals will be boarded, treated, or kept on the premises.
	C-2		Outdoor dog runs and animal exercise areas will be screened by a Type C bufferyard around the facilities or at the property lines so as to prevent distracting or exciting the animals(*see* Division 4.1.400, *Bufferyards*).	
Drinking Establishment	C-1 C-3	No entrance faces a residential district or use unless it is at least 100 feet from the property line, measured in a straight line between the closest property lines, provided, however, that fire doors that are required by the fire code may be exempt from this requirements if the fire door is not	1. Uses with dancing or live entertainment restrict that the portion of the building used for dancing or entertainment such that no opening faces a residential district or use than stationary insulated glass windows, which shall be screened or draped in a manner to prevent direct light from shining onto such residential district or use. 2. Lighting is shielded so as to prevent the direct glare of	All applicable state laws apply for the on-site consumption of alcohol.

Table 2.2.306 Commercial Limited and Special Use Standards				
Use	District	Location	Design	Other
		designed as a general entrance or exit.	beams onto any adjacent residential district or use.	
	M-U	No entrance faces a residential district unless it is at least 100 feet from the property line, measured in a straight line between the closest property lines, provided, however, that fire doors that are required by the fire code may be exempt from this requirements if the fire door is not designed as a general entrance or exit.		
Drive-In, Drive-Through Facility	C-1 C-2 C-3 I-2	1. Drive-in, drive-through facilities are permitted only as an accessory use to a principal use (*e.g.*, restaurant or bank). 2. The facility shall take access from an arterial or collector street.	1. The drive-in, drive-through facility shall not be located within the front yard. 2. Ordering stations facing abutting residentially zoned or used property shall be buffered with a five to six foot high masonry wall and landscaping.	N/A
	P-I	N/A		Drive-in and drive-through uses are allowed to accommodate functions or actions related to

Table 2.2.306 Commercial Limited and Special Use Standards				
Use	District	Location	Design	Other
				the public provisions of services (*e.g.*, bill payment window at a government office, etc.)
Farmers' Market	A-L C-1 C-2 C-3 P-I	The use is separated from all residential districts and uses by a Type B bufferyard or a local or collector street.	1. Lighting is shielded so as to prevent the direct glare of beams onto any adjacent residential district or use. 2. The site has been supplied with electrical power at secured, in-ground stations that may be accessed by temporary users. 3. The use will be conducted so that is does not create parking or traffic congestion.	N/A
	M-U	1. As part of a planned development in the M-U district. 2. The use is separated from all residential districts and uses by a Type B bufferyard or a local or collector street.		
Grocery Store	C-1 C-3	1. The use shall not be located closer than 200 feet from any lot line of a residential district or use. 2. The facility shall take access from an arterial or collector street.	1. Cannot be larger than 40,000 square feet. 2. The display of goods, materials, and merchandise will not be in parking areas or reduce the minimum required parking or loading for the use. 3. Lighting is shielded so as to prevent the direct glare of beams onto any adjacent residential district or use. 4. A truck routing plan shows that the ingress and egress to the site does not use a local street.	N/A

Table 2.2.306 Commercial Limited and Special Use Standards				
Use	District	Location	Design	Other
			5. No drive-in/drive-through facilities.	
	M-U	1. As part of a planned development in the M-U district. 2. The use shall not be located closer than 200 feet from any lot line of a residential district or use. 3. The facility shall take access from an arterial or collector street.	1. The display of goods, materials, and merchandise will not be in parking areas or reduce the minimum required parking or loading for the use. 2. Lighting is shielded so as to prevent the direct glare of beams onto any adjacent residential district or use. 3. A truck routing plan shows that the ingress and egress to the site does not use a local street.	
Heavy Retail	C-2 M-U	The facility shall take access from an arterial or collector street.	Outdoor display areas: 1. Cannot be larger than 30 percent of the footprint of the principal building. 2. Must be enclosed by a structure that screens the merchandise. 3. The display of goods, materials, and merchandise will not be in parking areas or reduce the minimum required parking or loading for the use.	N/A
	I-1		1. The use involves the sale of a single category of merchandise and is characterized by one or more of the following: a. Outdoor displays that are larger in area than the footprint of the principal building; b. The sale of goods that	

Table 2.2.306 Commercial Limited and Special Use Standards				
Use	District	Location	Design	Other
			are manufactured on-site. 2. Permitted examples include: a. Permanent retail operations that are located outside of enclosed buildings; b. Lumber and other building materials; or c. Lawn, garden equipment, and related supplies stores. 3. Prohibited examples include: warehouse clubs, super stores, and home centers.	
Hotel/Motel	C-1 C-2 I-1	The minimum area of the parcel proposed for development is three acres.	All rooms are accessed via interior hallways.	N/A
	C-3 M-U		1. The use can be integrated into mixed use buildings with rooms located above the ground floor. 2. All rooms are accessed via interior hallways. 3. Surface parking shall be located behind the building. A parking structure shall be located behind or underneath the building.	
Mixed Use	C-2 M-U	As part of a planned development in the C-2 and M-U districts.	N/A	N/A
Nursery/Greenhouse, Retail	A-L	1. The facility shall take access from	1. Outdoor display areas are enclosed with a fence or	N/A

Table 2.2.306 Commercial Limited and Special Use Standards				
Use	District	Location	Design	Other
		an arterial or collector street. 2. The use shall not be located closer than 200 feet from any lot line of a residential district or use.	wall that is in compliance with Section 10.2.103, *Fences and Walls*. 2. Bags of mulch, sand, pebbles, rock, or other non-vegetative ground covers will not be stacked to a height in excess of six feet. 3. Bulk sales of mulch, sand, pebbles, rock, or other non-vegetative ground covers will not be stored or sold on-site. 4. The display of goods, materials, and merchandise will not be in parking areas or reduce the minimum required parking or loading for the use.	
	I-1	N/A		
	M-U	As part of a planned development in the M-U district.		
Office, General	M-U	1. As part of a planned development in the M-U district. 2. The facility shall take access from an arterial or collector street.	N/A	N/A
Parking Lot/Parking Structure, Stand Alone	C-1 C-2 C-3 M-U P-I	The location of ingress and egress minimizes traffic congestion and the effect of headlights on residential uses.	1. Parking structures in the C-2, C-3, and M-U districts shall not exceed two levels above grade. 2. Parking structures in the P-I district shall not exceed three levels above grade. 3. Parking structures in the C-2, C-3, M-U- and P-I shall be buffered from adjacent streets, highways, and uses by a Type B bufferyard.	N/A

Table 2.2.306 Commercial Limited and Special Use Standards				
Use	District	Location	Design	Other
Pawn Shop	C-2	The facility on the parcel proposed for development lot line shall not be closer than 200 feet from a residential zone or use.	N/A	The operator for the use meets all certification, licensing, and/or monitoring requirements of the state.
Personal Services	M-U	As part of a planned development in the M-U district.	N/A	N/A
Restaurant	NC.3 M-U	As part of a planned development in the NC.3 and M-U districts.	N/A	N/A
	P-I	N/A	1. Permitted as part of an accessory use to a principal use which serves employees and patrons. 2. ~~Does not have signage that is visible from a street that is collector or greater capacity.~~ 3. Has a floor area of less than 5,000 square feet.	
Retail Sales and Services	NC.3 M-U	As part of a planned development in the NC.3 and M-U districts.	N/A	N/A
Showrooms	M-U	As part of a planned development in the M-U district.	N/A	N/A
Vehicle Gas or Fueling Station (including charging stations for electric vehicles)	NC.3 C-1 M-U	N/A	1. Lighting is shielded so as to prevent the direct glare of beams onto any adjacent residential district or use. 2. The use is separated from all residential districts and uses by a Type B bufferyard.	N/A

Table 2.2.306 Commercial Limited and Special Use Standards				
Use	District	Location	Design	Other
			3. A truck routing plan shows that the ingress and egress to the site does not use a local street. 4. The use shall not be located within: a. The 100-year or 500-year floodplain. b. 200 feet of a wetland, waterbody (except detention or retention with treatment), or permitted potable water well.	
Vehicle Sales, Rental, and Service	C-2 I-1	N/A	1. All outdoor display areas for rental or sales of vehicles shall: a. Be located on an approved hard surface; b. Be located in areas that are outside of the minimum required parking spaces for the use; c. Be located outside of the right-of-way; and d. Include no more than one elevated display which raises the vehicle no more than three feet off the ground. 2. Accessory uses and structures are set back a minimum distance of 50 feet from all rear and side yards of residentially zoned or used property and public rights-of-way.	N/A

Table 2.2.306 Commercial Limited and Special Use Standards				
Use	District	Location	Design	Other
			3. No inoperable vehicles or materials are stored on-site, unless within an enclosed building, or otherwise totally screened from view.	
Vehicle Wash	C-1 I-1	The use is not allowed on property that is located within 200 feet of any residential district or use, as measured along a straight line from the closest lot lines.	The use shall be enclosed on all sides by a Type A bufferyard.	N/A
	M-U	As part of a planned development where the parcel proposed for development is located no less than 200 feet from any residential district or use.		
TABLE NOTE: N/A - Not Applicable				

Effective on: 5/6/2016

Sec. 2.2.307 Agriculture Use Compatibility Standards

A. **Generally.** The standards of this Section apply to agriculture uses that are set out in Table 2.2.205, *Agriculture, Industrial, Utility, Transportation, and Communication Uses*, as a limited (L) or special (S) use, and are subject to the provisions set out in Section 2.2.301, *Limited and Special Uses, Generally*.

B. **Standards.** Set out in Table 2.2.307, *Agriculture Limited and Special Use Standards*, are the standards that apply to each use.

Table 2.2.307 Agriculture Limited and Special Use Standards				
Use	District	Location	Design	Other
Horse Riding Stables and Academies	A-L NC.1	1. A minimum site area of 2.5 acres. 2. The structure housing horses shall not be located closer than 600 feet from any lot line of a residential district. 3. Private stables and storage buildings shall be located at least 200 feet from dwellings other than the dwelling located on the same lot with the stable.	1. The use shall be surrounded by a Type B bufferyard, except at points of ingress and egress. 2. Stable buildings shall include a minimum of 800 square feet per horse for storage of bedding, feed, manure, and tack.	Stables shall in all ways comply with City, state, and federal laws governing health and environment.
	R-S	1. A minimum site area of 2.5 acres. 2. Private stables and storage buildings shall be located at least 200 feet from dwellings other than the dwelling located on the same lot with the stable.		
Nursery/Greenhouse, Wholesale	A-L	1. The facility shall take access from an arterial or collector street. 2. The use shall not be located closer than 200 feet from any lot line of a residential district or use.	1. Outdoor display areas are enclosed with a fence or wall that is in compliance with Section 10.2.103, *Fences and Walls*. 2. Bags of mulch, sand, pebbles, rock, or other non-vegetative ground	N/A

Table 2.2.307 Agriculture Limited and Special Use Standards				
Use	District	Location	Design	Other
			covers will not be stacked to a height in excess of six feet. 3. The display of goods, materials, and merchandise will not be in parking areas or reduce the minimum required parking or loading for the use.	
TABLE NOTE: N/A - Not Applicable				

Effective on: 5/6/2016

Sec. 2.2.308 Industrial Use Compatibility Standards

A. **Generally.** The standards of this Section apply to industrial uses that are set out in Table 2.2.205, *Agriculture, Industrial, Transportation, Utility, and Communication Uses*, as a limited (L) or special (S) use, and are subject to the provisions set out in Section 2.2.301, *Limited and Special Uses, Generally*.

B. **Standards.** Set out in Table 2.2.308, *Industrial Limited and Special Use Standards*, are the standards that apply to each use.

Table 2.2.308 Industrial Limited and Special Use Standards				
Use	District	Location	Design	Other
Landfill	I-2 P-I	1. The site operations shall be located no closer than 500 feet from any residential district or use as measured along a straight line from the closest lot lines. 2. The facility shall take access from an arterial or collector street. 3. The minimum area of the parcel proposed for development is five acres. 4. The landfill shall be no less than two miles from any airport boundary, as set out in Section 2.1.302(E)(2).	1. The use shall be surrounded by a Type C bufferyard, except at points of ingress and egress. 2. A truck routing plan shows that the ingress and egress to the site does not use a local street. 3. The landfill does not modify the flow of major natural drainage ways within the City and its extraterritorial jurisdiction ~~three-mile~~ area.	1. Complies with all City, state, and federal codes and statues. 2. No facility presents a hazard to surrounding residents or properties.
Manufacturing and Storage	I-2	1. The site operations shall be located no closer than 500 feet from any residential district or use as measured along a straight line from the closest lots lines. 2. The site shall take access from an arterial or collector street.	1. The use shall be surrounded by a Type C bufferyard, except at points of ingress and egress. 2. A truck routing plan shows that the ingress and egress to the site does not use a local street. 3. All activities will take place entirely within an enclosed building.	All applicable state and federal laws apply.

Oil / Gas Operations	A-L NC.1 I-1 I-2	The site operations shall be located no closer than 500 feet from any residential district or use as measured along a straight line from the closest lot lines.	The use (including drilling) shall be surrounded by a Type C bufferyard, which shall be sufficient to screen operations within 45 days of production.	All applicable state and federal laws apply.
Petroleum Refining and Fuel Storage	I-2	1. The site operations shall be located no closer than 500 feet from any residential district or use as measured along a straight line from the closest lot lines. 2. The facility shall take access from an arterial or collector street. 3. The minimum area of the parcel proposed for development is three acres.	1. The use shall be surrounded by a Type C bufferyard, except at points of ingress and egress. 2. A truck routing plan shows that the ingress and egress to the site does not use a local street.	All applicable state and federal laws apply.
Slaughterhouse	I-2	1. The minimum area of the parcel proposed for development is five acres. 2. The keeping of animals shall be located no closer than 500 feet from any residential district or use or off-site property, measured along a straight line from the closest lot lines.	1. All operations shall be conducted within an enclosed building, with the exception of keeping of animals. 2. The maximum number of animals to be kept at any one time shall be 25, with the exception of fowl. 3. Slaughter operations shall be conducted on no more than two days per week.	N/A

Storage, Flammable Materials or Substances	I-2	The site operations shall be located no closer than 500 feet from any residential district or use as measured along a straight line from the closest lot lines.	The use shall be surrounded by a Type C bufferyard.	All applicable state and federal laws apply.
Storage, Self	I-1	The minimum size of a self-storage facility is one acre.	1. No storage buildings may open into required front yards adjacent to public street right-of-way or any abutting district. 2. All driveways within the facility shall provide an improved hard surface with a minimum width of 30 feet. 3. Fencing and gates will be constructed of decorative metal. Barbed wire and chain-link fencing will not be installed, unless not visible from any property line. 4. The use shall be surrounded by a Type C bufferyard, except at points of ingress and egress.	1. Activities within the facility shall be limited to the rental of storage cubicles or garages and the administration and maintenance of the facility. 2. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.

Storage Yard	I-1 I-2 P-I	N/A	The storage yard shall be enclosed by a Type A bufferyard that includes a fence to provide security, provided, however, that the bufferyard requirements set out in Division 4.1.400, *Bufferyards*, may require a more restrictive bufferyard.	1. Storage yards shall only be used to store operable equipment and construction materials. 2. Liquids, gels, and pastes (*e.g.*, paints, sealers, etc.) shall be stored only in enclosed buildings. 3. Storage yards shall not be used to dispose of inoperable machines or wastes. Temporary storage of construction wastes generated by the contractor who operates the storage yard is permitted.

Vehicle Repairs and Service, Heavy	I-2	The use is separated from other uses, as measured in a straight line between the nearest property lines, as follows: 1. Residential districts and uses: 500 feet, or separated by a Type C bufferyard. 2. Arterial streets and highways: 150 feet, or screened by another use that fronts the arterial street or highway, or separated with a Type B bufferyard.	1. Outside storage of vehicles: a. Are not to be stored in parking spaces that are required by Section 5.2.102, *Required Off-Street Parking and Loading Spaces*. b. Are screened from view from abutting streets by the principal building and/or a minimum five foot tall masonry wall or fence. 2. Nor more than one bay door faces an arterial street or highway.	N/A
Warehousing and Distribution	C-2	The use is not allowed on property that is located within 300 feet of any residential district or use, as measured along a straight line from the closest lot lines.	Loading bays shall be located behind the principal building unless it is demonstrated that: 1. Front-facing bays would have less impact on the function of the surrounding land uses; and 2. The front property line is buffered with a Type A bufferyard.	The use does not involve hazardous materials or wastes.
Wholesale Services	I-2	The use is not allowed on property that is located within 300 feet of any residential district or use, as measured along a straight line from the closest lot lines.	No outside storage may be visible from a required front yard when adjacent to a public street right-of-way.	N/A

TABLE NOTE:
N/A - Not Applicable

Effective on: 5/6/2016

Sec. 2.2.309 Transportation Use Compatibility Standards

A. **Generally.** The standards of this Section apply to transportation uses that are set out in Table 2.2.205, *Agriculture, Industrial, Transportation, Utility, and Communication Uses*, as a limited (L) or special (S) use, and are subject to the provisions set out in Section 2.2.301, *Limited and Special Uses, Generally*.

B. **Standards.** Set out in Table 2.2.309, *Transportation Limited and Special Use Standards*, are the standards that apply to each use.

Table 2.2.309
Transportation Limited and Special Use Standards

Use	District	Location	Design	Other
Airport	A-L NC.1	N/A	Airports shall be designed according to all applicable standards set out by the FAA.	Complies with all rules and regulations of the FAA.
	P-I	Only permitted in the location of the existing Hays Regional Airport and in adjacent areas into which the airport may expand.	N/A	The airport shall comply with all rules and regulations of the FAA which are applicable to expansion or reconfiguration.
Helistop	A-L NC.1 C-2 I-1 I-2 P-I	1. In general, helistops that are located on platforms or buildings, but are closer than 48 feet to ground level shall be spaced: a. At least 500 feet (horizontal distance) from single-family detached and single-family attached residential uses and all types of public and	1. Helistops shall be designed according to the applicable design standards set out in U.S. Department of Transportation Advisory Circular No. 150/5390-2C, dated April 24, 2012, as may be amended or supplemented from time to time; and shall meet all Federal Aviation Administration requirements. Compliance with these standards shall be demonstrated to the City. 2. In general, helistops shall be set back 250 feet from lot lines. Setbacks shall be increased if necessary to	1. Applications for construction of a heliport or helistop shall include a determination by the Federal Aviation Administration of "no objection" or "conditional," pursuant to 14 CFR § 157.7, FAA Determinations. If the determination is "conditional," then the applicant shall demonstrate how the conditions will be met. 2. In the interest of public safety, police stations, fire stations, hospitals, and trauma centers may be developed with an accessory helistop, subject

Table 2.2.309 Transportation Limited and Special Use Standards				
Use	District	Location	Design	Other
		private schools. b. At least 300 feet (horizontal distance) from multi-family uses. 2. Helistops that are anticipated to conduct more than two flight operations per day shall add 100 feet to each of the spacing requirements set out in subsection 1.a., above.	accommodate all required safety zones on the parcel proposed for development.	to the design standards of this subsection (at left). 3. Nothing in this subsection shall be construed to prohibit or limit the ability of an emergency services helicopter from landing or taking off as part of an emergency response or for special events normally associated with the use of helicopters.
Railroad Yard	I-2	A residential district or use~~railroad yard~~ shall not be located closer than 300 feet from a railroad yard.~~any lot line of a residential district or use.~~	N/A	It is an existing use before the effective date of this Code.
TABLE NOTE: N/A - Not Applicable				

Effective on: 5/6/2016

Sec. 2.2.310 Utility Use Compatibility Standards

A. **Generally.** The standards of this Section apply to utility uses that are set out in Table 2.2.205, *Agriculture, Industrial, Transportation, Utility, and Communication Uses*, as a limited (L) or special (S) use, and are subject to the provisions set out in Section 2.2.301, *Limited and Special Uses, Generally*.

B. **Standards.** Set out in Table 2.2.310, *Utility Limited and Special Use Standards*, are the standards that apply to each use.

Table 2.2.310 Utility Limited and Special Use Standards				
Use	District	Location	Design	Other
Power Generation, Small-scale (Renewable; Noncombustable)	R-S R-G R-M M-U	1. *Residential Developments*. a. The use must be located in an area that is: i. 10 acres or less in size (which may include up to 10 percent of the area of required open space); ii. Owned by the property owners' association; and b. The system must be provided for the benefit of the property owners who are members of the association. 2. *Nonresidential and* Mixed Uses. Rooftops, covered walkways, and covered parking spaces on parcels used for nonresidential purposes may be used for small scale power generation with solar arrays.	N/A	Small-scale power generation facilities may be grid-connected.
	C-1 C-2	Small scale power generation using solar arrays is allowed in the C-1 and C-2 districts on rooftops, covered walkways, and covered parking spaces.	N/A	
	I-1 I-2	Small scale power generation using solar arrays is allowed in the I-1 and I-2 districts: 1. On rooftops, covered walkways, and covered parking spaces; and 2. On ground-mounts, provided that the facility is set back 100 feet from arterial rights-of-way or a Type B or higher (more opaque) bufferyard and / or buildings screens the facility from arterial rights-of-way (*see* Division 4.1.400, *Bufferyards*).	N/A	
Power Generation, Utility-Scale	I-2	The use is allowed if the power is generated by solar arrays that are mounted on nonresidential rooftops and/or over parking spaces.	N/A	N/A

Table 2.2.310 Utility Limited and Special Use Standards				
Use	District	Location	Design	Other
Public Utilities	NC.1 NC.2 NC.3 NC.4	N/A	A Type C bufferyard when abutting to a residential district or use, unless separated by an arterial or collector street.	N/A
Substations	A-L R-S R-G R-M NC.1 NC.2 NC.3 NC.4 C-1 C-2 M-U P-I	N/A	A Type C bufferyard when abutting to a residential district or use, unless separated by an arterial or collector street.	N/A
TABLE NOTE: N/A - Not Applicable				

Effective on: 5/6/2016

Sec. 2.2.311 Communication Use Compatibility Standards

A. **Generally.** The standards of this Section apply to communication uses that are set out in Table 2.2.205, *Agriculture, Industrial, Utility, Transportation, and Communication Uses*, as a limited (L) or special (S) use, and are subject to the provisions set out in Section 2.2.301, *Limited and Special Uses, Generally*.

B. **Applicability.** This section applies to broadcast systems, cellular, commercial mobile radio services, common carrier wireless access exchange services, enhanced specialized mobile radio, personal communication services paging, personal wireless services, public service and emergency systems, specialized mobile radio, tower builder, unlicensed wireless services, and wireless cable systems.

C. **Exemptions.** This Section does not apply to:

1. Amateur radio uses or private dispatch systems.

2. Antennae used by residential households solely for broadcast radio and television reception.
3. Satellite antennae used solely for residential or household purposes.
4. Television and AM / FM radio broadcast towers and associated facilities.
5. Facilities owned and operated by a federally-licensed amateur radio station operator.
6. Functionally equivalent services, as specified by Section 704 of the Telecommunications Act of 1996 (which prohibits unreasonable discrimination among functionally equivalent services).
7. Ordinary maintenance of existing telecommunications facilities and support structures, as defined herein, is exempt from permitting requirements.

D. **Standards.** Set out in Table 2.2.311, *Communication Limited and Special Use Standards*, are the standards that apply to each use.

Table 2.2.311
Communication Limited and Special Use Standards

Use	District	Location	Design	Other
All Wireless Telecommunication Facility (WTF) Uses	All districts, as set out below	Facilities are permitted within the public right-of-way, subject to the execution of a lease agreement with the City (or other applicable jurisdiction) and is co-located on a traffic light pole, street light standard, or other vertical infrastructure is encouraged.	1. Facilities shall be located and designed to be compatible and blend in with surrounding buildings and existing or planned uses in the area. This may be accomplished through the use of compatible architectural elements such as materials, color, texture, scale and character. 2. All ground based equipment must be screened by a solid fence or screen wall six feet in height and surrounded by a Type B bufferyard	1. All new wireless telecommunications facilities shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is more than 120 feet in height and for at least one additional user if the tower is more than 60 feet in height but less than 120 feet in height. The tower owner shall allow the shared use of the tower if an

			around the perimeter of the lease area pursuant to Division 4.1.400, *Bufferyards*. This requirement shall be waived in areas where buildings or other structures provide the same or better screening effect. 3. All ground based equipment shall meet the setbacks applicable to principal structures in the zoning district. 4. Security lighting may be provided to the extent that it does not substantially affect abutting properties in an adverse manner. Artificial lighting mounted on freestanding facilities shall be limited to mandatory safety lighting required by federal aviation authorities or other authorities with jurisdiction over communication structures.	additional user agrees in writing to meet reasonable terms and conditions for shared use. The conditions and terms for shared use shall be submitted to the City. If the land for the tower is leased, a copy of the relevant portions of a signed lease allowing the tower owner to add additional users and associated facilities on the tower shall be submitted at the time of application to the City for tower erection. 2. The use of any portion of a wireless telecommunications facility for signs, with the exception of safety, identification, and notification information as may be required by the FCC or other governmental authority, is prohibited.
Radio and Television Studio	C-2 C-3	N/A	Radio and television studios shall not include transmission or receiving equipment that is:	N/A

			1. Ground-mounted. 2. Tower-mounted. 3. Mounted on the building, except that satellite dishes that are less than one meter in diameter and antennae that are less than 10 feet in height may be mounted on the roof.	
WTF, Attached	All districts	Attached communication facilities shall only be permitted on agricultural, nonresidential (*e.g.*, commercial, industrial, institutional, etc.), multi-family, or publicly-owned buildings, or public utility structures.	1. Where possible, attached facilities shall be disguised as an architectural feature or design element of a building, provided that the feature is compatible in terms of architectural style, height, mass, scale, and color and reasonably screens the facility from ground level view. 2. Roof mounted facilities (the antenna, together with antenna support structures and screening) shall not project more than 10 feet higher than the roof line of a building and can exceed the maximum height limitations of the zoning district by the same. 3. Façade mounted	All applicable rules and regulations required by the FCC.

			facilities (antenna mounted on the side of a building) may not extend above the parapet wall, or, in the case of a pitched roof, above the fascia.	
WTF, Freestanding Non-Stealth	A-L C-2 C-3 I-1 I-2 P-I	1. Tower setbacks: a. A distance equal to 110 percent of the height of the tower; or b. For towers with preformed collapse points, 110 percent of the height of the tallest section. 2. Wireless telecommunication accessory structure setbacks shall be 15 feet from the property line. 3. New towers are separated by a minimum distance of two miles measured in a straight line from base to base, irrespective to jurisdictional boundaries.	1. An opaque fence not less than six feet in height and not more than 10 feet in height which encloses the base of all wireless telecommunications towers and related facilities. 2. Wireless telecommunication facility maximum heights: a. A-L district: 200 feet. b. I-2 and P-I districts: 120 feet. c. C-2, C-3, and I-1 districts: 20 feet above the maximum building height permitted in the zoning district. 3. Support facilities are equal to the maximum building height permitted in the zoning district. 4. Vehicular access is provided. 5. Towers shall be of an inconspicuous	1. New towers that exceed the maximum height of the zoning district require notification to the Federal Aviation Administration (FAA) due to the proximity of the Hays Regional Airport. 2. All applicable rules and regulations required by the FCC.

			stealth design.	
WTF, Freestanding Stealth	All districts	Stealth freestanding communications facilities are permitted in all districts if it is demonstrated that the principal use of the property is a multi-family, public/institutional, or other nonresidential use.	1. Stealth wireless telecommunications facilities must be enclosed, camouflaged, screened, obscured, or otherwise not readily apparent to a casual observer. 2. The structure used to support the antennae must meet the requirements of the underlying zoning district, including, but not limited to, height, setback, and use. 3. The structure used to support the stealth facility must be integrated as an architectural feature or designed to resemble an object or structure that does not have the appearance of a monopole or other telecommunications facility.	All applicable rules and regulations required by the FCC.
TABLE NOTE: N/A - Not Applicable				

E. **Submittal Requirements.** All of the following documentation shall be provided for all proposed wireless telecommunications facilities:

1. *Site Plan*. A site plan showing:
   a. The location and legal description of the site;
   b. On-site land uses and zoning;
   c. Adjacent streets or roadways;

d. Parking and access;

e. Areas of vegetation and landscaping to be added;

f. Setbacks from property lines; and

g. The location of the facility, including all related improvements and equipment.

2. *Vicinity Map*. A vicinity map showing abutting properties, land uses, zoning and roadways within one mile of a proposed wireless telecommunication facility.

3. *Elevation Drawings*. Elevation drawings of the proposed facility showing all antennas, towers, tower heights, structures, existing buildings, walls and/or roofs on which antennas are mounted, equipment buildings/cabinets, fencing, screening, lighting and other improvements related to the facility showing specific materials, placement and colors.

4. *Technical Report*. A narrative report describing the facility and the technical, economic, and other reasons for its design and location, the need for the facility and its role in the network, and describing the capacity of the structure, including the number and type of antennas it can accommodate.

5. *Coverage Map*. A coverage map and a survey of existing towers including type and location and a statement to demonstrate the need for the new tower and supporting documentation as to why co-location is not possible on an existing tower in the area.

6. *Co-Location Statement*. A letter of intent to allow co-location on the antenna support structure.

7. *Removal Statement*. A letter of intent to remove the facility at the expense of the facility operator and/or property owner if it is abandoned.

F. **Waiver of Co-Location Requirements.** Upon request of the applicant, the development review body with jurisdiction may waive the requirement that new support structures accommodate the co-location of other service providers if co-location at the site is found to be non-essential to the public interest, that the construction of a shorter support structure with fewer antennae will promote community compatibility, or that co-location would cause interference with existing telecommunications facilities, as demonstrated by submitted technical evidence.

G. **Time Limits.** The development review body having jurisdiction shall act within a reasonable period of time to review and recommend requests to place, construct, or modify telecommunications facilities after an application is filed. Unless otherwise agreed between the City and the applicant or provided by state or federal law, reasonable review and action by the City shall take no more than:

1. 90 days for wireless co-location applications, and

2. 150 days for all other wireless siting applications (*see* City of Arlington v. FCC, 133 S. Ct. 1863).

Effective on: 5/6/2016

CHAPTER 3 DENSITY, INTENSITY, BULK, AND SCALE

ARTICLE 3.1 NEW NEIGHBORHOODS, NONRESIDENTIAL, AND MIXED USE DEVELOPMENT

Division 3.1.100 Purpose and Application of Article

Sec. 3.1.101 Purpose

The purpose of this Article is to establish the standards for the character and scale, density (residential), and intensity (nonresidential and mixed use) of development that is allowed within each zoning district set out in Article 2.1, *Zoning Districts*.

Sec. 3.1.102 Application

A. **Application**. This Article establishes regulations for parcels proposed for development or redevelopment, which is organized for new and established residential neighborhoods, as well as nonresidential and mixed use development.

1. *New Neighborhoods***.** Set out in Division 3.1.200, *New Neighborhood Development Standards*, are the maximum density and lot and building standards for each residential district and neighborhood type. The maximum density varies according to the amount of open space provided in the development.

2. *Nonresidential and Mixed Use Development*. Set out in Division 3.1.300, *Nonresidential and Mixed Use Lot and Scale Standards*, are the maximum intensity (floor area ratio) and lot and building standards for each district. Also set out in this Section is the limits on the scale of nonresidential development in residential and mixed use districts.

B. **Limitations.** Not all parcels proposed for development will be able to achieve the maximum density or intensity due to factors such as parcel geometry; physical conditions such as soils and floodplains; infrastructure limitations; or restrictions on proposed uses. Accordingly, the application of the other standards of this Code may, in some cases, limit the development potential of a parcel to less than what is set out in this Article.

Effective on: 5/6/2016

Division 3.1.200 New Neighborhood Development Standards

Sec. 3.1.201 Standards of New Neighborhoods

A. **Generally**. The minimum lot size, minimum open space ratio (OSR), maximum gross density, minimum area of development, and utility requirements for each residential district and neighborhood type are as set out in Table 3.1.201*, Residential Development Standards*.

B. **Application**. The standards of this Section apply to the development of new neighborhoods, which exclude and are separate from the provisions for established neighborhoods that are set out in Article 3.2, *Neighborhood Conservation and Established Neighborhoods*. Specifically, this Section applies to:

1. All subdivisions that meet the minimum area of development, as applicable;
2. Re-subdivisions of property that create two or more buildable lots, excluding those that are subject to Article 3.2, *Neighborhood Conservation and Established Neighborhoods*; or
3. Single-family attached or multi-family developments with two or more dwelling units on a single parcel.

C. **Neighborhood Types.** New residential and predominantly residential mixed use neighborhoods are classified into five different neighborhood types. These neighborhood types are set out below:

1. *Standard*. New standard neighborhoods follow the traditional style of development, where most of the land is comprised of a single housing type with a limited amount of common open space (*see* Section 9.1.301, *Standard Development*).
2. *Planned*. New planned developments offer more flexibility in site design by combining lot sizes with multiple housing types in a master planned community. This type of development requires more common open space to transition housing types, provide for increased stormwater runoff due to higher densities, and to provide ample area for parks and greenways (*see* Section 9.1.302, *Planned Development*).
3. *Mixed Use*. New mixed use developments allow the combination of vertical and horizontal mixed residential and nonresidential uses (see the development standards for the Mixed Use (M-U) district in Sec. 3.1.301, *Nonresidential and Mixed Use Development Standards*, as well as Section 9.1.303, *Mixed Use Planned Development*).
4. *Manufactured Home Park and Subdivisions*. New manufactured home parks and subdivisions are allowed in accordance with this Division, as well as Section 9.1.304, *Manufactured Home Park or Subdivision*, and other applicable sections of this Code.
5. *Recreational Vehicle (RV) Parks*. New recreational vehicle parks are allowed in accordance with this Division, as well as Section 9.1.305, *Recreational Vehicle (RV) Parks*, and other applicable sections of this Code.

D. **Use of Neighborhood and Housing Types**. The Agriculture (A-L), Residential Suburban (R-S), Residential General (R-G), and Residential Multi-Family (R-M) districts provide for different

neighborhood types. Within each district, all neighborhoods are permitted by-right, subject to the standards set out in Table 3.1.201, *Residential Development Standards*. The dimensional standards for each housing type are set out in the tables in Section 3.1.202, *Lot and Building Standards for Individual Housing Types*.

E. **Interpretation of Table**. The table columns may be interpreted as follows:

1. *District and Neighborhood Type* sets out each zoning district and the neighborhood types permitted with them.
2. *Minimum Lot Size* sets out the minimum lot size that is used together with the minimum open space ratio (OSR) to establish the maximum gross density (*e.g.*, maximum number of dwelling units) for each neighborhood type. For planned developments with mixed housing types available, the minimum lot size is used to establish the gross density of the planned development.
3. *Minimum Open Space Ratio (OSR)* sets out the minimum amount of common open space that is required for each neighborhood type in each zoning district. The open space may be used to meet the City's stormwater requirements, preserve environmental resources (*e.g.*, floodplains and riparian areas, etc.), or provide open space for recreational amenities (*e.g.*, parks, trails, and greenways).
4. *Maximum Gross Density* sets out the maximum number of dwelling units per acre that may be constructed by-right in each district and for each neighborhood type.
5. *Minimum Area of Development* sets out the minimum area of land required to for planned developments and manufactured home parks.
6. *Utility Requirement* sets out whether on-site utilities (*e.g.*, well and septic) are allowed or whether public utilities (water and sanitary sewer) are required. This requirement is based on the minimum lot size and development density.

Table 3.1.201
Residential Development Standards

District and Neighborhood Type	Development Standards				
	Minimum Lot Size	Minimum Open Space Ratio (OSR) [1]	Maximum Gross Density	Minimum Area of Development	Utility Requirement
Agriculture (A-L) District					
Standard (Farmstead) [1]	5 ac.	50%	0.09	20 ac.	On-Site
Residential Suburban (R-S) District					
Standard (Rural Lot)	1 ac.	7%	0.83	N/A	No Water / Sanitary Sewer Available
Standard (Estate Lot)	21,780 sf.	7%	1.56	N/A	Water or Sewer Available

Table 3.1.201
Residential Development Standards

District and Neighborhood Type	Development Standards				
	Minimum Lot Size	Minimum Open Space Ratio (OSR) [1]	Maximum Gross Density	Minimum Area of Development	Utility Requirement
Planned (Mixed Housing Types) [2]	15,000 sf.	15%	2.07	10 ac.	Public (Water and Sewer Available)
Residential General (R-G) District					
Standard (Large Lot)	9,000 sf.	7%	3.73	N/A	Public (Water and Sewer Available)
Standard (Moderate Lot)	7,000 sf.	7%	4.68	N/A	Public (Water and Sewer Available)
Standard (Small Lot)	6,000 sf.	7%	5.48	N/A	Public (Water and Sewer Available)
Planned (Mixed Housing Types) [2]	3,000 sf.	15%	9.40	5 ac.	Public (Water and Sewer Available)
Manufactured Home Park [3, 4, 5]	3,600 sf.	10%	8.36	5 ac.	Public (Water and Sewer Available)
Residential Multi-Family (R-M) District					
Standard (Single-Family Attached)	3,000 sf.	10%	10.21	N/A	Public (Water and Sewer Available)
Standard (Multi-family)	1,500 sf.	30%	19.20	5,000 sf.	Public (Water and Sewer Available)

TABLE NOTES:

N/A - Not Applicable

1. This minimum lot size does not prevent a named lot owner from deeding a tract of land of less than five acres for the purposes of a single-family detached house via a lot split; provided, however, that a permit is obtained from the Department and both tracts meet the applicable setback requirements set out in Table 3.1.203A, *Single-Family Detached Lot and Building Standards*.
2. For planned development with mixed housing types available, the minimum lot size is used to establish the gross density of the planned development.
3. Manufactured home subdivisions and manufactured home parks are a development option in the Agriculture (A-L) and Residential Suburban (R-S) districts as set out in Table 2.2.202A, *Residential and Commercial Uses of the Home*. *See* also Section 9.1.304, *Manufactured Home Park or Subdivision*. A manufactured home subdivision utilizes the standards for small lot (6,000 sf.) standard neighborhood, while the manufactured home park utilizes the standards set out in this table.
4. Manufactured housing cannot be combined with any other housing type.
5. These standards are also applicable to recreational vehicle parks.

F. **Requirements for Phased Developments.** The maximum residential development capacity of the entire parcel proposed for development shall be used for calculating compliance with the minimum open space ratio and maximum gross density set out in Table 3.1.201, *Residential Development Standards*.

Effective on: 5/6/2016

Sec. 3.1.202 Lot and Building Standards for Individual Housing Types

A. **Generally.** Once the allowable housing and neighborhood types are determined per zoning district, as set out in Section 2.2.202, *Residential and Commercial Uses of the Home*, the lot and building standards for each district, neighborhood, and housing type may be determined by using Table 3.1.202A, *Single-Family Detached Lot and Building Standards* and Table 3.1.202B, *Single-Family Attached and Multi-Family Lot and Building Standards*. Flexible provisions allowing optional lot variability in planned neighborhoods are set out in Subsection D. *Lot Averaging*, below.

B. **Single-Family Detached Dwellings**. Single-family detached dwellings are permitted in each neighborhood type in the Agriculture (A-L), Residential Suburban (R-S), and Residential General (R-G) districts, and in a planned neighborhood in the Residential Multi-Family (R-M) district. A single-family dwelling shall only be located in the A-L district when associated with an agricultural use. The minimum lot area and width; minimum front, interior and street side, and rear setbacks; and maximum building height~~, and maximum impervious area~~ requirements are established for single-family detached dwellings in Table 3.1.202A, *Single-Family Detached Lot and Building Standards*.

Table 3.1.202A
Single-Family Detached Lot and Building Standards

District and Neighborhood Type	Minimum						Maximum Building Height	~~Maximum Impervious Area~~
	Lot Dimension		Setbacks					
	Area	Width	Front	Interior Side	Street Side	Rear		
Agriculture (A-L) District								
Standard (Farmstead) [1, 5]	5 ac.	275'	40'	25'	40'	40'	35'	~~20%~~
Residential Suburban (R-S) District								
Standard (Rural Lot) [1, 2]	1 ac.	140'	30'	10% of lot width; min. 7' to max. 15'	15'	30'	35'	~~15%~~
Standard (Estate Lot)	21,780 sf.							~~25%~~
Planned (Mixed Housing Types) [1]	15,000 sf.	75'	25'	10% of lot width; min. 7' to	15'	30'	35'	~~20%~~

Table 3.1.202A
Single-Family Detached Lot and Building Standards

District and Neighborhood Type	Minimum						Maximum Building Height	~~Maximum Impervious Area~~
	Lot Dimension		Setbacks					
	Area	Width	Front	Interior Side	Street Side	Rear		
				max. 15'				
Residential General (R-G) District								
Standard (Large Lot) [1]	9,000 sf.	70'	25'	7'	15'	20'	35'	~~40%~~
Standard (Moderate Lot) [2]	7,000 sf.	60'						~~50%~~
Standard (Small Lot) [2, 6]	6,000 sf.	50'						~~55%~~
Planned (Mixed Housing Types) [2, 3, 4, 6, 7]	3,000 sf.	30'	See Note 4	0'/5'	30'	See Note 3	35'	~~55%~~
Manufactured Home Park	3,600 sf.	40'	25'	7'	10'	10'	20'	~~60%~~
Residential Multi-Family (R-M) District								
Standard Neighborhood (Single-Family Attached) [2, 3]	3,000 sf.	45'	20'	4'	20'	18'	35'	~~50%~~
Planned (Multi-Family) [7]	1,500 sf.	*See* Table 3.1.202B, *Single-Family Attached and Multi-Family Lot and Building Standards*, below.						
Mixed Use [7]	For multi-family, see Planned Development (Multi-Family) above. For mixed use buildings, see Sec. 3.1.301, *Nonresidential and Mixed Use Development Standards*							

TABLE NOTES:

1. The maximum building height for non-agricultural buildings is 35'. As set out in Division 2.2.200, *Permitted, Limited, Special, and Prohibited Uses*, the Institutional, Recreation, and Amusement; Commercial; and Agriculture, Industrial, Transportation, Utility, and Communication uses allowed in the A-L district are permitted two feet of additional height for each one foot of additional building setback. The required front yard shall apply on both streets for double-frontage lots.
2. The front yard shall be the greater of 30' or 70' from the centerline of collector streets and the greater of 30' or 80' from the centerline of arterial streets.
3. A small, moderate, or large lot is required for a single or two family dwelling. All principal structures shall be located a minimum of 15' from any lot line, except when it abuts a street in which case it shall meet the setbacks noted in this table. When a lot line abuts property zoned R-G or R-S, the minimum setback of the principal and accessory structures is 25', with the exception of

Table 3.1.202A Single-Family Detached Lot and Building Standards								
District and Neighborhood Type	Minimum						Maximum Building Height	~~Maximum Impervious Area~~
	Lot Dimension		Setbacks					
	Area	Width	Front	Interior Side	Street Side	Rear		
	recreation areas and buildings, swimming pools, and clubhouses which require a minimum setback of 40'. 4. The front yard shall be 40' adjacent to an interstate or expressway, 35' adjacent to a collector or arterial street, or 30' adjacent to all other streets. 5. This minimum lot size does not prevent a named lot owner from deeding a tract of land of less than five acres for the purposes of a single-family detached house; provided, however, that a permit is obtained from the Department and both tracts meet the applicable setback requirements set out in Table 3.1.203A, *Single-Family Detached Lot and Building Standards*. 6. The interior side yard for a planned neighborhood in the Residential General (R-G) district is zero feet on the attached side and five feet on the unattached side. 7. For housing types other than single-family detached dwellings, refer to Table 3.1.202B, *Single-Family Attached and Multi-Family Lot and Building Standards.*							

C. **Single-Family Attached and Multi-Family Apartment Dwellings**. Single-family attached and multi-family dwellings are permitted in the districts set out in Table 3.1.202B., *Single-Family Attached and Multi-Family Lot and Building Standards*. The minimum lot area and width; minimum front, interior and street side, and rear setbacks; and maximum building height~~, and maximum impervious area~~ requirements are established for single-family attached and multi-family dwellings in Table 3.1.202B, *Single-Family Attached and Multi-Family Lot and Building Standards*.

Table 3.1.202B Single-Family Attached and Multi-Family Lot and Building Standards								
District and Neighborhood Type	Minimum						Maximum Building Height	~~Maximum Impervious Area~~
	Lot Dimension		Setbacks					
	Area[1]	Width	Front	Interior Side	Street Side	Rear		
Single-Family Attached								
Duplex [2]	3,000 sf.	60'	25'	10% of lot width; min. 7' to max. 15'	15'	Lesser of 25' or 30% of lot depth	35'	~~55%~~
Triplex [2]	3,000 sf.	90'	25'	10% of lot	15'	Lesser of 25' or 30% of lot depth	35'	~~55%~~

Table 3.1.202B Single-Family Attached and Multi-Family Lot and Building Standards								
District and Neighborhood Type	Minimum						Maximum Building Height	~~Maximum Impervious Area~~
	Lot Dimension		Setbacks					
	Area[1]	Width	Front	Interior Side	Street Side	Rear		
				width; min. 7' to max. 15'				
Townhouse / Live-Work Units [2, 3]	3,000 sf.	90'	See Note 3	See Note 4	15'	See Note 4	45'	~~55%~~
Live-Work Unit	Live-Work Units are subject to the standards set out in Division 3.1.300, *Nonresidential and Mixed Use Development Standards*.							
Multi-Family								
Apartment [4, 5, 6]	1,500 sf.	60'	25'	15'	25'	35'	45'	~~40%~~
Mixed Use Loft [7]	Multi-family development is subject to the standards set out in Table 3.1.301A, *Nonresidential and Mixed Use Development Standards.*							

TABLE NOTES:

1. For the single-family attached and multi-family dwellings reflected in this table, the minimum lot area is measured on a per dwelling unit basis. For instance, a duplex requires a minimum lot size of 6,000 sf. (3,000 sf. X two dwelling units).
2. For single-family attached dwelling units, the interior side setback may be 0' on the side attached to the adjacent dwelling unit.
3. The front yard shall be 40' adjacent to an interstate or expressway, 35' adjacent to a collector or arterial street, or 30' adjacent to all other streets.
4. A small, moderate, or large lot is required for a single or two family dwelling. All principal structures shall be located a minimum of 15' from any lot line, except when it abuts a street in which case it shall meet the setbacks noted in this table. When a lot line abuts property zoned R-G or R-S, the minimum setback of the principal and accessory structures is 25', with the exception of recreation areas and buildings, swimming pools, and clubhouses which require a minimum setback of 40'.
5. The front yard shall be the greater of 25' or 75' from the centerline of collector or arterial streets.
6. The interior and street side yard for multiple-family dwellings is also the minimum separation between buildings.
7. The front setback for a mixed use loft shall accommodate a minimum 10' sidewalk. No rear yard setback is required except as required for on-site parking.

D. **Lot Averaging.** Lot averaging is a design technique that replaces minimum lot dimensions with an average lot width and size.

1. *Applicability*. The use of lot averaging is optional in the Residential Suburban (R-S), Residential General (R-G), and Mixed Use (M-U) districts. It is particularly applicable for

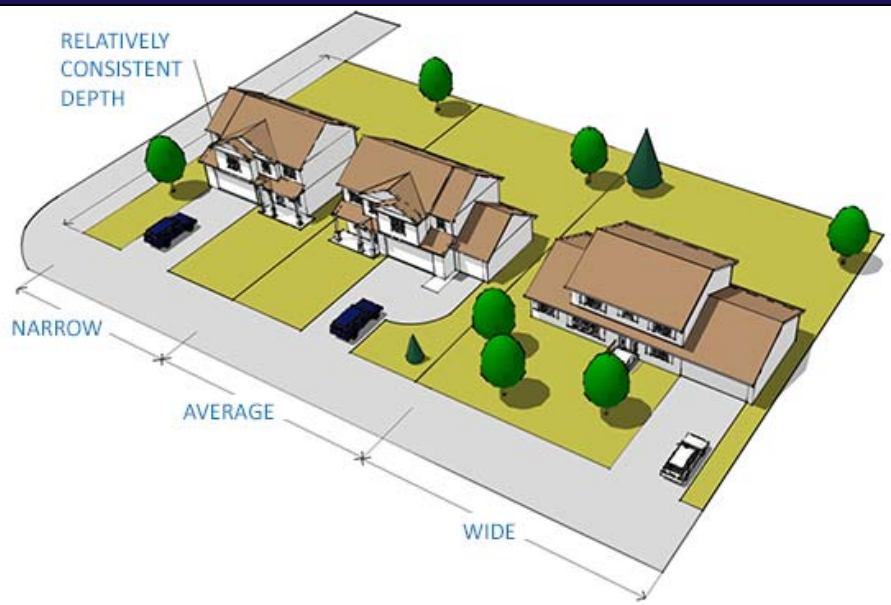
the neighborhoods that allow mixed housing types, as set out in Table 3.1.201, Residential Development Standards, so as to allow multiple housing types and lot areas and widths within the same zoning district. In this way, a separate district is not required to accommodate neighborhoods with more than one type of housing. When lot averaging is used, the minimum lot area and width dimensions set out in Table 3.1.202A, *Single-Family Detached Lot and Building Standards*, and Table 3.1.202B, *Single-Family Attached and Multiple-Family Lot and Building Standards*, are the average (rather than minimum) dimensions of each neighborhood and housing type. Lot averaging may only be applied where both of the following conditions apply:

a. Equal to or Greater. The average lot area and width are equal to or greater than the lot area and width specified for the respective neighborhood and housing types set out in Table 3.1.202A, *Single-Family Detached Lot and Building Standards*, and Table 3.1.202B, *Single-Family Attached and Multiple-Family Lot and Building Standards*.

b. Greater than 90 Percent. No lot has a lot area or width that is less than 90 percent of that specified in these tables (*see* Figure 3.1.202, *Lot Averaging*).

2. *Exception*. Lot averaging is not applicable for standard lots in the Agriculture (A-L) and Residential-Suburban (R-S) districts.

Figure 3.1.202
Lot Averaging



Effective on: 5/6/2016

Sec. 3.1.203 Condominium and Alternative Land Ownership Arrangements

A. **Generally.** The standards of Division 3.1.200, *New Neighborhood Development Standards*, or Division 3.1.300, *Nonresidential and Mixed Use Lot and Scale Standards*, with respect to lot area, lot width, and setbacks relate to the development of residential, nonresidential, and mixed use buildings on conventional lots that are intended to be owned in fee-simple by the owners of the buildings. However, the standards are not intended to preclude other ownership types, such as condominiums (in which the land is owned in common by the owners of the condominium units), or common maintenance communities (in which fee simple ownership is limited to the land under the building, and, in some cases, a small area around it). The alternative standards provided for by this Section are intended to allow such alternative ownership scenarios, provided that the development could be approved using conventional fee-simple ownership arrangements.

B. **Demonstration of Compliance Required.** The proposed pattern of development will be permitted if it is demonstrated that it will comply with the density/intensity, open space, and applicable setback requirements if it were platted with lots that meet the minimum requirements of Division 3.1.200, *New Neighborhood Development Standards*, for each of the proposed housing types or Division 3.1.300, *Nonresidential and Mixed Use Lot and Scale Standards*.

Effective on: 5/6/2016

Division 3.1.300 Nonresidential and Mixed Use Lot and Scale Standards

Sec. 3.1.301 Nonresidential and Mixed Use Development Standards

A. **Generally.** The standards that are applicable to nonresidential and mixed use parcels proposed for development are provided in Table 3.1.301A, *Nonresidential and Mixed Use Development Standards*. The table includes provisions for minimum landscape surface ratio (LSR), floor area ratio (FAR), minimum lot area, minimum street frontage, and maximum building height.

B. **Nonresidential and Mixed Use Development Standards.**

Table 3.1.301A
Nonresidential and Mixed Use Development Standards

Standard	Stories	Zoning District						
		C-1	C-2	C-3[1]	I-1	I-2	M-U	P-I
Minimum Landscape Surface Ratio (LSR)	N/A	25%	15%	1%	20%	15%	15%	20%
Floor Area Ratio ("FAR")[2]	1	0.321	0.280	0.962	0.342	0.518	0.280	0.342
	2	0.408	0.335	1.852	0.435	N/A	0.335	0.435
	3	N/A	N/A	2.680	0.478	N/A	0.358	0.478

Table 3.1.301A Nonresidential and Mixed Use Development Standards								
Standard	Stories	Zoning District						
		C-1	C-2	C-3[1]	I-1	I-2	M-U	P-I
	4	N/A	N/A	3.448	N/A	N/A	0.371	N/A
Density	N/A	N/A	N/A	*See* Notes[1] and [4]	N/A	N/A	*See* Note [4]	N/A
Minimum Area of Parcel Proposed for Development	N/A	N/A	1 ac.	N/A	1 ac.	5 ac.	5 ac.	1 ac.
Minimum Street Frontage	N/A	80’	200'	70'	125'	250'	250'	125'
Maximum Building Height[3]	N/A	35’	45'	60'	45'	60'	60'	45'

TABLE NOTES:

N/A - Not Applicable

1. No off-street parking is required in the C-3 district, except for live-work units and multi-family as set out in Table 3.1.202B, *Residential Development Standards in Nonresidential and Mixed Use Districts*.
2. The FARs account for the Landscape Surface Ratio (including setbacks, bufferyards, on-site drainage, and parking lot landscaping) and required on-site parking, excluding the C-3 District. Multiplying the site area by the FAR determines the maximum building size.
3. Refer to Subsection D.2.c., *Setback Planes*, of this Section.
4. Refer to Table 3.1.201, *Residential Development Standards*, for the planned development (multi-family) neighborhood type in the Residential Multi-Family (R-2) District for the maximum gross density in the C-3 and M-U districts.

C. **Subdivision of Nonresidential and Mixed Use Parcels.**

1. *Street Frontage and Area*. The minimum street frontage and minimum area of parcels proposed for development may be reduced with respect to the subdivision of individual lots within a development if it is demonstrated that:

   a. The area of the principal parcel from which the lot is subdivided complies with the requirements of Table 3.1.301A, *Nonresidential and Mixed Use Development Standards*, before subdivision;

   b. Appropriate easements are recorded to provide for:

      i. Cross-access between the lots;

      ii. Chapter 5, *Parking, Loading, Access, and Lighting*; and

iii. Appropriate covenants, conditions, or restrictions (CCRs) are recorded that provide for the required landscape surface ratio (LSR) to be maintained in proportion to the principal parcel area before the subdivision, designating the landscaped areas, and providing for their maintenance.

2. *Building Spacing*. For the purposes of the requirements of Table 3.1.301B, *Nonresidential and Mixed Use Setbacks*, lots created pursuant to this Section shall be considered part of the principal parcel. However, buildings shall be spaced at least 20 feet apart.

3. *Access*. Lots created pursuant to this Section are not entitled to individual access to abutting streets unless they meet the access management requirements set out in Article 5.3, *Access Management*.

4. *Required Buffer*. Lots created pursuant to this Section are not required to be buffered from the principal parcel from which they are subdivided unless they are in different zoning districts.

D. **Nonresidential and Mixed Use Setbacks.**

1. *Generally*. The standards of this Section apply to nonresidential and vertically mixed use buildings. If Division 4.1.400, *Bufferyards*, requires a bufferyard that is wider than the setback that is required by this Section, then the width of the setback shall be at least the width of the required bufferyard.

2. *Principal Buildings*.

a. The required setbacks for nonresidential and mixed use buildings are set out in Table 3.1.301B, *Nonresidential and Mixed Use Setbacks*.

b. Residential district boundary setbacks (set out in the last row of Table 3.1.301B, *Nonresidential and Mixed Use Setbacks*), apply to buildings or outdoor uses (except parking) on parcels that abut property that is located in the R-S, R-1, R-M, or NC districts. If the residential district boundary setback is indicated as "N/A," then there are no special setback requirements in relation to abutting residentially zoned property (*e.g.*, the other columns of the table control).

Table 3.1.301B
Nonresidential and Mixed Use Setbacks

Standard	Zoning District						
	C-1	C-2	C-3[3]	I-1	I-2	M-U	P-U
Front	25'	25'	0'	35'	25'	40'	50'
Interior Side	7'	15'	0'	15'	20'	25'	50'
Street Side	15'	25'	0'	25'	25'	40'	50'
Rear	20'	25'	0'	35'	40'	30'	50'
Residential District Boundary[1,2]	15'	20'	N/A	50'	100'	75'	50'

Table 3.1.301B Nonresidential and Mixed Use Setbacks							
Standard	Zoning District						
	C-1	C-2	C-3[3]	I-1	I-2	M-U	P-U

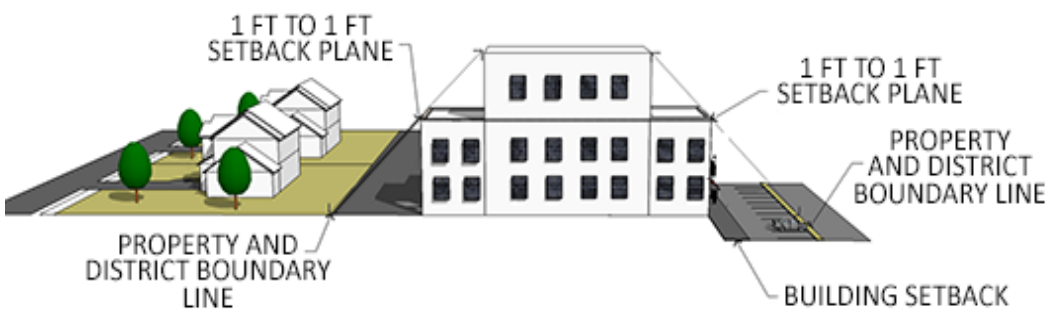
TABLE NOTES:

N/A - Not Applicable

1. Refer to Subsection D.2.c., *Setback Planes*, of this Section.
2. If a two-story structure is constructed on a lot or parcel that abuts or is contiguous to a residential zoning district or use, there shall be no windows, doors, or other openings constructed on that side of the second story facing the residential district or use.
3. Refer to Subsection E., *C-3 District Setbacks*, of this Section.

c. Setback Planes. Where a nonresidential or mixed use building abuts or is contiguous to a residentially zoned or used property, then in addition to the building setback line as set out in Table 3.1.301B, *Nonresidential and Mixed Use Setbacks*, the building shall be set back one foot from the property line for each foot in building height over the maximum building height that is set out in the abutting residential district (*see* Figure 3.1.301A, *Setback Planes*).

Figure 3.1.301A
Setback Planes



E. **C-3 District Setbacks**.

1. *Generally*. For all development in the C-3 district, principal structures shall be built on the front lot line (the "build-to line"). Portions of the façade that are recessed in order to satisfy the requirements of Division 10.1.200, *Nonresidential and Mixed Use Design Standards*, and Division 10.1.300, *Special District Design Standards*, are permitted to be set back from the build-to line by up to three feet. All buildings shall meet these requirements, except under the following conditions:

   a. Where the use, in whole or in part, is an existing dwelling unit.

b. Where the use is established in an existing building that exceeds the build-to line as of the effective date of this Code. In this case, the existing building may:

i. Remain in its current location, utilizing the front setback as:

a. A yard or courtyard;

b. Public plaza or outdoor service area (*e.g.*, outdoor seating for a restaurant, outdoor display area for a retail store, etc.); or

c. Off-street parking provided it was used for parking as of the effective date of this Code.

ii. Be extended to the build-to line provided it:

a. Meets all other requirements and standards of this Code;

b. Is a conforming use; and

c. Complies with Subsection E.1.d., below (*e.g.*, provision for a public sidewalk).

c. Where the average setback of buildings along the block front or, in the instance of a corner lot, along one or both block fronts exceed the build-to line, the building may be:

i. Constructed at the build-to line; or

ii. Set back to match the average front setback along the same side of the same street segment in the same zoning district, provided that the parcel proposed for development or redevelopment is not counted in the calculation.

d. Where there is a public sidewalk that is up to six feet wide, the building must be set back in order to provide the additional space to expand the sidewalk onto the private lot to construct a sidewalk that is at least six feet in width. In this case, the building shall be constructed to a build-to line that is coterminous with the edge of the sidewalk that is provided on the private lot.

e. Buildings may be set back up to a distance of 20 feet from the build-to line in order to provide a publicly available pedestrian seating area (*e.g.*, a public plaza, restaurant outdoor seating area, etc.) (*see* also Subsection 10.1.301C.6., *Building Placement*):

i. The public plaza or outdoor service area shall be designated upon development approval and maintained as a publicly accessible space;

ii. Any service uses that take place in the designated setback area must directly relate to the activity of the primary ground floor use (*e.g.*, outdoor seating for a restaurant, outdoor display area for a retail store, etc.); and

iii. When the area is not being used as an outdoor service area, it shall remain generally accessible to the public and function as an extension of the public sidewalk environment.

2. *Side and Rear Setbacks*. Side and rear setbacks are not required in the C-3 district, except when the C-3 district abuts an NC district (including applicable subdistricts), the same

setbacks applicable to the NC district shall also apply to the abutting or contiguous lot line(s) of the C-3 district.

3. *Encroachments*. The City may permit, by recorded license agreement, encroachments into the public right-of-way if the encroachments meet all of the following standards (*see* Figure 3.1.301B, *Permitted Encroachments*):

   a. Encroachments up to 18 inches into the right-of-way are permitted below an elevation of eight feet above grade if it is demonstrated that:

      i. The encroachment does not impact the general functionality of the public sidewalk; and

      ii. The encroachment does not make the sidewalk noncompliant with the requirements of the Americans with Disabilities Act (ADA).

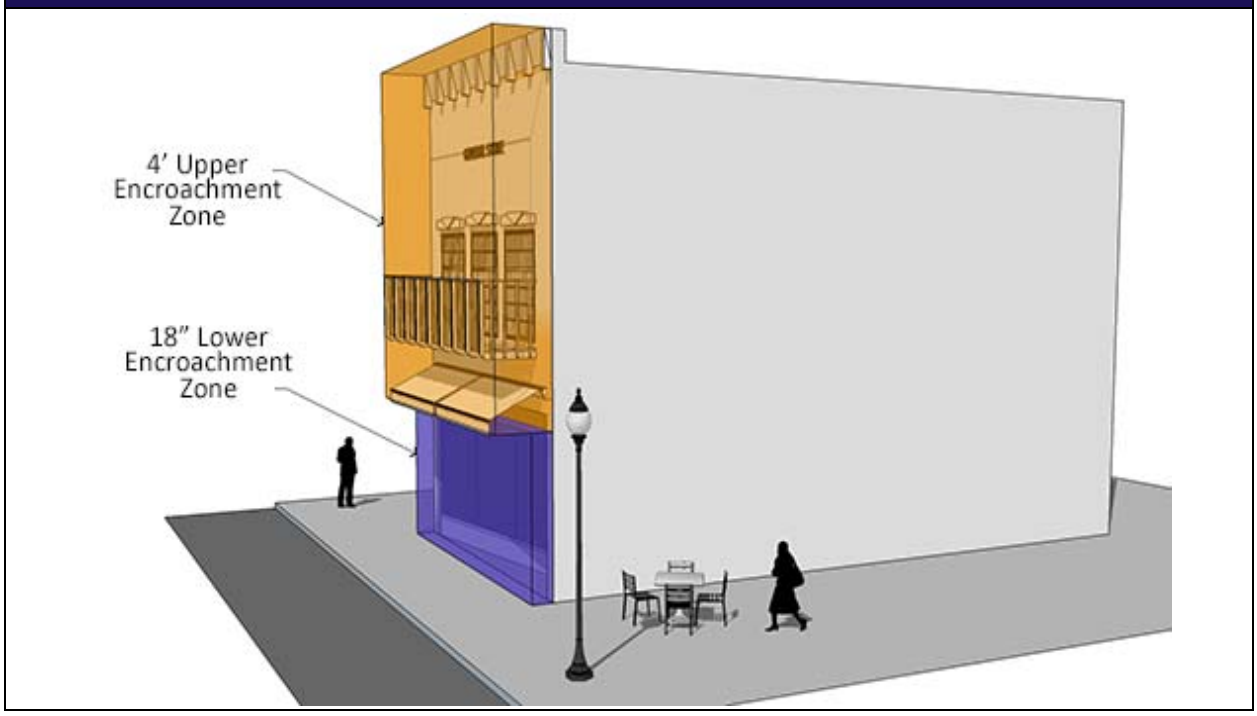
   b. Encroachments up to four feet are permitted above an elevation of eight feet above grade if it is demonstrated that:

      i. The encroachment does not impact the general functionality of the public sidewalk;

      ii. The encroachment is set back at least one foot from the face of the curb; and

      iii. The encroachment does not create unsafe clearances from other elements of the right-of-way (*e.g.*, street lighting, landscaping, vehicular movement, etc.).

Figure 3.1.301B
Permitted Encroachments



Effective on: 5/6/2016

Sec. 3.1.302 Nonresidential and Mixed Use Scale

A. **Generally.** The gross floor area of nonresidential buildings in the R-S, R-G, R-M, and NC districts shall be limited based on the type of street from which primary access is taken, as provided in Table 3.1.302, *Maximum Building Scale*.

Table 3.1.302
Maximum Building Scale

Classification of Street[1] from which Access is Taken	Maximum Floor Area
Arterial Street	25,000 sf.
Collector Street	10,000 sf.
Local Street	5,000 sf.

TABLE NOTES:
1. Private streets are classified as public streets based on the intended functional classification needed to serve the parcel proposed for development.

B. **Exemption.** The standards set out in Table 3.1.302, *Maximum Building Scale*, do not apply to the development of public schools.

Effective on: 5/6/2016

ARTICLE 3.2 NEIGHBORHOOD CONSERVATION AND ESTABLISHED NEIGHBORHOODS

Division 3.2.100 Purpose and Application of Article

Sec. 3.2.101 Purpose

The purpose of the Neighborhood Conservation (NC) district, as further delineated by subdistricts, is intended to provide for neighborhood stability while at the same time allowing for reasonable expansion and in some cases, new construction, in established residential neighborhoods. The NC district is generally characterized by development of existing residential neighborhoods that pre-dated the effective date of this Code.

Effective on: 5/6/2016

Sec. 3.2.102 Application

A. **Generally.** This Division establishes standards for the development, redevelopment, and substantial improvement of lots and buildings in established neighborhoods.

1. *General NC District Standards*. In the NC subdistricts of NC.1, NC. 2, NC. 3, NC.4, and NC.5, all proposed development of vacant lots, redevelopment of existing buildings, or expansion of existing buildings, shall comply with Section 3.2.201, *General NC Development Standards*.

2. *Alternative NC District Standards*. In the NC subdistricts of NC.1, NC. 2, NC. 3, NC.4, and NC.5, alternative standards (*see* Section 3.2.202, *Alternative NC Development Standards*) are provided for the expansion or reconfiguration of existing buildings when the expansion or reconfiguration cannot comply with the general development standards set out in Section 3.2.201, *General NC Development Standards*.

B. **Conforming Buildings and Lots.**

1. *Buildings*. All buildings that lawfully existed or were the subject of an active building permit on the effective date of this Code are "conforming" buildings with respect to the building height and setback requirements set out in this Division if they are located in the NC.1, NC. 2, NC. 3, NC.4, and NC.5 subdistricts. However, this Section does not make the following buildings conforming:

   a. Buildings that were constructed without required permits; and

   b. Buildings that were constructed in violation of permit requirements.

2. *Lots*. All lots that lawfully existed on the effective date of this Code are "conforming" with respect to lot width and lot area if they are located in the NC.1, NC. 2, NC. 3, NC.4, and NC.5 subdistricts. The lot width and lot area requirements of Table 3.2.202, *Lot and Building Standards for NC Subdistricts*, apply only to the subdivision or combination of existing lots or parcels within these districts after the effective date of this Code. However, this Section does not make the following lots conforming:

   a. Lots that were originally platted as conforming lots and later split by a metes and bounds description into a nonconforming lot; and

   b. Nonconforming lots for which the holder of legal title is separate from the ownership of the originally platted and abutting lot.

C. **Nonresidential Uses.**

1. All lawfully permitted nonresidential uses may be continued provided that they were constructed in conformance with the original permit or special use permit and the development regulations at the time of permitting.

2. Expansions to existing nonresidential uses shall be in conformance with the original permit or special use permit and the development regulations at the time of permitting. If an expansion was not considered during the initial grant of approval, the expansion shall comply with Subsection C.3., below.

3. Substantial improvement, redevelopment, and new nonresidential development, shall comply with all applicable provisions of this Code, including those set out in Chapter 2, *Zoning Districts and Land Uses*, Division 2.2.300, *Compatibility Standards for Limited and Special Uses*, Division 3.1.300, *Nonresidential and Mixed Use Lot and Scale Standards*, Article

10.2, *Supplemental Standards*, applicable sections of Chapter 10, *Buildings and Structures*, among other applicable sections of this Code.

D. **Relationship to Variances.** Compliance with the standards of this Division are not considered variances. Variances shall not be granted to allow encroachments if the encroachments could be permitted pursuant to the general or alternative standards of this Division.

Effective on: 5/6/2016

Division 3.2.200 Development of Lots in the NC Districts

Sec. 3.2.201 General NC Development Standards

A. **Generally.** The standards of this Section are applied as a matter of right in the NC.1, NC. 2, NC. 3, NC.4, and NC.5 subdistricts. If an application does not comply with these standards, which are consistent with those of the equivalent districts, then the parts of the application that do not comply (*e.g.*, setbacks) are evaluated according to the alternate development standards set out in Section 3.2.202, *Alternative NC Development Standards*. If parts of the application do not comply with either these standards of the alternative standards, then a variance may be sought.

B. **Lot and Building Standards for Existing Uses.** The minimum front yard, interior side yard, street-side yard, and rear yard setbacks, and maximum building height~~, and maximum impervious area standards~~ are set out in Table 3.2.201, *Existing Neighborhood Lot and Building Standards*. Where different setback standards are specifically shown on an approved, recorded final plat, then the standards that are shown on that plat shall supersede the corresponding setback standards in this table.

Table 3.2.201
Existing Neighborhood Lot and Building Standards

Subdistrict	Equivalent District	Predominant Housing Type (dwelling units)	Minimum Lot Width	Lot Area[1]		Minimum Setback				Maximum Building Height	~~Maximum Impervious Area~~
				Minimum	Maximum	Front	Interior Side	Street Side	Rear		
NC.1	A-L / R-S	Single-family detached	140'	1 ac.	N/A	30'	7'	14'	30'	35'	~~15%~~
	A-L			21,780 sf.							
NC.2	R-1	Single-family detached	60'	7,000 sf.	12,000 sf.	30'	7'	14'	30'	35'	50%
	R-2		50'	6,000 sf.					25'		~~65%~~
	M-S	Single-family detached - manufactured homes				25'	5'	10'			
NC.3	R-3	Single-family detached	50'	5,000 sf.	12,000 sf.	25'	7'	14'	25'	35'	~~55%~~
	R-3N					20'	5'	10'	15'		~~55%~~
	R-3	Single-family	50'	3,000 sf.	15,000 sf.	25'	0'	14'	25'		~~65%~~

Table 3.2.201
Existing Neighborhood Lot and Building Standards

Subdistrict	Equivalent District	Predominant Housing Type (dwelling units)	Minimum Lot Width	Lot Area[1]		Minimum Setback				Maximum Building Height	~~Maximum Impervious Area~~
				Minimum	Maximum	Front	Interior Side	Street Side	Rear		
	R-3N	attached - duplex	60'			20'		10'	15'		
	R-3A	Single-family attached - triplex				30'		30'	15'		
NC.4	R-4	Single-family detached	42'	5,000 sf.	15,000 sf.	25'	7'	14'	25'	35'	~~55%~~
		Single-family attached - duplex	50'	3,000 sf.			0'	7'			~~65%~~
		Multi-family	49'	1,500 sf.			10'	14'	14'	45'	~~45%~~
NC.5	M-P	Single-family detached - manufactured homes	40'	3,600 sf.	11,200 sf.	25'	7.5	15'	10’	25'	~~60%~~

TABLE NOTES:
N/A - Not Applicable
1. Any newly constructed principal buildings on vacant lots shall have a floor area of not less than 640 square feet, with a minimum width of any building elevation of 20 feet.

Effective on: 5/6/2016

Sec. 3.2.202 Alternative NC Development Standards

A. **Generally.** This Section applies only to modifications of existing buildings, where the proposed development or modification involves encroachment into a setback that is required by Table 3.2.201, *Existing Neighborhood Lot and Building Standards*. Any specific setback (*e.g.*, front yard, interior side yard, street side yard, or rear yard) that complies with the table is not subject to further review under this Section.

B. **Relationship to Variances.** Compliance with the standards of this Section is equivalent to compliance with the standards of Section 3.2.201, *General NC Development Standards*, and approvals hereunder are not considered variances. Variances shall not be granted to allow encroachments if the encroachments could be permitted pursuant to the standards of this Section.

C. **Relationship to Easements and Rights-of-Way.** The standards of this Section shall not be construed to authorize construction of buildings or portions of buildings in utility or drainage easements or public rights-of-way.

D. **Alternative Front Setbacks.** The following standards may be applied to front setbacks as an alternative to the front setback standards in Table 3.2.201, *Existing Neighborhood Lot and Building Standards*:

1. *Enclosure of Front Porches.* Front setbacks may be reduced by up to one foot from their existing location in order to enclose an existing front porch.

2. *Addition of Front Porch.* Front setbacks may be reduced by up to six feet from the standards set out in Table 3.2.201, *Existing Neighborhood Lot and Building Standards,* in order to allow for the construction of a front porch, provided that:

   a. The added front porch would not be located closer than 10 feet to the front property line;

   b. The porch may be enclosed with a screened enclosure, but shall not be fully enclosed with walls and windows.

3. *Front Setback Averaging.* Front setbacks may be reduced to the average front setback along the same side of the same street segment in the same zoning district, provided that the parcel proposed for development is not counted in the calculation.

4. *Garage Behind Principal Building*. Front setbacks may be reduced by five feet from the standards set out in Table 3.2.201, *Existing Neighborhood Lot and Building Standards*, if:

   a. The garage is detached and located at least 25 feet behind the front building line of the principal building; or

   b. The garage is attached, but the garage door is set back at least 20 feet behind the front building line of the principal building.

5. *Front Yard, Side-Loaded Garage*. Front setbacks may be reduced by 10 feet from the standard set out in Table 3.2.201, *Existing Neighborhood Lot and Building Standards*, if:

   a. There is one or more side-loaded garages on the street or in the immediate subdivision;

   b. The lot is at least 85 feet wide and takes vehicular access from the front;

   c. The reduced setback is applied only to a side-loaded garage;

   d. The construction of the side-loaded garage would not cause more than two buildings in a row to have a side-loaded garage that faces the same direction;

   e. The side-loaded garage is constructed of the same or similar materials and design to match or complement the existing principal building;

   f. At least two trees (small or evergreen) are planted between the side-loaded garage and the street; and

   g. The portion of the side-loaded garage that faces the street shall include at least one window that is of the same style and proportion as windows used on the front façade of the principal building.

E. **Alternative Interior Side Setbacks.** The following standards may be applied to interior side setbacks as an alternative to the interior side setback standards in Table 3.2.201, *Existing Neighborhood Lot and Building Standards*:

1. *Generally.* Interior side setbacks may be reduced on any lot if it is demonstrated that the proposed interior side setback is equal to not more than 10 percent less than the average actual setback of the other homes on the same side of the same street, measured for a distance of up to 500 feet or up to five lots in either direction, whichever is less.

2. *Abutting Open Space*. Interior side setbacks may be reduced to three feet along lot lines that abut tracts that are designated as permanent open space or an easement, provided that the tracts are at least 15 feet wide along the entire length of the lot line.

F. **Alternative Street Side Setbacks.** The following standard may be applied to street side setbacks as an alternative to the street side setback standards in Table 3.2.201, *Existing Neighborhood Lot and Building Standards*. The street side setback may be reduced on any lot if it is demonstrated that the proposed street side setback is equal to not more than 10 percent less than the average actual street side setback of the other homes in the immediate subdivision, and the street is classified as a local street and there are no plans for expansion of the paved width of the street.

G. **Alternative Rear Setbacks**. The following standards may be applied to rear setbacks as an alternative to the rear setback standards set out in Table 3.2.201, *Existing Neighborhood Lot and Building Standards*.

1. *Abutting Permanent Open Space.* Rear setbacks that abut lots or parcels that are designated as permanent open space or easement that is at least 50 feet wide along the distance of the lot proposed for development may be reduced to 10 feet.

2. *Subdivision Fencing Along Arterial or Collector Street.* The rear setback may be reduced to 10 feet if:

   a. The rear yard abuts the right-of-way for an arterial or collector street;

   b. An opaque fence that complies with the standards of Section 10.2.103, *Fences and Walls*, with respect to the continuity of subdivision fencing, separates the rear yard from the street;

   c. The setback reduction applies to not more than 40 percent of the length of the rear building wall of the dwelling unit; and

   d. The portion of the building to which the reduced setback applies is not more than one story in height.

H. ~~**Alternative Impervious Area Standards.**~~

1. ~~*Generally*. The following standards may be applied only to modifications of existing buildings, where the proposed modification involves an increase in the impervious area requirements over what is set out in Table 3.2.201, *Existing Neighborhood Lot and Building Standards.*~~

2. ~~*Maximum Impervious Area*. The City may approve up to five percentage points of additional impervious area if it is demonstrated that:~~

   a. ~~The rate and quantity of stormwater runoff onto abutting properties or rights-of-way is no greater than it was before the construction of the additional building area; and~~

   b. ~~The volume of the resulting building is not greater than the volume of a two-story building that could be developed while still meeting the maximum impervious area requirements in Table 3.2.201, *Existing Neighborhood Lot and Building Standards*.~~

Effective on: 5/6/2016

CHAPTER 4 LANDSCAPING AND BUFFERING

ARTICLE 4.1 LANDSCAPING AND BUFFERING

Division 4.1.100 Purpose and Application of Chapter

Sec. 4.1.101 Purpose

A. **Generally.** In establishing these procedures and standards, it is the City's purpose to encourage to the maximum extent practicable the preservation of trees and other natural vegetation for their value to the aesthetics of the community, to increase the compatibility between adjacent uses, and to minimize the effects of noise, dust, debris, artificial light intrusions, and other impacts created by the use of land.

B. **Standards and Requirements.** The standards and requirements set out in this Chapter are intended to:

1. Protect and preserve the appearance and character of the community;
2. Preserve permeable, native soil and enhance disturbed soils to store and infiltrate storm flows;
3. Promote the value and benefit of landscaping while recognizing the needs to conserve and utilize water resources as efficiently as possible;
4. Promote the health and quality of life of the residents of the City through the protection of trees and landscaping;
5. Reduce heat island effects for large areas of impervious cover;
6. Promote the planting of trees, ~~and~~ shrubs <u>and grasses</u> that are drought tolerant and native to western Kansas;
7. Establish criteria and standards for the design, installation, and maintenance of water-efficient landscapes in new development and redevelopment projects; and
8. Promote low impact development designs and best management practices to reduce the risk of flooding and restore pre-development hydrologic regime on the site without solely using traditional storm drainage conveyance systems (*e.g.*, gray infrastructure).

Effective on: 5/6/2016

Sec. 4.1.102 Application

A. **Generally.** This Section requires two general types of landscaping, including:

1. *Development Landscaping.* There are two types of development landscaping (*see* Division 4.1.300, *Development Landscaping*), including:
   a. Private lot landscaping; and
   b. Site landscaping, which include:
      i. Pervious areas for single-family attached and multi-family development;
      ii. Landscape surface areas for nonresidential and mixed use development; and
      iii. Parking lot landscaping.
2. *Bufferyard Landscaping.* Bufferyards are required based on the zoning, development type, or right-of-way type that abuts proposed development *(see* Division 4.1.400, *Bufferyards)*. Bufferyards may be required along and between:
   a. District boundaries;
   b. Housing types within planned developments;
   c. Different types and intensities of uses within mixed use developments;
   d. Street and railroad rights-of-way; and
   e. The perimeters of parking lots.

B. **Application of Standards.** This Chapter applies to all new development, redevelopment, and substantial improvements, and where specifically indicated, to existing trees and landscaping in the R-M, C-1, C-2, C-3, I-1, I-2, M-U, and P-I districts. The requirement for an irrigation plan shall apply to the same zoning districts. The application of Division 4.1.300, *Development Landscaping*, and Division 4.1.400, *Bufferyards*, may be limited by Article 12.1, *Nonconformities*.

C. **Conflicts**. In the case of conflict between the regulations in this Article and the regulations of a particular zoning district or land use, the stricter application shall apply.

D. **Exemptions.** The following are exempt from the standards of this Chapter:

1. Existing lots of record that are used for single-family or two-family dwellings unless required by this Section (*see* Division 4.1.200, *General Requirements*).
2. Modifications to nonresidential buildings where the building expansion or redevelopment does not exceed the gross floor area of the existing building by more than 10 percent or 3,000 square feet, whichever is less.
3. Development that was approved by the City prior to the effective date of this Code shall comply with the terms of the development approval (and not this Section). Such approved development shall not be required to install bufferyards if there is insufficient land area identified on the approved plans to accommodate them.

E. **Adjustments and Changes**. Sites that are proposed for redevelopment or substantial improvement, where due to the geometry of the site or existing improvements would be impractical or unreasonable, <u>may be granted an exception</u> for installation of landscaping in

compliance with this Chapter per this subsection. In such case, the Zoning Administrator may consider allowing minor adjustments to the landscape plan if the standards of approval may not be reasonably met, by considering approval, approval with conditions, or denial of the site plan. Such adjustment is provided such that the reduction of landscaping standards is only the extent necessary to make the installation practicable. In no case shall this exception be interpreted to lessen these requirements for reasons other than those provided. Necessary or requested adjustments or changes to the requirements of this Chapter may only be by reason of:

1. Unnecessary hardship caused by the strict interpretation of this Code.
2. Conditions that have not been brought about by action of the applicant or owner; and
3. Site constraints or impracticalities that are due to special conditions of the property that do not exist on other properties in the same zoning district.

Effective on: 5/6/2016

Division 4.1.200 General Requirements

Sec. 4.1.201 Plant Material

A. **Approved Landscape Plants**. Only ~~the~~ approved plant materials ~~set out in Appendix A, *Plant List*,~~ count towards the landscape requirements of this Section.

B. ~~**Amendment to**~~ **Approved Plants** ~~**List**~~. Plants must be of a type approved by the ~~that are not listed in Appendix A, *Plant List*, may be allowed if the applicant seeks and is granted by the~~ Parks Director. ~~an amendment to the approved plant list.~~ Plants may be utilized ~~added to the list~~ if it is demonstrated by credible evidence that the plant:

1. Is not on the Kansas State Noxious Weed List, U.S. Department of Agriculture;
2. Is either native to the region or not invasive; and
3. Provides habitat for native wildlife or migratory birds.

C. **Prohibited Plants**. Plant species that are subject to those specifically called out in Subsection B., above, are not allowed and may not be sought for addition to the approved plant list.

D. **Quality of New Plantings.**

1. All landscape material shall be in compliance with the standards of the American Nursery and Landscape Association.
2. Landscape plantings shall be planted, mulched, and staked according to Publication L-802, *Woody Plant Material and Installation Specifications*, published by the State Forestry Division.

E. **Water-Wise Landscaping.**

1. Plant Selection and Grouping Requirements.

a. Low water use plants (including grasses) are required on slopes that are steeper than 15 percent, and in all areas that are less than eight feet wide or otherwise difficult to irrigate and manage (unless such areas are characterized by hydric soils).

b. ~~Not more than 25 percent of the trees and shrubs that are installed to meet the requirements of this Chapter may be classified as high water use. Plants or trees growing produce for human consumption are not counted in this calculation.~~

c. Plants shall be selected based on their adaptability to the site. Native vegetation shall be installed, or protected and preserved when possible.

2. *Mulch*. Mulch, such as bark, stone, or other materials left loose or other water saving treatments shall be used for all planting areas, except turf, in order to help maintain soil moisture and inhibit weeds.

F. **Minimum Size of Plants at Installation**. Plant material shall be of the sizes set out in Table 4.1.201, *Minimum Size of Plants at Installation*.

Table 4.1.201 Minimum Size of Plants at Installation	
Type of Plant Material	**Minimum Size at Installation (measured six inches above the ground)**
Large Tree	1.5 in. caliper
Small Tree	1 in. caliper
Evergreen Tree	5 ft. in height
Shrub	5 gallon container

G. **Trees.**

1. Trees shall be located in planting areas that are of sufficient size to allow for mature tree growth, to prevent damage from vehicles, and to avoid unnecessary maintenance to structures, walks, drives, and parking areas.

2. A minimum of 25 square feet of permeable area around each tree is required.

3. Adequate distance between individual trees shall be provided; minimum spacing is:

a. Small trees = 15 feet; and

b. Large trees = 30 feet.

Effective on: 5/6/2016

Sec. 4.1.202 Groundcover

A. **Generally.** In order to prevent erosion and wind-blown dust while of the same time being mindful of conserving water, pervious areas shall be covered with trees, shrubs, groundcovers (which may include ornamental grasses), mulch, or garden plants. Planting areas shall be planted or covered with drought tolerant, disease resistant, indigenous species of trees, shrubs

and hedges, groundcovers and ornamental grasses (which may include turf), mulch, or garden plants; or where possible, retain existing native vegetation.

B. **Mulch.** Mulch may be inorganic (*e.g.*, stone, gravel, tumbled glass, or shredded rubber); or organic (*e.g.*, shredded hardwoods); however, materials that float shall be contained by edging, earthen berms or mounding, or in a prepared planting bed. Planting areas shall have no less than a two-inch-thick layer of mulch upon planting to reduce soil moisture evaporation and to discourage weed growth.

C. **Plastic Sheeting and Landscape Fabric.**

1. If plastic sheeting is applied under mulched areas, the areas are counted towards the impermeable surface ratio of the parcel.
2. If permeable landscape fabric is applied under mulched areas, the areas are not counted towards the impermeable surface ratio of the parcel.

Effective on: 5/6/2016

Sec. 4.1.203 Credit for Existing Trees

A. **Generally**. Where there is significant existing vegetation on site, the Zoning Administrator, or an appointee, may require an inventory of plant material. Land clearing and removal of existing, healthy trees shall not be removed unless the Zoning Administrator determines that no other option is available. Existing trees qualify for credit as per the allowances of this Section.

B. **Quality of Existing Trees**. Existing trees that are protected according to Article 4.2, *Tree Protection*, count towards the planting requirements of this Section, provided that they are either on the approved plant list set out in Appendix A, Plant List, or all of the following conditions exist:

1. The trees are healthy and are at least four inches in caliper at breast height~~, measured six inches above the ground~~;
2. The trees are located within the street right-of-way or are within 25 feet of the property line; and
3. Provisions are taken to protect the trees during construction to ensure long-term survival.

C. **Credit for Preservation of Trees**. Healthy, mature trees that are preserved on-site shall count as more than one tree for the purposes of the landscaping requirements, as set out in Table 4.1.203, *Credit for Preservation of Trees*.

Table 4.1.203
Credit for Preservation of Trees

Preserved Healthy Tree Unit of Measurement (use whichever one produces the most credit)		Credit
Diameter at Breast Height	Tree Height	
At least 3.5 inches, but less than 5 inches	At least 10 ft., but less than 15 ft.	1 tree
At least 5 inches, but less than 9 inches	At least 15 ft., but less than 24 ft.	2 trees

Table 4.1.203 Credit for Preservation of Trees		
At least 9 inches, but less than 12 inches	At least 24 ft., but less than 32 ft.	3 trees
At least 12 inches, but less than 16 inches	At least 32 ft., but less than 40 ft.	4 trees
16 inches or more	40 ft. or more	5 trees

D. **Application of Tree Preservation Credit**. The tree preservation credit is applied towards the requirements for the area in which the tree is planted. If there are no requirements for that area, the credit applies in the following order of descending priority:

1. Lot and site landscaping requirements;
2. Parking lot landscaping requirements; and
3. Bufferyard requirements, provided that the tree is located between the bufferyard to which the credit applies and the building or use that is being buffered.

Effective on: 5/6/2016

Division 4.1.300 Development Landscaping

Sec. 4.1.301 Private Lots

A. **Generally.** Minimum requirements for residential lot landscaping are set out in this Section for individual parcels proposed for development.

B. **Private Landscaping Options.** In new residential subdivisions, all yard areas that are not covered by buildings, driveways, or other approved improved hard surfaces shall be:

1. Planted with ground covers, trees and shrubs; or
2. Xeriscaped with drought-tolerant, naturally occurring materials; or
3. Sodded or seeded.

Effective on: 5/6/2016

Sec. 4.1.302 Site Landscaping

A. **Applicability**. Site landscaping is required for:

1. ~~Pervious areas that are required and set out as for single-family attached and multi-family development in Table 3.1.202B, *Single-Family Attached and Multi-Family Lot and Building Standards*; and~~
2. Landscape surface areas that are required and set out for nonresidential and mixed use development in Table 3.1.301A, *Nonresidential and Mixed Use Development Standards*; and
3. Parking lots of multi-family, nonresidential, public and institutional, and mixed use development.

B. **~~Pervious Areas and~~ Landscape Surface Areas**. ~~Single-family attached and multi-family development is allowed a maximum impervious area, meaning a minimum pervious cover is required (as set out in Table 3.1.202B, Single-Family Attached and Multi-Family Lot and Building Standards).~~ Nonresidential and mixed use development is required to have a minimum landscape surface ratio (as set out in Table 3.1.301A, *Nonresidential and Mixed Use Development Standards*). All landscaped areas ~~(residential and nonresidential) and minimum landscape surface ratio (nonresidential and mixed Use)~~ shall be landscaped in accordance with the provisions of this Section.

1. *Planting Location*. Landscape plantings are not required in areas that are designed for direct vehicular access to the building, such as loading or service bays and drive-through lanes on the side of the building with a service window, but shall be installed adjacent to all other parking and vehicular use areas and building foundations, as illustrated in Figure 4.1.302A, *Landscape Surface Areas*. Set out in Section 4.1.403, *Bufferyards for Parking and Vehicular Use Areas*, is the required bufferyard landscaping along the parkway between the parking and vehicular use areas and the property line.

2. *Irrigation Systems*

   a. For residential properties of four units or fewer, the maximum area served by the irrigation system shall not exceed 10,000 square feet. Of that 10,000 square feet, no more than 5,000 square feet may be comprised of turf. Of the 5,000 square feet of turf, no more than 2,000 square feet may be comprised of cool season turf, unless the area is not permanently irrigated.

   b. For all other properties, the maximum area served by the irrigation system shall not exceed 10,000 square feet. Of that 10,000 square feet, no more than 5,000 square feet may be comprised of turf. Of the 5,000 square feet of turf, no more than 30% of the property area (less impervious surface area) or 2,000 square feet per zoning lot, whichever is less, may be comprised of cool season turf. A minimum of 30% of the landscaped area must be xeriscaped.

   c. Irrigation systems must be designed and operated to avoid watering impervious surfaces and streets and shall comply with all applicable codes. Overhead irrigation methods shall not be used within five feet of driveways, sidewalks or other hard surfaces. Landscape designers and property owners are encouraged to utilize xeriscaping and take advantage of its water-saving principles and practices.

3. *Planting Requirements*. The required plantings in the locations described in Subsection B.1, above, shall be as set out in Table 4.1.302A, *Site Landscaping Requirements*.

   a. *Front and Street Side*. Large and/or small trees or shrubs shall be planted within the front and street side planting areas per the linear measurement set out in Table 4.1.302A, *Site Landscaping Requirements*. All remaining pervious areas and landscape surface areas shall be in groundcover, as set out in Section 4.1.202, *Groundcover*. As approved by the Zoning Administrator, wet ponds with fountains, vegetated rain gardens, naturalized wetlands, and/or xeriscape gardens may be used in lieu of or together with the required landscaping and groundcover. ~~Sculptures, monuments, and~~

~~other public art installations are encouraged, subject to approval of the Zoning Administrator.~~

b. *Interior Side*. Large or small trees or shrubs shall be planted within the interior side planting areas per the linear measurement set out in Table 4.1.302A, *Site Landscaping Requirements*. The trees or substitution shrubs may be designed in groupings if an equal or a greater number of trees and shrubs are used. All remaining ground surface areas shall be in groundcover, as set out in Sec. 4.1.202, *Groundcover*.

c. *Rear*. A rear planting area that is adjacent to a street, drive-through lane, or a parking lot with a parking module width of 40 feet or more shall be planted with large or small trees or shrubs as set out in Table 4.1.302A, *Site Landscaping Requirements*. Rear landscaping is otherwise not required in the R-S, R-G, and NC districts. All remaining ground surface areas shall be in groundcover, as set out in Section 4.1.202, *Groundcover*.

Figure 4.1.302A
Landscape Surface Areas

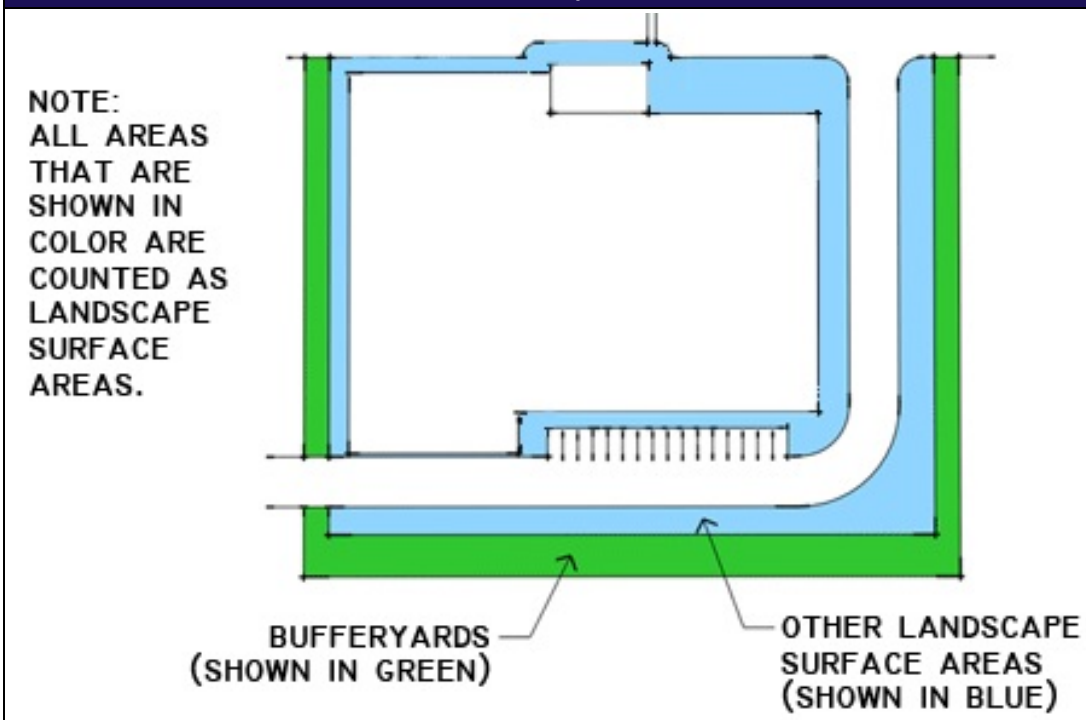


Table 4.1.302A Site Landscaping Requirements[4]			
District	Measured Parallel to the Building (or portion thereof)		
	Front and Street Side	Interior Side	Rear
R-S, R-G, and NC[1]	1 large or 2 small trees per 30 linear feet	2 small trees per 30 linear feet	None; unless adjacent to a residential use or district, street, drive-through lane, or parking lot with a width of 40 feet or more, which then shall be the same as the interior side
R-M, and C-1	2 large or 3 small trees per 40 linear feet[3]	1 large or 2 small trees per 40 linear feet	1 large or 2 small trees per 40 linear feet if adjacent to a street, drive-through lane, or parking lot with a width of 40 feet or more
C-2, C-3[2], I-1, I-2, M-U, and P-I	2 large or 4 small trees per 50 linear feet[3]	1 large or 3 small trees per 50 linear feet[3]	1 large or 3 small trees per 50 linear feet if adjacent to a street, drive-through lane, or parking lot with a width of 40 feet or more[3]

TABLE NOTES:
1 Landscaping is only required for multi-family and nonresidential or mixed use development in the R-S and R-G districts and the NC sub-districts.
2 Landscaping is not required in the C-3 District; however, landscaping may be planted in tree grates in the sidewalk or in planter boxes, as applicable.
3 Shrubs may be substituted for up to 2 small trees at a rate of 10 shrubs for each small tree.
4 Tree requirements may be waived/reduced in areas subject to low impact development and storm water management regulations.

C. **Dumpster Screening**. Trash dumpsters in nonresidential areas shall be screened with an opaque wall or fence or a landscape hedge that is one foot taller than the dumpster.

D. **Parking Lot Landscaping**. Parking lot landscaping is required within and around the parking lots of multi-family, nonresidential, public and institutional, and mixed use development provided the parking lot contains 15 or more parking spaces. This Section does not apply to single-family detached or single-family attached uses.

1. *Landscape Areas*. Parking lot planting requirements are set out in Table 4.1.302B, *Parking Lot Planting Requirements*, which are illustrated in Figure 4.1.302B, *Parking Lot Landscape Areas*. Generally, these include:

   a. Landscape islands as endcaps at the end of each parking row, measuring a minimum of 180 square feet (9' x 20') for a single parking row and 240 square feet (6' x 40') for a double parking row; and

b. Interior landscape islands measuring a minimum of 180 square feet (9' x 20') located in the middle of parking rows, provided at a rate of one island for each 15 parking spaces, which included the required endcap islands; or

c. For parking lots with 29 or fewer parking spaces, landscape islands in the corners of parking lots in lieu of interior landscape islands; and

d. Landscaping around the exterior perimeter of the parking lots as set out in Section 4.1.403, *Bufferyards for Parking and Vehicular Use Areas*.

3. *Protection of Planting Areas*. Planting areas shall be protected by wheel stops or curbs. Curbs may be punctuated to allow for stormwater flows into biological treatment areas, as applicable, pursuant to an approved drainage plan, provided that the punctuated curbs do not interfere with their protective function.

4. *Low Impact Development*. Wherever possible, landscape areas may be used as low impact development (LID) improvements to satisfy the City's stormwater management requirements. The size and area of these required landscape areas may exceed the minimum requirements of this Section in order to meet Best Management Practices (BMPs).

5. *Drive-Through Lanes and Vehicle Stacking Areas*. Drive-in or drive-through lanes together with vehicle stacking areas that are adjacent to driveway entrances or street easements or rights-of-way shall be separated from such driveways or streets by a pervious or landscape surface area with a minimum width of six feet, or wider if the area includes a sidewalk. Such area shall be screened as set out in Section 4.1.403, *Bufferyards for Parking and Vehicular Use Areas*, and the rest of the area shall be in groundcover, as set out in Section 4.1.202, *Groundcover.*

Table 4.1.302B
Parking Lot Planting Requirements

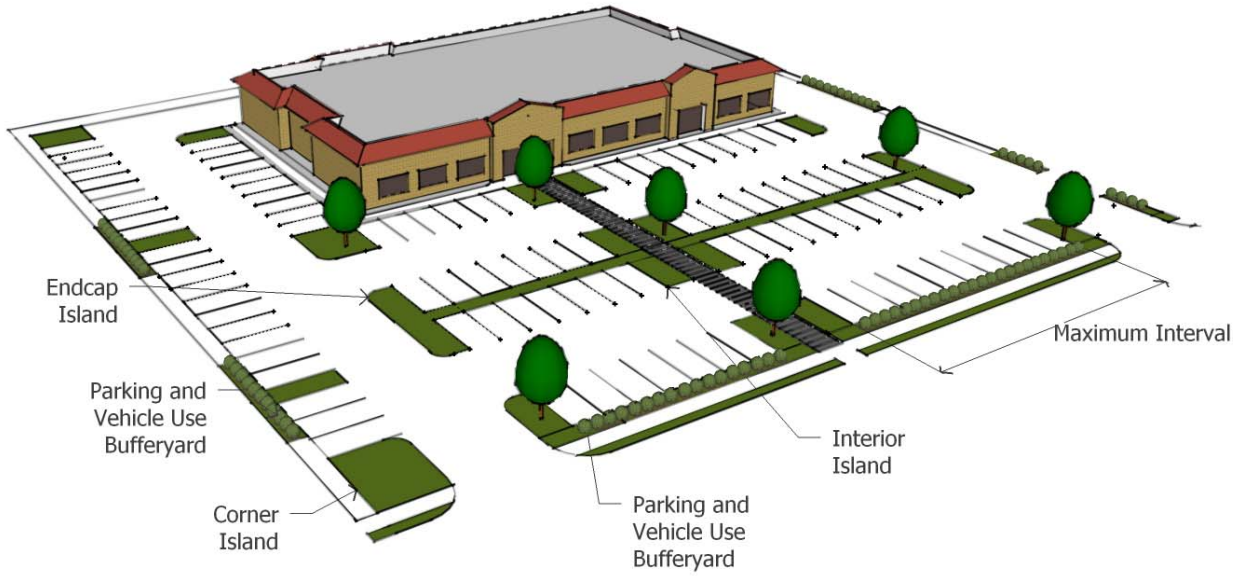
Planting Locations	Required Plantings	Design[1]
All Parking Lots With 30 or More Spaces		
Endcap island at the end of each parking row	1 large or two small trees and groundcover[2]	Each endcap island shall be 180 square feet (9' x 20') for a single parking row or 240 square feet (6' x 40') for a double parking row, with 10 foot curb radii on the side closest to the parking aisle
Interior landscape islands at a rate of one for each 15 parking spaces		
Perimeter landscaping	Section 4.1.403, Bufferyards for Parking and Vehicular Use Areas	Section 4.1.403, *Buffeyards for Parking and Vehicular Use Areas*
Parking Lots with Fewer than 29 Spaces		
Landscape islands at the corners of the parking lot	1 large tree or 3 small trees and groundcover[2]	Each corner island shall be defined by the intersection of the parking rows at each corner of the parking lot. The island shall be

		180 square feet (9' x 20') with a parking row on one side and 400 square feet (20' x 20') with a parking row on two sides, as shown in Figure 4.1.305B, Parking Lot Landscape Areas.

Table Notes:

1. In lieu of raised islands, bioswales or rain gardens with punctuated curbs may be used.
2. Groundcover shall be in accordance with Sec. 4.1.202, *Groundcover*. Landscape islands shall not include concrete, asphalt, or other impervious surfaces with the exception of decorative pavers or stamped, dyed concrete which may be used as a one foot perimeter around the interior of the island or as a two foot wide band across the landscape island. The purpose of the pavers or concrete is to allow persons to access their vehicle without stepping on landscaping. The height of groundcover plant species chosen shall not interfere with sight distance triangles along access drives or anywhere throughout the parking lot.

Figure 4.1.302B
Parking Lot Landscape Areas



Effective on: 5/6/2016

Division 4.1.400 Bufferyards

Sec. 4.1.401 Required Bufferyards

A. **Generally**. The bufferyards that are required by this Code are based on the amount of screening they provide, which are classified from less screening ("Type A") to more screening ("Type C"), depending on the adjacent land uses.

B. **Bufferyard Types**. Each type of bufferyard varies in its width and the numbers and types of plants that are required. The minimum planting requirements for each bufferyard are set out in Table 4.1.401, *Bufferyard Classifications.* The landscape buffers for parking lots are set out in Section 4.1.403, *Bufferyards for Parking and Vehicular Use Areas*.

C. **Composition of Bufferyards**. Bufferyards may be classified as:

1. Structural bufferyards, which include the use of a wall or fence to achieve the required level of screening; or

2. Natural bufferyards, which include the use of an earthen berm and a higher density of plant materials to achieve the required level of screening.

Table 4.1.401
Bufferyard Classifications

Type	Width	Required Plantings per 100 Linear Feet (Structural/Natural)				Height of Berm / Wall or Fence
		Large Trees	Evergreen Trees	Small Trees	Shrubs	
Type A	5 ft.	1/2	1/2	1/2	10/15	0' / 6 ft.[1]
Type B	10 ft.	1/3	2/3	2/3	20/30	0' / 6 ft.[1]
Type C	25 ft.	2/5	3/5	3/5	30/40	3' / 6 ft.[2]

Table Note:
1. A 6 foot wall or fence is not required but may substitute 50 percent of the required plantings.
2. A 3 foot earthen berm is not required but may substitute 25 percent of the required planting.

D. **Use of Bufferyards in Certain Locations**.

1. *Between Districts*. Structural bufferyards are the preferred composition along a district boundary that is not a street, or where there is a specific privacy or security need that requires a wall or fence.

2. *Between Mixed Uses*. Structural and natural bufferyards may be used between mixed uses within a development, depending on the use types and intensities and the desired compatibility, privacy, and/or security.

3. *Along Street Rights-of-Way*.

   a. Natural bufferyards are the preferred composition along collector and arterial streets.

   b. For multi-family and attached single family development, the rear walls of detached garages that are located at the perimeter of vehicular use areas may be used as a bufferyard structure (in lieu of a freestanding wall or fence) along arterial streets, provided that:

i. The garage building or buildings are set back a distance equal to at least the required width of the bufferyard, and if set back further, the area between the garage and the required bufferyard boundary is landscaped with a Type A bufferyard;

ii. The wall is not taller than eight feet from the adjacent grade to the underside of the eave; and

iii. The garage has a pitched roof that slopes downward toward the street and the height of the garage building is not greater than 14 feet to the peak of the roof.

E. **Bufferyard Locations**.

1. *Generally*. Bufferyards shall be placed in the locations set out in Section 4.1.102, *Application*.

2. *On-Site*. Bufferyards shall be established within a bufferyard easement on individual lots or parcels, unless a property owners' association is established in which case bufferyards may be within common open space.

F. ~~**Structures as Bufferyards.** For multi-family and single-family attached development, the rear walls of detached garages may be used as a buffer along collector streets or arterial streets, provided that:~~

1. ~~If a pitched roof is used, the height of the garage is not greater than 14 feet to the peak of the roof.~~

2. ~~The garage is set back a distance equal to the required bufferyard.~~

G. **Distance from Utilities**.

1. No trees shall be planted under or within 10 lateral feet of any overhead utility lines.

2. No trees shall be planted over or within five lateral feet of any underground water line, sewer line, or other utility line, or as required by the owner of the utility or the requirements of the easement.

H. **Sight Distance Triangles**. The requirements of Section 6.2.207, *Sight Triangle Requirements* shall be observed.

I. **Exemption**. A parcel may be exempt from the requirements of this Section if it is separated from the adjacent property by a natural area that meets the screening required by the applicable bufferyard.

Effective on: 5/6/2016

Sec. 4.1.402 Constrained Bufferyards

A. **Generally**. The constrained bufferyard standards of this Section may be applied in the alternative to the application of the standards set out in Section 4.1.401, *Required Bufferyards*, if, in the determination of the Zoning Administrator, their application would:

1. Cause the minimum open space ratio (OSR) or landscape surface ratio (LSR) of the parcel proposed for development to exceed 110 percent of the requirements set out in Chapter 3, *Density, Intensity, Bulk, and Scale*; or

2. The bufferyard requirements would result in more than 20 percent of a site being used for bufferyards; or

3. Prevent practical development of the parcel proposed for development by creating a building envelope that will not accommodate the necessary parking or a practical building design.

B. **Reductions Permitted**. Bufferyard widths may be reduced during development approval so that no more than 20 percent of the site is used for bufferyards. Bufferyards shall be reduced in the following order of priority:

1. Type A bufferyards may be reduced from five feet in width to three feet in width, provided that one additional tree of each type is planted for each 100 linear feet, or portion thereof, as set out in Table 4.1.401, *Required Bufferyards*. Notwithstanding the permitted reduction, trees shall be planted so that they have a four-foot radius of permeable soil at their base.
2. Type B bufferyards may be reduced from 10 feet in width to five feet in width, provided that a six foot high opaque fence is provided and the required number of small trees are planted (on either side of the fence) along the bufferyard.
3. Type C bufferyards may be reduced from 25 feet to 18 feet in width, provided that they include all of the plantings that are required and set out in Table 4.1.401, *Required Bufferyards*.

C. **Infill Sites**. With approval of the Zoning Administrator, development on an infill site may provide for the required bufferyard by substituting a solid fence or a landscape hedge (or combination thereof) of not less than six feet in height instead of the required buffer described in Section 4.1.401, *Required Bufferyards*. A fence or wall shall be accompanied by evergreen trees or large evergreen shrubs with spacing of not more than 10 feet on center for trees and not less than six feet for large evergreen shrubs to be placed on both sides of the fence or wall. Substitution of large trees may be permitted if it is demonstrated that the placement would result in equal or greater opacity as the use of evergreens.

Effective on: 5/6/2016

Sec. 4.1.403 Bufferyards for Parking and Vehicular Use Areas

A. **Generally**. Vehicular use areas include parking lots, drive-in and drive-through lanes, vehicle stacking areas, and individual or shared driveways, which shall be buffered as set out in this Section. The purpose of these bufferyards is to mitigate headlight glare on abutting streets and residential property, and to enhance the aesthetic appearance of sites adjacent to streets and highways.

B. **Relationship to Other Bufferyard Requirements**. If bufferyards are required by another section of this Code, then the greater bufferyard requirement shall supersede the lesser one (only one bufferyard is required).

C. **Where Required**. Bufferyards are required:

1. Between a parking lot and adjoining property, including the parking lot of the adjoining property, unless:
   a. The area between the parking lot and the adjoining property is occupied by a building; or
   b. Another type of bufferyard is required (*e.g.*, a district bufferyard or a bufferyard required for a special or limited use).
2. Between parking lots and streets, except in areas where:

a. The elevation of the parking lot is at least three feet below the crown of the street; or

b. The area between the parking lot and the street is occupied by a building or driveway to the parcel proposed for development; or

c. Another type of bufferyard is provided along the street.

D. **Composition**. Parking and vehicular use bufferyards shall be composed of any one or a combination of the following:

1. An earthen berm with a maximum 3:1 slope (three feet of run per each one foot of rise) that is mounded to a minimum height of 30 inches, provided shrubs or other xeriscape materials are planted along 15 percent of the linear dimension, measured along the curb or pavement edge; and/or

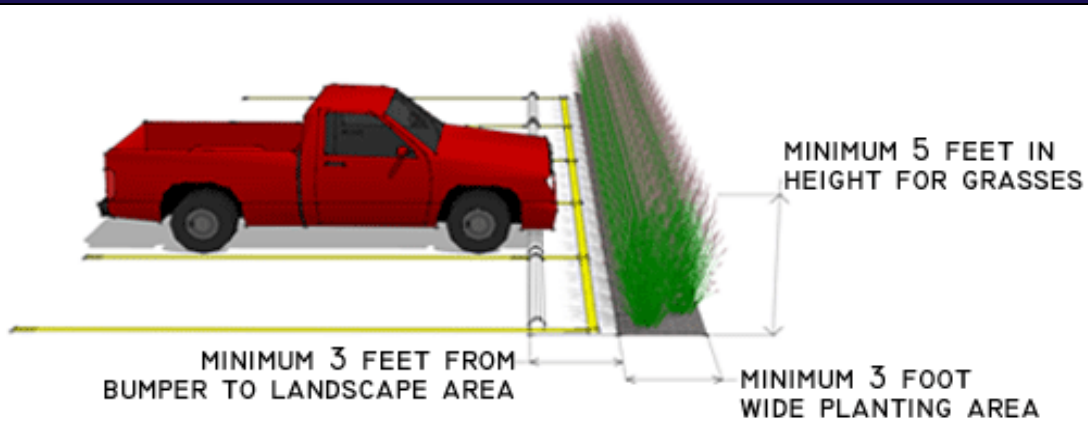
2. Landscaping or xeriscape materials planted along 30 percent of the linear dimension, measured along the curb or pavement edge. The landscaped area shall be set back from parking spaces as follows:

   a. Five feet from the edge of pavement if there are no curbs or wheel stops; or

   b. Three feet from the back of the curb or wheel stops (*see* Figure 4.1.403, *Illustrative Composition of Parking Lot Bufferyard*).

3. Parking and vehicular use bufferyards may also include trees or shrubs as set out in Section 4.1.302, *Site Landscaping*.

Figure 4.1.403
Illustrative Composition of Parking Lot Bufferyard



E. **Structured Parking**. Structured parking shall be screened from view from public right-of-way and adjoining or adjacent properties (except at points of ingress and egress) in one or more of the following ways:

1. Buildings other than the parking structure; or

2. A Type B bufferyard.

Effective on: 5/6/2016

Sec. 4.1.404 District Bufferyards

A. **Generally**. The classification of bufferyards required between zoning districts that are not separated by a public street are set out in Table 4.1.404, *District Bufferyard Standards*.

B. **Interpretation of Table**. The table is a matrix in which all zoning districts are shown. The rows indicate the zoning of the parcel proposed for development, and columns indicate the zoning of the adjoining or adjacent land. There are two letters shown for each combination of adjacent districts. The bufferyard that is required to be planted for the proposed use is listed first, with the second letter indicating the buffer that is required to be planted on the adjoining or adjacent property. Where "--" is found there is no bufferyard required.

Table 4.1.404
District Bufferyard Standards

Zoning of Parcel Proposed for Development	Zoning of Adjoining District							
	A-L	NC, R-S, R-G	R-M	C-1	C-2, M-U	C-3	I-1, 1-2	P-I
A-L	--/--	A/A	A/A	A/A	A/C	A/--	A/C	A/B
N-C, R-S, R-G	A/A	--/--	A/B	A/B	A/C	A/C	A/C	A/C
R-M	B/A	B/A	--/--	B/B	B/B	B/B	B/C	B/B
C-1	B/A	B/A	B/B	--/--	B/B	B/B	B/C	B/B
C-2, M-U	C/A	C/A	C/B	B/B	--/--	B/B	B/C	B/B
C-3	C/A	C/A	B/B	B/B	B/B	--/--	B/C	B/B
I-1, I-2	C/A	C/A	C/B	C/B	C/B	C/B	--/--	C/B
P-I	C/A	C/A	C/B	B/B	B/B	B/B	B/C	--/--

C. **Existing Adjacent Development without Bufferyards**. Where the adjoining property is existing and does not have the required bufferyard, the parcel proposed for development shall provide a bufferyard of the next higher classification than the greater screening of the two bufferyards required (*e.g.*, if the requirement is B/A, then the screening of the parcel proposed for development must install a Type C bufferyard).

D. **Relationship to Other Bufferyard Requirements**. Some limited or special uses have different requirements for bufferyards, as specified in Division 2.2.300, *Compatibility Standards for Limited and Special Uses*. If bufferyards are required by another section of this Code along property boundaries that are also district boundaries, then the greater bufferyard requirement shall supersede the lesser one (only one bufferyard is required).

E. **Buffering Existing Residential Development and Mixed Housing or Mixed Use Development**. New residential development is required to provide an increase in the level of screening of a bufferyard (*e.g.*, from Type A to Type B) when adjacent to an existing single-family detached, duplex, or single-family attached residential property or development, if:

1. The lot widths of the new development are less than 80 percent of the lot widths of the nearest lots of the existing development;
2. The building height(s) of the new development is (are) more than eight feet taller than the building height(s) of the existing property or development; or
3. The housing type that is located on the lots that abut the existing development is more dense than the housing type of the existing development (*e.g.*, new townhouse lots abutting existing single-family detached lots).

Effective on: 5/6/2016

Sec. 4.1.405 Credits for Existing Buffer Treatments

A. **Generally**. Existing trees and shrubs, fences, and walls may be counted towards the bufferyard requirements, provided that the trees are in good health and the fences or walls are structurally sound, in good repair, and of an upright condition.

B. **Existing Landscaping Credit**. Credit shall be given for existing trees or shrubs that are located within bufferyards according to the standards of Section 4.1.203, *Credit for Existing Trees*.

C. **Existing Fences and Walls**. If a fence or wall is already on a property line, then the City may waive the fence or wall requirement, provided:

1. The Zoning Administrator, or an appointee, verifies that the existing fence or wall is structurally sound, in good repair, and of an upright condition;
2. The height and level of screening of the fence or wall meets the intent of this Division with regard to buffering;
3. The applicant records an agreement with the City that includes appropriate assurances that if the existing fence or wall deteriorates, or is damaged, destroyed, or removed, the applicant will cause it to be repaired or replaced with a fence or wall that meets the bufferyard standards of this Division, as well as the requirements and standards of Section 10.2.103, *Fences and Walls*; and
4. The applicant's final plat or, if no plat is required, development approval, includes an annotation regarding the applicant's responsibilities under the agreement required by Subsection C.3, above.

Effective on: 5/6/2016

ARTICLE 4.2 TREE PROTECTION

Division 4.2.100 Tree Protection and Care

Sec. 4.2.101 Tree Protection

The following efforts shall be utilized to retain healthy, existing trees during construction and development on a site:

- Parking areas and building sites shall be located to preserve existing trees.
- Grates or other pervious surfaces shall be utilized within the drip line area of existing trees to allow water and air to reach the tree roots.
- Fill shall be prohibited in areas under the dripline of existing trees.
- Drastic changes in drainage patterns which might negatively affect existing trees shall be avoided.
- All trees to be retained shall have perimeter fencing at the extreme outer edge of the tree canopy. The fencing shall be chainlink, flagged with yellow caution tape or yellow pennants, and shall remain in place throughout the construction period. There shall be no activity of any kind inside the perimeter. No land clearing or building permits shall be issued until the perimeter of all tree stands have been properly fenced.

Effective on: 5/6/2016

Sec. 4.2.102 Maintenance and Care of Trees

A. **Generally.** Uses that require landscape plans shall provide for the care and maintenance of landscaping and trees within the landscape plan.

B. **Maintenance Responsibility.** The landowner is responsible for the maintenance of all landscaped areas, which includes abutting portions of public right-of-ways. Maintenance shall include keeping them in a proper, neat, and orderly appearance and free from litter and debris at all times, watering, pruning, and replacement.

C. **Maintenance Standards.**

1. Maintenance shall include mowing, trimming, weeding, mulching, re-staking, pruning, fertilizing, disease and insect control, irrigation, and other necessary operations.
2. All landscaped areas shall be kept free from refuse and debris.
3. Maintenance and care shall meet the following standards:
   a. Landscape areas, including abutting landscaped portions of public right-of-way, shall be pruned as needed to present a healthy, neat, and orderly appearance at all times.

b. ~~All landscaped areas shall be watered as needed to ensure continuous healthy growth and development subject to any active watering restrictions that may be in place.~~

c. Maintenance shall include the removal and replacement of dead, dying, or diseased plant material.

d. Trees extending over a street shall be kept pruned so as to not interfere with street traffic.

4. Nothing in this Section shall require any application or permit from any public utility provider prior to removing a tree whenever it has been determined that the tree poses a hazard, or interferes with restoration or continuation of utility services.

5. Whenever required maintenance is identified, the City shall notify the property owner and tenant of the required action in writing. The property owner/tenant shall have 10 days from the date of receipt of the written notification to advise the City of plans to correct the deficiency. Failure to remedy the maintenance problem, or an unacceptable plan to correct the maintenance problem, shall constitute a violation of this Code. Plan for corrective maintenance may include the following:

   a. Availability of plants;

   b. Availability of water (drought policies); or

   c. Availability of qualified contractors or workforce.

6. Irrigation systems shall be designed and operated to avoid watering impervious surfaces and streets and shall comply with all applicable regulations. Overhead irrigation methods shall not be used within five feet of driveways, sidewalks, or other hard surfaces. Landscape designers and property owners are encouraged to utilize xeriscaping and take advantage of its water-saving principles and practices.

7. The City shall have the authority to require that all dead trees, shrubs, and plants be replaced during the next planting season unless the property owner has decided to xeriscape the property.

8. All landscaping shall be subject to periodic inspection by the Zoning Administrator or an authorized representative, to determine compliance with the approved plan(s) and the requirements of this Section.

D. **Pruning Practices.** Topping, tipping, bark ripping, flush cutting, and stub cutting are prohibited for trees that are installed and maintained:

1. Pursuant to an approved landscape plan (except on single-family and duplex lots that are maintained by the property owner); or

2. Within the public right-of-way.

Effective on: 5/6/2016

Division 4.2.200 Landscape Plans, Installation, and Maintenance

Sec. 4.2.201 Landscape Plan Required

A. **Generally.** A landscape plan is required for all new development (excludes agricultural uses and one- and two-family dwellings) and substantial improvements, which require site plan approval. A landscape site plan shall be submitted to the Zoning Administrator for review and approval prior to the issuance of a building permit or plat approval, whichever is applicable. The approved site plan shall become part of the approved building plans and/or plat. Compliance with the standards of this Chapter shall be demonstrated by schematic landscape and irrigation plans and a landscape installation and maintenance plan. Collectively, these documents shall be referred to as the "landscape plan."

B. **Approval and Timing of Approval.**

1. Plans meeting the standards of this Code shall be approved. However, in reviewing the plans, adjustments in the location of plants may be required where the City finds such alterations would better serve the purposes for which they are intended.

2. Landscape plans containing street trees, open spaces, and residential bufferyards shall be submitted to the Zoning Administrator for approval.

3. Landscape plans containing development landscaping; nonresidential, mixed use, or multi-family bufferyards; shall be submitted for approval during the site plan review process, which is prior to the building permit stage.

C. **Period of Validity for Landscape Plan Approval**. Final plan approval shall not be valid for a period longer than 12 months from the date it is approved, unless within such period a building permit is obtained and all additional building permits necessary to complete the project, as approved in the final plan completion schedule, are obtained in a timely fashion as determined by the Zoning Administrator. An extension may be granted not to exceed 12 months upon written request of the original applicant and resubmission of the application. However, the Planning Commission has the power in such cases to attach new conditions to its re-approval or to disapprove the reapplication. (Code 2000, § 17.120.040(L); Ord. No. 3882, § 10, 3-27-2014)

D. **Variances and Appeals.**

1. *Variances.* Requests for exceptions to and variances from the provisions of this Code may be heard and granted by the Board of Zoning Appeals as set out in Section 11.2.411, *Variances*.

2. *Appeals.* Appeals of staff determinations in the administration of this Code may be submitted to the Planning Commission as set out in Section 11.2.401, *Administrative Appeals*.

E. **Offense**

1. It shall be considered an offense to remove, cut down, or destroy a protected tree in violation of the requirements and standards of this Code.

2. An offense under this Chapter does not require any degree of mental culpability.

F. **Penalties.** Penalties for an offense of this Chapter shall be in accordance with Division 13.1.200, *Enforcement*.

Effective on: 5/6/2016

Sec. 4.2.202 Contents of Landscape Plans

A. **Contents of Schematic Landscape Plan**. The landscape plan shall include the elements that are set out in this Section. The Zoning Administrator may waive elements of the landscape plan if it is found that they are unnecessary due to the type of development approval sought, or the conditions of the site being developed, or both. The Zoning Administrator is also authorized to require additional information on the landscape plan as needed to administer the requirements of this Code. The schematic landscape plan shall include all of the following information:

1. *Plan Drawing*. The landscape plan drawing shall include all of the following information:

   a. A plan view drawing prepared at a standard scale that ensures clarity of the proposal (scale shall be approved by the Zoning Administrator), which shall indicate:

      i. A north arrow and scale;

      ii. Existing and proposed topography and final grading of the site, shown at one-foot contours;

      iii. Dimensions and surfacing of all easements, pedestrian walkways, and pedestrian-oriented areas (existing and proposed);

      iv. Location and dimensions of maintenance easements for drainage facilities;

      v. Location of existing and proposed overhead and underground utilities;

      vi. Location and base floodef="!@947">flood elevation of floodplains;

      vii. Dimensions, slopes, and volume of stormwater detention areas;

      viii. Dimensions, surface area, and type of planting area (*e.g.*, bufferyard, parking lot landscaping, etc.) for each planting area;

      ix. The location and quantity of trees and shrubs to be installed, which shall be drawn at three-fourths (3/4) of mature size and annotated with planting schedules to include genus, species, common name, drought tolerance, and size at planting;

      x. The location, quality, size (diameter at breast height), and protected root zone of trees that are to be preserved on the site;

      xi. The location and extent of areas of groundcover; the groundcovers, turf, seed, or inorganic materials to be installed or planted; and the type of underlayment proposed to be used (if any);

      xii. Dimensions of all landscape elements, including fences, walls, border edge treatments, berms, water features, trash enclosures, street furniture, signage, public art, and recreational facilities, as applicable (the Zoning Administrator may

require details or specifications for landscape features or structures to be attached to the landscape plan in order to facilitate subsequent inspection);

xiii. General layout, design, and the wet coverage area of irrigation systems;

xiv. Special landscape features for stormwater detention and treatment, including the location, dimensions and volume of low impact development designs, such as green roofs, rain gardens, or bioswales;

xv. Dimensions and locations of sight distance triangles (*see* Section 6.2.207, *Site Triangle Requirements)*; and

xvi. Any credits that are requested for preserving existing trees pursuant to Table 4.1.203, *Credit for Preservation of Existing Trees*.

b. *Low Impact Development*. Information regarding specific low impact development design techniques that will be used to encourage surface water infiltration while preventing damage to the street section may be required by the City if it is found that there is good cause to believe that such damage could occur.

c. *Open Space Landscaping* (including common parking lots, if present). Landscaping in common open space areas shall be maintained by a property owners' association that is established pursuant to the requirements of Section 9.1.401, *Required Property Owners' Association*. In the alternative, the responsibility for maintenance of common open space may be allocated to a lessee, to a nonprofit conservation entity, or, if acceptable to the City Commission, the land may be dedicated to and maintained by the City. The maintenance responsibility shall be set out in the landscape plan that is required by this Section.

d. *Landscape Surface Area Landscaping* (including parking lots). Landscaping in designated landscape areas of nonresidential, mixed use, and multi-family development shall be maintained by the applicant or successor in interest. In nonresidential, mixed use, multi-family, or other residential developments that are subdivided or divided into condominium ownership, such successor in interest must be a mandatory property owners' association that collects dues for common area maintenance and that has a lien right for said dues. The maintenance responsibility shall be set out in the landscape plan that is required by this Section.

e. *Private Lot Landscaping*. Landscaping of private lots shall be the responsibility of the lot owner, unless a declaration of covenants, conditions, and restrictions assigns the responsibility to a property owner. The maintenance responsibility shall be noted in the landscape plan that is required by this Section.

f. *Street Trees* (as applicable). Existing street trees and street trees that are installed with new development shall be maintained by a developer, lot owner, tenant, property owners' association, or other entity having a legal interest in the ownership of the subdivision or lots in the subdivision. The maintenance responsibility shall be set out in the landscape plan that is required by this Section.

B. **Installation Details.** Schematic drawings of typical plant installation methods shall be provided. Such drawings shall indicate whether and how the soil will be augmented to support the growth and health of the plant material.

C. **Elevation Drawings.** Scaled elevation drawings of proposed bufferyards shall be provided.

D. **Water Source.** All landscape plans shall indicate the source or sources of irrigation water and the types of irrigation used. This information may be provided on a separate sheet.

E. **Schematic Irrigation Plans.** Landscape plans shall include a schematic irrigation plan that shows:

1. The proposed lap/backflow preventer and irrigation controller location;
2. The location of the manual gate valve that will control the entire irrigation system;
3. The anticipated type of irrigation proposed for each landscape area or irrigation zone (turf, shrub beds, etc.);
4. The recommended setback distance of all proposed irrigation heads from back of curb or edge of pavement; and
5. All proposed sleeve locations.

F. **Lighting and Utilities.** To reduce conflicts with other systems, landscape plans shall indicate all existing and proposed lighting and subsurface utilities.

G. **Tabular Data.** Tabular data shall show the area of each required landscape area, the number of each type of plant required in each area, each plant type used, the number of plants of each type to be installed, and the genus and species of plants used to meet the requirements of this Code.

Effective on: 5/6/2016

CHAPTER 5 PARKING, LOADING, ACCESS, AND LIGHTING

ARTICLE 5.1 PURPOSE AND APPLICATION OF CHAPTER

Division 5.1.100 Purpose and Application

Sec. 5.1.101 Purpose

The purpose of this Chapter is to ensure that:

A. **Parking**:

1. Adequate, durable off-street parking is provided for uses that are permitted by this Code.
2. Off-street parking areas are designed and illuminated to protect the safety of their users.
3. Sufficient parking is provided in nonresidential areas that are near residential neighborhoods, so that the character and quality of life of the residential neighborhoods are protected from overflow parking.
4. Reductions in off-street parking requirements are available to mixed use projects that utilize shared parking arrangements that account for differences in the timing of the peak parking demands of the various uses.

B. **Loading Areas**:

1. Adequate loading areas are provided to support the uses to which they relate.
2. Loading areas do not interfere with parking and circulation and do not disturb the use of adjacent properties or of public right-of-way.

C. **Site Access:**

1. Adequate access is provided for both vehicular and non-vehicular modes of travel.
2. Access is managed along streets with a functional classification of collector or higher such that traffic safety and mobility is improved.
3. Cross-access is provided between parcels that contain compatible uses to reduce turning movements on adjacent public streets and, thus, improve traffic safety and mobility.

Effective on: 5/6/2016

Sec. 5.1.102 Application

A. **Generally.** Except as provided in Subsections B.2. and B.3., below, the standards of this Chapter apply to:

1. All redevelopment and new development.
2. All substantial improvements to existing development.
3. Any expansion of a building that is equal to or greater than 10 percent of the existing gross floor area, regardless of whether the expansion would otherwise qualify as a "substantial improvement."

B. **Parking Requirements**. The numerical parking requirements set out in Section 5.2.102, *Required off-Street Parking and Loading Spaces*, apply to:

1. All redevelopment and new development.
2. Changes in the use of existing buildings. However, shopping centers are required only to conform to the standards for shopping centers (provided that parking is not reserved for individual tenants), and a change of any individual use within the center does not require re-assessment of parking demand.
3. The net new area of any building, structure, or outdoor use that is modified or expanded.

C. **Exemption**. By reason of the character and function of the Central Business District (C-3), the off-street parking provisions of this Article do not apply.

Effective on: 5/6/2016

ARTICLE 5.2 PARKING AND LOADING

Division 5.2.100 Parking and Loading Calculations

Sec. 5.2.101 Calculation of Required Parking Spaces

A. **Generally.** The number of required parking spaces is calculated according to the formulas set out in this Section, which then may be adjusted per the standards set out in Section 5.2.102, *Required Off-Street Parking Spaces*.

B. **Variables for Calculating Required Parking.** The variables used for parking calculations are measured as follows:

1. *Per Square Foot (sf.) of Parking Floor Area (PFA)*. The phrase "per sf. of PFA" means that the number of parking spaces is calculated based on the number of "parking-related" square feet of floor area put to the use. The "PFA" is 85 percent of the gross floor area, plus (unless otherwise specified) the area of any parts of the parcel proposed for development that are delineated and used in a manner that is comparable in function and intensity of use to the use of the inside of the building (*e.g.*, outdoor dining areas).
2. *Per Dwelling Unit (DU)* or *Per Bedroom (BR)*. The phrase "per '#' DU" means that the number of parking spaces is calculated based on the number of dwelling units. In some cases, the parking requirements are based on the number of bedrooms (per "#" BR unit) in the dwelling units.

3. *Per Bed*. The phrase "per bed" means that the number of parking spaces is based on the number of beds in the facility instead of the number of sleeping rooms or some other measure. Per bed calculations are normally applied to uses that offer residential care or hotels/motels with shared rooms.
4. *Per Full or Part-Time Employee*. The phrase "per employee" means that the number of parking spaces is based on the number of employees during the shift in which the maximum number of employees is present.
5. *Per Seat Capacity*. The phrase "per seat" means that the number of parking spaces is based on the number of seats that are provided for guests (patrons, members, etc.), with benches or pews measured as one seat per each two feet of length; and
6. *Per Square Feet (sf.) of Assembly Area*. The phrase "per sf. of assembly area" means that the number of parking spaces is based on the number of square feet in the largest room used for assembly (*e.g.*, at a school, this is often a gymnasium, but it could also be a theater or lunch room).
7. *Others*. Other variables are measured according to their common meanings.

C. **Rounding.** If the final calculation of the number of required parking spaces includes the fraction of less than one-half less it may be disregarded, however, a fraction in excess of one-half shall be counted as one parking space (*e.g.*, 1.37 = 1 parking space; 1.72 = 2 parking spaces).

D. **Mixed use or Multiple Nonresidential Uses.** If several mixed use or nonresidential uses occupy a single parcel or building, the off-street parking and loading requirements shall be the cumulative total for all uses, or as set out in Section 5.2.102, *Required Off-Street Parking Spaces*, and Section 5.2.204, *Off-Street Loading*, whichever is lesser.

Effective on: 5/6/2016

Sec. 5.2.102 Required Off-Street Parking Spaces

A. **Purpose**. The main purpose of this Division is to establish standards ensuring the availability and safe use of parking lots.

B. **Applicability of Division**. Excluding the Central Business District (C-3):

1. All new development and redevelopment shall provide all of the parking spaces required by this Section and shall comply with all other provisions of this Chapter.
2. Expansions to existing development and changes in use of existing buildings that require additional parking shall provide parking to the extent of the new demand created by the expansion or change in use.
3. Changes in use of existing buildings that result in a fewer required parking spaces shall not require additional parking spaces.

C. **Required Parking.** The parking spaces required for individual uses are provided in this Subsection delineated by the land use classifications set out in Chapter 2, *Zoning Districts and Land Uses*.

1. *Residential and Commercial Uses of the Home*. Required off-street parking for residential and commercial uses of the home and special neighborhood types are set out in Table 5.2.102A, *Residential and Commercial Uses of the Home Parking Requirements*.

Table 5.2.102A
Residential and Commercial Uses of the Home Parking Requirements

Use	Required Off-Street Parking Spaces
Residential Uses (Housing Types)	
Single-Family Detached	
- Single-Family Detached	2 spaces per du.
- Manufactured Home	2 spaces per du.
- Modular Home	2 spaces per du.
Single-Family Attached	
- Duplex	2 spaces per du.
- Triplex	2 spaces per du.
- Townhouse	2 spaces per du.
- Live-Work Unit	3 spaces per du.
Multi-Family	
- Apartment	1.5 spaces for efficiency unit and 1 BR; 2 spaces per du for 2 BR +
- Dormitories, fraternities, sororities	2 parking spaces for each 3 occupants
- Mixed Use Lofts	1 space per BR (including those used by residents and guests; additional spaces for the dwelling unit are not required)
Neighborhood Types	
Standard Residential Neighborhood	Individual spaces as set out residential uses above
Planned Development	Individual spaces as set out residential uses above
Mixed Use	Individual spaces as set out residential uses above
Manufactured Home Park or Subdivision	Individual spaces as set out above
Recreational Vehicle (RV) Park	1 space per RV pad (not including RV space) + 2 visitor spaces for each 5 recreational vehicle spaces
Commercial Uses of the Home	
Child-Care Facility, Family Day Care Home	1 space per each 3 children on the premises at any one time + 1 space per each provider, staff member, or employee on duty at any one time
Child-Care Facility, Group Day Care Home	Greater of: 1 space per 3 rooms or 1 space per BR
Child-Care Facility, Youth Residential	Greater of: 1 space per 3 rooms or 1 space per BR

Table 5.2.102A Residential and Commercial Uses of the Home Parking Requirements	
Use	Required Off-Street Parking Spaces
Home Occupations	No additional parking required
Table Notes: DU = Dwelling Unit BR = Bedroom	

2. *Institutional, Recreation and Amusement Uses*. Required off-street parking for institutional, recreation, and amusement uses are set out in Table 5.2.102, *Institutional, Recreation and Amusement Uses Parking Requirements*.

Table 5.2.102B Institutional, Recreation, and Amusement Uses Parking Requirements	
Use	Required Off-Street Parking Spaces
Institutional Uses	
Assisted Living Facility	1 space per 3 du's; if not configured as individual du's OR 1 space per each employee + 1 space for each 4 beds
Cemetery or Mausoleum	Greater of: sum of 1 space per 100 sf. of indoor assembly space + 3 spaces per 1,000 sf. of office floor area; or 20 spaces per acre of grave sites
College/University/Vocational School	Special Study (*see* Section 5.2.103, *Special Studies*)
Funeral Home/Mortuary/Funeral Chapel/Crematory	1 space per 4 seats + 1 space per employee and each vehicle maintained on-site
Government and Public Institutions	1 space per 300 sf. PFA
Group Day Care Center	1 space per 300 sf. PFA
Hospitals	Special Study (*see* Section 5.2.103, *Special Studies*)
Library	1 space per 300 sf. PFA
Medical Office / Clinic / Medical Lab	1 space per 250 sf. PFA
Museum	1 space per 300 sf. PFA
Non-Profit Institutions	1 space per 300 sf. PFA
Nursing / Convalescent Home	1 space per 5 beds + 1 space per 1 employee on the largest shift
Places of Public Assembly (event facilities; meeting halls; private clubs; lodges; places of worship)	Greater of 1 space per 200 sf. PFA or 1 space for each 3.5 seats
Schools, Private	2 spaces per each classroom
Schools, Public	2 spaces per each classroom
Recreation and Amusement Uses	

Table 5.2.102B Institutional, Recreation, and Amusement Uses Parking Requirements	
Use	Required Off-Street Parking Spaces
Institutional Uses	
Campground	1 space per camp site + 1 space per 10 camp sites
Commercial Amusement, Indoor	6 spaces per 1,000 sf. PFA
Commercial Amusement, Outdoor	Special Study (*see* Section 5.2.103, *Special Studies*)
Golf Course	3 spaces per hole + 3 spaces per 4 driving range stations (if applicable)
Recreation and Fitness, Indoor	1 space per 300 sf. PFA
Recreation and Fitness, Outdoor	Greater of: 1 space per each 5 persons seat capacity + 1 space per each 4 seats; or 1 space per each 30 sf. PFA
Table Notes: DU = Dwelling Unit PFA = Per Square Foot of Parking Floor Area SF = Square Feet	

3. *Commercial Uses.* Required off-street parking for commercial uses are set out in Table 5.2.102C, *Commercial Uses Parking Requirements.*

Table 5.2.102C Commercial Uses Parking Requirements	
Use	Required Off-Street Parking Spaces
Commercial Uses	
Alcohol Beverage Sales	Onsite consumption: 1 space per 75 sf. PFA Offsite consumption: 1 space per 300 sf. PFA
Animal Grooming Facilities	1 space per 400 sf. PFA
Animal Boarding or Veterinarian Services, Large Animal	1 space per 200 sf. PFA
Animal Boarding or Veterinarian Services, Small Animal	1 space per 300 sf. PFA
Drinking Establishment	1 space per 75 sf. PFA
Drive-In, Drive-Through Facility	1 space per 75 sf. PFA; minimum 10 spaces
Farmers' Market	Greater of 1 space per 300 sf. PFA or 1 space per each 2 vendors; minimum 10 spaces
Grocery Store	1 space per 200 sf.
Heavy Retail	1 space per 400 sf. PFA + 1 space per 1,000 sf. outdoor sales and display area

Table 5.2.102C Commercial Uses Parking Requirements	
Use	Required Off-Street Parking Spaces
Commercial Uses	
Hotel/Motel	1 space per guest room + 1 space per 300 sf. PFA of meeting rooms, ballrooms, administrative offices, and areas used for self-service breakfast for guests only + 75% of parking requirements for integrated restaurants and bars that are open to the public
Mixed Use	Based on uses in this Section or by Special Study (*see* Section 5.2.103, *Special Studies*)
Nursery / Greenhouse, Retail	1 space per 300 sf. PFA of office or sales floor area + 1 space per 5,000 sf. of outdoor nursery area
Office, General	1 space per 300 sf. PFA
Parking Lot, Stand Alone	Based on uses in this Section or by Special Study (*see* Section 5.2.103, *Special Studies*)
Parking Structure, Stand Alone	Based on uses in this Section or by Special Study (*see* Section 5.2.103, *Special Studies*)
Pawn Shop	1 space per 200 sf. PFA
Personal Services	4 spaces per 1,000 sf. PFA
Restaurant	Greater of 1 space per each 200 sf. PFA; or 1 space per each 4 seats
Retail Sales and Services	1 space per 200 sf. PFA
Showrooms	2 space per 1,000 sf. of showroom and repair areas
Vehicle Gas and Fueling Station	1 space per 250 sf. PFA
Vehicle Sales, Rental, and Service	1 space per employee on maximum shift + 3 spaces per service bay or fueling stall + 1 space per 125 sf. PFA of convenience store floor area
Vehicle Wash	3 holding spaces per vehicle wash stall + 2 drying spaces per vehicle wash stall
Table Notes: PFA = Per Square Foot of Parking Floor Area SF = Square Feet	

4. *Agriculture, Industrial, Utility, Transportation, and Communication Uses.* Required off-street parking for agriculture, industrial, transportation, utility, and communication uses are set out in Table 5.2.102D, *Agriculture, Industrial, Transportation, Utility and Communication Uses Parking Requirements.*

Table 5.2.102D Agriculture, Industrial, Utility, Transportation, and Communication Uses Parking Requirements	
Use	Required Off-Street Parking Spaces
Agriculture, General	
Agriculture, General	N/A
Farming Equipment Sales and Service	1 space per 400 sf. PFA of office space; plus one space per 600 sf. of showroom and one space per 5,000 sf. of outdoor equipment display area
Farm Stand	1 space per 300 sf. PFA; minimum 5 spaces
Horse Riding Stables and Academies (including private)	1 space per 6 stalls
Nursery / Greenhouse, Wholesale	1 space per 500 sf. PFA of office or sale floor area + 1 space per 5,000 sf. of outdoor nursery
Industrial	
Commercial Retail, Heavy (building supply)	1 space per 250 sf. PFA + 1 space per 1,000 sf. of outdoor sales or display area
Heavy Truck or Recreational Vehicle Sales, Service, and Repair	1 space per 500 sf. PFA of office space + 1 space per 1,000 sf. of showroom and 1 space per 3,000 sf. of outdoor equipment or vehicle display area
Landfill	1.25 spaces per disposal vehicle
Light Industry	1 space per 500 sf. PFA
Manufacturing and Fabrication	4 spaces per 10,000 sf. of PFA + 1 space per 2 employees on the largest shift
Manufacturing and Storage (bulk oil, gas, and explosives)	4 spaces per 10,000 sf. of PFA + 1 space per 2 employees on the largest shift
Oil / Gas Operations (exploration and extraction)	1 space per employee on the largest shift
Petroleum Refining and Fuel Storage	1 space per employee on the largest shift
Recycling Collection Facility	1 space per 1,000 sf. PFA facility
Researching and Testing Laboratories	1 space per 300 sf. PFA
Storage, Flammable Materials or Substances	Special Study (*see* Section 5.2.103, *Special Studies*)
Storage, Self	1 space per 25 storage units + 1 space per 300 sf. PFA of office space
Storage Yard	Greater of 1 space per 300 sf. PFA or 1 space per 3,000 sf. of storage yard
Vehicle Repairs and Service, Heavy	1 space per 400 sf. PFA of office space + 1 space per 600 sf. of showroom and 1 space per each 5,000 sf. outdoor vehicle display area
Vehicle Wrecking and Salvage Yard; Junkyard	1 space per employee + 1 space for each 10,00 sf.

Table 5.2.102D Agriculture, Industrial, Utility, Transportation, and Communication Uses Parking Requirements	
Use	Required Off-Street Parking Spaces
Agriculture, General	
Agriculture, General	N/A
Farming Equipment Sales and Service	1 space per 400 sf. PFA of office space; plus one space per 600 sf. of showroom and one space per 5,000 sf. of outdoor equipment display area
Farm Stand	1 space per 300 sf. PFA; minimum 5 spaces
Horse Riding Stables and Academies (including private)	1 space per 6 stalls
Nursery / Greenhouse, Wholesale	1 space per 500 sf. PFA of office or sale floor area + 1 space per 5,000 sf. of outdoor nursery
Industrial	
	of storage area
Warehousing and Distribution	4 spaces per 5,000 sf. of PFA + 1 space over each additional 5,000 sf. PFA
Wholesale Services	1 space per 400 sf. PFA
Transportation Uses	
Airport	Special Study (*see* Section 5.2.103, *Special Studies*)
Helistop	Special Study (*see* Section 5.2.103, *Special Studies*)
Railroad Yard	Special Study (*see* Section 5.2.103, *Special Studies*)
Transportation Stop (bus and taxi)	Special Study (*see* Section 5.2.103, *Special Studies*)
Transportation Terminal (rail and truck)	1 space for each 2 employees on shift + 1 space for each vehicle maintained on premises
Utility Uses	
Power Generation, Small-Scale (renewable, noncombustible)	Special Study (*see* Section 5.2.103, *Special Studies*)
Power Generation, Utility Scale	Special Study (*see* Section 5.2.103, *Special Studies*)
Public Utilities	Special Study (*see* Section 5.2.103, *Special Studies*)
Substations (electrical and telephone)	1 space
Wireless Telecommunication Facility (WTF)/Communication Uses	
Radio and Television Studios	Special Study (*see* Section 5.2.103, *Special Studies*)
WTF, Attached	1 space per each free standing facility (may be grass pavers)
WTF, Freestanding Non-Stealth	2 spaces per tower

Table 5.2.102D Agriculture, Industrial, Utility, Transportation, and Communication Uses Parking Requirements	
Use	Required Off-Street Parking Spaces
Agriculture, General	
Agriculture, General	N/A
Farming Equipment Sales and Service	1 space per 400 sf. PFA of office space; plus one space per 600 sf. of showroom and one space per 5,000 sf. of outdoor equipment display area
Farm Stand	1 space per 300 sf. PFA; minimum 5 spaces
Horse Riding Stables and Academies (including private)	1 space per 6 stalls
Nursery / Greenhouse, Wholesale	1 space per 500 sf. PFA of office or sale floor area + 1 space per 5,000 sf. of outdoor nursery
Industrial	
WTF, Freestanding Stealth	2 spaces per tower
Table Notes: N/A = Mot Applicable PFA = Per Square Foot of Parking Floor Area SF = Square Footage	

D. **Uses Not Listed**. The Zoning Administrator shall determine the parking requirements for uses that are not listed based on the uses that are most similar to the proposed uses (*see* Division 2.2.300, *Compatibility Standards*) or based on parking studies of similar uses that are provided by the applicant and certified by a qualified transportation planner or professional engineer.

Effective on: 5/6/2016

Sec. 5.2.103 Special Studies

A. **Generally.** Some of the uses that are listed in the tables set out in Section 5.2.102, *Required Off-Street Parking Spaces*, have nonlinear or widely varying parking demand characteristics. Accordingly, their parking requirements are listed in the tables as "Special Study." Required parking for these uses shall be established by special study according to the standards of this Section. A special study shall also be required for any land use not listed in Section 5.2.102, *Required Off-Street Parking Spaces*, unless determined by the Zoning Administrator ~~Board of Zoning Appeals~~ to be functionally similar to another use in the tables in Section 5.2.102, *Required Off-Street Parking Spaces*.

B. **Requirements.**

1. The special study shall be conducted by a qualified transportation planner or traffic engineer at the applicant's expense (determined by the Zoning Administrator).

2. The special study shall provide:

a. A peak parking analysis of comparable uses.

b. Documentation regarding the comparability of the referenced uses, including name, function, location, gross floor area, parking availability, access to transportation network (including vehicular or other if applicable), use restrictions, and other factors that could affect the parking demand.

C. **Approval of Special Study.**

1. The Zoning Administrator may rely upon the special study or may request one round of additional information or analysis, including, but not limited to, alternative or new data points, or consideration of additional or alternative factors related to comparability or peak demand, as supported by sound transportation planning or traffic engineering principles.

2. As a condition of approval of a special study, the Zoning Administrator may require that land be reserved or land-banked for additional parking if there is a high probability that the use could change, resulting in a higher demand for parking and a need for additional spaces.

Effective on: 5/6/2016

Sec. 5.2.104 Parking Credits and Reductions

A. **Generally.** This Section sets out credits and reductions in the number of required off-street parking spaces. These credits or reductions are based on the provision of alternative parking or demand management programs that tend to reduce the demand for parking. If used in conjunction with Section 5.2.101, *Calculation of Required Parking Space*s, Subsection D., *Mixed Use and Shared Parking*, these reductions may be applied to reduce the parking requirement for the use prior to calculating the shared parking reduction.

B. **Applicability to Special Studies.** The credits and reductions are not available for uses that base their parking on a special study, as set out in Section 5.2.103, *Special Studies*, unless the special study's methodology specifically addresses these credits and reductions and determines that they are appropriate and will not result in a parking deficiency.

C. **Reduction of Parking or Loading Requirements by Demonstration of Lesser Demand.**

1. The Zoning Administrator may approve a reduction in the number of required parking spaces if the applicant demonstrates that a reduction is appropriate based on specific parking demand forecasts for the proposed use, provided that:

a. The forecasts are made by a qualified transportation planner or traffic engineer and are based upon a peak parking analysis of comparable uses; and

b. The comparability of the uses is documented in detail, which includes their location, gross floor area, street access, use types and restrictions, hours of operation, peak parking demand periods, and all other factors that could affect parking demand.

2. The City may retain a qualified transportation planner or traffic engineer, at the applicant's expense, to review the parking demand forecast and provide recommendations to the City.

3. The City may rely on the applicant's special study or a special study conducted by an independent qualified transportation planner or traffic engineer.

4. The Zoning Administrator may require that space be reserved or land-banked for additional parking upon a determination that there is a reasonable likelihood that the use itself or the nature of the use or building could change in a manner that increases its parking demand and a need for additional spaces.

Effective on: 5/6/2016

Sec. 5.2.105 Mixed Use and Shared Parking

A. **Generally.** The City recognizes that uses may have different hours of operation and peak parking demand hours. For this reason, the City desires to encourage the sharing of parking for its potential to reduce impervious areas and/or to enhance the efficiency of land use. Where a mix of uses creates synergy with respect to the use of parking spaces due to differences in when the spaces are most likely to be used, the Zoning Administrator may reduce the required number of spaces according to the provisions of this Section.

B. **Shared Parking, Common Ownership.** Shared parking allows a reduction in the total number of required parking spaces when a parcel is occupied by two or more uses which typically do not experience peak use of parking areas at the same time. When any land or building is used for two or more uses that are listed below, the minimum total number of required parking spaces may be determined by the following procedures:

1. Multiply the minimum required parking for each individual use, excluding spaces reserved for use by specified individuals or classes of individuals (*e.g.*, spaces that are either posted "reserved," or secured behind a gate), by the appropriate percentage listed in Table 5.2.105A, *Mixed Use and Shared Parking*, for each of the designated time periods.

2. Calculate a sum for all uses for each of the five time periods (columns). The minimum parking requirement is the highest of these sums. Set out in Table 5.2.105B, *Illustrative Shared Parking Credit Calculation*, is an example of how to calculate shared parking credits.

3. In general, the maximum reduction allowed shall be no more than 25 percent of the total cumulative spaces required for all uses. However, a greater reduction may be permitted by the Zoning Administrator, provided that:

   a. Sufficient land is set aside on-site for each parking space in excess of the 25 percent reduction that is not constructed, so that the spaces may be constructed at a later date should the Zoning Administrator determine that they are necessary; and

   b. The property owner executes and records a document that guarantees that the spaces will be constructed on-site upon written order of the Zoning Administrator.

Table 5.2.105A Mixed Use and Shared Parking					
	Weekday			Weekend	
Use	Night (12 a.m. to 8 a.m.)	Day (8 a.m. to 6 p.m.)	Evening (5 p.m. to 12 a.m.)	Day (8 a.m. to 6 p.m.)	Evening (5 p.m. to 12 a.m.)
Residential	100%	60%	90%	80%	90%
Office	5%	100%	10%	10%	5%
Retail / Commercial	5%	70%	90%	100%	70%
Hotels/Motels	80%	80%	100%	50%	100%
Restaurant	10%	50%	100%	50%	100%
Entertainment	10%	40%	100%	80%	100%
All Others	100%	100%	100%	100%	100%

Table 5.2.105B Illustrative Shared Parking Credit Calculation					
EXAMPLE: A mixed use building in a standard development has 50, 2-bedroom residences, 50,000 square feet of general office space, and 50,000 square feet of retail space. Separately, these uses would require 450 parking spaces ((50 sp. x 2 sp. / unit) + (50,000 sf. x (3 sp. / 1,000 sf.)) + (50,000 sf. x (1 sp. / 250 sf.)) = 450). However, combined, they could share 350 parking spaces.					
	Weekday			Weekend	
Use	Night (12 a.m. to 6 a.m.)	Day (6 a.m. to 6 p.m.)	Evening (6 p.m. to 12 a.m.)	Day (6 a.m. to 6 p.m.)	Evening (6 p.m. to 12 a.m.)
Residential *100 spaces*	100% x 100 = 100	60% x 100 = 60	90% x 100 = 90	80% x 100 = 80	90% x 100 = 90
Office *150 spaces*	5% x 150 = 8	100% x 150 = 150	10% x 150 = 15	10% x 150 = 15	5% x 150 = 8
Retail / Commercial *200 spaces*	5% x 200 = 10	70% x 200 = 140	90% x 200 = 180	100% x 200 = 200	70% x 200 =140
Hotels/Motels	80% x 0 = 0	80% x 0 = 0	100% x 0 = 0	50% x 0 = 0	100% x 0 = 0
Restaurant	10% x 0 = 0	50% x 0 = 0	100% x 0 = 0	50% x 0 = 0	100% x 0 = 0
Entertainment	10% x 0 = 0	40% x 0 = 0	100% x 0 = 0	80% x 0 = 0	100% x 0 = 0
All Others	100% x 0 = 0	100% x 0 = 0	100% x 0 = 0	100% x 0 = 0	100% x 0 = 0
COLUMN TOTALS	118	350	285	295	238
TABLE NOTE: The largest number, 350, is the number of parking spaces that are required. This example is a 22					

Table 5.2.105B Illustrative Shared Parking Credit Calculation					
EXAMPLE: A mixed use building in a standard development has 50, 2-bedroom residences, 50,000 square feet of general office space, and 50,000 square feet of retail space. Separately, these uses would require 450 parking spaces ((50 sp. x 2 sp. / unit) + (50,000 sf. x (3 sp. / 1,000 sf.)) + (50,000 sf. x (1 sp. / 250 sf.)) = 450). However, combined, they could share 350 parking spaces.					
	Weekday			Weekend	
Use	Night (12 a.m. to 6 a.m.)	Day (6 a.m. to 6 p.m.)	Evening (6 p.m. to 12 a.m.)	Day (6 a.m. to 6 p.m.)	Evening (6 p.m. to 12 a.m.)
percent reduction compared to the cumulative parking of the individual uses.					

C. **Shared Parking Among Lots Under Different Ownership.** When a shared parking reduction is to be applied to uses on several lots under different ownership, the following shall be provided:

1. A plan that provides for interconnected parking lots;
2. Recorded easements, on a form acceptable to the City Attorney, that provide, at a minimum, for:
   a. Cross-access among the parking areas and connections to allow parking by the different uses anywhere on the connected properties;
   b. Allocation of maintenance responsibilities;
   c. A pedestrian circulation system that connects uses and parking areas, making it easy and convenient for pedestrians to move between uses; and
   d. A right of enforcement by the City.

Effective on: 5/6/2016

Sec. 5.2.106 Bicycle Parking

A. **Generally.** Where bicycle parking is provided, this section applies.

B. **Application Where Vehicular Parking is Reduced.** If the number of vehicular parking spaces is modified by application of Section 5.2.105, *Mixed Use and Shared Parking*, then the number of bicycle spaces, if required, shall be based on the number of spaces required after application of Section 5.2.105, *Mixed Use and Shared Parking*, even if credits from other section (except those related to bicycle parking) are applied first. However, if the number of vehicular parking spaces is reduced by application of Section 5.2.104, *Parking Credits and Reductions*, then the number of bicycle parking spaces, if required, shall be based on the number of vehicular parking spaces that were required before application of the credit.

C. **Replacement of Off-Street Parking Spaces with Bicycle Parking Spaces**. Any nonresidential development in an district may convert or substitute up to five percent of the required off-

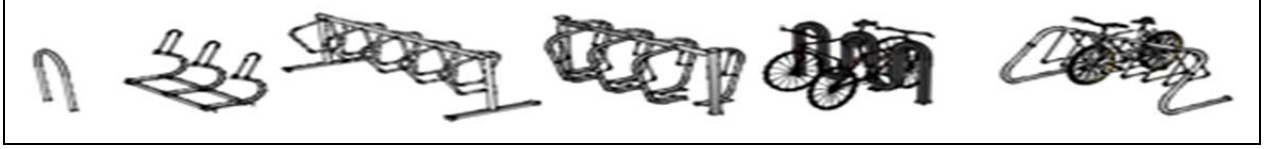
street parking spaces (to a maximum of five automobile parking spaces) into additional bicycle parking spaces (not already required by the UDC) at the following ratios:

1. One automobile parking space for every six covered bicycle spaces (including spaced within covered bicycle cages); and
2. One automobile parking space for every two bicycle lockers.

D. **Bicycle Parking Design Standards.** If provided, bicycle parking shall be designed with the following characteristics:

1. The bicycle frame and one wheel can be locked to the rack with a high security, U-shaped lock with both wheels left on the bicycle (designs that only allow one locking point at the wheel are prohibited);
2. A bicycle that is six feet long can be securely held with its frame supported so that the bicycle cannot be pushed or fall in a manner that will damage the wheel components; and
3. The racks are securely anchored to a hard surface (*see* Figure 5.2.106, *Illustrative Permitted Bicycle Parking System*).

Figure 5.2.106
Illustrative Permitted Bicycle Parking System



Effective on: 5/6/2016

Division 5.2.200 Parking and Loading Design Standards

Sec. 5.2.201 Location of Parking Area

A. **Generally.** All parking spaces and areas shall be designed and constructed to protect adjacent residences from impacts resulting from use, including the direct glare of headlights of vehicles using the parking area.

B. **Location of On-Site, Off-Street Parking.** Parking shall be set back behind any required bufferyard or as specified in Section 4.1.403, *Bufferyards for Parking Lots and Vehicular Use Areas*. Parking spaces, aisles, and turning areas shall not encroach upon or overhang any street, driveway, or public right-of-way.

C. **Location of Off-Site, Off-Street Parking.** Parking or overflow parking may be located off site in common parking areas no more than 300 feet (as measured along lines of public access) from the use which it serves.

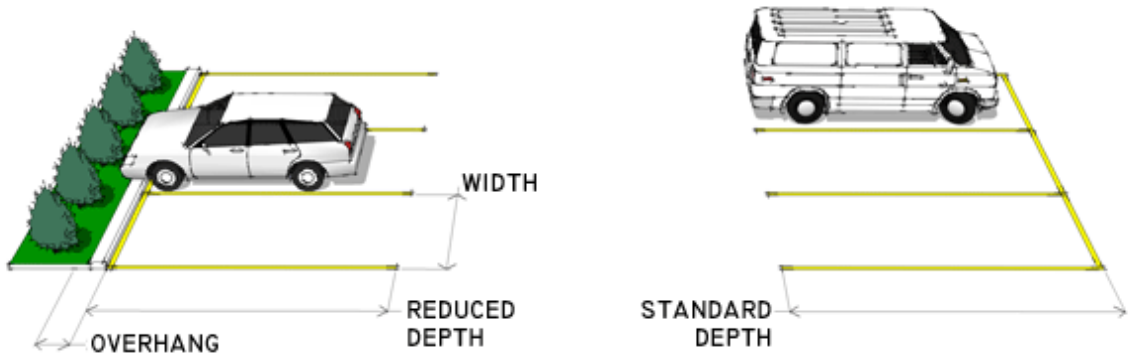
Effective on: 5/6/2016

Sec. 5.2.202 Parking Space and Module Standards

A. **Dimensions of Standard Parking Spaces.** Parking spaces shall have the following dimensions.

1. Generally: 9 ft. width x 20 ft. standard depth, exclusive of access drives, or aisles, ramps, columns, office or work areas.
2. 90-degree parking spaces that abut curb or edge of pavement (allowing for overhang): 9 ft. width x 18 ft. reduced depth (*see* Figure 5.2.202A, *Parking Space Dimensions*), provided there is an area for bumper overhang with a minimum width of six feet.
3. Parallel (0 degree) parking spaces: 8 ft. width x 20 ft. depth.

Figure 5.2.202A
Parking Space Dimensions



B. **Dimensions of Disabled Parking Spaces.** Disabled parking spaces shall be dimensioned as required by the Americans with Disabilities Act Accessibility Guidelines.

C. **Number of Disabled Parking Spaces.** Disabled parking spaces shall be provided as required by the Americans with Disabilities Act Accessibility Guidelines, as amended from time to time. The requirements as of the effective date are set out in Table 5.2.202A, *Disabled Parking Requirements*; however, in the event of amendment to Americans with Disabilities Act Accessibility Guidelines (ADAAG), ADAAG standards shall control. Disabled parking is included in the total number of required parking spaces.

Table 5.2.202A
Disabled Parking Requirements

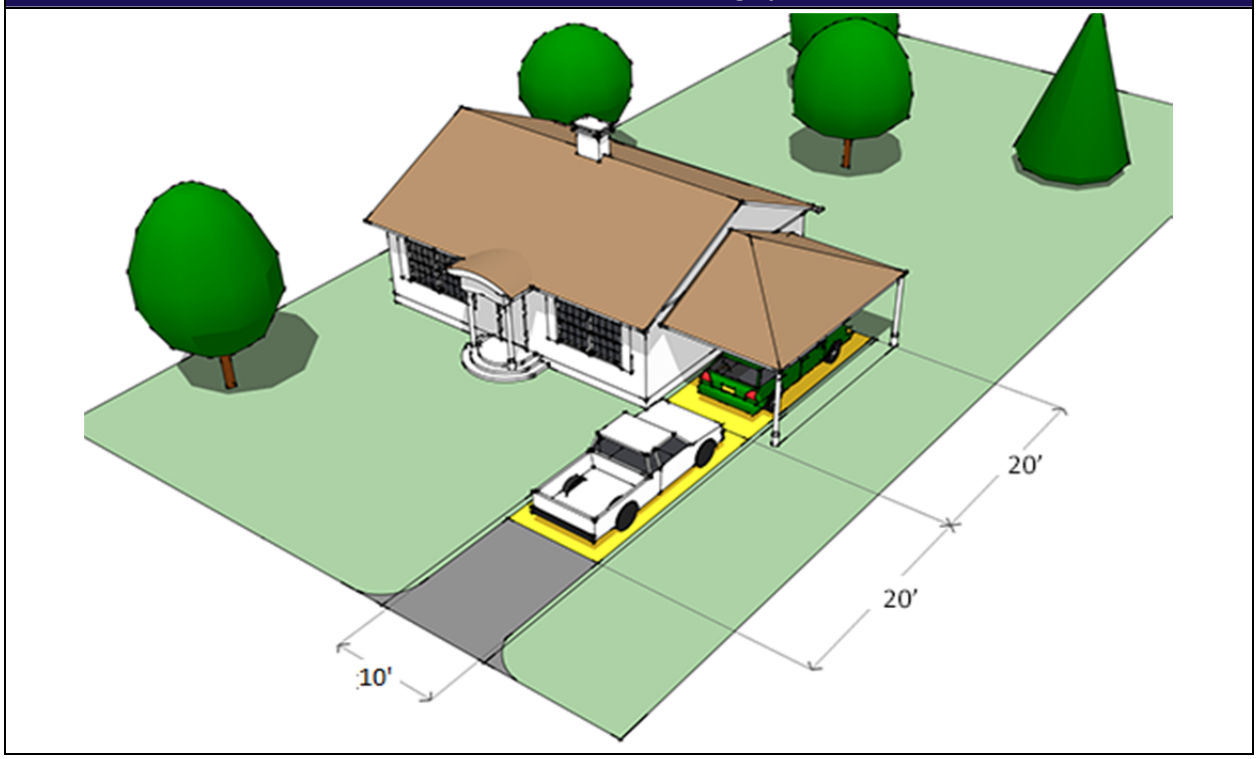
Number of Required Parking Spaces	Number of Disabled Spaces	Number of Disabled Spaces that Must be Van Accessible[1]
1 to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1

Table 5.2.202A Disabled Parking Requirements		
Number of Required Parking Spaces	**Number of Disabled Spaces**	**Number of Disabled Spaces that Must be Van Accessible[1]**
101 to 150	5	1
151 to 200	6	1
201 to 300	7	1
301 to 400	8	1
401 to 500	9	2
501 to 1000	2 percent of total	1 out of 8 disabled parking spaces, rounded up
1001 and over	20 plus 1 for each 100 over 1,000	1 out of 8 disabled parking spaces, rounded up
TABLE NOTE: [1] Van accessible spaces are counted as disabled parking spaces and are not an additional requirement. Americans with Disabilities Act Accessibility Guidelines (ADAAG) requirements also provide for "universal spaces" which eliminate the need for designated van accessible spaces.		

D. **Parking Space Markings.**

1. All standard and disabled parking spaces that are located in parking lots shall be clearly marked.
2. Parking spaces for residential uses that are located in private garages, carports, or individual driveways do not have to be marked. An area on a private residential lot is considered a parking space if:
   a. The area is at least 10 feet by 20 feet in dimension;
   b. The area does not encroach upon a public sidewalk;
   c. The area is improved with an all-weather, dustless material such as asphalt, concrete, asphaltic concrete, or other equivalent material; and
   d. The area is accessible from the street (*see* Figure 5.2.202B, *Private Residential Parking Spaces*).

Figure 5.2.202B
Private Residential Parking Spaces



E. **Vertical Clearance.** A vertical clearance of not less than eight feet shall be provided over all parking spaces. Additional clearance shall be provided for larger vans, sports utility vehicles, and light trucks that require such clearance if parking demand from such vehicles is anticipated. All parking structure entrances shall include an overhead bar to alert oversized vehicles regarding clearance.

F. **Parking Module Dimensions.** Parking modules shall be dimensioned as shown in Table 5.2.202B, *Minimum Horizontal Parking Dimensions for Standard Automobiles*. The dimensions that are set out in the table are illustrated in Figure 5.2.202C, *Parking Module Measurements*.

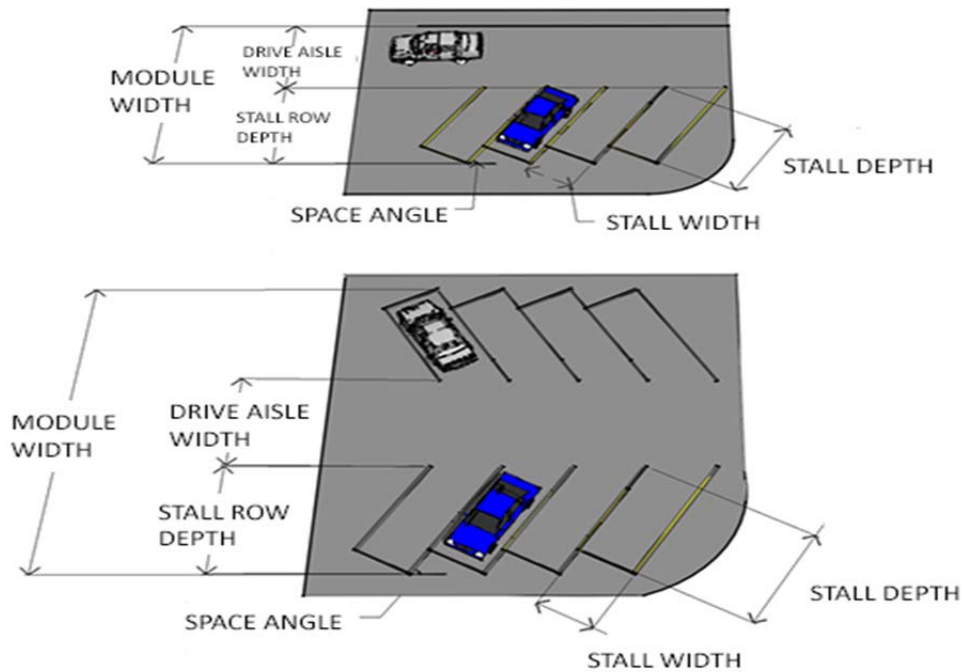
Table 5.2.202B
Parking Module Dimensions

Measurement[1]	Parking Space Angle (Degrees)			
	0 / Parallel Parking	45	60	90
One Stall Row, One-Way Aisle				
Stall Row Depth	8 ft.	20 ft. 7 in.	21 ft. 11 in.	20 ft.
Drive Aisle Width	13 ft. 2 in.	13 ft. 10 in.	15 ft. 6 in.	24 ft.
Minimum Module Width (row & aisle)	21 ft. 2 in.	34 ft. 5 in.	34 ft. 5 in.	44 ft.

Table 5.2.202B Parking Module Dimensions				
Measurement[1]	**Parking Space Angle (Degrees)**			
	0 / Parallel Parking	45	**60**	90
Two Stall Rows, One-Way Aisle				
Stall Row Depth	16 ft	41 ft. 1 in.	43 ft. 8 in.	40 ft.
Drive Aisle Width	13 ft. 2 in.	13 ft 10 in.	15 ft. 6 in.	24 ft.
Minimum Module Width (row & aisle)	29 ft. 2 in.	54 ft. 11 in.	59 ft. 2 in.	64 ft.
One Stall Row, Two-Way Aisle				
Stall Row Depth	9 ft.	20 ft. 7 in.	21 ft. 11 in.	20 ft.
Drive Aisle Width	23 ft. 3 in.	20 ft.	22 ft.	24 ft.
Minimum Module Width (row & aisle)	31 ft. 3 in.	40 ft. 7 in.	43 ft. 11 in.	44 ft.
Two Stall Rows, Two-Way Aisle				
Stall Row Depth	16 ft.	41 ft. 1 in.	43 ft. 8 in.	40 ft.
Drive Aisle Width	23 ft. 3 in.	20 ft.	22 ft.	24 ft.
Minimum Module Width (row & aisle)	39 ft. 3 in.	61 ft.1 in.	65 ft. 8 in.	64 ft.

Table Notes:
[1]Refer to Subsection A., above, for the minimum stall width.

Figure 5.2.202C
Parking Module Measurements



Effective on: 5/6/2016

Sec. 5.2.203 Circulation

A. **Generally.** Circulation systems within lots or parcels proposed for development shall provide for continuous traffic flow with efficient, non-conflicting movement throughout the site. The circulation plan shall comply with the standards and specification set out by the Director of Public Works.

B. **Configuration of Parking Aisles.** If one-way parking aisles are utilized, parallel rows of parking shall run in alternating directions and shall intersect with two-way aisles.

C. **Tandem Parking.** Tandem parking shall not be used to comply with the requirements of this Division, except in the case of single-family detached and duplex residential uses (*see* Figure 5.2.202B, *Private Residential Parking Spaces*).

D. **Stacking Areas; Vehicular Reservoirs; Drive-Through Lanes.**

1. Stacking areas, vehicular reservoirs, and drive-through lanes shall be configured so that their use does not block ingress to or egress from:

   a. Parking spaces;

   b. Driveways and access points; and

c. Emergency access lanes.

2. Stacking lanes shall provide a bypass lane that is not less than 10 feet in width.

E. **Vehicular-Pedestrian Conflict Areas.** Conflicts between areas of significant pedestrian movement and vehicular circulation shall be minimized. Areas that are accessible to vehicles but likely to be put to significant use by pedestrians (as determined by the Director of Public Works) shall be striped or otherwise differentiated (*e.g.*, with decorative pavers).

Effective on: 5/6/2016

Sec. 5.2.204 Off-Street Loading

A. **Generally.** Loading spaces shall be provided as required by this Section and shall be located so as to avoid undue interference with public use of streets, alleys, and sidewalks.

B. **Types of Loading Spaces**. Loading spaces shall be a minimum of 10 feet in width by 50 feet in depth with a 14 foot height clearance.

C. **Number of Loading Spaces.** The number of loading spaces that must be provided for each land use is set out in Table 5.2.204, *Required Loading Spaces*.

Table 5.2.204
Required Loading Spaces

Number of Spaces	Gross Floor Area in Square Feet
0	1 to 2,999
1	3,000 to 20,000
2	20,000 to 40,000
3	40,000 to 60,000
4	60,000 to 80,000
5	80,000 to 100,000
Determined by the Planning Commission	100,001 to more

D. **Truck Access**.

1. Truck access to loading areas (including loading docks) of a lot or parcel proposed for development shall be designed with access locations and turning radii that meet the following conditions, as applicable, for the type of street from which access is provided and the design of the largest truck that is reasonably expected to use the loading areas:

   a. The turning movements of trucks into and out of the lot or parcel proposed for development shall not pose a material threat to public safety; and

   b. The turning movements of trucks into and out of the lot or parcel proposed for development do not require the truck to run over infrastructure or landscaping that is not designed for such use.

2. ~~The hours of truck access may be limited by the Planning Commission or City Commission as a condition of development approval if there is no other practicable way to ensure that the requirement of Subsection D.1.a., above, is met.~~

E. **Off-Street Maneuvering Space**.

1. Adequate off-street truck maneuvering space shall be provided on lots where truck loading is provided (not within any public street right-of-way or other public lands) so that trucks can maneuver to loading spaces or docking areas. The Zoning Administrator may require that the size and turning radius of the design vehicle be shown on the site plan to demonstrate compliance with this requirement.
2. Use of maneuvering space for loading areas shall not interfere with:
   a. Areas used by passenger vehicles;
   b. Fire lanes or other emergency accessways; or
   c. Access to other loading areas where more than one loading space is provided.
3. At no time shall any part of a truck or van be allowed to extend into a public right-of-way or across a drive entrance or sidewalk while the truck or van is parked or being loaded or unloaded.

F. **Location and Buffering.**

1. All loading areas are required to be located on the same lot as the building or lot served by the loading area.
2. Off-street loading facilities shall be designed so as not to interfere with any fire exits or emergency access facilities to either a building or site.
3. Semi-trailer loading spaces and docks shall be located on side or rear buildings elevations that are buffered from view from adjacent properties and public streets.
4. Truck access and loading areas that are located between a principal building and property that is used or zoned for residential purposes shall comply with the following additional standards:
   a. The length of the loading area shall be screened by a bufferyard that has one level more opacity (*e.g.*, from a "Type B" bufferyard to a "Type C" bufferyard, *see* Section 4.1.403, *Bufferyards for Parking Lots and Vehicular Use Areas*) than required by the district boundary and contains an eight-foot tall masonry wall; or
   b. The loading area is enclosed by a roof and a wall between the building and the district boundary line (a "loading shed"). The buffer between the loading shed and the district boundary line may be reduced by one level of opacity adjoining the loading shed, and may be the district standard elsewhere.

Effective on: 5/6/2016

Sec. 5.2.205 Vehicle Stacking Requirements

A. **Generally.** Stacking spaces are used to measure the capacity of a drive-through lane to hold cars while transactions are taking place at drive-through stations. Stacking spaces measure eight feet wide by 20 feet long and provide direct access to a service window. The position in front of a drive-through station (*e.g.*, a service window, ATM, or station at a drive-through bank) is counted as a stacking space.

B. **Required Stacking Spaces.** All drive-in and drive-through facilities shall provide vehicle stacking in accordance with Table 5.2.205, *Required Vehicle Stacking Requirements*.

Table 5.2.205
Required Vehicle Stacking Spaces

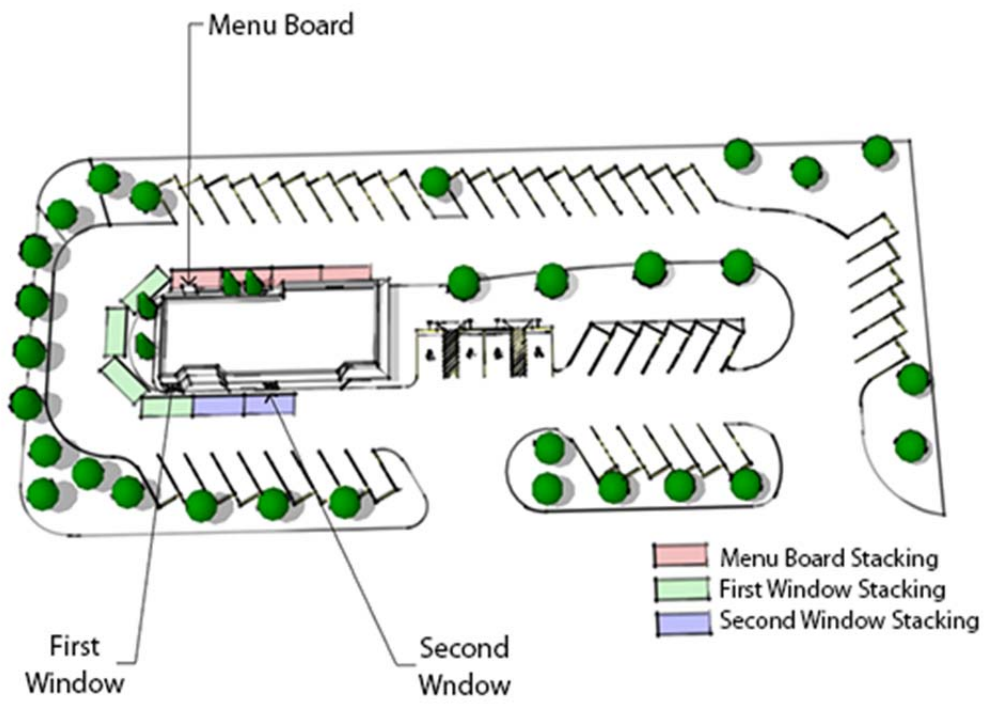
Use with Drive-Through	Stacking Requirement
Restaurants, Fast Food	four vehicles behind menu board four vehicles behind first window two vehicles behind second window, including position at second window (*see* Figure 5.2.205, *Illustrative Stacking Requirements*)
Financial Institutions	For single drive-through lane: six vehicles For multiple drive-through lanes: four vehicles per window/kiosk For ATMs: three vehicles per window/kiosk
Pharmacies	four vehicles per drive-through station
Convenience Stores	four vehicles per drive-through station
Dry Cleaners	two vehicles per drive-through station, including position at window
Vehicle Wash	For automatic washes: two vehicles per bay at entrance; two vehicles per bay at exit For self-service washes: two vehicles per bay at entrance; two vehicles per bay at exit For full-service washes: two vehicles per bay at entrance; two vehicles per bay at exit
Vehicle Gas and Fueling Stations	two vehicles per fuel pump
Gated Parking Lots	two vehicles per gate
Public Uses	two vehicles per window/kiosk

C. **Design.**

1. Stacking lanes shall be clearly marked, and shall not interfere with on-site or off-site traffic circulation.
2. Stacking areas shall not be located between the facade of a building and the public street upon which the building fronts.

3. Stacking lanes shall be designed with an abutting 10-foot wide bypass lane.

Figure 5.2.205
Vehicle Stacking Requirements



D. **Configuration of Stacking Spaces; Required Bypass Lane.**

1. No stacking space may occupy any portion of a public right-of-way.
2. The minimum pavement lane width shall be eight feet.
3. Stacking spaces may be used to satisfy off-street parking requirement but may not be used to meet loading space requirements.
4. Stacking lanes shall not interfere with parking spaces, parking aisles, loading spaces, internal site circulation, or points of ingress and egress.
5. A 10-foot bypass lane is required adjacent to the stacking lane to allow vehicles to circumvent the stacking lane.

E. **Other Uses.** Uses other than those set out in Table 5.2.205, *Required Vehicle Stacking Spaces*, that propose drive-through service shall provide a number of stacking spaces as approved by the Zoning Administrator, based on a functional comparability to a use that is listed in the Table 5.2.205, *Required Vehicle Stacking Spaces*.

F. **Reduction of Stacking Requirements.**

1. The Zoning Administrator may approve a reduction of the stacking requirements of this Section upon demonstration by a qualified traffic engineer that a reduction in the stacking requirements is appropriate for the applicant's proposed use given its proposed intensity or context.
2. Minor deviations of these requirements that reduce the stacking distance by less than one stacking space may be approved by the Zoning Administrator without a demonstration by a licensed traffic engineer if the applicant demonstrates that strict compliance with this Section is impracticable or would lead to a lower quality of site design.

Effective on: 5/6/2016

Sec. 5.2.206 Use of Parking Facilities

A. **Generally.** Required off-street parking spaces shall be available for operable passenger vehicles of the residents, customers, patrons, and employees of the use to which they relate.

B. **Storage.**

1. *Parking Spaces and Aisles.* Storing materials, boats, campers, recreational vehicles, or inoperable vehicles, or overnight parking of trucks or trailers is prohibited in parking areas of nonresidential and mixed use developments, unless the onsite storage is enclosed and complies with Section 10.2.105, *Outdoor Storage and Display of Merchandise*.
2. *Loading Spaces.* Long-term storage of trailers in loading spaces is prohibited. Such spaces shall be available for routine use by delivery vehicles.

C. **Prohibited Use of Parking Areas.**

1. No designated off-street parking facilities shall be used for perpetual car repairs, display, service, or sales of any good or service unless expressly and specifically approved by the City. However, this Subsection does not apply to single-family detached and single-family attached driveways when they are used for garage sales or for minor repairs to operable licensed and registered, covered (with a fitted tarp that is secured).
2. No area required by the City for the use of private off-street parking shall be used by any party as a commercial parking lot.

D. **Blocking of Access Prohibited.**

1. Blocking loading spaces or parking spaces is prohibited.
2. Loading spaces or parking spaces shall not be designed or located in a manner that blocks access to other loading spaces, parking spaces, driving aisles, fire lanes, ingress or egress points, or building entrances.
3. Parking, loading, and access areas shall be kept free of permanent or movable structures which block access, of any type (*e.g.*, trash receptacles or compactors).
4. Parking within or otherwise obstructing a driveway approach or across public sidewalks is prohibited.

Effective on: 5/6/2016

Sec. 5.2.207 Surface and Maintenance of Off-Street Parking Areas

A. **Surfacing.** All open off-street parking and loading areas shall be graded and paved or otherwise improved with an all-weather, dustless material, such as asphalt, concrete, asphaltic concrete or other equivalent material unless otherwise approved by the Zoning Administrator.

B. **Maintenance.** Entrances to off-street parking surfaces within public right-of-way shall be kept in good condition~~ and parking space lines or markings shall be kept clearly visible and distinct~~. Failure to maintain entrances to off-street parking within public right-of-way, including surfaces that are free of potholes and other defects, shall be a violation of this Code and subject to penalty as provided by law.

Effective on: 5/6/2016

ARTICLE 5.3 ACCESS MANAGEMENT

Division 5.3.100 Access Management and Circulation

Sec. 5.3.101 General Access and Circulation Requirements

A. **Purpose.** The purpose of this Division is to promote safe transportation facilities, improved mobility and access, and increased business and/or land value in the City. Access management reduces the potential for accidents and improves travel conditions by minimizing conflicts between through and turning vehicles. Research has shown that accident rates increase consistently with an increase in the density of access points, while accident rates decrease with the implementation of access management standards. Accordingly, access to collector and arterial streets and highways shall be managed according to the standards of this Division.

B. **Degree of Compliance.** If the width of a lot or other constraint prevents an individual access from being compliant with Section 5.3.102, *Access Spacing and Corner Clearance*, then common access shall be provided via joint access and/or cross-access easements according to the standards outline in Subsection G., below. Even if common access does not achieve compliance with Section 5.3.102, *Access Spacing and Corner Clearance*, it shall be utilized if it creates a wider spacing between access points than would be provided in the absence of common access.

C. **Alternative Access for Corner Lots.** Lots that abut intersections of arterial and collector streets and local streets shall take access from the local street if the access meets the corner clearance requirements of Section 5.3.102, *Access Spacing and Corner Clearance*, and if the access does not necessarily impact single-family detached dwellings.

D. **Timing of Compliance with this Division.**

1. New development, redevelopment, and subdivision shall demonstrate compliance with this Division for each required development approval.

2. Properties with access connections that do not meet the requirements of this Division shall be brought into compliance to the greatest extent practicable when modifications to the

roadway are made or when a change in use results in one or more of the following conditions:

a. Site plan review or subdivision plat is required.

b. The site experiences an increase of 20 percent or greater in peak hour trips or 100 vehicles per hour in the peak hour, whichever is less, as determined by one of the following methods:

i. An estimation based on the Institute of Traffic Engineers (ITE) Trip Generation Manual (latest edition) methodology for typical land uses, or

ii. Traffic counts made at similar traffic generators located in the City, or

iii. Actual traffic monitoring conducted during the peak hour of the adjacent roadway traffic for the property.

3. If the principal activity on a parcel with access connections, that do not meet the regulations of this Division, is discontinued for a period of one year or more, then upon establishment of any use, the parcel must comply with all applicable access requirements of this Division to the greatest extent practicable.

E. **Application to State Highways.** The standards of this Division shall apply equally to streets operated by KDOT upon execution of an agreement between the City and KDOT delegating the access permitting authority to the City. In the absence of such an agreement, KDOT shall retain the responsibility for access permitting on KDOT operated streets and highways.

F. **Driveways**.

1. Nonresidential driveways shall be at least 25 feet wide, but not more than 45 feet wide (at the property line), unless approved by the Director of Public Works, and configured to direct traffic safely into and out of the parcel proposed for development. Such configuration may require median separation between ingress lanes and egress lanes.

G. **Cross-Access Easements.**

1. *Generally*.

a. Access that is shared by abutting properties, whether under single or separate ownership, shall be preserved using an appropriate legal instrument that is approved by the City Attorney and recorded in the public records of Ellis County at the applicant's expense. The obligation to provide and maintain the cross-access shall run with the land. The recorded book and page number of the legal instrument shall be referenced on any subsequent approved site plans or subdivision plats of the property.

b. If there is an existing shared access for which there is no recorded legal documentation, the shared access shall continue and appropriate legal documentation shall be executed and recorded.

2. *Terms*. The City may require that common and cross-access easements include one or more of the following:

a. Sufficient width to accommodate a two-way access between properties, designed to accommodate automobiles and emergency service and loading vehicles.

b. Stub-outs and other design features to allow abutting properties to be tied in to provide future cross access.

c. Linkage to other cross-access drives in the area.

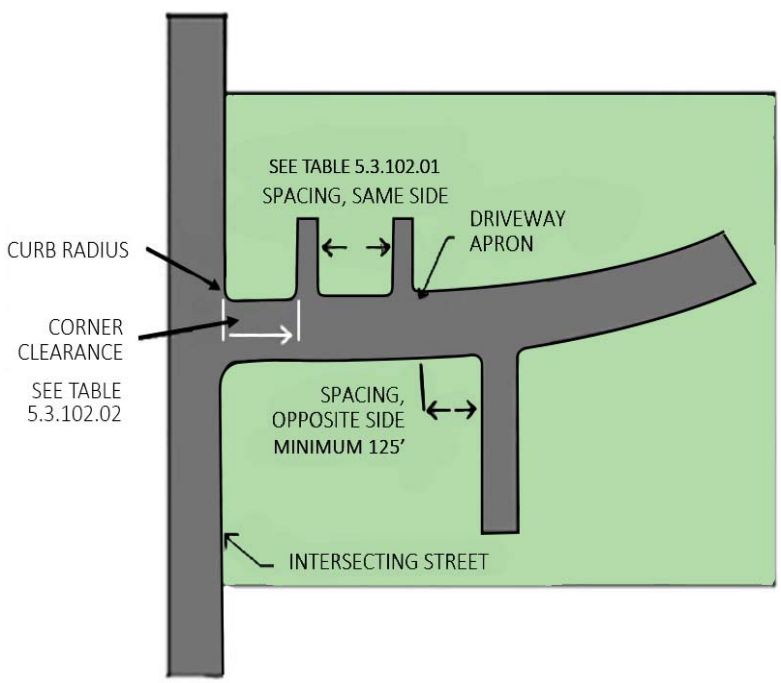
Effective on: 5/6/2016

Sec. 5.3.102 Access Spacing and Corner Clearance

A. **Generally.** Access points include streets, alleys, driveways, and marginal access roads. Spacing of access points shall be provided as set out in this Section. In certain circumstances the spacing requirements may be reduced as set out in Section 5.3.104, *Modifications of Access Management Requirements*.

B. **Measurements.** Generally, the requirements of this Section are measured along the edge of the travel way, from the closest edge of pavement of the first access connection to the closest edge of pavement of the second access connection, exclusive of curb returns. This type of spacing is shown in Figure 5.3.102.01, *Illustrative Access Spacing and Corner Clearance Measurements*, as "spacing, opposite side."

Figure 5.3.102.01
Illustrative Access Spacing and Corner Clearance Measurements



C. **Access Spacing, Same Side of the Street.** The minimum access spacing for access points on the same side of the street is set out in Table 5.3.102.01, *Access Spacing, Same Side of the Street*.

Table 5.3.102.01 Access Spacing, Same Side of the Street							
Street Classification	Minor Residential	Collector	Arterial				
Posted Speed Limit	any	any	<30	<35	<40	<45	<50
Access serves residential land use	20 ft.	40 ft.	200 ft.	250 ft.	300 ft.	360 ft.	425 ft.
Access serves nonresidential, public / institutional, or mixed use land use	40 ft.	200 ft.	200 ft.	250 ft.	300 ft.	360 ft.	425 ft,
Access serves industrial land use	60 ft.	200 ft.	200 ft.	250 ft.	300 ft.	360 ft.	425 ft.

D. **Access Spacing, Opposite Sides of the Street.** In order to prevent conflicting left-turn movements, connections on opposite sides of arterial and non-residential collector streets and highways shall be directly opposite each other or offset by a distance of at least 125 feet, unless a median or diverter prevents the potential conflicts.

E. **Corner Clearance.**

1. The minimum corner clearance for access points is set out in Table 5.3.102.02, *Minimum Corner Clearance* (*see* Figure 5.3.102.02, *Illustrative Minimum Corner Clearance*).
2. The distances that are set out in the table are minimums. Since site and intersection design must be considered on an individual basis, greater clearance lengths may be required by the Director of Public Works, if necessary, to protect public safety.
3. Shared access may be used to meet the requirements of this Section. If the dimensions of an existing lot and the absence of a reasonable opportunity for shared access make compliance with this Subsection impractical, then right-in, right-out access may be permitted at the farthest available point away from the intersection. For example, a fueling station that cannot establish shared access with neighboring properties may be permitted to have two right-in, right-out access points (one on each frontage), provided that they are located as far away from the intersection as possible.

Table 5.3.102.02 Minimum Corner Clearance			
Intersecting Street Classification		Minimum Corner Clearance for Access Points on	
Street A	Street B	Street A	Street B
Residential Driveways			
Minor Residential	Minor Residential	40 ft.	40 ft.

Minor Residential	Collector	40 ft.	50 ft.[1]
Collector	Collector	50 ft.	50 ft.
Arterial	Minor Residential	125 ft.[2]	75 ft.[1]
Arterial	Collector	125 ft.[2]	75 ft.
Arterial	Arterial	125 ft.[2]	125 ft.[2]
Commercial and Industrial Driveways			
Minor Residential	Minor Residential	50 ft.	50 ft.
Minor Residential	Collector	50 ft.	50 ft.
Collector	Collector	75 ft.	75 ft.
Arterial	Minor Residential	125 ft.[3]	75 ft.
Arterial	Collector	125 ft.[3]	75 ft.
Arterial	Arterial	125 ft.[3]	125 ft.[3]

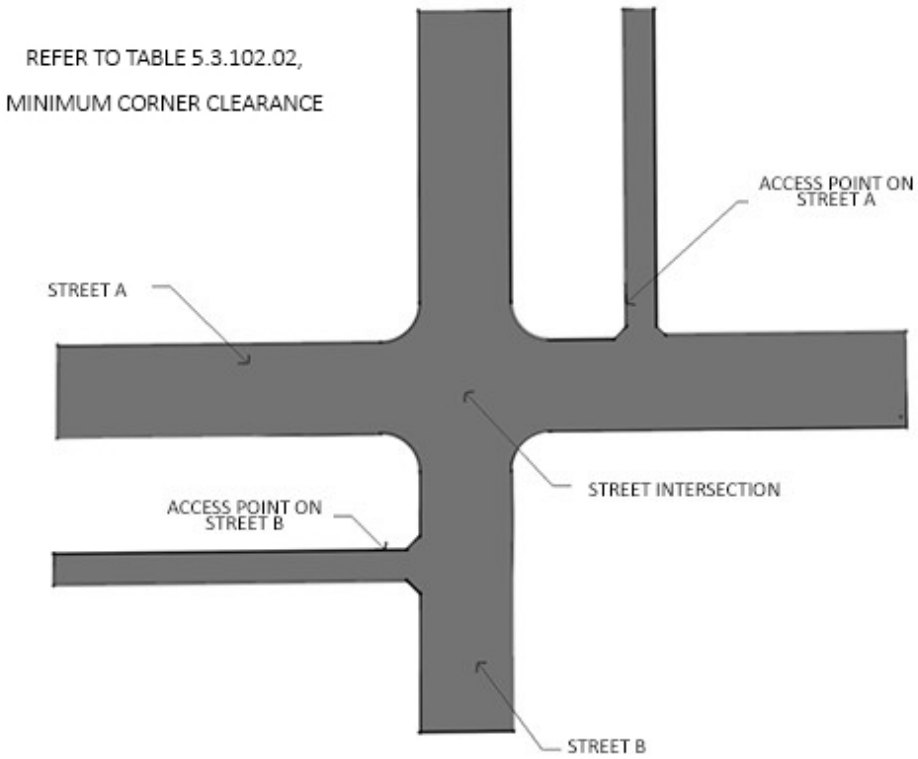
TABLE NOTES:

[1] Note that single-family detached and duplex driveways are generally not allowed on this street classification. This standard applies to access to other types of residential development.

[2] An area for stacking vehicles at ingress points to multi-family development may be required by the Director of Public Works to prevent disruption of traffic flow on the arterial street.

[3] A variance is required for corner lots with arterial street frontage where the required corner clearance cannot be met as a result of the lot width or depth.

Figure 5.3.102.02
Illustrative Minimum Corner Clearance



Effective on: 5/6/2016

Sec. 5.3.103 Minimum Arterial Frontage

A. **General.** In general, the minimum arterial frontage that is required of newly created or subdivided lots that take direct access from an arterial street or highway shall not be less that that shown in Table 5.3.103, *Minimum Arterial Lot Frontage*, unless the new lots are combinations of smaller lots or the subdivider provides for common access as set out in Subsection C., below.

B. **Increased Frontage Requirement.** A greater lot frontage may be required for driveways greater than 25 feet in width, or development that requires more than one access connection to the arterial street or highway.

C. **Decreased Frontage Alternative.** Where subdivision results in lot frontages that are less than Table 5.3.103, *Minimum Arterial Lot Frontage*:

1. A common area plan shall be provided during the subdivision process that shows common access locations and dimensions and cross-access connections.

2. Common access easements and shared access driveways shall be provided, such that the standards of Section 5.3.102, *Access Spacing and Corner Clearance*, are met.

3. Legal instruments shall be recorded as set out in Section 5.3.101, *General Access and Circulation Requirements*, Subsection G., *Cross-Access Easements*.

Table 5.3.103
Minimum Arterial Lot Frontage

Posted Speed Limit (mph)	Minimum Lot Frontage (ft.)
≤ 30	225'
35	275'
40	330'
45	385'
≥ 50	450'

Effective on: 5/6/2016

Sec. 5.3.104 Modifications of Access Management Requirements

A. **Generally.** The access management requirements of this Division may be modified according to the standards of this Section.

B. **Reduction of Spacing Requirements.** The spacing requirements of Section 5.3.102, *Access Spacing and Corner Clearance*, may be reduced if an assessment of the individual safety and operational considerations of the proposed connection so justifies, and:

1. Adequate access connection spacing cannot be achieved, but shared access is established with an abutting property. A shared access agreement shall be required as set out in Section 5.3.102, *Access Spacing and Corner Clearance*, Subsection G., *Cross-Access Easements*; or

2. No other alternatives exist, and construction of the access connection is along the property line farthest from the intersection or closest access point. To provide reasonable access under these conditions, but also the safest operation, consideration should be given to designing the driveway connection to allow only the right-in turning movement or only the right-in / right out turning movements, if feasible. In such case, the applicant shall also demonstrate that:

   a. The inability to meet the access spacing requirements was not due to the owner subdividing the property after the effective date of this Code without providing internal access;

   b. The abutting landowner refused a request to provide cross-access; and

   c. A covenant acceptable to the Director of Public Works to ensure that the connection will be provided and access will be consolidated upon the earlier of:

i. Approval for development, substantial improvement, or redevelopment, of the abutting property, if providing such connection is a requirement of the development approval; or

ii. The applicant's parcel and the abutting parcel coming under common ownership.

C. **Increase of Spacing Requirements.** The City may require greater access spacing if the use will generate significant truck traffic.

Effective on: 5/6/2016

Sec. 5.3.105 Traffic Impact Studies

A. **Generally.** New development, redevelopment, changes in use, or expansions to existing development that are likely to result in additional peak hour or daily vehicular trip generation (compared to the existing condition) in excess of the thresholds set out in Subsection B., below, may be required by the Director of Public Works to submit a traffic impact study according to the methodologies set out in Subsection C., below.

B. **Thresholds.** Traffic studies may be required when any of the following thresholds may be exceeded on the lot or parcel proposed for development:

1. Additional average daily trips generated by the development exceed 500 trips per day, as determined by the Director of Public Works;
2. Additional AM and PM peak trips generated by the development exceed 100 trips per hour, as determined by the Director of Public Works;
3. Any residential development that exceeds 150 new dwelling units;
4. The development is requesting access to an arterial street or state highway;
5. The development will cause the adjacent street or closest intersection(s) to operate at level of service (LOS) F; or
6. The adjacent street or closest intersection(s) already operates at LOS F.

C. **Methodologies.** Traffic studies shall be prepared by a licensed professional engineer qualified to perform such work.

D. **Updated Traffic Study Required.** The Director of Public Works may require an update (amendment) to a previous traffic study or a new study if any of the following thresholds are met:

1. Changes to the development proposal increases expected trip generation for daily or peak hour trips by more than 15 percent from the original study;
2. The previous traffic studies are more than two years old, unless the Director of Public Works has determined that the conditions have not significantly changed; or
3. Location, types, and/or number of access points for the development have changed.

E. **Conditions of Approval.** The Planning Commission may condition the approval of proposed development on the maintenance of the level of service standards for streets that will be impacted by the development and may authorize phased development that ties required street, intersection, access, signalization, or other improvements (*e.g.*, additional signage, pavement markings, acceleration/deceleration lanes, etc.) necessary to maintain LOS or improve safety to the timing and level of development proposed for each phase.

Effective on: 5/6/2016

ARTICLE 5.4 LIGHTING

Division 5.4.100 Lighting

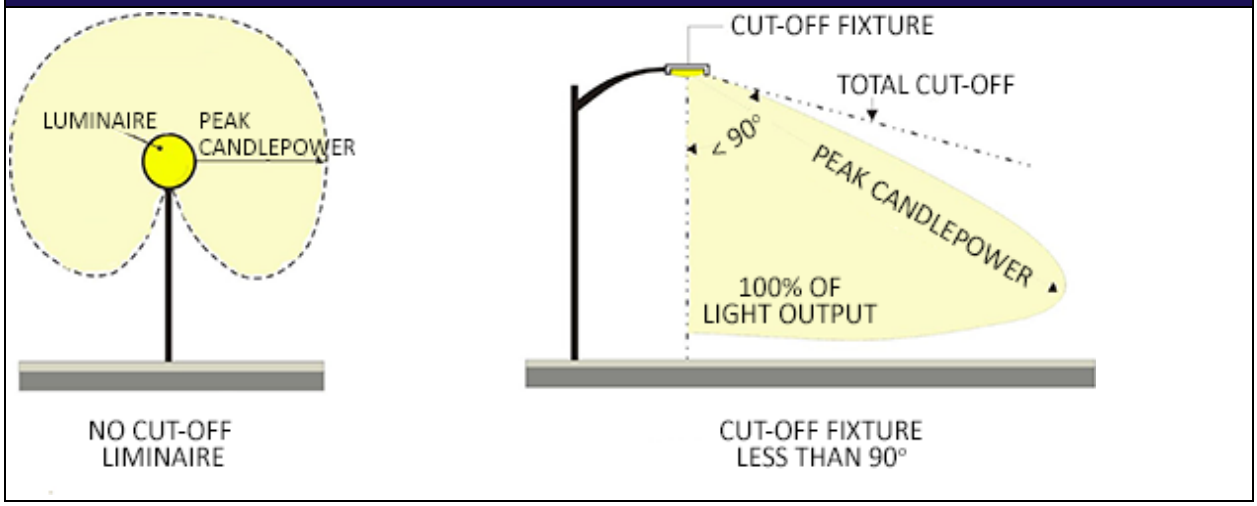
Sec. 5.4.101 General Outdoor Lighting Requirements

A. **Generally.** The maximum permitted illumination and the maximum permitted luminaire height shall conform to the standards of this Section.

B. **Fixture Type.** (see Figure 5.4.101, *Types of Light Fixtures*)

1. Generally, light fixtures shall be "cut-off" fixtures that limit lighting that is visible or measurable at the property line.
2. "No cut-off" fixtures may be used only for decorative purposes, provided:
   a. They have luminaires that produce no more than 1,500 lumens (approximately equal to a 100 watts incandescent bulb); and
   b. They have a maximum height of 15 feet.

Figure 5.4.101
Types of Light Fixtures



C. **Cut-off Requirements.**

1. Except as otherwise allowed for in this Division, all lighting (including, but not limited to street, parking lot, security, walkway, and building) shall conform with the Illuminating Engineering Society of North America ("IES") criteria for full cut-off fixtures, which is 100 percent of light output below 90 degrees, and 90 percent of light output below 80 degrees from a vertical line through the fixture.
2. Lighting fixtures that illuminate landscape plantings, pedestrian walkways, signage, or product display areas shall also conform to the full cut-off fixture requirement.
3. All lighting fixtures that are mounted within 15 feet of a residential property line or public right-of-way shall be classified as Illuminating Engineering Society of North America (IES) Type III or Type F (asymmetric forward throw). These fixtures shall be fitted with a "house side shielding" reflector on the side facing the residential property line or public right-of-way.
4. Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal, or platform shall use a narrow cone beam of light that will not extend beyond the illuminated object.
5. For upward-directed architectural, landscape, and decorative lighting, direct light emissions shall not be visible above the primary building roofline.

D. **Maximum Freestanding Fixture Height.** No freestanding light fixture shall be greater than 25 feet in height, except as set out in Section 5.4.102, *Outdoor Recreation and Amusement Lighting Requirements*.

E. **Maximum Illumination.**

1. Outdoor lighting shall be deflected, shaded, and focused away from abutting properties and shall not be a nuisance to such abutting properties.
2. Outdoor lighting shall be designed so that any overspill of lighting onto abutting properties shall not exceed one ~~three-tenths~~ foot-candle, measured vertically, and one ~~three-tenths~~ foot-candle, measured horizontally, on abutting properties.
3. The ground-level luminance ratio (the ratio between the luminance of the brightest point on the property and the darkest point on the property) shall not exceed 12 to one.
4. If additional light is necessary, it shall be provided within an enclosed structure.

F. **Canopy Lighting.** Canopy lighting for uses that have sheltered outside work or service areas, such as vehicle gas and fueling stations, shall meet the standards of this Section. All luminaires shall be recessed into the canopy so that they cannot be viewed off-site from an eye height of four feet (to protect automobile drivers from glare).

G. **Outside Wall-Mounted Lighting.** Outside wall-mounted lighting shall also comply with the standards of this Section, except that lighting that is required by the Federal Aviation Administration ("FAA") shall comply with federal standards.

H. **Prohibited Lighting.**

1. *Generally*. No outdoor lighting may be used in any manner that is likely to interfere with the safe movement of motor vehicles on public thoroughfares.
2. *Prohibitions*. The following are prohibited:
   a. Any fixed light not designed for roadway illumination that produces incident or reflected light that could impair the operator of a motor vehicle;
   b. The installation, use, or maintenance of beacons or searchlights;
   c. Lights that are mounted on the ground or poles for the purpose of illuminating a building facade, except in the C-1, C-2, I-1, and I-2 districts where they are not visible from other districts or public right-of-way; and
   d. Exposed strip lighting or neon tubing used to illuminate building facades or outline buildings or windows or flickering or flashing lights installed in like fashion, except for temporary decorative seasonal lighting.

Effective on: 5/6/2016

Sec. 5.4.102 Outdoor Recreation and Commercial Amusement Lighting Requirements

A. **When Required.** Special use approval is required for any lighting fixture or luminaire that:

1. Exceeds 25 feet in height;
2. Is brighter than 5,000 lumens (approximately four times the light of a 100 watt incandescent bulb); or
3. Includes more than three luminaires per pole.

B. **Special Use Standards, General.** Except for the recreational uses set out in Subsection D., below, lighting may be approved by special use approval if all of the following are demonstrated:

1. Luminaires are no more than 40 feet above grade.
2. The light sources are full cut-off fixtures that are positioned to prevent glare on public right-of-way and adjacent or abutting residential uses or districts.

C. **The Lighting Plan Results In.**

1. Ground-level illumination of no more than one footcandle; and
2. A luminance ratio of no more than 12 to one.

D. **Special Use Standards, Recreation Fields.** Ball diamonds, playing fields, driving ranges, tennis courts, and similar amusement or recreation uses have unique requirements for nighttime visibility and, generally, have limited hours of operation. These uses may meet the following special use standards for approval of lighting:

1. The site plan meets all other code requirements and, to the maximum extent practicable, lighting is located to avoid shining at residential uses or districts.
2. Luminaires are no more than 80 feet above grade.
3. The light sources are full cut-off fixtures. The luminaire may have a cut-off angle that extends beyond the property boundaries if:
    a. A landscaped bufferyard is provided to prevent light and glare spill-over to abutting residential property. The Planning Commission may require more opaque bufferyards than those in Division 4.1.400, *Bufferyards*, to achieve this objective.
    b. The maximum permitted illumination does not exceed one foot-candle at the residential property line or the street curb, whichever is less.

Effective on: 5/6/2016

CHAPTER 6 STREETS, SIDEWALKS, AND TRAILS

ARTICLE 6.1 PURPOSE AND APPLICATION OF CHAPTER

Division 6.1.100 Purpose and Application

Sec. 6.1.101 Purpose

The purpose of this Chapter is to establish standards for the design, layout, and construction of streets, sidewalks, and trails.

Effective on: 5/6/2016

Sec. 6.1.102 Application

A. **Generally.** This Chapter applies to all subdivisions and site plans that involve the creation of new roads or streets, and pedestrian sidewalks and trails.

B. **Right-of-Way Standards.** Provided in Division 6.2.200, *Street Standards*, are the standards for how much right-of-way must be dedicated and what design cross-sections are required for streets, depending upon how many lots they are designed to serve. The Division also provides requirements for cul-de-sac lengths and radii, alley widths and alignments, intersection spacing, sight distance, and the geometry of curves.

C. **Standard Subdivision Specifications.** These specifications establish standards for the construction of streets, driveways, sidewalks, paths, and trails including but not limited to, KDOT, AASHTO, and ADA standards, other codes, industry specifications, or other recognized industry standards.

Effective on: 5/6/2016

ARTICLE 6.2 STREETS, SIDEWALKS, AND TRAILS

Division 6.2.100 Objectives and Functional Classifications

Sec. 6.2.101 Street Design Objectives

A. **Generally**. This Section contains the objectives and principles that are served by the standards of this Chapter. The standards of this Chapter shall be guided by these objectives.

B. **Integration**. New streets shall integrate into the existing street pattern so as to:

1. Address the new development's circulation needs;
2. Provide a pattern of streets that facilitates circulation within and through individual neighborhoods and the City; and
3. Where higher-order functional classifications are involved, facilitate City-wide and regional-wide movements.

C. **Safety**. New streets shall provide a safe and convenient layout and design.

D. **Complete Streets**. New streets and substantially improved existing streets shall be designed and constructed to enable safe, attractive, and comfortable access and travel for all users, including pedestrians, bicyclists, motorists, and public transport users of all ages and abilities.

E. **Natural Resources**. New streets shall be located with appropriate regard for wetlands, streams, water bodies, wooded areas, and other features that:

1. Would enhance the attractiveness and enduring value of development; and
2. Are locally significant for their ecological or natural resource value.

F. **Circulation and Through Traffic**. Streets within subdivisions shall be designed as a system of circulation routes, so that the use of local streets by through traffic will be discouraged.

G. **Street Plans**. Streets shall conform to the transportation system map reflected in the Comprehensive Plan, as amended from time to time.

H. **Half-Streets**. Half streets shall be avoided, except for:

1. Where they are essential for reasonable development of a subdivision in conformity with the other requirements of this Code; or
2. When the Planning Commission finds that it will be practicable to require the dedication of the other half of the street when the adjoining property is subdivided.

Effective on: 5/6/2016

Sec. 6.2.102 Functional Classifications

A. **Generally.** For the purposes of this Code, the streets within the City are classified according to the thoroughfare plan adopted in the Comprehensive Plan, as amended from time to time.

B. **Functional Classifications.** The following functional classifications are applicable in the City:

1. Interstate;
2. Principal arterial street;
3. Minor arterial street;
4. Collector street; and
5. Local street.
6. Alley

C. ~~**Alleys.** Alleys are not "streets", but the functional classification "alley" is assigned to them.~~

Division 6.2.200 Street Standards

Sec. 6.2.201 Access and Connectivity

A. **Access.**

1. Subdivisions with 30 or more lots, or multi-family developments with 60 or more dwelling units, shall have at least two access points to/from existing streets. If possible, these access points shall be to different streets and shall be located as far apart as practical and consistent with Division 5.3.100, *Access Management and Circulation*.
2. The street layout of a subdivision shall provide access to all building sites and parcels, provided however, that lots intended for single-family development shall not take access to collector or arterial streets.
3. Street alignments within subdivisions shall utilize traffic calming techniques such as horizontal curves, medians, street offsets, controlled intersections, street width, street bulb-outs, and/or other methods that allow adequate access but discourage cut-through traffic and unsafe speeds.
4. Local streets shall be designed to discourage through or nonlocal traffic while providing convenient access and circulation for local and emergency traffic.

B. **Connectivity.**

1. The arrangement, extent, width, grade, and location of all streets shall be considered in their relation to existing and planned streets, public convenience and safety, and in their appropriate relation to the proposed uses of land to be served by such streets.
2. Wherever streets have been dedicated or platted on the adjacent properties for extension into or through a proposed site or subdivision, then those streets shall be incorporated into the street layout of the proposed site or subdivision. Where conditions make continuance or conformance to existing streets impractical, the pattern and alignment of streets shall conform to a plan for area development, submitted by the subdivider that is reviewed by the Zoning Administrator and Director of Public Works and approved by the Planning Commission.
3. New streets shall align with and connect to existing stub-outs and approved streets (*e.g.*, stub-outs on the parcel proposed for development must be provided to meet streets shown on approved preliminary or final plats on abutting parcels) at equal or greater right-of-way width and comparable pavement width, unless:
    a. Such design would be impractical or would create incompatibility, after traffic calming and diversion techniques have been considered; or
    b. The functional classification of the street changes as it crosses the boundary of the parcel proposed for development.

4. Subdivision streets shall be extended to the boundaries of the parcel proposed for development in appropriate locations to provide for future connections to adjacent and abutting properties.
5. Arterial and collector streets through subdivisions shall conform to the Comprehensive Plan, as adopted by the Planning Commission and City Commission~~, from time to time~~.
6. Streets that are obviously in alignment with other streets already existing and named shall bear the names of the existing streets.

Effective on: 5/6/2016

Sec. 6.2.202 Alleys

A. **Generally**. Alleys established after the effective date of this Code shall comply with the standards of this Section.

B. **No Parking in Alleys.** Parking shall be prohibited in all alleys.

C. **Use of Alleys.** Alleys may be used only:

1. In residential development and/or districts, alleys shall be parallel, or approximately parallel to the frontage of the street.
2. Owners of property that abut an alley shall maintain the property from the center of the alley to the owner's property line, including providing for continuing compliance with Section 6.2.207, *Sight Triangle Requirements*.

D. **Alley Right-of-Way.** A minimum width of 20 feet in all districts.

E. **Type of Construction.** Alleys shall be constructed to the City's design standard.

F. **Connectivity.**

1. Generally, alleys shall connect to public streets on both ends, and shall be dedicated to the City as public right-of-way.
2. Dead-end alleys shall be avoided whenever possible unless natural resources, such as floodplains, wetlands, or open water, prevent their connection to a local street and there is no alternative design that would serve all of the lots with alley access. In this case, a turn-around shall be provided at the dead-end.

G. **Intersections and Alignment.** Alley intersections and sharp changes in alignment shall be avoided but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

H. **Crossings.** Sidewalks shall continue across alleys at points of intersection.

I. **Services.** New alleys shall be constructed as service streets, as follows:

1. Upon discretion of the Utility Company, natural gas and electric meters shall be readable from alleys, and not obstructed by fencing or landscaping.
2. No structures or trees shall be built within the sight visibility triangles.

Effective on: 5/6/2016

Sec. 6.2.203 Cul-de-Sacs and Temporary Turnarounds

A. **Generally.** Cul-de-sacs are allowed only as provided in this Section.

B. **Cul-de-Sacs.** Cul-de-sacs shall meet all of the following standards:

1. Cul-de-sacs shall be no longer than 150 feet in length measured from the nearest curb-line of the intersecting street to the end of the cul-de-sac (*see* Figure 6.2.203A, *Measurement of Cul-de-Sac Length*).

2. The minimum radii of cul-de-sacs shall be at least:

   a. Residential: 40 feet pavement; 50 feet right-of-way.

   b. Nonresidential: 90 feet pavement; 100 feet right-of-way.

3. On residential cul-de-sacs, pedestrian and bicycle access shall be provided from the cul-de-sac end to existing and proposed sidewalks and bicycle facilities that are located (or planned to be located) within two tiers of lots from the cul-de-sac (*see* Figure 6.2.203B, *Cul-de-Sac Pedestrian and Bicycle Connections*).

4. Where the applicant does not control all of the property between the cul-de-sac and the street or trail that is necessary to create the connection, the access through the development shall be dedicated in anticipation of connecting the access at a later date when the adjacent property is developed or redeveloped (*see* Figure 6.2.203B, *Cul-de-Sac Pedestrian and Bicycle Connections*).

C. **Temporary Turnarounds.** Dead-end streets that are planned for extension to connect to future development shall terminate in a temporary turnaround with 50 foot of right-of-way, which allows for emergency vehicles to turn around without backing (T and Y-shaped turnarounds are not allowed). The turnaround shall have a paved surface and a base that meets the requirements of a public street. A gravel surface may be allowed if the temporary turnaround will be in use for less than 24 months and security is provided to pave the turnaround if the anticipated connection is not made within 24 months.

Figure 6.2.203A
Measurement of Cul-de-Sac Length

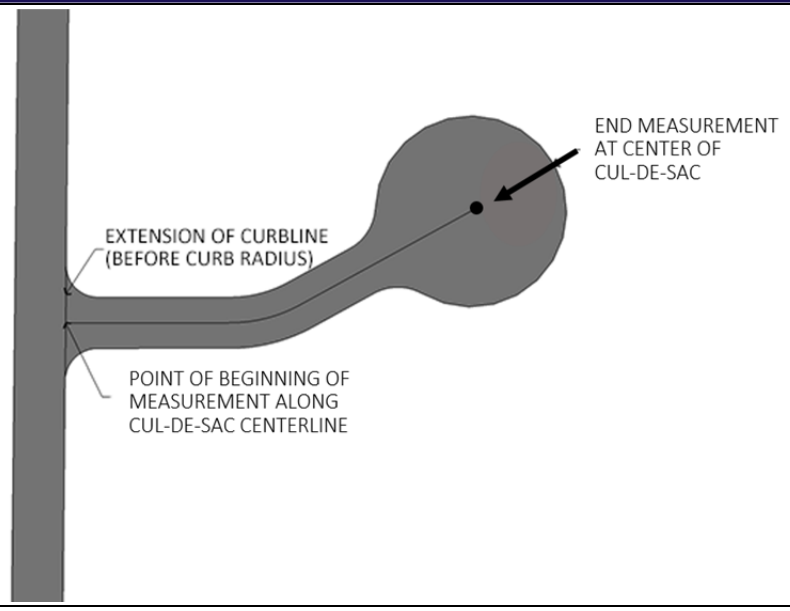
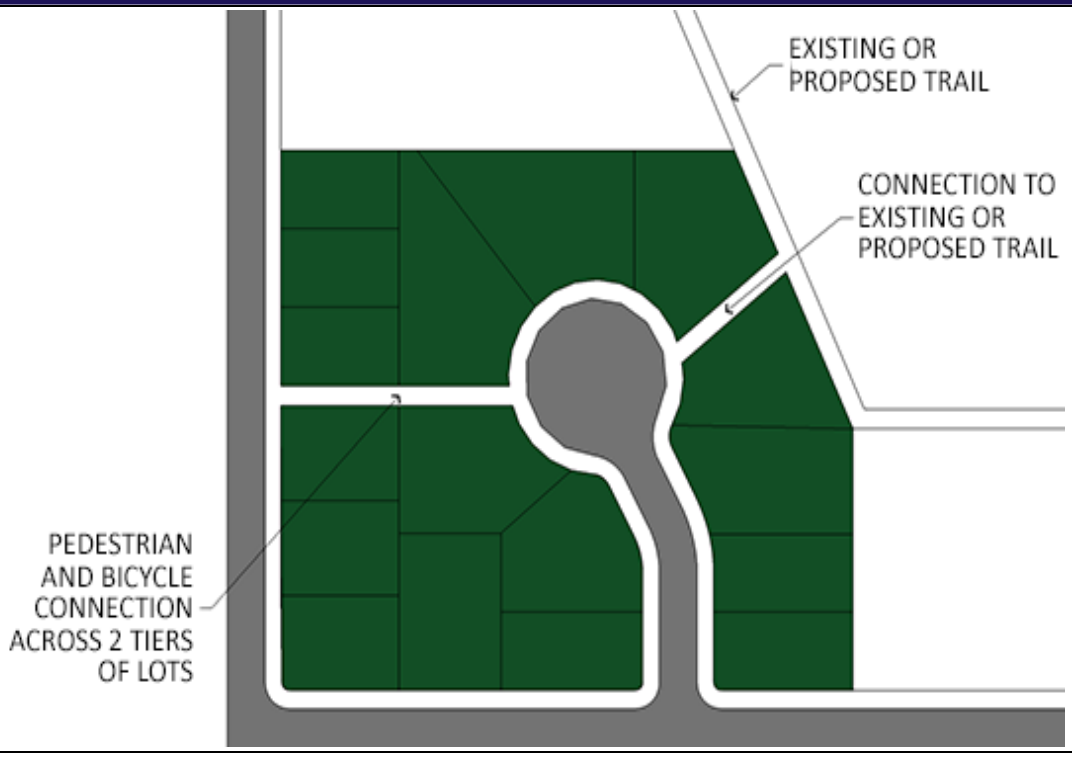


Figure 6.2.203B
Cul-de-Sac Pedestrian and Bicycle Connections



Effective on: 5/6/2016

Sec. 6.2.204 Medians and Entrance Ways

A. **Use and Beautification of Medians.**

1. Medians that are part of a dedicated public right-of-way may not be utilized for any purpose other than by the City or a public utility. However, a subdivider or other entity may beautify a median with landscaping with the approval of the Planning Commission and acceptance of the City Commission, provided that:

   a. It does not interfere with existing or proposed public utilities;

   b. It conforms to the sight distance requirements of Section 6.2.207, *Sight Triangle Requirements*; and

   c. The applicant has submitted an agreement, in a form acceptable to the City Attorney, with regard to the entity that will have permanent responsibility for maintenance of and liability for such improvements.

2. The Director of Public Works or Planning Commission may refer the application to the City Commission.

B. **Subdivision Access.** Streets that provide ingress and egress to a subdivision or highways shall:

1. Be connected to existing public streets at locations that will not:

   a. Create sight distance problems on the existing streets; or

   b. Interfere with the safe operation of existing intersections.

2. When connected to arterial streets a traffic impact study may be required to determine traffic access requirements.

3. Gatehouses or architectural features that highlight the entrance are permitted in the median of a subdivision entranceway that meets the specifications of this Section (*e.g.*, sight distance).

Effective on: 5/6/2016

Sec. 6.2.205 Private Streets

A. **Public Access Required**. Every lot and parcel in a subdivision shall be served by a public or private street.

B. **Reserve Strips**. There shall be no reserve strip at the end of a private street and between the private street and an abutting or adjacent public or private street that limits access or connection to such street(s).

C. **Requirements for Private Streets**. When private streets are permitted, they shall meet all of the following requirements:

1. Private streets shall be laid out, designed, and constructed in the same manner as public streets;

2. Street signs shall indicate that the streets are "private";

3. The private streets will not interfere with the implementation of the adopted Comprehensive Plan, capital improvements plan or program, or plans for construction or expansion of state or federal highways; and
4. The private streets will not materially interfere with street connectivity in the City or create an unreasonable impact on an abutting public street by curtailing opportunities for alternative travel routes.
5. Setbacks from private streets shall be measured in the same manner as setbacks from public streets.

D. **Gates and Guardhouses**. Gates and guardhouses are permitted at entries to private street subdivisions, provided that they comply with the standards of this Subsection.

1. Gates shall be set back from the public street to allow for stacking, as follows:
   a. Two to 30 dwelling units: 25 feet
   b. Thirty-one or more dwelling units: 40 feet
2. The paved area behind the guest gate shall be sufficient to accommodate at least one vehicle without interfering with the use of the resident gate.
3. Guardhouses with gates are set back at least 40 feet from the public right-of-way and provide access that is at least 18 feet in width and 14 feet in height. Clearance for construction equipment on trailers may be higher. More than 40 feet of setback may be required where the road serves more than 160 units, or it is demonstrated that the inbound traffic volume exceeds 120 vehicles per hour in the peak hours.
4. The access between the guardhouse and the public street shall be an easement of 60 feet in width and a minimum pavement width of 36 feet.
5. An entry turnaround shall be provided between the guardhouse or gate and the public street.
6. Police, fire, sanitation, and other public vehicles (*e.g.*, postal and delivery services, school buses, etc.) shall be provided access. Access control devices shall meet regulations adopted by the City, including redundancy requirements. The description and specifications for the access control devices shall be submitted for approval with the final plat. The developer shall provide to the City all equipment necessary to operate the access control devices, as determined by and at no cost to the City.

E. **Required Covenants, Easements, and Plat Notations.**

1. The preliminary and final plat shall be annotated with a notice that the streets are private and subject to covenants, conditions, or restrictions (CCRs) for maintenance.
2. All subdivision plats, deeds, and covenants, conditions, or restrictions shall indicate that the City will not accept dedication of a private street.
3. Easements shall be provided for all public utilities.

4. A property owners' association shall be established in a form approved by the City at the time of final plat approval, which will:
   a. Require all lot owners to be members;
   b. Collect dues and assessments to maintain the private roads;
   c. Keep an appropriate reserve fund to ensure periodic maintenance of the private roads; and
   d. Require maintenance of the private streets, traffic signs, streetlights, and sidewalks.
5. With respect to the maintenance of private streets, traffic signs, streetlights, and sidewalks, the property owners' association documents shall not be amended without the consent of the City.
6. The plat shall contain an annotation in a form approved by the City Attorney that releases the City from all liability for damage that may be caused to the private streets, alleys, or security stations by the reasonable use of or access to said private streets, alleys, or security stations for public purposes, including school busing, deliveries, law enforcement, utility maintenance, and emergency response.
7. Each private street subdivision plat shall contain the following three paragraphs on the face of the plat:
   a. "The streets, as reflected upon the subdivision plat, have not been dedicated to the public for public access nor have been accepted by the City as public improvements. The streets, streetlights, traffic control devices, sidewalks and other improvements shall be maintained by the property owners' association within the subdivision. The streets shall always be open to emergency vehicles, public and private utility service personnel, the United States Postal Service, and governmental employees in pursuit of their official duties."
   b. "We, the undersigned owners of the land shown on this plat and designated herein as (Subdivision) do hereby grant an easement to the City of Hays, Kansas, and those who may now or hereafter hold franchise under said City. The streets, streetlights, traffic control devices, sidewalks and other improvements and easements thereon shown, surface use of the street and alleys is restricted to the employees or agents of the City of Hays. Employees of utilities operating under franchise to the City of Hays, Kansas, and residents of the subdivision and their guests."
   c. "The owners of lots served by the private streets, alleys, and access easements within this Plat agree to release, indemnify, defend and hold harmless any governmental entity for damages to the private streets, alleys, and access easements occasioned by the reasonable use thereof by the government entity for governmental purposes, and to release, indemnify, defend and hold harmless any governmental entity for damages arising from the condition of the private streets, alleys, or private access easements. The maintenance of private street signs shall not be the responsibility of the City of Hays, Kansas."

F. **Relationship to Other Sections of this Code.**

1. Off-site improvements or escrows shall apply to private street developments.
2. All private street easements shall be treated as public street right-of-way for purposes of determining compliance with the set back, lot frontage, and other requirements of this Code that relate to the relationship between development and the abutting street.

G. **Connection of City Utilities.** City utilities shall not be connected until the Director of Public Works has certified that the streets and utility lines have been constructed to City standards.

Effective on: 5/6/2016

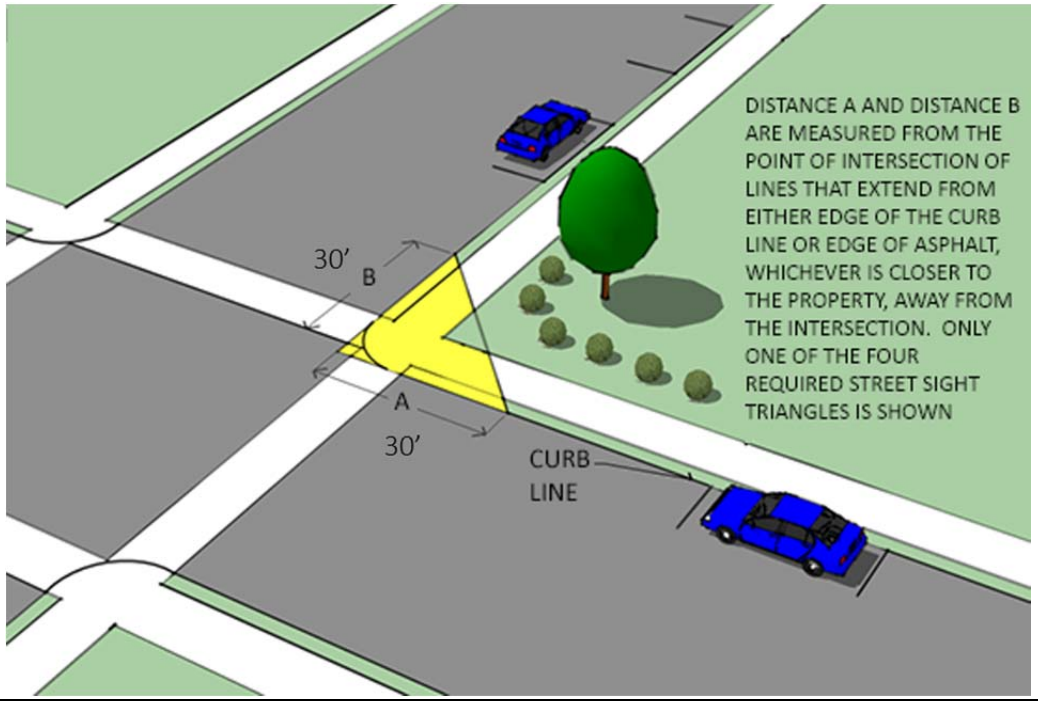
Sec. 6.2.206 Right-of-Way Maintenance

Owners of property that abut a public right-of-way shall maintain the property between the edge of pavement or the inside of the curb and the owner's property line, including providing for continuing compliance with Section 6.2.207, *Sight Triangle Requirements*.

Sec. 6.2.207 Sight Triangle Requirements

A. **Required Sight Distance Triangle.** Within the triangular area formed by the right-of-way lines of intersecting streets (at non-signalized intersections only) and a line connecting points 30 feet on either side of such intersecting right-of-way, including triangles formed from centerlines of driveways, there shall be clear space and no obstruction to vision (*see* Figure 6.2.207, *Sight Triangle Requirements*).

Figure 6.2.207
Sight Triangle Requirements



B. **Sight Distance Triangle to be Kept Free of Obstructions.** No person shall place or maintain any structures, fences, landscaping, or other objects within any sight distance triangle that obstructs or obscures site distance visibility by more than 25 percent of the area between the ground and eight feet, except for the following:

1. Landscaping, structures, or fences that protrude no more than 30 inches above the adjacent roadway surface may be permitted within the sight distance triangle.
2. Trees may be planted and maintained within the sight distance triangle if all branches are trimmed to maintain a clear vision for a vertical height of eight feet above the roadway surface and the location of the trees planted, based on the tree species' expected mature height and size, does not obstruct sight visibility by more than 25 percent of the site distance triangle area.

Effective on: 5/6/2016

Sec. 6.2.208 Right-of-Way ~~and Pavement~~ Widths

A. **Generally**. The cross-sections of residential, collector, industrial and commercial (business), and arterial streets shall be as set out below. All streets shall be constructed to the City's design standards.

1. *Residential Streets*: 60 feet;
2. *Collector Streets*: 70 feet;
3. *Industrial and Commercial (Business) Streets*: 80 feet; and
4. *Arterial Streets*: 100 feet.

B. **Right-of-Way**. Where additional right-of-way is needed to obtain vertical curve, grade, or sight distance triangles, the required right-of-way shall be adjusted in accordance with local needs, as determined by the Director of Public Works.

Effective on: 5/6/2016

Sec. 6.2.209 Thoroughfare Plan

A. **Generally.**

1. Thoroughfare planning and future right-of-way protection is a priority for the City. The thoroughfare plan is located in the Comprehensive Plan, and may be amended from time to time.
2. The thoroughfare plan identifies the planned alignment of arterial and collector streets throughout the City and its extraterritorial jurisdiction ~~three-mile planning~~ area.

B. **Effect.** New arterial or collector streets, in addition to improvements to existing arterial and collector streets, shall be consistent with the most recently adopted Comprehensive Plan.

Effective on: 5/6/2016

Division 6.2.300 Sidewalks and Trails

Sec. 6.2.301 Sidewalks

A. **Generally.** Concrete sidewalks are required on both sides along all public and private streets in the City.

B. **Required**. Sidewalks are required in all new developments.

1. **Residential Areas**.

   a. Curbside sidewalks with a minimum width of five feet shall be installed.

   b. Sidewalks set back from the curb may be allowed where warranted with the approval of the Director of Public Works.

   c. In subdivisions, sidewalks shall be installed as each house is constructed. When no less than 50 percent of the current phase of development is built, sidewalk construction on all remaining lots shall be completed within 36 months and shall be the full responsibility of the lot owner at that time.

2. **Other Locations**. On arterial and collector streets, reverse access roads, and other streets where the driving lane is immediately adjacent to the curb (where there is no on-street parking), curbside sidewalks shall be a minimum width of six feet or the sidewalk shall be set back from the curb.

C. **Alternate Allowed**. With approval of the Planning Commission, sidewalks may not be required in a planned development provided an alternate means of multi-modal transportation is provided.

D. **Mid-Block Crossings and Cul-de-sacs.**

1. Pedestrian access easements and sidewalks may be required by the Planning Commission at mid-block crossings when the block exceeds 1,200 feet in length, and in cul-de-sacs, when connections to other streets, cul-de-sacs, and off-street trails are within 300 feet, measured from the shortest distance between the two points.

2. The width of the pedestrian access easement shall be at least 10 feet and the width of the sidewalk connection shall be a minimum of six feet (*see* Figure 6.2.203C, *Cul-De-Sac Pedestrian and Bicycle Connections*).

E. **Connections to Pedestrian and Bicycle Lanes, Paths, and Trails.**

1. Sidewalks located on a parcel proposed for development shall provide connections to any existing or proposed on-street bicycle lane or shared-use path or trail if the lane, path, or trail is located on or abutting the parcel proposed for development (*see* Section 6.2.302, *Bicycle Routes, Lanes, Paths, and Trails*).

2. For any connection to an off-site lane, path, or trail that is not yet constructed, a pedestrian access easement and stub-out connection shall be required.

F. **Modification of Sidewalk Requirements.** Sidewalk requirements may be altered or waived if a sidewalk or trail plan that provides equal or greater pedestrian circulation is submitted to and approved by the Planning Commission at the time of a preliminary plat. These trade-offs may be permitted if better pedestrian and bicycle access and connectivity is provided through the use of off-street trails or shared-use pathways that connect to sidewalks or other off-street trails or pathways on the perimeter of the parcel proposed for development.

Effective on: 5/6/2016

Sec. 6.2.302 Bicycle Routes, Lanes, Paths, and Trails

A. **Generally.** Bicycle transportation is an important element of a multi-modal transportation system. The purpose of this Section is to implement *The Bike Hays Master Plan* with respect to bicycle facilities, paths, and trails.

B. **Bicycle Routes.** Bicycle routes shall be designated on all site plans and plats, and shall be signed in accordance with The Bike Hays Master Plan and signed accordingly upon completion of the proposed development.

C. **Bicycle Lanes.** Bicycle lanes are required along all new arterial and collector streets, except in locations where shared use paths provide comparable or better access and mobility for bicycles. All bicycle lanes shall be designed, posted, marked, and striped according to the requirements of *The Bike Hays Master Plan.*

D. **Bicycle Paths and Trails**. Bicycle paths and trails are required where designated in *The Bike Hays Master Plan*.

1. *Paths*.

   a. Bicycle paths shall be at least eight feet wide, and designed, posted, and marked according to the requirements in *The Bike Hays Master Plan* and approved by the Director of Public Works.

   b. Where a bicycle path crosses an intersection, the bicycle path shall be marked as a bicycle crossing. Right turns at intersections shall be on the shoulder of the intersecting street if the bicycle path does not continue along the intersecting street.

2. *Trails*.

   a. Development that abuts a linear corridor in *The Bike Hays Master Plan* shall provide an easement for the construction of a trail in accordance with the Plan.

   b. Maintenance responsibilities shall be established at the time of a preliminary plat.

Effective on: 5/6/2016

CHAPTER 7 SIGNS

ARTICLE 7.1 PURPOSE, INTENT, AND APPLICATION OF CHAPTER

Division 7.1.100 Purpose, Intent, and Application

Sec. 7.1.101 Purpose and Intent

A. **Purpose.** It is the purpose of this Chapter to provide uniform sign standards which promote a positive City image reflecting order, harmony, and pride, thereby strengthening the economic stability of the City's business, cultural, and residential areas.

B. **Intent.** It is the intent of this Chapter to provide comprehensive regulation of signs, including the erection, alteration, and maintenance within the City limits, in order to protect and enhance the health, safety, and welfare of the general public, and provide such comprehensive regulations in a manner which will be compatible with all applicable City regulations.

Effective on: 5/6/2016

Sec. 7.1.102 Application

A. **Application.**

1. *Generally*. All construction, relocation, enlargement, alteration, and modification of signs within the City shall conform to the requirements of this Chapter and all state and federal regulations concerning signs and advertising, and applicable building and electrical codes as adopted by the City, as may be amended from time to time.

2. *Construction of Chapter*. Nothing in this Chapter shall be construed to authorize any projection or encroachment upon any street, alley, or public way in the City that is prohibited by law or other ordinance, nor to express or imply any permission, license, or permit for any structure to encroach upon or project within the lines of any street, alley, or public way which shall not be revocable by order of the Planning Commission. All structures or portions of structures previously erected or located which project beyond the street or building line shall be removed or reconstructed in accordance with a resolution of the Planning Commission as provided by law or City ordinances.

3. *Permit Required*. No person, firm, or corporation shall erect, construct, install, demolish, convert, relocate, enlarge, repair, modify, or alter any sign within the City limits without a sign permit having been obtained in conformance with this Code.

4. *Signs Permitted Before Effective Date.* If a permit for a sign has been issued in accordance with all City ordinances in effect prior to the effective date of this Code, and provided that construction is begun within six months of the effective date and diligently pursued to

completion, said sign may be completed in accordance with the approved plans on the basis of which the permit has been issued, subject thereafter, if applicable, to the provisions regarding nonconforming signs.

5. *Relationship to Other Regulations*. This Code recognizes that there are other regulations that pertain to signage. Where any provision of this Chapter covers the same subject matter as other regulations, the more restrictive regulation shall apply.

6. *Measurements and Calculations*. The regulations for measurements and calculations for this Chapter are set out in Division 14.1.100, *Measurements*.

B. **Signs that Require a Sign Permit.**

1. No sign less than two feet by two feet in size shall require a permit.

2. All signs set out in Division 7.2.200, *Permanent Signs*.

C. **Exempted Signs.**

1. The following signs shall be exempt from the requirements of this Chapter:

   a. Flags or emblems of a governmental or of a political, civic, philanthropic, educational, or religious organization on private property;

   b. Signs of a duly constituted governmental body, including traffic or similar regulatory signs, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, safety, parking, swimming, dumping, etc.;

   c. Memorial signs and tablets displayed on private property;

   d. Small signs, not exceeding three square feet in area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances, and other similar signs; and

   e. Scoreboards in athletic stadiums.

   f. Temporary displays commonly associated with any national, local, or religious holiday or celebration for a duration, not to exceed 90 days per holiday.

2. The following signs are exempt from a required permit but shall comply with all of the other regulations imposed by this Chapter:

   a. Nameplate signs not exceeding two square feet in gross area accessory to a single-family or duplex dwelling;

   b. Bulletin board signs not exceeding 15 square feet in gross area accessory to a church, school, or public or nonprofit institution;

   c. Temporary, noncommercial signs not exceeding 32 square feet in area.

   d. No temporary noncommercial signs shall be placed or erected:

      i. In or on the public right-of-way;

ii. In or on any private property without the express permission of the owner or occupant of such property.

D. **Signs That Do Not Require a Sign Permit.**

1. Address signs;
2. Flags;
3. Holiday decorations;
4. Integral signs;
5. Interior signs;
6. Official and legal notice;
7. Traffic control signs;
8. Way-finding signs; and
9. Temporary signs.

Effective on: 5/6/2016

ARTICLE 7.2 SIGNS

Division 7.2.100 General Provisions

Sec. 7.2.101 General Design Guidelines

A. **Generally**.

1. ~~All signs shall be securely anchored and braced to withstand wind pressure.~~
2. The construction of all signs shall be authorized upon the basis of an application and a permit to be approved by the Planning Inspection Enforcement Office, and no permit shall be issued except upon the approval of plans and specifications supplied with the application.
3. No sign shall be maintained at any location where, by reason of its position, size, shape, or color, it may obstruct, impair, obscure, interfere with the view of or be confused with any traffic or railroad control sign, signal or device, or where it may interfere with, mislead, or confuse traffic.
4. Any sign located within three feet of a driveway or within a parking area shall have its lowest elevation at least nine feet above the curb level; however, in no event shall any sign be placed so as to project over any vehicular traveled public way.
5. All advertising or display signs to be erected or hung upon poles or other permanent structures, designed or built for the purpose, other than billboards or panel posters, shall

be metal or other noncombustible materials. It shall be unlawful to locate, construct, or maintain any permanent sign upon or within the street parking adjacent to any roadway or sidewalk in the City; provided that temporary or movable signs may be placed in or over streets, sidewalks, or street parking as provided in this Chapter.

6. All signs shall be constructed in a substantial manner to withstand wind pressure. All signs shall be constructed without moveable parts and shall be fastened or anchored not to swing or otherwise be dislodged from their moorings.

B. **Placement.** The placement of signs on buildings shall be clearly visible and in logical locations where most patrons would expect to see a sign. Appropriate sign locations:

1. *Respect Public Right-of-Way*. Signage shall not encroach into right-of-way maintained by the City, unless there is a license agreement with the City.

2. *Place within Structural Boundaries*. Signs shall not project above roof lines or the edges of building walls unless otherwise approved by the Zoning Administrator..

C. **Illumination**. Well-designed signs are appropriately illuminated with careful consideration as to the type and strength of illumination.

1. *Shield the Light Source.* The light source, whether internal or external, shall be shielded from view or directed so that the light intensity or brightness is not objectionable to surrounding areas. Signs shall feature the minimum level required for nighttime readability. Ground-mounted external flood lighting must be shielded and properly placed and directed to avoid direct visibility of the directed light to passing motorists.

2. *Sign Electrical Raceways and Conduits*:

a. Electrical transformer boxes and raceways should be concealed from public view. If a raceway cannot be mounted internally behind the finished exterior wall, the exposed metal surfaces of the raceway should be finished to match the background wall or integrated into the overall sign design.

b. If raceways are necessary, they should be as thin and narrow as possible and should never extend in width or height beyond the area of the sign's lettering or graphics.

Effective on: 5/6/2016

Sec. 7.2.102 Prohibited Signs and Design Elements

A. **Generally**. This Item identifies signs and sign elements that are not allowed anywhere in the City.

B. **Prohibited Signs**.

1. The following signs are prohibited in all areas of the City:

a. Animated or moving signs that are visible from public street right-of-way, including any moving, swinging, rotating, scintillating, fluctuating, or otherwise animated light (except time and temperature signs and those as allowed in Section 7.2.105, *Message*

Centers). These signs include pennants, ribbons, streamers, spinners, or other similarly moving devices, whether or not part of any sign. ~~A sign whereon the current time and/or temperature is indicated by intermittent lighting shall not be deemed as a flashing sign if the lighting changes are limited to the numerals indicating the time and/or temperature and are not more frequent than every 8 seconds.~~

b. Abandoned signs.

c. Roof signs.

d. Portable signs, except as specifically permitted in Section 7.2.301, *Standards for Temporary Signs by Type.*

e. Signs placed on public property, except those placed by the public entity and subdivision identification monuments or subdivision entrance signs when located within the subdivision limits on property that is commonly owned and subject to covenants, conditions, and restrictions. Removal of signs on public property include:

   i. Any unauthorized temporary sign placed upon public property including public right-of-way, or upon any lamppost, public utility pole, or traffic utility device located within the public right-of-way is declared to be a public nuisance. The Zoning Administrator or any other individual authorized by this Code shall cause its removal in the manner provided by this Chapter.

   ii. Any temporary sign, bill, advertisement, or notice posted or placed on public property in violation of this Chapter may be torn down or removed by any law enforcement officer, any Planning Inspection Enforcement personnel, or any personnel of Public Works.

   iii. Any temporary sign removed pursuant to Subsection B.1.e.ii., above, which is six square feet or larger and composed entirely of metal or wood shall be kept by the Planning Inspection Enforcement Office or other department designated to remove such sign for a period of 20 days, after which it may be disposed of in any manner deemed appropriate by the City. All other signs removed pursuant to to Subsection B.1.e.ii., above, may be disposed of in any manner deemed appropriate by the City.

f. Off-premise advertising signs that are located on building roofs or walls.

g. Stacked off-premise advertising signs.

h. Signs that are a traffic hazard because they simulate or imitate (in size, color, lettering, or design) any traffic sign, signal, or device as to interfere with, mislead, or confuse traffic.

i. Under no circumstances shall any sign be placed in the site distance triangle (*see* Section 6.2.207, *Sight Triangle Requirements*).

j. Any non-governmental sign that is located in, upon, or over any public right-of-way, except:

   i. Projecting signs in the Mixed Use (M-U) District and Central Business (C-3) District, as applicable;

ii. Traffic control signs installed by a governmental entity;

iii. Banners posted or approved by the City on utility or light poles;

iv. Signs constructed by the City that implement a way-finding program; and

v. Signs affixed to the transit system shelters and bus benches.

k. ~~Signs attached in any form, shape, or manner which will interfere with any opening required for ventilation, except that such a sign may be erected in front of and may cover transom windows when not in violation of the provisions of the building or fire codes.~~

l. No sign shall be attached to a tree or utility pole, whether on public or private property.

m. ~~Signs with more than three sign faces.~~

n. Signs that violate City, county, state, or federal laws.

o. Signs not expressly allowed by this Code.

2. Other signs may be prohibited in certain districts.

C. **Prohibited Sign Materials**. Paper and cloth signs are not suitable and shall not be used for exterior use (except high quality, weather-resistant cloth). Wood signs must be sealed and maintained to keep moisture from deteriorating the sign. ~~Signs may not be constructed of plywood or particleboard, by simply painting letters on wood, or using "sticker" letters. Commercial grade vinyl letters applied onto glass may be permissible.~~

D. **Prohibited Obstructions**. In no event shall a sign, whether temporary or permanent, obstruct:

1. Features of the building or site that are necessary for public safety, including Fire Department connections (FDCs), standpipes, and fire hydrants; or

2. Be erected where, by reason of the position, shape, or color, it interferes with or obstructs the view of a sight distance triangle.

E. **Prohibited Mounts**. No (snipe) sign shall be placed on public property, whether temporary or permanent, or shall be posted, installed, or mounted on any of the following locations:

1. On trees, shrubs, or landscaping of any type.

2. On utility poles or light poles.

3. On utility cabinets, except signs posted by the utility that are necessary for public safety or identification of the facility by the utility provider.

F. **Prohibited Locations**. In addition to the setback requirements set out in Division 7.2.200, *Permanent Signs*, and Division 7.2.300, *Temporary Signs*, and other restrictions of this Chapter, no sign shall be located within easements for overhead utilities (placement in other utility easements is allowed only if approved by the utility service provider and if the other applicable requirements of this Code are met).

G. **Prohibited Design Elements.**

1. The following elements shall not be used as an element of signs or sign structures, whether temporary or permanent:

   a. Sound, smoke, or odor emitters.

   b. Stacked products (*e.g.*, tires, soft drink cases, bagged soil or mulch).

   c. ~~Unfinished wood support structures, except that stake signs may use unfinished stakes.~~

2. The following elements shall not be used as an element of signs or sign structures, whether temporary or permanent, which are visible from public street right-of-way:

   a. Flags, banners, or comparable elements that are designed to move in the wind, but only when such elements are attached to another sign type (*e.g.*, flags may be attached to flagpoles, but may not be attached to monument signs).

   b. Spinning or moving parts.

   c. Motor vehicles, unless:

      i. The vehicles are functional, used as motor vehicles, and have current registration and tags; and

      ii. The display of signage is incidental to the motor vehicle use (*see* Figure 7.2.102, *Vehicle Signs*).

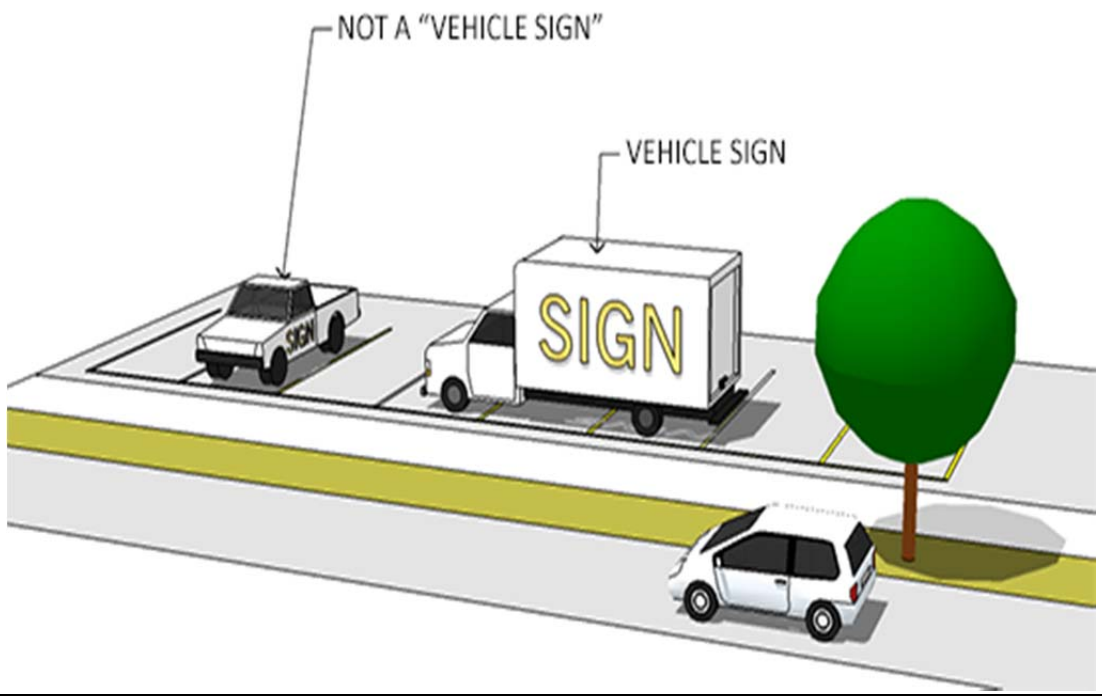
   d. Semi-trailers, shipping containers, or portable storage units, unless:

      i. The trailers, containers, or portable storage units are functional, used for their primary storage purpose, and, if subject to registration, have current registration and tags;

      ii. The display of signage is incidental to the use for temporary storage, pick-up, or delivery; and

      iii. The semi-trailer is parked in a designated loading area or on a construction site at which it is being used for deliveries or storage.

Figure 7.2.102
Vehicle Signs



H. **Prohibited Content.**

1. The following content is prohibited without reference to the viewpoint of the individual speaker:

   a. Text or graphics of an indecent or immoral nature and harmful to minors;

   b. Text or graphics that advertise unlawful activity;

   c. Text or graphics that are obscene, fighting words, defamation, incitement to imminent lawless action, or true threats; or

   d. Text or graphics that present a clear and present danger due to their potential confusion with traffic control signs or signs that provide public safety information (for example, signs that use the words or comparable words, phrases, symbols, or characters in such a manner as to imply a safety hazard that does not exist).

2. The narrow classifications of content that are prohibited by this Item are either not protected by the United States or Kansas Constitutions, or are offered limited protection that is outweighed by the substantial governmental interests in protecting the public safety and welfare. It is the intent of the City Commission that each paragraph of this Item be

individually severable in the event that a court of competent jurisdiction is to hold one or more of them to be inconsistent with the United States or Kansas Constitutions.

I. **Removal of Prohibited Signs**. Except for signs that constitute a safety hazard, persons having a prohibited sign shall be notified by certified mail, return receipt requested, and informed of their right, within ten business days of the time of receipt of the certified notice, to schedule a meeting with the Zoning Administrator, or designee, to discuss the prohibited sign and the procedures for conforming with the regulations set out in this Chapter. Failure by the owner of the prohibited sign to appear at the scheduled meeting shall not be reason for delaying removal of the prohibited sign. After proper notice, prohibited signs shall be removed within 30 calendar days of the time of receipt of the certified notice.

Effective on: 5/6/2016

Sec. 7.2.103 Unsafe Signs

A. **Generally**. Attached signs shall be installed on signable areas of buildings, as defined by Section 14.1.113, *Sign Calculations*. Detached signs shall be set back as required by Section 7.2.202, *Detached Signs*. Signs that are in violation of this Subsection are subject to immediate removal, as set out in Subsection F., below.

B. **Unsafe Signs**. Signs determined to be unsafe, insecure, or a menace to the public shall be repaired or removed within five calendar days after written notification is provided to the owner or occupant of the building or property. If the Zoning Administrator, or a designee, finds that a sign regulated by this Chapter is an immediate peril to persons or property, the Zoning Administrator shall cause it to be repaired or removed summarily and without notice. Repair or removal of an unsafe sign by the Zoning Administrator, or a designee, shall be at the expense of the owner of the sign or the owner of the property on which the sign is located.

Effective on: 5/6/2016

Sec. 7.2.104 Illumination of Signs

A. **Generally**. All signs, if external illumination is used, the source of illumination shall be shielded.

B. **Shielding of Light Source/Prevention of Glare**. The source of light shall be oriented or otherwise controlled to prevent glare toward any party of an existing residence, a residential area or district, or a public street or highway.

C. **Color**. Lighted signs in direct vision of a traffic signal shall not emulate traffic control signals.

D. **Code Compliance**. Illuminated signs shall be constructed in accordance with all applicable building and electrical codes.

E. ~~**Optical Sensor**. All signs that are directly illuminated shall include a sensor or other device that automatically determines the ambient illumination and is programmed to automatically dim according to ambient light conditions, or that can be adjusted to comply with the foot-candle requirement set out in Subsection F., below.~~

F. ~~**Sign Illumination**. Signs shall not exceed 0.3 foot-candles over ambient light conditions or otherwise create a nuisance.~~

G. **Electrical Service**. When electrical service is provided to a sign, all such electrical service shall be placed underground if ~~or shall be concealed to the maximum extent~~ practicable.

Effective on: 5/6/2016

Sec. 7.2.105 Electronic Message Centers and Changeable Copy Signs

A. **Generally**. Electronic message, light emitting diode (LED), electronic animated signs, and changeable copy signs may be used as part of monument, pylon, or pole signs, and marquee signs to a limited degree, pursuant to the standards of this Section.

B. **Message Centers**. Electronic message, LED, and electronic animated signs, also known as "electronic message centers" may be incorporated into signage as follows:

1. *Design Requirements*. ~~(*see* Figure 7.2.105A, *Message Center Design Requirements*)~~

   a. Electronic message centers are only permitted as an integral element of a monument sign, pole sign, pylon sign, or marquee sign, which enclose the message center component on all sides with a finish of brick, stone, stucco, powder coated (or comparably finished) metal, or the surface of the sign face.

   b. ~~Electronic message centers shall make up not more than 50 percent of the sign area of a monument sign, pole sign, or pylon sign, and not more than 50 percent of the sign area of a marquee sign. The balance of the sign area shall utilize permanent, dimensional letters or symbols.~~

   c. No sign structure that includes a changeable copy sign may also include an electronic message center.

2. *Dimming Controls*. No electronic message center shall be erected or installed without dimming controls to ensure the sign is appropriately dimmed at night. Acceptable dimming controls include automated light sensing devices (photocells) and/or programmable controls that are set by the user to automatically dim the sign at night. The maximum nighttime brightness and/or light intensity shall not exceed 0.3 foot-candles over ambient light conditions.

3. *Abutting Residential*. Signs subject to the requirements of this Subsection shall be shaded or adjusted wherever necessary to avoid bright light upon property in any residential district or upon any public street. Any message center ~~illuminatedsign~~located on a lot adjacent to or across the street from any residential district, and which is visible within 200 feet of any residential district, shall not be illuminated between the hours of 11:00 p.m. and 6:00 a.m. Signs may not be illuminated unless so designated to permit same.

4. *Placement Standards*. Electronic message centers:

   a. Require a special use permit in the Central Business (C-3) District;

   b. Are prohibited in the Agriculture (A-L), Residential Multi-Family (R-M), and Neighborhood Shopping (C-1) Districts; and in the NC.1 and NC.2 Sub-Districts;

   c. May be permitted with approval of a special use permit for public/institutional, nonresidential, or mixed uses that exist as of the effective date of this Code in the

Residential Suburban (R-S) and Residential General (R-G) Districts or in the NC.4 or NC.5 Sub-Districts, subject to the standards of this Chapter;

d. Shall not be permitted if there is a nonconforming electronic message center, owned by the same person, firm, or corporation, within 1,320 feet of the proposed location, unless the nonconforming sign becomes conforming; and

e. ~~Shall only include one electronic message center per sign.~~

5. *Operational Standards*.

a. Display. Electronic message centers shall:

i. ~~Contain a static message that may only be monochrome, variable shades, or full color.~~

ii. Contain a default design that will freeze the sign in one position with no more illumination than 0.3 foot-candles above ambient light if a malfunction occurs.

iii. Off Premise message centers shall display messages for a period of not less than eight ~~two~~seconds and use transitions or frame effects must be accomplished within an interval of two~~eight~~seconds or less.

iv. Not include audio, pyrotechnic, or bluecasting (bluetooth advertising) components.

b. Lighting. Message centers shall not exceed 0.3 foot-candles above ambient light when measured from a specified distance. This measurement calculates the illumination of the sign and incorporates a scientific formula to ensure consistency of the measurement when applied to electronic message centers of varying sizes and resolutions. The instrument to measure the illuminance of electronic message centers shall be an illuminance meter more commonly referred to as a lux or foot-candle meter. The illuminance meter must have the ability to provide a reading up to two decimal places and must be set to read foot-candles. The method to calculate the appropriate distance from which the illuminance shall be measured is the square root of the area of the message center times 100.

c. Spacing. Message centers shall have a minimum spacing of:

i. 50 feet between the electronic message center and the property line of any residential use or district set out in Article 2.2, *Land Uses*. The distance shall be calculated as the shortest measurable distance between the nearest point of the sign to the edge of the residential property line or district or to the property line of an institutional use.

ii. 400 feet between electronic message centers on the same property, with a maximum of no more than two electronic message centers per any same street frontage. The distance shall be calculated as the shortest measurable distance between the nearest points of the signs.

6. *Pre-Date this Code*. Any electronic message center in existence before the effective date of this Code which does not conform to the dimming control requirements of Subsection B.2,

above, shall be required to modify such electronic message center to comply with the dimming control within one year of the effective date of this Code.

C. **Changeable Copy Signs**. Changeable copy signs may be incorporated into signage as follows:

1. *Design Requirements*.

a. Changeable copy signs are only permitted as an integral element of a monument, pylon, pole or marquee signs, which enclose the changeable copy area on all sides with a finish of brick, stone, stucco, powder coated (or comparably finished) metal, or the surface of the sign face. Gaps between the changeable copy area and the surround are permitted to accommodate locks and hinges for a cover for the changeable copy area, but only to the extent necessary for such locks and hinges to operate.

b. Changeable copy signs, including their frames, shall make up not more than 50 percent of the sign area of a monument sign, marquee sign, pole sign, or pylon sign. The balance of the sign area shall utilize permanently affixed letters or symbols ~~(*see* Figure 7.2.105B, *Manual Changeable Copy Signs and Inserts*)~~.

2. Lettering of changeable copy signs shall be of a single style and shall be of uniform color and size.

Effective on: 5/6/2016

Sec. 7.2.106 Sign Maintenance

A. **Generally.** The display surfaces of all signs shall be kept neatly painted or posted at all times.

B. **Preservation.** All signs, together with all their supports, braces, connections, anchors, and any addition or extension thereto shall be kept in repair and in proper state of preservation.

C. **Structural Maintenance.** Any crazing, fading, chipping, peeling of flaking paint, plastic or glass, or any mechanical, electrical or structural defect shall be corrected within 60 days upon notice by the City, or the sign shall be removed.

D. **Owner Responsibility.** Every sign and the immediate surrounding premises shall be maintained by the owner or person in charge thereof in a safe, clean, sanitary, and inoffensive condition, and shall be kept free and clear of all obnoxious substances, rubbish, and weeds.

Effective on: 5/6/2016

Sec. 7.2.107 Removal of Signs

A. **Removal of Certain Signs.**

1. Any sign, now or hereafter existing which has not advertised a bona fide business being conducted, or a product being sold for a period of six months or more, and after written notification from the Zoning Administrator or his/her designee, shall have all of the message section and advertising taken down and removed by the property owner upon which the sign is located. In addition, any sign, now or hereafter, existing which has not advertised a bona fide business being conducted, or a product being sold for a period of

one year or more, and after written notification from the Zoning Administrator or his/her designee, shall be removed in its entirety, including the structure to grade.

2. Notwithstanding Subsection A.1. above, in cases of emergency, the City may cause the immediate removal of a dangerous or defective sign without notice.

3. Failure of any person to comply with this Subsection shall be subject to the enforcement under the abatement regulations set out in Division 13.1.200, *Enforcement*, including all costs associated with fines and fees.

B. **Illegal Sign Removal.** The Zoning Administrator may, without paying compensation, remove any illegal sign placed in the public right-of-way.

Effective on: 5/6/2016

Division 7.2.200 Permanent Signs

Sec. 7.2.201 Attached Signs

A. **Generally.** There are many forms of attached signs. This Section sets out which forms of attached signs are allowed in each zoning district and the standards that apply to them. Attached signs that are not listed in Table 7.2.201, *Permissible Attached Sign Types*, are not allowed in any of the districts set out in the table.

B. **Residential and Nonresidential Uses**. The standards of Table 7.2.201, *Permissible Attached Sign Types*, apply to the residential and nonresidential zoning districts set out in the table.

Table 7.2.201
Permissible Attached Sign Types

District	Residential Districts					Nonresidential Districts						
	A-L	N-C	R-S	R-G	R-M	C-1	C-2	C-3[1]	I-1	I-2	M-U	P-I
Awning or Canopy Sign	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed
Number Allowed	--					1 per storefront for a mixed use or multi-tenant building						
Maximum Sign Area	--					50% of total square footage of front awning area						
Maximum Clearance	--					8 ft. above grade						
Illumination	--					Internal illumination; down lit or indirect lighting only						
Allowances	--					May be used only in combination with a wall sign, plus 1 detached sign (excluding temporary signs set out in Division 7.2.300, *Temporary Signs*)						
Sign Permit Required	--					Yes~~, plus building and electrical permits for lighted signs~~						
Business Sign (Home Occupation)	Allowed	Allowed	Allowed	Allowed	Allowed	Not Allowed	Not Allowed	Allowed	Not Allowed	Not Allowed	Allowed	Not Allowed
Number Allowed	1 per residential unit					--		1 per residential unit	--		1 per residential unit	--

Maximum Sign Area	20 sf.	2 sf.				--		2 sf.	--		2 sf.	--
Illumination	None					--		None	--		None	--
Allowances	May not be used in combination with any other sign					--		See A-L, N-C, R-S, R-G, and R-M Districts	--		See A-L, N-C, R-S, R-G, and R-M Districts	--
Other Limitations	The sign shall be attached to or affixed flat against the front street wall of the dwelling					--		See A-L, N-C, R-S, R-G, and R-M Districts	--		See A-L, N-C, R-S, R-G, and R-M Districts	--
Sign Permit Required	Yes, if specified as part of a limited use permit as set out in Article 2.2, *Land Uses*					--		See A-L, N-C, R-S, R-G, and R-M Districts	--		See A-L, N-C, R-S, R-G, and R-M Districts	--
Hanging Sign	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed
Number Allowed	--					1 per building						
Maximum Sign Area	--					6 sf.						
Maximum Height	--					8 ft. above the sidewalk						
Illumination	--					Indirect lighting only						
Allowances	--					May be used only in combination with a awning or canopy						
Other Limitations	--					1. May not extend within 2 ft. of the curbline 2. May be suspended under a marquee sign in the C-2 and C-3 districts 3. Not allowed if a projecting sign is used						
Sign Permit Required	--					No						
Marquee Sign	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed
Number Allowed	--						1 per street facing facade					
Maximum Sign Area	--						50 sf. per side; 100 sf. total					
Maximum Height	--						5 ft., excluding any top ornament supported directly by the marquee or awning					
Minimum Clearance	--						8 ft. above the sidewalk					
Illumination	--						Down lighting; only the sign area containing the letters or logos may be illuminated with interior lighting					
Allowances	--						May be used in lieu of an awning or canopy sign, hanging sign, or a projecting sign.					
Other Limitations	--						1. May not project more than 8 ft. from the building; may require an encroachment permit 2. Sign may be on up to three sides of a marquee					
Sign Permit Required	--						Yes~~, plus building and electrical permits for lighted signs~~					
District	Residential Districts					Nonresidential Districts						
	A-L	N-C	R-S	R-G	R-M	C-1	C-2	C-3	I-1	I-2	M-U	P-I

Projecting Sign	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Not Allowed
Number Allowed	--						1 per business					--
Maximum Distance from Building Facade	--						8 ft.; only to within 1 ft. of curbline					--
Minimum Clearance, Pedestrian Way	--						8 ft. above grade; including accessory lighting fixtures					--
Minimum Clearance, Vehicular Way	--						Street right-of-way = 14 ft. above grade Other vehicle ways = 9 ft. above grade					--
Maximum Sign Area	--						32 sf.					--
Illumination	--						Internal illumination; down lit or indirect lighting only					--
Other Limitations	--						All projecting signs shall be securely attached to the building or structure by bolts, anchors, chains, or galvanized steel guys or cables and shall not be attached to parapet walls in any manner unless such walls are reinforced with steel and designed to support other than the weight of such wall					--
Sign Permit Required	--						Yes~~, plus building permit~~					--
Residential Nameplate Sign	Allowed	Allowed	Allowed	Allowed	Allowed	Not Allowed	Not Allowed	Allowed	Not Allowed	Not Allowed	Allowed	Not Allowed
Number Allowed	1 per residential unit					--		1 per residential unit	--		1 per residential unit	--
Maximum Sign Area	1. 12 sf. per single-family and duplex unit 2. 0.5 per each multi-family unit					--		*See* residential districts	--		*See*	--
Illumination	None					--		None	--		None	--
Allowances	May be used only for single- , two- , and multi-family dwellings; no other signs allowed					--		*See* residential districts	--		*See* residential districts	--
Other Limitations	The sign shall be affixed flat against the wall of the dwelling					--		*See* residential districts	--		*See* residential districts	--
Sign Permit Required	No					--		No	--		No	--
Wall Sign	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed
Number Allowed	--					No minimum; subject to maximum sign area	No Minimum subject to allowable sign area ~~1 per~~	No minimum; subject to maximum sign area	1 per storefront facade or tenant			No Minimum ~~1 per builidng~~

							~~storefront facade or tenant~~					
Maximum Sign Area	--					Aggregate (total) sign area of 32 sf.	Aggregate (total) sign area of 2 sf. per linear ft. of facade width, or 200 sf., whichever is less	Aggregate (total) sign area of 32 sf.	Aggregate (total) sign area of 2 sf. per linear ft. of facade width, or 200 sf., whichever is less			Aggregate (total) sign area of 0.5 sf. per linear ft. of facade width, or 200 sf. whichever is less
Illumination	--					~~Internal illumination only if channel letters are used, plus down lighting or indirectly lighted~~ Allowed						
Allowances	--					May be used in combination with awning or canopy or hanging signs						
Other Limitations	--					1. Not project more than 24 in. from the wall or 3 ft. above the wall 2. All wall display signs shall not extend beyond the top and the ends of the wall surface to which they are attached. 3. Wall signs shall maintain a minimum distance of one foot from the lease line of the occupant's portion of the facade 4. The linear footage shall be measured along the wall of the facade on which the sign will be located 5. All wall signs shall be securely attached to the building wall by means of metal anchors, bolts, or screws. No such sign shall be fastened by nails, staples, or screws into wooden blocks, or nailing strips built into the masonry						
Sign Permit Required	--					Yes~~, plus building and electrical permits for lighted signs~~						
Window Sign	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed
Maximum Signable Area Ratio	--					50%	50%	50%	50%			
Illumination	--					None	Direct only	None	Direct only			
Other Limitations	--					Window signs are permitted on the ground floor or first floor only						
Sign Permit Required	--					No						

Effective on: 5/6/2016

Sec. 7.2.202 Detached Signs

A. **Generally.** This Section sets out which forms of detached signs are allowed in each zoning district, and the size and height; separation, setback, and illumination standards that apply to them. Detached signs that are not listed in Table 7.2.202, *Permissible Detached Sign Types*, are not allowed in any of the districts set out in the table.

B. **Design and Materials of Monuments and Freestanding Signs.** All monument and freestanding signs shall be designed and constructed to substantially appear as a solid mass, such as a cylinder, block, rectangle, or square, from ground level to the highest portion of the

sign. All monument and freestanding signs must be made of masonry, stucco, metal, routed wood planks or beams, high density urethane, polycarbonates, or durable plastic.

C. **Required Setbacks.** All detached signs shall be set back at least five feet from the nearest edge of the sign to all property lines.

Table 7.2.202
Permissible Detached Sign Types

District	Residential Districts					Nonresidential Districts						
	A-L	N-C	R-S	R-G	R-M	C-1	C-2	C-3	I-1	I-2	M-U	P-I
Billboard Sign (City limits only)	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Allowed	Allowed	Not Allowed	Not Allowed
Number Allowed	--								1 per property; not allowed if two or more on-site monument (ground) or pole signs totaling 250 sf. facing a travel direction within 35 ft. of street right-of-way		--	
Maximum Sign Area	--								200 sf.		--	
Maximum Height	--								50 ft.		--	
Minimum Separation	--								500 ft. or more (facing the same direction of travel) if an off-site billboard sign is greater than 200 sf. and 30 ft.; all others shall not be less than 200 ft. apart when facing the same direction of travel		--	
Minimum Setback	--								Per the zoning district in which the sign is located		--	
Illumination	--								Indirect only		--	
Other Limitations	--								Applicable only within the City limits. *See* Section 7.2.402, *Off-Site Billboards*		--	
Sign Permit Required	--								Yes~~, plus electrical permit for lighted sign~~		--	
Directional/Informational Sign	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed
Number Allowed	--					One per entrance and exit						
Maximum Height	--					10 ft.			10 ft.		10 ft.	10 ft.

Maximum Sign Area per Sign	--					3 sf.	6 sf.	3 sf.	8 sf.		6 sf.	8 sf.
Maximum Sign Area	--					40 sf.	40 sf.	40 sf.	40 sf.		40 sf.	40 sf.
Minimum Setback	--					5 ft. from property line; 3 ft. from any edge of pavement						
Illumination	--					Internal or External ~~Direct or indirect~~						
Sign Permit Required	--					Yes~~, plus electrical permit for lighted sign~~						
District	Residential Districts					Nonresidential Districts						
	A-L	N-C	R-S	R-G	R-M	C-1	C-2	C-3	I-1	I-2	M-U	P-I
Monument (Ground) Sign	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed
Number Allowed	--				1 sign per property		1 sign per each 300 ft. of street frontage	1 sign per property	1 sign per each 300 ft. of street frontage			1 sign per property
Maximum Sign Area per Monument	--				36 sf. ~~(see allowances)~~		100 sf. max.	36 sf. max.	100 sf. max.		36 sf. max.	36 sf. (see allowances)
Maximum Sign Height	--				4 ft.	8 ft.	10 ft. ~~including 18 in. concrete sign base~~	8 ft.	12 ft. ~~including 18 in. concrete sign base~~			
Minimum Setback/Location	--				5 ft.; located between the front property line and parking setback lines							
Minimum Separation	--				75 ft. apart; provided each property is allowed at least one sign							
Illumination	--				Direct or indirect							
Sign Permit Required	--				Yes~~, plus building and electrical permits for lighted signs~~							
Pole Sign ~~(cosmetic pole cover required)~~	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Allowed	Not Allowed	Allowed	Allowed	Allowed	Allowed
Number Allowed	--						2 maximum	--	2 maximum			
Maximum Sign Area per Sign	--						2 sf. per linear foot of street frontage; 200 sf. max. per sign	--	2 sf. per linear foot of street frontage; 200 sf. max. per sign			
Maximum Sign Height	--						30 ft, however for each foot of setback provided, an additional foot of sign height will be allowed. In no event shall the height of a sign exceed 90 feet.	--	For each foot of setback provided, an additional foot of sign height will be allowed. In no event shall the height of a sign exceed 90 feet.			
Minimum Setback/Location	--						< 30 sq. ft. = none > 30 sq. ft.	--	< 30 sq. ft. = none > 30 sq. ft. = 1 ft. setback for each 1 ft. > 30 sq. ft.			

							= 1 ft. setback for each 1 ft. > 30 sq. ft.					
Minimum Spacing	--						75 ft. apart; provided each property is allowed at least one sign	--	75 ft. apart; provided each property is allowed at least one sign			
Illumination	--						Refer to Sec. 7.2.101(C~~F~~)	--	Refer to Sec. 7.2.101(C~~F~~) Internal or External~~Direct or indirect~~			
Allowances	--						--	--	--			
Other Limitations	--						Refer to Sec. 7.2.101~~(G)~~	--	Refer to Sec. 7.2.101(G)			
Sign Permit Required	--						Yes~~, plus building and electrical permits for lighted signs~~	--	Yes~~, plus building and electrical permits for lighted signs~~			
Subdivision Entrance Sign	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed
Number Allowed	1 sign per public access point, with no more than 2 signs allowed per subdivision											
Sign Location	One sign located at the main entrance within 50 linear feet of the property or in an esplanade maintained by the property owners' association; only allowed for an area of 4+ acres											
Maximum Sign Area	50 sf.											
Maximum Height	6 ft. above the level of the street upon which the sign faces, or above the adjoining ground level (if ground level is above the street level)											
Minimum Setback	10 ft. from street right-of-way; subject to sight distance requirements											
Other Limitations	Shall be constructed of wood, stone, brick, or combination thereof, or of materials conducive with and similar to the neighboring properties											
Sign Permit Required	Yes, subsequent to subdivision plat approval											

Effective on: 5/6/2016

Division 7.2.300 Temporary Signs

Sec. 7.2.301 Standards for Temporary Signs by Type

A. **Generally**. This Section sets out which temporary signs are allowed in each zoning district, and the size, height, placement, and timing standards that apply to them~~. Sign types that are not listed in Table 7.2.301, *Temporary Sign Types*, are not permitted as temporary signs.~~

B. **Findings Related to Temporary Signs**. The City Commission finds that:

1. There is a need and warrant for the display of signage on a one-time, limited duration, and/or intermittent basis to aid businesses and other public or private entities in communicating to their customers, patrons, clients, or to the general public;

2. The regulation of temporary signage is a substantial governmental interest as means for preserving the quality and integrity of the visual environs in a manner that reflects positively on the community and its attractiveness as a place to visit and live; and

3. It is reasonable to regulate the number, size, height, location, and duration of signs that are placed on property on a temporary basis so as not to devalue or to lessen the impact or importance of permanent signage.

C. **Enforcement**. Temporary signs that are installed improperly or illegally will be removed by the City and the violators will be notified of such violation. If it is determined that the sign cannot be easily removed, the Zoning Administrator, or a designee, will notify the offender of their temporary sign violation. Offenders will have two business days to remove the sign. If the sign is not removed within this time period they are subject to a fine.

D. **Setbacks**. All temporary signs shall be set back at least five feet from all property lines. Temporary signs not visible from a public right-of-way or abutting property are not restricted by this Section.

E. **Standards**.

1. *Relative to Permanent Signs*. Signs that meet the standards of this Section are exempt from the standards for permanent attached and freestanding signs as set out in Division 7.2.200, *Permanent Signs*, and are not counted in the total square footage of signage allowed on any particular property or site. Signs that do not meet the standards of this Section are subject to the standards for permanent signs or those that are exempted by Sec. 7.1.102, *Application*.

2. *Illumination*. Temporary signs may only have external illumination.

3. *Temporary Banners*. Temporary banners are subject to the following regulations:

   a. In the A-L, N-C, R-S, R-G districts, temporary banners exceeding a cumulative area of four square feet are prohibited. In the R-M district, temporary banners are allowed up to a maximum cumulative area of 32 square feet.

   b. In the C-1, C-2, C-3, I-1, I-2, M-U, and P-I districts, temporary banners are allowed up to a maximum cumulative area of 32 square feet per property or, on a multi-use or multi-tenant property, per storefront. On single use sites that front more than one arterial street, the maximum cumulative area may be increased to 64 square feet. Only one banner may be hung on each building wall or on each separate structure. Any additional banners, or banners larger than 32 square feet in size, must meet the standards for permanent signs in this Code, as follows:

      i. In no case may a single use site or a storefront in a multi-use or multi-tenant property have more than two (2) temporary banners.

      ii. A temporary banner may be displayed up to four times per calendar year with each display period not exceeding 30 days for a maximum duration of 120 days per calendar year.

      iii. Banners that do not meet the regulations of this subparagraph, must meet the standards for permanent signs.

4. *Temporary Wall or Fascia Signs.*

   a. In lieu of a temporary banner, one temporary wall sign is allowed per street frontage in the C-1, C-2, I-1, and I-2 districts.

   b. Temporary wall signs may be up to 32 square feet in area.

   c. Temporary wall signs may not extend above roof lines.

   d. Extensions into the right-of-way are prohibited.

   e. A temporary wall sign may be displayed no longer than 90 days per calendar year.

5. *Temporary Freestanding or Portable Signs*. One temporary freestanding sign is allowed per property in the C-1, C-2, and C-3 districts, which is not counted in the total square footage of permanent signage allowed on the site.

   a. Temporary freestanding signs may be up to 12 square feet in area.

   b. Extensions into the right-of-way are prohibited, except as permitted in the C-3 district.

   c. A temporary freestanding sign may be displayed four times per calendar year with each display period not exceeding 30 days for a maximum duration of 120 days per calendar year.

   d. In the C-3 district, a temporary freestanding or portable sign may be displayed daily provided it is removed and stored indoors at the close of business, or 10 p.m. for 24-hour businesses.

~~Table 7.2.301~~ ~~Temporary Sign Types~~												
~~District~~	~~Residential Districts~~					~~Nonresidential Districts~~						
	~~A-L~~	~~N-C~~	~~R-S~~	~~R-G~~	~~R-M~~	~~C-1~~	~~C-2~~	~~C-3~~	~~I-1~~	~~I-2~~	~~M-U~~	~~P-I~~
~~Attached Promotional Sign~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~
~~Number Allowed~~	~~1 per property~~						~~1 per street frontage for a single tenant building; 1 per business in a multi-tenant building; subject to separation requirements~~		~~1 per property~~		~~1 per street frontage for a single tenant building; 1 per business in a multi-tenant building; subject to separation requirements~~	
~~Maximum Sign Area~~	~~6 sf.~~						~~12 sf.~~	~~8 sf.~~	~~12 sf.~~		~~8 sf.~~	
~~Maximum Height~~	~~8 ft. above average grade; not exceeding eave line or parapet wall~~						~~12 ft. above average~~	~~8 ft. above average~~	~~12 ft. above average grade; not exceeding eave line or parapet wall~~			

							~~grade; not exceeding eave line or parapet wall~~	~~grade; not exceeding eave line or parapet wall~~				
~~Location~~	~~On principal building where promoted use, activity, or event is located or is to occur~~											
~~Minimum Separation~~	~~N/A~~						~~Minimum 25 ft. apart~~		~~N/A~~		~~Minimum 25 ft. apart~~	
~~Duration of Individual Activity or Event~~	~~45 calendar days~~						~~90 calendar days~~					
~~Allowances~~	~~Only for special permitted uses set out in Article 2.2, *Land Uses*; may not be combined with any other temporary sign~~						~~May not be used only in combination with a detached (freestanding) promotional sign~~		~~May be used only in combination with a detached (freestanding) promotional sign~~		~~May not be used only in combination with a detached (freestanding) promotional sign~~	
~~Other Limitations~~	~~Sign shall not be attached or affixed to any other permanent improvement~~								~~Sign may be attached or affixed to another permanent improvement with approval of Zoning Administrator~~		~~Sign shall not be attached or affixed to any other permanent improvement~~	
~~Sign Permit Required~~	~~No; start/end date sticker issued~~											
~~Construction Sign~~	~~Allowed~~	~~Not Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~
~~Number Allowed~~	~~1 per address~~	~~--~~	~~1 per address~~									
~~Maximum Sign Area~~	~~32 sf.~~	~~--~~	~~32 sf.~~									
~~Maximum Height~~	~~6 ft.~~	~~--~~	~~6 ft.~~									
~~Location~~	~~On the lot or parcel~~	~~--~~	~~On the lot or parcel where the proposed use will occur~~									

	~~where the proposed use will occur~~											
~~Duration~~	~~Within one week of disposition of premises~~	~~--~~	~~Within one week of disposition of premises~~									
~~Illumination~~	~~None~~	~~--~~	~~None~~									
~~Allowances~~	~~May only be used with a portable real estate sign~~	~~--~~	~~May only be used with a portable real estate sign~~									
~~Other Limitations~~	~~Shall be securely and independently anchored to the ground to prevent sign from displacement due to inclement weather~~	~~--~~	~~Shall be securely and independently anchored to the ground to prevent sign from displacement due to inclement weather~~									
~~Sign Permit Required~~	~~No~~	~~--~~	~~No~~									
~~Detached (Freestanding) Promotional Sign~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~
~~Number Allowed~~	~~1 per property~~						~~1 per street frontage for a single tenant building; 1 per business in a multi-tenant building; subject to separation requirements~~		~~1 per property~~		~~1 per street frontage for a single tenant building; 1 per business in a multi-tenant building; subject to separation requirements~~	
~~Maximum~~	~~6 sf.~~						~~12 sf.~~	~~8 sf.~~	~~12 sf.~~		~~8 sf.~~	

~~Sign Area~~												
~~Maximum Height~~	~~4 ft.~~						~~8 ft.~~	~~6 ft.~~	~~8 ft.~~			
~~Location~~	~~On lot or parcel where promoted use, activity, or event is located or is to occur~~											
~~Minimum Separation~~	~~N/A~~						~~In separate yards adjacent to street frontage; minimum 30 ft. apart~~		~~N/A~~		~~In separate yards adjacent to street frontage; minimum 30 ft. apart~~	
~~Duration for Individual Activity or Event~~	~~10 calendar days per activity or event~~						~~15 calendar days per activity or event~~					
~~Number of Calendar Days per Year~~	~~45 calendar days~~						~~90 calendar days~~					
~~Allowances~~	~~Only for special permitted uses set out in Article 2.2, *Land Uses*; may not be combined with any other temporary sign~~						~~May not be used only in combination with an attached promotional sign~~		~~May be used only in combination with an attached promotional sign~~		~~May not be used only in combination with an attached promotional sign~~	
~~Other Limitations~~	1. ~~Shall be mounted to a rigid, durable frame with sign securely fastened to each side~~ 2. ~~Shall be securely and independently anchored to the ground to prevent sign from displacement due to inclement weather~~											
~~Restrictions~~	~~Shall not block, restrict, or impair the following:~~ 1. ~~The public's view of another business or activity~~ 2. ~~The public's view of the signage for another business or activity~~ 3. ~~The view or visibility of the operator of any motor vehicle~~ 4. ~~The movement of any pedestrian or motor vehicle~~											
~~Sign Permit Required~~	~~No; start/end date sticker issued~~											
~~Promotional Sign for Non-Commercial Activity or Event~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~
~~Number Allowed~~	~~Same as Attached/Detached Promotional Signs; may be attached or detached (freestanding)~~											
~~Maximum Sign Area~~												
~~Maximum Height~~												

~~Location~~	~~On any permanently occupied and improved lot or parcel, of the principal building of such lot or parcel, whether or not the promoted use, activity, or event is to occur on such lot or parcel~~											
~~Minimum Separation~~	~~N/A~~						~~In separate yards adjacent to street frontage; minimum 30 ft. apart~~		~~N/A~~		~~In separate yards adjacent to street frontage; minimum 30 ft. apart~~	
~~Duration for Individual Activity or Event~~	~~Placed not more than 29 calendar days before a promoted non-commercial activity or event and removed within 24 hours after the activity or event, for a total duration of 30 days per activity or event~~											
~~Number of Calendar Days per Year~~	~~45 calendar days~~						~~90 calendar days~~					
~~Allowances~~	~~Only for special permitted uses set out in Article 2.2, *Land Uses*; may not be combined with any other temporary sign~~						~~May not be combined with any other temporary sign~~					
~~Other Limitations~~	~~May not be placed on any lot or parcel concurrently with another temporary sign~~											
~~Sign Permit Required~~	~~No; start/end date sticker issued~~											
~~Business Establishment Sign~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~
~~Number Allowed~~	~~1 per property~~						~~1 per street frontage for a single tenant building; 1 per business in a multi-tenant building; subject to separation requirements~~		~~1 per property~~		~~1 per street frontage for a single tenant building; 1 per business in a multi-tenant building; subject to separation requirements~~	
~~Maximum Sign Area~~	~~32 sf.; may be increased to 64 sf. if the principal building facade is set back 100 ft. from street right-of-way~~						~~64 sf.; may be increased 100 sf. if the principal building facade is set back 100 ft. from~~	~~32 sf.; may be increased to 64 sf. if the principal building facade is set back 100 ft.~~	~~64 sf.; may be increased 100 sf. if the principal building facade is set back 100 ft. from street right-of-way or to 250 sf. if the gross floor area of the building~~		~~32 sf.; may be increased to 64 sf. if the principal building facade is set back 100 ft. from street right-of-way~~	

							~~street right-of-way or to 250 sf. if the gross floor area of the building is greater than 75,000 sf.~~	~~from street right-of-way~~	~~is greater than 75,000 sf.~~			
~~Maximum Height~~	~~Securely and fully attached to the ground or up to a height of 25 ft. of the first floor or in a window of the principal building~~											
~~Location~~	~~N/A~~						~~When more than one business establishment sign is allowed, shall be placed on separated building facades~~		~~N/A~~		~~When more than one business establishment sign is allowed, shall be placed on separated building facades~~	
~~Minimum Separation~~	~~N/A~~						~~In separate yards adjacent to street frontage; minimum 30 ft. apart~~		~~N/A~~		~~In separate yards adjacent to street frontage; minimum 30 ft. apart~~	
~~Duration~~	~~Placed not more than 90 calendar days before the first day or business after the issuance of a certificate of occupancy and upon which the business is staffed and fully operational, and removed within 30 calendar days or upon placement or erection of a permanent sign~~											
~~Number of Calendar Days per Year~~	~~Not exceeding 120 calendar days in any two consecutive calendar years, unless the business has transferred ownership~~											
~~Allowances~~	~~Only for special permitted uses set out in Article 2.2, *Land Uses*; a one-time 30 day extension may be allowed for good cause shown~~						~~A one-time 30 day extension may be allowed for good cause shown~~					
~~Sign Permit Required~~	~~No; start/end date sticker issued~~											
~~Interim Sign~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~
~~Number Allowed~~	~~Same as the permanent signs that are allowed by Division 7.2.200, *Permanent Signs*, within the district in which the lot or parcel and its principal buildings are allowed~~											

~~Maximum Sign Area~~												
~~Maximum Height~~												
~~Duration/Number of Calendar Days per Year~~	~~90 days~~											
~~Allowances~~	~~A one-time 30 day extension may be allowed for good cause shown~~											
~~Sign Permit Required~~	~~No; start/end date sticker issued~~											
~~Portable A-Frame Sign~~	~~Not Allowed~~	~~Not Allowed~~	~~Not Allowed~~	~~Not Allowed~~	~~Not Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Not Allowed~~	~~Not Allowed~~	~~Allowed~~	~~Not Allowed~~
~~Number Allowed~~	~~--~~					~~1 per street frontage~~			~~--~~		~~1 per street frontage~~	~~--~~
~~Maximum Sign Area~~	~~--~~					~~6 sf. per side; 12 sf. total~~			~~--~~		~~6 sf. per side; 12 sf. total~~	~~--~~
~~Maximum Height~~	~~--~~					~~4 ft.~~			~~--~~		~~4 ft.~~	~~--~~
~~Location~~	~~--~~					~~Placed on but not permanently anchored to the ground; does not block driveways, alleys, or walkways and not placed in the streets or parking lot~~			~~--~~		~~Placed on but not permanently anchored to the ground; does not block driveways, alleys, or walkways and not placed in the streets or parking lot~~	~~--~~
~~Duration~~	~~--~~					~~Displayed during business hours only; removed during non-business hours and during times of inclement weather~~			~~--~~		~~Displayed during business hours only; removed during~~	~~--~~

				~~non-business hours and~~	
~~Illumination~~	~~--~~	~~None~~	~~--~~	~~None~~	~~--~~
~~Allowances~~	~~--~~	~~Located directly in front of the business to which the sign related and in a location that is nearest the business entrance~~	~~--~~	~~Located directly in front of the business to which the sign related and in a location that is nearest the business entrance~~	~~--~~
~~Other Limitations~~	~~--~~	~~No less than 4 ft. of sidewalk on any side of the sign for pedestrian use; shall not be located in, upon, or over any public right-of-way unless an encroachment permit is issued~~	~~--~~	~~No less than 4 ft. of sidewalk on any side of the sign for pedestrian use; shall not be located in, upon, or over any public right-of-way unless an encroachment permit is issued~~	~~--~~
~~Restrictions~~	~~--~~	~~Shall be constructed of materials that present a finished appearance. The sign frame shall be painted or stained wood or anodized aluminum metal, plastic-framed signs that are stenciled or spray painted are prohibited. Sign lettering shall be~~	~~--~~	~~Shall be constructed of materials that present a finished appearance. The sign frame shall be painted~~	~~--~~

						~~professionally painted or applied; however, chalkboard signs shall be permitted~~					~~or stained wood or anodized aluminum metal, plastic-framed signs that are stenciled or spray painted are prohibited. Sign lettering shall be professionally painted or applied; however, chalkboard signs shall be permitted~~	
~~Sign Permit~~	~~--~~					~~No; start/end date sticker issued~~			~~--~~		~~No; start/end date sticker issued~~	~~--~~
~~Portable Carried Sign~~	~~Not Allowed~~	~~Not Allowed~~	~~Not Allowed~~	~~Not Allowed~~	~~Not Allowed~~	~~Not Allowed~~	~~Allowed~~	~~Not Allowed~~	~~Not Allowed~~	~~Not Allowed~~	~~Allowed~~	~~Not Allowed~~
~~Number Allowed~~	~~--~~						~~1 per business~~	~~--~~			~~1 per business~~	~~--~~
~~Maximum Sign Area~~	~~--~~						~~12 sf.~~	~~--~~			~~12 sf.~~	~~--~~
~~Duration~~	~~--~~						~~60 days in one calendar year~~	~~--~~			~~60 days in one calendar year~~	~~--~~
~~Other Limitation~~	~~--~~						~~Only during hours of business operati~~	~~--~~			~~Only during hours of business operation; not within the public~~	~~--~~

							~~on; not within the public right-of-way~~				~~right-of-way~~	
~~Sign Permit Required~~	~~—~~						~~No~~	~~—~~			~~No~~	~~—~~
~~Portable Election Sign~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~
~~Maximum Sign Area~~	~~4 sf.~~					~~9 sf.~~						
~~Duration~~	~~60 days; removed within 7 days following election~~											
~~Other Limitations~~	~~Not allowed on any property:~~ 1. ~~Located within public right-of-way, or that which is owned by the state, county, or City, or any other political subdivision of the state~~ 2. ~~Without the permission of the property owner~~ 3. ~~Which may constitute a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, by detracting from the visibility of any traffic control device, or by being confused with an authorized traffic control device~~											
~~Sign Permit Required~~	~~No~~											
~~Portable Real Estate Sign~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~	~~Allowed~~
~~Number Allowed~~	~~1 per street frontage~~											
~~Maximum Sign Area~~	~~12 sf.~~					~~32 sf.~~						
~~Maximum Height~~	~~4 ft.~~					~~8 ft.~~						
~~Duration~~	~~Removed 15 days after closing of sale, rental, or lease~~											
~~Other Limitations~~	~~May not be placed in the public right-of-way~~											
~~Sign Permit Required~~	~~No~~											

Effective on: 5/6/2016

Sec. 7.2.302 Prevention of Visual Clutter in Principal Corridors

A. **Generally**. Visual clutter is detrimental to the character of the community, and tends to be distracting to motorists. Strict application of this Section does not restrict ample alternative ways that residents and business owners may communicate their messages.

B. **Corridor Setback Requirement**.

1. No temporary sign shall be placed within the right-of-way (as provided in Subsection 7.2.102, *Prohibited Signs and Design Elements*), or within 30 feet of the edge of pavement (whichever creates a greater setback from the edge of pavement), along arterial streets or highways.
2. The setback requirement of this Section shall not apply in the following circumstances:
   a. To the front yard of any lot that is used or zoned for single-family residential purposes, when the front lot line is the edge of the right-of-way of a corridor subject to the requirements of Subsection B.1., above.
   b. Where an intervening private fence, wall, or other structure clearly delineates the boundary of private property outside of the prescribed public right-of-way, in which case the required setback shall include only the area up to and including the outside surface of such private fence, wall, or other structure.

Effective on: 5/6/2016

Division 7.2.400 Special Area Sign Standards

Sec. 7.2.401 Central Business (C-3) District

A. **Generally**. The Central Business (C-3) District, "Downtown", is the symbolic center of the community, which is conducive to a pedestrian environment. Signs help to convey an image and communicate a message of businesses, which also contribute significantly to the character and visual harmony of Downtown Hays. Therefore, signs in Downtown must be pedestrian-scaled and be of an artistic quality and creative design to reinforce the aesthetic integrity of the area. In addition to the regulations of this Section and elsewhere within this Code, the design of signs within the Central Business (C-3) District that are also within the Chestnut Street Historic District shall be subject to review by the State Historic Preservation Office (SHPO). The standards set out in this Section are to implement this vision. The appropriate types of signs in the C-3 district are set out below and illustrated in Figure 7.2.401, *Central Business (C-3) District Signage*.

Figure 7.2.401
Central Business (C-3) District Signage

B. **Attached Signage**. The standards for attached signs set out in Table 7.2.201, *Permissible Attached Sign Types,* are applicable in the C-3 district.

C. **Temporary Signage**. The standards for temporary signs set out in Table 7.2.301, *Temporary Sign Types*, are applicable in the C-3 district.

D. **Wall Signs**. Wall signs attached to the façade of buildings shall only be permitted in an area of the façade between the top of the ground floor windows and one foot below the cornice or, in the case of two-story buildings, the bottom sill of the second floor windows (otherwise known as the sign band). The maximum vertical dimension of signage in this area shall be no more than 18 inches in height. Wall signs shall have raised trim or a raised border of some fashion other than paint.

E. **Projecting Signs**. One projection sign is permitted per storefront provided the sign is no larger than two feet by three feet (2' x 3') in size. A projection sign shall be supported by a decorative chain or bracket, designed and constructed with craftsmanship and detail. The sign shall have a minimum clearance of nine feet for pedestrians~~ and a maximum height of 12 feet~~. No projecting sign shall project more than eight feet from the face of the building or structure and no closer than~~ only~~ one foot minimum from the curbline; it shall have a minimum vehicular clearance of 14 feet above the vehicular traveled way. Any such projecting sign shall be oriented so that the face of the sign is perpendicular to the building façade from which it projects.

F. **Business (Directory) and Upper Floor Signs**. For two-story multi-tenant buildings, one small directory sign with nameplates of the individual tenants is permitted on the ground floor. The maximum size of the directory is two square feet. The design of the sign shall be integrated with and compliment the building design.

G. **Menu Holders.** A freestanding menu holder is permitted on the exterior storefront of a restaurant. Such holder shall be limited to the size of two pages of the menu for which lettering shall not exceed one inch in height. The menu holder shall not be located so as to cause a safety hazard for pedestrians. The menu holder shall not be used for additional signage.

H. **Prohibited Signs.** Cabinet style~~, internally illuminated,~~ and pole ~~monument~~ signs are prohibited in the C-3 district.

Effective on: 5/6/2016

Sec. 7.2.402 Off-Site Billboards

A. **Generally.** The following Section applies to off-site billboard signs.

B. **Initiation.** An application for a new or enlarged off-site billboard sign shall be filed by both the owner(s) of the subject property on which the off-site sign is to be located and the owner of the proposed sign.

C. **Application.** A complete application for a new or enlarged off-site billboard sign shall be submitted to the Planning Inspection Enforcement Office. No application shall be processed until the application is complete. Each application for a new or enlarged off-site billboard sign shall be accompanied by a site plan that, at a minimum, includes the following information:

1. A detailed graphic presentation of the subject property site, including property parcel dimensions;
2. The location of any other buildings or structures on the site;
3. The location, size, and type of any other monument (ground) signs on the site;
4. The distance of the proposed sign from any buildings, structures, or other signs on the site; and
5. A detailed representation of the proposed sign, including sign structure and sign face dimensions, total height of the sign, and any related appurtenances such as catwalks.

D. **Off-Site Billboard Sign Regulations.**

1. Lot frontage cannot be less than 150 feet.
2. Cannot be located closer than 500 feet to a park/recreation area, place of worship, museum, or local, state, or national registered historical monument.
3. May be erected within 500 feet of any such park or recreation areas when such off-site signs are located in athletic field facilities owned or operated by a public body.
4. All billboard signs are subject to limitations and regulations set out in the State of Kansas Department of Transportation Highway Advertising Control Act of 1972, amended from time to time.

5. No off-site billboard sign shall be erected that would obscure the view of any on-site sign. This shall be determined by establishing a sight point at the centerline of the street 150 feet in either direction, then no on-site sign within 150 feet of the off-site sign shall be obscured from view.

6. ~~The use of electronic message center signs is prohibited.~~

Effective on: 5/6/2016

CHAPTER 8 ENVIRONMENTAL QUALITY AND RESOURCE PROTECTION

ARTICLE 8.1 PURPOSE AND APPLICATION OF CHAPTER

Division 8.1.100 Purpose and Application

Sec. 8.1.101 Purpose

The purpose of this Chapter is to establish standards for the use of protected open spaces and for the environmental impacts of the City's land uses (*e.g.*, noise, vibration, odors, air quality, water quality, etc.), in order to ensure that the City continues to provide a desirable environment for residences, recreation, education, culture, commerce, and industry.

Effective on: 5/6/2016

Sec. 8.1.102 Application

A. **Generally.** This Chapter establishes standards that are intended to protect open space and environmental quality. The phrase "environmental quality" is a broad concept that means a condition of the natural and built environment that helps protect public health and well-being against the direct adverse effects of noise, vibration, air pollution, odors, toxic chemicals, water pollution, radiation, dust, light pollution, and pathogens

B. **Findings of Fact.**

1. Natural resource and environmental quality protection are important because the construction and operation of buildings, parking, or other uses can create conditions that are hazardous to the public health, safety, and welfare, (*e.g.*, air, groundwater, and/or surface water pollution) and to the value, use, and enjoyment of private property (*e.g.*, noxious odors, noise, and vibrations).

2. Development resulting in increased impervious cover increases the rate of stormwater runoff.

3. The impacts of such hazards and conditions may be experienced on-site or off-site. Natural resource and environmental quality protection provides for hazard avoidance, preservation of community character, property value enhancement, and general quality of life for residents and businesses.

C. **Uses in Open Space.** The standards of Chapter 3, *Density, Intensity, Bulk, and Scale*, or Division 2.2.200, *Permitted, Limited, Special, and Prohibited Uses*, may require identification of land areas on a parcel proposed for development that will be set aside as permanent open space. It is the

intent of the City Commission that such areas be available for multiple uses that are consistent with their open space designations and resource management objectives. Sec. 9.1.505, *Open Space Reservation, Preservation, and Dedication*, establishes the uses that are permitted or limited in designated open space and the standards that apply to those uses.

D. **Prevention of nuisances.** As set out in Section 8.2.101, *General Environmental Standards,* are the standards for noise, vibration, emissions, odorous materials, toxics, hazardous materials, dust and debris, lighting, and water quality which prohibits the use of land in a manner that is a nuisance to adjacent property owners and/or the public at large.

Effective on: 5/6/2016

ARTICLE 8.2 ENVIRONMENTAL STANDARDS

Division 8.2.100 General Environmental Standards

Sec. 8.2.101 General Environmental Standards

A. **Generally.** All uses and activities permitted by this Code within the City shall conform to the performance measures and standards of this Section, using adequate and appropriate prevention and/or mitigation techniques as necessary.

B. **Noise.** No use shall be permitted that causes serious annoyance to occupants of abutting properties due to excessive noise.

C. **Vibration.** No use shall be permitted which produces ground vibrations noticeable without instruments at the lot line of the premises on which the use is located.

D. **Smoke Emissions.** All uses shall comply with local, state, and federal regulations pertaining to the emission of smoke.

E. **Odors. No** use shall be permitted to produce the emission of objectionable or offensive odors in such concentration as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located, subject to applicable state air quality regulations.

F. **Dust and Debris.** Uses shall be maintained in an orderly condition and conducted in a manner that avoids the spread of dust, debris, and litter to other properties and public rights-of-way. Hazardous materials, municipal solid waste, or items that can be carried away by wind or water shall be secured in buildings, structures, or other such enclosure.

G. **Toxic or Noxious Matter. No** use shall for any period of time discharge across boundaries of a lot line on which it is located, toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to persons, property, or the use of property or land, or render unclean the waters of the state to the extent of being harmful or inimical to public health, animal or aquatic life, or the use of such waters for domestic water supply, recreation, or other legitimate and necessary uses. Disposal of toxic or hazardous waste within the City is specifically prohibited.

H. **Nuclear Radiation.** Any operation involving radiation (*e.g.*, the use of gamma rays, x-rays, alpha and beta particles, high speed electrons, neutrons, protons, and other atomic or nuclear particles), shall be permitted only in accordance with state and federal laws, rules, and regulations, or any other applicable regulation.

I. **Electromagnetic Radiation and Interference.** No person shall operate or cause to be operated for any purpose a planned or unplanned source of electromagnetic radiation which does not comply with the current regulations of the Federal Communications Commission (FCC) regarding such sources of electromagnetic radiation. No use, activity, or process shall be conducted which produces electromagnetic interference with normal radio or television reception.

J. **Heat or Glare.** Any activity producing heat or glare shall be carried on in such a manner that such heat or glare is not perceptible at any lot line. Exposed sources of light, including bare bulbs and tubes and immediately adjacent reflecting surfaces, shall be shielded to avoid creating a nuisance across lot lines. The light intensity from illumination of any kind shall not exceed fifty-foot lamberts at any point along the line of the lot containing the light source.

Effective on: 5/6/2016

Sec. 8.2.102 Water Quality and Quantity

A. **Stormwater Management.** Measures to protect water quality and to manage the quantity and velocity of stormwater runoff shall be implemented pursuant to the standards set out in Article 9.2, *Stormwater Management.*

B. **Grading, Erosion, and Sediment Control.** Measures to protect water quality during construction and for land disturbance activities shall be implemented pursuant to the standards set out in Sec. 9.2.304, *Stormwater Design Criteria and Performance Standards*.

Effective on: 5/6/2016

CHAPTER 9 SUBDIVISION DESIGN AND LAND DEVELOPMENT

ARTICLE 9.1 SUBDIVISION DESIGN AND LAND DEVELOPMENT

Division 9.1.100 Purpose and Application of Article

Sec. 9.1.101 Purpose

A. **General Scope.** This Section sets out regulations for the substantive review of subdivision plats to be applied in addition to the other applicable land development standards of this Code.

B. **Purpose.** The purpose and intent of this Code is to provide for:

1. Harmonious development of the community;
2. Provide for the proper location and width of streets, building lines, open spaces, safety and recreational facilities, utilities, easements, drainage, and for the avoidance of congestion of population through requirements of minimum lot width, depth, and area and the compatibility of design;
3. Require and fix the extent to which and the manner in which streets shall be graded and improved, and water, sewer, drainage, and other utility mains and piping or connections or other physical improvements shall be installed;
4. Provide for and secure the actual construction of such physical improvements;
5. Implement the Comprehensive Plan;
6. Provide for light, air, and other spaces for the public; and
7. Provide for the administration and regulation of resource protection areas and open spaces as might be articulated by policies in the Comprehensive Plan.

Effective on: 5/6/2016

Sec. 9.1.102 Application

A. **Generally.** The provisions of this Section are intended to guide the application of the other standards, or provide limited relief from them in specific circumstances, in order to encourage development design that implements the Comprehensive Plan and to enhance the overall quality of life in the City.

B. **Application and Jurisdiction.** The owner of any land located within the jurisdiction of this Code subdividing the land into two or more lots and blocks or tracts or parcels, for the purposes of laying out any subdivisions, suburban lots, building lots, tracts or parcels, or any owner of any land establishing any street, alley, park or other property intended for public use, or for the use of purchasers or owners of lots, tracts, or parcels of land fronting thereon or

adjacent to, shall cause a plat to be made in accordance with this Code, unless exempted in Subsection C., below.

C. **Exemptions.** This Code shall not apply in the following instances:

1. The division of land for agricultural purposes into parcel or tracts of five acres or more, and not involving any new streets or easements of access and not affecting major streets according to the thoroughfare plan;
2. A change in the boundary between abutting parcels which does not create an additional lot;
3. Land used for street or railroad right-of-way, a drainage easement, or other public utilities subject to local, state, or federal regulations, where no new street or easement of access in involved;
4. Whenever any lot, parcel, or tract of land has been subdivided, resubdivided, or replatted prior to the adoption of this Code;
5. Any transfer by operation of law;
6. A parcel or tract of land in the Agricultural (A-L) district less than five acres deeded to a child of either or both owners of the original tract to be utilized for residential purposes subject to the following conditions:
   a. Prior to constructing a residence on such tract or parcel, the owners shall obtain a certificate of zoning compliance (*see* Section 11.2.301, *Certificate of Zoning Compliance*).
   b. All structures shall maintain the setbacks as set out in Chapter 3, *Density, Intensity, Bulk, and Scale*.
   c. All tracts or parcels shall meet the minimum lot area requirements of Chapter 3, *Density, Intensity, Bulk, and Scale*.
   d. Each child shall be entitled to only one such tract or parcel.

D. **Deed Restrictions.** The Planning Commission shall have the right to confer with the subdivider regarding the type and character of development that will be permitted in the subdivision, and may require that certain minimum regulations regarding this matter be incorporated into the covenants, conditions, and restrictions (CCRs). Such regulations shall be intended to protect the character and value of the abutting development of the property which is being subdivided.

Effective on: 5/6/2016

Division 9.1.200 General Requirements for Development Design

Sec. 9.1.201 Development Design Principles

A. **Generally.** It is the policy of the City that the principles of this Section be applied to the maximum extent possible without imposing restrictions that reduce the density or concentration ~~intensity~~ of development that is permitted on the parcel proposed for

development. The City may require modifications to proposed site plans or subdivision plats that otherwise conform to the standards in order to enhance the quality of the design in accordance with the qualitative principles of this Section. The standards of this Section shall be applied and interpreted in the context of the other applicable standards that are set out in other sections of this Code.

B. **Compatibility.** The proposed site plan or subdivision plat shall be designed in a way that:

1. Provides appropriate space for buffers and transitions between incompatible land uses or obvious changes in density or intensity alongside and rear lot lines;
2. Provides appropriate vehicular and pedestrian linkages between residential uses and nonresidential uses, providing access while protecting neighborhood integrity;
3. Protects neighboring property from adverse storm water runoff;
4. Anticipates and provides for future vehicular and pedestrian connections to neighboring properties that are likely to be developed or redeveloped with similar or supportive land uses;
5. Minimizes interference with existing access to abutting and nearby properties, unless new and improved access is provided by the parcel proposed for development; and
6. Does not materially reduce the level of service of public utilities that are provided to surrounding development.

C. **Storm Water Management and Flood Damage Prevention.** The parcel proposed for development, including buildings and streets, shall be located away from critical drainage areas.

D. **Future Adjacent Development.** The parcel proposed for development shall be designed in a way that shows how future development of abutting parcels under common ownership will relate to the parcel proposed for development in terms of transportation linkages and utilities.

E. **Landscaping.** The subdivision landscaping layout shall promote the zoning district's qualities and character and meet or exceed the standards therein. Bufferyard landscaping shall be located to achieve the screening objectives and, where possible, enhance open space objectives beyond the minimum requirements.

Effective on: 5/6/2016

Sec. 9.1.202 Lots

A. **Generally.**

1. *New Lots*. New lots shall be dimensioned according to the requirements of Chapter 3, *New Neighborhoods, Nonresidential, and Mixed Use Development*, and Chapter 3, *Neighborhood Conservation and Established Neighborhoods*. The size, shape, and orientation of lots shall be appropriate to the zoning district of the parcel proposed for development and to the type and required buildable area of development contemplated.
2. *Platting*. Lots are required to be platted unless specifically exempted by this Code. Lots shall be of appropriate size and arrangement to provide for adequate off-street parking

lots, loading facilities, landscape areas and buffering, and other required site improvements or open space areas. No lot shall be created for any nonresidential use that has an area, width, or depth that is less than required to accommodate the use and all site requirements under this Code.

B. **Shape and Area.**

1. *Minimum Lot Area*. The minimum lot area shall be according to the requirements of Chapter 3, *New Neighborhoods, Nonresidential, and Mixed Use Development*, and Chapter 3, *Neighborhood Conservation and Established Neighborhoods*.

2. *Side Lot Lines*. Side lot lines shall be 60 to 90 degrees from the street right-of-way line on a straight street or from the tangent of a curved street. Alternative configurations may be approved in order to accomplish a public purpose, such as the preservation of natural resources or open space.

3. *Streetside Setbacks*. Street side setbacks on corner lots shall be according to the requirements of Chapter 3, *New Neighborhoods, Nonresidential, and Mixed Use Development*, and Chapter 3, *Neighborhood Conservation and Established Neighborhoods*.

C. **Access and Frontage.**

1. *Frontage Width*. The width of the required lot frontage shall not be less than the required lot width as set out in Chapter 3, *New Neighborhoods, Nonresidential, and Mixed Use Development*, and Chapter 3, *Neighborhood Conservation and Established Neighborhoods*.

2. *Residential Lots (except mixed use and multi-family)*. Generally, new single-family detached and single-family attached residential lots shall front only on local streets. Alternatively, such lots may front on common open spaces, provided that vehicular access is taken from an alley. Through lots shall take access from the side from which the address is assigned.

3. *Nonresidential, Mixed Use, and Multi-Family Lots.* Nonresidential, mixed use, and multi-family lots that take access from collector or arterial streets shall provide adequate on-site maneuvering areas for vehicular turnaround.

D. **Depth.** The maximum depth of all residential lots shall not exceed two and one-half times the width of such lot.

E. **Double Frontage Lots.** Double frontage lots shall be avoided unless, in the opinion of the Planning Commission, a variation to this rule will give better street alignment and lot arrangement.

F. **Orientation to T-Intersections.** The building envelope of lots at the terminal end of a T-intersection shall be offset from the centerline of the terminated street in order to mitigate the impacts of oncoming traffic on the use of the lots.

G. **Drainage Ways.** Lots shall not encroach on any drainage way or drainage right-of-way.

H. **Areas of Special Flood Hazard.** New residential lots that are intended for conveyance into private ownership shall be platted outside the designated areas of special flood hazard, unless such arrangement is not feasible (including through the use of a different neighborhood type that allows for smaller lots).

Effective on: 5/6/2016

Sec. 9.1.203 Blocks

A. **Generally.** The length, width, and shape of blocks shall be determined with regard to the following:

1. The provision of adequate building sites suitable to the particular zoning district and the needs of the type of use contemplated;
2. The required lot widths, lot areas, and required open space for the parcel proposed for development, as set out in Chapter 3, *Density, Intensity, Bulk, and Scale*;
3. The need for convenient access, circulation, control, and safety of street traffic;
4. The need to provide for mobility and accessibility for people who use alternative modes of transportation; and
5. Limitation and opportunities of soils, natural resources, and uses or features that bound the parcel proposed for development.

B. **Dimensions.** Blocks shall be dimensioned according to the following standards:

1. *Length*. Intersecting streets (which determine block length) shall be provided at such intervals as to serve cross-traffic adequately and to meet existing streets in the neighborhood. In residential districts, where no existing plats are recorded, the blocks shall not exceed 1,200 feet in length, except that a greater length may be permitted where topography or other conditions justify a departure from this maximum. In blocks longer than 800 feet, pedestrian access easements through the block may be required in the block. Such easements shall have a minimum width of 10 feet.
2. *Width*. In residential development, the block width shall normally be sufficient to allow two tiers of lots of appropriate depth. In certain instances, however, a different arrangement may be required in order to provide better circulation or to protect a major circulation route. Blocks intended for nonresidential or industrial uses shall be of such width and depth as may be considered most suitable for the prospective use.

C. **Relationship to Existing Arterial and Collector Streets.** Residential blocks shall be designed so that lots are not oriented for access from arterial or collector streets. Marginal access streets may be approved, if necessary, for the efficient layout of lots on a parcel proposed for development, provided that:

1. Access to the marginal access street meets the access management requirements of this Code; and
2. The following bufferyards are provided between the marginal access street and the abutting arterial or collector street:
   a. Collector streets: Type A bufferyard; and
   b. Arterial streets: Type B bufferyard.

Effective on: 5/6/2016

Sec. 9.1.204 Easements

A. **Generally.** During development approval, the City may require the granting of a variety of easements on private property or lots. These easements may be for any of the following, or other approved, purposes:

1. Utilities;
2. Fire protection;
3. Police protection and other emergency services;
4. Access to public utilities or drainage areas;
5. Drainage and storm water best management practice applications;
6. Pedestrian access; and
7. Natural resource or open space conservation.

B. **Utility Easement.** Utility easements shall be provided where necessary and shall normally be located adjacent to the lot line of an individual lot. All easements shall be at least ten feet in width.

C. **Drainage Easements.** If a subdivision is traversed by a watercourse, drainageway, or channel, then a stormwater easement or drainage right-of-way shall be provided. Such easement or right-of-way shall conform substantially to the lines of such watercourses and shall be of such width or construction, or both, as may be necessary to provide adequate stormwater drainage and for access for maintenance of such easement. Parallel streets or parkways may be required in connection with such easement. No overhead utilities shall be allowed to run parallel with a drainage easement. No buried utilities shall be allowed to run under the main channel unless specifically approved by the City. The developer's engineer shall make a study, which shall be reviewed by the City Engineer who shall report their recommendation to the Planning Commission as to the desired width of such easement. Such study and report shall be based on the 100-year flood depth.

D. **Storm Water Best Management Practice Easements.** Storm Water Best Management Practice easements shall be placed on lots for detention of storm water, to convey surface water to storm sewers located on the street or to surface drainage channels located in easements or open spaces as topography and grading dictate.

E. **Fire Protection Easements.** Rear fire protection access easements, where necessary to provide adequate protection for the structure, shall be improved as appropriate for fire protection equipment, as determined by the adopted Fire Code.

F. **Pedestrian Access Easements.** Pedestrian access easements may be required in accordance with Article 6.2, *Streets, Sidewalks, and Trails*.

G. **Conservation Easements.**

1. The City may require conservation easements to preserve open space and to protect natural resources that this Code requires to be protected.

2. Conservation easements shall exclude other easements that would result in the disturbance of the land, except that pedestrian access easements and non-destructive utility and drainage easements are permitted within areas protected by conservation easements.
3. Conservation easements shall provide for permanent management and maintenance of the property by a responsible party other than the City, such as a nonprofit land trust or property owners' association.
4. All conservation easements shall run in favor of three parties:
   a. All lot or unit owners in the development; and
   b. A non-profit organization such as a land trust; and
   c. The City.
5. The conservation easements shall be in a form approved by the City Attorney.

H. **Encroachments and Removal of Encroachments.** No permanent encroachment or structures shall be allowed to be located within the area of any easement required by this Section. While the City or utility benefiting from the easement will make efforts to minimize disturbances, both shall have the right to remove any encroachment, structures, fences, landscaping or other improvements placed upon such easements. The City and/or utility shall not be obligated to restore or replace any such encroachment but shall restore any disturbed ground surfaces with seeding. The City may assess the cost of removing an unauthorized improvement from an easement against the landowner, including the placing of a lien on the property.

I. **Maintenance of Easements.** The responsibility for the regular maintenance of the ground surface in any easement shall rest with the owner of the property within which the easement exists.

Effective on: 5/6/2016

Sec. 9.1.205 Open Space Design

A. **Generally.** This Section is designed to achieve the open space requirements of bufferyards, resource protection, recreation, stormwater management, and preservation of community character in order to insure the proper balance of use, design of urban areas, and avoidance of overcrowding of land.

B. **Design.**
1. Generally, open spaces shall be integrated into the development design to bring significant open space to the maximum number of properties, as well as visibility from public rights-of-way within the parcel proposed for development.
2. Visual or physical access to open spaces may be limited if such limitations would materially enhance natural resource management.
3. Open space shall be designed to provide greenways along drainage corridors and streams, if applicable to the parcel proposed for development. The landscaping along corridors or streams shall be designed to enhance the filtering of surface and subsurface water flows.

Trails shall provide access along the greenway for the residents of the parcel proposed for development.

4. Formal open spaces shall be designed to provide areas of focus within the development.
5. Floodplains can be used as open space to provide buffers between incompatible land uses.

Effective on: 5/6/2016

Sec. 9.1.206 Streets

A. **Generally.** This Section sets out the general subdivision and land planning considerations for the layout and alignment of streets. The design objectives, criteria, and dimensional requirements for streets, cul-de-sacs, and alleys are provided in Article 6.2, *Street, Sidewalks, and Trails*.

B. **Conformity to the Comprehensive Plan.** The location and width of all arterial and collector streets shall conform to the Comprehensive Plan.

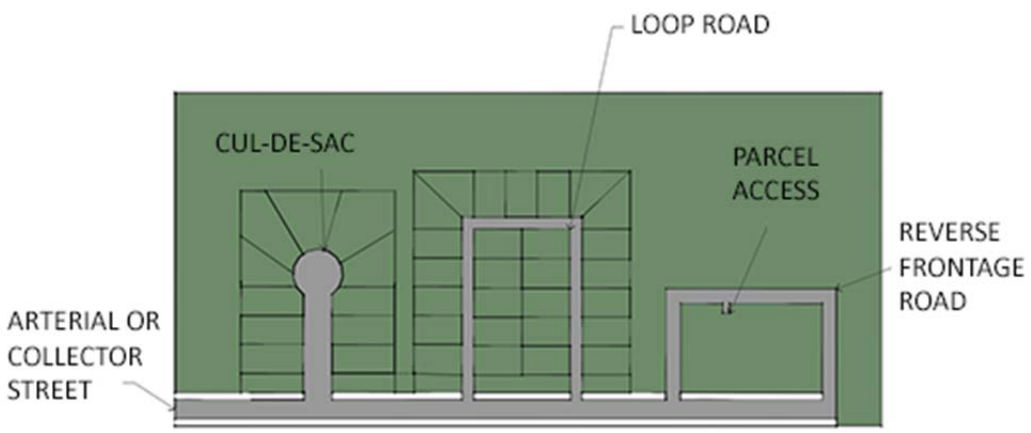
C. **Alignment of Subdivision Streets with Existing Streets.**

1. Streets shall be configured as required by Division 6.2.200, *Street Standards*.
2. Streets shall, to the extent practicable, align with existing streets, and be given the name of the streets with which they align, or shall be offset the minimum distance specified in Division 6.2.200, *Street Standards, relating to jogs, offsets, reverse curves, and alignments.*

D. **Alignment of Local Streets with Arterials and Collectors. Generally,** local streets shall be either:

1. Perpendicular to arterial or collector streets; or
2. Loop streets, reverse frontage roads, or cul-de-sacs (which are limited by Section 6.2.203, *Cul-de-Sacs). See* Figure 9.1.206, *Local Street Orientation*.

Figure 9.1.206
Local Street Orientation



E. **Width of Public Ways.** The minimum width of public street rights-of-way in subdivisions shall be established according to the functional classification of each street, pursuant to Division 6.2.200, *Street Standards*.

F. **Grades and Curves of Public Ways**. The grades of streets, alleys, and other public ways included in any subdivision shall not be greater than is necessary for the topographical conditions and shall be subject to the approval of the Director of Public Works. All changes in street grade shall be connected by vertical curves of such length as to provide for desired sight distance as set out in the American Association of State Highway Officials' Geometric Design Standards and shall be subject to the approval of the Director of Public Works.

Effective on: 5/6/2016

Sec. 9.1.207 Utilities

A. **Generally.**

1. All developments shall make provision for water, sewer, stormwater, electric, natural gas, telephone, and cable service, and may make provision for fiber-to-the-home and other public and/or private utilities available to City residents.

2. All drainage and utilities shall be efficiently and unobtrusively integrated into the design and shall avoid off-site impacts.

B. **Capacity.** Where a parcel proposed for development is part of a larger tract of land, the City shall require the capacity of facilities to be adequate to serve the entire tract to the extent that the capacity is matched to that of the lines that are extended to the parcel proposed for development. Where the parcel proposed for development is part of a larger utility service area, the City may require the capacity of the appropriate facilities to be adequate to serve the remainder of the service area.

C. **Potable Water Line Loops.** Potable water lines shall be looped unless a variance to this Code is allowed by the Director of Utilities.

D. **Interceptors.** Where an interceptor is to be extended through the area being developed, the landowner shall provide the necessary easements.

E. **Common Use Easements.** Wherever possible, the City shall require compatible utilities to share easements (*see* Section 9.1.204, *Easements*).

Effective on: 5/6/2016

Sec. 9.1.208 Improvements

A. **Required Improvements.** The subdivider of a proposed subdivision shall install, or provide for the installation of the following facilities and improvements:

1. *Streets and Alleys.*

   a. All streets and alleys, including curb and gutter, within the City shall be surfaced in accordance with the standards set by the City.

   b. All streets and alley within the City's extra-territorial jurisdiction ~~three-mile planning~~ area shall be surfaced with an all-weather surfacing in accordance with the standards set by the County Public Works.

2. *Water Service*.

   a. Where reasonably available, a public water supply system or its equivalent shall be provided in accordance with the standards of the City and adopted Fire Codes.

   b. In all other areas, a water supply approved by the County Environmental Services/Planning and Zoning Office or rural water will be permitted.

3. *Sewer Service*.

   a. Where reasonably available, a public sewerage system including laterals for sanitary sewers, shall be provided in accordance with the standards of the City.

   b. In all other areas, a sewage treatment system shall be provided subject to the approval of the County Environmental Services/Planning and Zoning Office.

4. *Other Improvements. Where other improvements are required, such as tree planting, retaining walls, drainage structures, etc., such improvements shall be made in accordance with the recommendations of the* Planning Commission and specifications of the City.

5. *Cost*. All improvements shall be furnished, installed, and constructed by the developer at no cost to the City. An escrow account, administered by the City Clerk/Finance Office may be required for the City to accept off-site improvements (*e.g.*, street intersections, signal improvements, left turn lanes, etc.) that are required by this Code (*see* Subsection A.4., above).

6. *Plan Requirements. Plans and specifications for the improvements herein set out shall be prepared by a registered professional engineer according to prevailing standards required by the City*

7. *Improvement Conflicts*. Where plans and specifications have been approved by the City and a conflict arises, the City's engineering standards shall prevail, unless otherwise approved in writing by the City.

B. **Exceptions for Existing Improvements.**

1. *Existing Subdivisions*.

   a. Meet Minimum Standards. Where the proposed subdivision is a resubdivision or concerns an area presently having any or all required improvements as previously set out, and where such improvements meet the requirements of this Article and are in good condition as determined by the City, no further provision need be made by the subdividers to duplicate such improvements.

   b. Do Not Meet Minimum Standards. Where such existing improvements do not meet the requirements as set out, the subdividers shall provide for the repair, correction, or replacement of such improvements so that all improvements will then meet the requirements.

2. *Existing Public Streets. Where the proposed subdivision is a resubdivision or concerns an area presently abutting or containing any existing public street of less than the minimum required* right-of-way of roadway width, land shall be dedicated so as to provide a minimum street right-of-way width established by this Code.

C. **Improvements Required of Developer**. Any permanent improvement constructed and to be constructed upon any real estate herein shall include sidewalks upon all properties fronting along any and all streets and such sidewalks shall be constructed in accordance with the plans and specifications of Article 6.2, *Streets, Sidewalks, and Trails, and further comply with any other sidewalk regulations adopted by the* City.

D. **Construction Improvements.** No improvements shall be constructed nor shall any work preliminary to such improvements be done until such time as a final plat and the engineering drawings accompanying it shall have been approved and there shall have been compliance with all the requirements of the City.

E. **Utility Upgrade Agreement. The City may require that the** applicant upgrade the capacity of municipal utility lines in order to provide adequate facilities to future development in the area of the proposed development.

F. **Submission of Development Plan.**

1. At the time the final plat is presented to the Planning Commission for approval, the subdivider shall also present to the Planning Commission a development plan for the entire subdivision. This plan shall show the proposed location, size, and dimensions of all water lines, sewer lines, streets, street signs, sidewalks, alleys, storm sewer lines, bridges, culverts, pumping station, water treatment plants, stormwater best management practices, and sewage treatment plants which will be needed in the subdivision. The plan must

further show the location, size, and dimensions of all existing public facilities which will have to be extended into the subdivision.

2. To expedite approval of the development plan, the subdivider or his engineer shall review the plan with City staff prior to presenting it to the Planning Commission for approval.

3. At the time the development plan is presented to the Planning Commission, the subdivider shall declare whether he or she is going to utilize Storm Water Best Management Practices, and is going to extend, install, locate, and construct any or all of the following:

   a. Water lines;

   b. Sewer lines;

   c. Streets;

   d. Street signs;

   e. Alleys;

   f. Sidewalks;

   g. Storm water infrastructure;

   h. Bridges;

   i. Culverts;

   j. Pumping stations;

   k. Water treatment plants; and

   l. Sewage treatment plants.

G. **Review of Plans.** The City, official, or agency responsible for determining specifications and standards, shall review all engineering drawings in order to determine whether such drawings are consistent with the approved plat and comply with design standards.

H. **Inspection.**

1. *Generally*. All improvements constructed or erected shall be subject to inspection by the City or responsible official for setting and enforcing the application design and construction standards of the required improvement.

2. *Cost*. The cost attributable to all inspections required by this Section shall be charged to and paid by the subdivider.

3. *Notification*. The subdivider shall give at least 48 hours written notification to such official prior to the performance of any of the construction work.

4. *Inspection Procedures.*

   a. Compliance: After notice is received as specified in Subsection I.3., above, the responsible official may conduct an on-site inspection to determine that the work complies with the approved engineering plans and specifications.

b. Non-Compliance: If, in the opinion of the official, such work does not comply with the final drawings, he/she shall have the authority to order that all such work shall be terminated until such time as necessary steps are taken to correct any defects or deficiencies; the subdivider shall again notify the official as provided in Subsection I.3., above.

I. **Final Inspection.**

1. *Notification*. Upon completion of all improvements within the area covered by the final plat, the subdivider shall notify the official according to Subsection I.3., above, who shall there upon conduct a final inspection of all improvements installed.
2. *Defects or Deficiencies*. If such final inspection indicated that there are any defects or deficiencies in any such improvements as installed, or if there are any deviations in such improvements as installed from the final engineering plans and specifications, he/she shall notify the subdivider in writing of such defects, deficiencies, or deviations and the subdivider shall, at his/her sole cost and experience, correct such defects or deviations within six months of the date of notification.
3. *Corrections*. When such defects, deficiencies, or deviations have been corrected, the subdivider shall notify the official that the improvements are again ready for final inspection.

J. **Report to City.** If a final inspection indicates that all improvements as installed contain no defects, deficiencies, or deviations, within 10 days from the completion of such inspection, the official shall certify to the City Manager, the City Commission, and utility that all improvements have been installed in conformity with the engineering plans and specifications accompanying final plan.

K. **Acceptance of Improvements**. Upon receipt by the City Manager of the certificate of the official that all improvements have been installed in accordance with the engineering drawings, as approved, and in conformity with the requirements of this Section, and all other applicable statues, ordinances, and regulations, the City Commission shall by resolution, or utility company or County Commission by letter, formally accept such improvements. The improvements shall become the property of the City Commission, County Commission, or utility company.

Effective on: 5/6/2016

Sec. 9.1.209 Naming and Numbering

A. **Street Names.**

1. *Naming Conventions*. Proposed streets which are obviously in alignment with others already existing and named, shall bear the names of existing street. In no case shall the names for proposed streets duplicate existing street names, irrespective of the use of the suffix street, avenue, broadway, boulevard, driveway, place, or court. In order to avoid duplication, the subdivider should consult with the Zoning Administrator.

2. *Approval of Street Names*. It is the intent of this Code to discourage the use of a name for both a through street and a cul-de-sac, circle, etc. All street names shall be approved by the Planning Commission.

3. *Verification*.

   a. Proposed street names shall be checked by the applicant to ensure that names of existing or planned streets within the City and within the extra-territorial jurisdiction ~~three-mile planning~~ area of Ellis County are not duplicated.

   b. No street names shall be approved which will duplicate or be confused with names of existing streets in the City or within the extra-territorial jurisdiction ~~three-mile planning~~ area of Ellis County unless the new street is an extension of, or in alignment with an existing street.

B. **Property Numbering.** Property numbering shall be in accordance with Article X, *Uniform Addressing System*, of the City's *Code of Ordinances*.

Effective on: 5/6/2016

Sec. 9.1.210 Concept Plan and Development Phasing

A. **Generally.** A parcel proposed for development may be developed in phases, with each phase separately platted. In such cases, the applicant shall submit a concept plan with the first application for preliminary plat approval. The concept plan shall show compliance with this Code by showing:

   1. The general arrangements and sizing of streets and utilities, and how they will connect to the streets shown on the first application for preliminary plat approval;

   2. The general location of drainage facilities;

   3. The general location of protected natural resources and open spaces; and

   4. The general location of proposed uses and housing types.

B. **Consistency with Concept Plan.** In considering each subsequent phase shown on a concept plan, the Planning Commission may impose conditions that are necessary to assure the orderly development of the platted land. Such conditions may include, but are not limited to, temporary alley and street extensions, temporary cul-de-sacs and off-site utility extensions.

Effective on: 5/6/2016

Sec. 9.1.211 Building and Property Lines

A. **Generally.** No building permits shall be issued for construction of buildings that cross property lines, except as provided in Subsections B and C., below.

B. **Lot Consolidation**. If a building is proposed to cross property lines that is not otherwise an exception to the limitations of this Section, as set out in Subsection C, below, and if the abutting lots or parcels are under control of the applicant, then the applicant may:

1. Unify the title to the lots or parcels by having prepared a separate legal instrument, approved as to form by the City Attorney;
2. Submit the separate legal instrument together with an application to the City for a lot consolidation permit; and
3. Upon approval of the lot consolidation permit by the Zoning Administrator, properly file and record the legal instrument with the Ellis County Register of Deed within 15 calendar days of approval.

C. **Exceptions.** Buildings may cross property lines if it meets all of the following:

1. The buildings are designed with individual dwelling units or nonresidential spaces that are intended to be conveyed to different owners (*e.g.*, duplexes, triplexes, townhouses, and individual units in strip shopping centers); and
2. The individual dwelling units or spaces do not cross property lines, except at the centerline of dividing / party walls; and
3. Appropriate party / dividing wall and building maintenance provisions are recorded (these may be included in property owners' association covenants, conditions and restrictions (CCRs) that are required by Section 9.1.402, *Required Property Owners' Association*)to allocate maintenance responsibilities and address risk of loss and reconstruction.

Effective on: 5/6/2016

Division 9.1.300 Residential Development Design

Sec. 9.1.301 Standard Development

A. **Generally.** As set out in Section 3.1.201, *Standards of New Neighborhoods*, standard neighborhoods follow the traditional style of development, where most of the land is comprised of a single housing type with small amounts of open space (*see* Figure 9.1.301, *Illustrative Standard Neighborhood*, below).

B. **Minimum Design.** New standard neighborhoods or residential subdivisions shall meet the applicable requirements of Division 9.1.200, *General Requirements for Development Design*, and should be designed to be compatible with existing homes, businesses, and neighborhoods, and with the natural characteristics of the area, and the following.

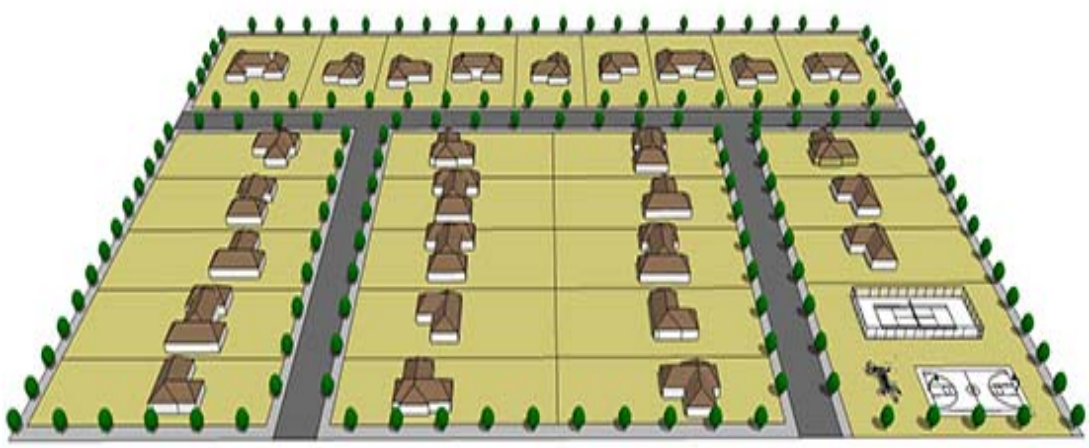
1. *Housing Types*. New standard neighborhoods are limited to single-family detached dwellings.

2. *Open Space*. Open space is generally utilized for bufferyard, recreation, and drainage purposes.

   a. If a standard neighborhood exceeds 150 units, it shall be designed as multiple identifiable "neighborhoods" with distinct boundaries.

   b. Lots shall be configured so as to maximize the number of lots that are within 1,320 feet of useable open space (*e.g.*, park, trail, etc.), if applicable.

Figure 9.1.301
Illustrative Standard Neighborhood



C. **Application and Process.** All applications for standard development require the submittal and approval of a subdivision plat.

Effective on: 5/6/2016

Sec. 9.1.302 Planned Developments

A. **Generally.** As set out in Section 3.1.201, *Standards of New Neighborhoods*, new planned developments offer more flexibility in site design by combining smaller and averaged lot sizes combined with multiple housing types in a planned community. These types of neighborhoods set aside more common open space, provide greater protections of natural resources, and have potential for higher densities than standard neighborhood development. New planned developments shall meet the applicable requirements of Division 9.1.200, *General Requirements for Development Design*, and the following:

B. **Clustered Neighborhood.** On parcels proposed for development where the developer chooses to provide only single-family detached housing on clustered lots, the following shall apply (*see* Figure 9.1.302A, *Illustrative Clustered Neighborhood*, below).

1. *Natural Resource Protection*. The development must protect and preserve existing natural resources including wetlands, streams, floodplains, as required by Chapter 8, *Environmental Quality and Resource Protection*. The open spaces should be located so as to maximize protection of the natural resources, including mature tree stands, if present, and to provide continuous open space corridors and natural drainage areas.

2. *Stormwater Management*. Stormwater management facilities should be designed using low impact development best management practices so that these areas are amenities to the subdivision.

3. *Other Required Areas of Open Space*. Other areas of open space shall be integrated into the development design so as to bring access to significant open space to the maximum number of properties; provided, however, that physical access may be limited if such limitation would material enhance natural resource management.

4. *Dwelling Units*. Dwelling units on clustered lots shall be set back from the perimeter of the parcel at least the following distances:

   a. One to four lots: as required for individual lots;

   b. Five to 20 lots: 75 feet; or

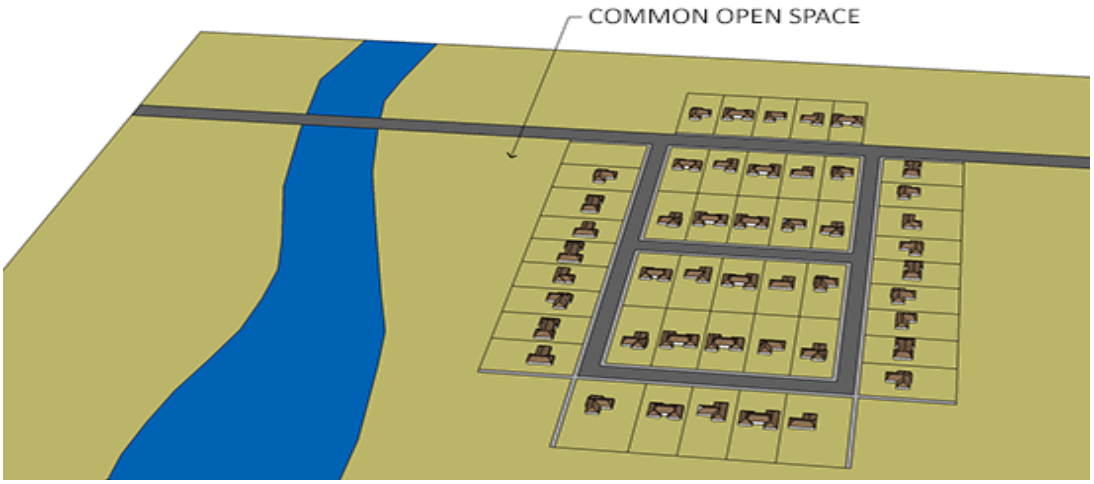
   c. 21 or more lots: 100 feet.

5. *Lots*. Lots shall, where appropriate, be adjacent to or in near proximity to the following:

   a. An amenity such as a park or greenway;

   b. An existing or restored resource such as a meadow, woodlands, stream or waterbody.

Figure 9.1.302A
Illustrative Clustered Neighborhood



C. **Planned Neighborhood.** On parcels proposed for development where the developer chooses to provide more than one housing type (*e.g.*, single-family detached and single-family attached housing) and areas of common open space are the organizing feature, the following shall apply (*see* Figure 9.1.302B, *Illustrative Planned Neighborhood*, below).

1. *Natural Resource Protection*. The development must protect and preserve existing natural resources including wetlands, streams, floodplains, as required by Chapter 8, *Environmental Quality and Resource Protection*. The open spaces should be located so as to maximize protection of the natural resources, including mature tree stands, if present, and to provide continuous open space corridors and natural drainage areas.

2. *Connectivity*. Streets should continue to neighboring properties so as to provide a continuous street network so that traffic does not have to return to collector or arterial streets to move between residential areas. Cul-de-sacs should not be used that will reduce access to adjoining properties unless there are physical barriers (*e.g.*, floodways, Interstate, etc.) that make such connectivity impracticable.

3. *Access*. Lots shall take access to an interior street, alley, parking court, or shared driveway. If a perimeter street is also a local street, lots shall front on the perimeter street and may take access from it if the lots across the street also take access from the street.

4. *Compatibility with Abutting Housing*. Where a planned neighborhood abuts, is adjacent to, or is located across a local street from existing housing, the housing types that are nearest or across the street shall be comparable to the existing housing types in terms of the housing type, scale, and method of access.

5. *Separation of Housing Types*.

   a. Single-Family Detached Housing. Where single-family detached housing abuts single-family attached or multi-family dwelling units on the same parcel proposed for

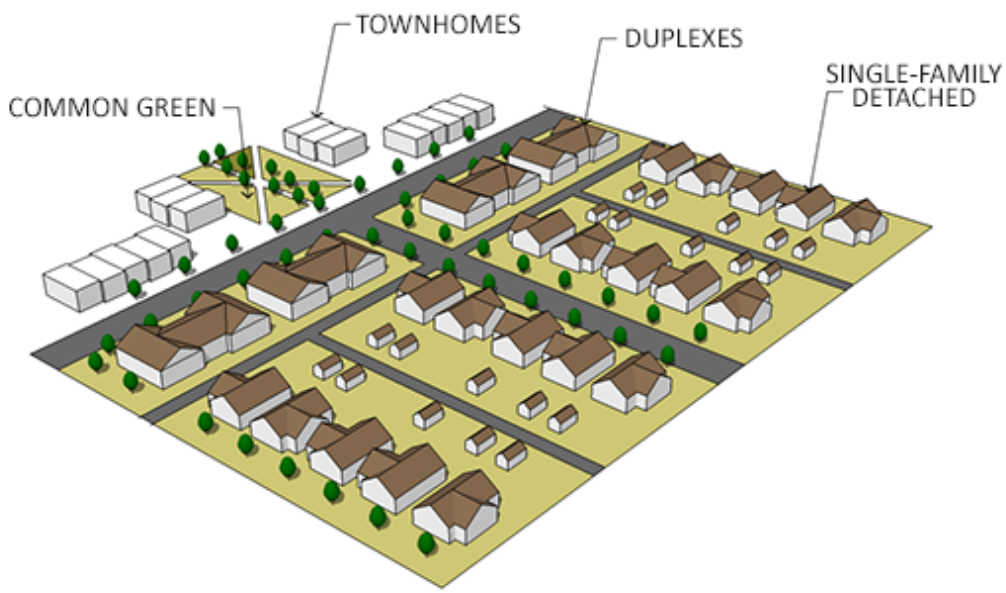
development, a Type A bufferyard shall be used to provide for enhanced compatibility between the single-family detached dwellings and other housing types.

b. Single-Family Attached Housing. Different forms of single-family attached housing types (*e.g.*, duplexes, triplexes, townhouses), should be integrated together (without a bufferyard), as opposed to located within separate, disconnected pods.

c. Multi-Family Housing. Multi-family housing may be integrated or separated from single-family attached housing with or without a Type A bufferyard separation.

d. Off-Site Residential Uses. New single-family attached or multi-family uses shall be separated by a Type B bufferyard, or a district bufferyard, whichever is greater, from areas of single-family detached housing located in abutting off-site development.

Figure 9.1.302B
Illustrative Planned Neighborhood



D. **Application and Process.** All planned development applications require the submittal and approval of a Planned Development Preliminary Plan and Final Plan (*see* Section 11.2.405, *Planned Development, Preliminary Plan*, and Section 11.2.406, *Planned Development, Final Plan*.

Effective on: 5/6/2016

Sec. 9.1.303 Mixed Use Planned Development

A. **Generally.** As set out in Section 3.1.301, *Nonresidential and Mixed Use Development Standards*, new mixed use developments offer more flexibility in site design by allowing both residential and nonresidential uses to be combined into a single, integrated development. This could include both horizontal and vertical mixed uses. New mixed use planned developments shall

meet the applicable requirements of Division 9.1.200, *General Requirements for Development Design*, and the following:

B. **Minimum Number of Housing Types**. Mixed use planned developments shall include a minimum of three housing types, as set out in Table 9.1.303A, *Single-Family Detached Lot and Building Standards* and Table 9.1.303B, *Single-Family Attached and Multi-Family Lot and Building Standards*. Not more than 75 percent of the dwelling units shall be single-family attached or multi-family housing types.

C. **Development Standards.**

1. *Uses*. Only those uses allowed in the M-U or C-3 district, respectively, are permitted in a mixed use planned development.

2. *Lot Building Standards*. Standards for maximum building height; minimum lot area and width~~, maximum impervious area,~~ and minimum setbacks are set out as follows:

   a. Section 3.1.202, *Lot and Building Standards for Individual Housing Types* per residential dwelling type for residential-only portions of the parcel proposed for development; or

   b. Section 3.1.301, *Nonresidential and Mixed Use Development Standards* for nonresidential and mixed use portions of the parcel proposed for development.

3. *Mix of Uses*. Mixed use planned developments shall be comprised of the following minimums:

   a. Twenty-five percent residential;

   b. Twenty-five percent nonresidential; and

   c. Twenty-five percent vertical mixed use.

4. *Residential*.

   a. Mixed use developments may also include attached residential dwellings as part of a mixed use building where office or nonresidential uses are located on the first floor and residential uses are located on the upper floors.

   b. Residential dwelling units shall be prohibited on the first floor of mixed use buildings.

   c. The maximum residential gross density for multi-family or mixed use buildings (mix of residential and nonresidential in the same structure) shall be based on the floor area ratio (FAR) set out in Table 3.1.301A, *Nonresidential and Mixed Use Development Standards*.

   d. The presence of a home occupation in conjunction with a residential use does not constitute a mixed use, multi-tenant development.

5. *Pedestrian Circulation, Walkways, and Trails*.

   a. A pedestrian circulation system shall be included in a mixed use planned development in the M-U and C-3 district, respectively, and should be designed to ensure that pedestrians can walk safely and easily throughout the development, without having to

walk or utilize the street for travel. The pedestrian system should provide connections between properties and activities or special features within common areas and need not always be located along streets. If the pedestrian system intersects a public or private street within the development, "pedestrian crossing" signs shall be posted.

b. A trail system may be provided in any areas of open space in conformance with the provisions set out in Sec. 9.1.505, *Open Space Reservation, Preservation, and Dedication*. The system should be designed to minimize disturbance of the site with regard to the natural drainage system and topography. To the maximum extent feasible, natural materials should be used in the construction and maintenance of the trail system.

c. When the parcel proposed for development abuts a public trail, park, or recreation area, the development shall provide pedestrian access from the development to the public area by way of connecting walkway, trail, boardwalk, or bridge.

D. **Application and Process.**

1. All applications for a mixed use planned development shall be for property that is under common ownership, or if under several ownerships, the application shall be filed jointly by all owners of the parcels proposed for development within the proposed mixed use planned development boundaries.

2. All mixed use planned development applications require the submittal and approval of a Planned Development Preliminary Plan and Final Plan (*see* Section 11.2.405, *Planned Development, Preliminary Plan*, and Section 11.2.406, *Planned Development, Final Plan*.

Effective on: 5/6/2016

Sec. 9.1.304 Manufactured Home Park or Subdivision

A. **Generally.** Manufactured home parks and subdivisions shall be designed according to the standards of Division 9.1.200, *General Requirements for Development Design, and this Section.*

B. **Minimum and Maximum Site Area.**

1. *Minimum Area of Parcel Proposed for Development*. The minimum area of a manufactured home park or subdivision is five acres.

2. *Maximum Extent of Manufactured Home Park or Subdivision*. The maximum extent of a manufactured home park or subdivision is 15 acres.

C. **Site Design.** Manufactured home parks and subdivisions shall meet the following site design standards:

1. *Lot Dimensions*. Lot dimensions shall be as provided in Division 3.1.200, *New Neighborhood Development Standards.*

2. *Park or Subdivision Access and Circulation.*

a. No vehicular entrance to, or exit from, any manufactured home park or subdivision, wherever such may be located, shall be within 200 feet along streets from any school, public playground, church, hospital, library, or institution for dependents or for

children, except where such property is in another block or another street which the premises in question do not abut.

b. The entrance to the manufactured home park or subdivision shall have a pavement width of 30 feet with adequate curb radius and shall have at least one direct connection to a paved public street.

c. The interior roadway shall be in accordance with the standards for public or private local streets and shall not include dead-end streets unless a cul-de-sac is installed in accordance to City specifications.

d. All manufactured home spaces shall front upon a private or public roadway of not less than 24 feet in width, including curbs on each side; provided.

3. *Lot or Space Access*. Each manufactured home lot or space shall have direct access to the interior roadway.

4. *Off-Street Parking*. The number of off-street parking spaces per manufactured home lot shall be in conformance with Division 5.2.100, *Parking and Loading Calculations*.

5. *Lighting. Lighting shall be provided for interior roads and walkways.*

6. *Laundry and Maintenance Buildings. Laundry and maintenance buildings (for use by residents only) may be included in the site design.*

7. *Recreation*. When manufactured home parks or subdivisions are established:

   a. Recreational areas shall be provided which shall be a minimum of 10 percent of the overall parcel proposed for development, exclusive of streets and parking areas; and

   b. A portion of that area shall be improved for recreational use prior to the owner/operator starting operations.

8. *Required Bufferyard*. All manufactured home parks or subdivisions shall provide a Type C bufferyard (Option 1) on all borders, including along all street frontage. Buffers which are located along the borders of existing residential lots shall include a six-foot tall opaque masonry fence or wall (*see* Division 4.1.400, *Bufferyards*).

9. *Utilities*. All units are served with sanitary sewer, potable water, and electrical power, which are installed underground. All electrical service equipment is mounted on the structure to which service is provided.

10. *Fire Protection.*

    a. Open fires shall be allowed only in accordance with applicable City Codes

    b. Each manufactured home lot or space shall be within 500 feet of a fire hydrant, except where NFPA Standard #501A allows a different spacing.

11. *Maintenance*. All grounds in the manufactured home park or subdivision shall be:

    a. Paved, covered with stone, rock, or other similar solid material, or protected with vegetative cover that is capable of preventing soil erosion and eliminating dust; and

b. Maintained free of accumulation of high grass, weeds, and debris so as to prevent rodent and snake harborage or the breeding of flies, mosquitos, or other pests. This does not apply to the required bufferyard, which should be allowed to fill in with natural vegetation over time.

12. *Pedestrian Circulation*. Common walks shall be provided for pedestrian access, especially at office and facility entrances.

13. *Patios and Storage*. Each manufactured home space shall be provided with a paved patio of not less than 200 square feet and a storage locker of not less than 100 cubic feet. The lockers shall be designed in a manner that will enhance the park or subdivision and shall be constructed of weather-resistant materials.

D. **Recreational Vehicle Spaces.** Any manufactured home park or subdivision that was lawfully under construction or in operation prior to the adoption of this Code, is allowed to maintain the recreational vehicle (RV) spaces that existed prior to that date. Manufactured home parks or subdivisions that are created after that date shall not include spaces for recreational vehicles, nor allow recreational vehicles, boats, etc. to be located on site.

E. **Site Plan.** A site plan is required showing conformance with each of the site design criteria detailed in this Section, as well as other applicable requirements of this Code which will be used for review and consideration by the applicable administrative body having jurisdiction. The site plan shall comply with the following additional requirements:

1. Contours at intervals of one foot;

2. Located in a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water; and

3. Each manufactured home space shall be clearly defined by street name and number.

F. **Expansion or Modification of Existing MHPs or Subdivisions.**

1. *Re-review Required*. Any enlargement (e.g., size of property or additional manufactured home lots or spaces, etc.) or modification of site layout of an existing manufactured home park or subdivision shall require a re-review and approval as if it were a new application.

2. *Existing Facilities Brought Into Conformance*. No enlargement or extensions to any manufactured home park or subdivision shall be permitted unless the existing facility is made to conform with all the requirements for new construction in conformance with this Section.

G. **Plat Notation**. A note shall be added to the plat stating that only single wide or double wide manufactured homes are allowed, and that double wide manufactured homes shall not be allowed on lots designed for single wide manufactured homes.

H. **Water Supply.**

1. An accessible, safe, and potable supply of water as approved by the State Health Department shall be provided in each park or subdivision. If a public water supply is reasonably available to the park or subdivision, it shall be used.

2. Individual water service connections shall be provided at each manufactured home space.
3. When a private water supply is provided, it shall provide for adequate water supply with minimum flow rates of four gallons per minute for each of the first five manufactured home spaces, an additional two gallons per minute for each additional space for the next 10 spaces, and additional one and one-half (1.5) gallons per minute for each additional space for the next 25 spaces, and an additional one gallon per minute for each additional space thereafter. Such system shall provide a minimum of 20 pounds per square inch of pressure at all connections provided.

I. **Sewage Disposal.**

1. Individual sewer connections shall be provided for each manufactured home space and shall be in accordance with all codes and regulations regarding such systems. If a public sewer system is reasonably available to the park or subdivision, it shall be used.
2. All sewage systems shall be designed by a licensed professional engineer and shall be submitted to the Utilities Director for approval.
3. When the sewer lines of the park or subdivision are not connected to a public sewer, a sewage treatment plant or sewage disposal system approved by the City or the engineer having jurisdiction shall be provided.

Effective on: 5/6/2016

Sec. 9.1.305 Recreational Vehicle (RV) Parks

A. **Generally.** Recreational Vehicle (RV) Parks shall be designed according to the standards of this Section.

B. **Purpose and Intent.** The City Commission finds that RV parks can contribute to the City's long-term economic and social well-being if they are properly located, designed, and maintained to protect the health, safety, and general welfare of the RV park users, abutting properties, and the City as a whole.

C. **Minimum and Maximum Site Area.**

1. *Minimum Area of Parcel Proposed for Development*. The minimum area of an RV park is two acres.
2. *Maximum Extent of RV Park*. The maximum extent of a RV park is 10 acres.

D. **Site Design.** RV parks shall meet the following site design standards:

1. *Location*.
   a. The park shall be located on a well-drained site, properly graded for rapid drainage and freedom from stagnant pools of water, so that soil conditions, groundwater level, drainage and topography do not constitute hazards to the residents' health and safety.
   b. RV parks shall maintain a 1,320 foot separation from each other.

2. *Maximum Density*. The maximum site density for RV parks shall be 20 spaces per acre, where only one recreational vehicle is permitted per recreational vehicle space.

3. *RV Spaces*. Each recreational vehicle space shall comply with the following:

   a. Minimum Space Area. A minimum of 1,250 square feet RV space in area and 25 feet in width by 50 feet in depth is required consisting of:

      i. Permanent RV Parking Pad. No less than 10 feet in width by 24 feet in depth shall be used to construct a permanent parking pad consisting of concrete, gravel, asphalt, crushed rock, or similar material; and each parking pad shall be separated by at least 10 feet from any other parking pad.

         a. Small RV Pads. Parking pads for small RV's shall be no less than 10 feet in width by 24 feet in depth;

         b. Large RV Parking Pads. Parking pads for large RV's shall be no less than 12 feet in width by 36 feet in depth; and

      ii. Non-RV Off-Street Parking Space. Each RV space shall have a minimum of one off-street parking space for a vehicle that is not the recreational vehicle.

   b. Space Marker. A permanent space marker identifying the space number is required to be visible day and night, which shall be visible from the internal private roadway;

   c. Accessory Structures@259">Structures. Individual RV spaces are not allowed to have accessory structures (*e.g.*, awnings, cabanas, carports, garages, porches, storage sheds, etc.), with the exception of factory installed recreational vehicle extensions (*e.g.*, expandable spaces or awnings).

4. *RV Park Access and Circulation*.

   a. The entrance of the internal private roadway shall have a pavement width of 30 feet with adequate curb radius and shall have at least one direct connection to a paved public street.

   b. The internal private roadway shall have a pavement width of 24 feet in accordance with City specifications, and shall consist of concrete, asphalt, or crushed limestone. The roadway may be 15 feet in width if it is designed for one-way roads as long as there is a minimum of 24 feet of unobstructed clearance, and a minimum of 60 feet in turning area and radii, to permit the free movement of emergency vehicles.

   c. No dead-end streets unless a cul-de-sac is installed in accordance to City specifications for nonresidential cul-de-sacs.

5. *Lot Access*. Each recreational vehicle space shall have direct access to the interior private roadway and shall be constructed of concrete, gravel, asphalt, crushed limestone, or similar material that controls or reduces dust.

6. *Required Facilities*. Each RV park shall install and maintain the following required facilities:

a. Office. An office for the manager and a publicly available telephone which shall be accessible for emergency use 24 hours a day, seven days a week.

b. Laundry and Maintenance Facilities. A laundry and maintenance building shall be included in the site design.

c. Off-Street Parking. Each RV park shall provide a common guest parking lot consisting of one parking space for every five recreational vehicle spaces.

d. Sanitary Facilities. The RV park shall provide the following sanitary facilities in the quantities specified below. Each calculation shall be rounded up to the next nearest whole number, where a minimum of at least one is required. One additional sanitary facility shall be provided for each 10 additional RV spaces. Facilities for males and females shall be separate and located within a permitted building.

   i. Toilets. One toilet for each sex for every 40 RV spaces;

   ii. Washbasins. One washbasin shall be provided within the bathroom for every two toilets provided; and

   iii. Showers. One shower for each sex per every 40 RV spaces.

e. Design and Maintenance of Sanitary Facilities. Design and maintenance of the sanitary facilities shall be in accordance with the following:

   i. Buildings shall be well lit at all times, day or night, well ventilated with screened openings, and constructed of moisture proof material to permit rapid and satisfactory cleaning, scouring and washing;

   ii. The floors shall be of concrete or other impervious material, elevated not less than four inches above grade, and each room shall be provided with floor drains.

   iii. Toilet and bathing facilities shall be in separate rooms or each toilet provided in a community toilet house shall be partitioned apart from any other toilet in the same room. The floor surface around the commode shall not drain into the shower floor.

   iv. Toilet floors and walls shall be of impervious material, painted white or a light color, and be kept clean at all times. Shower stalls shall be made of tile, plaster, cement or some other impervious material and shall be kept clean at all times. Shower stalls shall be partitioned in any manner as to provide privacy and promote cleanliness. If a shower stall is of some impervious material other than tile, cement or plaster, it shall be white or some light color and kept clean at all times.

   v. The floor of any bathroom, other than the shower stall, shall be of some impervious material, and the walls of the bathroom, other than the shower stall, shall be made of a washable surface, kept clean at all times.

   vi. Sidewalks shall be required around all sanitary facilities connecting to the internal private roadway.

   vii. Not located nearer than 25 feet from a RV space or a property line.

viii. No RV space shall be located more than 600 feet from the building.

ix. All lavatories, bathtubs, and showers shall be connected to both hot and cold running water.

x. Facilities shall maintain a temperature of 70 degrees Fahrenheit.

7. *Lighting*. All common buildings and access thereto shall be well lit both inside and out during the night hours and the lighting design shall be in conformance with Division 5.4.100, *Lighting*.

8. *Required Bufferyard*. All RV parks shall provide a Type C bufferyard (Option 1) on all borders, including along all street frontage. Buffers which are located along the borders of existing residential lots shall include a minimum six-foot tall opaque fence or wall but shall not exceed more than eight feet in height (*see* Division 4.1.400, *Bufferyards*). The requirement of a six to eight foot wall or fence when abutting residential lots may be exempted if the distance requirement set out in Table 2.2.302, *Residential Limited and Special Use Standards.*

9. *Solid Waste Collection*. Centralized solid waste collection shall be in accordance with the provisions set out in Section 10.2.105, *Solid Waste Collection*.

10. *Utilities*. In addition to the following, the installation of utilities shall be in compliance with all building codes and other applicable provisions of this Code.

a. Drainage. The ground surface in all parts of the RV park shall be graded and designed to drain all stormwater and surface water in a safe, efficient manner. A stormwater management plan is required in conformance with Division 9.2.300, *Storm Water Management*.

b. Water System. All common buildings and RV spaces shall be provided with a connection to the City water system if it is located within 1,000 feet of the RV park. If the City water system is not available, then the water supply system shall be designed, constructed, and maintained in compliance with the State of Kansas Department of Health and Environment (KDH&E). The City must approve all proposed water facility plans prior to construction. The water distribution system shall be designed as follows:

i. A master water meter shall be installed to serve the RV park. Sub-metering or re-metering for private purposes by the owner/operator of the RV park is permitted however sub-metering or re-metering of individual RV spaces for public purposes, as determined by the City, such as meter reading and utility billing of individual RV spaces is not permitted.

ii. A reduced pressure principal backflow preventer will be required to be placed at the lot line on the discharge side of the master meter. In addition, one must be placed at each of the connections for each RV spaces and located on the right side of the space.

iii. Water riser service branch lines shall extend at least four inches above ground elevation. The branch line shall be at least three-fourths inch.

iv. Adequate provisions shall be made to prevent freezing of service lines, valves and riser pipes. Surface drainage shall be diverted from the location of utility connections at each space.

v. A shut off valve below the frost line shall be provided on each branch line.

vi. The owner/operator shall have complete maintenance responsibility for the water system within the RV park.

vii. The City has no maintenance responsibility for service lines within the RV park. The responsibility of the City stops at the lot line.

c. Wastewater System. All common buildings and RV spaces shall be provided with a connection to the City wastewater system if it is located within 1,000 feet of the RV park. If the City wastewater system is not available, then the system shall be designed, constructed, and maintained in compliance with the State of Kansas Department of Health and Environment (KDH&E). The City must approve all proposed wastewater facility plans prior to construction. The wastewater distribution system shall be installed as follows:

i. Each RV space shall be provided with a four-inch diameter wastewater riser and shall extend above grade four to six inches. The wastewater riser pipe shall be so located on each stand so that the wastewater connection to the RV drain outlet will approximate a vertical position. Each inlet shall be provided with a gas tight seal when connected to a recreational vehicle or have a gas tight seal plug when not in service.

ii. The wastewater connection to each RV space shall consist of a single four-inch service line without any branch lines, fittings, or connections. All joints shall be water tight.

iii. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least four to six inches above the ground elevation.

iv. Each collection wastewater line shall provide a vent extending a minimum of 10 feet in height.

v. The owner/operator shall have complete maintenance responsibility for the wastewater system within the RV park.

vi. The responsibility of the City stops at the lot line.

vii. Each RV park shall be required to install at the lot line, where connection to the City wastewater system is made, a sample well site. The sample well site shall be installed according to City specifications.

d. Electrical System. All common buildings and RV spaces shall be provided with a connection to the local electrical provider's electrical system, which shall be installed underground in accordance with the most currently adopted National Electric Code. The electrical system shall be installed as follows:

i. A master electric meter shall be installed to serve the RV park. Sub-metering or re-metering for private purposes by the owner/operator of the RV park is permitted however sub-metering or re-metering of individual RV spaces for public purposes, as determined by the local electrical provider, such as meter reading and utility billing of individual RV spaces is not permitted.

ii. The City has no maintenance responsibility for service lines within the RV park. The responsibility of the City stops at the weatherhead.

iii. The location of all underground lines shall be clearly marked by surface signs at approved intervals.

iv. Power supply to each space shall be a minimum of one 20-amp and one 50-amp power supply.

v. Outlets (receptacles or pressure connectors) shall be housed in an Underwriters' Laboratories, Inc., approved weather-proof outlet box.

vi. A water-tight seal shall be provided for underground conduit in floodplain installations and a riser extending a minimum of two feet above the floodplain elevation shall be provided.

11. *Fire Protection*.

a. Open fires shall be allowed only in accordance with applicable City Codes.

b. Each RV space shall be within 300 feet of a fire hydrant. .

c. In RV parks in which gasoline, fuel, oil, or other flammable liquids are stored and/or dispensed, their handling and storage shall comply with the provisions of the Standard Fire Prevention Code.

d. Bottled gas shall not be used at individual RV lots unless the containers are properly connected by copper or other suitable metallic tubing. Bottled gas cylinders shall be securely fastened in place.

e. All fire rings, wood burning stoves and other forms of outdoor cooking shall be located, constructed, maintained, and used as to minimize fire hazards and smoke nuisance.

f. Approaches to all RV spaces shall be kept clear at all times for access by firefighting equipment.

12. *Maintenance*. In conformance with the landscape surface ratio (LSR) of the district, all grounds in the RV park shall be:

a. Paved, covered with stone, rock, or other similar solid material, or protected with vegetative cover that is capable of preventing soil erosion and eliminating dust; and

b. Maintained free of accumulation of high grass, weeds, and debris so as to prevent rodent and snake harborage or the breeding of flies, mosquitos, or other pests. This does not apply to the required bufferyard, which should be allowed to fill in with natural vegetation over time.

E. **Site Plan.** A site plan is required showing conformance with each of the site design criteria detailed in this Section (including all proposed on-site utilities, rights-of-way/easements and roadway configuration, storm drainage, recreational vehicle space layout, building improvements, fencing, buffering, lighting, and signage), as well as other applicable requirements of this Code which will be used for review and consideration by the applicable administrative body having jurisdiction.

F. **License.** The owner/operator is required to hold a valid license issued annually from the City to operate an RV park in the City in accordance Section 11.2.309, *Recreational Vehicle (RV) Park License*.

G. **Operations.** The owner/operator shall collect the following information as part of the registration process for each person renting an RV space in the RV park:

1. Name;
2. Full address of permanent residence;
3. Automobile and recreational vehicle license plate number and the state in which each is registered;
4. Photocopy of the driver's license of the primary tenant;
5. The number or letter of the designated space being rented; and
6. The date of arrival and departure.

H. **Expansion or Modification of Existing RV Parks.**

1. *Re-Review Required*. Any enlargement (*e.g.*, size of property or additional RV spaces, etc.) or modification of site layout of an existing RV park shall require a re-review and approval as if it were a new application.
2. *Existing Facilities Brought Into Conformance*. No enlargement or extensions to any RV park shall be permitted unless the existing facility is made to conform with all the requirements for new construction in conformance with this Section.

I. **Inspections.** The Building Official shall have the power to enter, during normal operating hours, upon any private or public property with the purpose of inspecting and investigating conditions relating to the enforcement of this Section.

J. **Suspensions.**

1. *Notice*. Whenever, upon inspection of any RV park, the Building Official finds that conditions or practices exist which are violation of any provision of this Section applicable to such park, the Building Official shall provide notice in writing to the owner/operator, and if such conditions or practices have not been corrected in the timeframe set out in the notice, the Building Official will suspend the RV park license and give notice of such suspension.
2. *Cessation of Operations*. Upon suspension of the RV park license, the owner/operator shall cease operation of the RV park.

3. *Appeal*. The suspension of the license may be appealed to the Board of Zoning Appeals.

K. **Abandonment and Restoration.**

1. *Plan*. In the event that operations should cease for a period of 24 months, the owner shall be required to provide a written plan and agreement to the Building Official showing evidence of a pending lease/sale agreement or a plan of action setting out how the site's improvements (*e.g.*, internal roadways, RV parking pads, buildings and structures, utilities, signs, and other non-vegetative improvements) shall be dismantled and the site restored to its previous unoccupied, natural condition. The start of the 24 month timeframe begins upon notification to the City by the owner/operator, or upon the initial inspection by the Building Official, whichever comes first.

2. *Restoration*. If the City deems the abandoned RV park is public health or safety hazard after the 24 months have expired, the City may restore the property to its natural conditions and place a lien on the property to recover both restoration and administrative costs.

Effective on: 5/6/2016

Division 9.1.400 Covenants, Conditions, and Restrictions

Sec. 9.1.401 Required Property Owner's Association

A. **Required Property Owner's Association.** As set out in Division 9.1.400, *Covenants, Conditions and Restrictions*, any subdivision or development for which compliance with the standards of this Code or with conditions of approval requires a continuing obligation (*e.g.*, to own and maintain common open space) shall be subject to a mandatory property owners' association and a recorded declaration of covenants, conditions, and restrictions (CCRs) that ensures such continuing compliance.

B. **Incorporation of Property Owners' Association.** If required by this Code, or required as a condition of approval, the applicant shall incorporate a property owners' association that will bear responsibility for ensuring continuing compliance with this Code and conditions of approval.

Effective on: 5/6/2016

Sec. 9.1.402 Required Covenants, Conditions, and Restrictions

A. **Required Covenants, Conditions, and Restrictions (CCRs).**

1. *Required*. Conditions and requirements of development approval that require ongoing efforts of tenants or successors in title shall be included in a declaration of CCRs for the property that shall be recorded in the public records in the chain of title for the property at the applicant's expense.

2. *Limited Waiver*. Developments that are approved under unified ownership and control are not required to have CCRs, provided that a single property owner is responsible for the ongoing compliance of the parcel proposed for development with the requirements of this Code and any conditions of approval. However, a development that is approved under

unified ownership and control shall not be conveyed into multiple ownerships (*e.g.*, individual buildings in an office park being sold to separate entities, or individual residential lots) until required CCRs are recorded and have been accepted by the City.

3. *Timing*. The applicant shall provide proposed CCRs to the City:

   a. Upon filing the application for plat approval; or

   b. If no plat approval is sought, before the issuance of any permit that directly authorizes development (development approvals that require CCRs shall be contingent upon approval of the CCR document by the Zoning Administrator).

4. *Plat Annotations*. Where a plat is required, the CCRs shall be referenced on the plat. If the plat is recorded prior to the CCRs being recording, the plat shall contain a note that the parcel proposed for development is subject to CCRs.

B. **Limited Review of Incorporation Documents and CCRs.**

1. *Generally*. The City shall approve only those CCRs that relate to the development approval, and its right of enforcement shall extend only to those matters and matters that substantially bear upon them. The City will not seek to intervene in purely private disputes about CCRs. The City Attorney shall review the incorporation documents and CCRs to ensure that the ~~following~~ provisions are included in a form that is acceptable to the City Attorney.

   a. ~~All items that are required by these Regulations or conditions of approval, which may include specific rights of enforcement being granted to the City;~~

   b. ~~Membership in the property owners' association shall be mandatory for all owners of property in the subdivision or condominium;~~

   c. ~~Dues are payable to the property owners' association at regular intervals;~~

   d. ~~The property owners' association has lien rights with respect to unpaid dues;~~

   e. ~~The property owners' association has a perpetual existence;~~

   f. ~~The property owners' association has all responsibilities required by these regulations or conditions of approval (*e.g.*, ownership and maintenance of common elements); and~~

   g. ~~The property owners' association has the capacity to sue and be sued.~~

2. ~~*Optional Elements*. The CCRs may include any provisions considered desirable by the applicant with respect to the management and maintenance of the subdivision or condominium, provided that they do not undermine any of the following requirements:~~

   a. ~~Required membership in, and payment of dues to, the property owners' association;~~

   b. ~~Disclosure of annual financial report upon the request of the City;~~

   c. ~~Inclusion and enforcement of all of the provisions required by these Regulations and any conditions of approval, in a form acceptable to the City Attorney;~~

d. ~~Clauses that provide for enforceability by the City of those CCRs that relate to these Regulations or conditions of approval; and~~

e. ~~Applicable requirements of these Regulations at the time of approval of the CCR document.~~

Effective on: 5/6/2016

Sec. 9.1.403 City Maintenance of Association Property

A. **Generally.** The City may (but is under no obligation to) provide any maintenance for any item that is otherwise required to be maintained by the property owners' association as provided herein.

B. **Maintenance Charges to Association.** The covenants, conditions, and restrictions (CCRs) shall include a provision that authorizes the City to:

1. Notify the property owners' association through its designated agent, or if the designated agent is unknown to the City, through notice to individual owners of record, that property within its control requires maintenance to meet the standards of this Code or the conditions of approval of the development or subdivision;
2. After not less than 10 business days following notice to the association, perform (or cause to be performed) the required maintenance without liability to the association or individual owners; and
3. Charge the association for the maintenance, or to charge individual lot owners (pro rata according to their share of obligations for dues) for the costs of the maintenance, including an administrative charge, in any of the following ways:
   a. By including the charge in the water and sewer utility billing from the City of Hays Utility Services; and
   b. By enforcing payment or compliance by other provisions of law.

C. **Policy Regarding Maintenance Charges.** If the City provides notice pursuant to CCRs that incorporate the requirements of Subsection B., above, then the City will allow the association to perform the required maintenance if:

1. The association or lot owner(s) provides sufficient written assurances that such maintenance deficiencies will be corrected within a reasonable period of time agreed to by the City Engineer;
2. The City is paid its administrative costs for sending the notice; and
3. The required maintenance is performed.

Effective on: 5/6/2016

Division 9.1.500 Dedication of Land and Improvements

Sec. 9.1.501 Form of Dedication

A. **Generally.** The purpose of this Division is to ensure that the needs of different land use types in the City are met with respect to regional, local, and on-site infrastructure, to cooperate with other agencies, to promote sound local and regional planning and development, and to ensure that new development provides its proportionate fair share of regional improvements for public parks, public schools and other public purposes to the extent that the facilities will serve the future occupants of new development.

B. **Dedications.** All dedications of public improvements, including regional and subdivision improvements, shall be made in a form approved by the City Attorney. Dedications of park and school sites shall be shown on the site plan and plat for the parcel proposed for development. Other dedications shall be shown on the site plan or plat unless the City determines that another form of dedication (*e.g.*, a recorded easement) is more appropriate.

C. **Open Space Parcels.** Land areas that are used to satisfy open space ratio requirements shall be shown as separate parcels on plats. The open space parcels (*e.g.*, parks, greenways along drainage corridors and streams, floodplains), as set out in [@@556], *Open Space*, shall be restricted to open space uses by plat restrictions or separately recorded covenants, conditions, and restrictions.

Effective on: 5/6/2016

Sec. 9.1.502 Streets and Rights-of-Way

A. **Generally.** Streets, alleys, and other rights-of-way within parcels proposed for development shall be appropriately dedicated for the purposes they are intended to serve.

B. **Perimeter Streets; Dedication.** Where the proposed subdivision abuts upon an existing street or half-street that does not conform to the right-of-way standards of Article 6.2, *Streets, Sidewalks, and Trails*, or to the adopted thoroughfare plan, whichever provides for a wider pavement section, the subdivider shall dedicate right-of-way width sufficient to make the full right-of-way width conform to said Article.

Effective on: 5/6/2016

Sec. 9.1.503 Drainage and Storm Water Best Management Practice Easements

A. **Generally.**

1. Where a subdivision is traversed by a watercourse, drainageway, natural channel or stream, the applicant shall provide an easement or right-of-way with a location that is substantially the limit of such watercourse, plus additional width to accommodate future maintenance and pedestrian access needs.

2. Where conditions require, there shall be provided an adequate stormwater best management practice easement. Where such easement is adjacent to lots, tracts, or reserves, the easement shall be noted on the final plat as follows: "The easement indicated shall be maintained by the property owner and kept clear of fences, buildings, planting, and other obstructions to the operation and maintenance of the drainage facility, and abutting property shall not be permitted to drain into this easement except by approved means."

3. These areas may be suitable for trails, walkways, multi-use paths, or other pedestrian type paths which are used for connectivity to other neighborhoods, public amenities, or major destinations.

B. **Drainage Facilities.** Drainage facilities shall be provided and constructed at the expense of the subdivider pursuant to the City's drainage policy, master plans, and as specified by the City Engineer.

C. **Dedication Required.**

1. Dedication of drainage ditch easements (including ditches, swales, berms, pipes, culverts, etc.) shall be made in accordance with the following:

   a. Thoroughfare plan;

   b. Master plan(s); and

   c. Kansas Department of Transportation (KDOT) regulations.

2. In the event of demonstrated site constraints, the drain ditch shall be reserved on the subdivision plat as a drainage easement. The easement shall include provisions that, when necessary, it will be used for roadway improvements at no cost to the City and that no other improvements shall be constructed within the easement.

Effective on: 5/6/2016

Sec. 9.1.504 Public Utilities Easements

The location and width of necessary public utility easements shall be determined by the City Engineer; or, in the instance of private utilities, by the private utility company concerned, as set out in Section 9.1.204, *Easements*.

Effective on: 5/6/2016

Sec. 9.1.505 Open Space Reservation, Preservation, and Dedication

A. **Purpose**. All residential subdivisions shall provide for the reservation or dedication of land for open space, for either public recreational use or for the future use of the residents of that subdivision. The purpose of this open space is to ensure the proper balance of use and design of urban areas and avoidance of the overcrowding of land.

B. **Applicability**. The provisions of this Section shall include and apply to newly platted areas, as well as those being replatted, but shall not include those areas coming under the lot split provisions of Sec. 11.2.504, *Lot Splits*.

C. **Reservation of Open Space.**

1. *Generally*. Where common open space is provided in a parcel proposed for development and/or subdivision and such open space is to be owned and maintained in accordance with Subsection E.2, below, such open space shall be termed as "open space reservations." Such reservations of open space shall be permitted by the City Commission, providing that the following standards are met:

a. That yards, court areas, setbacks, and other open areas required to be maintained on private lots by this Code, or the City's *Code of Ordinances*, shall not be included in the computation of such common open space, except as provided for in Subsection A.2., *Location of Private Lots*, below;

b. That the ownership and maintenance of the open space is adequately provided for by recorded covenants, conditions, and restrictions (CCRs), as applicable, and that the use of the open space is restricted for park and recreational purposes which run with the land in favor of the future owners of the property within the tract and which cannot be defeated or eliminated without the consent of the City Commission;

c. That the proposed open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as shape, topography, geology, access, and location of the private open space land.

2. *Location on Private Lots*. Open space may be located on private lots if all of the following are demonstrated:

a. The parcel proposed for development has fewer than 20 dwelling units and is not a planned neighborhood.

b. Bufferyards and other open space areas are identified on the plat as landscape easements that must be maintained by either a property owners' association or the owner of the lot that is subject to the easement.

c. The maintenance requirement is included in the CCRs that apply to the property. The CCRs shall provide that the maintenance requirement is enforceable by the City and may not be amended without the consent of the City Commission. A copy of the CCR's shall be submitted to the City for review and acceptance prior to final approval.

D. **Dedication of Open Space.**

1. All new residential subdivisions shall dedicate an amount of open space as determined by the open space ratio set out in Table 3.1.201, *Residential Development Standards*, except the following:

a. Those complying with Subsection C., above;

b. Those coming under the lot split provisions set out in Section 11.2.504, *Lot Splits*;

c. Replatted areas; and

d. Those areas within the corporate limits as of December 31, 1976.

2. The amount of land required to be dedicated by a subdivider pursuant to this Section, shall be determined by multiplying the required minimum open space ratio by the gross acreage of the parcel proposed for development.

E. **Preservation of Open Space.**

1. *Open Space Securely Held*. Open space shall not be developed or redeveloped once established.

2. *Responsible Parties*. Common open space shall be placed in an easement, and may be owned in the following ways:

   a. Dedication to the City, provided the City Commission ~~Council~~ shall have the final decision to accept and the right to refuse such offers of dedication;

   b. Through a special district formed through K.S.A. 12-6a28;

   c. A duly recorded covenant of easement whereby the City is a party to the easement, as authorized by motion of the City Commission ~~Council~~;

   d. A duly recorded conservation easement that is dedicated to a City approved private, non-profit organization, (e.g., land trust) that is capable of managing the open space in perpetuity; or

   e. In common by a homeowners', condominium, or property owners' association, with an easement dedicated to all property owners within the association.

F. **Amount of Cash or Land Contribution in Lieu of Land Dedication**. The City shall have the right to accept or refuse the dedication of land for park and recreational purposes. In the event the City refuses land dedication, the subdivider may opt to fulfill the requirement by one or a combination of the following methods:

1. The subdivider may make a cash contribution based upon the general land ~~fair market~~ value (land value per acre) and an improvement value (improvement value per acre) of the amount of land which would otherwise be required to be dedicated. The fair market value shall be determined prior to the submission of the final plat by one of the following methods:

   a. The City and the subdivider agree as to the ~~fair market~~ value (general land value plus improvement value); or

   b. If the subdivider and City cannot agree, the subdivider, at his/her expense, may obtain a qualified real estate appraiser, approved by the City, to obtain an appraisal of the property. The appraisal shall state the fair market value of such property assuming that the final plat (or, if no plat is required, site plan) is approved, assuming that the dedicated site is improved with the public improvements and water and sewer facilities required for such dedicated sites. The City shall approve the appraisal if it is found to be credible. If the appraisal is rejected, then the general land value shall be applied for the purpose of calculating fees-in-lieu. The appraisal shall only be valid for a six-month period. If the final plat is not completed within the appraisal validation period, the subdivider shall revalidate the value as set out in this Section.

   c. The fees-in-lieu shall be calculated as the land value per acre and improvement value per acre, as set out in Subsection 1., above, times the number of acres of land which would otherwise be required to be dedicated.

2. The subdivider may deed to the City, by separate instrument, lots which are equivalent in value to the amount of land which would otherwise be required to be dedicated. The fair market value of the lots which are to be deeded shall be determined by the following:

a. By agreement between the subdivider and the City; or

b. If the subdivider and City cannot agree, the subdivider may, at his/her expense, obtain a qualified real estate appraiser, approved by the City, to obtain an appraisal of the platted lots.

3. The subdivider may provide for a mix of land dedication, improvements, or fees-in-lieu. Land that is dedicated shall not be included in the calculation of the fees-in-lieu but shall be included in the calculation of improvement unless the land is improved by the owner/subdivider to City standards.

4. No deeding of partial lots shall be accepted by the City. In the event that the value determination results in a fraction of a lot, the subdivider shall fulfill the obligation by either a cash contribution or the deeding of an additional lot. (Code 2000, § 16.24.040)

G. **Obligation of Land or Value Obtained from this Section**.

1. All land required to be dedicated to the City as set out in this Section shall be dedicated for park, open space, and recreational purposes and shall be so indicated on the final plat.

2. All land reserved as set out in this Section shall be reserved for park, open space, and recreational purposes and shall be so indicated on the final plat.

3. The use of cash contributions received as set out in this Section shall be as follows:

a. All cash contributions received shall be placed in a trust account created by the City for that area where the subject land is located. All cash contributions received under this provision shall be utilized within a seven-year time period from the date of the cash contribution. The following are the areas of the City:

i. Area 1: The area located west of Vine Street (Highway 183).

ii. Area 2: The area located east of Vine Street (Highway 183).

b. The funds in each area trust account shall be spent within that area for capital improvements only (land acquisition and development) and shall not be available for operational and maintenance costs.

4. In such instances where land is deeded by a separate instrument in lieu of actual dedication or cash contribution, the land shall be placed in the hands of the previously described area trust, and any value received from the sale, rental or lease of such lands shall be placed in the trust fund. Any lands deeded to the City as a result of this Section shall not be utilized for any public or private purpose other than park, open space, and recreation, unless proper value has been transmitted to the special trust fund. (Code 2000, § 16.24.050)

H. **Documents to Accompany Submission of a Final Plat**.

1. Restrictive covenants prepared in accordance with Subsection C, above, shall be submitted with the final plat.

2. All cash contributions, as required, shall be submitted with the final plat.

3. All deed transfers completely executed by the applicant and approved by the City Attorney shall be submitted with the final plat. (Code 2000, § 16.24.060)

I. **Permitted Uses and Functions.** Common open spaces may be put to the following uses or functions, subject to any applicable standards of this Division, and other applicable sections of this Code.

1. *Park, Open Space, and Recreational Uses*.

   a. Ball fields, golf courses, nature areas, picnic areas, and play courts are allowed in designated common open space areas, provided that the provided that associated buildings, structures, parking lots, and other impermeable surfaces do not exceed more than 15 percent of the designated open space area and no structures are allowed within the floodplain or floodway.

   b. Nature centers are allowed in designated common open space areas, provided that associated buildings, structures, parking lots, and other impermeable surfaces do not exceed more than 20 percent of the designated open space area.

   c. Pools are allowed in designated common open space areas, provided that if a pool house is present, it is less than 1,500 square feet in floor area.

   d. Trails and associated structures necessary for trail crossings are allowed in designated open space areas, including the floodplain.

   e. Passive recreation uses.

J. **Other Permitted Uses and Functions**.

1. *Agricultural Uses*. Where agricultural and outdoor nursery / greenhouse, wholesale uses are allowed by Section 2.2.205, *Agricultural, Industrial, Utility, Transportation, and Communication Uses*, the area of land put to agricultural and outdoor nursery / greenhouse, wholesale uses is counted as common open space. In other districts, noncommercial production of crops (*e.g.*, orchards or garden plots that are an amenity to development) is allowed in designated open space areas.

2. *Landscaped or Natural Systems*.

   a. Landscaped areas or natural areas.

   b. Floodplains and floodways.

   c. Waterbodies.

   d. Watercourses.

   e. Wetlands.

3. *Public Facilities*.

   a. Public utilities.

   b. Stormwater management facilities subject to the standards of Division 9.2.300, *Storm Water Management.*

c. Solar arrays and wind energy conversion systems (WECS) that comply with Section 10.2.104, *Solar Arrays and Wind Energy Conversion Systems (WECS)*, as applicable, are allowed in designated open space areas that are not floodplains.

4. *Temporary Uses***.** Public interest or special events are allowed in designated common open space areas, subject to the requirements of Section 2.2.301, *Temporary Uses*, and Section 2.2.302, *Temporary Permitted, Limited, and Special Use Standards*.

Effective on: 5/6/2016

Division 9.1.600 Mapping and Monuments

Sec. 9.1.601 Mapping Criteria

A. **Generally.** The following shall be used for mapping natural resources or other features of subdivision plats or site plans, or other as otherwise required by this Section. In general, boundaries shall be measured as follows:

1. Measurements for the boundary are to be made horizontally, perpendicular from, or radial from, any feature or point.
2. Boundaries that are dependent on elevation shall be based upon on-site elevations and shall not be interpolated.

B. **Waterbodies and Watercourses.**

1. *Floodplains*. All development within the City, not part of a previously approved plan or plat, shall show the boundary of the floodplain and floodway, if such exist on the site. Such delineation shall be by a registered professional land surveyor.
2. *Streams*. Streams (perennial, intermittent, mapped, and unmapped) with identifiable banks and beds shall have their boundaries set at the top of the bank.
3. *Wetlands*. Wetlands shall be measured by the criteria of the U.S. Army Corps of Engineers.
4. *Other Waterbodies/Watercourses*. Initial identification of other watercourses/waterbodies not otherwise classified shall be made using the U.S. Geological Survey quadrangle maps or more accurate information, as available. Field survey verification to determine evidence and location of channelized flow is required for subdivision plats and site plans.

C. **Soils.** For the planned construction of roads, pads, elevated structures, foundations, piers and septic tanks are to be used, soils shall be delineated by on-site testing of the soils to determine soil boundaries.

D. **Geology.** A Geologic inventory shall include depths to metamorphic and sedimentary rock deposits and layers; depths to groundwater table, aquifer and wellhead recharge zones.

E. **Topography.** Topographic lines shall be at one-foot contour intervals unless such intervals are impractical due to essentially flat topography.

F. **Vegetation.** Vegetation shall be measured by the canopy line for the determination of areas of woodlands or trees. Other vegetation types shall be measured from the middle of the vegetation transition.

Effective on: 5/6/2016

Sec. 9.1.602 Monumentation

A. **Generally.** Monuments shall be placed as required by the City Engineer prior to the final acceptance of the plat by the City to mark the following:

1. Lot corners, points of curvature, points of tangency, and reference points.

B. **Monument Requirements.** The following guidelines apply to artificial monuments to be set:

1. Permanent monuments consisting of an iron metal must have at least one-half-inch outside diameter and must be at least two feet in length (longer in soft or unstable soil). Concrete monuments must be at least three inches in width or diameter by 24 inches in length, reinforced with an iron rod at least one-fourth inch in diameter, and may contain a precise mark on top indicating the exact location of the corner.
2. Temporary monuments on existing concrete, stone, or steel surface must consist of drill holes, chisel marks, or punch marks and must be of sufficient size, diameter, or depth to be definitive, stable, and readily identifiable as a survey monument. Marks on asphalt streets may consist of railroad spikes, large nails, "PK nails," or other permanent metal spikes or nail-like objects.
3. Wooden stakes shall not be set as permanent boundary monuments.

C. **Monument Installation.** Monuments must be set vertically whenever possible and the top must be reasonably flush with the finished grade when practical. Monuments subject to damage from earthwork, construction, or traffic should be buried at a sufficient depth to offer protection. Permanent monuments may be installed after improvements are complete to avoid disturbance of monuments during construction.

D. **Witness Monuments.** When physically impossible to set a monument at the corner, witness monuments shall be set when possible, preferably on each converging line at measured distances from the corner and identified as such in the description and on the plat of the property.

E. **Benchmarking.** For all subdivisions of five lots or more, a permanent benchmark shall be accessibly placed, the elevation of which shall be based on mean sea level as determined by the U.S. Geological Survey (USGS) and accurately noted on the subdivision plat. Such permanent benchmark shall be brass capped, set in concrete, with a minimum dimension of six inches in diameter, four feet long with a flat top. The top of the brass monument shall have an indented cross to identify properly the location and shall be set flush with the finished grade stamped with one-half inch numbers.

Effective on: 5/6/2016

ARTICLE 9.2 STORMWATER MANAGEMENT

Division 9.2.100 Purpose and Application of Article

Sec. 9.2.101 Purpose

In order to promote the public health, safety, and general welfare of the citizens of the City, this Article is enacted for the general purpose of assuring the proper balance between the use of land and the preservation of a safe and beneficial environment. The maintenance, improvement, and protection of the stormwater drainage system of the City necessitates the prevention of the discharge of contaminated stormwater runoff and illicit discharges from industrial, commercial, residential, and construction sites into the stormwater drainage system. The establishment of regulations in this regard is necessary not only to facilitate compliance with state and federal standards and permit by owners for construction sites within the City, but also to enable the City to comply with all federal and state laws and regulations applicable to the National Pollution Discharge Elimination System (NPDES). More specifically, the provisions of this Article are intended to reduce property damage and to minimize the hazards of personal injury and loss of life due to flooding, to be accomplished by:

- Establishing major and minor stormwater management systems;
- Defining and establishing stormwater management controls and practices; and
- Establishing guidelines for attenuating or avoiding flooding within the City from the cumulative effects of increased volume and peak discharge of surface water runoff (*see* Article 9.3, *Flood Damage Prevention*).

Effective on: 5/6/2016

Sec. 9.2.102 Application

A. **Applicability**. The provisions of this Article shall extend and apply to all land and existing or proposed improvements within the corporate limits of the City and to all substances entering the municipal stormwater drainage system generated on any developed and undeveloped lands within the corporate limits of the City, unless explicitly exempted under the provisions of this Article.

B. **Post Construction Controls**. Post construction stormwater controls include water quality treatment and flood control. Post construction stormwater controls are required in the following circumstances:

1. For properties in the major system as defined in Sec. 9.2.201, *Stormwater Runoff Management System*, *Subsection B, Major System:*

    a. When any property or larger common plan of development will add 10,000 square feet of impervious area, it shall meet requirements of the Post Construction Storm Water Best Management Practices Manual. Redevelopment shall be required to

control the 85 percent storm for water quality purposes. New development shall be required to control the 90 percent storm for water quality purposes.

b. When any property or larger common plan of development disturbs more than one acre of land, it shall meet the requirements of the Post Construction Storm Water Best Management Practices Manual. Redevelopment shall be required to control the 85 percent storm for water quality purposes. New development shall be required to control the 90 percent storm for water quality purposes.

2. For properties in the minor system as defined in Sec. 9.2.201, Stormwater Runoff Management System, Subsection C, Minor System:

a. When any property or larger common plan of development will add 10,000 square feet of impervious area, it shall meet requirements of the Post Construction Storm Water Best Management Practices Manual and ensure that post-development runoff from the five-year, 25-year, and 100-year storm event results in no increase in peak flow rates from the entire site, in accordance with the most recently adopted "Design Criteria Storm Drainage Systems and Facilities."

b. When any property or larger common plan of development disturbs more than one acre of land, it shall meet the requirements of the Post Construction Storm Water Best Management Practices Manual. Redevelopment shall be required to control the 85 percent storm for water quality purposes. New development shall be required to control the 90 percent storm for water quality purposes.

C. **Pollution Prevention**. Stormwater pollution prevention for properties in the major and minor system:

1. When any property will disturb greater than 1,000 square feet, there shall be required a stormwater pollution prevention plan before a building permit is issued.

2. The stormwater pollution prevention plan shall detail construction site Best Management Practices that prevent the illicit discharge of prohibited substances, as detailed in Sec. 9.2.205, *Drainage Permits and Prohibited Acts, Subsection C, Specific Illicit Discharges Prohibited*, into the municipal stormwater drainage system.

D. **Management Plan**. Any person proposing to construct buildings develop land, make improvements to existing buildings or projects, grade land within the area described in this Subsection, or take any action the net effect of which will cause a change in existing stormwater runoff, shall make application to the City Engineer for approval of a stormwater management plan and issuance of a drainage permit as specified in this Article. No land shall be graded, developed, or improvements constructed except upon issuance of a drainage permit, unless exempted under the provisions of this Article.

E. **Permit Issuance**. Any person required to have construction stormwater permit coverage to discharge stormwater associated with construction activities shall make application to the Kansas Department of Health and Environment (KDHE) for issuance of a permit. (Ord. No. 3832, §§ 1, 2, 4-14-2011; Ord. No. 3896, § 1, 2-26-2015)

Effective on: 5/6/2016

Sec. 9.2.103 Interpretations

The provisions of this Article are intended to supplement the other provisions of this Code. In their interpretation and application, the provisions of the regulations of this Article shall be held to be the minimum requirements for the promotion of public health, safety and general welfare. (Ord. No. 3832, §§ 1, 2, 4-14-2011)

Effective on: 5/6/2016

Sec. 9.2.104 Relationship to Other Laws

The regulations of this Article shall not be construed as abating any action now pending under, or by virtue of, prior existing regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person as waiving any right of the City under any section or provision existing at the time of adoption of the ordinance from which this Article is derived, or as vacating or annulling any rights obtained by any person by lawful action of the City, except as shall be expressly provided for in the regulations of this Article. (Ord. No. 3832, §§ 1, 2, 4-14-2011)

Effective on: 5/6/2016

Sec. 9.2.105 Conflicts with Public and Private Provisions

A. **Public Provisions**. The regulations of this Article are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of this Code imposes restrictions different from those imposed by any other ordinance, rule or regulation or other provision of the law, whichever provisions are more restrictive or impose higher standards shall control.

B. **Private Provisions**. As set out in Sec. 1.2.107, *Private Restrictions*, the regulations of this Article are not intended to abrogate any easement, covenant, or any other private agreement or restriction; provided that where the provisions of this Article are more restrictive or impose higher standards than such easement, covenant, or private agreement or impose duties and obligations more restrictive, or higher standards than the requirements of this Article, and such private provisions are inconsistent with the regulations or determinations made under this Article. (Ord. No. 3832, §§ 1, 2, 4-14-2011)

Effective on: 5/6/2016

Sec. 9.2.106 Disclaimer of Liability

The performance standards and design criteria set forth in this Article establish minimum requirements which must be implemented with good engineering practice and workmanship. Use of the requirements contained in this Article shall not constitute a representation, guarantee, or warranty of any kind by the City, its agents, or its officers and employees, of the adequacy or safety of any stormwater pollution prevention plan, stormwater management plan, structure, or use of land. Nor shall the approval of a stormwater pollution prevention plan or stormwater management plan and the issuance of a drainage permit imply that land uses permitted will be free from damages caused by stormwater runoff. The degree of protection by this Code is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study. Larger storms may occur or stormwater runoff heights may be increased by manmade or natural causes. this Code therefore, shall not create liability on the part of the City, its agents, or any officer or employee with respect to any legislative or administrative decision lawfully made hereunder. (Ord. No. 3832, §§ 1, 2, 4-14-2011)

Effective on: 5/6/2016

Sec. 9.2.107 Adoption of Post Construction Stormwater Best Management Practices Manual

The City hereby adopts by reference the document entitled, "Post Construction Storm Water Best Management Practices", authored in April 2009 by Wilson & Company and CDM. (Ord. No. 3896, § 3, 2-26-2015)

Effective on: 5/6/2016

Sec. 9.2.108 Fees

Drainage permit applicants shall submit a permit fee to the City with each application, in an the amount promulgated by the City Council, as may be amended from time to time. (Ord. No. 3832, §§ 1, 2, 4-14-2011)

Effective on: 5/6/2016

Division 9.2.200

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Sec. 9.2.201 Creation of Stormwater Utility

Pursuant to the provisions of K.S.A. 12-3101 et seq., the City's general home rule authority, nuisance authority, police powers, and all other authority, the City Commission does establish a stormwater utility and a stormwater management system, and declares its intention to operate, construct, maintain, repair, and replace the public stormwater management system and operate the stormwater utility. (Ord. No. 3829, § 2, 4-14-2011)

Effective on: 5/6/2016

Sec. 9.2.202 Findings and Determinations

A. **Findings, Determinations, and Declarations**. The City Commission finds, determines, and declares that the elements of the stormwater management system providing for the collection, conveyance, detention, retention, treatment, and release of stormwater benefit and provide services to real property within the incorporated city limits.

B. **Benefits**. The benefits of the stormwater management system include, but are not limited to:

1. The provision of adequate systems of collection, conveyance, detention, retention, treatment, and release of stormwater;
2. The reduction of hazards to property and life resulting from stormwater runoff;
3. Improvement in general health and welfare through reduction of undesirable stormwater conditions;
4. Improvement of water quality in the storm and surface water system and its receiving waters; and
5. Appropriate balancing between development and preservation of the natural environment.

C. **Achievements**. The stormwater management system will also:

1. Initiate innovative and proactive approaches to stormwater management within the City to address problems in areas of the City that currently are prone to flooding;
2. Protect against replication of these types of problems and the creation of similar problems in newly developing areas of the City; and
3. Assist in meeting the mandates of the National Pollutant Discharge Elimination System (NPDES), as created under the Federal Clean Water Act and associated State and Federal laws and their supporting regulations.

D. **Necessities**. Both standard and innovative stormwater management are necessary in the interest of the public health, safety, and general welfare of the residents, businesses, and visitors of the City.

E. **Public Monies**. Implementation of the stormwater management system will require the expenditure of significant amounts of public money.

F. **Beneficiaries.** All developed property in the City will benefit from the stormwater management system.

G. **Cost Distribution**. The City desires to fairly distribute costs of the stormwater management system implementation among all developed property which generates the need therefore.

H. **Establishment of Stormwater Utility**. The City has determined that the establishment of a stormwater utility is an appropriate method of funding certain portions of the costs of implementing the stormwater management system.

I. **Study**. The City commissioned a study that was prepared by Camp Dresser & McKee, Inc., to assist the City in developing the stormwater utility and to recommend an ERU and an ERU rate.

J. **Fees Determined Reasonable**. The governing body has evaluated the study and recommendations and hereby determines that the fees set forth are reasonable and necessary.

K. **Fee Determination**. The stormwater utility user fee imposed by this Code, is calculated by a formula that reasonably relates classes of property within the City to their anticipated use of or benefit from the stormwater management system, and such fee is neither a tax nor a special assessment, but a charge for services rendered or available.

L. **Fee Collection**. The City has researched collection options and hereby determines that in order to promote efficiency, eliminate duplication of services, and utilize the most economically feasible method of fee collection, the stormwater utility user fee should be included as a separate item on the City of Hays monthly utility bill. (Ord. No. 3829, § 3, 4-14-2011)

Effective on: 5/6/2016

Sec. 9.2.203 Administration

Refer to Sec. 11.1.305, *Stormwater Superintendent*.

Effective on: 1/22/2016

Sec. 9.2.204 Operating Budget

The City shall, as part of its annual budget process, adopt an operating budget for the stormwater utility. The operating budget shall conform with state law, City policy, and generally accepted accounting practices. (Ord. No. 3829, § 5, 4-14-2011)

Effective on: 5/6/2016

Sec. 9.2.205 Stormwater Management Service Fee

A. **Service Fee Established**. Subject to the provisions of this Article, there is imposed on each and every residential developed property and nonresidential developed property, ~~other than property that is not serviced by the stormwater management system or exempt property,~~ a stormwater management service fee. This stormwater management service fee shall be determined and set by the provisions of this Article in accordance with the ERU and the ERU rate. The fee shall be established by ordinance of the City Commission and may be amended from time to time by the City Commission, by resolution.

B. **ERU**. The ERU is hereby established for the purposes of calculating the stormwater utility user fee. The ERU is hereby established to be 3,369 square feet of impervious area.

C. **ERU Rate**. The initial ERU rate to be used to calculate the stormwater utility user fee is $3.62 per ERU per month and may hereafter be reviewed every year, with recommended revisions set by resolution of the City Commission.

D. **Stormwater Management Service Fee for Residential Developed Property**. The stormwater management service fee for residential property shall be the ERU rate multiplied by the number of individual dwelling units existing on the property. For a newly constructed dwelling unit, the charge for the stormwater management service fee attributable to that dwelling unit shall commence upon the issuance of the temporary certificate of occupancy, certificate of occupancy, certificate of compliance, or issuance of the first billing of the water utility, whichever is issued first for that dwelling unit. The minimum stormwater management service fee for any residential developed property shall be equal to one ERU rate.

E. **Stormwater Management Service Fee for Nonresidential Developed Property**. The stormwater management service fee for nonresidential developed property shall be the ERU rate multiplied by a numerical factor calculated by dividing the total impervious area of the property by the number of square feet in one ERU. In performing this calculation, the numerical factor shall be rounded to the nearest whole number. The minimum stormwater management fee for any nonresidential developed property shall be equal to one ERU. For a newly developed nonresidential developed property, the charge for the stormwater management service fee attributable to that development shall commence upon the issuance of the temporary certificate of occupancy, certificate of occupancy, certificate of compliance, or issuance of the first billing of the water utility, whichever is issued first. In the event of additional development to property that is already developed property, the charge for the stormwater management service fee attributable to that additional development shall commence upon the issuance of the temporary certificate of occupancy, certificate of occupancy, certificate of compliance, or issuance of the first billing of the water utility, whichever is issued first.

F. **Dwelling Unit and Impervious Surface Calculation**. The Stormwater Superintendent shall initially, and from time to time, determine the number of dwelling units located on residential developed property in order to establish the stormwater management service fee as provided for in this Section. Nonresidential developed property in the City shall have its square footage of impervious area calculated in order to establish the stormwater management service fee as provided for in this Section. The Stormwater Superintendent shall make the initial calculation with respect to existing nonresidential developed property and may from time to time change this calculation from the information and data deemed pertinent by the Stormwater Superintendent. With respect to property proposed to be nonresidential developed property, the applicant for development approval shall submit square footage impervious area calculations, in accordance with the submission requirements, as set forth in Section 11-479 of the Code of Ordinances of the City of Hays, Kansas. (Ord. No. 3829, § 6, 4-14-2011)

Effective on: 5/6/2016

Sec. 9.2.206 Appeal Procedure

Refer to Sec. 11.2.312, *Appeal of Stormwater Management Service Fee*.

Effective on: 5/6/2016

Sec. 9.2.207 Stormwater Management Service Fee Collection

A. **Method of Payment**. The stormwater management service fee shall be billed and collected in the same manner as other City utility fees. The stormwater management service fee shall be shown as a separate item on the City of Hays utility bill. The payment of stormwater management service fee bills for any given property shall be the responsibility of the owner of the property.

B. **Penalty for Late Payment**. To the extent permitted by applicable law, stormwater management fees shall be subject to interest and penalties for late payment, shall constitute a lien on the applicable property, and shall be collected in a manner as like assessed fees for nuisance abatements, regardless of whether the stormwater management service fees were

incurred when a property owner was in possession of the property or a non-owner was in possession of the property. (Ord. No. 3829, § 8, 4-14-2011)

Effective on: 5/6/2016

Sec. 9.2.208 Stormwater Utility Fund

Stormwater management service fees collected by the City shall be paid into a fund that is hereby created and shall be known as the "stormwater utility fund." This fund shall be used for the purpose of paying costs of capital improvements, administration of the stormwater utility, operation and maintenance, and debt service of the stormwater management system, and for carrying out all other lawful purposes of the utility. (Ord. No. 3829, § 9, 4-14-2011)

Effective on: 5/6/2016

Division 9.2.300 Storm Water Management

Sec. 9.2.301 Stormwater Runoff Management System

A. **Generally.** This Section establishes the stormwater runoff management system, which shall be composed of a major system, a minor system, management controls, and management practices.

B. **Major System.** The major system shall be composed of the regulatory floodplain as shown on the National Flood Insurance Program (NFIP) maps developed for the City by the Federal Emergency Management Agency (FEMA).

C. **Minor System.** The minor system shall consist of storm drainage facilities including, but not necessarily limited to, roadway curb and gutter, open channels, gullies, streams, creeks, swales, and enclosed and open conveyance systems which transport storm runoff to the major system.

D. **Management Controls.**

1. Generally, management controls are regulations applicable to the minor system under the provisions of this Subsection. Such controls shall govern any activity which will adversely affect the hydraulic function of any stormwater drainage facilities, public or private, including, but not limited to, retention/detention facilities, open channels, drainage swales, and enclosed or open stormwater conveyance systems.

2. The Chief Building Official shall refer to the City's Stormwater Superintendent all development plans and all building permit applications that may require a stormwater management plan and subsequent drainage permits to the City's Stormwater Superintendent for determination of the applicability of this Article.

3. The drainage permit fee is as promulgated by the City Council, which may change from time to time. (Ord. No. 3832, §§ 1, 2, 4-14-2011; Ord. No. 3896, § 4, 2-26-2015)

E. **Public Responsibilities Under the Stormwater Management System.**

1. *Administration*. The administration of the stormwater management system shall be the responsibility of the City Stormwater Superintendent, or his/her designee, who shall review and approve stormwater management plans as provided in this Section.

2. *Operation and Maintenance of Public-Owned Facilities*. The City shall be responsible for all maintenance of the public-owned drainage system, either improved or unimproved, located in right-of-way and on City-owned property. Maintenance of the public-owned drainage system located on private property and/or in utility or drainage easements shall be limited to the public-owned improvements, such as concrete structures, pipelines or concrete channel liner, and to the repair of any erosion-caused drainage system failure within this improved portion only of the drainage system. The City will maintain the free flow of all storm drainage within the corporate limits of the City. However, it shall be the responsibility of the owner, occupant, or agent in charge of private property, upon which the public storm drainage system exists, to maintain all vegetation, including mowing the grass and weeds, trimming, and/or removal of dead trees and shrubs and providing of such other general maintenance as is required, except as described in this Subsection.

F. **Private Responsibilities Under the Stormwater Management System.**

1. Each developer, applicant, and/or owner of land within the City has the responsibility to provide all approved stormwater runoff management facilities to ensure the adequate drainage and control of stormwater on the developer's, applicant's, and/or property owner's property both during and after construction of such facilities.

2. Each developer, applicant, and/or owner of land within the City shall have the responsibility and duty to properly design, construct, operate and maintain any on-site stormwater retention/detention facility which has not been accepted for maintenance by the City. Such responsibility shall be a covenant running with the land, transferred to subsequent owners through appropriate covenants. This maintenance shall include debris control and cleaning, cutting of vegetation, erosion repair, repair of rodent damage to dams and levees, removal of silt, and maintenance of structural facilities, and all other actions necessary to accomplish the ultimate goal of stormwater control.

3. Owners of retention/detention basins and associated facilities shall, upon completion of construction, furnish certification by a professional engineer licensed in the state to the City Stormwater Superintendent that the retention/detention basin has adequate storage capacity and that all associated facilities including inlet and outlet structures are fully functional.

4. Owners of all property containing either public or private drainage systems shall provide access to the system for City maintenance crews. No structures shall be constructed to obstruct access. The City Stormwater Superintendent’s approval of proposed changes to any drainage system shall be obtained prior to construction.

5. Owners of retention/detention basins and associated facilities with storage capacity in excess of 100,000 cubic feet total on-site storage shall furnish certification by a professional engineer licensed in the state to the City Stormwater Superintendent once every four years that the retention/detention basin has adequate storage capacity City and

that all associated facilities including all inlet and outlet structures are fully functional. This shall not apply to retention/detention facilities which were in place as of January 1, 2000.

G. **Same Practices.** The following practices may be utilized upon approval of the City Stormwater Superintendent. Use of these methods shall be fully in accordance with the design criteria and performance standards as set out for the following:

1. *Storage*. Runoff may be stored in temporary or permanent retention/detention basins, through rooftop or parking lot ponding, percolation storage, or by other approved means.
2. *Enclosed Systems with Underground Structures*. Enclosed systems consisting of underground pipes, culverts, and similar functional underground structures shall not be used to convey stormwater unless overland conveyance is shown to be unfeasible. Short sections of pipe are allowed in order to reduce risk to adjacent properties and drain stormwater best management practices. Maximum use of open channels is required to reduce long-term costs to the City for infrastructure maintenance and to promote improved water quality while reducing stormwater flows and maintaining groundwater recharge.
3. *Streets, Curbs, and Gutters*. Streets, curbs, and gutters shall be an integral part of the stormwater management system. To the maximum extent possible, drainage systems, street layout and grades, lot patterns, and location of the curbs, inlets, and site drainage and overflow swales shall be designed in accordance with the design criteria and performance standards set out in this Article.
4. *Enclosed Conveyance Systems*. Enclosed conveyance systems consisting of inlets, conduits and manholes may be used to convey stormwater runoff only where open channel flow is not feasible.
5. *Practices Not Exclusive*. The stormwater runoff management practices enumerated in this Article shall not constitute an exclusive listing of available management practices. Other generally accepted practices and methods may be utilized where approved by the City if the minimum standards and intent as described in this Section are maintained.

Effective on: 5/6/2016

Sec. 9.2.302 Stormwater Management Plans

A. **Generally.** The stormwater management plan and/or all construction drawings and specifications shall be prepared, signed, and sealed by a professional engineer licensed in the state. All plans shall be submitted to and approved by the City Stormwater Superintendent prior to issuance of a building or construction permit. No building or construction permits shall be issued prior to the approval of the stormwater management plan and issuance of a drainage permit by the City Stormwater Superintendent.

B. **Stormwater Management Plans.**

1. *Preliminary Stormwater Management Plan*. A preliminary stormwater management plan shall accompany preliminary applications for any proposed project. This preliminary plan shall contain, but not be limited to, the following information and data:

a. A site plan of suitable scale and contour interval indicating topographical information of the land to be developed and adjoining land tributary to the point of consideration whose topography may affect the proposed layout or drainage patterns for the project. A general plan of final contours of the project site shall also be indicated. All existing streams, waterways, channels, and the extent of the established floodplains shall be indicated;

b. The location and calculated peak discharge rates to all adjacent storm drainage facilities;

c. The type and drainage characteristics of soils contained in the project area;

d. A description of the concepts to be considered within the project to handle anticipated stormwater runoff, including the methods to be utilized to detain or control increased stormwater runoff generated by the proposed project;

e. A preliminary plan of the proposed storm drainage facilities, including preliminary calculations of stormwater runoff and detention volume, if required, to be handled by such facilities, including information regarding the effect the proposed project will have on existing downstream drainage facilities;

f. A description of the possible effects that the proposed project could have on areas adjoining and upstream of the project, including adjacent property;

g. Following the receipt of the preliminary stormwater management plan, a general review meeting will be conducted and shall include the City Stormwater Superintendent or his/her staff, representatives of the developer/applicant and the developer's/applicant's engineer. The purpose of this review shall be to jointly agree on the conceptual methods proposed to be utilized and the possible effects of the proposed project on existing or future adjacent projects.

2. *Final Stormwater Management Plan*. Following the review of the preliminary stormwater management plan, and after general approval of the preliminary plan by the City Stormwater Superintendent, a final stormwater management plan shall be prepared. The submittal of the final plan shall coincide with the application for final approval of the project and shall constitute a refinement of the concepts approved in the preliminary plan. If a project is to be phased, the total area of the conceptual project is to be considered in all calculations, and facilities shall be designed for each phase which would be compatible with those of the total project plan. The final stormwater management plan for any project shall include, but not be limited to, the following additional detailed information, unless specifically excluded during the preliminary concept review meeting:

a. A topographic map of the project site and adjacent areas, of suitable scale and contour interval, which shall define the location of streams, the extent of floodplains and calculated high water elevations, and the shoreline of lakes, ponds, swamps, and retention/detention basins including their inflow and outflow structures, if any;

b. The location, size, material (*e.g.*, reinforced concrete pipe), slope, and invert elevation of all existing sanitary or storm sewers, and the location of any existing stormwater

wastewater pumping or treatment facilities, which fall within the project limits plus 200 feet outside the project limits;

c. Detailed determination of runoff anticipated for the entire project site following project completion indicating design volumes and rates of proposed runoff for each portion of the watershed tributary to the storm drainage system, the calculations used to determine such runoff volumes and rates and review of the criteria which have been used by the project engineer throughout his or her calculations;

d. A refined layout of the proposed stormwater management system, including the location and size of all drainage structures, storm sewers, channels and channel sections, retention/detention basins, and analyses regarding the effect such improvements will have upon the existing downstream drainage facilities;

e. A preliminary plan of the proposed storm drainage facilities including preliminary calculations of stormwater runoff and retention/detention volume, if required, to be handled by such facilities, including information regarding the effect the proposed project will have on existing downstream drainage facilities;

f. For all retention/detention basins, if any, a plot or tabulation of storage volumes with corresponding water surface elevations and of the basin outflow rates for those water surface elevations;

g. For all retention/detention basins, if any, design hydrographs of inflow and outflow from the site under proposed project conditions;

h. A stormwater pollution prevention plan for the entire project site as required by Section 9.2.303, *Stormwater Pollution Prevention Plans*; and

i. A profile and one or more cross sections of all existing and proposed channels or other open drainage facilities, indicating existing conditions and the proposed changes, together with the high water elevations expected from stormwater runoff under the controlled conditions called for by this Article and the relationship of structures, streets, and other utilities to such channels for a distance as far downstream as the runoff will have a noticeable effect.

j. For all post construction best management practices, submittal of calculations, hydrographs, plans, profiles, and detailed specifications is required.

3. *Review and Approval of Final Stormwater Management Plan*.

a. The final stormwater management plan shall be reviewed by the City Engineer. If it is determined according to present engineering practice that the proposed project will provide control of stormwater runoff in accordance with the purposes, design criteria, and performance standards of this Article and will not be detrimental to the public health, safety, and general welfare, the City Engineer shall approve the plan or conditionally approve the plan, setting out the conditions.

b. A drainage permit for the project shall be granted; provided, the requirements for the drainage permit in Section 9.2.305, *Drainage Permits and Prohibited Acts*, have been met. If it is determined that the proposed project will not control stormwater runoff in accordance with this Article, the City Engineer shall disapprove the final stormwater

management plan. If disapproved, the application and data shall be returned to the applicant for review, revision, and resubmittal.

Effective on: 5/6/2016

Sec. 9.2.303 Stormwater Pollution Prevention Plans

A. **Best Management Practices (BMPs) and Requirements for Stormwater Pollution Prevention Plans.** All construction sites in the City are required to have a construction stormwater permit coverage to discharge stormwater associated with construction activities, and must obtain permit coverage from the Kansas Department of Health and Environment (KDHE) prior to issuance of any building permits by the City. No building permits shall be issued by the City unless proof of KDHE permit coverage is shown to the City Stormwater Superintendent.

B. **Requirements for Stormwater Pollution Prevention Plans (SWPPP) for Subdivision Developments.**

1. Where construction of any residential, commercial, or industrial subdivision development will involve one or more construction activities during the life of the development project, the owner of a site of any construction activity, and any developer on the owner's behalf, shall submit a stormwater pollution prevention plan (SWPPP) that meets KDHE requirements and complies with Best Management Practices (BMPs), as part of any platting of such subdivision; or, if the subdivision is already platted and is not subject to an existing stormwater pollution prevention plan, then such shall be submitted as part of the site plans in relation to the initial building permit application within such development. The stormwater pollution prevention plan shall provide for all phases of development within the subdivision, including general grading and the construction of individual buildings and other improvements within the development, but shall not be required to include the construction of public improvements which are to be constructed by the City, such as internal water and sewer mains and public streets and sidewalks.
2. The subdivision owner shall provide a copy of the stormwater pollution prevention plan to all contractors and utility companies prior to their working within the subdivision.
3. The subdivision owner shall be responsible for implementation of the stormwater pollution prevention plan as to all construction activity within the development, excluding construction under the control of a subsequent owner of an individual lot or parcel or as to construction managed by utility companies.
4. Any subsequent owner of an individual lot or parcel with such subdivision shall be responsible for continued implementation of the stormwater pollution prevention plan for all construction activity within or related to that owner's lot or parcel, excluding construction managed by utility companies
5. The subdivision owner shall be responsible for maintenance of common controls such as sedimentation basins until all construction activity draining to the common control is 85 percent completed and the surfaces are stabilized with permanent vegetation or non-eroding surfaces.

C. **Stormwater Pollution Prevention Plan (SWPPP) Submissions; Amendments.**

1. Construction sites disturbing one or more acres of land and construction sites disturbing less than one acre of land but part of a larger common plan of development within the City are required to submit a storm water pollution prevention plan (SWPPP) that meets KDHE requirements and complies with BMPs, as part of the standard building permit process. The stormwater pollution prevention plan shall be reviewed as to form as part of the City's established platting and building permitting process. Issuance of a building permit by the City shall not be construed as an opinion about the effectiveness of the proposed stormwater pollution prevention plan.

2. Construction sites disturbing greater than 1,000 square feet but less than one acre and not part of a larger common plan of development are required to submit a storm water pollution prevention plan that details and illustrates storm water BMPs to reduce or eliminate pollutants in storm water discharges from the construction site. The storm water pollution prevention plan shall be reviewed as to form as part of the City's established building permitting process. Issuance of a building permit by the City shall not be construed as an opinion about the effectiveness of the proposed storm water pollution prevention plan.

3. Changes to the stormwater pollution prevention plan are authorized so long as compliance with KDHE's general construction stormwater permit is maintained. If proposed changes impact the post-construction conditions of the site, the changes shall be submitted to the City for review.

D. **Requirements Applicable to Utility Companies.**

1. Utility companies operating within the City are required to use BMPs, such as downslope controls, spill prevention, and cleanup best practices, and immediate site stabilization measures.

2. Utility companies are prohibited from making illicit discharges to the municipal storm sewer system.

3. Utility companies performing large projects that are not routine in nature and disturbing more than one acre of land within the City are required to obtain KDHE general construction stormwater permit coverage, they shall also submit a stormwater pollution prevention plan that meets KDHE requirements and complies with BMPs, to the City prior to beginning work.

4. Utility companies operating within a construction site permitted to a third party must follow BMPs within the permitted construction site.

5. Utility companies are subject to all enforcement measures provided for in this Code and other ordinances of the City.

E. **Requirements Generally Applicable.**

1. No contractor, subcontractor, or utility company shall enter the site subject to a stormwater pollution prevention plan for the purpose of engaging in any work prior to obtaining a copy of the stormwater pollution prevention plan for the site or project, and

without taking such steps as necessary so that its activities on that site are in compliance with the stormwater pollution prevention plan.

2. Each contractor, subcontractor, and utility company is responsible for taking all reasonable steps necessary to avoid damaging any BMP devices once in place. Any person whose actions or neglect have resulted in the alteration, damage, or impairment of any BMP devices in place pursuant to a stormwater pollution prevention plan shall immediately repair or remedy the same, and shall be responsible for all costs necessary for such repair and remediation.

3. It shall be unlawful for any person responsible for performance of and/or adherence to a stormwater pollution prevention plan to fail to comply with the requirements of that plan. The requirements under a stormwater pollution prevention plan shall remain applicable until such time as the construction activities under the plan have been satisfactorily completed and the site surface properly stabilized or covered as determined by the City Stormwater Superintendent.

F. **Requirements for Industrial Stormwater and Other Permitted Discharges.** Any person who is required to have a construction or industrial activity National Pollutant Discharge Elimination System permit (NPDES) stormwater discharge permit shall comply with all provisions of such permit, and further shall be required to do the following:

1. Dischargers of stormwater associated with industrial activity and other holders of National Pollutant Discharge Elimination System permits (NPDES) must provide proof of compliance with the provisions of the NPDES stormwater discharge permit when requested by and in a form acceptable to the City Stormwater Superintendent.

2. The fact that a person has conducted all activities in conformance with a stormwater pollution prevention plan or in conformance with approved or established BMPs shall not constitute a defense to a charge of violation of the illicit discharge prohibitions of this Section.

Effective on: 5/6/2016

Sec. 9.2.304 Stormwater Design Criteria and Performance Standards

A. **Design Criteria.** Unless otherwise approved, the following criteria shall govern the design of improvements with respect to managing stormwater runoff: *Stormwater System Design Criteria*. Unless otherwise provided by the City, the latest approved edition of Design Criteria, Storm Drainage Systems and Facilities, as approved by the City, is by reference made a part of this Article as though expressly rewritten and incorporated in this Article and shall govern the design of stormwater systems within the City.

B. **Performance Standards.**

1. *Channel Location*. Generally acceptable locations of stormwater runoff channels in the design of a subdivision may include, but not be limited to, the following:

   a. Located adjacent to the lot line of an individual lot;

b. A drainage easement to facilitate maintenance and design flow shall be provided and indicated on the plat. No private structures shall be allowed to be constructed within or across stormwater channels.

2. *Storm Sewer Outfall*. The storm sewer outfall shall be designed so as to provide adequate protection against downstream erosion and scouring.

3. *Lot Lines*. Whenever the plans call for the passage and/or storage of floodwater, surface runoff or stormwater along lot lines, the grading of all such lots shall be prescribed and established for the passage and/or storage of waters. No private structure may be erected in these areas which will obstruct the flow of stormwater. Further, installation of fences, and the planting of shrubbery or trees within the area will not be permitted. Such items existing at the time of adoption of the Code will be grandfathered to remain only until such point in time as the City Engineer determines that such items obstruct the flow of stormwater, whereupon the City Stormwater Superintendenter Superintendent shall notify the property owner by certified mail to perform remedial work as described therein. Changes in the prescribed grades and contours of the floodwater or stormwater runoff channels will not be permitted unless approved in writing by the City Engineer. Where more than two lots or parcels are involved in a common stormwater runoff problem, the City will serve as a facilitator to assist the property owners involved to solve existing stormwater problems by making meeting rooms and City representatives available for consultation in the formation of a benefit district. Otherwise, these kinds of problems are treated as civil matters between property owners.

4. *Interception of Runoff from Private Commercial and Industrial Sites*. <u>If proved to be warranted by the Stormwater Superintendent</u>, stormwater runoff from private commercial and industrial sites shall be intercepted by inlets prior to being discharged into the public stormwater system, if a public stormwater system is within 200 feet of the proposed site. The intent of this requirement is to prevent runoff from private commercial and industrial sites from being discharged directly into public streets.

5. *Easements.* Permanent easements for the retention/detention and conveyance of stormwater, including easements of access to structures and facilities, shall be dedicated to the City. Easements shall be as provided in Subsections 4.1, 5.1 and 6.2, Easements, Design Criteria, Storm Drainage Systems and Facilities.

6. *Maintenance*. Provisions acceptable to the City for perpetual maintenance of retention/detention/ facilities, best management practices, outlet works, and appurtenances shall be made as follows:

   a. Small ditches and similar conveyances planted to turf grass needing no special long-term care shall be in a right-of-way or easement and shall be the responsibility of abutting property owners for regular mowing in accordance with City's *Code of Ordinances*.

b. Retention/detention facilities, best management practices, outlet works, and appurtenances serving multiple properties and right-of-way in residential, mixed use, industrial, and commercial development shall be the long-term responsibility of the property owners for which the facilities serve. Additionally, a restrictive covenant, by deed, or plat shall be required.

c. Retention/detention facilities, best management practices, outlet works, and appurtenances serving individual commercial and industrial properties shall be located on the same parcel as the commercial and industrial development and shall be the responsibility of the property owner, in perpetuity.

7. *Drainage Permits*. A drainage permit for projects including retention/detention facilities shall be granted by the City Stormwater Superintendent only after the final stormwater management plan has been approved and all easements and restrictions have been transferred, dedicated, accepted and recorded, and all required maintenance assurances and any required security or bonds have been executed and recorded, if necessary.

8. *Plans for Grading, Sedimentation and Erosion Control*.

a. Generally.

i. Prior to the approval and recording of the final subdivision or site plan, a plan depicting proposed site grading within the project shall be submitted to the City Stormwater Superintendent for review and approval.

ii. Stripping of vegetation or earthmoving shall not be permitted nor will building or construction permits be issued prior to approval of this plan by the City Stormwater Superintendent.

iii. For major subdivision projects consisting of more than one acre, the grading plan shall be accompanied by a detailed sedimentation and erosion control plan.

b. Subdivision Grading Plans. The grading plan shall be prepared by a professional engineer licensed in the state. The contents of the plan shall include, but not be limited to, the following information:

i. Contours of existing grades at intervals not more than two feet. Intervals less than two feet may be required if the slope is less than one percent for 40 percent of the total area or dependent on the character of the topography;

ii. Property lines identified as to existing or proposed lot and block number;

iii. Elevation and location of the nearest bench mark (USGS datum);

iv. Contours of finish grades drawn at sufficient intervals of not more than two feet to depict major subdivision drainage patterns. In addition, finished grade spot elevations shall be shown for all corners of each lot. Such corner elevations shall be general in nature and, upon approval of the City Stormwater Superintendent, may be revised at the time of plot plan submittal;

v. One hundred-year floodplain limits and elevations;

vi. Easement and right-of-way information (including drainage easements) required for off-site drainage ways; and

vii. Existing and proposed utility information.

c. Grading Plans for Nonresidential Individual Lots. Applications for individual building permits shall be accompanied by a specific grading plan for that lot. Such grading plan shall be incorporated into the plot plan and shall contain as a minimum, the following information:

i. Existing or proposed property lines and lot and block numbers;

ii. The proposed location of the structure;

iii. The proposed type of structure (*e.g.*, bi-level, split-level, etc.);

iv. Elevations of the top of the foundation and the proposed grade at principal structure corners and at lot corners;

v. An approximate location of drainage swales indicated by directional arrows depicting flow patterns. Spot elevations may be utilized in lieu of arrows. Additional information may be required by the City Stormwater Superintendent to assure protection of adjacent property.

d. Minimum Grading Standards. The following minimum criteria for site grading shall apply to all applications for the site grading permit:

i. Protective Slopes Around Structures.

a. A downward slope shall be provided from structure foundations to drainage swales.

b. A minimum gradient of 0.5 percent for concrete paved surfaces; one percent for other impervious surfaces, except in defined swales the minimum gradient shall be 0.5 percent, and in concrete gutters the minimum gradient shall be 0.3 percent.

c. A maximum gradient shall be 4:1, horizontal to vertical, for a minimum of four feet from foundation walls.

ii. Lawn Areas. Minimum gradient shall be one percent. A gradient of two percent is recommended, where practical.

iii. Driveways. Driveways sloping toward buildings shall be graded in such a manner as to provide an intercepting swale draining away from the structure prior to its connection with the building. In specific cases, the use of gradients less than or greater than those specified may be necessary. Variance from these requirements may be allowed where justified and approved by the City Engineer.

Effective on: 5/6/2016

Sec. 9.2.305 Drainage Permits and Prohibited Acts

A. **Drainage Permits.** Upon approval of the final stormwater management plan and acceptance of the applicant's performance, security and maintenance bond, permit fee and maintenance assurance, if any, the City Stormwater Superintendent shall issue a drainage permit. The permit shall set out the terms and conditions of the approved stormwater management plan.

B. **Prohibitions.**

1. No person shall discharge or release, or cause or permit to be discharged or released, into the municipal stormwater drainage system, any substance which is not composed entirely of uncontaminated stormwater, except as allowed in Subsection D., below.

2. Notwithstanding the provisions of Subsection D. below, any discharge or release shall be prohibited by this Section if the discharge or release in question has been determined by the City Stormwater Superintendent to be a source of pollutants or contamination to the municipal stormwater drainage system and has given notice thereof.

3. The construction, use, maintenance, or continued existence of illicit connections as defined in Subsection E., below is prohibited. This prohibition expressly includes, without limitation, connections made in the past, regardless of whether the connection was permissible under the law or practices applicable or prevailing at the time of the connection.

4. No person shall connect a line conveying sewage, domestic sewage, or industrial waste to the municipal stormwater drainage system, or allow any such existing connection to continue.

5. No person shall intentionally destroy, damage, or otherwise interfere with the effectiveness of any best management practices implemented pursuant to this Article.

6. No person shall discharge otherwise allowable waters under this Article to public property and right-of-way which causes damage, harm, or inconvenience to the public through prolonged saturation, erosion, water pollution, or damage to property.

C. **Specific Illicit Discharges Prohibited.** Except as permitted in Subsection D, below, illicit discharges prohibited under the provisions of Subsection B., above, include, but are not limited to, the following:

1. Motor oil, antifreeze, or any other petroleum product or waste;

2. Industrial waste;

3. Hazardous waste, including household hazardous waste;

4. Domestic sewage, septic tank waste, grease trap waste, or grit trap waste;

5. Garbage, rubbish, or yard waste (including grass trimmings, leaves, weeds, and all other vegetation or portions, trimmings or wastes);

6. Wastewater which contains soap, detergent, degreaser, solvent, surfactant, emulsifier, dispersant, or other cleaning substances;

7. Wastewater from any commercial facility for the washing of vehicles, such as car wash facilities; or from any similar facility associated with any new or used vehicle distributorship, rental agency, body shop, repair shop or maintenance facility; or from any

similar facility maintained by any business or institution for the washing, cleaning, or maintenance of its own business or commercial vehicles or heavy equipment;

8. Wastewater from the cleaning of the portion of vehicles or equipment which contained ready-mixed concrete, mortar, ceramic, asphalt-based material, or hydromulch material;
9. Wastewater from the washdown or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum, or hazardous substance has occurred;
10. Effluent from a cooling tower, condenser, compressor, emissions scrubber or emission filter, or the blowdown from a boiler;
11. Runoff, washdown water or waste from any animal pen, kennel, fowl, or livestock containment area;
12. Swimming pool water which has not been de-chlorinated in accordance with the specifications of the City Stormwater Superintendent;
13. Swimming pool or fountain filter backwash;
14. Any substance or material which will damage, block, or clog the municipal stormwater drainage system;
15. Any release from a petroleum storage tank, or any leachate, or runoff from soil contaminated by a petroleum storage tank leakage;
16. Pesticides or fertilizers, including runoff from the improper storage, discarding, transportation, or application of pesticides or fertilizers;
17. Discharge of street sweepings;
18. Wastewater from concrete cutting, pavement cutting, pipe cutting, and any similar operation where water is used to cool cutting equipment;
19. Wastewater from oil and natural gas exploration and production activities;
20. Discharge from construction activities oil and natural gas exploration sites without downslope best management practices maintained and in-place;
21. Runoff, washdown, or wastewater which contains any of the above;
22. Nonstormwater discharge from a construction activity site unless specifically authorized by the most current version of Kansas Department of Health and Environment's (KDHE) general construction stormwater permit; or
23. Any other water, wastewater, or stormwater requiring National Pollutant Discharge Elimination System (NPDES) authorization.

D. **Illicit Discharge Exceptions.** The following nonstormwater discharges are deemed acceptable and not a violation of Subsections B. and C., above:

1. Uncontaminated discharge from water line flushing;
2. Uncontaminated discharge or flow from a diverted stream flow or a natural spring;

3. Uncontaminated groundwater infiltration as defined under 40 CFR 35.2005(20) to separate storm sewers;
4. Discharge of flow from uncontaminated pumped groundwater or rising groundwater;
5. Discharge or flow from contaminated groundwater if specifically authorized by KDHE and the City;
6. Uncontaminated discharge or flow from potable water sources;
7. Uncontaminated discharge or flow from a foundation drain, a crawl space pump, a footing drain, or a sump pump;
8. Uncontaminated discharge or flow from air-conditioning condensation, which is not mixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of any pollutant;
9. Infrequent and uncontaminated discharge or flow from lawn watering, landscape irrigation, or other irrigation water;
10. Discharge from the occasional, noncommercial washing of vehicles upon a residential premises;
11. Uncontaminated discharge of flow from riparian habitat or wetland;
12. Swimming pool discharges (excluding filter backwash), which have first been de-chlorinated pursuant to specifications of the City Stormwater Superintendent;
13. Discharge or flow from street washing, which is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or other harmful cleaning substance;
14. Discharge or flow from emergency firefighting activities, or which results from actions taken under emergency conditions which are reasonably necessary to mitigate damages to life and property;
15. Uncontaminated residential heat pump discharge waters;
16. Treated wastewater meeting requirements of a NPDES permit;
17. Nonpoint agricultural discharge, excluding discharges from confined animal feeding operations; and
18. Other discharges determined by the City Stormwater Superintendent not to be a significant source of pollutants to waters of the state; provided, however, that if the City Stormwater Superintendent determines that any discharge or flow of a type identified above is a source of pollutants to the waters of the municipal stormwater drainage system, and gives direct oral or written notice thereof to the person or party responsible for such property or for such discharges or flows, then the exception provided shall in this Subsection no longer apply.

E. **Illicit Connections Prohibited.** It shall be unlawful for any person to cause or permit to exist on any property which is under such person's ownership or control any illicit connections to the municipal stormwater drainage system. This includes, but is not limited to, illicit connections made in the past regardless of whether the connection was permissible under law

or practices applicable or prevailing at the time of connection. Illicit connections in violation of this Article must be disconnected and either eliminated or redirected in a lawful manner to an approved onsite wastewater management system or to the sanitary sewer system, which such work shall be performed in accordance with all permit and code requirements.

F. **Protection of Watercourses and Drainage Easements.** Every person owning property through which a watercourse or drainage easement passes, and any lessee of such property, shall keep and maintain that part of the watercourse or drainage easement within the property free of trash, debris, excessive vegetation, grass clippings, and other yard waste, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse or drainage easement. In addition, the owner and lessee shall maintain existing privately owned structures within or adjacent to a watercourse or drainage easement so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse or drainage easement in the collection and discharge of stormwater.

Effective on: 5/6/2016

ARTICLE 9.3 FLOOD DAMAGE PREVENTION

Division 9.3.100 Authorization, Findings of Fact, Purpose, and Application

Sec. 9.3.101 Findings of Fact

A. **Flood Losses Resulting from Periodic Inundation.** The special flood hazard areas of Hays, Kansas, are subject to inundation, which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety, and general welfare.

B. **General Causes of the Flood Losses.** These flood losses are caused by:

1. The cumulative effects of development in any delineated floodplain causing increases in flood heights and velocities; and
2. The occupancy of flood hazard areas by uses that are vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

C. **Methods Used to Analyze Flood Hazards.** The Flood Insurance Study (FIS) uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps, as follows:

1. Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this Article is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this Article. The base flood is the flood that is estimated to have a one percent chance of being equaled or exceeded in any one given year as delineated on the Federal Insurance Administrator's Flood Insurance Study (FIS), and illustrative materials as amended from time to time.
2. Calculation of water surface profiles that are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
3. Computation of a floodway required to convey this flood without increasing flood heights more than one foot at any point.
4. Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.
5. Delineation of the floodway fringe (*e.g.*, that area outside the floodway encroachment lines) but still subject to inundation by base flood.

Effective on: 5/6/2016

Sec. 9.3.102 Authorization

A. **Approval by Kansas Chief Engineer Prior to Adoption.** The following floodplain management regulations, as written, were approved by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on the 17th Day of July, 2015.

B. **Kansas Statutory Authorization.** The Legislature of the State of Kansas has in K.S.A. 12-741 *et seq*, and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare.

Effective on: 5/6/2016

Sec. 9.3.103 Purpose

It is the purpose of the Article to promote the public health, safety, and general welfare; to minimize those losses described Section 9.3.101, *Findings of Fact*; to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) and K.A.R 5-44-1 thru 5-44-7 by applying the provisions of this Article to:

- Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
- Require uses vulnerable to floods, including public facilities that serve such uses to, be provided with flood protection at the time of initial construction; and
- Protect individuals from buying lands that are unsuited for the intended development purposes due to flood hazards.

Effective on: 5/6/2016

Sec. 9.3.104 Application

This Article shall apply to all lands within the jurisdiction of Hays, Kansas, identified as numbered and unnumbered A, AE, AO, and AH Zones on the Index Map of the Flood Insurance Rate Map (FIRM), as amended from time to time. In all areas covered by Article, no development shall be permitted except through the issuance of a floodplain development permit, granted by the Floodplain Administrator or a duly designated representative under such safeguards and restrictions as the Floodplain Administrator or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitant of the community, and as specifically noted in Section 9.3.201, *Provisions for Flood Hazard Reduction*.

Effective on: 5/6/2016

Division 9.3.200 Special Flood Hazards and Loses

Sec. 9.3.201 Provisions for Flood Hazard Reduction

A. **General Standards.**

1. *Generally*. No permit for floodplain development shall be granted for new construction, substantial improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this Section are satisfied.

2. *100-Year Flood*. All areas identified as unnumbered A zones on the Flood Insurance Rate Map (FIRM), having an index map date of July 3, 1986, are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones are subject to all provisions of this Article. If Flood Insurance Study (FIS) data is not available, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources.

3. *Floodway Designation*. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

4. *All Development*. All new construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:

   a. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

   b. Construction with materials resistant to flood damage;

   c. Utilization of methods and practices that minimize flood damages;

   d. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

   e. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination from them during flooding; and

   f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:

i. All such proposals are consistent with the need to minimize flood damage;

ii. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;

iii. Adequate drainage is provided so as to reduce exposure to flood hazards; and

iv. All proposals for development, including proposals for manufactured home parks and subdivisions, of five acres or 50 lots, whichever is lesser, include within such proposals base flood elevation data.

5. *Storage, Material, and Equipment*. The storage of material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

B. **Specific Standards.** In all areas identified as numbered and unnumbered A zones, AE, and AH zones, where base flood elevation data have been provided, as set out in Subsection A.2., above, the following provisions are required:

1. *Residential Construction*. New construction or substantial improvement of any residential structures, including manufactured homes, shall have the lowest floor, including the basement, elevated a minimum of one foot above the base flood elevation. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

2. *Nonresidential Construction*.

a. New construction or substantial improvement of any commercial, industrial, or other nonresidential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be dry floodproofed to a minimum of one foot above the base flood elevation. Mechanical and HVAC equipment shall be protected or elevated to same level as the lowest floor. A registered professional engineer or architect shall certify that the standards of this Subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set out in Section 11.1.304, *Floodplain Administrator*.

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

i. A minimum of two openings having a total net area of not less than one square inch for every foot of enclosed area subject to flooding shall be provided; and

ii. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

C. **Manufactured Homes.**

1. All manufactured homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, on the community's Flood Insurance Rate Map (FIRM) shall be required to be installed using methods and practices that minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

2. Manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's Flood Insurance Rate Map (FIRM) sites:

   a. Located outside of a manufactured home park or subdivision;

   b. Located in an expansion to an existing manufactured home park or subdivision; or

   c. Located in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood are required to be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

3. Manufactured homes are required to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's Flood Insurance Rate Map (FIRM), that are not subject to the provisions of this Subsection C.2., above, be elevated so that either:

   a. The lowest floor of the manufactured home is a minimum of one foot above the base flood level; or

   b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

D. **Areas of Shallow Flooding (AO and AH Zones).** Located within the areas of special flood hazards as described in Section 9.3.104, *Application*, are the areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

1. *AO Zones*.

a. All new construction and substantial improvements of residential structures, including manufactured homes, shall have the lowest floor, including the basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map (FIRM) (at least two feet if not depth number is specified).

b. All new construction and substantial improvements of any commercial, industrial, or other nonresidential structures, including manufactured homes, shall have the lowest floor, including the basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community Flood Insurance Rate Map (FIRM) (at least two feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that level so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

c. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

2. *AH Zones*.

a. The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set out in Subsection B. above.

b. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

E. **Floodway.** Located within areas of special flood hazard established in Section 9.3.104, *Application*, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:

1. The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point.

2. The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

3. If Subsection E.2., above, is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Section.

4. In unnumbered A zones, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources as set out in Subsection A.1. above.

F. **Recreational Vehicles.** Recreational vehicles placed on sites within all unnumbered and numbered A zones, AE, AH, and AO zones on the community's Flood Insurance Rate Map (FIRM) are required to either:

1. Be on the site for fewer than 180 consecutive days; or
2. Be fully licensed and ready for highway use; or
3. Meet the permitting, elevation, and anchoring requirements for manufactured homes set out in Subsection C., above.

Effective on: 5/6/2016

CHAPTER 10 BUILDINGS AND STRUCTURES

ARTICLE 10.1 BUILDING DESIGN STANDARDS

Division 10.1.100 Residential Design Standards

Sec. 10.1.101 Single-Family Detached and Attached Design Standards

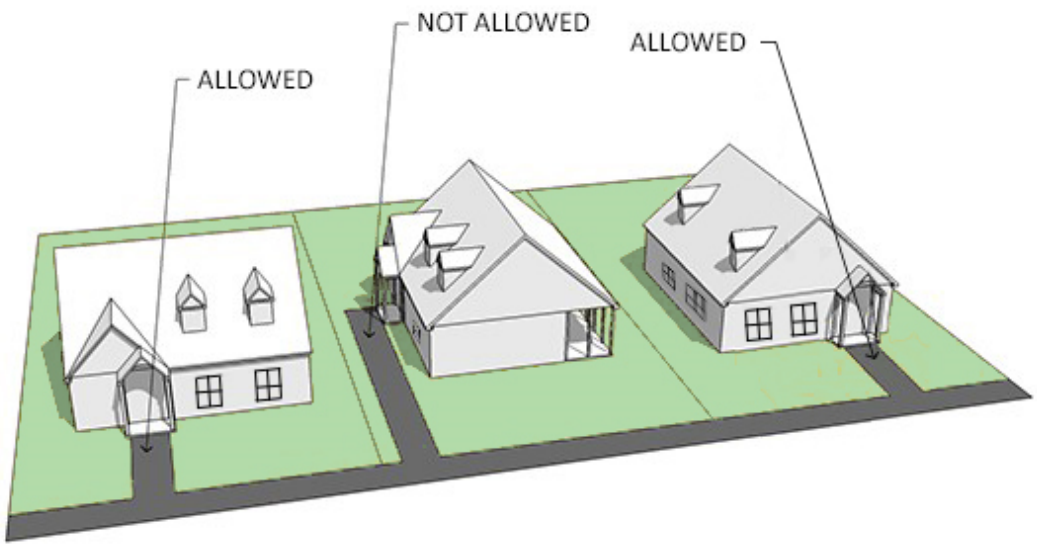
A. **Design Standards.**

1. *Building Entrances*. All single-family detached and single-family attached residences shall be designed such that a primary entrance and windows face a public or private street or at a minimum, other architectural features, such as but not limited to windows, wall off-sets, roof designs, or other features similar to those found on front facades within the existing neighborhood which provide for a balance and uniformity of character (see Figure 10.1.101, *Building Placement*).
2. ~~*Number of Units*. Townhouses shall consist of no less than four units.~~
3. *Parking*. The parking of vehicles shall be in accordance with Article 5.2, *Parking and Loading*.

B. **N-C Infill Development.** In the N-C district, the architecture and building form of duplexes and triplexes shall be of a similar scale and include materials and designs (*e.g.*, fenestration, roof lines, porches, split-level, etc.) that are common with those of other dwellings on the block and within the neighborhood.

C. **Exceptions.** This Section does not apply to planned neighborhoods or manufactured homes located in a manufactured home park or subdivision.

Figure 10.1.101
Building Placement



Effective on: 5/6/2016

Sec. 10.1.102 Multi-Family Design Standards

A. **Generally.** All multi-family developments shall meet the standards of this Section unless they are located in vertically mixed use buildings that are subject to the design standards of Section 10.1.301, *C-3 District Design Standards*.

B. **Architecture.**

1. The architectural style of the front façade of the building(s) shall be expressed on all sides of the building(s) fronting on or most directly facing the public street right-of-way, or a private street easement within 150 feet of street right-of-way.

2. The rear façade of a building shall not face street right-of-way; provided, however, that in the case a rear façade must face street right-of-way by way of parcel size or orientation, the entire façade will, at a minimum, include architectural features, such as but not limited to, windows, wall off-sets, roof designs, or other features similar to those found on front facades within the existing neighborhood which provide for a balance and uniformity of character.

3. Residential buildings located within the interior of a multi-family development that are not fronting on or most directly facing street right-of-way are exempt from these architectural standards.

C. **Building Design.**

1. The façade of a multi-family building containing more than eight units shall be designed to break up a rectangular floor plan and avoid a box or monolithic appearance.
2. Any of the following techniques, or any technique that would produce a comparable effect, may be used to avoid the appearance of a boxy or monolithic building.
   a. Changes in floor plans that create rooms with corner windows.
   b. Primary entrance treatments that are recessed or project from the main façade; and
   c. End or corner treatments that alter the plane of the façade;
   d. Balconies that are used irregularly, some projecting, some recessed;
   e. The use of dormers, bay windows, or other windows that create dimension that breaks up the façade;
   f. Changes in wall planes of at least three feet at intervals of not more than 60 feet; and
   g. Varying roof lines.

D. **Utilities.** Utility meters shall not be located on the front elevation unless screened by vegetation or other approved screening.

E. **Stairs.** Stairs and stair wells that provide primary access to units on upper floors shall be covered and fully integrated into the principal and secondary building façades (*see* Figure 10.1.102, *Multi-Family Design Standards for Stairs*).

Figure 10.1.102
Multi-Family Design Standards for Stairs

Allowed

Not Allowed

Effective on: 5/6/2016

Sec. 10.1.103 Manufactured Home Unit Design Standards

A. **Generally.** Manufactured homes shall comply with the following, in addition to those standards that may be applicable in Section 9.1.304, *Manufactured Home Park or Subdivision*.

B. **Installation.** The installation of manufactured housing shall be in accordance with City rules and regulations; provided that they comply with K.S.A. 58-4201 through 58-4226, *Kansas Manufactured Housing Act*, and other applicable sections of the Kansas Statutes Annotated.

C. **Improvements.** Individual lots shall be improved and connected to utilities as follows:

1. *Permanent Foundations and Tie-Downs*. All manufactured homes shall be mounted on a concrete permanent foundation pad. Each foundation pad provides anchors and tie-downs such as cast-in-place concrete "dead men," embedded eyelets, runway screw augers, arrowhead anchors, or other devices which secure and stabilize the unit. Such devices are placed at least at each corner of each manufactured home.

2. *Utilities*. All units are served with public utilities, which are installed underground. All electrical service equipment is mounted on the structure to which service is provided.

D. **Unit Specifications.** All manufactured homes shall meet the following specifications:

1. *Wind Zone*. The unit shall be designed to meet HUD Wind Zone I standards.

2. *Required Elevation*. The average elevation of a manufactured home frame above ground level, measured at 90 degrees to the frame, does not exceed 20 inches from the top of the foundation pad.

3. *Transportation Apparatus*. The wheels, axles, tongue, towing apparatus, and transporting lights are removed prior to occupancy of the unit.

E. **Skirting.** The vacant space between the finished grade of the property on which each manufactured home is located and the exterior edges of the finished floor of each unit is skirted as follows:

1. *Installation*. Skirting is installed on a concrete footing so there is no visible gap between the finished floor and the ground.
2. *Materials*. The material used for skirting is rock, brick, manufactured vinyl or concrete masonry construction. All skirting materials are compatible in appearance with the manufactured home and allow for adequate ventilation and drainage.
3. *Design*. The skirting must be a continuous, complete, opaque, and rigid surface that lends permanency to the appearance of the unit and totally screens the crawl space under the unit.

F. **Architectural and Aesthetic Compatibility.**

1. *Applicability*. The additional provisions of this Subsection apply to any residential-design manufactured homes that are located outside of a manufactured home park or subdivision. Nothing in this Subsection precludes a developer or subdivider from establishing a property owners' association that enforces covenants, conditions, or restrictions that supersede the standards of this Subsection (*see* K.S.A. 12-763).
2. *Intent*. The intent of this Subsection is to ensure that residential-design manufactured homes which are located outside of manufactured home parks or subdivisions are architecturally and aesthetically compatible with site-built housing in the same zoning district.
3. *Compatibility Measurement*. For the purposes of objectively determining compatibility with site-built homes within the same zoning district (for those design features identified in Subsection F.4., *Compatible Design*, below), the applicant shall analyze the applicable design features of all site-built housing located within 500 feet of the parcel proposed for development, measured perpendicularly along the street in either direction.
4. *Compatible Design*.
   a. Orientation.
      i. The residential-design manufactured home must be oriented on the lot so that its long access is parallel with the street.
      ii. A perpendicular or diagonal placement is permitted if the narrow dimension of the unit, as it appears from the street, is no less than 50 percent of the unit's long dimension.
   b. Bulk. The size of the residential-design manufactured home shall be at least 75 percent of the square-footage of the average size of homes within a distance measured as set out in Subsection F.3., *Compatibility Measurement*, above.

c. Roofing.

i. The roof is pitched, with a minimum vertical rise of 4 feet for every 12 feet of horizontal run.

ii. The roof must be covered with a roofing material that is commonly used by commercial roofers, including, but not limited to, approved wood, asphalt composition shingles or fiberglass. Corrugated aluminum, corrugated fiberglass or metal roofs are not permitted.

iii. The roof has eaves that project no less than 12 inches from the exterior wall.

d. Siding. The exterior siding shall consist predominantly of vinyl or metal horizontal lap siding (the reflectivity of which does not exceed that of gloss white paint); wood or hardboard; brick, stone, or stucco comparable in composition; appearance and durability to the exterior siding commonly used in standard residential construction in the City.

e. Landscaping. The lot shall be landscaped to ensure compatibility with the average types and quantities of landscaping that are present on lots located within a distance measured as set out in Subsection F.3., *Compatibility Measurement*, above; this includes the installation of irrigation if more than 75 percent of the lots within that specified distance also include irrigation.

f. ~~Garages. If more than 75 percent of the lots located within the specified distance (as set out in Subsection F.3., *Compatibility Measurement*, above) include attached or detached garages, then the residential-design manufactured home shall be required to construct a comparable attached or detached garage, whichever is the predominant type within the specified distance.~~

Effective on: 5/6/2016

Division 10.1.200 Nonresidential and Mixed Use Design Standards

Sec. 10.1.201 Building Design

A. **Generally.** The form and design of nonresidential and mixed use buildings shall comply with the standards set out in this Section.

B. **Horizontal Articulation.** A single, large, dominant building mass shall be avoided. Buildings shall be designed to reduce apparent mass by dividing façades into a series of smaller components. Components shall be distinguished from one another through two or more of the following:

1. Variations in roof form or variations in roof height of two feet or more;
2. Changes in wall plane of one foot or more;
3. Recognizable changes in texture, material, or surface colors.

Figure 10.1.201
Illustrative Articulation

C. **Vertical Articulation.** Buildings shall be designed to reduce apparent mass by including a clearly differentiated base, middle, and top.

D. **Building Walls.** All exterior building elevations that face public streets, customer parking areas, or residentially used or zoned areas shall be designed so that there are no areas of blank wall that are more than 50 feet in horizontal direction or 16 feet in vertical direction. Complying with this requirement can be accomplished through the use of:

1. Windows;
2. Doors;
3. Awnings;
4. Changes in both finish materials and colors (a change in color alone is insufficient to meet this requirement);
5. Decorative cornices;
6. Murals or graphics;
7. Sconce lighting;
8. Towers;
9. Pilasters or columns;
10. Arcades;

11. At least three feet of horizontal or vertical offset in the building wall; and
12. Comparable elements or design techniques that create an obvious and significant pattern of light and shadow on the building wall.

E. **Building Entrances.**

1. *Demarcation*. Entrances shall be clearly identified by the building architecture.
2. *Frontage*. Principal entrances shall be located within the primary building frontage. If there are two primary building frontages, one entrance may not be located more than 15 feet from the corner of the two frontages.
3. *Front Entrances*. Buildings shall feature visually prominent entrances on the façade facing the principal street**.** One or more of the following techniques shall be used:
   a. Canopy, portico, archway, arcade, or similar projection that provides architectural interest and protection for pedestrians;
   b. Prominent tower, dome, or spire;
   c. Peaked roof;
   d. Projecting or recessed entry;
   e. Outdoor features, such as seat walls, landscaping with seasonal color, or permanent landscape planters; or
   f. Other comparable techniques.

F. **Roof Styles.** Flat roof and pitched roof systems are permitted. Flat roof systems shall be hidden by parapet walls that are at least 30 inches in height. ~~Mansard roofs are prohibited.~~

G. **Transparency.** Along street frontages, only buildings that are within 25' of the street side property line shall provide transparency between a height of three feet and eight feet above finish grade:

1. *Nonresidential and Mixed Use*. The primary frontage shall have a minimum transparency of 60 percent.
2. *Office*.
   a. Primary Frontage. The primary frontage shall have a minimum transparency of 40 percent.
   b. Other Street Frontages. Other street frontages shall have a minimum transparency of 30 percent.

Effective on: 5/6/2016

Sec. 10.1.202 Mechanical Equipment and Meters

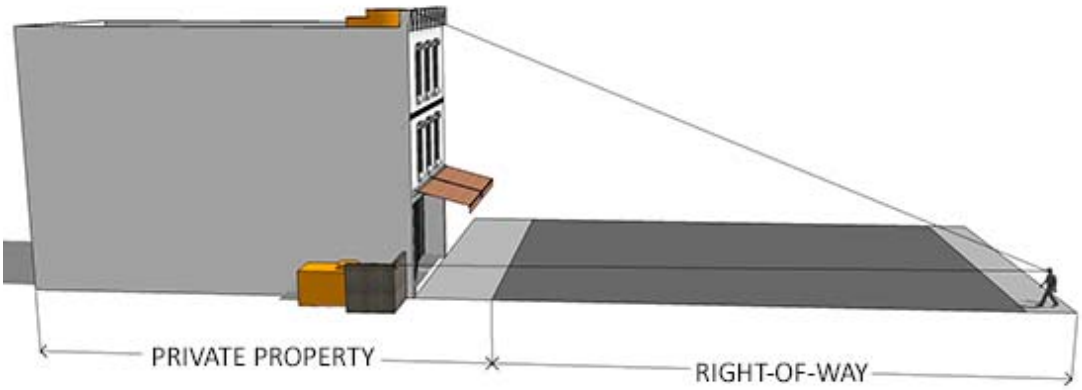
A. **Generally.** Mechanical equipment associated with building operations (*e.g.*, HVAC systems, electrical boxes, natural gas meters, etc.) shall be screened as provided in this Section.

B. **Ground-Level and Building-Mounted Equipment.** Mechanical equipment and meters shall be screened from view of principal parking lots, public rights-of-way, and residentially zoned or used areas by landscape areas, bufferyards, or building walls. Hedges and screening walls that are used to hide mechanical systems shall be maintained at a height that is at least one foot higher than the equipment. Hedges shall be a minimum of three feet in height at planting.

C. **Roof-Mounted Equipment.** Mechanical equipment shall be screened from all ground level views from abutting property and rights-of-way by (*see* Figure 10.1.202, *Illustrative Equipment Screening*):

1. *Parapet Walls*. Parapet wall shall include cornice treatments that are of adequate height to screen the equipment (a slope of one foot rise per 25 feet of run shall be used to determine if the wall is of adequate height); or
2. *Screening Walls*. Screening walls of adequate height to hide the equipment, which use materials and colors that are consistent with the design of the building; or
3. *Sloped Roof Systems*. Sloped roof systems or other architectural elements of adequate height to hide the equipment.

Figure 10.1.202
Illustrative Equipment Screening



Effective on: 5/6/2016

Sec. 10.1.203 Pedestrian and Bicycle Connections

A. **Generally.** All parcels proposed for development shall provide a network of on-site pedestrian walkways to and between the following areas:

1. Public entrances to each building on the site, including pad site buildings;
2. Parking lots; and
3. Sidewalks or walkways on abutting properties that extend to the boundaries shared with the parcel proposed for development.

B. **Bicycle Access.** Bicycle access from the parcel proposed for development shall be provided to any existing or designated sidewalks, bike paths, shared paths, or bike lanes located abutting to the development.

C. **Connections.** Connections shall be made at points necessary to provide direct pedestrian and bicycle travel from the parcel proposed for development to major pedestrian destinations located within the abutting neighborhood. In order to provide direct pedestrian connections to these abutting destinations, the City may require additional sidewalks, walkways, shared paths, or bike paths not associated with a street, or the extension of a sidewalk from the end of a cul-de-sac to another street or walkway. Major pedestrian destinations include, but are not limited to:

1. Residential subdivisions;
2. Schools;
3. Parks;
4. Open space;
5. Recreational or community facilities;
6. Neighborhood shopping;
7. Employment;
8. Public or civic uses; and
9. Institutional uses.

D. **Identification.** Pedestrian walkways and crosswalks shall be identified through the use of one or more of the following methods:

1. Changing paving material, patterns, or paving color;
2. Changing paving height;
3. Decorative bollards;
4. Painted crosswalks; or
5. Raised median walkways with landscaped buffers.

Effective on: 5/6/2016

Division 10.1.300 Special District Design Standards

Sec. 10.1.301 Central Business (C-3) District Design Standards

A. **Purpose**. The purpose of the Central Business (C-3) District design standards is to ensure that development, redevelopment, or substantial improvement of buildings in the C-3 district create a high-quality, pedestrian-friendly environment within the City's downtown area, including well-designed buildings that contribute to the quality and historical character of the City.

B. **Application**. These standards apply to all development, redevelopment, and substantial improvements, within the C-3 district. The design standards of Division 10.1.200, *Nonresidential and Mixed Use Design Standards*, also apply within the C-3 district. If there are any conflicts, the most restrictive standard shall apply. In addition to the regulations of this Section and elsewhere within this Code, the design of structures within the Central Business (C-3) District that are also within the Chestnut Street Historic District shall be subject to review by the State Historic Preservation Office (SHPO).

C. **Building Articulation and Architectural Features**. All new building façades that are visible from a public street, public property, or open space shall be articulated as follows:

1. *Generally*.

   a. The general form of buildings is to be simple, three-dimensional forms, characteristic of main streets that orient to and participate in the activities of the street.

   b. New designs shall draw upon the fundamental similarities among other buildings in the area without copying them.

2. *Front Façades*.

   a. Front building façades shall be modulated with horizontal offsets~~ of no greater than four feet~~, recessed entries, or protrusions, where applicable. The maximum width of building façades (measured horizontally along the building exterior) without modulation shall be 30 feet.

   b. All buildings shall incorporate elements that divide façade planes and create a visual play of light and shadow. Long, uninterrupted horizontal elements are prohibited. Building articulation shall be accomplished with design elements such as the following, provided the articulation interval does not exceed 60 feet:

      i. Repeating distinctive window patterns at intervals less than the articulation interval;

      ii. A porch, patio, deck, or covered entry;

      iii. A balcony or bay window;

      iv. A change in the roofline by alternating parapet heights;

      v. A change in building materials that corresponds to a change in building plane; or

      vi. Lighting fixtures, trellises, trees, or other landscape features.

3. *Rooflines*.

   a. Rooflines shall be individually distinguishable with variations of height~~ of no less than two feet~~. Roofs shall relate to the building façade articulations (*see* Figure 10.1.301A, *Illustrative C-3 District Vertical and Roofline Modulation*).

   b. Sloped-roof building forms facing the street are not permitted.

4. *Vertical Articulation*. Vertical articulations shall be provided. To moderate the vertical scale of buildings, the design shall include techniques to clearly define the building's top, middle, and bottom (*see* Figure 10.1.301A, *Illustrative C-3 District Vertical and Roofline Modulation*).

Figure 10.1.301A
Illustrative C-3 District Vertical and Roofline Modulation

5. *Corner Frontages*. Within 15 feet of a property line at the intersection of streets, new, redeveloped, or substantially improved buildings shall incorporate the following design elements or treatments to the building corner facing the intersection:

   a. A corner entrance to a store, courtyard, building lobby, atrium, pedestrian pathway, or pedestrian-oriented space (*see* Figure 10.1.301B, *Illustrative Corner Entrance*).

   b. A corner architectural element such as:

      i. Bay window or turret;

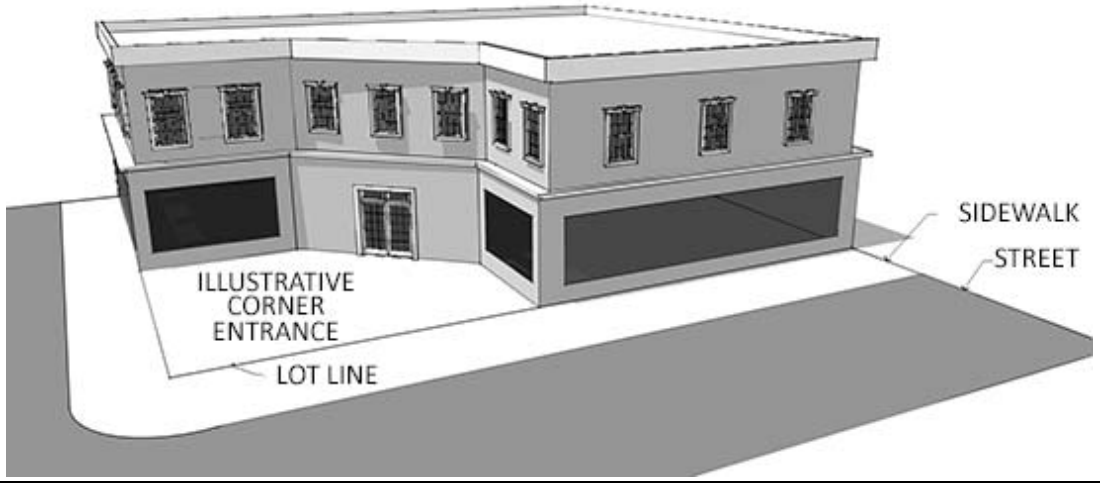
      ii. Roof deck or balconies on upper stories;

      iii. Building core step back "notch" or curved façade surfaces;

      iv. Special treatment of pedestrian weather protection awning at the corner of the building; or

      v. Other similar treatment or element that highlights the corner with compatible visual effect.

Figure 10.1.301B
Illustrative Corner Entrance

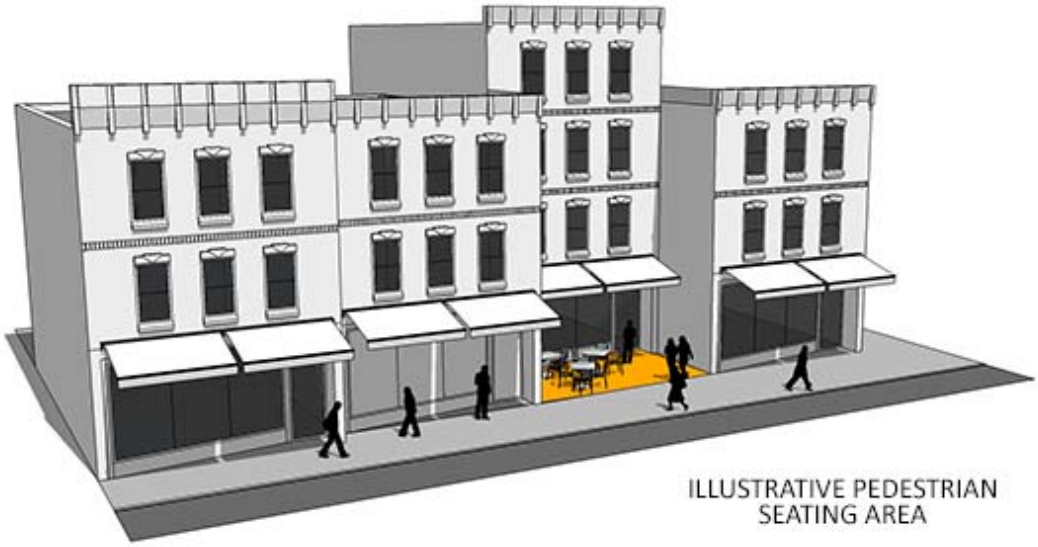


6. *Building Placement.*

   a. The proposed development, redevelopment, or substantial improvement shall harmonize with abutting properties. Site design features shall be consistent with building setbacks (*see* Table 3.1.301B, *Nonresidential and Mixed Use Setbacks*), placement of existing structures, location of pedestrian and vehicular facilities, and spacing from adjoining buildings.

   b. A 20 foot setback is allowed from the "build-to" line; provided, however, that it is solely for the use of a publicly available pedestrian seating area (*e.g.*, public plaza, outdoor restaurant seating, etc.). See Figure 10.1.301C, *Building Alignment*.

Figure 10.1.301C
Building Alignment



7. *Blank Walls*.

   a. Blank walls shall not be visible from a public street or public property or open space.

   b. If a property is redeveloped or substantially improved, existing blank walls within 50 feet of and visible from a public street or public property or open space, or an abutting vacant lot, shall be treated in one or more of the following ways:

      i. A vertical trellis in front of at least 50 percent of the wall's horizontal length, with climbing vines or plant materials installed at its base.

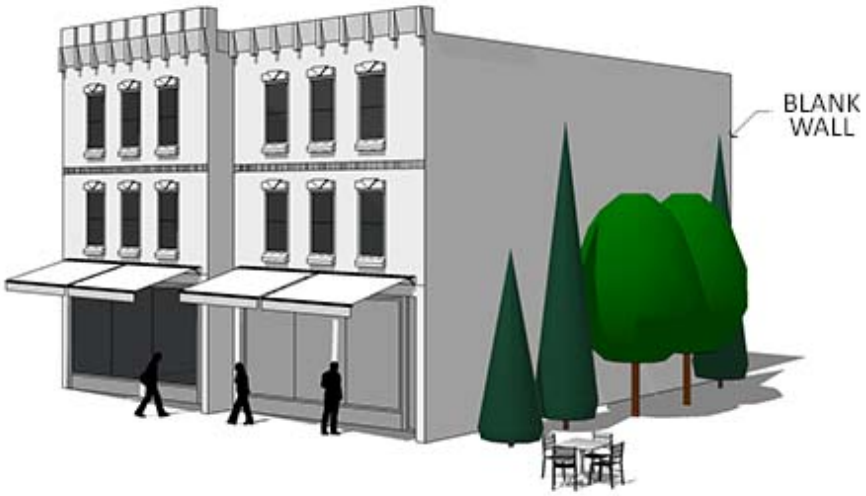
      ii. A landscaped planting bed at least eight feet wide or raised planter beds at least two feet high and three feet wide in front of the wall. Plant materials that will obscure or screen at least 50 percent of the wall's surface within three years shall be planted in the planting bed or raised planter. (*see* Figure 10.1.301D, *Blank Wall Landscaping Treatment*)

      iii. Regular fenestration that is consistent with that of the front façade.

   c. Blank walls that become exposed by reason of the razing or removal of an adjoining building shall treat the wall surface as set out in Subsection C.7.b., above. If such treatment may not be accomplished on the property of the remaining building or is not practicable, as determined by the Zoning Administrator, the blank wall shall be exempt from these requirements.

   d. Treatment of blank walls is to be proportional to the front façade.

Figure 10.1.301D
Blank Wall Landscaping Treatment



D. **Design Features.** The following standards apply to design features of buildings and structures in the C-3 district.

1. *Awnings*. Awnings shall be designed as follows:

   a. Awnings shall be constructed of high-quality materials such as metal, matte finish canvas, vinyl-coated canvas or as otherwise approved by the SHPO.

   b. Bubble, box, or shiny plastic awnings are prohibited.

   c. Awnings shall be designed to be simple, compatible design, similar to typical buildings in the City.

   d. Awnings shall not be installed so as to obscure significant architectural details of a building (*see* Figure 10.1.301E, *Placement of Awnings*).

Figure 10.1.301E
Placement of Awnings

f. Awnings shall not be installed so as to extend across more than a single building or building module.

g. Solid color or two-color striped awnings are permitted. Corporate colors on awnings are permitted only if they are architecturally compatible with the building on which the awning is attached. Overly iridescent or fluorescent colors are prohibited.

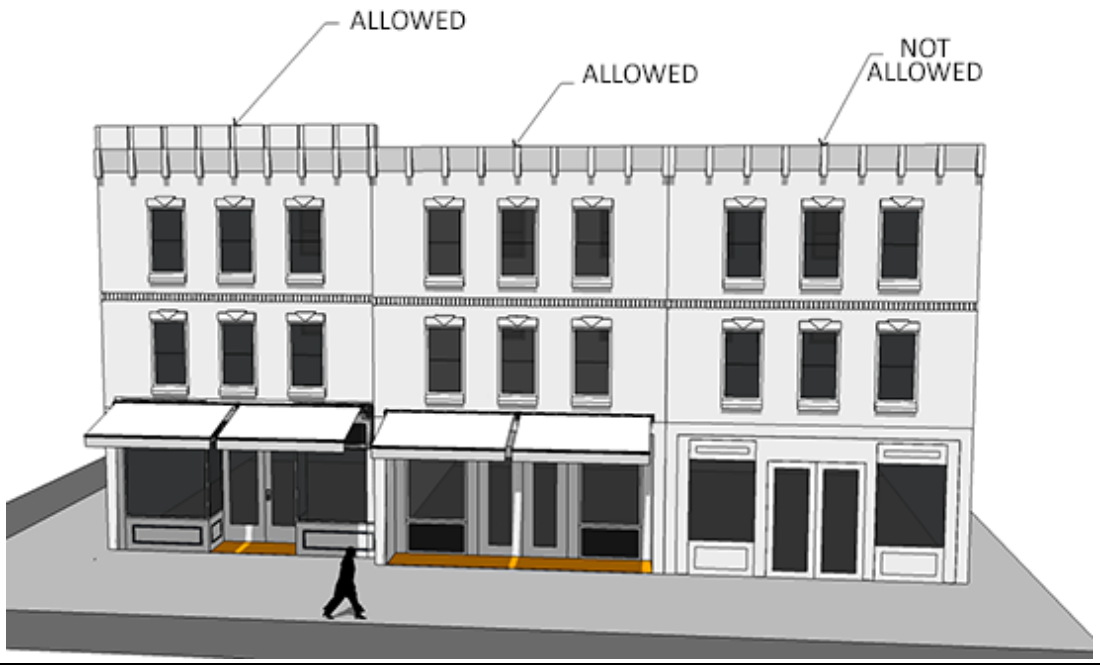
h. Signage on awnings is limited to the vertical drip or flat face (perpendicular to the street or sidewalk) of an awning, and shall not be permitted on the sides or top slope of an awning.

2. *Building Entries*.

a. Form and Scale. Building entrances shall be recessed and have a similar form and scale to what is comparable to those on existing buildings within the City (*see* Figure 10.1.301F, *Building Entries*).

b. Demarcation. Primary public entrances shall be clearly defined with traditional architectural detailing, landscape features (*e.g.*, ornamental paving, tile work, planters and/or planting beds, or awnings).

Figure 10.1.301F
Building Entries



3. *Building Materials*. Material finishes shall reflect main street vernacular for building materials for new, redeveloped, or substantial building construction.
   a. Permitted Materials. Façades of vintage building materials may be adapted to contemporary use with compatible materials which include:
      i. Building exteriors shall be constructed from proven, high-quality, and durable materials, including:
         a. Masonry;
         b. Brick;
         c. Stone; and
         d. Concrete or concrete blocks (concrete masonry units or "cinder blocks") are permitted, provided that they are finished with one or more of the following:
            1. Polished aggregate surfaces emulating stone;
            2. Other masonry types such as brick or tile;
            3. On façades not facing a public right-of-way, decorative coursing to break up blank wall areas;
            4. Matching colored mortar (where color is an element of architectural treatment for any of the other listed finishing options).

b. Other Materials.

i. Other building materials may be used as predominate materials if it is demonstrated that they:

a. Have comparable durability, impact resistance, quality, and texture as the materials listed in Subsection D.3.a.1., above; and

b. Are compatible with the materials used on adjoining buildings.

c. Prohibited Materials. The following materials are prohibited:

i. Metal or wood siding;

ii. Metal screening;

iii. Fiberglass sheathing;

iv. Crushed rock or crushed tumbled glass;

v. Plastic;

vi. Vinyl or plywood siding; and

vii. Chain link fencing (except for temporary purposes such as a construction site).

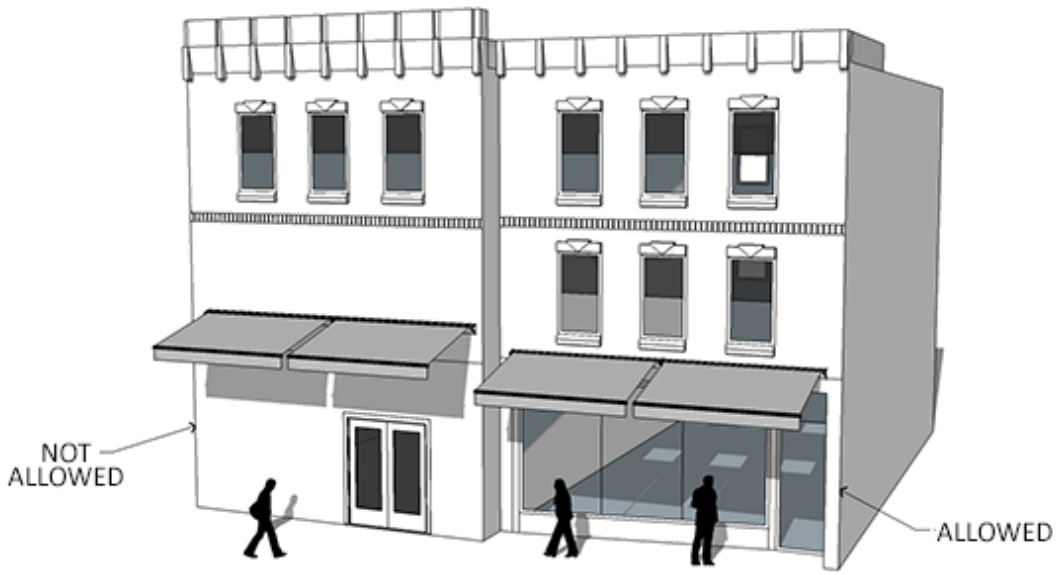
4. *Transparency*.

a. Not less than 50 percent of the ground floor of the front façade, between a height of two and eight feet above grade, shall be transparent. Transparency includes window or door openings that allow views into and out of the interior of buildings (*see* Figure 10.1.301G, *Transparency*).

b. Not less than 30 percent or more than 50 percent of the façade of each upper floor shall be transparent.

c. Windows shall include obvious sills, heads, and other forms of framing.

Figure 10.1.301G
Transparency



5. *Fenestration*. The arrangement, proportion, and design of windows and doors (fenestration) shall conform to the following (*see* Figure 10.1.301H, *Fenestration*):
   a. The height to width ratio of single openings and group openings shall be proportionally scaled to the wall and adjoining buildings.
   b. Door and window details and trim shall be suitably scaled to the wall and adjoining buildings.
   c. Large expanses of glass used in windows and doors shall be reduced to smaller component windows reminiscent of main street vernacular when adjacent to sidewalks or other pedestrian use areas.

Figure 10.1.301H
Fenestration

E. **Sidewalks and Pedestrian Amenities**. The objective for the C-3 district is for development and redevelopment is to create a pedestrian-friendly, mixed use environment that is a destination for both residents and visitors of the City. The C-3 district has the following standards for sidewalks and pedestrian amenities to achieve these essential objectives.

1. *Sidewalks*.

   a. Sidewalks within or immediately adjacent to public street right-of-way and parallel to the building façade shall be not less than eight feet wide, which shall connect to adjoining buildings and parking lots (if applicable).

   b. Sidewalks to building entries that connect to the sidewalks within or adjacent to the right-of-way shall be not less than six feet wide.

   c. Sidewalks that cross driveways, parking lot entries, and other paved surfaces shall be clearly delineated with special materials or markings (*e.g.*, textured or stamped concrete, brick or stone pavers, striping, etc).

   d. The Zoning Administrator may approve alternate locations and widths of sidewalks to eliminate encroachments that may reduce the clear space of sidewalks to less than six feet.

2. *Outdoor Spaces and Amenities*. Where provided, outdoor pedestrian spaces and amenities shall be clearly accessible to the public. The following are encouraged:

   a. Public art, benches or low seating walls, or other pedestrian amenities and site furnishings; and

   b. Use of brick, paver brick, stone, or color-textured or stamped concrete to reinforce the character of downtown.

F. **Signage.** Signage shall comply with the standards set out in Chapter 7, *Signs*.

G. **Parking.**

1. *Existing Surface Parking*. Upon the expansion or substantial improvement of existing surface parking lots, the streetscape perimeter shall be screened as set out in Section 4.1.302, *Site Landscaping*. All new surface parking lots shall conform to the standards set out in Article 5.2, *Parking and Loading*.

2. *New Surface Parking*. New surface parking lots, if required, shall:

   a. Be located behind street-facing buildings; or

   b. Be limited to no more than 30 percent of the street frontage of the parcel proposed for development or redevelopment; or

   c. Be screened with a streetscape buffer as set out in Section 4.1.302, *Site Landscaping*, that incorporates:

      i. Street furniture (or benches incorporated into a seat wall), spaced at intervals of not more than 50 feet; and

      ii. A landscaped masonry wall with a minimum height of three feet.

3. *Shared Parking*. Shared parking allows abutting property owners to share their parking lots and reduce the number of parking spaces that each would provide on their individual properties. Shared parking is allowed through contractual agreements between property owners submitted on a form required by the City Attorney and approved by the Zoning Administrator. The standards to reduce the required parking are set out in Section 5.2.105, *Shared Parking*.

4. *Parking Structure*. Parking structures shall be designed as follows:

   a. The bulk (or mass) of a parking structure as seen from the street shall be minimized by placing its short dimension along the street edge with the highest functional street classification upon which the lot fronts.

   b. Generally, the parking structure shall include active uses, such as retail or other approved uses in the zoning district, at the ground level and/or along the street frontage, or shall be located behind the principal building. Where the dimensions of the lot do not accommodate the active use of the street frontage, parking structures and vehicle entrances shall be designed to minimize views into the structure interior from surrounding streets, which may include, but are not limited to:

      i. Ornamental grillwork (plain vertical or horizontal bars are not acceptable);

      ii. Decorative artwork, such as metal panels, murals, and mosaics; and/or

      iii. Display windows for use by nearby merchants.

   c. Parking structures shall be architecturally consistent with exterior architectural elements of the principal building or abutting traditional buildings, including rooflines, façade design, articulation, modulation, and finish materials, as set out in this Section.

d. Parking structure façades shall have brick cladding, or a combination of brick and other masonry, and have regularly spaced square or rectangular fenestration.

Effective on: 5/6/2016

Sec. 10.1.302 Neighborhood Shopping (C-1) District Design Standards

A. **Generally.** The design objective of the Neighborhood Shopping (C-1) District is to have buildings with a scale and appearance that is compatible with the abutting or nearby residential areas. Building scale and rooflines are essential design standards for this district.

B. **General Size and Location.** Neighborhood shopping zoning district uses are intended to provide general services to the neighborhood, not to highway travelers, or to meet the general commercial needs of the City. ~~This district shall be located at least one half mile from another C-1 district area, except that it may be closer if separated by the C-3 downtown area.~~ No individual, contiguous C-1 district area shall permit more than 45,000 square feet of gross floor area. If the amount of land in the C-1 district would allow more than 45,000 square feet of floor area based on permitted floor area ratios, then individual parcels may be limited to a lower FAR than set out in Table 3.1.301A, *Nonresidential and Mixed Use Development Standards*. A C-1 district may span a public street right-of-way and still be considered "contiguous" for the purposes of this Section.

C. ~~**Scale.** The maximum size of buildings in the C-1 district shall be as follows:~~

1. ~~5,000 square feet for a freestanding building;~~
2. ~~7,500 square feet for a multi-tenant building with common entrances;~~
3. ~~9,000 square feet for a multi-tenant building with separate entrances. However, drugstores may be up to 16,000 square feet, and may be located in free-standing buildings or multi-tenant buildings of up to 25,000 square feet, provided that the drugstore is the anchor tenant.~~

D. **Building Design.**

1. *Height*. The maximum building height is set out in Table 3.1.301A, *Nonresidential and Mixed Use Development Standards*.
2. *Articulation*. No street-facing façade may have a continuous length of 50 feet or more without a minimum offset of four feet in the building elevation.
3. *Detailing*. All buildings shall contain architectural details for each elevation fronting on or most directly facing street right-of-way, a private street easement, or abutting drive-through lane or parking lot that promote good design, which may include, but are not limited to:
   a. Entry portico;
   b. Chimneys or cupolas;
   c. Transom windows;
   d. Dormers;

e. Window canopies;

f. Eaves in excess of 18 inches;

g. Covered porches (extending along 50 percent of the building façade and projecting a minimum of four feet from the face of the building); or

h. Decorative window shutters.

4. *Roofs*. Roofs shall be similar to residential type roofs and shall be pitched roofs covering the entire building. Permitted materials include asphalt shingles, slate or simulated slate shingles, standing seam metal, or other similar roof materials approved by the. A peaked parapet is permitted if it gives the appearance of a pitched roof from all sides. Eaves shall extend a minimum of 12 inches from the building façade. The use of flat and shed roofs is prohibited.

E. **Heights and Roofs.** All roofs shall be pitched roofs covering the entire building. The maximum height measured at the peak of the roof shall be in accordance with the lot and building standards set out in Table 3.1.301A, *Nonresidential and Mixed Use Development Standards* .

F. **Street Yard.** The street yard shall be landscaped in a fashion similar to residential buildings, with trees and foundation planting.

G. **Sidewalks.** New parcels proposed for development shall provide a sidewalk along all rights-of-way and shall connect to sidewalks on abutting properties if one is present.

H. **Parking.**

1. The number and design of required parking shall be in accordance with Article 5.2, *Parking and Loading*.

2. Parking shall be to the side or rear of the building, not between the building and the street.

3. Parking shall be screened with a fence or landscaping of at least four feet along 75 percent of its length visible from the public street right-of-way.

4. Where a building is located on the corner, parking should be located on the street side of lesser dimension.

Effective on: 5/6/2016

ARTICLE 10.2 SUPPLEMENTAL STANDARDS

Division 10.2.100 Supplemental Standards for All Uses

Sec. 10.2.101 Accessory Buildings and Structures

A. **Generally.** The construction and use of accessory building or structures, except accessory dwelling units (*see* Section 10.2.102, *Accessory Dwelling Units*), are subject to the requirements of this Section.

B. **All Uses.**

1. *Timing of Construction*. No accessory building or structure shall be constructed unless the principal building is constructed and connected to utilities or under construction simultaneously with the accessory building or structure.

2. *Attached Accessory Buildings*. Accessory buildings that are structurally attached to a principal building shall conform to all standards that are applicable to the principal building.

3. *Easements*. Accessory buildings and structures shall not be located within easements unless written permission is granted from the owner/operator of the easement and proof of such permission is provided to the City prior to the issuance of permits or clearances for such structures.

4. *Building Permit*.

   a. Accessory buildings and structures shall make application for a building permit.

   b. Accessory buildings and structures are subject to all applicable building codes of the City, as amended from time to time. The more restrictive provisions of this Section or the applicable building codes shall apply.

5. *Survey*. A copy of a plat of survey showing all existing buildings and structures on the lot or parcel of land where the accessory building or structure is proposed to be located may be required with the building permit application.

C. **Residential Uses.**

1. *Maximum Number*. No more than two accessory buildings or structures shall be constructed on a lot in the R-S, R-G, and N-C districts.

2. *Footprint*. In the Agriculture (A-L) District, an accessory building or structure is permitted to support agricultural uses. Non-agricultural buildings and structures shall cover no more than 50 percent of the footprint of the principal dwelling.

   a. ~~Generally. Accessory buildings and structures count toward the calculation of maximum impervious cover in Section 3.1.202, *Lot and Building Standards for Individual Housing Types*.~~

   b. ~~Agriculture (A-L) District.~~

3. *Height*.

   a. Single Story. The maximum height to the peak of the roof shall not exceed 18 feet, excluding a cupola.

   b. Two-Story. The maximum height to the peak of the roof shall not exceed the height of the principal dwelling or 24 feet maximum, whichever is greater.

4. *Setbacks*.

   a. Front:

i. Generally: Behind principal building.

ii. Garages: Behind the front building line.

iii. Carports, car covers, or porte-cocherres: Behind the front building line.

b. Street Side: Equal to the required street side yard setback for the zoning district.

c. Interior Side: Five feet from the side property line.

d. Rear:

i. Generally: Five feet from the rear property line.

ii. Alley Access: The sum width of the alley and the setback shall be not less than 25 feet.

e. Separation from Other Structures: Not closer than five feet to any other structure.

5. *Small Storage Buildings*. Only two small storage buildings are allowed per lot with a maximum gross area of 120 square feet:

a. Height: Shall not exceed 12 feet in height at the highest point;

b. Side Yard: Shall not be constructed or placed closer than five feet from the side lot line.

c. Rear Yard:

i. Generally: Five feet from the rear lot line.

ii. Alley: May be placed on the rear line if there is an abutting alley.

6. *Exceptions*.

a. Roofs. The roof overhand or roof projection shall not be closer than two feet to any other structure on the lot.

b. Open Porches. Open porches shall be allowed to be constructed within the required front yard setback under the following conditions:

i. The width of the porch does not exceed 25 percent of the width of the principal structure it is attached to.

ii. The porch shall extend no further than five feet from into the front yard setback.

iii. The porch shall remain open, excluding required railing (36 inches maximum height).

iv. The porch roof covering shall only be supported by columns or posts.

v. The roof overhang shall not extend more than two feet beyond the porch floor on the side adjacent to the front yard.

D. **Height Exceptions for all Uses.** The following accessory structures are not subject to the height limitations of their respective zoning districts in which they are located:

1. Chimneys;
2. Cooling towers;
3. Elevator headhouses;
4. Fire towers;
5. Ornamental towers and spires;
6. Church steeples;
7. Radio, television, and cellular towers; or
8. Necessary mechanical appurtenances, required to be placed above the roof level and not intended for occupancy.
9. Accessory buildings located within the building envelope and permitted as an accessory to business or manufacturing uses as approved by the Zoning Administrator.

E. **Storage Units and Shipping Containers.** Storage units and shipping containers are allowed as an accessory use to a principal use subject to respective zoning districts (*see* Section 2.2.301, *Temporary Uses*) if:

1. *Setbacks*.

    a. Front and Street Side. The front yard and street side yard setbacks shall meet the provisions of the applicable zoning district.

    b. Interior Side. The interior side yard setbacks shall meet the provisions of the applicable zoning district.

    c. Rear. May be placed on the rear property line unless prohibited per subsection d. below.

    d. Abutting Residential District or Use. Containers shall be setback a minimum of 100 feet when abutting any property zoned or used in a residential manner, unless it is separated by a street or alley.

2. *Exterior Finish*. All signage is removed and the container is painted an earthen tone or a color compatible with the adjacent surrounding buildings or sided with a siding material compatible with the surrounding buildings. The painting or siding shall occur within 60 days of structure placement.

3. *Condition*.

    a. Containers shall be safe, structurally sound, in good repair, and placed on a stable surface; and

    b. Any container that becomes unsound, unstable or otherwise dangerous, as determine by the City, shall be immediately repaired or removed by the owner/operator.

4. *Access*. Containers shall not be stored in a manner that impedes access to public right-of-ways, public utility or drainage easements, adjacent structures, or buildings.

5. *Use*.
   a. Containers shall only store materials that are normally associated with the principal use business.
   b. Permanent containers are prohibited in residential zoning districts and uses.
   c. At no time shall containers be utilized as rental units or be leased to anyone other than the property owner or property lessee of the existing on-site business enterprise where the unit is placed.
6. *Stacking*. The stacking of containers shall be prohibited.
7. *Utilities*. Containers shall not be connected to utility services, with the exception of electricity, nor shall any other utility service be utilized within a container.
8. *Permits*. A building permit is required for any unit being put in place for more than 10 days at any location

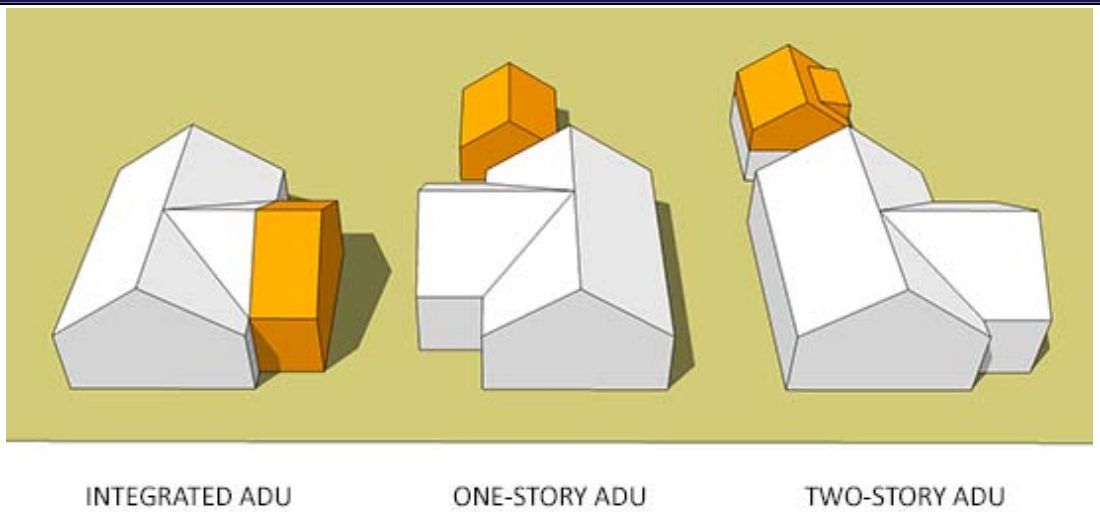
Effective on: 5/6/2016

Sec. 10.2.102 Accessory Dwelling Units

A. **Generally.** Accessory dwelling units (ADUs) are permitted as set out in this Section.

B. **ADU Types.** For the purposes of this Code, there are three types of ADUs (*see* Figure 10.2.102, *Illustrative ADU Types*):
   1. *Integrated Units*. Integrated units are units that are created within an existing building or attached to an existing building such that they appear to be an integrated part of it.
   2. *One-Story ADU Buildings*. One-story ADU buildings are one-story detached buildings that contain an accessory dwelling unit. They may or may not also include a garage or storage area.
   3. *Two-Story ADU Buildings*. Two-story ADU buildings are one- and one-half story or two-story detached buildings that contain an accessory dwelling unit, which is usually located above a detached garage.

Figure 10.2.102
Illustrative ADU Types



C. **Where Permitted.** Accessory dwelling units are allowed only in districts A-L, R-G, R-S, and NC 1, 2, 3, and 4. ADUs are only allowed as an accessory to single-family detached principal buildings.

D. **Design Standards.** ADUs shall conform to the following bulk and design standards:

1. *All ADUs*.

   a. Maximum Number. No lot shall contain more than one ADU.

   b. Parking for ADUs.

      i. In addition to the parking requirements for the principal building, one off-street parking space shall be provided for the ADU.

      ii. Use of tandem parking to meet this requirement is allowed; however, only one tandem space is allowed per lot.

   c. ~~Required Useable Outdoor Area. Lots that are developed with ADUs shall not exceed the maximum impervious cover set out in Section 3.1.202, *Lot and Building Standards for Individual Housing Types*.~~

   d. Manufactured Housing. In all districts, except the A-L district, the construction of ADUs shall be either stick-built or industrialized housing. No manufactured homes may be used as an ADU.

2. *Integrated Units*.

   a. Integrated units shall not occupy more than 25 percent of the total floor area of the principal building.

b. Integrated units shall not involve design modifications to the exterior of the principal building that make their presence obvious. Where the principal building is expanded to accommodate the integrated unit, the expansion shall be designed, clad, painted, and roofed in a manner that is comparable to the principal building.

c. Where exterior doors provide direct access to the integrated unit, such doors shall be designed, located, and configured in a manner that is typical for secondary access to a single-family building.

d. Setbacks for integrated units are the same as for the principal building.

3. *One-Story Detached ADU Buildings*.

a. The floor area of the ADU in a one-story ADU building shall not exceed the least of the following:

i. Twenty-five percent of the floor area of the principal building or 1,200 square feet, whichever is greater;

ii. Seven and one-half percent of the lot area.

b. One-story ADU buildings shall be set back from property lines as follows:

i. Front: Behind front building line.

ii. Interior side: Same as principal building.

iii. Street side: Same as principal building.

iv. Rear: 10 feet where no alley is present; five feet where an alley abuts the rear lot line.

c. The height of one-story ADU buildings shall not exceed:

i. Nine feet to the wall plate; and

ii. Twenty feet to the ridge.

d. One-story ADU buildings shall be spaced at least 12 feet from all other habitable buildings and structures on the same lot.

4. *Two-Story Detached ADU Buildings*.

a. The floor area of the ADU in a two-story ADU building unit shall not exceed 600 square feet. For the purposes of this standard, "floor area" means all enclosed areas with a floor-to-ceiling height of at least 7.5 feet.

b. The height of a two-story ADU building shall not exceed:

i. Thirteen feet to the wall plate; and

ii. Twenty-four feet to the ridge.

c. Generally, windows of two-story ADU building units shall face streets and alleys. Windows that face interior side property lines shall be located at least six feet above the finished floor unless:

i. Other features are in place to protect the privacy of the abutting lot's rear yard; or

ii. The abutting property is nonresidential or a tract of common open space.

d. Two-story ADU buildings shall be spaced at least 12 feet from all other habitable buildings and structures on the same lot.

Effective on: 5/6/2016

Sec. 10.2.103 Fences and Walls

A. **Application**. The requirements of this Section apply to fences and walls on residential lots and all fences and walls with a height above average grade of 30 inches or more in nonresidential districts. All fences and walls shall not adversely affect the public health, safety, and welfare of the City and shall conform to all applicable building code requirements.

B. **Height.**

1. *Residential Districts*. See Figure 10.2.103, *Fence Location and Height*.

a. Front and Street Side Yard. The maximum height of a fence or wall within a required front yard or street side yard setback shall be 42 inches at the front property line. The fence may taper from the front building setback line to the front property line at an angle required to meet the 42 inch height requirement.

b. Interior Side and Rear Yard. The maximum height for any fence or wall within a required interior side or rear yard shall be six feet.

2. *Nonresidential and Mixed Use Districts*. No fence or wall shall exceed the following heights, unless required by Division 4.1.400, *Bufferyards*:

a. Front and street side yards:

i. In the C-2 district: Three feet.

ii. In the I-1 and I-2 districts: Six feet.

iii. All other nonresidential and mixed use districts: Not permitted in front yards; four feet in street side yards.

b. Side and rear yards:

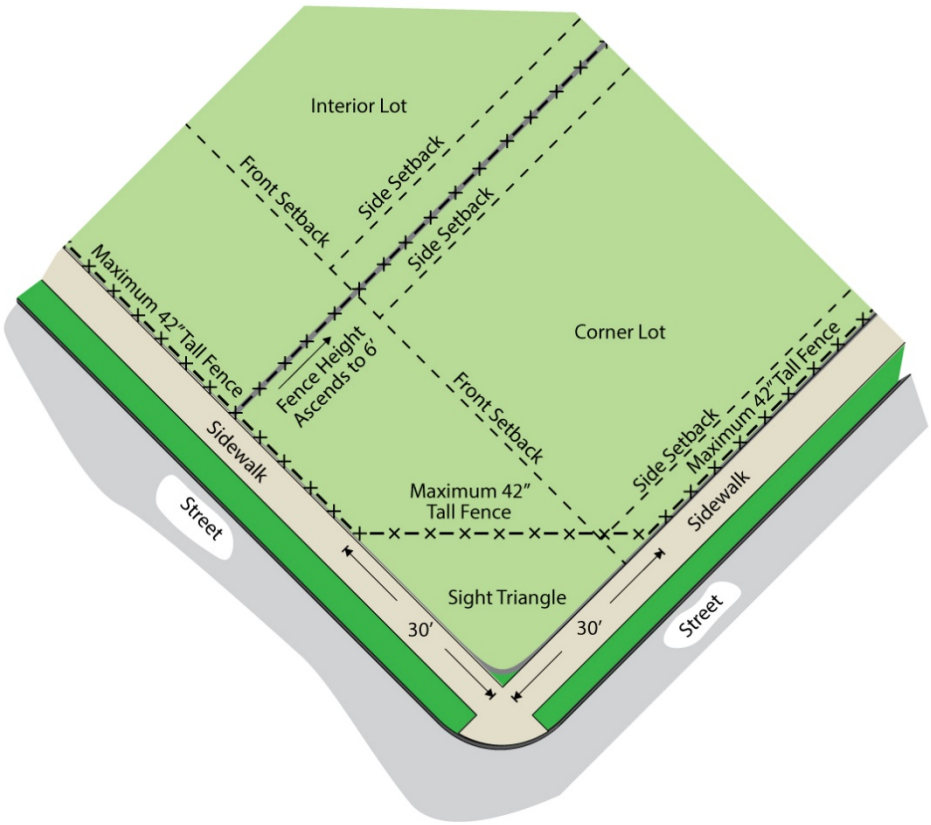
i. In the C-2 district: Eight feet, subject to a building permit.

ii. All other nonresidential and mixed use districts:

a. Generally: Eight feet.

b. Side or rear yard abutting the I-1 and I-2 districts: Eight feet, subject to a building permit.

Figure 10.2.103
Fence Location and Height



C. **Setbacks**.

1. *Property Line*: A fence or wall may be constructed on the property line provided it is not constructed within public right-of-way.
2. *Intersection of* Street *Edge of Traveled Way*: 30 feet, provided the fence or wall complies with the provisions of Section 6.2.207, *Sight Triangle Requirements*, as displayed in Figure 10.2.103, *Fence Location and Height*.

D. **Materials.**

1. *All Uses*.

   a. Materials shall be durable and in character for the use of development it is serving (*e.g.*, residential fencing shall be of a material commonly made and sold for residential fencing or wall construction uses). Materials may include: weather resistant wood species, split rail, wood treated with U.S. Environmental Protection Agency approved preservatives, painted wood, vinyl, ornamental iron or powder-coated aluminum, brick, stone, and masonry.

b. Scrap lumber, plywood, tree branches, tree trunks, sheet metal, plastic, fiberglass sheets, barbed wire, spikes, nails, other sharp metal points or instruments on tops or sides, welded wire, agricultural fencing, and chicken wire are not permitted.

2. *Nonresidential and Mixed Use*.

a. Barbed wire cradles facing inward toward the property may be placed on top of fences enclosing public utility buildings or wherever the Building Official finds that such are necessary to address security interest.

b. Chain link fences are permitted as follows:

i. Industrial uses. In any yard that is not visible from an arterial or collector street, or highway, rights-of-way or existing abutting non-industrial use; and

ii. All other nonresidential and mixed uses. Only in interior side and rear yards that are not also street yards.

c. The use or placement of slats in chain link fences is permitted only in interior side and rear yards that are not also street yards. This does not apply to outdoor storage yards, which is subject to the standards set out in Section 10.2.105, *Outdoor Storage and Display of Merchandise*.

E. **Exceptions**. Fences and walls erected upon public or private school property or public parks and playgrounds can be constructed to a height of eight feet or greater for the purpose of preserving public welfare, subject to the issuance of a building permit by the Chief Building Official. As applicable, the Zoning Administrator may recommend review by the Planning Commission who may disapprove, approve, or approve with amendments, conditions, or restrictions.

F. **Location Restriction and Drainage**.

1. No fence or wall shall be built on any lot or tract outside the surveyed lot lines.

2. No fence or wall shall be built by a private party on public land without the specific prior approval of the public entity. Removal of any such fence or wall is at the expense of the private party.

3. Fences and walls shall avoid limiting or obstructing the flow of water in natural drainage courses, or drainage ways created within easements.

Effective on: 5/6/2016

Sec. 10.2.104 Solar Arrays and Wind Energy Conversion Systems (WECS)

A. **Generally.** The placement and use of solar arrays and wind energy conversion systems (WECS) are subject to the requirements of this Section.

B. **Solar Arrays.** The following standards apply to solar arrays:

1. *Roof-Mounts*. Solar arrays may be roof-mounted on principal and accessory buildings in all zoning districts.
2. *Ground-Mounts*. Ground- or structure-mounted solar arrays (not mounted on buildings) shall be set back as if they were detached accessory buildings if the highest point on the panels is more than six feet above grade.
3. *Carports and Covered Walkways*. Carports and walkways may be covered with solar arrays, provided that:
   a. There is not less than eight feet of clearance under the carport or covered walkway; and
   b. In residential zoning districts and/or uses, solar panels that cover carports and covered walkways are set back from the front property line as required for principal buildings. Additional setbacks may be required in other areas in order to comply with building setback requirements or accessory structure requirements for the underlying structures.
4. *Removal or Replacement of Damaged Panels*. If solar panels are damaged (*e.g.*, in a windstorm) such that the damage is obvious when viewed from a public right-of-way, then the panels must be removed or replaced within 60 days of the event that caused the damage.

C. **Wind Energy Conversion Systems (WECS).** The following standards apply to Wind Energy Conversion Systems:

1. *Setback*. The base of the tower shall be set back from all property lines, public rights-of-way, and public utility lines a distance equal to 1.1 times the total height. Less restrictive setbacks shall require variance approval by the Board of Zoning Appeals.
2. *Tower Height*. The maximum tower height (meets sound and setback requirements) is permitted as follows:
   a. R-G and N-C Districts. The maximum tower height is 45 feet.
   b. Other Districts. The maximum tower height is 125 feet.
   c. Exceptions. Height limitation imposed by the Federal Aviation Administration (FAA) shall supersede Subsections B.2.a. and B.2.b., above.
3. *Distance between WECS*. The distance between the tower support base and any two WECS shall be the minimum of five rotor lengths, determined by the size of the largest rotor.
4. *Fence*. A fence with a minimum height of six feet with a locking gate shall be placed around any WECS tower base.
5. *Sound*. Audible noise due to WECS operations shall not exceed 55 dBA or 10 decibels greater than ambient noise levels, measured at the nearest dwelling or otherwise occupied structure. Sound levels may be exceeded during short-term events such as utility outages and/or severe wind storms.

6. *Lighting*. No illumination of the turbine or tower shall be allowed unless required by the FAA.
7. *Signage*. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other adjacent structure associated with a WECS visible from any public street or adjacent property shall be prohibited.
8. *Access*.
    a. Freestanding Tower. Climbing apparatus below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing.
    b. Lattice or Guyed Towers. The bottom tower section must be secured such that it cannot readily be climbed.
9. *Interference*. The WECS operation shall not interfere with radio, television, computer, or other electronic operations on abutting or nearby properties.
10. *Ownership*. Whenever the WECS and/or property upon which the WECS is sited are transferred to new ownership, all requirements and responsibilities pertaining to the WECS are transferred to the new ownership.
11. *Abandonment*. If a WECS is inoperable for six consecutive months, the property owner shall be notified that they must, within six months of received notice, restore their system to operating condition. If the owner fails to restore their system within the required six month time period, the owner is required at his/her expense to remove the wind turbine from the tower.
12. *Utility Notification*. No WECS shall be installed until the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
13. *FAA Regulations*. No WECS shall be constructed, altered, or maintained so as to project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection.
14. *Compliance with National Electric Code*. WECS installation shall conform to the National Electric Code, as updated from time to time.
15. *Insurance*. Additional insurance beyond property owners' or homeowners' coverage shall not be required.
16. *Building Permit*. A building permit is required for WECS.

Effective on: 5/6/2016

Sec. 10.2.105 Outdoor Storage and Display of Merchandise

A. **Generally.** All outdoor storage and outdoor display of merchandise allowed per Table 10.2.105, *Area of Outdoor Display of Merchandise*, with the exception of temporary outdoor sales events, shall be in conformance with the provisions of this Section.

B. **Outdoor Storage**. Outdoor storage is permitted as an accessory use to principal buildings on properties used for nonresidential and mixed use purposes subject to the standards of this Section. Outdoor display of merchandise is regulated by Subsection C., below.

1. *Prohibitions*. Outdoor storage areas shall not be used to dispose of inoperable machines or wastes, store or dispose of hazardous materials, or store or dispose of materials that will create windblown dust or debris or storm water contaminants.

2. *Standards by Use*.

a. A-L District. All agricultural uses are exempt.

b. C-1, C-2, C-3, I-1, M-U, and P-I Districts. Outdoor storage areas are permitted if it is demonstrated that the outdoor storage area:

i. Is not larger than 10 percent of the gross floor area of the principal building; and

ii. Is located in the buildable area in the rear yard and/or interior side yard; and

iii. Is screened in one of the following ways:

a. Enclosed by a wall that is designed into the principal building's facade and composed of the same materials as the principal building; or

b. Enclosed by a wall or opaque fence and gate of sufficient height to completely screen the stored materials from public view and rights-of-way. Such wall, fence, and gate shall be of a durable material that does not include slats and shall be landscaped with a continuous hedge along its entire length, except at points of access.

c. I-2 District. Outdoor storage areas are permitted if it is demonstrated that the outdoor storage area:

i. Is located in the buildable area in the rear yard and/or interior side yard.

C. **Outdoor Display of Merchandise**. This Subsection sets out the standards that are applicable to outdoor merchandise display areas. Outdoor storage of items other than merchandise is regulated by Subsection B., above.

1. *Display Areas that are Attached to Principal Buildings***.** Outdoor display areas that are attached to a principal building are permitted if it is demonstrated that the display areas are:

a. Adjacent to a wall of a principal building or structure, and configured as a walled or decoratively fenced area that entirely screens the merchandise on all sides;

b. Within the buildable area of the site;

c. Not located in areas that are required or used for access or parking, loading, or vehicular circulation; and

d. Not larger than the area set out in Table 10.2.105, *Area of Outdoor Display of Merchandise*.

Table 10.2.105 Area of Outdoor Display of Merchandise	
Use	Maximum Outdoor Display Area
Retail Sales and Services	15 percent of floor area of principal building
Heavy Retail (*e.g.*, Home Centers, Warehouse Clubs, and Superstores)	30 percent of floor area of principal building
Heavy Retail - All Others	35 percent of lot area
Nurseries / Greenhouses, Retail	70 percent of lot area

2. *Vehicle Sales, Rental, and Service.*

   a. For vehicle rental, service, and sales uses, outdoor display of merchandise can only be displayed on improved hard surface areas of the parcel proposed for development and cannot encroach on any area that is designated for landscape areas or rights-of-way.

   b. Such merchandise shall not occupy or obstruct required parking spaces or loading spaces, but shall be setback behind any required landscape areas and shall be screened with landscaping for 75 percent of the linear frontage (as if they were parking spaces) for any vehicles that is for rental, repair, or sale and that is visible from the public right-of-way.

   c. Only one vehicle may be raised, to a height not to exceed 15 feet from the average grade of the display area, on a platform, berm, structure, or raised by other means, to display said merchandise for greater visibility. This may be located anywhere within the outdoor display area, or in the front landscape strip; provided however, no raised portion shall be located closer to any rights-of-way than 10 feet.

Effective on: 5/6/2016

CHAPTER 11 ADMINISTRATION

ARTICLE 11.1 DEVELOPMENT REVIEW BODIES

Division 11.1.100 Purpose and Application of Article

Sec. 11.1.101 Purpose

The purpose of this Article is to set out the development review bodies that are responsible for the administration of this Code. This Article describes the roles and responsibilities and general rules of procedure of the City Commission, Planning Commission, Board of Zoning Appeals, and City staff.

Effective on: 5/6/2016

Sec. 11.1.102 Application

A. **City Commission.** The provisions of Section 11.1.201, *City Commission*, are intended to establish the City Commission's role with respect to decisions about individual properties. No part of this Code restricts or limits any other powers that are granted to the City Commission by federal law, state statute, the City's *Charter Ordinances*, or the City's *Code of Ordinances*.

B. **Other Development Approval Review Bodies.** The provisions of this Article that relate to other development review bodies are representative of the authority that the City Commission has delegated to them with respect to application and enforcement this Code, together with the authority established by the *Kansas Statutes Annotated* (K.S.A.).

C. **No Implied Limitation.** The provisions of this Article shall not be a limitation regarding the conduct of commissions and boards where additional responsibilities or authority are set out elsewhere in this Code, the City's *Code of Ordinances*, or through policies adopted by the City Commission, or by a board or commission as approved by the City Commission.

Effective on: 5/6/2016

Division 11.1.200 Commissions and Boards

Sec. 11.1.201 City Commission

A. **Generally.** With respect to decision-making pursuant to this Code, the City Commission retains and exercises the powers set out in this Article.

B. **Powers and Duties.** The City Commission shall have all powers conferred upon it by the City's *Charter Ordinances*, the City's *Code of Ordinances*, and the constitution and laws of the state of Kansas. With respect to this Code, the City Commission shall hear and decide the following applications:

1. The City Commission may adopt policies, plans, and ordinances to implement the municipal function of planning for the public health, safety, and general welfare, as well as for other environmental, economic and social needs of the community. This includes, but is not limited to, amending the text and maps of the Comprehensive Plan and this Code from time to time (*see* K.S.A. §12-741 and K.S.A. §12-747).
2. The City Commission shall hear and decide the following applications:
   a. Plans and programs for the development and redevelopment of its area of jurisdiction. This includes, but is not limited to, amended text and maps of Comprehensive Plan from time to time.
   b. ~~The City's Capital Improvements Program (CIP);~~
   c. Other policies and procedures to facilitate implementation of planning elements;
   d. Proposed covenants, conditions, and restrictions as set out in Section 9.1.401, *Required Property Owners' Association*, and Section 9.1.402, *Required Covenants, Conditions, and Restrictions*;
   e. Proposed amendment of the text of this Code;
   f. Proposed amendment of the official zoning map (*i.e.*, rezonings);
   g. Variances that are not under the authority of the Board of Zoning Appeals; and
3. The City Commission may take any other action not delegated to an appointed board, committee, commission, or City staff as the City Commission may deem desirable and necessary to implement the provisions of this Code and the goals and objectives of the City, provided that such action is not contrary to requirements of this Code, the *Charter Ordinances*, the City's *Code of Ordinances*, or state law.

C. **Appeals.** The City Commission shall hear and decide appeals from decisions of the Planning Commission after a public hearing, as set out in Section 11.2.403, *Appeals to the City Commission*.

Effective on: 5/6/2016

Sec. 11.1.202 Planning Commission

A. **Generally.** The Planning Commission is authorized by K.S.A. §12-715b et seq. Consequently, amendment of the state statute after the effective date of this Code may modify, delete, or supplement the provisions of this Section.

B. **Jurisdiction.** The area of jurisdiction of the Planning Commission shall include that area within the City's corporate limits, and that extraterritorial jurisdiction area outside and not more than three miles from the City's corporate limits if located in:

1. *Township 13 South, Range 17 West*. All of Sections 30 and 31; the South ½ of the Southwest ¼ of Section 18; the West ½ and the Southeast ¼ of section 19; the Southwest ¼ of Section 29; and the West ½ of Section 32;

2. *Township 14 South, Range 17 West*. All of Sections 6, 7 and 18; and the West ½ of Sections 5 and 8;

3. *Township 13 South, Range 18 West*. All of Sections 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36; the West ½ and the West ½ of the Southeast ¼ of Section 12; and all of Section 13 except the East ½ of the Northeast ¼;

4. *Township 14 South, Range 18 West*. All of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 22 and 23; and the North ½ of Sections 20, 21 and 24;

5. *Township 13 South, Range 19 West*. All of Sections 12, 13, 24, 25 and 36; and the East ½ of Sections 14, 23, 26 and 35; and

6. *Township 14 South, Range 19 West*. All of Sections 1 and 12; the East ½ of Section 2; the Northeast ¼ of Section 11, and the Northeast ¼ of Section 13.

C. **Powers and Duties.** The Planning Commission shall have those powers and duties as prescribed by law for city planning commissions and shall hold public hearings as required by statutes for city planning commissions and shall make recommendations to the City on planning, zoning, and subdivision matters which affect land located within the City's corporate limits and within the extraterritorial jurisdiction ~~three mile~~ area. The Planning Commission is delegated the following powers:

1. *Review and Decision After Public Meeting.* The Planning Commission shall review and decide after a public meeting:

   a. Preliminary plats;

   b. Site plans and building elevations for all new development, redevelopment, substantial improvement, and expansion of multi-family residential and nonresidential and mixed use buildings pertaining to their conformance with the standards of this Code.

   c. Deferred parking, including making the determination that space be reserved or land-banked for future additional parking, as set out in Section 5.2.104, *Parking Credits and Reductions*.

2. *Review and Decision After Public Hearing*. The Planning Commission shall review and decide after a public hearing:

   a. Referred unlisted or functionally comparable use determination from the Zoning Administrator according to the criteria set out in Section 2.2.208, *Unlisted or Functionally Similar Uses*.

3. *Review and Recommendation after a Public Meeting*. The Planning Commission shall review and make a recommendation to the City Commission for the following types of applications:

   a. Final Plats, including any necessary variances or special exceptions meeting the same criteria as set out for the Board of Zoning Appeals;

   b. Replat; and

c. Public facility and public utility construction plans and other capital improvements for conformance with the Comprehensive Plan (*see* K.S.A. § 12-748).

d. Concept plans and phasing schedules as set out in Section 9.1.210, *Concept Plan and Development Phasing*

4. *Review and Recommendation after a Public Hearing*. The Planning Commission shall review and make a recommendation to the City Commission for the following types of applications:

   a. Comprehensive plan;

   b. Text amendments;

   c. Rezonings; and

   d. Planned unit developments.

5. *Studies and Policy Recommendations to the City Commission*. The Planning Commission is empowered to, on its own initiative or as requested by the City Commission:

   a. At least once a year, review and reconsider the Comprehensive Plan, or part thereof, and may propose amendments, extensions, or additions to the same.

   b. Make or cause to be made comprehensive surveys and studies of past and present conditions and trends relating to land use, population, building intensity, public facilities, transportation and transportation facilities, economic conditions, natural resources, and any other element deemed necessary to support the development of the Comprehensive Plan.

   c. On or before the first Monday in June of each year, the Planning Commission shall submit to the City a proposed budget for the forthcoming year. The City shall provide for an annual budget, and pursuant to said agreement shall appropriate funds for the expenses and costs of staff services, office space and equipment, contractual services, and other relevant expenses required to carry out the purposes and functions of the Planning Commission. The City shall administer the funds of the Planning Commission.

6. *Referred Matters; Reports*. The City Commission may refer any matters or class of matters to the Planning Commission, with the provision that final action on it may not be taken until the Planning Commission has submitted a report on it or has had a reasonable period of time, as determined by the City Commission, to submit a report.

D. **Membership and Terms of Office.**

1. *Appointment*. The Planning Commission shall consist of nine members appointed by the Mayor with consent of the City Commission. In making said appointments, the City shall obtain from the county commission its requests for appointments of individuals who reside outside the corporate limits and in the extraterritorial jurisdiction area ~~three-mile zone~~ and, subject to the final statutory power of the Mayor to make said appointments, those recommendations shall be considered by the Mayor for said appointment. The county shall submit its requests for appointment in whatever numbers it desires, to give

the Mayor a wide choice of candidates and the City shall publicize the appointment process to allow input from all interested parties in advance of the appointments. All Planning Commission members shall reside within the planning area, and at least three members, but no more than four, shall reside outside of but within the extraterritorial jurisdiction area ~~three mile extraterritorial zoning jurisdiction~~ of the City.

2. *Terms*. All appointments for new terms shall be for three-year terms from May 1 of the year in which they are appointed.

3. *Vacancies*. Vacancies on the Planning Commission caused by death, resignation, or other disability of any member shall be filled for the unexpired term only.

4. *Officers*. The Planning Commission shall elect one of their members at chairperson and one as vice-chairperson, who shall serve one year or until their successors have been selected. A secretary, who need not be a member of the Planning Commission, shall be designated to perform all necessary administrative duties.

5. *Compensation*. The members of the Planning Commission shall serve without compensation, but may be reimbursed for expenses actually incurred in the performance of their duties.

E. **Rules of Procedure.** The Planning Commission shall adopt the rules of procedure as it may deem proper for the practical and efficient transaction of its business, subject to the City's *Charter Ordinances*, this Code, and state law.

1. *Meetings*.

   a. Regular Meetings; Removal of Member for Unexcused Absences. The members of the Planning Commission shall meet at least once each month, at such time and place as they shall fix by resolution, and if a member has three or more unexcused absences, this may be cause for removal from the Planning Commission.

   b. Special Meetings. Special meetings of the Planning Commission may be called at any time by the Chairperson, or in his or her absence by the Vice-Chairperson.

   c. Quorum. A majority, five members, of the Planning Commission shall constitute a quorum for the transaction of business and all actions taken shall be by a vote of a majority of those voting.

2. *Records*. The Planning Commission shall cause a proper record to be kept of its proceedings; said record to be kept by the secretary.

Effective on: 5/6/2016

Sec. 11.1.203 Board of Zoning Appeals

A. **Generally.** A Board of Zoning Appeals (BZA) is created and authorized by K.S.A. §12-759. Consequently, amendment of the state statute after the effective date of this Code may modify, delete, or supplement the provisions of this Section.

B. **Jurisdiction.** The area of jurisdiction for the BZA shall be the same as set out for the Planning Commission (*see* Section 11.1.202, *Planning Commission*).

C. **Powers and Duties.** The BZA shall have the following powers and duties:

1. *Appeals*. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator, or other administrative official, in the administration and enforcement of this Code (*see* Section 11.2.401, *Administrative Appeals*).

2. *Variances*. To authorize in specific cases a variance from the specific terms of this Code. Such variance shall not permit any use not permitted by Article 2.2, *Land Uses* (*see* Section 11.2.411, *Variances*).

3. *Exceptions*. To grant exceptions to the provisions of this Code, but only in those instances where the BZA is specifically authorized to grant such exceptions (*see* Section 11.2.409, *Special Use Permits*).

D. **Membership and Terms of Office.**

1. *Appointment*. The BZA shall consist of five members, which shall be appointed by the Mayor with the consent of the City Commission. In making said appointments, the City shall obtain from the county commission its requests for appointments of individuals who reside outside the City's corporate limits and in the extraterritorial jurisdiction area ~~three-mile zone~~ and, subject to the final statutory power of the Mayor to make said appointments, those recommendations shall be considered by the Mayor for said appointment. The county shall submit its requests for appointment in whatever numbers it desires, to give the Mayor a wide choice of candidates and the City shall publicize the appointment process to allow input from all interested parties in advance of the appointments. None of the members shall hold any other public offices in the City or county except that one member shall be a member of the Planning Commission. All BZA members shall reside within the planning area, with at least one member to reside outside of the City's corporate limits but within the extraterritorial jurisdiction area ~~three mile extraterritorial zoning jurisdiction~~ of the City.

2. *Terms*. All appointments for new terms shall be for three-year terms from May 1 of the year in which they are appointed.

3. *Vacancies*. Vacancies of the BZA shall be filled by appointment for the unexpired term only.

4. *Officers*. The BZA shall elect one of its members as chairperson, and one as vice-chairperson, who shall serve one year until their successors have been selected. A secretary, who need not be a BZA member, but may be an officer or an employee of the City or county, shall be appointed by the BZA and designated to perform all necessary administrative tasks.

5. *Compensation*. The BZA shall serve without compensation, but may be reimbursed for expenses actually incurred in the performance of their duties.

E. **Rules of Procedure.** The BZA shall adopt the rules of procedure as it may deem proper for the practical and efficient transaction of its business, subject to the City's *Charter Ordinances*, this Code, and state law.

1. *Meetings*.

a. Meetings of the BZA shall be held at the call of the Chairperson and at such other times as the BZA may determine.

b. Quorum. A majority, three members, of the BZA shall constitute a quorum for the transaction of business and all actions taken shall be by a majority of those voting.

c. If a member has three or more unexcused absences, this may be cause for removal from the BZA.

2. *Records*. The BZA shall keep minutes of its proceedings, showing evidence presented, findings of fact by the BZA, the decision of the BZA, and the vote upon each question; said record to be kept by the secretary.

Effective on: 5/6/2016

Division 11.1.300 City Staff and Other Review Boards

Sec. 11.1.301 Zoning Administrator

A. **Generally.** The Zoning Administrator is a member of the City staff who is ultimately responsible for processing an application to decision (in case of administrative approval) or recommendation to another development review body (in case of public meeting and hearing approvals). The Zoning Administrator shall designate staff members to manage applications through the review process and to be points of contact for applicants, and to perform such other functions and duties as may be required of the Administrator. The Zoning Administrator may also designate review responsibilities to other members of the City staff with relevant technical training or expertise, or, as appropriate, to consultants that are authorized by the City Commission.

B. **Duties and Responsibilities.** For the purpose of reference, the Zoning Administrator has the following duties and responsibilities. Such duties may be allocated and reallocated by the City Manager in the exercise of the responsibilities of that office without amendment to this Code:

1. *General Administration*. The Zoning Administrator shall:

a. Interpret the general intent and/or specific meaning of any portion of the text of this Code, position of district boundaries, district regulations, or other matters relating to the official zoning map;

b. Maintain the official zoning map and record all amendments to and information thereon;

c. Provide public information relating to zoning matters including scheduled meetings of the Planning Commission, Board of Zoning Appeals, or other board, committee, or commission assigned by the City Manager or City Commission;

d. Receive, process, and record all applications for development approval with accompanying plans and documents, all of which shall be a public record;

e. Appear before and provide assistance to the Planning Commission, Board of Zoning Appeals, or other board, committee, or commission assigned by the City Manager or City Commission; and

f. Revoke permits or certificates in violation of this Code.

2. *Processing Permits and Applications*. The Zoning Administrator or an appointee shall:

a. Receive and log applications for development approval;

b. Review application materials and verify that applications are complete;

c. Communicate with applicants to inform them that their applications are complete or not complete; and if the applications are not complete, what items are required to complete the application;

d. Manage the processing of applications according to Division 11.2.200, *Standardized Development Approval Procedures*;

e. Process and review all applications (or cause the applications to be reviewed) and either decide applications or make a recommendation regarding how the application should be decided (depending upon the type of application);

f. Set applications on agendas of the City Commission, Planning Commission, Board of Zoning Appeals, or other board, committee, or commission assigned by the City Manager or City Commission, as appropriate;

g. Provide public notice as may be required by the provisions in Section 11.2.208, *Public Notice*; and

h. Promptly issue written permits, resolutions, or other order or directive that reflect the substance of approval granted by the City.

3. *Recommendations*. The Zoning Administrator shall provide professional recommendations regarding:

a. Whether applications that are placed on an agenda of the Planning Commission, Board of Zoning Appeals, and City Commission comply with the requirements of this Code, and, if not, whether conditions of approval could be imposed to bring the application into compliance (including specification of such conditions).

b. Whether amendments to this Code or the Comprehensive Plan are advisable to among other things:

i. Bring the Comprehensive Plan or this Code into conformity with state or federal requirements as they change over time;

ii. Respond to changing demographics, physical conditions, technological advancements, or economic conditions;

iii. Implement amendments to the Comprehensive Plan or other adopted plans of the City; or

iv. Resolve errors, internal inconsistences, or other administrative matters.

c. Whether amendments to the Comprehensive Plan or this Code that are proposed by persons or bodies outside of the City are appropriate to serve their stated purposes.

4. *Approvals*. The Zoning Administrator shall decide the following types of applications, as set out in Division 11.2.300, *Administrative Approvals*:

   a. Zoning clearance permits for permitted uses;

   b. Zoning clearance permits for limited uses as set out in Article 2.2, *Land Uses*;

   c. Minor modifications to plat or parcel lines;

   d. Right-of-way encroachments;

   e. Administrative site plan permits; and

   f. Alternative compliance with the off-street parking schedule including through special studies for alternative parking.

5. *Assignments*. The Zoning Administrator is responsible for all other responsibilities as the City Manager may assign from time to time.

6. *Recordkeeping*. The Zoning Administrator shall maintain all records of development approval applications, including materials and outcomes.

7. *Inspection*. The Zoning Administrator, or designee, and in conjunction with the Director of Public Works, or designee, shall inspect site improvements and compliance with this Code and approved plans.

8. *Enforcement*. The Zoning Administrator, or designee, shall, on an ongoing basis, identify code violations and shall enforce the provisions of this Code and approvals granted hereunder pursuant to Division 13.1.200, *Enforcement*.

Effective on: 5/6/2016

Sec. 11.1.302 Director of Public Works

A. **Generally.** With respect to the administration of this Code, the Director of Public Works or a designee, is generally responsible for verifying that all standards and quality assurance requirements are met for public infrastructure improvements ~~public utilities~~. The Director of Public Works also establishes and promulgates construction standards for public improvements, parking areas, and other infrastructure.

B. **Duties and Responsibilities.** For the purpose of reference, the Director of Public Works has the following principal duties and responsibilities with respect to the administration of this Code (this list is not intended to be exclusive or limiting). Such duties may be allocated and reallocated by the City Manager in the exercise of the responsibilities of that office without amendment to this Code:

   1. *Plans*.

a. Prior to authorization of any construction permit, the Director of Public Works shall review and approve all such stream flow, runoff calculations, and drainage plans as required of a subdivider or developer under the terms of this Code.

b. In those instances when underground storm drainage facilities are reasonably accessible to a proposed development, the Director of Public Works shall determine any special design standards required to connect an on-site drainage system to the City's public utilities.

c. Review and provide recommendations pertaining to the maneuvering space for refuse containers.

d. Promulgate and maintain a manual of standard subdivision and development specifications, however titled, for construction of infrastructure, as set out in Article 9.1, *Subdivision Design*.

e. Review, consider, and approve or disapprove all required improvements associated with the subdivision and development of land, as set out in Division 9.1.500, *Dedication of Land and Improvements; Fees in Lieu*.

f. Review and make a determination as to whether a subdivider or developer has complied with all applicable requirements of development before release any obligation of the subdivider or developer, as set out in Division 9.1.500, *Dedication of Land and Improvements; Fees in Lieu*.

g. Review and provide recommendations to the Planning Commission, together with the Zoning Administrator, for an area development plan proposed by a subdivider or developer regarding the proposed pattern and alignment of streets, as set out in Division 9.1.200, *General Requirements for Development Design*.

h. Review and make a determination as to whether additional right-of-way is required for arterial or collector streets due to unique site design requirements (*e.g.*, vertical curve, grade, clear sight triangles, turn lanes, medians, etc.), as set out in Division 9.1.200, *General Requirements for Development Design*.

i. Review and provide recommendations as to acceptable all-weather surface materials used in off-street parking areas, as set out in Section 5.2.207, *Surface and Maintenance of Off-Street Parking Areas*.

j. Review, consider, and determine whether greater corner clearance lengths are warranted or required, as set out in Section 5.3.104, *Access Spacing and Corner Clearance*.

k. Review and determine whether land clearing is necessary or warranted due to the interference of trees with utility easements, as set out in Section [@@443], *Land Clearing*, and Division 4.2.100, *Tree Protection and Care*.

2. *Inspections*. The Director of Public Works shall cause to make sufficient inspections to ensure compliance with the specifications set out in this Code. A registered engineer, employed by the subdivider or developer and approved by the Director of Public Works, may certify in writing to the Director of Public Works that such engineer has inspected improvements required by this Code and said inspection certification shall meet the terms

of this Code. If the improvement is intended to be dedicated to the City, the Director of Public Works shall make a final inspection of the improvements before reporting said conformance to the City Commission for consideration of acceptance and dedication to the City for permanent maintenance.

Effective on: 5/6/2016

Sec. 11.1.303 Chief Building Official

A. **Generally.** The Chief Building Official, or designee, shall review construction plans, issue building permits, and verify code compliance for all construction in the City to the extent permitted by state law.

B. **Duties and Responsibilities.** For the purpose of reference, the Chief Building Official has the following duties and responsibilities (this list is not intended to be exclusive or limiting). Such duties may be allocated and reallocated by the City Manager in the exercise of the responsibilities of that office without amendment to this Code:

1. *Permit Review*. The Chief Building Official reviews residential, nonresidential, mixed use, and other plan types, including plans for signs, to verify that the construction design meets the minimum building code requirements and applicable City ordinances.
2. *Inspection*. The Chief Building Official conducts and approves all building permit inspections to ensure that construction meets all applicable building code and other requirements (as applicable, including inspecting setbacks, foundation elevation, and fence and wall requirements set out in this Code).
3. *Recordkeeping*. The Chief Building Official maintains all records as it relates to the building permit process and inspections, including materials and outcomes.
4. *Interpretation*. The Chief Building Official interprets the building codes and other City ordinances as they relate to plans and permits.
5. *Arbitration*. The Chief Building Official interprets the building codes and other City ordinances as they relate to plans and permits.
6. *Approvals*. The Chief Building Official shall decide the following applications:
   a. Building permits;
   b. Sign permits; and
   c. Certificates of occupancy.

Effective on: 5/6/2016

Sec. 11.1.304 Floodplain Administrator

A. **Generally.** The Zoning Administrator, or designee, is appointed to administer and implement the provisions of the floodplain management regulations and the Zoning Administrator is designated as the City's duly designated enforcement officer. The Floodplain Administrator shall share in the administration and enforcement of all floodplain management regulations in this Code and other appropriate sections of 44 CFR (National Flood Insurance Program regulations) pertaining to floodplain management.

B. **Duties and Responsibilities.** Duties and responsibilities of the Floodplain Administrator include, but are not limited to:

1. Review of all applications for floodplain development permits to assure that sites are reasonable safe from flooding and that the floodplain development permit requirements set out in Section 11.2.310, *Floodplain Development Permit*, have been satisfied;
2. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from federal, state, or local governmental agencies from which prior approval is required by federal, state, or local law
3. Review all subdivision proposals and other proposed new development, including manufactured home parks and subdivisions, to determine whether such proposals will be reasonably safe from flooding;
4. Issue floodplain development permits for all approved applications;
5. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
6. Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse;
7. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
8. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved nonresidential structures have been floodproofed; and
9. When floodproofing techniques are utilized for a particular nonresidential structure, the Floodplain Administrator shall require certification from a registered professional engineer or architect.

Effective on: 5/6/2016

Sec. 11.1.305 Stormwater Superintendent

A. **Authorization**. The Stormwater Superintendent of the City is hereby authorized and directed to implement, administer, and enforce provisions of this Code, and to perform all functions and duties, and to exercise such authority and discretion as prescribed under this Code. The Stormwater Superintendent, with the approval of the City Manager or his/her designee, may delegate any of the powers, duties or functions prescribed under this Code. (Ord. No. 3832, §§ 1, 2, 4-14-2011)

B. **Power and Authority**. The Stormwater Superintendent shall have the power to:

1. Administer the acquisition, design, construction, maintenance, operation, extension, and replacement of the stormwater management system, including any real and personal property that is, will become a part of, or will protect the system;
2. Administer and enforce the applicable provisions of this Code and all appurtenant regulations, guidelines, and procedures relating to the design, construction, maintenance, operation, and alteration of the stormwater management system, including but not limited to, the flow rate, volume, quality, and/or velocity of the stormwater conveyed thereby;

3. Advise the City Manager on matters relating to the stormwater management system;
4. Review plans concerning the creation, design, construction, extension, and replacement of the stormwater management system and make recommendations to the City Manager;
5. Make recommendations to the City Manager concerning the adoption of ordinances, resolutions, guidelines, and regulations in furtherance of this Code and/or to protect and maintain water quality within the stormwater management system in compliance with water quality standards established by state, county, regional, and/or federal agencies, as now adopted or hereafter adopted or amended;
6. Analyze the cost of services and benefits provided by the stormwater management system and the structure of fees, service charges, fines, and other revenues of the stormwater utility at least once each year;
7. Make recommendations to the City Manager concerning the cost of service and benefits provided by the stormwater management system and the structure of fees, service charges, fines, and other revenues of the stormwater utility; and
8. Administer programs which may hereafter be established pursuant to this Code or pursuant to ordinances, resolutions, regulations, or guidelines hereafter adopted by the City Commission which would provide for credits and/or incentives that modify stormwater management service fees imposed against properties. (Ord. No. 3829, § 4, 4-14-2011)

Effective on: 5/6/2016

Sec. 11.1.306 Development Review Committee (DRC)

A. **Generally.** The Development Review Committee (DRC) is created to provide technical review of development plans, site plans, and plats to verify that they comply with this Code and with principles of good project design, and to make a recommendation to the Planning Commission with regard to same.

B. **Duties and Responsibilities.**

1. Review design of development plans, site plans, and plats for conformance with this Code; and
2. Submit recommendations to the Planning Commission based on design compliance on site plans, plats, and development plans.

C. **Membership.**

1. *Members*. The DRC is composed of:
   a. The Director of Public Works or the director's designated representative(s) with technical expertise related to streets, utilities, stormwater, etc.;
   b. The Chief Building Official or the Chief Building Official's designated representative;
   c. The Fire Chief or the Fire Chief's designated representative;
   d. The Police Chief or the Police Chief's designated representative;

e. The Director of Utilities or the director's designated representative;

f. The Director of Parks or the director's designated representative; and

g. The Zoning Administrator of the Planning, Inspection, and Enforcement (PIE) Division or the Zoning Administrator's designated representative.

2. *Chairperson*. The Zoning Administrator or the Zoning Administrator's designated representative shall serve as the Chairperson of the DRC and shall submit such recommendations to the Planning Commission, or other board, committee, or commission as necessary.

D. **Rules of Procedure.**

1. *Meetings*.

a. The DRC shall meet as necessary to review and make recommendations on development plans, site plans and plats.

b. Meetings shall be called by the Zoning Administrator.

2. *Recommendations*. The Zoning Administrator shall make a recommendation based on a consensus of the majority of the DRC.

Effective on: 5/6/2016

ARTICLE 11.2 PERMITS AND PROCEDURES

Division 11.2.100 Purpose and Applicability of Article

Sec. 11.2.101 Purpose

The purpose of this Article is to set out all the City's development approval procedures in one place, and to standardize them to the maximum practicable degree.

Sec. 11.2.102 Application; Required Permits

A. **Generally.** Development approvals (*e.g.*, permits) are required for development in the City, as set out in this Article, or by state and federal law. Other development approvals or permits may be required by state or federal law, applicable building codes, or the City's *Code of Ordinances*.

B. **Administrative Approvals Established.** Administrative approvals are those that are issued by the City staff without the requirement for a public meeting or hearing. The administrative approvals are set out in Table 11.2.102A, *Administrative Approvals*.

Table 11.2.102A Administrative Approvals					
Permit	Required For	Timing	Exceptions	Issued By	Cross-References[1]
USE PERMITS					
Certificate of Zoning Compliance	New land uses and changes in land use	Prior to establishment of a permitted and limited use	None	Planning Commission	*See* Section 11.2.301, *Certificate of Zoning Compliance* *See* Article 2.2, *Land Uses*, for lists of the permitted and limited uses
Temporary Use Permit	Temporary uses set out in Table 2.2.301, *Temporary Uses*	Prior to installation of temporary buildings or structures or establishment of a temporary use or event, whichever comes first	As set out in Division 2.2.300, *Temporary Uses*	Primarily the Planning Commission; however some may be processed as a special use	*See* Section 11.2.302, *Temporary Use Permit* *See* Division 2.2.300, *Temporary Uses*
Right-of-Way Encroachment	Encroachments into the public right-of-way in the C-3 District	Prior to issuance of a building permit	Permitted encroachments which are set out in Section 10.1.301, *Central Business (C-3) District Design Standards*	Planning Commission	*See* Section 11.2.303, *Right-Of-Way Encroachment* *See* Section 10.1.301, *Central Business (C-3) District Design Standards*
PERMITS AND PLANS					
Minor Changes to a Planned Unit Development Preliminary or Final Plan	Minor changes to an approved planned unit development preliminary or final plan	Prior to the construction or development that is within the area proposed to be modified	Major changes to a planned unit development plan require City Commission hearing and approval	Planning Commission	*See* Section 11.2.304, *Minor Changes to a Planned Unit Development Plan*
Land Clearing Permit	Sites that include	Prior to any land clearing	None, but may be combined	Planning Commission	*See* Section 11.2.305, *Land Clearing Permit*

	significant stands and/or numbers of protected trees that are being prepared for development or redevelopment		with Site Plan approval		*See* Article 4.2, *Tree Protection*
Sign Permit	Installation of a new or replacement sign	Prior to installation of sign or sign structure	Signs that do not require a permit, as set out in Section 7.1.102, *Application*	Planning Commission	*See* 11.2.307, *Sign Permit* *See* Chapter 7, *Signs*
Floodplain Development Permit	Construction and development within an area of special flood hazard	Prior to commencement of land disturbance activity or construction in an area of special flood hazard	None	Floodplain Administrator	*See* Section 11.2.311, *Floodplain Development Permit* *See* Article 9.3, *Flood Damage Prevention*
OTHER PERMITS					
Building Permit	Construction, reconstruction, improvement, or repair of any building or structure for which a permit is required by applicable building codes	Prior to commencement of construction	None	Chief Building Official	*See* Section 11.2.308, *Building Permit* *See* Chapter 11, *Buildings and Building Regulations*, of the City's *Code of Ordinances*
Certificate of Occupancy	Occupancy of a building or structure	Upon completion of construction or before a change in occupancy	None	Chief Building Official	*See* Section 11.2.309, *Certificate of Occupancy* *See* Chapter 11, *Buildings and Building Regulations*, of the City's *Code of Ordinances*

Recreational Vehicle (RV) Park Permit	All recreational vehicle (RV) parks	Prior to the establishment of an RV park	None	Chief Building Official	*See* Section 11.2.310, *Recreational Vehicle (RV) Park License*

TABLE NOTE:
[1] Cross-references are provided for cross-reference purposes only, and do not exempt the application from all applicable standards of this Code.

C. **Public Meeting and Hearing Approvals Established.** Public meeting and hearing approvals are issued by the City after compliance with the requirements of this Code is determined at a public meeting or hearing. Meeting approvals requiring a public hearing (and therefore public notice) are noted as applicable. The public meeting and hearing approvals are set out in Table 11.2.102B, *Public Meeting and Hearing Approvals*.

Table 11.2.102B
Public Meeting and Hearing Approvals

Permit	Required For	Timing	Exceptions	Issued By	Cross-References[1]
NO PUBLIC HEARING REQUIRED					
PLANS AND PLATS					
Site Plan	New development, redevelopment, substantial improvement and expansion of multiple-family residential, nonresidential, and mixed use buildings in all districts, as well as special districts	Prior to building permit	Single-family dwellings on individual lots	Zoning Administrator	*See* Section 11.2.408, *Site Plan*
Master Sign Plan	Alternative standards for a unified development	Prior to installation of sign or sign structure	None	Planning Commission	*See* Division 11.2.404, Master Sign Plans *See* Chapter 7, *Signs*
PUBLIC HEARING REQUIRED					
USE PERMITS					
Special Use Permit	New special uses; changes	Prior to the establishment	None	Board of Zoning Appeals	*See* Section 11.2.409, *Special Use Permits*

	to a special use; material changes to or expansion of a special use; temporary uses that require Board of Zoning Appeal approval	or modification of a special use			*See* Article 2.2, *Land Uses*
TEXT AND MAP AMENDMENTS					
Rezonings	Changing the zoning district of a parcel from one district to another	Prior to any change in land use other than those that are permitted in the respective zoning district	None	City Commission upon recommendation by the Planning Commission	*See* Section 11.2.407, *Rezonings*
Text Amendment	Amendments to the text of this Code	N/A	None	City Commission upon recommendation by the Planning Commission	*See* Section 11.2.410, *Text Amendment*
Planned Unit Development - Preliminary Plan	Preliminary planned unit developments	Prior to submitting a final plan	None	City Commission upon recommendation by the Planning Commission	*See* Section 11.2.405, *Planned Unit Development, Preliminary Plan*
Planned Unit Development - Final Plan	Final planned unit developments	Prior to any change in land use and to the construction or development within the proposed area	None	City Commission upon recommendation by the Planning Commission	*See* Section 11.2.406, *Planned Unit Development, Final Plan*
VARIANCES AND APPEALS					
Administrative Appeal	Appeals from City staff decisions	Within 60 days of the decision appealed	None	Board of Zoning Appeals	*See* Section 11.2.401, *Administrative Appeals*
Appeals to City Commission	Appeals from decisions of the Planning	Within 30 days of the decision appealed	None	City Commission	*See* Section 11.2.403, *Appeals to City Commission*

	Commission				
Variances	Deviations from the standards of this Code	Prior to building permit for improvements for which a variance is required; concurrently with other applications for development approval that include variances	Prohibited uses shall not be allowed by variance	Board of Zoning Appeals	*See* Section 11.2.411, *Variances*
Floodplain Management Variance	Needed for deviations to the floodplain requirements	Prior to commencement of land disturbance activity or construction in an area of special flood hazard or flood-related erosion hazard as it relates to deviations to the minimum standards or requirements being varied	None	Board of Zoning Appeals	*See* Section 11.2.412, *Floodplain Management Variance*

TABLE NOTE:
[1] Cross-references are provided for cross-reference purposes only, and do not exempt the application from all applicable standards of this Code.

D. **Subdivision Approvals Established.** Subdivision approvals are issued by the City after compliance with the subdivision and design standards, and other applicable standards of this Code. Subdivision approvals are approved administratively and at both public meetings and hearings. The standards for each subdivision approval is set out in Table 11.2.102C, *Subdivision Approvals*.

Table 11.2.102C Subdivision Approvals					
Permit	Required For	Timing	Exceptions	Issued By	Cross-references[1]
PLANS AND PLATS					
Sketch Plat	All new development; all redevelopment that involves the destruction of existing buildings; and all expansions of more than 10 percent of the gross floor area of existing buildings	Prior to preliminary plat	Single-family dwellings on individual lots	Zoning Administrator; or Planning Commission by Appeal or Referral	*See* Section 11.2.501, *Sketch Plat*
Preliminary Plat	Subdivision of land and prior to submission of detailed construction drawings of all subdivision improvements	Prior to commencement of land disturbance activity and final plat approval, installation of public improvements, and issuance of applicable permits	None	Planning Commission	See Section 11.2.502, *Preliminary Plat*
Final Plat	Subdivision of land and acceptance of public improvements	Upon approval of the preliminary plat by the Planning Commission	Failure of the subdivider to pay the fees to record the plat within one year after approval shall render the final plat null and void	Planning Commission; acceptance of dedications by City Commission	*See* Section 11.2.503, *Final Plats*
Lot Splits	Lots divided into not more than two lots	Prior to the application of a site plan or building permit	Single-family attached or multi-family dwellings	City Manager	*See* Section 11.2.504, *Lot Splits*
Vacating Plat	Vacation of any recorded plat, street, alley, or other public reservation	Per *Kansas Statutes Annotated*	None	Planning Commission and /or City Commission	*See* Section 11.2.505, *Vacating Plats*

TABLE NOTE:
[1] Cross-references are provided for cross-reference purposes only, and do not exempt the application

from all applicable standards of this Code.

Effective on: 5/6/2016

Division 11.2.200 Standardized Development Approval Procedures

Sec. 11.2.201 Generally

A. **Generally.** This Section sets out the general process for review of applications for development approval. Generally, the review process is initiated with an application pursuant to the requirements of Section 11.2.203, *Filing of Application*, and proceeds through each subsequent Section (which describes a sequential step of the review process) until a decision is made on the application.

B. **Simultaneous Review.** In some cases, more than one approval or permit must be issued in order to authorize construction or establish a use. Typically, approvals are granted sequentially from the general (*e.g.*, rezoning to allow for the use or intensity requested) to the specific (*e.g.*, a building permit), with approvals of varying levels of specificity between (*e.g.*, preliminary plats, final plats, and/or site plans). However, an applicant may request that related approvals proceed simultaneously.

Effective on: 5/6/2016

Sec. 11.2.202 Pre-Application Conference

A. **Generally.**

1. A pre-application conference is recommended for all applications for development approval except applications for building permits for single-family detached dwellings or two-family dwellings, residential accessory buildings or structures, and signs. At the pre-application conference, the responsible official and other members of City staff, as appropriate, will meet with the applicant to review preliminary materials, identify issues, and advise the applicant regarding which applications and approvals will be required from the City and what information will have to be provided.

2. Informal meetings may be scheduled prior to a pre-application conference, at the discretion of the applicant and the City staff. Such meetings are recommended prior to the development of site plans and preliminary plats.

B. **Meeting Materials.**

1. The applicant shall bring to (or submit prior to) the pre-application conference sufficient supporting materials to explain:

   a. The location of the project;

   b. The proposed uses (in general terms);

   c. The proposed arrangement of buildings, parking, access points, open spaces, and drainage facilities;

d. The relationship to existing development;

e. The presence of natural resources, floodplains, and floodways on the parcel proposed for development; and

f. Any other conditions or items that the applicant believes are relevant to the processing of the application;

g. Any proposed utilities;

h. The proposed plat(s) or plans for subdividing.

2. The Zoning Administrator may request that the applicant bring completed application forms (in draft form) for the types of permits being sought.

Effective on: 5/6/2016

Sec. 11.2.203 Filing of Application

A. **Generally.** Every application for development approval shall be submitted on a form approved by the Zoning Administrator, along with the corresponding application fee.

B. **Applicant.**

1. *Owner/Authorized Agent*. Unless otherwise specified, applications for review and approval may be initiated by the owner of the property that is the subject of the application or the owner's authorized agent. When an authorized agent files an application on behalf of a property owner, the agent shall provide written documentation that the owner of the property has authorized the filing of the application. This requirement shall be satisfied upon the submittal of an application bearing the owner's name and signature.

2. *Representation of Facts*. It shall be unlawful for any person to knowingly or willfully misrepresent or fail to include any information required on any application. If development is approved upon an application that contains misrepresentations or fails to contain material facts required by the application, then the City shall place a stay or stop work order on the development or use, which shall remain in place until such time that the development review body receives the required information to its satisfaction (*see* Article 11.1, *Development Review Bodies*).

C. **Forms.**

1. The Zoning Administrator shall promulgate and periodically revise forms for each type of application.

2. Application forms shall include the specific information that is required to process each type of application. The specific information requirements shall be established and periodically revised by the Zoning Administrator or an appointee, and have the purpose of facilitating:

a. The evaluation of applications for compliance with the standards of this Code; and

b. The administration of this Code.

D. **Liens, Taxes, Assessments, and Debts to Public Entities.** No application for a permit or development approval will be processed for property that is the subject of outstanding liens, delinquent taxes, delinquent assessments, or any other delinquent debts, fines, or obligations to the City. This requirement shall be satisfied upon the submittal of a paid tax receipt or other documentation showing no such liens, taxes, assessments, debts, fines, or other outstanding obligations exist on the parcel proposed for development on the date of the filing of the application.

E. **Modifications to Application Requirements.**

1. *Waiver*. The Zoning Administrator may waive certain application requirements in order to tailor the requirements to the information necessary to review a particular application.
2. *Additional Requirements*. The Zoning Administrator or any representative of the City, service or utility provider, or county who has authority to review and/or approve applications may also add requirements to the application submittal when it is reasonably foreseeable that additional information will be needed to resolve questions of compliance with the requirements or other policies or plans of the City, any service or utility provider, or county that is associated with or may be affected by the project.

F. **Schedule.** The Zoning Administrator is authorized, but not required, to establish regular intake days for any or all classifications of applications for development approval, provided that:

1. The schedule is posted at City Hall and on the City's web site; and
2. The schedule provides for applications to be submitted:
   a. At least once per week for applications listed in Division 11.2.300, *Administrative Approvals*, except use, building, and occupancy permits, which shall not be limited to certain days.
   b. At least twice per month for applications listed in Division 11.2.400, *Public Meetings and Public Hearing Approvals*.
3. The schedule does not restrict the timing of notices of appeal.

Effective on: 5/6/2016

Sec. 11.2.204 Fees

A. **Fees Authorized.**

1. The City Commission shall, from time to time, establish fees for the processing and review of the various applications and reviews contemplated by this Code.
2. The fees shall be reasonable, but shall not exceed the actual costs of staff and consultant time in reviewing the applications.
3. The City Commission may provide for a flat fee, plus require the reimbursement of extraordinary costs to the City that are necessitated by an application, such as fees for expert technical review or advice.

B. **Relationship to Application.** No application is complete until all up-front fees for review are paid. The time period for processing an application after completeness review does not start unless the fees are paid (*see* Section 11.2.205, *Application Completeness Review*).

C. **Exception.** No fees shall be charged to any government agency for work being performed by the employees of the agency.

D. **No refunds.** Once an application has been accepted by the Zoning Administrator, and City staff reviews have been initiated, the filing fee is non-refundable.

E. **Periodic Review of Fee Schedule.** It is the intent of the City Commission to periodically review and update the fee schedule. The Planning Commission with input from the Zoning Administrator shall make a report and recommendations to the City Commission with regard to the fee schedule at intervals of not more than two years. The City Commission shall consider the report and initiate a revised fee schedule resolution as it considers appropriate.

Effective on: 5/6/2016

Sec. 11.2.205 Application Completeness Review

A. **Generally.** All applications for development approval shall be reviewed for completeness by the Zoning Administrator.

1. *Applications with Submittal Deadlines*. For application types that have an established submittal deadline, the application completeness review shall be complete no later than five business days after the specified submittal deadline.

2. *Applications without Submittal Deadlines*. For application types that do not have an established submittal deadline, the application completeness review shall be complete no later than five business days from the date the application is submitted.

B. **Incomplete Applications.**

1. Incomplete applications shall be returned to the applicant, along with any fee included with the application, with a written explanation that describes in general terms the materials that must be submitted in order to complete the application.

2. An application that does not include the applicable processing fee shall not be considered complete.

3. Incomplete applications are not considered filed.

C. **Complete Applications.** Complete applications shall be processed according to the applicable procedures of this Division.

Effective on: 5/6/2016

Sec. 11.2.206 Termination of Stale Applications

A. **Generally.** Applications for development approval must be diligently pursued by the applicant. Accordingly, this Section extinguishes applications that become stale due to inaction by the applicant.

B. **Expiration of Stale Applications.**

1. When an action by the applicant is required for further processing of an application (*e.g.*, submittal of supplementary documentation), the application shall become void six months after the date that the action is requested if:

   a. The applicant fails to take action; or

   b. The applicant fails to request an extension of time pursuant to Subsection C., below.

2. When an action by the applicant is required for further processing of an application for preliminary plat approval, the application shall become void 90 days from receipt of the application if the application has remained dormant during that period where no activity has occurred toward the completion of the application where changes or corrections are required or where instruments or documents requested or required is not forthcoming within that period from the property owner or authorized agent.

3. No refunds of application fees will be issued to applicants whose applications expire pursuant to this Section.

C. **Extension of Time.** The time for expiration of an application may be extended by up to six additional months upon written request of the applicant before the end of the period set out in Subsection B., above.

D. **Effect of Expiration.** Applications that expire pursuant to this Section shall automatically become null and void, closed and discarded without further notice or activity by the City. Any application proposal for a lot, parcel or tract, regardless of the commonality with an expired application, will be treated as a new application, subject to requirements in effect at the time of the most recent submittal, and with new fees.

Effective on: 5/6/2016

Sec. 11.2.207 Staff Review and Referral; Decision

A. **Generally.** Upon determination that an application is complete, the Zoning Administrator shall cause the application to be reviewed for technical compliance with all applicable requirements of this Code.

B. **Recommended Revisions.**

1. The Zoning Administrator shall provide comments from City staff, and others as necessary, to the applicant, who shall revise and resubmit materials with appropriate changes within the time required by Section 11.2.206, *Termination of Stale Applications*.

2. The resubmittal shall not require an application fee unless both of the following conditions are met:

   a. The revisions are not related to the comments or are incomplete; and

   b. Repeated failure to address comments requires more than three rounds of revisions.

C. **Administrative Recommendation or Decision.** Promptly after submittal of a complete application that addresses City staff comments:

1. If the application is for an administrative approval, the Zoning Administrator shall approve, approve with conditions, or deny the application, as appropriate.
2. If the application is for a public meeting or public hearing approval, the Zoning Administrator shall make a recommendation regarding the application and forward the recommendation to the next development review body, as described in Division 11.1.200, *Commissions and Boards*, that will consider it for further recommendation or approval.

D. **Meeting Logistics.**

1. If the application is for a public hearing approval, the Zoning Administrator shall set the application on the next available agenda of the development review body that will consider the application, consistent with the legal requirements for public notice, as set out in Section 11.2.208, *Public Notice*.
2. The Zoning Administrator shall coordinate with the applicable development review body to fix reasonable times for public hearings.
3. The Zoning Administrator shall notify the applicant regarding the time and place of a public hearing.

Effective on: 5/6/2016

Sec. 11.2.208 Public Notice

A. **Generally.** Public notice of public hearings shall be in accordance with this Section. Types of required notice are set out in Table 11.2.208, *Required Notice*.

Table 11.2.208
Required Notice[2]

Type of Public Hearing	Publication Notice	Written Notice
Administrative Appeals	Required	Required
Comprehensive Plan Amendments	Required	Required
Rezonings	Required	Required[1]
Special Use Permits	Required	Required
Text Amendments	Required	Required
Variances	Required	Required
Floodplain Management Variance	Required	Required

TABLE NOTES:
[1] If applicant initiated, written notice is not required when five or more property owners of record

owning 10 or more contiguous or noncontiguous lots, tracts, or parcels of the same zoning classification initiate a rezoning to a more restrictive classification. If City initiated, written notice is required (*see* K.S.A. § 12-757).
[2] Any application that requires a public hearing that is not included in this table shall be required to meet the minimum public notice requirements set out by the state for said application or approval.

B. **Technical Requirements for Notice.** All notices shall describe the action proposed to be taken and the date, time, and place of the public hearing. In addition, the following requirements apply based on the type of required notice.

1. *Publication Notice*. Notice shall be published at least 20 days prior to the public hearing date, or as provided by state law, in the official City newspaper, and shall fix the time and place of the public hearing and shall:

   a. Administrative Appeals, Comprehensive Plan Amendments, Specific Use Permits, and Variances: Describe the proposal in general terms.

   b. Rezonings and Text Amendments:

      i. General Revisions. Contain a statement regarding the proposed changes in regulations or in the boundary or classification of any zone or district; or

      ii. Specific Property. Contain a legal description or general description sufficient to identify the property under consideration (*see* K.S.A. § 12-757).

2. *Written Notice*.

   a. Rezonings. Written notice shall be mailed at least 20 days before the public hearing and contain a statement that a complete legal description is available for public inspection and where more information can be found.

      i. Within City Limits. Be mailed to all owners of record of real property within the area to be altered and to all owners of record of real property at least 200 feet from the area to be altered.

      ii. ~~Within Three-Mile Planning Area and~~ Outside City Limits. Be mailed to all owners of record of real property within the area and to all owners of record of real property at least 1,000 feet from the area to be altered.

   b. Comprehensive Plan and Text Amendments. Written notice is required to the board of county commissioners at least 20 days prior to the public hearing for any comprehensive plan or text amendment that involves areas outside of the City limits but within the extraterritorial jurisdiction ~~three-mile planning~~ area (*see* K.S.A. § 12-743).

   c. Administrative Appeals, Special Use Permits, and Variances. Written notice is required at least 20 days prior to the public hearing to all parties of interest, each owners of record of real property for the property (or properties) under consideration, and the Planning Commission.

C. **Computation of Time**. In computing the time periods for providing notice pursuant to this Section, the day of mailing or publication shall not be counted, but the day of the public hearing shall be counted.

D. **Constructive Notice.**

1. Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice in a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a location that is not substantial with respect to the general location of the property, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties.

2. When the notice has been properly addressed and deposited in the mail, failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing shall be strictly construed. If questions arise at the public hearing regarding the adequacy of notice, the development review body shall direct City staff to make a formal finding as to whether there was substantial compliance with the notice requirements, and such findings shall be made available to the development review body at the same meeting or prior to final action on the request.

E. **Republication may be Required.** Recommendations different than what was original provided for in public notice (*e.g.*, a recommendation of a zoning classification of lesser change) may require republication, and in some cases remailing (*see* K.S.A. § 12-757).

Effective on: 5/6/2016

Sec. 11.2.209 Public Meetings and Hearings

A. **Generally.** All meetings of elected and appointed commissions and boards shall be open to the public except as otherwise provided in the Kansas Open Meetings Act (KOMA), K.S.A. § 75-4317 *et seq*. However, not all decisions require public hearings. Therefore, recommendations and decisions that are authorized by this Code are classified as requiring a "public meeting" or "public hearing."

B. **Joint Meetings.** Any public meeting or hearing required by this Code or the laws of the state may be held jointly with any public meeting or hearing required to be held by any other commission or board of the City, except the Board of Zoning Appeals. Such joint meetings may be held after published notice as required by law.

C. **Public Meetings.** Any commission or board that is identified in Article 11.1, *Development Review Bodies*, except the Board of Zoning Appeals may establish a consent agenda. The consent agenda may consist of all matters brought before the commission or board for action that does not require a public hearing. All items on the consent agenda shall be approved simultaneously by motion without comment or debate. An item may be removed from the consent agenda prior to said approval at the request of any member of the commission or board present at the meeting, or by City staff. Items removed from the consent agenda shall be considered on the regular agenda.

D. **Public Hearings.**

1. *Procedures*. Commissions and boards will adopt rules of procedure for the conduct of public meetings and hearings. The following general procedures shall be reflected in the adopted rules of procedure:

   a. Any person may appear at a public hearing, submit evidence, and be heard.

   b. If a speaker represents an organization, the body conducting the hearing may request written evidence of that person's authority to speak on behalf of the group in regard to the matter under consideration.

   c. Persons appearing at a public hearing shall identify themselves and state their address and similar information about any organization they represent.

   d. Citizens, applicants, and the City have the right to present expert witnesses.

   e. The chairperson or presiding officer may impose a reasonable time limit on speakers and may limit testimony that is irrelevant or redundant.

2. *Representation*. Persons appearing before a commission or board may appear in person or through a representative or agent. The representative or agent shall provide satisfactory proof of his or her authority upon the request of the commission or board.

3. *Quorum*. The number of members of a commission or board that is required in order to constitute a quorum is set out in Article 11.1, *Development Review Bodies*, the City's *Charter Ordinances*, and the City's *Code of Ordinances*.

E. **Additional Recommendations.**

1. *Authority*. The City Commission, Planning Commission, Board of Zoning Appeals, or any other appointed commission or board, may, at their discretion, seek additional recommendations from any City department; other commission or board; ad hoc committee, task force, subcommittee, group or organization (*e.g.*, Chamber of Commerce); or others as felt necessary to make any decision or to gain insight or information related to any case or decision pending before them if within their purview to seek such evidence.

2. *Disclosure*. The additional recommendations shall be made a part of the record of the case and the contact and substance of the recommendation shall be disclosed before a decision on the case is made.

F. **Decisions.**

1. Except where this Code or *Kansas Statutes Annotated* (K.S.A.) provides otherwise, official action requires the favorable vote of a majority of a quorum present.

2. A favorable vote by the Board of Zoning Appeals shall be governed by K.S.A. § 12-759, as applicable.

3. Except when voice votes are authorized, a vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote.

G. **Conditions of Approval.** Some procedures set out in this Code authorize the decision-making body to impose such conditions upon the premises benefited by the approval as may be necessary to reduce, minimize or eliminate potential adverse impact upon other property in the area, or to carry out the general purpose and intent of the Comprehensive Plan and this Code. In such cases, any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both extent and amount to the anticipated impacts of the proposed use or development and / or shall carry out the general purpose and intent of the City's Comprehensive Plan and this Code. No conditions of approval, except for those attached to a variance approval, shall be less restrictive than the requirements of this Code.

H. **Approval; Effect of Approval.** Approval of an application shall be deemed to authorize only the particular use, plan, or other specific activity for which the approval was granted. Approvals shall run with the particular land for which approval is given, except that special use approvals may be conditioned upon operation of the use by the applicant, and text amendments to this Code are not related to particular parcels.

Effective on: 5/6/2016

Sec. 11.2.210 Continuances and Withdrawal

A. **Generally**. Consideration of applications for development approval may be continued, or applications withdrawn as provided in this Section.

B. **Continuances**.

1. *Request or Motion to Continue.* Consideration of an application may be continued upon motion of the City Commission, Planning Commission, Board of Zoning Appeals, or any other appointed commission or board related to the review and approval, or upon request of the applicant, before a decision is made on the application.

2. *Period of Continuation.* Should any item before a City Commission, Planning Commission, Board of Zoning Appeals, or other appointed commission or board, be postponed ~~tabled~~ in anticipation of information or events to occur prior to rendering a decision, such postponement ~~tabling~~ shall be no later than the second meeting following the meeting at which the time was postponed~~tabled~~.

3. *Decision Required.*

   a. If at the conclusion of the continuation period the item under consideration remains in the same or unchanged state or condition as existed when the item was initially tabled, the item shall be removed from the table, and shall either be approved based on the available information or shall be disapproved.

   b. If the item before the Planning Commission was a preliminary plat, the decision to approve or deny the plat shall be made within 14 calendar days of the Planning Commission meeting, unless the subdivider consents in writing to an extension of this time limit.

C. **Withdrawal**. Any application may be withdrawn, either in writing or on the record during the proceedings before the recommendation or decision is made.

Effective on: 5/6/2016

Sec. 11.2.211 Successive Applications

A. **Generally.** The City shall not hear successive applications for the same development approval after an application is denied. The limitations of this Section prevent the consideration of successive applications.

B. **Time Required Between Substantially Similar Applications.** The City shall not accept any application that is substantially similar to an application that was denied less than six months prior.

C. **Appeal and Waiver of Restrictions.**

1. The Zoning Administrator's determination that an application is substantially similar to a denied application is subject to administrative appeal (*see* Section 11.2.401, *Administrative Appeals*).

2. In the alternative to an appeal, the applicant may seek a waiver of the successive application rules from the City Commission, which may grant the waiver for good cause shown.

Effective on: 5/6/2016

Division 11.2.300 Administrative Approvals

Sec. 11.2.301 Certificate of Zoning Compliance

A. **Generally.** A certificate of zoning compliance is an administrative procedure in which the Zoning Administrator verifies that an application for development approval of a permitted or limited use complies with the requirements of this Code. A certificate of zoning compliance may be issued simultaneously with building permits or other required permits.

B. **Application.** Application requirements for a certificate of zoning compliance shall be on a form approved by the Zoning Administrator.

C. **Procedure.** Applications for certificates of zoning compliance are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.207, *Staff Review and Referral; Decision*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Zoning Administrator.

D. **Approval Criteria.**

1. *Permitted Uses*. Certificate of zoning compliance applications shall be approved if it is demonstrated that the proposed use or development conforms to the applicable standards of this Code.

2. *Limited Uses*. Certificate of zoning compliance applications shall be approved if it is demonstrated that the proposed use or development conforms to the applicable standards

of this Code and the additional applicable standards set out in Division 2.2.300, *Compatibility Standards for Limited and Special Uses*.

E. **Decision.** The Zoning Administrator shall approve, approve with conditions, or deny the application.

Effective on: 5/6/2016

Sec. 11.2.302 Temporary Use Permit

A. **Generally.** A temporary use permit is an administrative procedure in which the Zoning Administrator verifies that an application for a temporary use complies with the standards set out in Table 2.2.301, *Temporary Uses*. Proposed temporary uses which are designated as "T" in Table 2.2.301, *Temporary Uses*, shall be processed as special use permits as set out in Section 11.2.409, *Special Use Permits*.

B. **Application.** Application requirements for a temporary use permit shall be on a form approved by the Zoning Administrator.

C. **Procedure.** Applications for temporary use permits are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.207, *Staff Review and Referral; Decision*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Zoning Administrator.

D. **Approval Criteria.** Temporary use permits shall be administratively approved if it is demonstrated that they meet the applicable substantive requirements of this Code, particularly those specified in Division 2.2.300, *Temporary Uses*.

E. **Decision.** The Zoning Administrator shall approve, approve with conditions, or deny the application.

F. **Effect of Decision.** Approval of a temporary use permit allows the applicant to proceed in accordance with the approval, subject to a specified maximum duration of time, after which, the use shall cease.

Effective on: 5/6/2016

Sec. 11.2.303 Right-of-Way Encroachment

A. **Generally.** A right-of-way encroachment permit is an administrative procedure in which the Zoning Administrator verifies that an application for an encroachment into the right-of-way within the C-3 District is in conformance with the standards set out in Section 10.1.301, *Downtown District Design Standards*.

B. **Application.** Application requirements for a right-of-way encroachment shall be on a form approved by the Zoning Administrator.

C. **Procedure.** Applications for right-of-way encroachments are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.207, *Staff Review and Referral; Decision*, and shall be reviewed for comments by the DRC

(*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Zoning Administrator.

D. **Approval Criteria.** Right-of-way encroachments may be approved by the Zoning Administrator if it is demonstrated that they meet the substantive requirements of this Code. Those that do not meet the substantive requirements are subject to a variance.

E. **Decision.** The Zoning Administrator shall approve, approve with conditions, or deny the application.

Effective on: 5/6/2016

Sec. 11.2.304 Minor Changes to a Planned Development Plan

A. **Generally.** The Zoning Administrator is authorized to administratively approve minor changes or modifications to a planned development plan in accordance with this Section.

B. **Applicability; Minor Modifications Defined.** The Zoning Administrator is delegated the authority to approve an application to change or modify a planned development plan if it is demonstrated that the proposed change or modification will result in substantial adherence to the previous approval or planned development ordinance. In making this determination, the Zoning Administrator, in his or her discretion, may refer any application for change or modification under the Zoning Administrator's jurisdiction to the Planning Commission for review and recommendation to the City Commission. The minor changes or modifications must demonstrate the following:

1. Development density and intensity have not materially changed, in that:

   a. The number of buildings is not increased by more than 10 percent.

   b. The height of the building(s) is the same or less.

   c. The number of units is the same or fewer.

   d. The aggregate lot coverage and floor area ratio are the same or less.

   e. Density or intensity (floor area ratio) may be transferred from one building to another or from one stage of development to another, provided that the total floor area ratio is not changed.

2. Design has not materially changed, in that:

   a. The roadway patterns, including ingress-egress points, are in the same general location as shown on the original plans, and are no closer to the rear or interior side property lines than shown on the original plans.

   b. The parking area is in the same general location and configuration.

   c. The building setbacks are the same or greater distance from perimeter property lines, except that the building setbacks for detached single-family development, lot line, townhouse, and cluster development may be decreased, provided that such decrease is limited such that the resulting setback distance will be the greater of either:

      i. The zoning district regulations; or

ii. Any covenant, condition, or restriction regulating the setback for which a substantial compliance determination is sought.

d. The landscaped open space is in the same general location, is of the same or greater amount, and is configured in a manner that does not diminish a previously intended buffering effect.

e. The proposed perimeter walls and/or fences are in the same general location and of a comparable type and design as previously approved.

f. Elevations and renderings of buildings have substantially similar architectural expressions as those shown on the approved plans.

g. Recreational facilities either remain the same or are converted from one recreational use to another.

h. Recreational facilities may be added.

3. The proposed changes do not have the effect of creating any noncompliance or nonconformity with the strict application of this Code that were not previously approved at a public hearing, or of expanding the scope of existing variances or other approvals such that they would differ to a greater degree from the strict application of this Code.

C. **Application.** Application requirements for a minor change to a planned development shall be on a form approved by the Zoning Administrator.

D. **Procedure.** Applications for minor modifications to planned development plans are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.207, *Staff Review and Referral; Decision*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Zoning Administrator.

E. **Approval Criteria.** In reaching a determination as to whether a change is minor and may be approved by the Zoning Administrator or a major change or modification requiring a Planning Commission recommendation and City Commission approval, the Zoning Administrator shall use the following criteria:

1. Any increase in intensity or use shall constitute a modification requiring a Planning Commission recommendation and City Commission approval. An increase in intensity of use shall be considered to be an increase in usable floor area, an increase in the number of dwelling or lodging units, or an increase in the amount of outside land area devoted to sales, displays, or demonstrations.

2. Any change greater than 10 percent in parking areas resulting in an increase or reduction in the number of spaces approved shall constitute a change requiring a Planning Commission recommendation and City Commission approval.

3. Structural alterations significantly affecting the basic size, form, style, and location of a building, as shown on the approved plan, shall be considered a change requiring a Planning Commission recommendation and City Commission approval.

4. Any reduction in the amount of open space or bufferyard, or any change in the location or characteristics of open space, shall constitute a change requiring a Planning Commission recommendation and City Commission approval.
5. Any change in use from one use group to another shall constitute a change requiring a Planning Commission recommendation and City Commission approval.
6. Any change in pedestrian or vehicular access or circulation shall constitute a change requiring a Planning Commission recommendation and City Commission approval.

F. **Decision.**

1. The Zoning Administrator shall approve, approve with conditions, or deny the application.
2. The Zoning Administrator may refer the application to the Planning Commission if the Zoning Administrator finds that the proposed development entails a major change or modification in the planned development plan.

Effective on: 5/6/2016

Sec. 11.2.305 Land Clearing Permit

A. **Generally.** A land clearing permit is an administrative procedure in which the Zoning Administrator is able to ensure the protection of significant stands of trees and individual protected trees prior to the land being cleared of vegetative cover, or excavated, graded, or filled, in conformance with Article 4.2, *Tree Protection*.

B. **Application.** Application requirements for a land clearing permit shall be on a form approved by the Zoning Administrator .

C. **Procedure.** Applications for land clearing permits are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.207, *Staff Review and Referral; Decision*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Zoning Administrator.

D. **Approval Criteria.** Land clearing permits may be approved by the Zoning Administrator if it is demonstrated that they meet the substantive requirements of Article 4.2, *Tree Protection*.

E. **Decision.** The Zoning Administrator shall approve, approve with conditions, or deny the application.

Effective on: 5/6/2016

Sec. 11.2.306 Sign Permit

A. **Generally.** A sign permit is an administrative procedure in which the Zoning Administrator verifies that an application for a sign permit complies with substantive provisions of Chapter 7, *Signs*, and other applicable provisions of this Code.

B. **Application.** Application requirements for a sign permit shall be on a form approved by the Zoning Administrator.

C. **Procedure.** Applications for sign permits are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.207, *Staff Review and Referral; Decision*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Zoning Administrator.

D. **Approval Criteria.** Sign permits may be approved by the Zoning Administrator if it is demonstrated that they meet the substantive requirements of Chapter 7, *Signs*, or an approved sign design program alternate (*see* Section [@@547], *Sign Design Program Alternative*), which is approved by the Planning Commission.

E. **Decision.**

1. The Zoning Administrator shall approve, approve with conditions, or deny the application.
2. Sign permits may be issued simultaneously with building permits or other required permits.

F. **Revocation.** All permits authorizing the erection, location, or relocation of any display or advertising sign, billboard, or panel poster issued under this Code shall be subject to revocation at any time upon satisfactory evidence that any sign, billboard, or poster is maintained in an unsafe condition or in such a state of disrepair as to endanger the public.

Effective on: 5/6/2016

Sec. 11.2.307 Building Permit

A. **Generally.** A building permit is an administrative procedure in which the Chief Building Official verifies that an application to construct a building, structure, or other form of development complies with all building codes and applicable provisions of this Code.

B. **Application.** Applications for a building permit shall be as set out in Article VIII, *Building Permits*, of the City's *Code of Ordinances*.

C. **Procedure.** Applications for building permits are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.207, *Staff Review and Referral; Decision*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Chief Building Official.

D. **Approval Criteria.** Building permits may be approved by the Chief Building Official as set out in Section 11-480, *Issuance*, of the City's *Code of Ordinances*.

E. **Decision.** The Chief Building Official shall approve, approve with conditions, or deny the application.

Effective on: 5/6/2016

Sec. 11.2.308 Certificate of Occupancy

A certificate of occupancy is an administrative procedure in which the Chief Building Official issues a certificate of approval for the use and occupancy of a building or structure, thereby indicating that it was constructed in conformance with all building codes and applicable provisions of this Code (*see* Section 11-76, *Certificate of Occupancy*, of the City's *Code of Ordinances*).

Effective on: 5/6/2016

Sec. 11.2.309 Recreational Vehicle (RV) Park License

A. **Required.** A recreational vehicle (RV) park license is required to operate an RV park.

B. **Approval Criteria.** In districts where the use is special, review and approval by the Planning Commission is required in accordance with Section 11.2.209, *Public Meetings and Hearings*. In districts where the use is limited, RV park licenses may be issued administratively by the Chief Building Official if it is demonstrated that the application meets the applicable substantive requirements of this Code.

C. **Expiration.** All RV park licenses expire on December 31st of every year.

D. **Renewal.** Renewal applications are due no later than December 15th of any given year and shall:

1. Form. Be made on a form approved by the Chief Building Official; and
2. Changes. Include any changes in information that have occurred since the original license was issued, or the latest renewal was granted.

E. **Owner/Operator Transfer.**

1. Notification. The owner/operator who is designated on the RV park license shall give notice in writing to the Chief Building Official within 10 days after having sold, transferred, given away, or otherwise disposed of interest or control (*e.g.*, changing operators) of any RV park.
2. Review and Approval. The City will review and approve the owner/operator change if the RV park has been brought in compliance with all standards set out in Section 9.1.305, *Recreational Vehicle (RV) Parks*.

Effective on: 5/6/2016

Sec. 11.2.310 Floodplain Development Permit

A. **Generally.** A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in areas described in Section 9.3.104, *Application*. No person, firm, corporation, or unit of government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

B. **Application.** Approval or denial of a floodplain development permit by the Floodplain Administrator shall be based on all applicable provisions set out in Article 9.3, *Flood Damage Prevention*, and the following:

1. Description of the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
2. Identify and describe the work to be covered by the floodplain development permit;

3. Indicate the use or occupancy for which the proposed work is intended;
4. Indicate the assessed value of the structure and the fair market value of the improvement;
5. Specify whether development is located in designated flood fringe or floodway;
6. Identify the existing base flood elevation and the elevation of the proposed development;
7. Give such other information as reasonably may be required by the Floodplain Administrator;
8. Be accompanied by plans and specifications for proposed construction; and
9. Be signed by the applicant or his authorized agent who may be required to submit evidence to indicate such authority.

C. **Procedure.** Applications for floodplain development permits are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.207, *Staff Review and Referral; Decision*, and shall be reviewed for comments by the Floodplain Administrator, which may be recommended to others as applicable.

D. **Approval Criteria.** A floodplain development permit may be approved by the Floodplain Administrator if it is demonstrated that is meets the requirements set out in Article 9.3, *Flood Damage Prevention*.

E. **Decision.** No permit for any construction or development in any flood hazard area shall be issued until a floodplain development permit has been issued by the Floodplain Administrator.

Effective on: 5/6/2016

Sec. 11.2.311 Stream Corridor Development Requirements

A. **Definition of Stream Corridor**. All persons required to submit a development application pursuant to this Chapter shall, on the required submittals for the particular development type, show the exact location of the stream corridor and its inner and outer zones. Stream corridor and zone location information must be accurately delineated on a legal property survey. If the proposed use within a stream corridor is agriculture-related, an Agriculture Resource Management Plan (ARMP), including Best Management Practices (BMPs) for erosion, nutrient, fertilizer, herbicide and pesticide control, consistent with the requirements of Kansas Department of Agriculture, also shall be submitted for review.

B. **Staff Review**. The Director of Public Works will review the location of the stream corridor, as shown in the development application, to determine whether it is consistent with the defined stream corridor for the designated segment. If a discrepancy arises, the applicant may request that the Director of Public Works, or a designee, perform a site visit to view conditions on site with the applicant to assist in making this determination. This determination shall be reported to the relevant decision maker as part of the Director of Public Works' comments on the subject development application and shall also be reported to the applicant.

C. **Notice of Inconsistency**. If the Director of Public Works determines that the locations shown in the development application are not consistent with the defined stream corridor for the designated segment, as defined and incorporated in Sec. 2.1.402, *Stream Corridor Defined*, the

applicant shall be provided written notice of the inconsistency. The decision of the Director of Public Works shall be final.

D. **Approval Process**. All development applications covering land partially or wholly included within the stream corridor shall be processed, considered, and acted upon in accordance with the procedures set out in this Article for the type of development application submitted.

E. **Conditions of Approval**. The Director of Public Works shall have the authority to attach conditions to the approval of any development application as deemed necessary to alleviate adverse impacts on stream corridors and to carry out the provisions of Division 2.1.400, Stream Corridor Overlay District.

F. **Deviations from Requirements Applicable to Lands Within Stream Corridors**.

1. *Allowed Deviations*. When considering any development application, the Director of Public Works, or designee, may:

   a. Approve a reduction in the yard and setback requirements established by the underlying zoning district, of up to 25 percent, to maintain the width of the stream corridor; and

   b. Alter the outer boundary of the outer zone of the mapped stream corridor allowing the width of the outer zone to become narrower than mapped at some points within the property, that is included in the subject development application, to allow for the presence of an existing structure, as long as the inner zone is not altered by the narrowing, and no new structures are built within the floodplain.

2. *Decision Criteria*. The decision to approve or deny a request for a deviation from requirements applicable to lands within a stream corridor shall be based on the following considerations:

   a. Sensitivity of the stream segment and affected critical habitats;

   b. Intensity of land use adjacent to the stream segment proposed for a reduced stream corridor width; and

   c. Impact on the floodplain and stream functions.

3. *Non-Approval*. A stream corridor deviation shall not be approved when the reduction would result in the stream corridor being narrower than the floodplain or a width that does not include adjacent land with a slope of greater than 15 percent.

G. **Variance**. If an applicant believes that the requirements of this Section or Division 2.1.400, *Stream Corridor Overlay District*, will result in an unnecessary hardship, the applicant may seek a variance through the procedures set out in Sec. 11.2.411, *Variances*.

H. **Appeal**. Any applicant who believes that the Director of Public Works has incorrectly determined that the development application is inconsistent with the defined stream corridor for the designated segment may appeal the decision of the Director of Public Works using the procedure set out in Sec. 11.2.402, *Administrative Appeals of Stream Corridor Requirements*.

Effective on: 5/6/2016

Sec. 11.2.312 Appeal of Stormwater Management Service Fee

A. **Appeal Procedures**. Owners of nonresidential developed property, for which a stormwater management service fee has been imposed, who disagree with the calculation of the stormwater management service fee may appeal the calculation or finding to the Stormwater Superintendent. The owner/appellant must file a written notice of appeal with the Stormwater Superintendent on or before 12:00 noon on December 31 of the current fiscal year being appealed. The appealing party, by the date set in writing by the Stormwater Superintendent which shall not be less than seven days after receipt of written notice of appeal, shall provide information concerning the basis of the appeal, including a land survey prepared by a registered surveyor showing dwelling units, total property area, type of surface material and impervious area, as appropriate, and any other information that the Stormwater Superintendent shall request in writing to the appellant. The Stormwater Superintendent may waive the submission of a land survey, if the Stormwater Superintendent determines that the survey is not necessary to make a determination on the appeal. Based on information provided, the Stormwater Superintendent shall make a determination as to whether the stormwater management service fee and/or the credit should be adjusted for the subject property, if applicable. The Stormwater Superintendent shall notify the appellant in writing of the decision.

B. **Appeal Decision of Stormwater Superintendent**. The owner/appellant shall have the right to appeal the decision of the Stormwater Superintendent to the City Manager. Such appeal shall be made within 10 days of the date of the Stormwater Superintendent's written decision and shall be perfected in the same manner as the original appeal. The City Manager shall consider the appeal and issue a written decision on the appeal within 30 days of receipt of the perfected appeal.

C. **Burden of Proof**. In all instances, the burden of proof shall be on the appellant to demonstrate, by clear and convincing evidence, that the determination of the Stormwater Superintendent, from which the appeal is being taken, is erroneous.

D. **No Stay of Imposition**. The filing of a notice of appeal shall not stay the imposition, calculation or duty to pay the fee. The appellant shall pay the stormwater management service fee, as stated in the billing, to the City Clerk. If either the Stormwater Superintendent or the City Manager determines that the appellant should pay a fee amount less than the amount appealed from, or receive a credit, if applicable, the City shall issue a check to the appellant in the appropriate amount within 10 business days of the date of the applicable written decision, which in no event shall be more than the amount of the fee paid by the appellant as of the date the check is issued. If any credit due is larger than the amount paid and additional fees are due for the same fiscal year, the City will issue any remaining credit within 10 business days after the remaining fees have been paid in full. (Ord. No. 3829, § 7, 4-14-2011)

Effective on: 5/6/2016

Division 11.2.400 Public Meetings and Public Hearing Approvals

Sec. 11.2.401 Administrative Appeals

A. **Generally**.

1. *First Review*. It is the intent of this Code that all questions of interpretation and enforcement shall first be presented to the Zoning Administrator (*see* Section 13.1.102, *Interpretation, Official)*.

2. *Appeal*. Appeals from decisions of the Zoning Administrator or other administrative official are heard by the Board of Zoning Appeals (BZA) as provided in this Section.

B. **Applicability**. Appeals to the BZA may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the Zoning Administrator or other staff person set out in Article 11.1, *Development Review Bodies*, provided that:

1. The action by the Zoning Administrator, or administrative official, is dispositive with respect to the application or a material part of it;

2. There is no other specific appellate procedure provided for the application type in this Code or in state law (*e.g.*, the appeal is related to a building code requirement subject to the jurisdiction of the Building Trades Board or the action could be handled via the variance process, etc.); and

3. The administrative appeals process is not used to address or resolve disputed questions of fact or law in connection with an enforcement action, nor to seek relief from an enforcement action.

C. **Application.**

1. Application requirements for an administrative appeal shall be on a form approved by the Zoning Administrator, which shall at a minimum include the following:

   a. A copy of the order, requirement, decision or determination of the Zoning Administrator, or administrative official, which the appellant believes to be in error.

   b. A clear and accurate written description of the proposed use, work or action in which the appeal is involved, and a statement justifying the appellant's position.

   c. A plot plan (when necessary), drawn to scale, in duplicate, showing existing and proposed plans for the area in question.

2. Such appeal shall be made within 60 days after the decision has been rendered by the Zoning Administrator or administrative official. No appeal shall be heard if the application is untimely.

D. **Procedure.**

1. Applications for a administrative appeals are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.209, *Public Meetings and Hearings*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the BZA.

2. An appeal stays all proceedings in continuance of the action appealed from, unless the Zoning Administrator certifies to the BZA, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be

stayed otherwise than by a restraining order which may be granted by the BZA or by a court of record on application or notice to the Zoning Administrator on good cause shown.

E. **Approval Criteria.**

1. The BZA shall have the power to review the decision of the Zoning Administrator, or administrative official, de novo, but shall not consider new evidence that was not available to the Zoning Administrator or administrative official.
2. The BZA shall render a final written decision within 30 days after conclusion of the public hearing for an appeal alleging error.
3. To support its decision and resolution of the questions and issues raised in the proceedings, the BZA shall adopt findings of fact and may include mixed questions of law and fact.

F. **Decision.**

1. In determining an appeal alleging error, the BZA may, as long as such action is in conformity with the terms of this Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, including directing the issuance of a permit.
2. The BZA, in deciding any appeal alleging error, may prescribe such supplementary conditions, limitations and safeguards which are not in conflict with this Code and which is deemed necessary to protect the public health, safety, and interest and neighboring properties. Such supplementary conditions, limitations and safeguards shall be made a part of the proceedings and shall be incorporated in the final decision.

G. **Appeals of BZA Decisions.** Within 30 days from the date of a BZA final decision, any person aggrieved thereby, may maintain an action in a district court of Ellis County, Kansas, to determine the reasonableness of such final decision (*see* K.S.A. § 12-760).

Effective on: 5/6/2016

Sec. 11.2.402 Administrative Appeals of Stream Corridor Requirements

A. **Applicability**. The Board of Zoning Appeals (BZA) shall hear and decide appeals of final decisions made by the Public Works Director regarding the requirements of Division 2.1.400, *Stream Corridor Overlay District*, and Sec. 11.2.312, *Stream Corridor Development Requirements*. An appeal to the Board of Zoning Appeals (BZA) may be taken by any applicant aggrieved by any decision of the Director of Public Works requiring the applicant to conform to a development application covering land included within a stream corridor and who alleges that the final decision of the Director of Public Works constitutes a "taking" without just compensation under the 5th Amendment to the United States Constitution or under the Kansas Constitution. On appeal, the burden will be on the appellant to establish, by the preponderance of the evidence:

1. With respect to a requirement, which is imposed as a condition of approval of the development application, that the applicant convey to the City of Hays an interest in land:
   a. That there is not an essential nexus between the challenged requirement and the public purposes sought to be achieved by the challenged requirement, or

b. That, through an individualized determination, the challenged condition is not roughly proportionate both in nature and extent to the impact of the development proposed in the development application; and

2. With respect to other requirements imposed by Division 2.1.400, *Stream Corridor Overlay District*, and Sec. 11.2.312, *Stream Corridor Development Requirements*, that:

a. The requirements result in a denial of all beneficial economic or productive use of the property; or

b. The requirements constitute a permanent physical occupation or invasion of the applicant's property; or

c. The requirement does not substantially advance a legitimate state interest; or

d. The burden that the requirement places on the applicant is greater than the benefit that the requirement confers on the general public, considering all of the following and any other relevant factor:

i. The temporal relationship between the effective date of this Code and the date the applicant (or if the applicant is not the landowner, the date the landowner) acquired the property that is the subject of the development application;

ii. The degree of interference created by the challenged requirements with the applicant's reasonable investment-backed expectations that the property could be developed free of the impacts of the challenged requirements;

iii. Whether, and if so the extent to which, the development proposed by the applicant is prejudicial to the health, safety, or general welfare of others or constitutes a nuisance or nuisance-like activity;

iv. The extent to which the challenged requirements achieve important public purposes;

v. The economic impact of the challenged requirements on the applicant's (or if the applicant is not the landowner, the landowner's) entire parcel and contiguous parcels commonly owned, as determined through a comparison of the value of this ownership without application of the challenged requirements with its value with application of the challenged requirements; and

vi. That the applicant is not necessarily entitled to the most profitable use of the property.

B. **Aggrieved Party**. Appeals to the Board of Zoning Appeals (BZA) may be taken by any person aggrieved, or by any officer, department head, or any government agency or body affected by any decision of the Director of Public Works, who alleges there is an error in any order, requirement, decision, or determination made by the Director of Public Works in the enforcement or administration of this Code, including, but not limited to, all application request for a development permit.

C. **Variances**. The Board of Zoning Appeals (BZA) may authorize in specific cases, pursuant to the procedures and provisions set out in Sec. 11.2.410, *Variances*, a variance from the specific terms

of this Code. In addition to the criteria set out in Subsection F, *Approval Criteria*, of Sec. 11.2.410, *Variances*, the Board of Zoning Appeals (BZA), in determining whether the requested variance will not be contrary to the public interest, that the spirit of this Code shall be observed, that public safety and welfare secured, and substantial justice done, shall give consideration which shall include, but not be limited to, all technical evaluations, all relevant factors and standards specified in other provisions of this Code, and the additional criteria set out below.

D. **Written Appeal**. The appeal shall be in writing and a copy shall be simultaneously provided to the Director of Public Works. The written appeal shall identify the specific grounds for the appeal, including the exact locations of the stream corridor that the applicant disputes. The notice shall also be accompanied by a Stream Corridor Delineation Report, which shall include:

1. A surveyed site plan covering all property that is the subject of the development application, which shows the property's topography;
2. Drainage flow on the property;
3. The location of streams;
4. The edge of bank of the streams;
5. The inner and outer zones of the stream corridor;
6. A tree and native vegetation inventory;
7. A delineation of areas with slope greater that 15 percent (with the percentage slope shown);
8. Critical habitat contiguous to the streams;
9. Drinking water sources on the property;
10. Related water right information for each stream;
11. Designation of the floodplain; and
12. All other information required by the Board of Zoning Appeals (BZA) to be submitted for its consideration.

E. **Burden**. On appeal, the burden will be on the appellant to establish, by clear and convincing evidence, that the development application is consistent with the defined stream corridor for that designated stream segment, as defined by Sec. 2.1.402, *Stream Corridor Defined*.

F. **Written Decision**. The Board of Zoning Appeals (BZA), after considering all evidence presented by the applicant in support of the appeal and any evidence presented by the Director of Public Works in rebuttal or otherwise presented in relation to the appeal, shall render a written decision. If the Board of Zoning Appeals (BZA) determines that the applicant has not met the requisite burden of proof, it shall affirm, wholly or partly, the decision of the Director of Public Works. If the Board of Zoning Appeals (BZA) determines that the applicant has met the requisite burden of proof, it may reverse or modify the decision of the Director of Public Works and make a decision respecting the development application as it determines is appropriate. In making this new decision, the Board of Zoning Appeals (BZA) may attach any condition it deems necessary to further the purposes of this Code.

G. **Appeal to District Court**. Any person or persons jointly or severally aggrieved by any final decision on appeal may present to the District Court of Ellis County, Kansas, a petition duly verified appealing the decision. The petition shall set out that the decision is illegal, in whole or in part, and specify the ground of its illegality. The petition shall be presented to the court within 30 days after the decision is issued or it shall be barred.

H. **Notification; Recordation**. The following title and plat notification requirements concerning stream corridors and associated development and use restrictions shall be required.

1. *Notice on Title*. The owner of any property within a stream corridor, upon the approval of a development application covering property containing a stream corridor (which does not involve the approval of a final plat) shall record a notice of presence for each stream corridor with the Ellis County Register of Deeds. This recording shall contain notice of the stream corridor, the application of Division 2.1.400, *Stream Corridor Overlay District*, to the property, and the limitations on actions in or affecting such steam corridor. The applicant must submit proof that the notice has been legally recorded before the final approval for development is issued. The notice shall run with the land. Failure to provide this notice to any purchaser prior to transferring any interest in the property shall be in violation of this Code. The notice shall be substantially as set out below:

a. STREAM CORRIDOR NOTICE:

i. Legal Description:

ii. Present Owner:

iii. Notice: This property is located within or contains the following stream corridor, as defined and regulated in the City of Hays Unified Development Code, Division 2.1.400, *Stream Corridor Overlay District*:

iv. Restrictions on the use or alteration of land within the Stream Corridor may apply.

v. Application #___ filed on (Date).

vi. Signature of owner(s).

vii. Notarization:

viii. State of Kansas }

ix. _____ County }

x. On this day personally appeared before me to me known to be the individual(s) described in and who executed the within and foregoing instrument and acknowledged that they freely and voluntarily signed the same for the uses and purposes therein stated.

xi. Given under my hand and official seal this day of ___.

xii. Notary Public in and for the state of Kansas, residing at ___.

2. *Notice on Plat*. For all subdivision proposals within the stream corridor, the applicant shall include a notice on the face of the plat. The notice shall be substantially as set out below:

a. Notice: This site lies within a protected stream corridor, as defined and regulated in the City of Hays Unified Development Code, Division 2.1.400, *Stream Corridor Overlay District*.

b. Restrictions on the use or alteration of the stream corridor may apply.

Effective on: 5/6/2016

Sec. 11.2.403 Appeals to City Commission

A. **Generally.** Appeals from decisions of the Planning Commission are heard by the City Commission in accordance with this Section.

B. **Applicability.** The City Commission may decide appeals of dispositive decisions of the Planning Commission (*e.g.*, decisions regarding master sign plans) which are made during the processing of applications for development approvals pursuant to this Code. An asserted error in any development order, decision, determination, or refusal made by the Planning Commission in the application of this Code may be appealed to the City Commission, provided that:

1. The action is dispositive with respect to the application or a material part of it;
2. The appeal is not used to address or resolve disputed questions of fact or law in connection with an enforcement action, or to seek relief from an enforcement action.

C. **Application.**

1. Application requirements for appeals to the City Commission shall be on a form approved by the Zoning Administrator, which shall at a minimum include the following:
   a. A copy of the development approval, decision or determination of the Planning Commission, which the appellant believes to be in error.
   b. A clear and accurate written description of the proposed use, work or action in which the appeal is involved, and a statement justifying the appellant's position.
   c. A plot plan (when necessary), drawn to scale, in duplicate, showing existing and proposed plans for the area in question.
2. Such appeal shall be made within 30 days after the decision has been rendered by the Planning Commission. No appeal shall be heard if the application is untimely.

D. **Procedure.**

1. Applications for an appeal to the City Commission are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.209, *Public Meetings and Hearings*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the City Commission.
2. An appeal stays all proceedings in continuance of the action appealed from, unless the Zoning Administrator certifies to the City Commission, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate, a stay would, in

his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the City Commission or by a court of record on application or notice to the Zoning Administrator on good cause shown.

E. **Approval Criteria.**

1. The City Commission shall have the power to review the decision of the Planning Commission, de novo, but shall not consider new evidence that was not available to the Planning Commission.
2. The City Commission shall render a final written decision within 30 days after conclusion of the public hearing for an appeal alleging error.
3. To support its decision and resolution of the questions and issues raised in the proceedings, the City Commission shall adopt findings of fact and may include mixed questions of law and fact.

F. **Decision.**

1. In determining an appeal alleging error, the City Commission may, as long as such action is in conformity with the terms of this Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the Planning Commission.
2. The City Commission, in deciding any appeal alleging error, may prescribe such supplementary conditions, limitations and safeguards which are not in conflict with this Code and which is deemed necessary to protect the public health, safety, and interest and neighboring properties. Such supplementary conditions, limitations and safeguards shall be made a part of the proceedings and shall be incorporated in the final decision.

Effective on: 5/6/2016

Sec. 11.2.404 Master Sign Plans

A. **Generally**. Approval of a master sign plan allows prompt administrative approval of signs that are pre-approved by the Planning Commission and in accordance with the standards, criteria, and requirements set out in [@@528], *Master Sign Plans*.

B. **Applicability**. The master sign plan is applicable to development, redevelopment, and substantial improvements in the locations and for certain development types set out in Section [@@547], *Sign Design Program Alternative*.

C. **Application.** Application requirements for a master sign plan shall be on a form approved by the Zoning Administrator.

D. **Procedure.** Applications for a master sign plan are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.209, *Public Meetings and Hearings*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Planning Commission at a public meeting. The procedure shall incorporate the following additional requirements:

1. *Conformance Review, Master Sign Plan*. Applications for a master sign plan shall be submitted to the Zoning Administrator who will review the application and the master sign plan for conformance with the standards and contents set out in [@@528], *Master Sign Plans.*

2. *Conformance Review, Individual Signs*. The Zoning Administrator shall review all sign types (*e.g.*, attached, freestanding, temporary, etc.) for a parcel proposed for development, to determine the degree of compliance with Chapter 7, *Signs*, and shall report to the Planning Commission with regard to the degree of deviation from these standards, if any, that is sought by the applicant. The degree of deviation sought by the applicant shall be measured against the degree of compliance with the standards of [@@528], *Master Sign Plans*, as well as the applicable standards of Chapter 7, *Signs*.

3. *Recommendation*. A master sign plan shall be reviewed for comments by the DRC (*see* 11.1.306, *Development Review Committee*). A recommendation shall be sent by the Zoning Administrator to the Planning Commission for their consideration.

E. **Approval Criteria**. The Planning Commission may approve a master sign plan if it results in a substantially improved, comprehensive, and unified proposal compared to what is allowed through strict compliance with the sign regulations set out in Chapter 7, *Signs*.

F. **Decision**. The Planning Commission approve, approve with conditions, or deny the master sign plan.

G. **Effect of Decision**.

1. Upon approval by the Planning Commission of a master sign plan, all subsequent signs that are in conformance with the master sign plan shall not require an individual permit, but shall be subject to conformance review, as well as building, electrical, or other required permits.

2. The Zoning Administrator shall be the final decision as to the degree of compliance or deviation from the master sign plan pertaining to the approval and permitting of individual signs.

Effective on: 5/6/2016

Sec. 11.2.405 Planned Development, Preliminary Plan

A. **Generally.** Prior to the issuance of any zoning, building or occupancy permit in a planned development, the applicant shall prepare and submit a preliminary development plan for review and recommendation by the Planning Commission, and approval by the City Commission. In general, an application for a planned development shall be handled in the same manner prescribed for a rezoning application, including the same requirements for notice, advertisement of public hearing, protests, and adoption.

B. **Application.** Application requirements for a planned development preliminary plan shall be on a form approved by the Zoning Administrator, which at a minimum shall include the following:

1. *Site Plan*:

a. Contours at intervals of one foot;

b. General location, size and use of all proposed structures in conformance with the yard requirements;

c. All points of access (*e.g.*, ingress and egress), driveways, parking aisles and circulation, parking lots, parking spaces, and service areas;

d. All streets abutting the parcel proposed for development and the width of the existing right-of-way;

e. Areas set aside for common open space with the type of recreational facilities planned for each area indicated;

f. Designation of individual parcels if the parcel proposed for development is to be set up in separate construction phases;

g. Location of required bufferyards and screening; and

h. A vicinity map showing the general arrangements of streets within an area of 1,000 feet from the boundaries of the proposed planned development.

2. *Numerical Description*. Based on the proposed site plan described in Subsection B.1., of this Section, the following numerical descriptions are required, when applicable:

a. Net area in square feet or acres (Note: Net area does not include land dedicated or necessary to be dedicated for public street right-of-way. If more than one parcel is proposed, designate net area of each parcel as well as total net area.);

b. Density (maximum number of residential dwelling units per acre or a total of the dwelling units for the entire parcel proposed for development);

c. Gross floor area proposed in square feet for nonresidential buildings and structures;

d. Floor area ratio for nonresidential buildings and structures;

e. Lot coverage by individual parcel and total development;

f. Required number of on-street (if applicable) and off-street parking spaces; and

g. Acreage and percentage of common open space for the entire parcel proposed for development (Note: A minimum of 50 percent of the recreational facilities shall be constructed prior to the development of one-half of the project and all recreational facilities shall be constructed by the time the project is three-fourths developed).

3. *Written Description*. Based on the proposed site plan described in Subsection B.1., of this Section, the following written descriptions are required, when applicable:

a. The full legal description of the boundaries of the property to be included in the planned development;

b. Evidence that the applicant has sufficient control over the tract to effectuate the proposed plan, including a statement of all the ownership and beneficial interests in the tract of land and the parcel proposed for development;

c. A description of each type of housing that is proposed, and provisions for any allowed mix of housing types;

d. Standards for lot dimensions for each type of housing, expressed either as lot width and lot depth or lot width and lot area. Such standards may be expressed as averages;

e. Standards for setbacks or build-to lines for front, street side, interior side, and rear lot lines, which may be different for principal buildings and accessory buildings. Such standards may be presented in tabular or illustrated format;

f. Standards for setbacks or courtyards, if different from areas between required setback lines and lot lines;

g. Standards for the design of each type of building that is proposed in the development, which shall include:

   i. Architectural style / typology;

   ii. Typical architectural elements for each style / typology; and

   iii. Typical building materials for each style / typology.

h. A collection of illustrative elevations for each architectural style / typology, with standards that will ensure diversity of architectural presentation; or a collection of proposed elevations for each architectural style / typology, which demonstrates diversity of architectural presentation;

i. Standards for fences and garden walls, if different from those set out in Section 10.2.101, *Fences and Garden Walls*;

j. Standards for accessory buildings, if different from those set out in Section 10.2.103, *Accessory Buildings and Structures*;

k. A statement or adequate drawings describing the manner for the disposition of water, wastewater, and drainage;

l. Provisions for common area ownership and maintenance:

   i. When a planned development includes provisions for common open space or recreational facilities, a statement describing the provision that is to be made for the care and maintenance for such open space or recreational facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted; and

   ii. Copies of any covenants, conditions, and restrictions (CCRs) that are to be recorded with respect to property included in the planned development.

m. Sequencing or phasing plans:

   i. In the case where a planned development calls for construction in units over a period of years, a schedule showing the proposed time and sequence within which the applications for final approval of all sections of the planned development are intended to be filed shall be submitted; and

   ii. If more than one parcel is proposed, a statement relating to the sequence of development shall be included.

n. A written statement by the applicant shall be submitted setting forth the reasons why, in his or her opinion, a planned development would be in the public interest and would be consistent with the Comprehensive Plan and this Code.

C. **Procedure.** Preliminary plans for planned developments are processed according to the same sequential steps for rezonings set out in Section 11.2.407B, *Procedure*, of this Division.

D. **Approval Criteria.** Review and discussion by the Planning Commission and City Commission shall use the same approval criteria for rezonings set out in Section 11.2.407C, *Approval Criteria*.

E. **Decision.** Once the City Commission has received the initial, or after remanding, subsequent recommendation (if any), from the Planning Commission, it shall approve, approve with conditions, or deny the preliminary plan for a planned development.

F. **Effect of Decision.**

1. *Statement; Filing with Register of Deeds*. After approval of the preliminary plan for a planned development by the City Commission, the landowner or owners shall file with the register of deeds a statement that such plan has been filed and approved by the City Commission and is applicable to certain specified legally described land and that copies of such plan are on file in the office of the Zoning Administrator. Such statement recorded with the register of deeds shall also specify the nature of the plan, the proposed density or intensity of land uses and other pertinent information sufficient to notify any prospective purchasers or users of land of the existence of such a plan.

2. *Binding to Successors*. The statement shall also specify that the preliminary plan of the planned development shall become binding upon all successors and assigns unless amended in conformance with the statutes.

G. **Modifications.**

1. *Minor Modifications*. Minor modifications to preliminary plans of a planned development shall be in accordance with the provisions set out in Section 11.2.304, *Minor Changes to a Planned Development*, and may be administratively approved.

2. *Major Modifications*. Any proposed modification that does not qualify as a minor modification shall be considered a major modification. Major modifications of preliminary plans for planned developments require reapproval using the same process as the original approval, or a change in zoning district under the terms and procedures specified in the statutes for conventional zoning.

Effective on: 5/6/2016

Sec. 11.2.406 Planned Development, Final Plan

A. **Generally.** After approval of a preliminary plan and prior to the issuance of any zoning, building or occupancy permit, the applicant shall submit an application for final approval. The final application may include the entire planned development or may be for a unit or section of such planned development as set out in the approval of the preliminary plan.

B. **Application.** Application requirements for a planned development final plan shall be on a form approved by the Zoning Administrator, which at a minimum shall include such drawings, specifications, covenants, conditions, and restrictions (CCRs), easements, conditions and form or performance bond as set out in the approval of the preliminary plan and in accordance with the conditions established for planned developments.

C. **Procedure.** Applications for a planned development final plan are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.209, *Public Meetings and Hearings*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Planning Commission. The procedure shall incorporate the following additional requirements:

1. *Public Hearings not Needed; Approval*.

   a. A public hearing need not be held for the approval of a final plan if it is in substantial compliance with the approved preliminary plan; and a public hearing need not be held to consider modifications on location and design of streets or facilities for water, stormwater, sanitary sewers, or other public facilities.

   b. In the event a public hearing is not required for final approval and the application for final approval has been filed, together with all drawings, specifications and other documents in support of such plan, the Planning Commission shall, within 45 days of such filing, grant such plan final approval at a public meeting.

2. *Plan Variations; Denial*. In the event the final plan submitted contains variations from the plan given tentative approval, but remains in substantial compliance with the plan given tentative approval, the Planning Commission may, after meeting with the landowner, refuse to grant final approval and shall, within 45 days from the filing of the application of the final plan, so advise the landowner in writing of such refusal, setting forth in such notice the reasons why one or more of such variations are not in the public interest.

D. **Approval Criteria.** A planned development submitted for final approval shall be deemed to be in substantial compliance with the plan previously given tentative approval; provided, any modification by the landowner of the plan, as tentatively approved, does not:

1. Vary the proposed gross residential density or intensity of use by more than five percent or involve a reduction in the area set aside for common open space@192">open space, nor the substantial relocation of such area;

2. Increase by more than 10 percent the floor area proposed for nonresidential use; or

3. Increase by more than five percent the total ground area covered by buildings nor involve a substantial change in the height of buildings.

E. **Decision.** The Planning Commission, in reviewing the final plan in conformance with the preliminary plan, may approve or deny the final plan.

F. **Effect of Decision.**

1. *Denial*. The landowner may either treat the refusal as a denial of final approval and resubmit the final plan in accordance with the request of the Planning Commission, or he

or she may notify the Planning Commission within 60 days of notice of the date of refusal of his or her notice to appeal the decision. In the event such an appeal is filed, the Planning Commission shall schedule a public hearing, giving such notice as is required for preliminary approval. After a public hearing by the Planning Commission, and in the event the landowner is not in agreement with the decision of the Planning Commission, he or she appeal the decision to the City Commission for final decision (*see* Section 11.2.403, *Appeals to City Commission*).

2. *Approval*. A plan or any part of such plan which has been given final approval by the Planning Commission, or upon appeal to the City Commission, shall be so certified by the secretary of the Planning Commission, and shall be filed of record with the register of deeds immediately following the satisfying of all conditions precedent and conditioned upon such approval.

G. **Abandonment of or Failure to Commence Plan; Approval Termination.** In the event that a plan or section of such plan is given final approval and thereafter the landowner shall abandon such plan or the section of such plan finally approved, and shall so notify the Zoning Administrator of such abandonment in writing, or in the event the landowner shall fail to commence the planned development within 18 months after final approval has been granted, then such final approval shall terminate and shall be deemed null and void unless such time period is extended by the Planning Commission upon written application by the landowner.

Effective on: 5/6/2016

Sec. 11.2.407 Rezonings

A. **Generally.** The boundaries of any zoning district in the City or the City's extraterritorial jurisdiction ~~three-mile planning~~ area may be changed, or the zone classification of any parcel of land may be changed, as provided in this Section and in conformance with state law.

B. **Application.**

1. A rezoning may be initiated by the owner of the property to be rezoned or their authorized agent or representative, the City Commission, the Planning Commission, or by the Zoning Administrator. Rezoning applications by property owners and their agents or representatives shall be on a form approved by the Zoning Administrator and shall include all application requirements.

2. The Zoning Administrator may require the submission of such other information as may be necessary to permit the informed exercise of judgment under the criteria for the review of a rezoning application. Such information shall be related to the scale, location, and impacts of the rezoning application and may include, by way of illustration and not limitation, analysis of the capacity of the land to support development (*e.g.*, soil characteristics and hydrology) or the additional impacts (or reduction in impacts) that may be created by changing the district designation, in terms of: traffic (trip generation), drainage (flooding), visual, aesthetic, and land use adjacency impacts, water and wastewater use and availability, and other information determined by the City as necessary to make an informed analysis and decision.

C. **Procedure.** The Planning Commission shall hold a public hearing. Rezonings are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.209, *Public Meetings and Hearings*, and shall be decided by the City Commission after recommendation of the Planning Commission. The procedure shall incorporate the following additional requirements:

1. *Staff Review*. The Zoning Administrator shall review each proposed amendment in light of the approval criteria of Subsection D., below, and refer the application to the DRC (*see* Section 11.1.306, *Development Review Committee*) and other departments or entities as deemed necessary. Based on the results of those reviews, the Zoning Administrator shall provide a report and recommendation to the Planning Commission.

2. *Planning Commission Recommendation*.

   a. The Planning Commission shall prepare its recommendations and by an affirmative vote of a majority of its entire membership adopt the same in the form of a proposed zoning amendment and shall submit the same, together with the written summary of the hearing thereon, to the City Commission. The Planning Commission may recommend disapproval, approval, or approval with amendments, conditions or restrictions.

   b. Failure of the Planning Commission to issue a final report to the City Commission shall be interpreted as a final report with a recommendation of denial.

   c. Upon receiving the report of the Planning Commission, the Zoning Administrator shall draft an ordinance, submit it to the City Attorney for approval as to form, and shall forward the ordinance to the City Commission for consideration.

3. *City Commission Action*. Upon receipt of the written summary from the Planning Commission, the City Commission may:

   a. Approve such recommendations by the adoption of the same by ordinance;

   b. Override the Planning Commission's recommendations by a 2/3 majority vote of its membership; or

   c. Remand it to the Planning Commission for further consideration, together with a statement specifying the basis for the City Commission's failure to approve or disapprove.

      i. If the City Commission returns the Planning Commission's recommendations, the Planning Commission, after considering the same, may resubmit its original recommendations giving the reasons therefor or submit new and amended recommendations.

      ii. Upon the receipt of such recommendations, the City Commission, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by the respective ordinance or resolution, or the City Commission need take no further action thereon. If the Planning Commission fails to deliver its recommendations to the City Commission following the Planning Commission's next regular meeting after receipt of the City Commission's report, the City Commission shall consider such course of inaction on the part of the

Planning Commission as a resubmission of the original recommendations and proceed accordingly.

D. **Approval Criteria.** Review and discussion by the Planning Commission and City Commission shall include the following factors, which are based on the recommendation of the state supreme court:

1. Conformance with adopted Comprehensive Plan, including how the proposed zoning is preferable to the existing zoning in terms of its likelihood of advancing the goals, objectives, and policies of the plan;
2. Conformance with the future land use plan of the Comprehensive Plan. In this regard, a change in zoning may be considered a spot zoning (see Subsection E., *Spot Zoning*, below);
3. Conformance with any existing or pending plans for providing streets, water and wastewater, other public utilities, and the delivery of public services to the area in which the parcel proposed for a zone change is located;
4. Conformance with any other officially recognized, or adopted plan, considering the following location requirements:
   a. Manufacturing areas;
   b. Wholesale and related use areas;
   c. Region-service business areas;
   d. Public service facilities;
   e. Region-serving recreation and educational facilities;
   f. Residential communities.
5. Conformance with plans for the City's extraterritorial jurisdiction ~~three-mile planning~~ area, considering the following:
   a. Urban type development is not to be encouraged unless the City or the county agrees to provide the level of service necessary to provide a reasonable level of fire and police protection, a public water source, sanitation service, paved streets and administrative service, such as a coordinated street naming and addressing system.
   b. It is a generally accepted premise that all agricultural buildings and farmsteads are excluded from the comments in this Subsection.
   c. Rural-type development shall be constructed to minimum building code standards, especially in any public facility, to ensure a reasonable level of safety from fire, structural failure, asphyxiation, or sickness due to polluted water supply or improper handling of sewerage.
   d. Rural-type development shall be coordinated so that it does not interrupt the logical development pattern for future urban type of development.
6. The recommendation of City staff;

7. The relative gain to the public health, safety, and welfare by the destruction of the value of the owner's property as compared to the hardship imposed on the individual landowner;
8. The length of time the subject property has remained vacant as zoned, if applicable;
9. The extent to which removal of the restrictions will detrimentally affect nearby property;
10. The suitability of the subject property for the uses to which it has been restricted;
11. The zoning and uses of property nearby;
12. The character of the neighborhood;

E. **Spot Zoning.** As part of the consideration for approval, the Planning Commission and City Commission should remember that in a hearing for a request for rezoning, that they are actually considering an amendment to the Comprehensive Plan. As such, they should consider only the proposed change of classification and not the proposed particular use. The important consideration is that if a given zoning change is in accordance with the Comprehensive Plan, then it is not spot zoning. According to actual court cases, there are generally three tests on the existence of spot zoning:

1. The use permitted under rezoning is very different from the prevailing use in the surrounding area, usually a business use (occasionally an industrial use) in a residential area.
2. The area involved is rather small, one lot, or a few.
3. The change to a less restrictive district was not for the benefit of the community as a whole, but merely in order to provide an advantage (in effect, a special privilege) for a specific developer, or, alternatively, to relieve a small tract or the restrictions applying generally in the whole area.

F. **Decision.** Once the City Commission has received the initial, or after remanding, subsequent recommendation (if any), from the Planning Commission, it shall approve, approve with conditions, or deny the rezoning request.

G. **Effect of Decision.**

1. If the application is approved, the boundaries of the zoning map shall be modified to reflect the changed zoning classification identified by case number.
2. The proposed rezoning shall become effective upon publication of the respective adopting ordinance or resolution, unless a petition is filed as set out in Subsection H., *Recourse*, of this Section..

H. **Recourse.** In case of a protest against a rezoning, signed by the owners of record of 20 percent or more of the real property proposed to be rezoned, or signed by 20 percent or more of the real property owners within the area of where the written notice was sent (excluding streets and public ways, and any property included in the proposed rezoning if the property owner is in agreement with the proposed rezoning), such rezoning shall not become effective except by the favorable vote of three-fourths of all members of the City Commission (*see* K.S.A. § 12-757).

Effective on: 5/6/2016

Sec. 11.2.408 Site Plan

A. **Generally.** Prior to the issuance of a building permit for any development on an unimproved parcel proposed for development, excluding structures for agricultural uses, and for substantial improvement to existing development on an improved parcel proposed for development, a site plan shall be required.

B. **Application.** Application requirements for a site plan shall be on a form approved by the Zoning Administrator, including the following:

1. All studies as may reasonably be required by the Zoning Administrator, Planning Commission, or for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Zoning Administrator; and

2. Assurances of adequate public facilities.

C. **Procedure.** Applications for a site plan are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.209, *Public Meetings and Hearings*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Zoning Administrator.

D. **Approval Criteria.** In addition to the approval criteria considered in Section 11.2.407, *Rezonings*, the following criteria shall be considered when reviewing and deciding site plan approvals:

1. The site is capable of accommodating the buildings, parking lots, and parking aisles with appropriate open space;

2. The site plan provides adequate access, including safe and easy ingress, egress, and internal traffic circulation;

3. The site plan is consistent with good land planning and site engineering design principles;

4. The buildings and structures on the site plan are constructed in accordance with Chapter 10, *Buildings and Structures*;

5. The site plan represents an overall development pattern that is consistent with the City's Comprehensive Plan.

E. **Expiration.**

1. *Expiration*. Final site plan approval shall not be valid for a period longer than 12 months from the date it is approved, unless within such period a building permit is obtained and substantial construction is commenced and all additional building permits necessary to complete the project as approved in the final site plan completion schedule are obtained in a timely fashion as determined by the Zoning Administrator.

2. *Extension*. The City Commission may grant one extension not exceeding 12 months upon written request of the original applicant and resubmission of the application; provided however, the application, as resubmitted, shall be substantially the same as the initially approved application. The City Commission does have the power in such cases to attach new conditions to its re-approval or to disapprove the reapplication.

F. **Revised Site Plans.**

1. *Minor Alterations*. If the proposed changes or revisions are of a nature that the revised site plan is a minor alteration to existing development, the Zoning Administrator may administratively approve the revised site plan. If the approved plan is subsequently proposed to be in phases, the Zoning Administrator may approve the development in phases, which are self-contained and independently meet the requirements of this Section.

2. *Major Alterations*. If the proposed site plan represents a major alteration to an existing development, the applicant must apply for approval of the revised plan, and the site plan shall require new approval.

Effective on: 5/6/2016

Sec. 11.2.409 Special Use Permits

A. **Generally.** A special use is a use that is allowed within a zoning district, but which is subject to specific standards and a public hearing process in order to reduce the potential for incompatibility with other uses within the district. These uses commonly have the potential for various adverse impacts such as traffic congestion, noise, visual and aesthetic impacts, which if unmitigated, could undermine the integrity of the zoning district. The designation of a special use means that it is only allowed in a proposed location if all of the conditions applicable to the use are met. In addition to all the applicable requirements set out in this Code, special uses shall comply with the special conditions set out for that use in Division 2.2.300, *Compatibility Standards for Limited and Special Uses*, the considerations set out in Subsection D., below, and any additional special conditions established by the Board of Zoning Appeals during the review and approval process.

B. **Application.** Applications and application requirements for a special use permit shall be on a form approved by the Zoning Administrator.

C. **Procedure.** Applications for a special use permit are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.209, *Public Meetings and Hearings*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Board of Zoning Appeals.

D. **Approval Criteria.**

1. In no event shall special uses be granted where the use or contemplated is not specifically listed as a special use in this Code (*see* Division 2.2.200, *Permitted, Limited, Special, and Prohibited Uses)*. Further, under no conditions shall the Board of Zoning Appeals have the power to grant approval of a special use when the conditions, as established by this Code, are not found to be present.

2. After a public hearing, the Board of Zoning Appeals shall give consideration to the Comprehensive Plan, the public health, safety, morals, comfort and general welfare of the inhabitants of the City, and its extraterritorial jurisdiction ~~three-mile planning~~ area, and including, but not limited to, the following:

   a. The stability and integrity of the various zoning districts;

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. Provision for adequate light and air;

i. Prevention of overcrowding and excessive intensity of land uses;

j. Provision for public utilities;

k. Invasion by inappropriate uses;

l. Value, type and character of existing or authorized improvements and land use;

m. Encouragement of improvements and land uses in keeping with overall planning; and

n. Provision for orderly and proper urban renewal, development and growth.

E. **Additional Conditions.** The Zoning Administrator may recommend, and the Board of Zoning Appeals may attach, conditions of approval to the special use in order to mitigate its impacts (or reasonably foreseeable impacts) such that it complies with the criteria of Subsection D., above, and/or to assure and monitor continued compliance with this Code. Conditions shall be roughly proportional to the impacts to which they are addressed, taking into account the mitigating effects of applicable requirements set out in Division 2.2.200, *Permitted, Limited, Special, and Prohibited Uses*. The subject matter of conditions, by way of illustration and not limitation, may include:

1. Additional landscaping or buffering, or landscaping improvements;
2. Building or façade improvements;
3. Specification of hours of operation;
4. Limitations on the use or related activities;
5. Noise abatement measures;
6. Limitations on lighting, such as lighting curfews or restrictions on levels of illumination;
7. Measures to control, mitigate, or direct traffic;
8. Parking, loading, and site circulation adjustments;
9. Restrictions on outdoor displays, sales, or storage;
10. Standards and assurances regarding the maintenance of property;
11. Restrictions on signage that relate only to the sign structure, materials, lighting, placement, size, or type, but not to the content of messages displayed (unless such messages are not protected speech); and

12. An expiration date for the permit, before which the permit must be renewed in order for the special use to continue to operate.

F. **Decision.** The Board of Zoning Appeals may approve, approve with conditions, or deny the special use permit.

G. **Effect of Decision.** If the application is approved, the official zoning map shall be annotated to reference the approval by case number.

Effective on: 5/6/2016

Sec. 11.2.410 Text Amendment

A. **Generally.** The City Commission may amend the text of this Code in accordance with the procedures set out in this Section and Division 11.2.200, *Standardized Development Approval Procedures*, to implement the Comprehensive Plan, as may be amended from time to time, conform to state or federal legal requirements, address changing or changed conditions, or otherwise advance the public health, safety, and welfare of the City.

B. **Initiation of Amendment.** Petitions for amendments to this Code shall be made to the Zoning Administrator. The City Commission and any other development review body that is described in Article 11.1, *Development Review Bodies*, may initiate an amendment by motion.

C. **Procedure.** The Planning Commission shall hold a public hearing. Text amendments are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.209, *Public Meetings and Hearings*, and shall be decided by the City Commission after recommendation of the Planning Commission. The procedure shall incorporate the following additional requirements:

1. *Staff Review*. The Zoning Administrator shall review each proposed amendment in light of the approval criteria of Subsection D., below, and refer the application to the DRC (*see* Section 11.1.306, *Development Review Committee*) and other departments or entities as deemed necessary. Based on the results of those reviews, the Zoning Administrator shall provide a report and recommendation to the Planning Commission.

2. *Planning Commission Recommendation*.

   a. The Planning Commission shall prepare its recommendations and by an affirmative vote of a majority of its entire membership adopt the same in the form of a proposed zoning amendment and shall submit the same, together with the written summary of the hearing thereon, to the City Commission. The Planning Commission may recommend disapproval, approval, or approval with amendments, conditions or restrictions.

   b. Failure of the Planning Commission to issue a final report to the City Commission shall be interpreted as a final report with a recommendation of denial.

   c. Upon receiving the report of the Planning Commission, the Zoning Administrator shall draft an ordinance, submit it to the City Attorney for approval as to form, and shall forward the ordinance to the City Commission for consideration.

3. *City Commission Action*. Upon receipt of the written summary from the Planning Commission, the City Commission may:

   a. Approve such recommendations by the adoption of the same by ordinance;

   b. Override the Planning Commission's recommendations by a 2/3 majority vote of its membership; or

   c. Remand it back to the Planning Commission for further consideration, together with a statement specifying the basis for the City Commission's failure to approve or disapprove.

      i. If the City Commission returns the Planning Commission's recommendations, the Planning Commission, after considering the same, may resubmit its original recommendations giving the reasons therefor or submit new and amended recommendations.

      ii. Upon the receipt of such recommendations, the City Commission, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by the respective ordinance or resolution, or the City Commission need take no further action thereon. If the Planning Commission fails to deliver its recommendations to the City Commission following the Planning Commission's next regular meeting after receipt of the City Commission's report, the City Commission shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendations and proceed accordingly.

D. **Approval Criteria.** Recommendations and decisions regarding petitions for amendments to text of this Code are legislative in nature, but shall be based on consideration of all the following criteria:

1. The proposed amendment will help to implement the adopted Comprehensive Plan, or, if it addresses a topic that is not addressed or not fully developed in the Comprehensive Plan, the proposed amendment does not impair the implementation of the adopted Comprehensive Plan when compared to this Code.

2. The proposed amendment is consistent with the stated purposes of this Code.

3. The proposed amendment will maintain or advance the public health, safety, or general welfare.

4. The proposed amendment will help to mitigate adverse impacts of the use and development of land on the natural or built environment, including, but not limited to mobility, air quality, water quality, noise levels, storm water management, wildlife protection, and vegetation; or will be neutral with respect to these issues.

5. The proposed amendment will advance the strategic objectives of the City Commission, such as fiscal responsibility, efficient use of infrastructure and public services, and other articulated City objectives.

E. **Decision.** Once the City Commission has received the initial, or after remanding, subsequent recommendation (if any), from the Planning Commission, it shall approve, approve with modifications, or deny the proposed amendment to the text of this Code.

F. **No Retroactive Cure of Violations.** The amendment of the text of this Code may transform a legally nonconforming situation into a conforming one. However, no petition for a text amendment shall be used to cure a violation of any part of this Code.

Effective on: 5/6/2016

Sec. 11.2.411 Variances

A. **Generally.** The variance process is intended to provide limited relief from the requirements of this Code as set out in this Section.

B. **Intent.** To authorize in specific cases a variance from the specific terms of this Code which will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the provisions, in an individual case, results in unnecessary hardship, and provided that the spirit of this Code shall be observed, public safety and welfare secured, and substantial justice done.

C. **Applicability.** Some variances are not within the jurisdiction of the Board of Zoning Appeals (BZA), and are therefore, not subject to this Section. These variances include:

1. *Building Code Variances*. Building code variances (variances to the requirements of adopted international building codes which are set out in the City's *Code of Ordinances*). Variances to the requirements of the adopted building code are under the purview of the Building Trades Board.

2. *Variances to Imposed Conditions of Approval*. Variances from the terms of one or more conditions of approval imposed by an development review body described in Article 11.1, *Development Review Bodies*. Modifications to conditions of approval shall be sought from the body that granted the approval.

3. *Variances Regarding Nonconformities*. Variances that would have the effect of making existing nonconforming or illegal construction (buildings and structures), site improvements, parking, signs, or landscaping conforming. Nonconforming situations are subject to the requirements of Chapter 12, *Nonconformities*.

4. *Use Variances*. Variances shall not be used to allow a use in a zoning district in which the use is prohibited or which would constitute a change in zoning district boundaries (*i.e.*, variances to Article 2.2, *Land Uses*).

5. *Special Use Variances*. Variances shall not be used to modify any requirements that are set out in Division 2.2.300, *Compatibility Standards for Limited and Special Uses*, with respect to an application for special use approval.

6. *Variances to Other Laws or Regulations*. State and/or federal laws and/or regulations may not be varied by the City unless such authority is expressly granted to the City.

D. **Application.** Application requirements for a variance shall be on a form approved by the Zoning Administrator.

E. **Procedure.** Applications for a variance is processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.209, *Public Meetings and Hearings*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the BZA.

F. **Approval Criteria.** A request for a variance may be granted, upon finding of the BZA that all of the following conditions have been met; such determination shall be made on each condition and the findings shall be entered into the record:

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant;
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
3. That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

G. **Additional Conditions.** The BZA may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section, to reduce or minimize the effect of such variance upon other adjacent property and to better carry out the general intent of this Code.

H. **Decision.** The BZA may approve, approve with conditions, or deny a variance.

I. **Appeals of BZA Decisions.** Within 30 days from the date of a BZA final decision, any person aggrieved thereby, may maintain an action in a district court of Ellis County, Kansas, to determine the reasonableness of such final decision (*see* K.S.A. § 12-760).

Effective on: 5/6/2016

Sec. 11.2.412 Floodplain Management Variance

A. **Generally.** The Board of Zoning Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of Article 9.3, *Flood Damage Prevention*.

B. **Application.** Application requirements for a variance shall be on a form approved by the Zoning Administrator.

C. **Procedure.** Applications for a floodplain management variance is processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.209, *Public Meetings and Hearings*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Board of Zoning Appeals.

D. **Approval Criteria.** In passing upon such application for variances, the Board of Zoning Appeals shall consider all technical data and evaluations, all relevant factors, standards specified in Article 9.3, *Flood Damage Prevention*, and the following criteria:

1. Danger to life and property due to flood damage;
2. Danger that materials may be swept onto other lands to the injury of others;
3. Susceptibility of the proposed facility and its contents of flood damage and the effects of such damage on the individual owner;
4. Importance of the services provided by the proposed facility to the community;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations, not subject to flood damage, for the proposed use;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
9. Safety of access to the property in times of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters, if applicable, expected at the site; and
11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

E. **Conditions of Approval.**

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre of less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing the following items have been fully considered:

    a. Variances may be issued for the reconstruction, repair, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provide the proposed activity will not preclude the structure's continued historic designation and the variance is the minimum necessary to preserve the historic character and design of the structure.

    b. Variances shall not be issued within any designated floodway if any significant increase in flood discharge would result.

    c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

    d. Variances shall only be issued upon:

        i. Showing of good and sufficient cause;

ii. Determination that failure to grant the variance would result in exceptional hardship to the applicant; and

iii. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

e. A community shall notify the applicant in writing over the signature of a community official that:

i. The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and

ii. Such construction below the base flood level increase risks to life and property. Such notification shall be maintained with the record of all variance actions as required by Section.

2. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

F. **Decision.** The Board of Zoning Appeals may approve, approve with conditions, or deny a variance.

G. **Appeals of Board of Zoning Appeals Decisions.** Any person aggrieved by the decision of the Board of Zoning Appeals or any taxpayer may appeal such decision to the District Court as provided in K.S.A. § 12-759 and 12-760.

Effective on: 5/6/2016

Division 11.2.500 Subdivision Approvals

Sec. 11.2.501 Sketch Plats

A. **Generally.** Any person desiring to subdivide land shall prepare a sketch plat and submit it at a preplatting conference with the Zoning Administrator as a first step to filing an application for a preliminary plat. The purpose of the preplatting conference is to inform the applicant of the effect, feasibility and compatibility of the proposed subdivision on public and private utility systems, public street systems and any City development policies and plans. The conference enables the Zoning Administrator and the DRC to inform owners and their agents of the general conformance or nonconformance of the subdivision proposal with this Code, identify additional requirements for further processing of the proposal, and to advise them of applicable zoning provisions or conflicts and special design considerations presented by particular environmental features on or affecting the site (*i.e.*, floodplains, excessive slope areas, soil problems, high water tables, etc.).

B. **Application.**

1. Application requirements for a sketch plat shall be on a form approved by the Zoning Administrator , and at a minimum shall include the following:

   a. Sufficient information on the plan to convey the location of the proposed subdivision;

   b. The general layout of the proposed subdivision including the location and size of streets and the orientation, number and dimensions of the lots;

   c. Plans for water supply and wastewater disposal; and

   d. Any particular design problems posed by the existing natural or manmade conditions and characteristics of the site which could benefit from an early discussion.

2. Scheduling a pre-platting conference shall be arranged through the Zoning Administrator.

C. **Procedure.**

1. Applications for sketch plats are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.207, *Staff Review and Referral; Decision* (and in some cases Section 11.2.209, *Public Meetings and Hearings*) and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Zoning Administrator (or Planning Commission on appeal or referral).

2. Within 14 days after receiving the sketch plat, the Zoning Administrator shall meet with the developer at a preplatting conference in order to reach an agreement on a mutually acceptable sketch plat.

3. If the developer and the Zoning Administrator are unable to reach agreement on the sketch plat within 30 days of the original submission of the sketch plat, the developer may appeal to the Planning Commission for a determination with respect to the characteristics of the sketch plat. Alternately, the Zoning Administrator may refer the application to the Planning Commission for their consideration.

4. The Planning Commission shall schedule a review of the matter at its next regular meeting, which, during a public meeting, may uphold the determination of the Zoning Administrator's approval or denial, with or without conditions, in order to allow or disallow the submission of a preliminary plat.

D. **Approval Criteria.** The Zoning Administrator, and/or the Planning Commission on appeal or referral, shall consider the proposed sketch plat for conformance with Comprehensive Plan and this Code.

E. **Decision.** The Zoning Administrator (or the Planning Commission on appeal or referral) may approve the sketch plat, with or without conditions, or deny the application.

F. **Effect of Decision.**

1. *Approval*. Approval of the sketch plat allows the developer to submit a preliminary plat.

2. *Disapproval*. Disapproval of the sketch plat ends the process unless the application is modified and resubmitted, or appealed to the City Commission (*see* Section 11.2.403, *Appeals to City Commission*).

G. **No Binding Effect.** No verbal or schematically illustrated statements made during the course of reviewing the sketch plat by either the Zoning Administrator, DRC, or the Planning Commission shall be held as legally binding or construed in any way as granting or assuming approval of the proposed subdivision since the City Commission has final authority on all subdivision plats.

Effective on: 5/6/2016

Sec. 11.2.502 Preliminary Plats

A. **Generally.** After the submittal and approval of a sketch plat (*see* Section 11.2.501, *Sketch Plats*), the subdivider or developer, or their authorized agent, shall submit a preliminary plat.

B. **Application.** All preliminary plats shall be prepared by a state licensed land surveyor. Application requirements for a preliminary plat shall be on a form approved by the Zoning Administrator, and at a minimum shall include the following:

1. *Name and Location*.

   a. The proposed name of the subdivision (the name shall not duplicate or too closely resemble the name of any existing subdivision); and

   b. The location of the boundary lines of the subdivision reference to the section or quarter section lines.

2. *Title Bar*.

   a. The name and addresses of the owner, developer, surveyor, landscape architect, architect or engineer who prepared the plat;

   b. Scale of the plat, one inch equals 100 feet or larger; and

   c. Date of preparation and north point.

3. *Existing Conditions*.

   a. Location, width and name of platted streets or other public ways, railroads and utility rights-of-ways, parks and other public open spaces and permanent buildings within or abutting to the proposed subdivision shall be shown on the preliminary plat;

   b. All existing sewers, water mains, gas mains, culverts or other underground installations, within the proposed subdivision or abutting to it, with pipe size and manholes, grades and location shall be shown;

   c. Names of abutting subdivisions, together with arrangement of streets and lots, and owners of abutting parcels of unsubdivided land, shall be shown; and

   d. Topography (unless specifically waived), with contour intervals of not more than two feet, referred to municipality or USGS datum shall be shown, except that where the ground is too flat for contours, spot elevations shall be provided. Also, location of

watercourses, bridges, wooded areas, lakes, ravines and such other features as may be pertinent to the subdivision, shall be shown.

4. *Preliminary Design*.

   a. The general arrangements of lots and their approximate size;

   b. Location and width of proposed streets, alleys, pedestrian ways and easements;

   c. The general plan of wastewater disposal, water supply and utilities in areas where public sewers and/or water are proposed to serve the subdivision. In other cases, a notation shall be made on the plat indicating type of sewage disposal and water system proposed; and

   d. Location and size of proposed parks, playgrounds, churches, school sites or other special uses of land to be considered for reservation for public use.

5. *Supplemental Information*. Supplemental information as needed by Zoning Administrator and/or Planning Commission to review and decide approval or disapproval of the application.

C. **Procedure.** Applications for a preliminary plat are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.209, *Public Meetings and Hearings*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Planning Commission at a public meeting.

D. **Approval Criteria.**

1. *Conforms*. The Planning Commission shall review and approve the preliminary plat if it finds that it is in conformance with the subdivision and design standards, and other applicable standards, of this Code.

2. *Does Not Conform*. If the Planning Commission finds that the preliminary plat does not conform to the requirements of the subdivision and design standards, and other applicable standards, of this Code, it shall cause the notification of the owner or owners of such fact. Such notice shall be in writing and shall specify in detail the reasons the plat does not conform to the requirements of the subdivision and design standards, and other applicable standards, of this Code.

E. **Decision.**

1. The Planning Commission shall approve or deny the preliminary plat within 60 days from the filing date of the plat application, unless such time is extended by mutual consent.

2. If the Planning Commission fails to approve or deny a preliminary plat within 60 days from the filing date of the plat application, then the preliminary plat shall be deemed to have been approved, unless the subdivider shall have consented in writing to extend or waive the time limitation.

F. **Effect of Decision.**

1. The approval of a preliminary plat authorizes an applicant or owner to submit a final plat (*see* Section 11.2.503, *Final Plats*).

2. The approval of the preliminary plat shall be effective for an indefinite period of time, except that the Planning Commission may, after a minimum period of six months, due to substantial justification or change in the area, require the redesign and resubmission of the preliminary plat.

G. **One-Step Preliminary and Final Plat.** Nothing herein prevents an applicant or owner, or authorized agent, from preparing and submitting for consideration both a preliminary and final plat simultaneously; provided however, that the combined plat shall include all applicable requirements set out for both plats. The City assumes no liability for any expenses incurred by the applicant or owner if the combined plat is disapproved.

Effective on: 5/6/2016

Sec. 11.2.503 Final Plats

A. **Generally.** After the submittal and approval of a preliminary plat (*see* Section 11.2.502, *Preliminary Plats*), the subdivider or developer, or their authorized agent, shall submit a preliminary plat.

B. **Application.** All final plats shall be prepared by a state licensed land surveyor. Application requirements for a preliminary plat shall be on a form approved by the Zoning Administrator, and at a minimum shall include the following:

1. *Name and Location*.

   a. The name of the subdivision (not to duplicate or too closely resemble the name of any existing subdivision);

   b. The location of section, township, range, county and state, including the descriptive boundaries of the subdivisions based on an accurate traverse, giving angular and linear dimensions which must be mathematically correct. The allowable error of closing on any portion of the plat shall be one foot in 5,000; and

   c. The location of existing monuments or benchmarks shall be shown and described on the final plat. The location of such monuments shall be shown in reference to existing official monuments or the nearest established street lines, including the true angles and distances to such reference points or monuments.

2. *Title Bar*.

   a. The name, signature and seal of the licensed land surveyor preparing the plat;

   b. The scale of the plat (scale to be shown graphically and in feet per inch); and

   c. Date of preparation and north point.

3. *Final Design*.

   a. The location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet with the length of radii on all curves, and other information necessary to reproduce the plat on the ground;

   b. Lots shall be numbered clearly. Blocks shall be numbered or lettered clearly in the center of the block;

   c. The exact locations, widths and names of all streets with dimensions;

   d. The boundary lines and description of the boundary lines of any area other than streets and alleys which are to be dedicated or reserved for public use; and

   e. Building setback lines on the front and side streets, with dimensions.

4. *Notes and Certificates*. The following notes and certificates may be combined when appropriate:

   a. A statement dedicating all easements, streets, alleys, and all other public areas not previously dedicated.

   b. A certificate signed and acknowledged by all parties having any record, title or interest in the land subdivided, and consenting to the preparation and recording of the subdivision map.

   c. A certificate signed and acknowledged as in Subsection B.4.b., of this Section, dedicating or reserving all parcels of land shown on the final plat and intended for any public or private use, including those parcels which are intended for the exclusive use of the lot owners of the subdivision, their licensees, visitors, tenants and servants.

   d. A certificate signed by the licensed land surveyor responsible for the survey and the final map. The signature of the said engineer shall be accompanied by his seal.

   e. The acknowledgement of a notary in the following form:
   State of _____ County of _____, ss:
   Be it remembered that on this _____ day of _____, 20_____, before me a notary public in and for said county and state, came_____, to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of same. In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year above written.
   (SEAL) _____/_____/_____
   Notary Public My Commission Expires: _____

   f. The certificate of the Planning Commission in the following form:
   This plat of _____ addition has been submitted to and approved by the Hays Area Planning Commission this _____ day of _____, 20_____.
   (SEAL) _____, Chairperson
   _____, Secretary

   g. The acceptance of dedications by the municipal governing body, in the following form:

The dedications shown on this plan accepted by the City Commission of the City of Hays, Kansas, this _____ day of _____, 20_____.
(SEAL) _____, Mayor
ATTEST: _____, City Clerk

h. A blank space for noting entry on the transfer record in the following form:
Entered on transfer record this _____day of _____, _____.
_____, County Clerk

i. The certificate of the register of deeds in the following form:
State of _____, County of _____
Page _____.
This is to certify that this instrument was filed for record in the register of deeds office on the _____day of _____, 20_____ in book _____.
_____ _____
Register of Deeds Deputy

5. *Supplemental Information*. The following additional data shall be submitted with the final plat.

a. Title Report. A title report by an abstract or a title insurance company, or an attorney's opinion of title, showing the name of the owner of the land and all other persons who have an interest in, or an encumbrance on, the plat. The consent of all such persons shall be shown on the plat.

b. Taxes Paid Receipt. A certificate showing that all taxes and special assessments due and payable have been paid in full; or if such taxes have been protested as provided by law, moneys or other sufficient escrows guaranteeing such payment of taxes in the event the protest is not upheld, may be placed on deposit with such officials or governing bodies to meet this requirement.

c. CCRs. A copy of any covenants, conditions, and restrictions (CCRs), or any other deed restrictions, applicable to the subdivision.

d. Confirmation of Setting Monuments. Certification from the land surveyor platting said area that all permanent monuments as required have been set.

e. Development Plan. A plan showing the size and location of all improvements to be made in the subdivision, such as curb, gutter, street paving, and water and sewer lines. The plan also declares which improvements the subdivided intends to make prior to opening the subdivision for development.

f. Supplemental Information. Any additional supplemental information as needed by Zoning Administrator and/or Planning Commission to review and decide approval or disapproval of the application.

g. Digital Submission. The final plat shall be submitted in digital format as specified by the Zoning Administrator.

C. **Procedure.** Applications for a final plat are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.209, *Public Meetings and Hearings*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Planning Commission at a public meeting.

D. **Approval Criteria.**

1. *Conforms*. The Planning Commission shall review and approve the final plat if it finds conformance with the following:

   a. It is substantially the same as the approved preliminary plat;

   b. It still conforms to the subdivision and design standards, and all other applicable standards, of this Code; and

   c. It conforms to any conditions that may have been required during the preliminary plan approval.

2. *Does Not Conform*. If the Planning Commission finds that the final plat does not conform to the requirements of the subdivision and design standards, and other applicable standards, of this Code, it shall cause the notification of the owner or owners of such fact. Such notice shall be in writing and shall specify in detail the reasons the plat does not conform to the requirements of the subdivision and design standards, and other applicable standards, of this Code.

E. **Decision.**

1. The Planning Commission shall approve or deny the final plat within 60 days from the filing date of the plat application.

2. If the Planning Commission fails to approve or deny the final plat within 60 days from the filing date of the plat application, then the final plat shall be deemed to have been approved, unless the subdivider shall have consented in writing to extend or waive the time limitation.

F. **Effect of Decision.** The approval of a final plat authorizes an applicant or owner to make application for additional zoning or building permits.

G. **Acceptance of Land Dedicated for Public Purpose.** The City Commission shall accept or refuse the dedication of land for public purposes within 30 days after the first meeting of the City Commission following the date of the submission of the plat to the Clerk. The City Commission may defer action for an additional 30 days for the purpose of allowing modifications to comply with the requirements established by the City. No additional filing fees shall be assessed during that period. If the City Commission defers or refuses such dedication, it shall advise the reasons to the Planning Commission.

H. **Recordation.** The final plat shall be recorded and filed with the County Register of Deeds after approval of the final plat by the Planning Commission. The final plat shall be registered within one year from the date of approval by the Planning Commission. Failure to file a final plat within the given time period will render the plat null and void.

Effective on: 5/6/2016

Sec. 11.2.504 Lot Splits

A. **Generally.** To provide for the issuance of building permits on lots divided into not more than two lots or tracts without having to replat the lot, provided that the resulting lots shall not again be divided without replatting.

B. **Applicability.**

1. A previously platted lot divided as a lot split by either metes and bounds description or by replatting. A metes and bounds division may only be divided one time and by only one new dividing lot line under the lot splits process. Any further division requires replatting.
2. Lots zoned for commercial and industrial purposes may be divided into two or more tracts without replatting the lot. However, the lot so produced shall conform to all minimum standards of this Code.
3. Split lots do not apply to lots devoted to single-family attached, or multiple-family dwellings.

C. **Application.** All lot splits shall be prepared by a state licensed land surveyor. Application requirements for a lot splits shall be on a form approved by the Zoning Administrator.

D. **Procedure.** Applications for lot splits are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.207, *Staff Review and Referral; Decision*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Zoning Administrator.

E. **Approval Criteria.** A lot split shall be disapproved if any of the following criteria are met:

1. A new street or alley is needed or proposed;
2. A vacation of streets, alleys, setback lines, access control or easements is required or proposed;
3. If the split lot results in a significant increase in service requirements such as:
   a. Utilities;
   b. Schools;
   c. Traffic control; and
   d. Streets.
4. If the split lot will interfere with maintaining existing service levels such as additional curb cuts, repaving, etc.;
5. All easement requirements have not been satisfied;
6. If the lot split will result in a tract or lot without direct access to a street;
7. A substandard sized lot or tract will be created; or
8. If the lot has been previously split in accordance with this Section.

F. **Additional Conditions.** The Zoning Administrator may require additional requirements as deemed necessary to carry out the intent and purpose of this Code. Additional requirements may include, but not be limited to:

1. The installation of public facilities;
2. The dedication of right-of-way and easements; and
3. The submission of covenants, conditions, and restrictions (CCRs) for the protection of other landowners in the original subdivision.

G. **Decision.** The Zoning Administrator shall approve, approve with conditions, or deny the split lot in writing within 30 days of application submittal.

H. **Effect of Decision.** Approval of split lot survey allows the applicant or owner applicant to submit for any required permits to develop the property, such as site plan or building permit.

I. **Notation.** If approved, and after all conditions of approval have been met, the Zoning Administrator shall sign and furnish a certificate of approval to be affixed to the split lot survey, and a certified copy of such certificate shall be filed by the owner with the Register of Deeds.

Effective on: 5/6/2016

Sec. 11.2.505 Vacating Plats

A. **Generally.** This Section applies to the vacation of all or part of any street, alley or public reservation (*e.g.*, public utility or drainage easements, etc.). For purposes of this Section, "vacation" or "vacate" means the act of reverting land that has been previously dedicated or reserved for public use back to private ownership; provided that it is in accordance with this Section and applicable state law.

B. **Application.** A vacating plat may be initiated and approved by ordinance, petition, or plat in accordance with K.S.A. §§ 12-504 through 12-507 and 12-512a through 12-515). Applications made by plat or petition shall be on a form approved by the Zoning Administrator.

C. **Procedure.** Applications for a vacation are processed according to the sequential steps set out in Section 11.2.202, *Pre-Application Conference*, through Section 11.2.209, *Public Meetings and Hearings*, and shall be reviewed for comments by the DRC (*see* Section 11.1.306, *Development Review Committee*), as necessary, and then decided by the Planning Commission or the City Commission at a public hearing; provided that all applicable requirements of the *Kansas Statutes Annotated*, including public notice, have been met (*see* K.S.A. §§ 12-504 through 12-507 and 12-512a through 12-515).

D. **Approval Criteria.** The Planning Commission or City Commission may approve a vacation by ordinance, petition, or plat in accordance with K.S.A. §§ 12-504 through 12-507 and 12-512a through 12-515.

E. **Decision**.

1. Approval of a vacation shall be in accordance with the *Kansas Statutes Annotated* and this Code.
2. The City may reserve rights-of-way and easements as provided in K.S.A. § 12-512a.

F. **Effect of Decision.** If a petition, plat or ordinance of vacation is approved, ownership of the vacated area reverts as provided in K.S.A. § 12-506.

Effective on: 5/6/2016

CHAPTER 12 NONCONFORMITIES

ARTICLE 12.1 NONCONFORMITIES

Division 12.1.100 Nonconformities

Sec. 12.1.101 Purpose

The City includes many areas that have been developed for years. The application of new zoning and subdivision regulations to existing development is likely to create circumstances in which existing development density or intensity, buildings and structures, landscape areas, lot dimensions, parking lots, signs or uses do not strictly conform to the requirements of the new regulations. As allowed by K.S.A. § 12-771, regarding nonconforming uses, and implied for all other classifications for nonconformities, this Article sets out equitable rules for the completion, restoration, reconstruction, extension, or substitution of individual nonconformities and whether, when, and how the provisions of this Code apply to existing lots or development (including buildings and structures, landscape areas, lots, parking lots, signs, and uses) that are "legally nonconforming" (as defined herein).

Effective on: 5/6/2016

Sec. 12.1.102 Application

A. **Generally.** This Article applies to buildings and structures, landscape areas, lots, parking lots, signs, and uses that were lawfully constructed or established, but do not conform to the requirements of this Code. It does not apply to lots of record in the NC district, regardless of their size (such lots are "conforming").

B. **Incompatibilities of Nonconformities.** Nonconformities are hereby declared to be incompatible with permitted uses, limited uses, and special uses, and contrary to the intent and provisions of this Code.

C. **Expansion of Nonconformities.**

1. It is the intent of this Code to permit these nonconformities to continue until lawful elimination but not to encourage their survival. It is further the intent of this Code that nonconforming uses, buildings or structures, and signs shall not be enlarged, expanded, extended or materially altered, and that their existence shall not be used as a reason for permitting new or additional buildings, structures, or uses of land which do not conform to the provisions of this Code.

2. The addition or material alteration of signs as accessory structures to a nonconforming use shall be deemed an expansion or material alteration of such use.

D. **Unlawful Development or Use.** This Article does not authorize or legitimize buildings or structures, landscape areas, lots, parking lots, signs, or uses that were not legally established or constructed. Such buildings and structures, landscape areas, lots, parking lots, signs, or uses are not "legally nonconforming," but instead remain "unlawful," and are subject to all of the provisions of this Code (including enforcement provisions) and any other applicable law.

E. **Effect of Article**.

1. Nothing in this Code shall be interpreted to require a change in plans, construction, or designated use of any building in which a development approval was lawfully issued prior to the effective date of adoption or amendment of this Code, provided construction was commenced within the timeframes established in this Code. However, such development approval shall not be extended or renewed, upon expiration, unless construction is commenced and continued pursuant to the terms and requirements of this Code existing at the time the application was submitted and determined complete.

2. Nothing contained in this Code shall be interpreted to indicate that special uses are nonconforming if permitted as a special use in the district in compliance with the provisions set out in this Code.

3. Nothing contained herein shall be construed as limiting the authority of the Board of Zoning Appeals to grant a variance from the provisions of this Code, under appropriate conditions and circumstances.

Effective on: 5/6/2016

Division 12.1.200 Classification of Nonconformities

Sec. 12.1.201 Determination of Nonconformity Status and Extent

A. **Determination.** At the time of application for a development approval (*e.g.*, a permit) or request for variance regarding a nonconforming lot, building or structure, landscape area, parking lot, sign, or use, the property owner shall submit sufficient evidence for the Zoning Administrator to determine that such lot, building or structure, landscape area, parking lot, sign, or use was lawfully created or established in accordance with the zoning, subdivision, and other development-related regulations in existence at that time.

B. **Certificate**. If the evidence submitted indicates the lot, building or structure, landscape area, parking lot, sign, or use was legally established and has since become nonconforming because of the establishment of or amendment to this Code, the Zoning Administrator shall issue a zoning certificate identifying it as a legal nonconformity (*see* Section 11.2.301, *Certificate of Zoning Compliance*). A copy of such certificate shall be kept on file.

C. **Calculation of the Degree of Nonconformity.** In determining the cost of repair or replacement of any building or structure, the Zoning Administrator shall not consider the cost of the land or any items other than the building or structure itself. If the owner or lessee disputes the determination of the Zoning Administrator as set forth in this Article, it shall be communicated in writing within 30 days from the date of receipt of the Zoning Administrator's

determination and within 30 days thereafter provide a written report of the damage assessment from a qualified inspector.

Effective on: 5/6/2016

Sec. 12.1.202 Classification of Nonconformities

A. **Generally.** There are six general types of nonconformities: buildings and structures, landscape areas, lots, parking lots, signs, and uses.

B. **Nonconforming Buildings and Structures.**

1. *Buildings*. A nonconforming building is a building that was lawfully constructed prior to the effective date of this Cod (or amendment hereto) that does not conform to the height, setback, building scale, spacing, and / or design standards that are applicable to the same type of building in the district in which the building is located.

2. *Structures*. A nonconforming structure is a structure other than a building that was lawfully constructed prior to the effective date of this Code (or amendment hereto) that does not conform to the standards that are applicable to the same type of structure in the district in which the structure is located. The following are illustrative examples of nonconforming structures:

   a. Fences or garden walls that do not comply with the height, setback, or materials standards of this Code; and

   b. Wireless telecommunications facilities that do not comply with the applicable regulations of this Code.

C. **Nonconforming Landscape Areas.**

1. Nonconforming landscape areas is landscaping (or lack thereof) that does not conform to the landscape area or planting requirements of Chapter 4, *Landscaping and Buffering* (including, but not limited to, development landscaping and bufferyard requirements), or other provisions of this Code that require the designation of open space or landscape surface areas or the buffering of uses (*e.g., see* Division 2.2.300, *Compatibility Standards for Limited and Special Uses*).

2. Nonresidential, mixed use, and multiple-family residential dwellings on parcels that were lawfully developed but do not include the required landscape surface ratio or open space ratio that is required after the effective date of this Code or amendment hereto are also nonconforming with respect to landscaping.

D. **Nonconforming Lots.** Nonconforming lots are lots that were lawfully created before the effective date of this Code, or amendments hereto, but which no longer comply with the lot width, frontage, depth, or area requirements of this Code, as set out in Chapter 3, *Density, Intensity, Bulk, and Scale*.

E. **Nonconforming Parking Lots.** Nonconforming parking lots refers to parking spaces, parking aisles, and loading spaces that do not conform to the requirements of this Code that are set out in Article 5.2, *Parking and Loading*, in terms of their number or dimensions.

F. **Nonconforming Signs.** Any sign located within the City on the effective date of this Code, or amendment thereto, that does not conform to the provisions of Chapter 7, *Signs*, or, if applicable, Division 2.2.300, *Compatibility Standards for Limited and Special Uses*, is a "legal nonconforming" sign, provided it also meets the following requirements:

1. The sign is a permanent sign; and
2. One of the following apply:
   a. The sign was approved by a sign permit for signs before the effective date of this Code (or amendment hereto), if a sign permits was required under applicable law; or
   b. If no permit was required under applicable law for the sign in question, the sign was in all respects in conformity with the applicable law or conditions of approval immediately prior to the effective date; or
   c. The sign had legal nonconforming status on the effective date of this Code.

G. **Nonconforming Uses.** A nonconforming use is a use of land that was lawfully established (*i.e.*, it was allowed and legally authorized, if legal authorization was required) on a parcel or lot before the effective date of this Code (or amendment hereto), that is no longer allowed after the effective date of this Code (or amendment hereto). The following uses are legally nonconforming uses:

1. *Permitted Uses*. Uses that were lawfully established but are not currently listed as a permitted use in the zoning district in Division 2.2.200, *Permitted, Limited, Special, and Prohibited Uses*.
2. *Limited Uses*. Uses that are listed as limited uses in the zoning district in Division 2.2.200, *Permitted, Limited, Special, and Prohibited Uses*, but were lawfully established without an appropriate permit and do not comply with the applicable standards of Division 2.2.300, *Compatibility Standards for Limited and Special Uses.*
3. *Special Uses*. Uses that are listed as special uses in the zoning district in Division 2.2.200, *Permitted, Limited, Special, and Prohibited Uses*, but were lawfully established without a special use permit. For these uses, the nonconforming use status may be removed by obtaining a special use permit.

Effective on: 5/6/2016

Division 12.1.300 General Regulations

Sec. 12.1.301 Continuation, Termination, Enlargement, Repair, and Alterations

A. **Generally.** This Section sets out the standards for when a nonconformity must be terminated or removed, and when it is allowed to be restored after temporary cessation, damage or destruction.

B. **Nonconforming Buildings or Structures, and Elements of Buildings or Structures.**

1. *Authority to Continue*. Any building or structure that is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable intensity of use regulations and/or the applicable yard and height regulations, may be continued so long as it remains otherwise lawful.

2. *Enlargement, Repair and Alterations*. Any nonconforming principal building or structure may be enlarged, maintained, repaired or remodeled; provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such building or structure.

3. *Damage or Destruction*.

   a. *Damage Greater Than 50 Percen*t. If any nonconforming building or structure is damaged or destroyed, by any means, by more than 50 percent of its fair market value, it shall not be restored unless it conforms to the regulations for the zoning district in which it is located or unless such restoration is authorized as an exception by the Board of Zoning Appeals.

   b. *Damage Equal To Or Less Than 50 Percent*. If a building or structure is damaged equal to or by less than 50 percent of its fair market value or less, it shall not be repaired or restored unless a zoning certificate (*see* Section 11.2.301, *Certificate of Zoning Compliance*) is obtained and restoration is begun within one year after the date of destruction and is diligently pursued to completion.

4. *Moving*. No nonconforming building or structure shall be moved in whole or in part for any distance whatever, to any other location on the same lot or any other lot unless the entire building or structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

5. *Mobile Homes*. After the effective date, March 26, 1996, of Ordinance No. 3367, no additional mobile home may be located within City limits. Existing mobile homes removed from their current locations must be replaced by either a site-built building or a manufactured home.

C. **Nonconforming Parking and Landscaping.**

1. *Authority to Continue*. Any parking lots and landscape areas that are installed in compliance with the regulations that were in effect in the zoning district which it is located, but does not comply with the applicable parking lot and landscape area regulations existing on the effective date (or amendment hereto), including Article 5.2, *Parking and Loading*, Section 3.1.301, *Nonresidential and Mixed Use Development Standards*, Chapter 4, *Landscaping and Buffering*, and other applicable parking and/or landscaping standards, may be continued so long as it remains otherwise lawful.

2. *Enlargement, Repair and Alterations*.

   a. If an existing building, structure, or use is expanded, additional parking and landscaping shall be required only in proportion to the new area of the building, structure, or use.

b. If the use of a building or structure changes, resulting in additional demand for parking, additional parking and associated landscaping shall be provided in an amount equal to the difference between the requirements of the former use (not the actual parking provided on-site) and the requirements for the new use, as set out in Division 5.2.100, *Parking and Loading Calculations*, and Chapter 4, *Landscaping and Buffering*. However, a permit for the new use may be denied if the available parking is less than 75 percent of the required parking.

c. If an existing building or structure is redeveloped, parking and landscaping shall be provided as required by Article 5.2, *Parking and Loading*, and Chapter 4, *Landscaping and Buffering.*

d. If a nonconforming use is required to be brought fully into compliance, then parking and landscaping shall also be brought into compliance.

e. Routine repair and maintenance of nonconforming parking lots and landscape areas is permitted, including necessary non-structural repairs, paint, and incidental alterations which do not extend or intensify the nonconformity; provided however, that the relocation of required parking areas, alterations of parking aisles alignments, etc., is not allowed.

3. *Damage or Destruction*. Destroyed or removed parking lots and landscaping shall be replaced with conforming parking lots and landscaping if the destroyed or removed parking lots and/or landscaping did not comply with the requirements of Article 5.2, *Parking and Loading*, or Chapter 4, *Landscaping and Buffering*.

D. **Nonconforming Lots.**

1. *Exception*. All lots within the NC district that were lawfully created before the effective date of this Code are conforming, regardless of their dimensions.

2. *Authority to Continue*. A legal lot of record that does not meet district requirements with respect to lot area or lot width may be built upon if:

a. Such lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations; and

b. Such lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulations; and

c. The use is permitted in the district in which the lot is located; and

d. The lot has sufficient frontage on a public street to provide access that is appropriate for the proposed use; and

e. All yards or height standards are complied with, except that the Zoning Administrator may authorize a reduction of required yards of up to 10 percent, provided that the Zoning Administrator finds that the reduction does not allow a building that would be

larger than a building that would be permitted on the minimum conforming lot in the zoning district.

3. *Combination of Lots to Increase Conformity*. Where a landowner owns several abutting lots that do not conform to the dimensional requirements of the zoning district in which they are located, they shall be combined to create fully conforming lots or, if full conformity is not possible, they shall be combined if the combination will increase the degree of conformity.

E. **Nonconforming Signs or Sign Elements.**

1. *Authority to Continue*. Any signs that are installed in compliance with the regulations that were in effect in the zoning district which it is located, but does not comply with the applicable sign regulations existing on the effective date (or amendment hereto), including Chapter 7, *Signs*, and other applicable sign standards, may be continued so long as it remains otherwise lawful.

2. *Enlargement, Repair and Alterations*.

   a. If an element of a sign that causes the sign to be nonconforming is removed, it shall not be replaced, except with a conforming element. For example, if a sign is nonconforming with respect to the size of the manual changeable copy board, and the board is replaced with an electronic changeable copy sign, the electronic changeable copy board cannot exceed the maximum size as set out in Section 7.2.105, *Message Centers*.

   b. If a nonconforming sign structure is removed for any reason other than routine repair and maintenance, it shall not be replaced unless the replacement sign conforms to this Code.

3. *Damage or Destruction*.

   a. A nonconforming sign which has been damaged by fire, wind or other cause in excess of 50 percent of its replacement cost shall not be restored except in conformance with this Code.

   b. Nonconforming signs that are a danger to the public health or safety due to damage or wear shall be removed and shall not be replaced unless the replacement sign conforms to this Code.

4. *Abandonment or Discontinuance*. If a nonconforming sign structure does not display any message for a period of 90 days, it shall be removed or brought into conformance with this Code. For the purposes of this standard, a temporary "sock sign" may be used to display a message while a new sign face is being created.

F. **Nonconforming Uses.**

1. *Authority to Continue*. Any lawfully existing nonconforming use of part or all of a building or structure or any lawfully existing nonconforming use of land, not involving a building or

structure or only involving a building or structure which is accessory to such use of land, may be continued so long as otherwise lawful.

2. *Ordinary Repair and Maintenance*.

   a. Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any building or structure that is devoted in whole or in part to a nonconforming use.

   b. Nothing in this Code shall be deemed to prevent the strengthening or restoring to a safe condition of a building or structure in accordance with an order of the Chief Building Official who is charged with protecting the public safety and who declares such building or structure to be unsafe and orders its restoration to a safe condition.

3. *Extension*. A nonconforming use shall not be extended, enlarged or increase in intensity. Such prohibited activities shall include, without being limited to:

   a. Extension of such use to any building or structure or land area, other than one occupied by such nonconforming use, on the effective date of this Code from which this Section is derived (or on the effective date of subsequent amendments thereto) that cause such use to become nonconforming.

   b. Extension of such use within a building or other structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of this Code from which the this Section is derived (or on the effective date of subsequent amendments thereto) that cause such use to become nonconforming; provided, however, that such use may be extended throughout any part of such building or other structure that was lawfully and manifestly designed or arranged for such use on such effective date.

4. *Enlargement*. No building or structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such building or structure and the use of such building or structure shall thereafter conform to the regulations of the zoning district in which it is located.

5. *Damage or Destruction*. In the event that any building or structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than 50 percent of its fair market value, such building or structure shall not be restored unless such building or structure and the use of such building or structure shall thereafter conform to all regulations of the zoning district in which it is located or unless such restoration is authorized as an exception by the Board of Zoning Appeals. When such damage or destruction is 50 percent of its fair market value or less, no repairs or restoration shall be made unless a zoning certificate (*see* Section 11.2.301, *Certificate of Zoning Compliance*) is obtained, and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

6. *Moving*. No building or structure that is devoted in whole or in part to a nonconforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire building or structure and the use of such

building or structure or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

7. *Abandonment or Discontinuance*. When a nonconforming use shall be discontinued or abandoned for a period of 12 consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

Effective on: 5/6/2016

Sec. 12.1.302 Change or Conversion of Use

A. **Generally.** A nonconforming use shall not be changed to another nonconforming use; provided however, that the Board of Zoning Appeals may allow a conversion of a nonconforming use to a "legally conforming use" as set out in this Section.

B. **Effect of Change of Use.**

1. If a nonconforming use is changed to a conforming use, the nonconforming use shall not be resumed.
2. If the use of only a portion of a building or structure or property is changed from a nonconforming use to a conforming use, then the use of that portion of the building or structure or property shall not be changed back to the nonconforming use.

C. **Conversion of Nonconforming Use; Substitution.**

1. *Purpose*. Many nonconforming uses have existed for a period of time, and some may have only recently become nonconforming. In many instances, these nonconforming uses are integral parts of the City's fabric, that is, its character and function, so their continuing existence promotes the City's policy objective of protecting its neighborhoods. In these instances, the classification "nonconformity" and resulting restriction on investment may not be what the community desires. As such, the use may be made conforming (*i.e.*, a legally conforming use) pursuant to this Section in order to remove the stigma associated with the "nonconforming" designation.
2. *Procedure*. A special use permit (*i.e.*, an exception) may be granted to make a nonconforming use conforming, if, in addition to the criteria for approval of a special use permit set out in Section 11.2.409, *Special Use Permits*, all of the criteria of this Section are satisfied.
3. *Additional Approval Criteria*. The use, as conducted and managed, has minimal nonconformities and has been integrated into the zoning district's overall fabric and function, as evidenced by the following demonstrations:
   a. The neighborhood residents regularly patronize or are employed at said use (for nonresidential uses in or abutting residential neighborhoods).
   b. Management practices eliminate nuisances such as noise, pollution, traffic, sign areas, visitation, light, waste materials, unreasonably congested and non-permitted on-street parking, or similar conflicts; and no increase in these nuisances will occur as a result of becoming conforming.
   c. There is no material history of complaints about the use (a history of complaints is justification for denying the special use permit, unless the conditions of the special use permit will eliminate the sources of the complaints).
   d. If the use is nonresidential, it is licensed in accordance with the applicable ordinances of the City, Ellis County, and any applicable state or federal regulations.

e. The use has been maintained in good condition and its classification as a nonconformity would be a disincentive for such maintenance.

4. *Conditions*. Conditions may be imposed relative to the expansion of bufferyards, fencing, landscape areas, or other site design provisions, or other limitations necessary to ensure that, as a conforming use, the use will not become a nuisance. Such conditions may relate to the lot, buildings, structures, or operation of the use.

Effective on: 5/6/2016

CHAPTER 13 INTERPRETATION, ENFORCEMENT, AND LEGAL STATUS

ARTICLE 13.1 INTERPRETATION, ENFORCEMENT, AND LEGAL STATUS

Division 13.1.100 Interpretation

Sec. 13.1.101 Interpretation, Generally

A. **Generally.** The purpose of the regulation to be interpreted must be determined so that the protection that it is intended to provide the public is enforced. Therefore, this Code should be interpreted in the context of:

1. The general findings and purposes stated in Chapter 1, *Title, Purpose, Authority, Jurisdiction, and Transitional Provisions*; and
2. The goals and policies of the Comprehensive Plan.

B. **Word Usage, Acronyms, and Definitions.** Rules for construction of words and phrases, common acronyms, and defined words and phrases are set out in Chapter 14, *Measurements and Words*.

C. **Illustrations.** Illustrations are generally provided for explanatory purposes, and do not necessarily set out all options or alternatives for each standard. Where an illustration appears to set out different substantive requirements than the text of this Code, the text shall control.

D. **Cross-References.** Hyperlinked cross-references to internal provisions (*e.g.*, between Chapters, Articles, Divisions, Sections, and Subsections) and external documents and regulations (*e.g.*, *Kansas Statutes Annotated* and the Comprehensive Plan) are provided to increase the ease of use in complying with the intended regulations. Where a conflict exists between a given cross-reference (*e.g.*, number or hyperlinked location) and the name of the cross-reference, the name shall control.

E. **Quantifiable or Numeric Standards.** If the provision to be interpreted has a quantifiable standard, no interpretation can result in a reduction of the standard. Standards listed as maximums shall be interpreted to allow any number equal to or lesser than the maximum standard listed. Standards listed as minimums shall be interpreted to allow any number equal to or greater than the minimum standard listed. By way of example, if the maximum density is listed as 3.0 units per acre, then it cannot be interpreted to allow 3.2 units per acre as-of-right.

F. **Qualitative Standards.** Non-numeric standards shall be construed in favor of the element being projected unless there is sufficient evidence to indicate that the alternative language will protect the public as well as provide the landowner with other options.

G. **Land Usage.** Interpretations of land uses shall be in accordance with Article 2.2, *Land Uses*.

H. **Signs; Substitution of Noncommercial Speech for Commercial Speech.** Notwithstanding anything contained in this Code to the contrary, any sign erected pursuant to the provisions of this Code, or otherwise lawfully existing with a commercial message may, at the option of the owner, contain a noncommercial message in lieu of a commercial message. The noncommercial message may occupy the allowable area of the sign face or any portion thereof. The sign face may be changed from commercial to noncommercial messages, or from one noncommercial message to another, as frequently as desired by the owner of the sign, provided that:

1. The sign is not a prohibited sign or sign-type;
2. The frequency of changes to the message is not greater than is allowed for digital message centers (*see* Section 7.2.105, *Message Centers*); and
3. The size, height, setback, and other dimensional criteria contained in this Code have been satisfied, or the sign is legally nonconforming.

Effective on: 5/6/2016

Sec. 13.1.102 Interpretation, Official

A. **Generally.** Any person may request an administrative interpretation of the terms, provisions, or requirements of this Code~~these Regulations~~ if the application of the terms, provisions, or requirements are not obvious.

B. **Intent.**

1. It is the intent of the City Commission that this Code~~these Regulations~~ be accessible and clear to the residents, business owners, and landowners in the City, and that the spirit of K.S.A. § 45-216, *Public policy that records be open*, be observed. As such, the Zoning Administrator, or designee, will provide:
   a. Requested public records that are related to the administration and enforcement of this Code~~these Regulations~~ (this may include reasonable fees for research and duplication, if necessary).
   b. References to the standards that may be applied to individual uses, buildings, or structures; and
   c. General information to residents, business owners, and landowners with respect to the zoning districts that apply to property.
2. It is not the intent of the City Commission that the Zoning Administrator, or designee, affirmatively evaluate the full development potential of individual properties or resolve other such detailed inquiries about specific properties or issues without a pending permit or development approval application.

C. **Process.** The interpretation is made by the Zoning Administrator, although the City is not obligated to render an interpretation. The interpretation is not subject to appeal, although related appeals may proceed as provided for in this Code~~these Regulations~~ (*e.g.*, an administrative appeal after a decision has been rendered part of an official permit or development approval application). After an interpretation is issued, the Zoning Administrator may propose a text amendment to this Code~~these Regulations~~ to codify the interpretation, if necessary.

D. **Application.** Application requirements for official written interpretations shall be on a form approved by the Zoning Administrator, which at a minimum shall cite the regulatory provision for which the interpretation is sought, a description of a hypothetical situation or scenario to which the application of this Code~~these Regulations~~ are in question, and a statement of the nature of the interpretation sought.

E. **Interpretation Criteria.** The interpretation shall be based on:

1. The materials or scenario posed by the applicant;
2. The plain and ordinary meaning of the terms that are subject to the application for an interpretation as set out in Webster's Third New International Dictionary or other current and authoritative dictionaries;
3. The purpose statement for the Section of this Code~~these Regulations~~ that is subject to interpretation;
4. Any other provision of the Comprehensive Plan, the City's *Code of Ordinances*, state law, or federal law that are related to the same subject matter;
5. Any technical meanings of the words used in the provision subject to interpretation;
6. Other interpretations rendered by the City relating to the same or related provisions of this Code~~these Regulations~~;
7. The consequences of the interpretation;
8. The legislative history;
9. The problem or issue that is addressed by the provision subject to interpretation; and
10. Sources outside of these regulatory provision that provide a related source for the definition, such as technical or professional literature.

F. **Decision.** Within a reasonable period after the application for an interpretation is filed, the Zoning Administrator shall make a good faith effort to interpret the provision that is the subject of the application and may consult with other City Staff and/or the City Attorney as necessary. The Zoning Administrator shall respond to the applicant in writing, and shall keep a copy of the response in a record of interpretations.

G. **Effect of Decision.**

1. *No Legal Advice*. The City does not provide legal advice to applicants or property owners. Private parties, including purchasers, lenders, title insurers, and others are advised to seek legal opinions from their attorneys with respect to specific potential applications of this

Code~~these Regulations~~. No interpretation provided by City Staff pursuant to this Section shall be construed as legal advice.

2. *No Binding Effect*. It is the policy of the City to evaluate applications for development approval comprehensively on their individual merits. Therefore, interpretations may be persuasive to the applicable development review bodies, but they are not binding on the City.

H. **Recordkeeping.** The Zoning Administrator shall keep records of interpretations made pursuant to this Section.

Effective on: 5/6/2016

Division 13.1.200 Enforcement

Sec. 13.1.201 Enforcement Powers and Remedies

A. **Generally.** This Section sets out enforcement powers and remedies that may be used by the City to enforce this Code prior to, and in, a court of competent jurisdiction. This Section shall not limit the power of the City to pursue multiple or alternative actions, remedies, and penalties, or to pursue actions, remedies and penalties that are authorized by law but not listed in this Section.

B. **Enforcement Powers.** The City may enforce this Code prior to, and without, judicial process by:

1. *Withholding Permits*. The City may deny or withhold all permits, development approvals, or other forms of authorization on any land, building, or structure for which there is an uncorrected violation of a Section of this Code or of a condition of a permit, certificate, approval or other authorization previously granted by the City. In lieu of withholding or denying an authorization, the City may grant such authorization subject to the condition that the violation be corrected.

2. *Suspension of Permits*. The City may suspend permits, including special use permits, for a period of up to 60 days to allow for the correction of the violation or the judgment of a court of competent jurisdiction.

3. *Stopping Work*. With or without revoking permits, the City may stop work on any building or structure on any land on which there is an uncorrected violation of a Section or of a permit or other form of authorization issued, in accordance with its power to stop work under its building codes.

4. *Revocation of Permits and Approvals*.

   a. Revocation of Permits. Any permit, certificate of occupancy, or other approval required shall be revoked when it is determined that:

      i. There is a departure from the approved plans, specifications, limitations, or conditions as required under the permit or approval;

      ii. The permit or approval was procured by false representation;

iii. The permit or approval was issued in error; or

iv. There is a violation of any provision of this Code.

b. Notice and Opportunity to Correct. Written notice of revocation stating that such violation shall be corrected within 10 days shall be served upon the property owner, agent, applicant, or other person to whom the permit or approval was issued, or such notice may be posted in a prominent location at the place of violation.

c. Effect of Notice. No work or construction shall proceed after service of the revocation notice unless such work is to correct a violation.

d. Failure to Correct. If after the 10-day period, arrangements acceptable to the City have not been made, the Chief Building Official shall:

i. File litigation in a court of competent jurisdiction; and / or

ii. Remove or correct such violation and cause to be placed a lien upon the property and / or improvements to the property in an amount to cover all costs related to correction or abatement of the violation.

C. **Judicial Remedies.** The City may seek the following judicial remedies to enforce this Code:

1. *Injunctive Relief*.

a. The City may seek an injunction or other equitable relief in court to stop any violation of a permit, certificate or other form of authorization granted under this Code. Such relief may include revocation or termination of permits, including special use permits. In any court proceedings in which the City seeks a preliminary injunction, it shall be presumed that a violation or continued violation of this Code is, will, or may be an injury to the public health, safety or general welfare; that the public health, safety or general welfare will or may be irreparably injured by the continuation of the violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject violation.

b. The City may seek an affirmative injunction to require the demolition or removal of a structure, or to allow the City to demolish or remove a structure and recover costs against the landowner, pursuant to K.S.A. §§ 12-1750 through 12-1756, or as otherwise provided for in the *Kansas Annotated Statutes*.

2. *Abatement*. The City may seek a court order in the nature of mandamus, abatement, or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

3. *Civil Remedies*. The City shall have the right to institute any appropriate civil action in a court of competent jurisdiction, to enforce, enjoin, prevent, restrain, correct or abate any violation of this Code, including any and all remedies available pursuant to state law. All court costs and reasonable attorney's fees incurred by the City in connection with any civil action shall be awarded to the City if it is the prevailing party.

4. *Criminal Remedies*. Any person who violates any section of this Code shall be guilty, upon conviction, of a separate offense for each day or portion of a day during which the violation continues, which shall be punishable by a fine of not to exceed $500 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment (*see* K.S.A. § 12-761).

D. **Floodplain Remedies.** Violations of the Federal Emergency Management Agency (FEMA) floodplain regulations set forth in the adopted Unified Development Code ~~Chapter 35, *Floods*, of the City's *Code of Ordinances*~~, shall be subject to the following, in addition to the remedies provided by other Subsections of this Section:

1. The Federal Emergency Management Agency (FEMA) and the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture shall be notified immediately in writing of any property or structure in violation of the floodplain regulations of the adopted Unified Development Code~~Chapter 35, *Floods*, of the City's *Code of Ordinances*~~.

2. New or renewal National Flood Insurance shall be denied for any structure remaining in violation or situated on property in violation of the adopted Unified Development Code~~Chapter 35, *Floods*, of the City's *Code of Ordinances*~~.

E. **Other Remedies.** The City shall have such other remedies as are and as may be from time to time provided by state law for the violation of regulations.

F. **Remedies Cumulative.** The remedies and enforcement powers set out in this Section shall not be considered exclusive remedies, but rather they shall be cumulative with all other remedies provided in this Code, in any other applicable ordinance, or by law.

~~Unless 13.1.202(F)(3) applies.~~

Effective on: 5/6/2016

Sec. 13.1.202 Enforcement Procedures

A. **Generally.** The City may enforce the provisions set out in this Division, or as otherwise authorized by law.

B. **Responsible Official.** The Chief Building Official, or the City Manager, shall administer and enforce the provisions of this Code. The Chief Building Official and/or City Manager may consult with the City Attorney, the Director of Public Works and other officials in the exercise of this duty.

C. **Right to Enter.** The Chief Building Official, City Manager, or designee, will investigate and find as a matter of fact whether a violation has occurred, and in doing so, shall have the right to enter upon any premises at any reasonable time for the purpose of making inspection of buildings, structures, or premises necessary to carry out the duty to enforce this Code.

D. **Filing a Complaint.** Any person may allege a violation by a written and signed complaint that is filed with the Chief Building Official or City Manager. Such complaint shall state the factual basis for the alleged violation along with the complainant's name, address, and telephone number.

E. **Notice of Violation.** Upon investigation, with or without a complaint, the City may issue a written notice of violation to the owner of property upon which a violation exists. The Notice of Violation shall set forth the grounds upon which the notice is based, including the specific code section or sections at issue.

F. **Correction of Violation.**

1. For a first violation, the person responsible for the violation shall have a period of no more than 15 days to correct the violation. (Unless Subsection 13.1.202(F)(3) applies)
2. For a subsequent or continued violation, the person responsible for the violation shall correct the violation within 24 hours. (Unless Subsection 13.1.202(F)(3) applies)
3. Any violation that creates an immediate danger to the public safety shall be corrected immediately, regardless of whether it is a first violation, a continuing violation, or a subsequent violation.

G. **Further Enforcement.** If the code violation is not corrected in accordance with the requirements of Subsection F., above, then the City may enforce this Code in accordance with any and all enforcement actions and remedies as set out in this Division.

H. **Records.** The Chief Building Official shall maintain a record of all complaints of violations, including how they were resolved.

Effective on: 5/6/2016

Sec. 13.1.203 Enforcement Procedures for Special Use Permits

A. **Generally.** The provisions of this Section may be applied to enforce a special use permit.

B. **Inspection.** The City may:

1. Make inspections to determine compliance with the provisions of this Code and the special use permit, and initiate appropriate action as necessary; and/or
2. Keep a record of complaints, indicating any action taken. These records shall be made available where the Board of Zoning Appeals has been requested to review the special use for compliance.

C. **Special Use Permit Revocation.** Upon determination of noncompliance with the provisions of the special use permit, the City will take actions as necessary to assure compliance. Such actions may include non-renewal or revocation of the permit as follows:

1. The Zoning Administrator shall provide a notice of violation to the record owner of the property upon which a special use is located, advising the owner that the use must be brought into compliance with this Code within 14 days from the date of the notice.
2. If total compliance has not occurred or a plan for compliance has not been submitted to the Zoning Administrator within 14 days from the date of notice, then the Zoning Administrator shall issue a cease-and-desist order and notify the record owner of a hearing date by the Board of Zoning Appeals to consider revocation of the special use permit.

3. The Board of Zoning Appeals shall revoke the special use permit if the use and/or property is/are not in total compliance. The Board of Zoning Appeals may grant up to a 14-day period for compliance. The special use permit shall remain in suspension and the cease-and-desist order shall remain in effect until total compliance is obtained.
4. At the end of a compliance period the Board of Zoning Appeals shall revoke the special use permit if total compliance has not been obtained.
5. If the use and property are brought into compliance, any further violation of terms of the special use permit within 90 days from the initial notice of violation are grounds for immediate revocation of the special use permit.
6. Revoked special use permits may only be reinstated by the Board of Zoning Appeals, which may impose conditions to ensure compliance.

Effective on: 5/6/2016

Sec. 13.1.204 Enforcement Procedures for Stormwater Management

A. **Generally**. It shall be the duty of the Stormwater Superintendent to bring to the attention of the City Attorney any violation or lack of compliance with the regulations and standards of this Code. The City Attorney may file the civil action deemed appropriate in the district court of the state to enforce the requirements of this Code. The City Attorney may also cause to be brought a prosecution in the municipal court of the City.

B. **Violations; Criminal and Civil Penalties**.

1. *Criminal Penalties*. Any person violating any of the provisions of Article 9.2, *Stormwater Management*, shall, upon conviction thereof, be deemed guilty of a misdemeanor punishable in accordance with Section 1-13 of the Code of Ordinances of the City of Hays, Kansas.
2. *Civil Penalties*. In the event an applicant or other responsible person fails to take the remedial measures set forth in a Notice of Violation described in Subsection F, *Failure to Maintain*, below, the Stormwater Superintendent shall assess a penalty against the property, as outlined below, for each day the violation remains unremedied after receipt of the notice of violation:
   a. For failure to submit a stormwater pollution prevention plan prior to construction, the fine shall be $500.00 for each day the violation remains unremedied.
   b. For failure to install stormwater BMPs as indicated on the site map required under the KDHE construction stormwater program, the fine shall be $750.00 for each day the violation remains unremedied.
   c. For failure to notify the Stormwater Superintendent before commencement of construction, the fine shall be $500.00 for each day the violation remains unremedied.
   d. For failure to maintain, repair, or replace construction stormwater BMP within 10 days of notification, the fine shall be $750.00 for each day after the tenth day following notification that the violation remains unremedied.

e. For failure to cease illicit discharges, the fine shall be $500.00 for each day the violation remains unremedied.

f. For dumping of material or liquids in the storm sewer system, the fine shall be $1,000.00 for each dumping occurrence. The person responsible for dumping shall also be liable for the reasonable costs to the City to abate the nuisance caused by the illegal dumping. (Ord. No. 3832, §§ 1, 2, 4-14-2011)

C. **Inspection**.

1. The Stormwater Superintendent shall be responsible for determining whether a stormwater management plan is in conformance with criteria specified, and whether development is proceeding in accordance with the approved drainage permit. Periodic inspection of the development site shall be made by the Stormwater Superintendent, or a designee. Through such periodic inspections, the Stormwater Superintendent shall ensure that the stormwater management plan is properly implemented and that the improvements are properly maintained.

2. Whenever the Stormwater Superintendent has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Code, the Stormwater Superintendent shall have the right to enter the premises at any reasonable time for the purpose of conducting such inspections and sampling as may be necessary to determine whether any violations exist and to determine the nature and extent of any remedial actions necessary by virtue thereof. In the event the owner or occupant of the premises refuses such entry after a request to enter has been made, the Stormwater Superintendent is hereby empowered to seek assistance from a court of competent jurisdiction to permit or compel such entry.

3. The Stormwater Superintendent shall have the right to set up on any such premises such devices as may be deemed necessary to conduct sampling of any discharges or of the soils or any substances from which such discharges may occur.

4. Investigation of any such matter shall in no way relieve any party from liability or responsibility for any violations occurring before, during, or after the conduct of any such investigation. Nothing in this Section shall limit the authority of the Stormwater Superintendent to take any other action or actions, including emergency action or any other enforcement action, while also undertaking any such investigation. (Ord. No. 3832, §§ 1, 2, 4-14-2011)

D. **Remedial Work**. If it is determined through inspection that a development is not proceeding in accordance with the approved stormwater management plan and drainage permit, the Stormwater Superintendent shall immediately issue written notice to the permittee and the surety of the nature and location of the alleged noncompliance, accompanied by documentary evidence demonstrating noncompliance and specifying what remedial work is necessary to bring the project into compliance. The permittee so notified shall immediately, unless weather conditions or other factors beyond the control of the permittee prevent immediate remedial action, commence the recommended remedial action and shall complete the remedial work within 72 hours or within a reasonable time after receipt of such notice. Upon satisfactory

completion of the remedial work, the Stormwater Superintendent shall issue a notice of compliance and the development may proceed. (Ord. No. 3832, §§ 1, 2, 4-14-2011)

E. **Revocation of Permits and Stop Work Orders; Actions Without Prior Notice**.

1. The Stormwater Superintendent, after giving written notice, may revoke a permit issued pursuant to the regulations of this Code for any project which is found upon inspection to be in violation of the provisions of the regulations of this Code, and for which the permittee has not agreed to undertake remedial work as provided in the regulations of this Code. Drainage permits may also be revoked if remedial work is not completed within the time allowed. Upon revocation of a drainage permit, the Stormwater Superintendent shall issue a stop work order. Such stop work order shall be directed to the permittee who shall immediately notify persons owning the land, the developer, and those persons actually performing the physical work of clearing, grading, and developing the land or constructing the project. The stop work order shall direct the parties involved shall cease and desist all or any portion of the work on the project which is not in compliance, except such remedial work necessary to bring the project into compliance.

2. The Stormwater Superintendent is authorized to enter upon any premises without prior notice, to issue stop-work orders as may be necessary, and to take such further actions as are necessary to prevent, eliminate or remediate any violations or Illicit Discharges in any of the following circumstances:

   a. If a violation constitutes an imminent or immediate danger to the environment or to the public health, welfare or safety;

   b. If a person to whom a Notice of Violation has been issued and has become final and such person has failed to comply with the directed corrective actions within the time provided therefor; or

   c. If all reasonable attempts to contact a responsible person as to a violation have failed.

3. The City may suspend, revoke, or modify the permit authorizing a land development project. A suspended, revoked, or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the City may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

4. Upon suspension or revocation of a drainage permit, the Stormwater Superintendent shall issue a stop work order. Such stop work order shall be directed to the permittee and he/she shall immediately notify persons owning the land, the developer, and those persons or firms actually performing the physical work of clearing, grading and developing the land or constructing the project. The stop work order shall direct the parties involved to cease and desist all or any portion of the work on the project which is not in compliance, except such remedial work necessary to bring the project into compliance. (Ord. No. 3832, §§ 1, 2, 4-14-2011)

F. **Failure to Maintain**.

1. *Notice of Violation; Time Limit to Abate; Hearing Request*. Following a determination by the Stormwater Superintendent that the owner, occupant, or agent in charge of any lot or parcel of land on which a drainage control facility exists or abuts has failed to properly maintain such facility as previously set forth or has failed to meet any requirement of this Code of any approved stormwater pollution prevention plan or has failed to comply with any order issued by the Stormwater Superintendent as authorized under this Code, then the Stormwater Superintendent shall notify the owner, occupant, or agent in charge of the violation in writing. If the owner, occupant, or agent in charge fails, neglects, or refuses to comply with the requirements specified in the written notification within 10 days, the Stormwater Superintendent shall issue a notice of violation requiring the owner, or agent of the owner of the premises to repair, remove, and/or abate from the premises the thing therein described as a defect and/or nuisance and performing the necessary remedial work within a time, not exceeding 10 days, to be specified in the notice of violation. The notice of violation shall contain the name and address of the alleged violator, the date and location of the violation, a description of the violation, a description of the remedial measures necessary to restore compliance with this Code and a time schedule for the completion of each such remedial measure and a description of further enforcement actions which may be taken by the City. The notice of violation shall state that before the expiration of the waiting period, the recipient may request a hearing before the City Commission or its designated representative. The request for hearing before the City Commission, or its designated representative, shall in no way relieve any party from liability or responsibility for any violations occurring before, during, or after the conduct of any such hearing. Nothing in this Section shall limit the authority of the Stormwater Superintendent to take any other action, including emergency action or any other enforcement action while any such proceedings are pending.

2. *Serving Notice Upon Owner*. The notice of violation shall be served by personal service, by delivering a copy to the owner, occupant, or agent of such property, or if the same is unoccupied and the owner is a nonresident, then by mailing a notice by restricted mail to the last known address of the owner.

3. *Failure to Comply; City to Cause Remedial Work to be Done*. If the owner or agent fails to comply with the requirement of the notice of violation for a period longer than that named in the notice, then the City shall proceed to cause the necessary remedial work to be performed and thereby have the things described in the notice repaired, removed, and/or abated from the lot or parcel of ground.

4. *Costs to be Paid by Owner; Assessment to Tax Roll*. Whenever the City undertakes the correction or abatement of any violation, or the remediation of any damage caused by any violation, either under emergency circumstances, or due to a person's failure to comply with any lawful notices or orders issued by the Stormwater Superintendent or the City Commission, the person or persons responsible for such violation shall be liable to the City for the costs of such corrective, abatement, or remedial actions. The City shall give notice to the owner, occupant, or agent by restricted mail of the total cost of such repair, abatement, or removal incurred by the City. Such notice also shall state that payment of such cost is due and payable within 30 days following receipt of such notice. If the cost of such repair, removal, and/or abatement is not paid within the 30-day period, the cost shall be collected in the manner provided by this Code or shall be assessed and charged against the lot or

parcel of ground on which the nuisance was located. If the cost is to be assessed, the City Clerk, at the time of certifying other city taxes to the County Clerk, shall certify the aforesaid costs, and the County Clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the County Treasurer and paid to the City as other city taxes are collected and paid. (Ord. No. 3832, §§ 1, 2, 4-14-2011)

G. **Offenses**. Upon the failure, neglect, or refusal of any owner to comply with the notice of violation, the Stormwater Superintendent shall notify the City Attorney who may cause a complaint to be filed against such owner for violation of the provisions of this Code in the municipal court. No such owner shall be exempted from prosecution for violation of such provisions by reason of lawfully transferring his ownership, tenancy, or interest in the premises upon which the nuisance exists after the giving of notice as herein provided. (Ord. No. 3832, §§ 1, 2, 4-14-2011)

H. **Repair, Removal and/or Abatement by City**. Upon the failure, neglect, or refusal of any owner to comply with notice of violation, the Stormwater Superintendent shall perform all necessary repairs, removal, and/or abatement. For the purpose of so doing, the Stormwater Superintendent may enter the premises upon which such nuisance exists, with or without the consent of the owner thereof, without being guilty of trespass. (Ord. No. 3832, §§ 1, 2, 4-14-2011)

I. **Appeals**. Any applicant or permittee aggrieved by a decision of the Stormwater Superintendent in the enforcement of this Code shall have the right to appeal any order, requirement, decision or determination in accordance with the following procedures:

1. A hearing before the Hays Area Board of Zoning Appeals may be requested in writing by the applicant or permittee within 10 days of a final order, requirement, decision or determination of the Stormwater Superintendent. The Hays Area Board of Zoning Appeals shall conduct the hearing within 45 days of receipt of the request from the aggrieved and shall consider any information offered by the aggrieved person bearing on the dispute and shall within 10 days render its final decision to the Stormwater Superintendent with an appropriate course of action: either reversal, modification, or confirmation. The Stormwater Superintendent, who shall be present at the hearing, shall immediately act on the recommendation in a manner consistent with his responsibilities under this Code.

2. Any applicant or permittee aggrieved by any final decision of the Stormwater Superintendent following review by the Hays Area Board of Zoning Appeals in the manner set out in Subsection I.1, above, may seek review by a court of competent jurisdiction in the manner provided by the laws of the state. (Ord. No. 3832, §§ 1, 2, 4-14-2011)

J. **Violations Deemed a Public Nuisance**. Notwithstanding the other enforcement processes, procedures, and penalties provided in this Code, any condition caused or permitted to exist in violation of any of the provisions of this Code is hereby declared to be a threat to the public health, welfare, and safety, and is hereby declared and deemed to be a public nuisance. Instead of or in addition to any other remedies or procedures hereunder, the City may commence a civil action to abate, enjoin, or otherwise compel the cessation of any such public nuisance. (Ord. No. 3832, §§ 1, 2, 4-14-2011)

K. **Remedies Not Exclusive**. The remedies listed in this Code are not exclusive of any other remedies available under any applicable federal, state or local law. (Ord. No. 3832, §§ 1, 2, 4-14-2011)

Effective on: 5/6/2016

Division 13.1.300 Legal Status

Sec. 13.1.301 Severability

A. **Generally.** If any Chapter, Article, Division, Section, Subsection, paragraph, clause, provision, or portion of this Code are held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code shall not be affected. If any application of this Code to a particular building or structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction "as-applied," such judgment shall not be applicable to any other building, structure, land, or water not specifically included in said judgment.

B. **Signs.** With respect to Chapter 7, *Signs,* the following severability provisions shall apply:

1. *Severability, Generally*. If any Chapter, Article, Division, Section, Subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Chapter 7, *Signs*, or any other provision of this Code related to signage, is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other Chapter, Article, Division, Section, Subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Chapter 7, *Signs*, or this Code.

2. *Severability Where Less Speech Results*. Without diminishing or limiting in any way the declaration of severability set forth above in Subsection B.2., above, or elsewhere in this Section, this Code, or any adopting ordinance, if any Chapter, Article, Division, Section, Subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Chapter 7, *Signs*, or any other provision of this Code related to signage, is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other Chapter, Article, Division, Section, Subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of said article or provision, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.

3. *Severability of Provisions Pertaining to Prohibited Signs and Sign Elements*. Without diminishing or limiting in any way the declaration of severability set out above, if any Chapter, Article, Division, Section, Subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Chapter 7, *Signs*, or any other provision of the regulations related to signage, is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other Chapter, Article, Division, Section, Subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Chapter 7, *Signs*, that pertains to prohibited signs or sign

elements. It is the intent of the City Commission to ensure that as many prohibited sign types and sign elements as may be constitutionally prohibited continue to be prohibited.

4. *Severability of Provisions if Adjudicated Stricken Due to a Content-Basis*. It is the intent of the City Commission to regulate signage in a manner that implements the purposes of this Chapter 7, *Signs*, as expressed therein. The City finds that the purposes stated in Chapter 7, *Signs*, are legitimate, substantial, and compelling public interests, that the regulation of signage provided by Chapter 7, *Signs*, is unrelated to the suppression of free expression, and that the incidental restrictions on expression that may occur as a result of this Code is no more than is essential to the furtherance of the public interests. However, if a court of competent jurisdiction finds any regulation therein to be based upon content and, further, declares such regulation unconstitutional, then it is the intent of the City Commission that only that portion of the provision that is found to relate to content be severed from this Code, and if it is not possible for the court to strike only the portion of the provision that is found to relate to content, then it is the intent of the City Commission that all signs that would be subject to the stricken provision will instead be subject to the next surviving provision for a sign of like geometry and character that is more restrictive than the stricken provision in terms of, in descending order of priority:

   a. sign height; and

   b. sign area.

Effective on: 5/6/2016

Sec. 13.1.302 Conflicting Provisions

A. **Generally.** In the event that the provisions of this Code conflict with each other or with another provision from the City's *Code of Ordinances*, or another enforceable rule, regulation, or ordinance of the City:

   1. The more restrictive provision shall control, if the provisions were adopted at the same time; or

   2. The more recent provision shall control if the provisions were adopted at different times.

B. **State and Federal Law.** No part of this Code relieves any applicant from compliance with applicable provisions of state or federal law. If a use, building, structure, operational characteristic, construction technique, environmental impact, or other matter is prohibited by state or federal law, it is also prohibited in the City. Likewise, if a matter is regulated by state or federal law, then compliance with state or federal law does not relieve the applicant from compliance with this Code, unless the application of this Code is legally preempted.

Effective on: 5/6/2016

Sec. 13.1.303 Civil Liability

Neither the approval of a plan under the provisions of this Code, nor compliance with the provisions herein shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law or equity, nor shall such approval and/or compliance operate to impose any liability upon the City for damage to any person or property.

Effective on: 5/6/2016

CHAPTER 14 MEASUREMENTS AND WORDS

ARTICLE 14.1 MEASUREMENTS, WORD AND DOCUMENT USAGE, AND DEFINITIONS

Division 14.1.100 Measurements

Sec. 14.1.101 Density

A. **Generally.** Density is measured in two ways: gross density and net density (*see* Figure 14.1.101, *Illustrative Density Calculation*).

B. **Gross Density.** Gross density is calculated by dividing the number of proposed dwelling units by the base site area.

C. **Net Density.** Net density is calculated by dividing the number of dwelling units by the net buildable area of the parcel proposed for development.

Figure 14.1.101
Illustrative Density Calculation

Gross Density Example Calculation	Net Density Example Calculation
1. Total Land Area = 636,315 sf. ft. or 14.6 acres 2. Less Area Cut Off by Waterbody = 19,936 sq. ft. 3. Less Right-of-Way Dedication = 12,900 sq. ft. 4. Equals Base Site Area[1] = 603,479 sf. ft. or 13.9 acres 5. Units = 51 6. Gross Density = 3.67 units per acre (Step 5 divided by Step 4)	1. Total Land Area = 636,315 sq. ft. or 14.6 acres 2. Less Area Cut Off by Waterbody = 19,936 sq. ft. 3. Less Right-of-Way Dedication = 12,900 sq. ft. 4. Equals Base Site Area = 603,479 sq. ft. or 13.9 acres 5. Less Open Space = 80,599 sq. ft. 6. Buildable Area[1] = 522,880 sf. ft. or 12.0 acres 7. Units = 51 8. Net Density = 4.25 units per acre (Step 7 divided by Step 6)
Table Notes: [1]Calculations for Base Site Area are included for illustrative purposes.	

Effective on: 5/6/2016

Sec. 14.1.102 Floor Area Ratio

A. **Generally.** The unit of measurement for intensity is called floor area ratio (FAR).

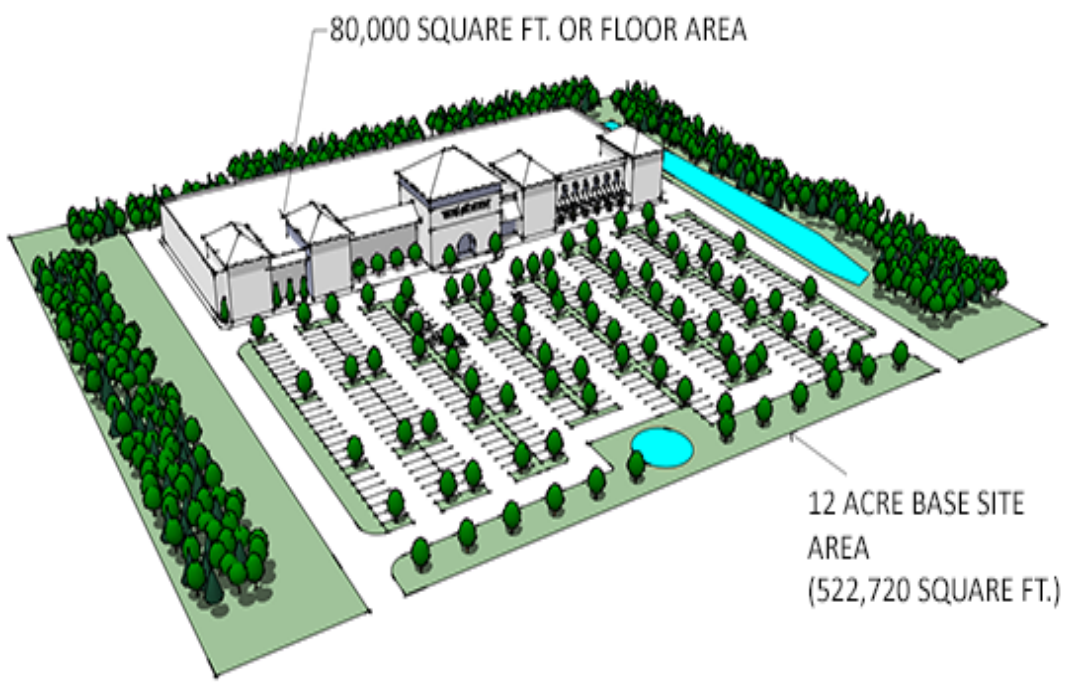
B. **Calculation.**

1. For individual lots, FAR is calculated by dividing the total floor area on the lot by the lot area.
2. For parcels proposed for development, gross FAR is calculated by dividing the total floor area on the parcel proposed for development by the base site area (*see* Figure 14.1.102, *Illustrative Floor Area Ratio Calculation*).

C. **Structured Parking Exception.** The floor area of a parking structure is not included in the calculation of FAR.

Figure 14.1.102
Illustrative Floor Area Ratio Calculation

EXAMPLE
The example below is 80,000 square feet of floor area, located on a parcel with a 12 acre base site area. Its FAR is:
80,000 square feet Floor Area
DIVIDED BY
522,720 square feet of Base Site Area
(12 acres TIMES 43,560 square feet per acre)
EQUALS
0.153 FAR



Effective on: 5/6/2016

Sec. 14.1.103 Gross Floor Area

The measurement of gross floor area (GFA) shall be computed by applying the following criteria:

- Horizontal square footage is measured from the outside face of all exterior walls;
- Cellars; basements; penthouses; attics; covered or uncovered porches, terraces, or breezeways; balconies and decks; enclosed storage or mechanical areas; mezzanines; and similar structures shall be included as GFA wherever at least seven feet are provided between the finished floor and the ceiling;
- No deduction shall apply for horizontal areas void of actual floor space (*e.g.*, elevator shafts and stairwells); and
- Protected upper floors of open atriums and foyers shall not be included.

Effective on: 5/6/2016

Sec. 14.1.104 Height

A. **Buildings.** Building height is calculated by measuring the vertical distance from the average finished grade along the front building line to:

1. The highest peak or ridge line of the roof for pitched roof styles; or
2. The top of the parapet for flat roof systems.

B. **Other Structures.** Structure height is calculated by measuring the vertical distance from the average finished grade around the base of the structure to the highest point on the structure. This measurement applies to:

1. Structures without roofs (*e.g.*, fences); and
2. Amateur radio antennae, whether mounted on a roof, the ground, or another structure.

C. **Specialized Structures and Building Appurtenances.**

1. Specialized structures and building appurtenances are not counted in the calculation of building height, provided that:
   a. They project not more than:
      i. Fifteen feet above the highest point on the building for buildings that are two stories in height or higher; or
      ii. Seven feet above the highest point on the building for buildings that are less than two stories in height.
   b. They occupy not more than 10 percent of the total roof area of the building; and
   c. They are not used for human habitation, nonresidential, or industrial purposes, except as incidental to the operation of the building.
2. For the purposes of this Subsection, "specialized structures and building appurtenances" means:

a. Roof structures for the housing of elevators, stairways, tanks, or similar equipment required to operate and maintain the building;

b. Architectural towers, steeples, flagpoles, ventilating fans, chimneys, smokestacks (except as provided in Subsection D., below); and

c. Skylights, solar panels, and solar water heaters.

D. **Smokestacks.** Smokestacks shall be permitted to a height of 90 feet in the I-2 district. In other districts, they are subject to Subsection C., above.

Effective on: 5/6/2016

Sec. 14.1.105 Landscape Surface Ration (LSR)

A. **Generally.** Landscape surface ratio is used to ensure that a certain percentage of a parcel proposed for development is landscaped.

B. **Landscape Surface Ratio.**

1. *Measurement*. Landscape surface ratio ("LSR") is the area of designated landscaping and open space area on a nonresidential or mixed use parcel proposed for development divided by the area of the parcel proposed for development. LSR includes bufferyards, parking lot landscaping, foundation plantings, and natural resource protection areas.

2. *Relationship Between LSR and Other Requirements*. If the combination of individual landscaping and open space requirements (*e.g.*, protection of natural resources, provision of bufferyards, parking lot landscaping) requires less landscaped or open space area than the LSR, then the LSR applies, and more landscaping is required. If the application of other landscaping standards requires more landscaped area than the LSR, then the greater requirement applies.

Effective on: 5/6/2016

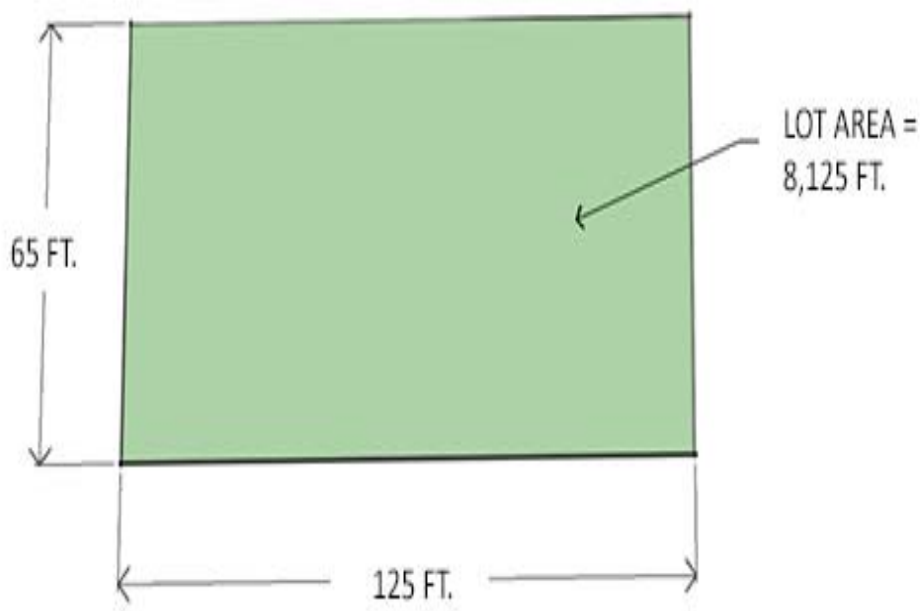
Sec. 14.1.106 Lot Area

Lot area is calculated as the area within the property lines of a lot (*see* Figure 14.1.106, *Illustrative Lot Area Calculation*). Lot area is used:

- To calculate lot coverage;
- To calculate floor area ratio; and
- To determine compliance with minimum lot area requirements, such as in the design of new subdivision.

Figure 14.1.106
Illustrative Lot Area Calculation

Example:
The example at right is a rectangular lot. 65 ft. wide x 125 ft. deep = 8,125 sq. ft. lot area



Effective on: 5/6/2016

Sec. 14.1.107 Lot Coverage

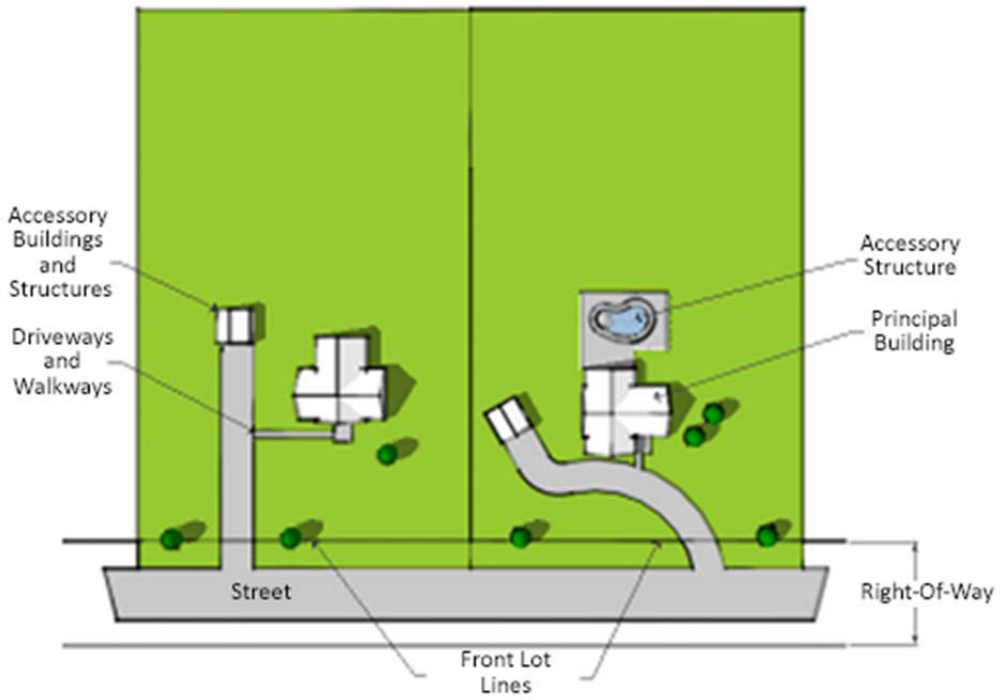
A. **Lot Coverage.** The measurements of lot coverage are as follows.

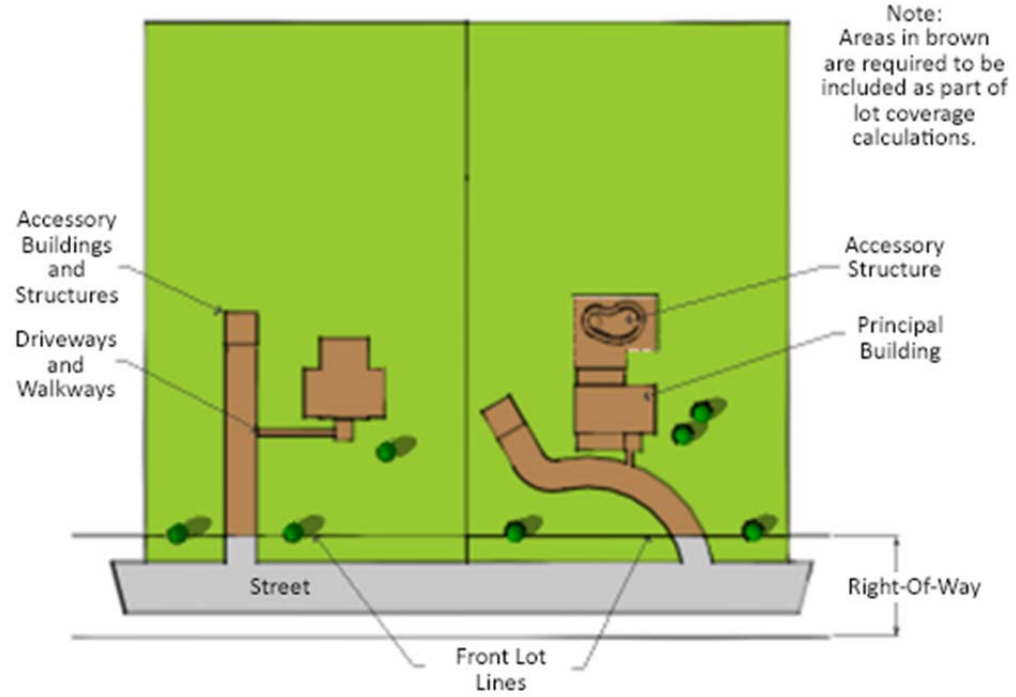
1. Measurements for buildings and structures are taken on a horizontal plane at the main grade level of the principal building or structure and all accessory buildings or structures. All dimensions are measured between the exterior faces of walls.

2. Measurements for driveways, walkways, parking lots, and other non-elevated structures (*e.g.*, pools) are taken using the area delineated by the improved hard surface.

B. **Lot Coverage Ratio.** Lot coverage ratio is lot coverage divided by lot area (*see* Figure 14.1.107, *Lot Coverage Ratio Illustration*).

Figure 14.1.107
Lot Coverage Ratio Illustration



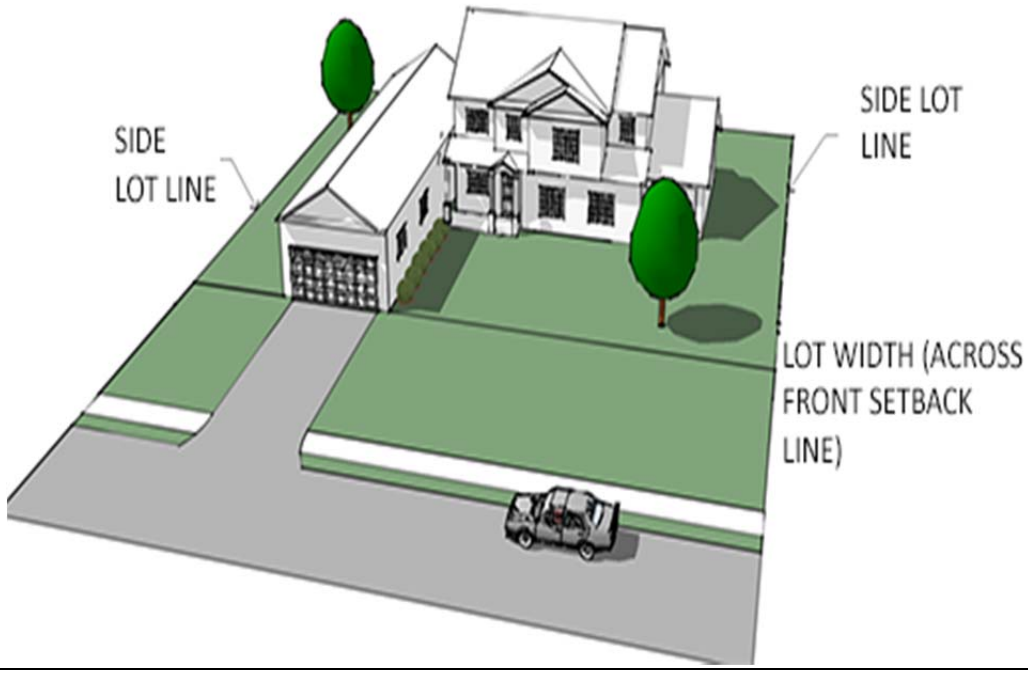


Effective on: 5/6/2016

Sec. 14.1.108 Lot Width

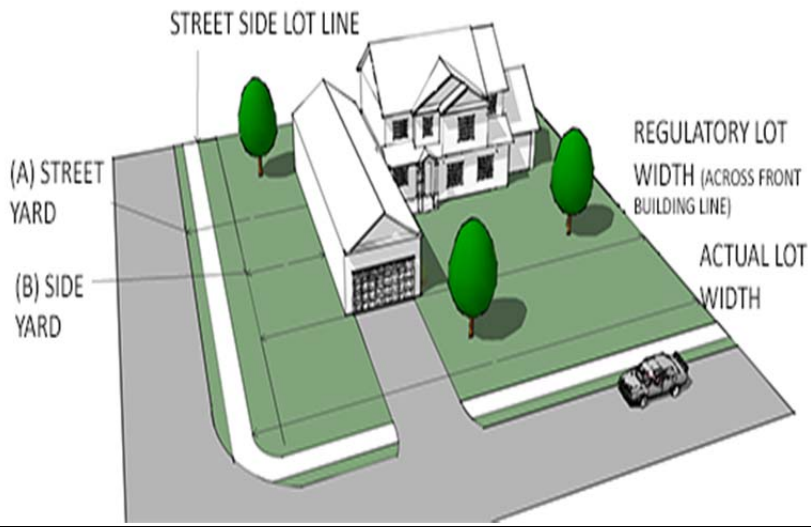
A. **Generally.** Lot width is measured from one side lot line to the opposite side lot line at the front setback line (*see* Figure 14.1.108.01, *Measurement of Lot Width; Standard Lots*).

Figure 14.1.108.01
Measurement of Lot Width; Standard Lots



B. **Corner Lots.** Lot width is measured from the interior side lot line to the side street lot line along the front building line, minus the difference between the street yard setback and the side yard setback (*see* Figure 14.1.108.02, *Measurement of Lot Width; Corner Lots*).

Figure 14.1.108.02
Measurement of Lot Width; Corner Lots



C. **Irregular Lots.** Lot width is the distance from one side lot line to the opposite side lot line along the tangent of the curve representing the front building line (*see* Figure 14.1.108.03, *Measurement of Lot Width; Irregular Lots*). Generally, the front building line is the front setback line. However, if an alternative front building line has been established on the plat of a subdivision that is more distant than the front setback line from the front property line, then the lot width is measured at the alternative front building line.

Figure 14.1.108.03
Measurement of Lot Width; Irregular Lots

Effective on: 5/6/2016

Sec. 14.1.109 Open Space Ratio (OSR) and Landscape Surface Ratio (LSR)

A. **Generally.** Open space ratio (OSR) and Landscape Surface Ratio (LSR) are related concepts. OSR applies to residential development, and refers to commonly owned open space (open space that is not located on private lots). LSR applies to landscaped spaces in nonresidential and mixed use development. OSR and LSR are not necessarily a measure of "green" open space on a parcel proposed for development, as it may also refer to areas of open water. The following delineations further define what can or cannot be counted as open space or landscape surface.

1. *Allowable Areas*. Bufferyard requirements, parking lot landscaping, floodplains, low impact stormwater management systems, passive recreation areas, and other requirements of this Code that require common areas to be landscaped or remain undeveloped shall count as open space or landscape surface area, and may, in the aggregate, require more open space than the OSR or LSR would require.

2. *Prohibited Areas*.

   a. Open spaces that do not qualify for the calculation of OSR include any areas on private, buildable lots and any commonly-owned open space that is less than 320 contiguous square feet.

   b. Open spaces that do not qualify for the calculation of LSR include any area that less than 320 contiguous square feet and areas set aside for parking spaces that are intended for future development.

B. **Calculation.**

1. *Open Space Ratio*. OSR is calculated by dividing the total amount of commonly-owned open space on the residential parcel proposed for development by the total area of the entire parcel proposed for development. *See* Figure 14.1.109A, *Illustrative Measurement of Open Space Ratio (OSR)*.

2. *Landscape Surface Ratio*. LSR is calculated by dividing the total amount of landscaped and open space area on a nonresidential parcel proposed for development by the entire area of the parcel proposed for development. *See* Figure 14.1.109B, *Illustrative Measurement of Landscape Surface Ratio (LSR)*.

Figure 14.1.109A Illustrative Measurement of Open Space Ratio (OSR)
EXAMPLE 6 acres of Common Open Space **DIVIDED BY** 12 acre Area of Parcel Proposed for Development **EQUALS** 50% OSR
Total Area of Parcel Proposed for Development: 12 acres

Figure 14.1.109A
Illustrative Measurement of Open Space Ratio (OSR)

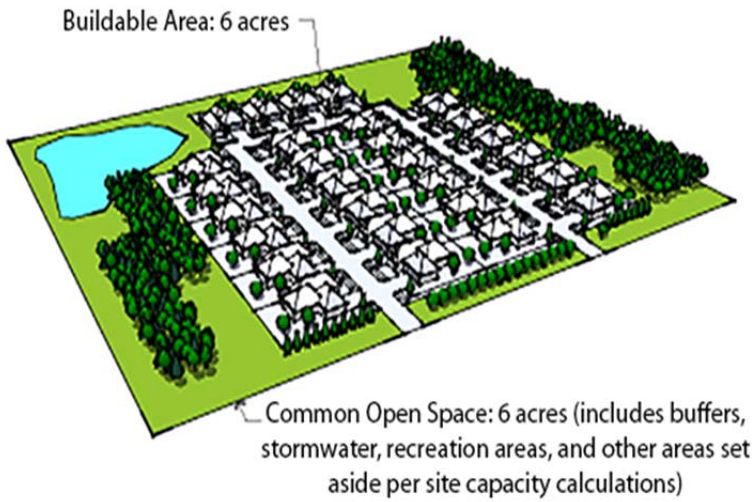
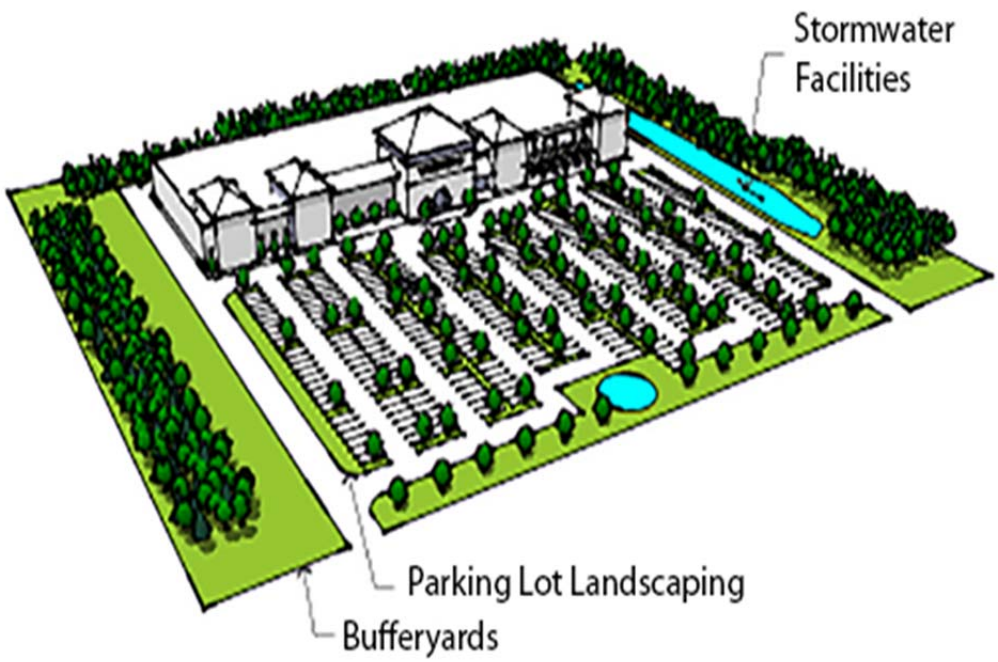


Figure 14.1.109B
Illustrative Measurement of Landscape Surface Ratio (LSR)

EXAMPLE
5 acres of Landscape Surface Area
DIVIDED BY
12 acre Area of Parcel Proposed for Development
EQUALS
41.7% LSR

Total Area of Parcel Proposed for Development: 12 acres

Figure 14.1.109B
Illustrative Measurement of Landscape Surface Ratio (LSR)



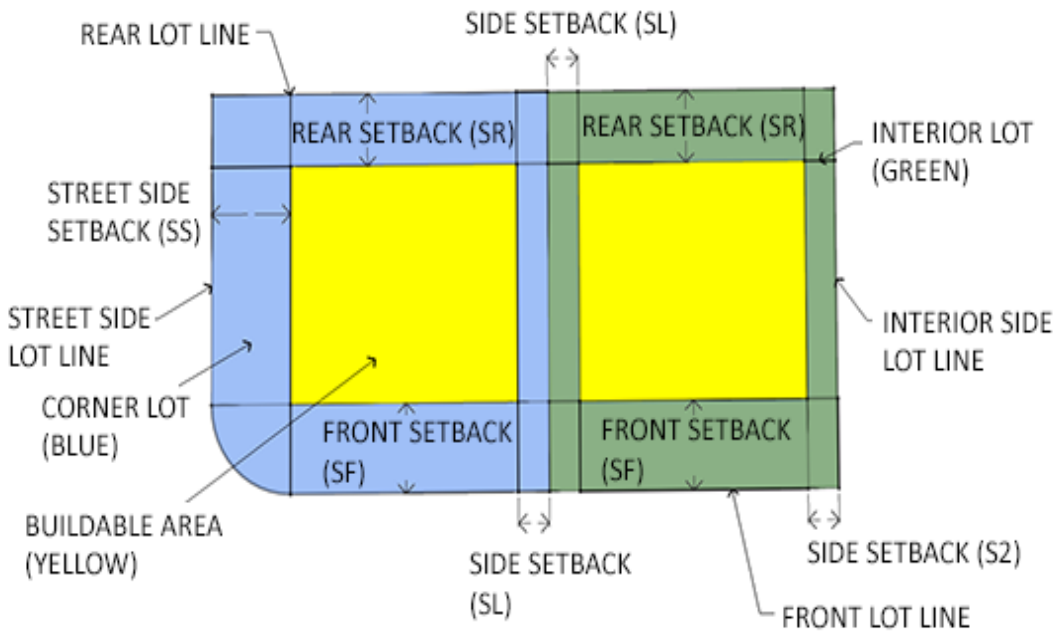
Effective on: 5/6/2016

Sec. 14.1.110 Setbacks

A. **Standard Lots.** Setbacks are measured from lot lines towards the center of the lot (see Figure 14.1.110.01, *Setbacks on Standards Lots*), as follows:

1. Front setbacks (abbreviated "SF") are measured from the front lot line. The front lot line is the lot line that abuts the right-of-way from which the lot takes its address. For corner lots with standard curb radii, the front setback is not measured from the curved portion of the lot (however, a portion of this area is included in the required sight triangle).
2. Rear setbacks (abbreviated "SR") are measured from the rear lot line. The rear lot line is the lot line that is opposite from the front lot line.
3. Side setbacks (abbreviated "SL") are measured from side lot lines. Side lot lines are lot lines that intersect with front lot lines.
4. Street side setbacks (abbreviated "SS") are measured from street side lot lines.

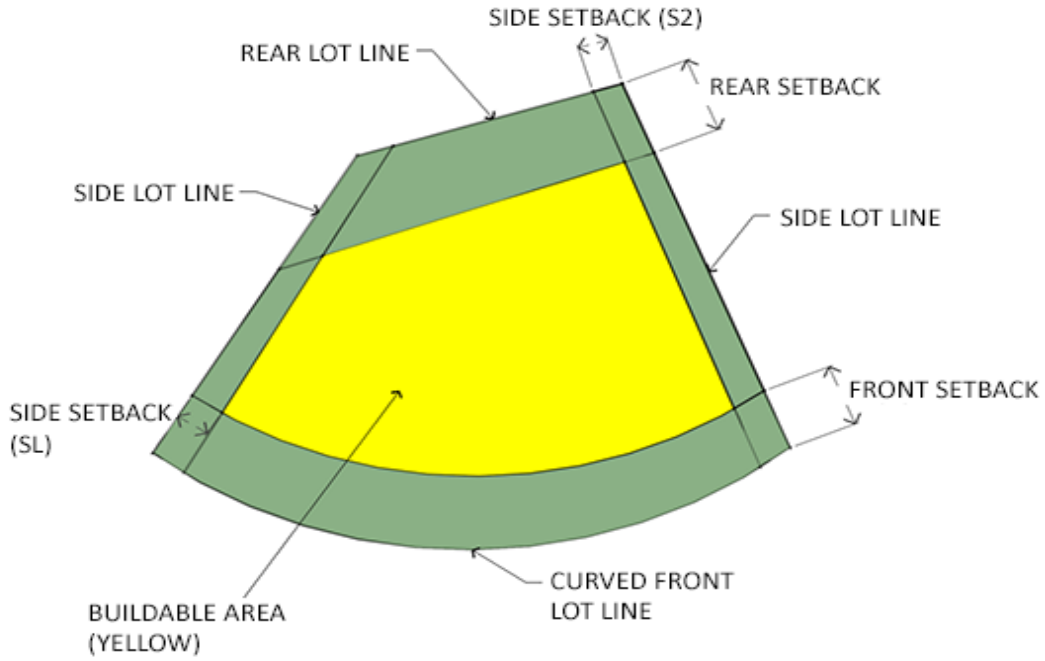
Figure 14.1.110.01
Setbacks on Standard Lots

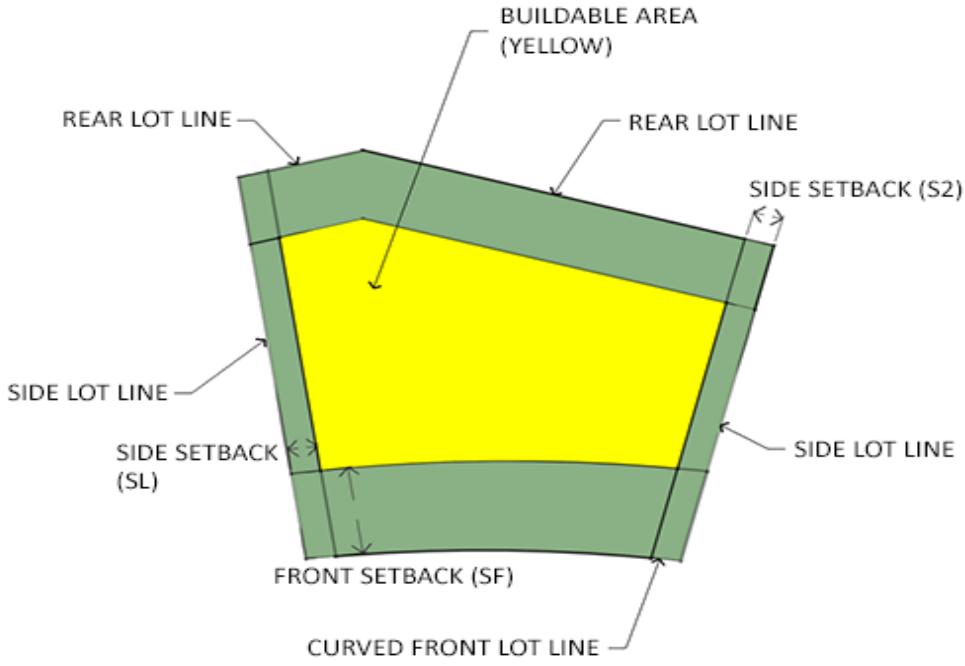


B. **Odd-Shaped Lots.** Setbacks are measured from lot lines towards the center of the lot, as follows, and as depicted in Figure 14.1.110.02, *Setbacks on Odd-Shaped Lots*:

1. Generally, setbacks are measured as set out in Subsection A., above.
2. Where lot lines are curvilinear, setbacks shall be measured as offsets from the curvilinear lot line.
3. Where there are multiple rear lot lines, the rear setback is measured as offsets from the multiple rear lot lines.
4. Where there is no rear lot line, the rear setback shall be measured as a radial distance from the intersection of side lot lines at the rear of the lot.

Figure 14.1.110.02
Setbacks on Odd-Shaped Lots





Effective on: 5/6/2016

Sec. 14.1.111 Signable Area and Ratio

A. **Signable Area.**

1. *Wall Signs*. A two-dimensional area on the facade of a building that describes the largest square, rectangle, or parallelogram which is free of architectural details.
2. *Window Signs*. The area of glass within a window frame.
3. *Other Signs*. The area of the face of a sign which is designed to be used for text and graphics (the signable area does not include the sign's supporting frame or structure, if any, provided that such frame or structure is not designed to display text or graphics).
   a. The sign area for ground signs, monument signs, and architectural sign bands are calculated as the area enclosing the extreme limits of the copy only.
   b. In the case of individual letters mounted to a wall, only the total area of the letters themselves is included with the sign area.
   c. In the case of multi-prism indexing sign, sign area is calculated as the area within the perimeter enclosing the extreme limits of the sign face, regardless of the number of individual messages displayed on the sign.

B. **Signable Area Ratio.** Signable area ratio is the sign area divided by the signable area. It is expressed as a percentage.

C. **Relationship Between Maximum Sign Area and Maximum Area Ratio.** Where both a maximum sign area and a maximum signable area ratio are set out, the standards that results in the least sign area applies.

Effective on: 5/6/2016

Sec. 14.1.112 Sign Measurement

A. **Generally**. The regulations of this Chapter shall be applied using the measurements set out in this Section.

B. **Setbacks**. All setbacks shall be measured from the property line to the nearest edge of the sign.

C. **Sign Clearance**. Sign clearance is the distance between the bottom of a sign face or structural element that is not affixed to the ground and the nearest point on the surface under it (*see* Figure 14.1.112A, *Sign Clearance*).

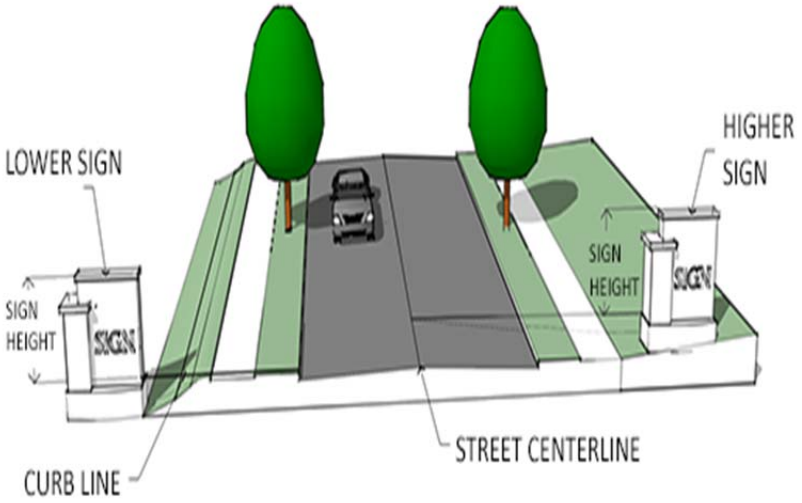
1. Signs constructed of metal and illuminated by any means requiring internal wiring or electrically wired accessory fixtures attached to a metal sign shall maintain a free clearance to grade of nine feet. Accessory lighting fixtures attached to a nonmetal frame sign shall also maintain a clearance of nine feet to grade.
2. No metal ground sign shall be located within eight feet vertically and four feet horizontally of electric wires or conductors in free air carrying more than 48 volts, whether or not such wires or conductors are insulated or otherwise protected.

Figure 14.1.112A
Sign Clearance

D. **Sign Height**. For detached signs (temporary and permanent), sign height is:

1. Where the natural grade of the ground where the sign is to be located is lower than the street centerline, the vertical distance to the top of the sign face or sign structure, whichever is higher, is measured from the average grade around the base of the sign (*see* Figure 14.1.112B, *Measurement of Sign Height, Sign Base Lower than Street Centerline*).
2. Where the natural grade of the ground where the sign is to be located is higher than the street centerline, the vertical distance to the top of the sign face or sign structure, whichever is higher, is measured from the elevation of the centerline of the adjacent street.

Figure 14.1.112B
Measurement of Sign Height, Sign Base Lower than Street Centerline



E. ~~**Items of Information**. An item of information is a word, logo, abbreviation, symbol, geometric shape, image, or number with 10 or fewer digits (punctuation of numbers does not increase the number of items of information). *See* Figure 14.1.112C, *Items of Information*.~~

~~Figure 14.1.112C~~
~~Items of Information~~

Effective on: 5/6/2016

Sec. 14.1.113 Sign Calculations

A. **Generally**. The calculations required by the regulations of this Chapter shall be according to the methodologies of this Section.

B. **Sign Area**.

1. *Generally*. Sign area is calculated by computing the entire area of the smallest square, circle, rectangle, or triangle that encompasses the outer limit of the sign face, including any open areas within the sign face or faces individually. The area excludes the structure upon which the sign is placed (unless the structure is an integral part of the display or used to differentiate it). When the signage consists of individual letters, comprising individual words on a building, the area is calculated by computing the smallest square, circle, rectangle, or triangle that will encompass each word, logo, or symbol. The open spaces between words or other individual components are not included in the calculation (*see* Figure 14.1.113A, *Sign Area, Generally*).

2. *Double-Faced Signs*. For projecting, suspended, or other double-faced signs:

a. Only one display face is measured if the sign faces are parallel or form an interior angle of less than 45 degrees, provided that the signs are mounted on the same structure. If the faces are of unequal area, then sign area is equal to the area of the larger face. On properties situated at the intersection of two streets (also, corner properties), a sign may have two sign faces with an interior angle of 90 degrees. The smallest of the two faces, or one face in the instance of both faces being of the same size, shall be counted in the computation of square footage as long as each sign face fronts public street right-of-way and both sign faces are mounted on the same structure (*see* Figure 14.1.113B, *Double-Faced Sign*).

b. Both display faces are measured if:

i. The interior angle is greater than 45 degrees and not on a corner property; or

ii. The sign faces are mounted on different structures.

3. *Signable Area*. Signable area is calculated as follows:

a. Wall Signs. A two-dimensional area on the facade of a building that describes the largest square, rectangle, or parallelogram which is free of protruding architectural details.

b. Window Signs. The area of glass within a window frame.

c. Other Signs. The area of the face of the sign which is designed to be used for text and graphics (the signable area does not include the sign's supporting frame or structure, if any, provided that such frame or structure is not designed to display text or graphics).

4. *Signable Area Ratio*. Signable area ratio is the sign area divided by the signable area. It is expressed as a percentage.

5. *Relationship Between Maximum Sign Area and Maximum Signable Area Ratio*. Where both a maximum sign area and a maximum signable area ratio are set out, the standard that results in the least sign area applies.

C. **Changes in Existing Structures to Conform.**

1. Any existing advertising sign or structure shall not hereafter be altered, rebuilt, extended, enlarged, or relocated except in conformity with this Chapter.

2. The changing of removable parts of any sign which is designed for change or replacement, or the repainting of display matter thereon, shall not be deemed an alteration subject to a permit.

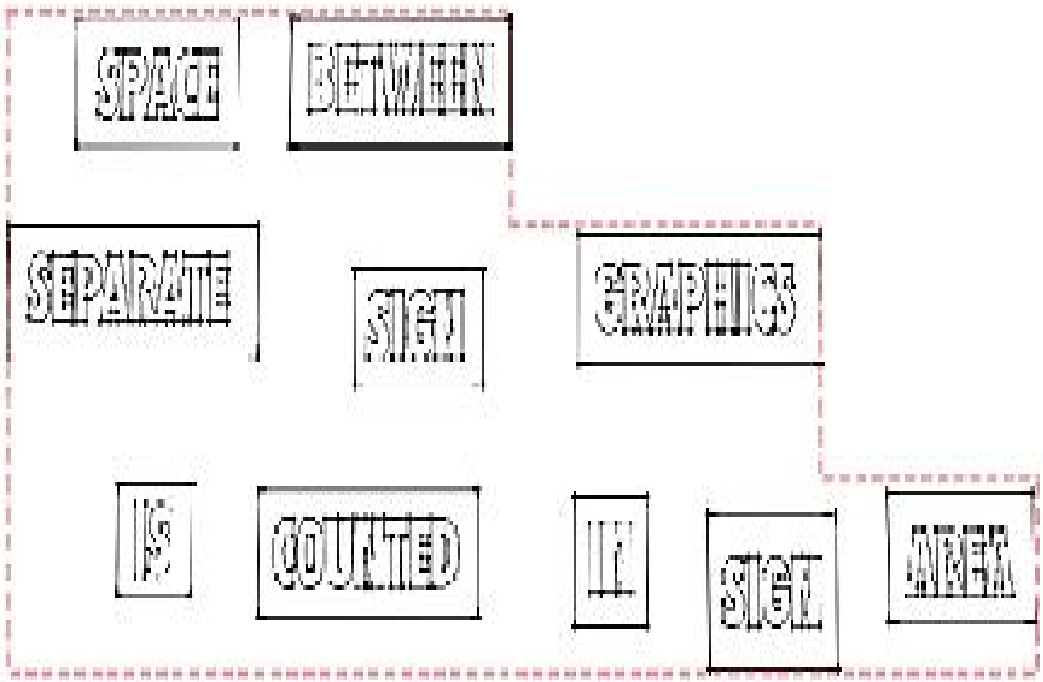
D. **Permit Fees.** Upon the approval of the application by the City Manager or Building Inspector of the City, a permit shall be issued upon payment of the following fees:

1. Freestanding signs, a fee of $120.00.

2. Wall or other nonfreestanding signs, a fee of $60.00.

Figure 14.1.113A
Sign Area, Generally

The sign area of the illustrative collection of wall signs below is measured as the area within the smallest eight-sided polygon that encloses all of the text and graphics and formatting that differentiates them from the other.



The sign area of the following signs is measured as A x B, or in the case of a round sign, the circumference measured by the sign.

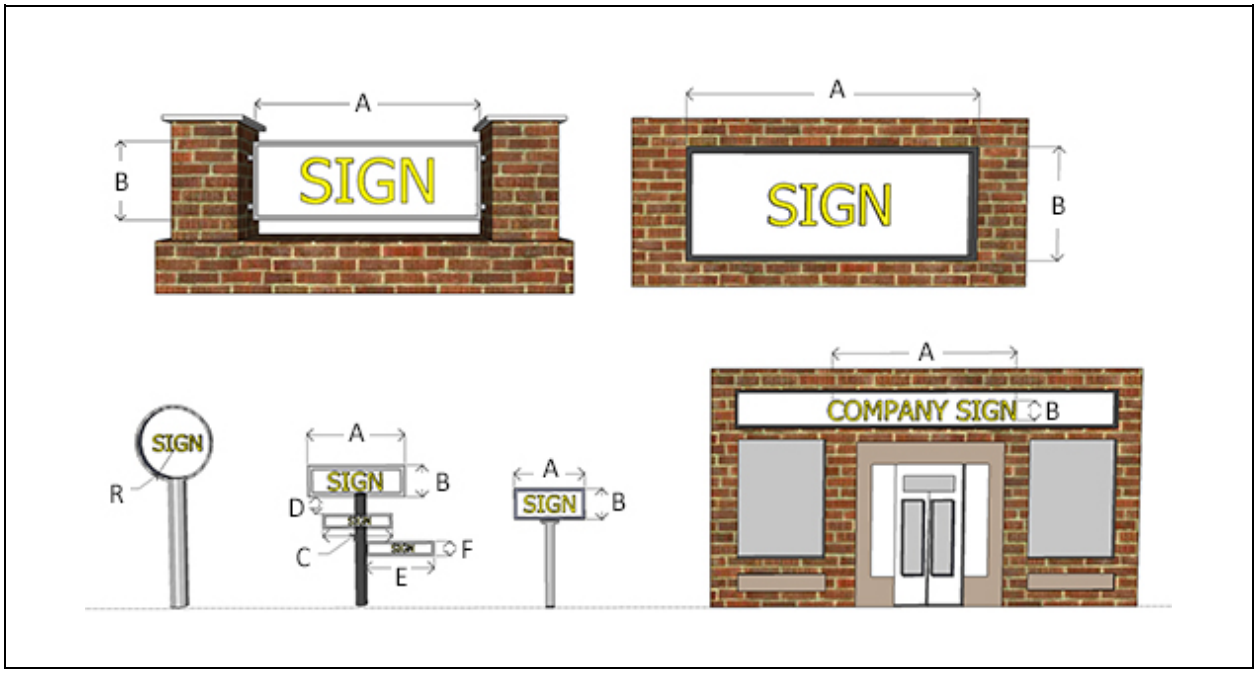
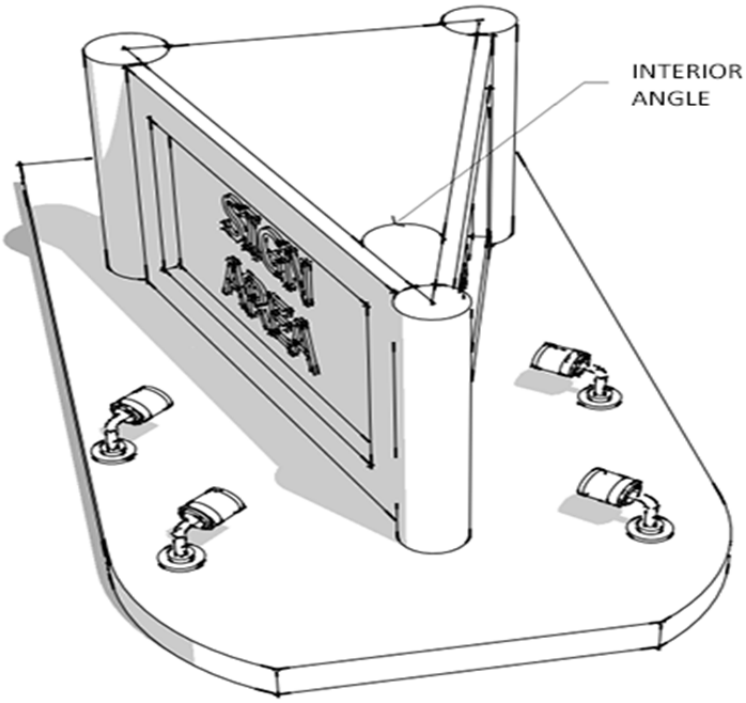


Figure 14.1.113B
Double-Faced Sign



Effective on: 5/6/2016

Sec. 14.1.114 Lineal Street Frontage

In those districts where gross sign area is allocated based on lineal street frontage and the tract or parcel is adjacent to more than one street, the lineal street frontage shall be computed as follows:

- For those tracts or parcels located on major streets as designated in the Comprehensive Plan, the lineal street frontage shall be the distance of that property line abutting the major street.
- For those tracts or parcels not located on a major street, the lineal street frontage shall be one-half the sum of the entire street frontage.
- For those tracts or parcels located on an intersection of two major streets, the lineal street frontage shall be one-half the sum of the entire street frontage.

Effective on: 5/6/2016

Division 14.1.200 Word and Document Usage

Sec. 14.1.201 Word Usage

A. **Generally.** For purposes of interpreting this Code, the following rules of construction apply:

1. The particular controls the general.
2. Words used in the present tense include the future, words in the singular include the plural, and words of one gender include all other genders, unless the context clearly indicates the contrary.
3. The word "shall" is mandatory.
4. The word "may" is permissive.

B. **Defined Words and Phrases.** Words and phrases which are defined in Division 14.1.300, *Definitions*, are those having a special meaning relative to the purposes of this Code. All words, terms and phrases not otherwise defined herein shall be given their usual and customary meanings, unless the context clearly indicates a different meaning was intended.

C. **Abbreviations and Acronyms.** Set out in Table 14.1.201, *Meaning of Acronyms and Abbreviations*, are the meaning of the acronyms and abbreviations used in this Code. The Zoning Administrator is authorized to update this table without further action by the City Commission when amendments to the text include new acronyms.

Table 14.1.201
Meaning of Acronyms and Abbreviations

Acronym or Abbreviation	Meaning
ac.	Acres
ADA	Americans with Disabilities Act
ADT	Average Daily Trips
ADU	Accessory Dwelling Unit

AP	Agricultural Production (Comprehensive Plan Land Use Category)
BP	Business Park (Comprehensive Plan Land Use Category)
BR	Bedroom
BZA	Board of Zoning Appeals
CI	Commercial Industrial (Comprehensive Plan Land Use Category)
CIV	Civic (Comprehensive Plan Land Use Category)
CCRs	Covenants, Conditions, and Restrictions
COM	General Commercial (Comprehensive Plan Land Use Category)
D	Downtown (Comprehensive Plan Land Use Category)
DBH	Diameter at Breast Height
du	Dwelling Unit
e.g.	"exempli gratia," which is translated to "for example." The items listed after the abbreviation *e.g.* are illustrative and not limiting.
EIFS	External Insulating Finishing System
EPA	United States Environmental Protection Agency
etc.	"etcetera," which is translated to mean "and others;" "and so forth; "and so on."
FAA	Federal Aviation Administration
FAR	Floor Area Ratio
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
ft.	Feet
HDR	High Density Residential (Comprehensive Plan Land Use Category)
i.e.	"id est," which is translated "that is." The text following the abbreviation "i.e." is a restatement of the preceding text using different words.
in.	Inches
IND	Industrial (Comprehensive Plan Land Use Category)
ITE	Institute of Traffic Engineers
LEED	Leadership in Energy and Environmental Design
LDR	Low Density Residential (Comprehensive Plan Land Use Category)
LOS	Level of Service
LSR	Landscape Surface Ratio
Max.	Maximum
MDR	Medium Density Residential (Comprehensive Plan Land Use Category)
MH	Mobile Homes (Comprehensive Plan Land Use Category)

Min.	Minimum
MU-C	Mixed Use - Redevelopment (Comprehensive Plan Land Use Category)
N/A	Not Applicable
OSR	Open Space Ratio
PK/GQ	Parks and Greenways (Comprehensive Plan Land Use Category)
POA	Property Owners' Association
~~Regulations~~	~~Zoning and Subdivision Regulations~~
Sec.	Section
sf.	Square Feet
u/a	Units per Acre
UR	Urban Reserve (Comprehensive Plan Land Use Category)
U.S.	United States
U.S.C.	United States Code
USPS	United States Postal Service
WECS	Wind Energy Conversion System

Effective on: 5/6/2016

Sec. 14.1.202 Document Usage

A. **Generally.** For purposes of interpretation, the following rules apply regarding internal cross-references, external hyperlinks, section titles, and illustrations.

B. **Internal Cross-References.** If a cross-reference is set out within this Code, the cross-reference refers to another part of this Code unless a separate document is specifically included in the cross-reference.

C. **External Hyperlinks.**

1. *Statutory and United States Code References.*

a. References to the *Kansas Statutes Annotated* or *United States Code* shall be interpreted to mean the most current version of the referenced Section at the time the reference is applied. If a referenced Section is repealed and replaced by another Section of the *Kansas Statutes Annotated* or *United States Code* with comparable subject matter, the replacement Section shall control. If a referenced Section is repealed and not replaced, the repealed Section shall control if it is within the statutory authority of the City to effectuate such result, or the application shall be held (and not considered officially filed) for up to 12 weeks for the City to revise this Code to resolve the reference and establish an appropriate rule or policy.

b. Where referenced Sections are the source of authority for the promulgation of administrative rules, references to the *Kansas Statutes Annotated* or *United States Code* shall be interpreted to include the phrases "and rules promulgated thereunder."

2. *Disclaimer Regarding Hyperlinks*. Hyperlinks to the *Kansas Statutes Annotated* or other external documents within the online version of this Code are provided for the convenience of the user. The *Kansas Statutes Annotated* and other referenced documents stand in their own right and are not a part of this Code unless specifically incorporated by reference (*e.g.*, the official "zoning map") or by application of Subsection C.1., above. Broken and misdirected hyperlinks may occur as a result of typographical or administrative error or changes in the location of the referenced documents, and shall have no force with respect to the interpretation of this Code.

3. *Authorization to Maintain Hyperlinks*. The Zoning Administrator is authorized, without further action by the City Commission, to:

   a. Add, remove, and maintain hyperlinks to external materials; and

   b. Add, remove, and maintain hyperlinks among related Sections and definitions, whether the related Sections and definitions are set out within the adopted text or provided as annotations for ease of access and reference (however, annotations shall be clearly marked as such).

D. **Section Titles.** In case of difference of meaning or implication between the regulatory provisions and the section titles for each Chapter, Article, Division, Section, or Subsection, the text of the regulatory provisions shall control.

E. **Illustrations.** The illustrations are intended to provide visual guidance regarding how particular standards are to be applied, and are not intended as standards in their own right.

1. *Conflicts*. Where there is a conflict between the text, caption, or graphic in an illustration and the text of the regulatory provisions, the text of the regulatory provisions shall control.

2. *Authorization to Create, Delete, and Modify Illustrations*. To facilitate the application and understanding of the provisions of this Code, the Zoning Administrator is authorized to create, delete, and modify the illustrations herein, and to provide or delete references within the text, without an official amendment to the regulatory provisions of this Code.

Effective on: 5/6/2016

Division 14.1.300 Definitions

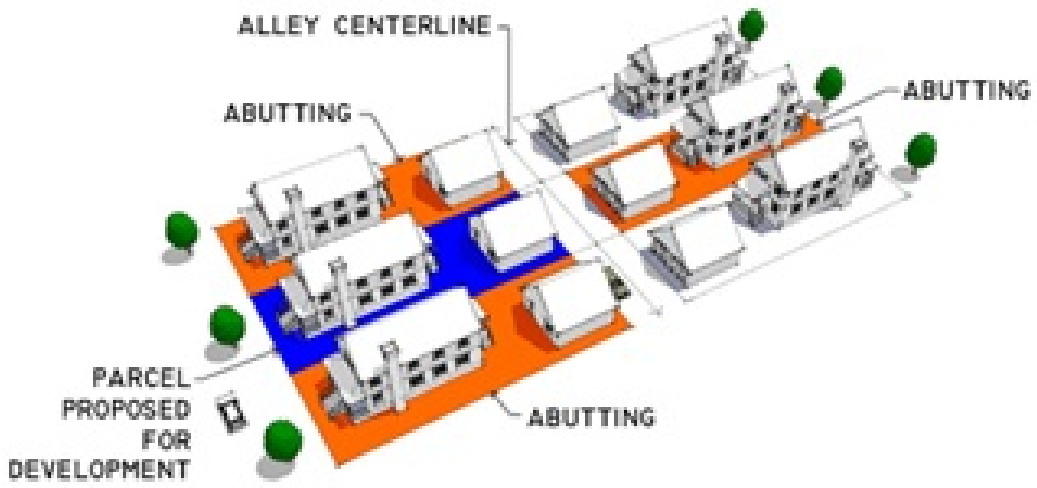
A Terms

Abandonment means that a use, structure, or sign is no longer being used, occupied, or otherwise operated either because the owner or operator affirmatively intends to discontinue use, occupancy, or operation, or because the use, occupancy, or operation is discontinued for a period of time specified in this Code, after which it is not allowed to be resumed.

Effective on: 5/6/2016

Abutting means two lots sharing the same or common property lines, including lots separated by an alley (*see* Figure *Illustrative Example of Abutting*).

Illustrative Example of Abutting



Access means a vehicular connection to a public or private street or alley from a lot or parcel.

Access Easement means a private easement for vehicular access across one lot or parcel to another (*e.g.*, a driveway across a lot to access another lot). Cross-access easements are reciprocal arrangements that provide for the free flow of vehicles across the property line of abutting lots (*e.g.*, a driveway connection between abutting shopping centers).

Accessory Building means a subordinate building which serves a function customarily as incidental to that of the principal building. Customary accessory buildings include garages, carports, and small storage sheds.

Accessory Dwelling Unit ("ADU") means a secondary dwelling unit which is located in a separate accessory building on the same lot as the principal dwelling unit. The ADU provides a complete, independent living space with facilities for cooking, eating, sanitation, and sleeping (*see* Section 10.2.102, *Accessory Dwelling Units*).

Accessory Structure means a structure which is on the same parcel of property as a principal use or building the use of which is incidental to the use of the principal use or building (*e.g.*, gazebos and carports).

Accessory Use means a subordinate use which serves an incidental function to that of the principal use of the premises. Customary accessory uses include tennis courts, swimming pools, air conditioners, barbecue ovens, and fireplaces, etc.

Addition means any construction that adds or enlarges the size of an existing building. Additions also include any extension or increase in floor area or height of a building or structure (*e.g.*, a porch, a carport, or a new room).

Adjacent means an area that has a common property line with, or that is separated from a parcel proposed for development by public right-of-way.

Agriculture, General means land (with and without farm residences and ranches) which is primarily used for the commercial production of field crops for food, fiber, or energy; orchards; viniculture; horticulture; dairying; pasturage; aquaculture, and truck farming. The term also includes the raising or breeding of livestock, cattle, horses, poultry, where there is no more than one animal equivalent unit per acre, and the keeping of bees. The term includes the necessary accessory uses for storing the products and inputs needed to produce them. The phrase does not include community garden or the phrase "nursery/greenhouse, retail".

Agricultural Use means the growing or raising of horticultural and agricultural crops, hay, poultry and livestock, and livestock, poultry and dairy products for commercial purposes. Farm residences are to be used as single-family dwellings.

Airport means any area of land or water designed and set aside for the landing and take-off of aircraft and utilized, or to be utilized, in the interest of the public for such purposes. The term does not include "helistop".

Alcohol Beverage Sales means the retail sale of beer, wine, or other alcoholic beverages for off-premise consumption.

Alteration means, as applied to a building or structure, a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing in height, or the moving from one location or position to another shall be considered as an alteration.

Animal Grooming Facility means an establishment where domestic animals are bathed, clipped, or combed for the purpose of enhancing their appearance or health, and for which a fee is charged, but not including overnight boarding of animals.

Animal Boarding and Veterinarian Services, Large Animal means an animal hospital or clinic that provides services for horses and other livestock, and which may board animals in the course of treatment. The phrase "animal boarding and veterinarian services, large animal" does not include "animal boarding and veterinarian services, small animal."

Animal Boarding and Veterinarian Services, Small Animal means veterinary clinics, hospitals, or other facilities that provide care and boarding of small domestic animals. The phrase "animal boarding and veterinarian, small animal" does not include "animal boarding and veterinarian services, large animal."

Animal Breeding means an establishment which possesses 11 or more adult intact female animals and is engaged in the business of breeding those animals for direct or indirect sale or for exchange in return for consideration and which sells or exchanges, or offers to sell or exchange, not fewer than 20 animals in a calendar year. The term "animal breeding" does not apply to City animal shelters.

Animal Feeding Operations means an agricultural operation where animals are kept and raised in confined situations. They congregate animals, feed, manure and urine, dead animals, and production operations on a small land area. The feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures, fields, or on rangeland. The term "animal feeding operations" includes open feedlots.

Antenna means any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals. Different types of antennae may be subject to different requirements pursuant to this Code.

Effective on: 5/6/2016

Apartment means a multi-family building type that is comprised of three or more dwelling units, each having an entrance to a hallway, stairway, or balcony in common with at least one other dwelling unit.

Applicant means any person or entity applying for development approval pursuant to this Code.

Effective on: 5/6/2016

Approach Surface means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set out in Section 2.1.303, *Airport Height Limitations*. The perimeter of the approach surface coincides with the perimeter of the approach zone.

Approval means a final action by the applicable development review body, granting a right for the applicant to proceed with whichever action that was approved as part of the development approval.

Appurtenant Structure means a structure that is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Architect means an individual registered by the state to practice the profession of architecture.

Area of Shallow Flooding means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard means the land in a floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Asphalt or Concrete Batching Plant means a temporary light manufacturing facility used for the production of asphalt or concrete, or asphalt or concrete products, used in building or construction of a specific site or project, and includes facilities for the administration and management of the business, the stockpiling of bulk materials used in the production process or of finished products manufactured on the premises and the storage and maintenance of required equipment, but does not include the retail sale of finished asphalt or concrete products.

Assisted Living Facility means an establishment that:

1. Furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment;
2. Provides:
    a. Personal care services; or

b. Administration of medication by a person licensed or otherwise authorized in this state to administer the medication; and

3. May provide assistance with or supervision of the administration of medication.

Auto-Urban refers to a type of community character within the urban class, along with urban core and urban. An auto-urban character is not as dense as an urban or urban core, but is more dense than a suburban area. Auto-urban relates to the moderately dense areas, (e.g., commercial areas along corridors and most General Residential (G-R) districts) where there are lower floor area ratios, building height to street width ratios, and impervious cover along with a moderate landscape surface ratio. Auto-Urban areas are most readily identified as those where the automobile is a dominant part of the character, meaning driveway and streets in residential areas and expansive surface parking lots in commercial and industrial areas. In auto-urban areas, commonly the impervious cover is greater than the amount of building coverage. These areas include moderate lot sizes and setbacks.

Effective on: 5/6/2016

B Terms

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means any area of the structure having its floor subgrade (below ground level) on all sides.

Best Management Practices (BMPs) means a defined set of activities, prohibitions, pollution prevention and educational practices, maintenance procedures, and other management practices designed to prevent or reduce the discharge of pollutants directly or indirectly into stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage and leaks, sludge and water disposal, and drainage from raw materials storage.

Block means a piece or parcel of land entirely surrounded by public highway, streets, streams, railroad right-of-way or parks, etc., or a combination thereof.

Board of Zoning Appeals means an appointed board, which has been created by the City Commission, and which has the statutory authority to hear and determine appeals, exceptions, and variances to this Code.

Effective on: 5/6/2016

Bonds means revenue or general obligation bonds or notes heretofore or hereafter issued to finance the costs of improvements.

Effective on: 1/22/2016

Buffer means open spaces, landscaped areas, fences, walls, berms, or any combination thereof, which are used to physically and visually separate one use or property from an abutting property in order to mitigate the impacts of noise, light, or other nuisance.

Bufferyard means a designated strip of land upon which a buffer is installed. Bufferyards may be required between land uses, along district boundaries, along parking lot boundaries, and along street and railroad rights-of-way.

Building means a structure that has a roof and walls, and which is intended to shelter people, animals, property, or business activity, and includes any structure used or intended to be used for supporting or sheltering a use or occupancy. The term "building" shall be construed as if it were followed by the words "or part or parts thereof and all equipment therein."

Building Code means any code for construction of buildings and structures as adopted from time to time by the City of Hays, Kansas.

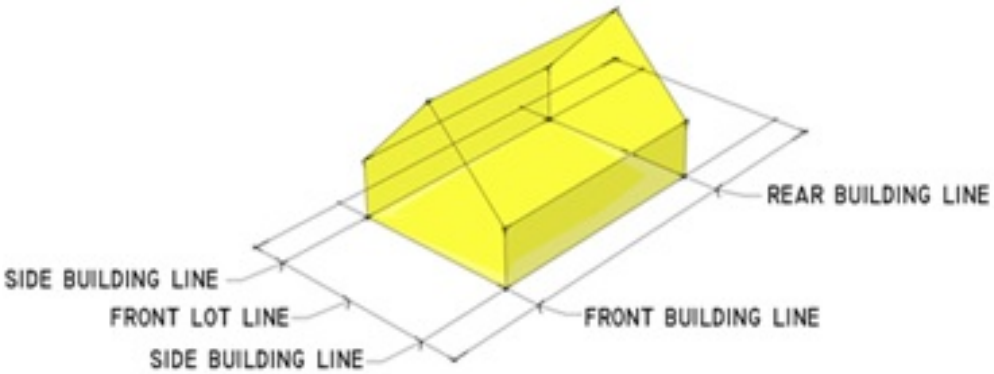
Building Coverage means the footprint of all buildings (area within exterior walls) on a parcel or lot divided by the total area of the parcel or lot.

Building Envelope means the area formed by the front, side, and rear building restriction or setback lines of a lot within which the principal buildings must be located.

Building Height means the vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and the ridge of a gable, hip, or gambrel roof.

Building Lines means a line that runs along the wall plane of a building, extending from lot line to lot line. The building line is not necessarily the same as the setback line (*see* Figure B-1, *Building Lines*).

Figure B-1
Building Lines



Building Permit means a permit issued by the Chief Building Official who permits construction on a structure.

Effective on: 1/22/2016

C Terms

Campground means and includes any piece, parcel, tract, or plot of ground which provides space for transient occupancy and is used or intended to be used for the parking of one or more camping trailers, tents, or similar recreational vehicles. Under no circumstances shall any one camper occupy a campground for a period exceeding 15 consecutive days. The term "campground" does not include sales lots on which unoccupied camping trailers or recreational vehicles, whether new or used, are parked for the purpose of storage, inspection, or sale.

Cemetery means land dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities. The term "cemetery" shall include "mortuaries."

Certificate of Occupancy means an official certificate issued by the Chief Building Official that sets forth that a building, structure, or use legally complies with this Code and the applicable building codes, and that the building, structure, or use may be used for the purposes stated therein.

Effective on: 5/6/2016

Channel means a watercourse of perceptible extent, either natural or improved, which periodically or continuously contains moving water or which forms a connecting link between two bodies of water.

Chief Building Official is the building official for the City of Hays, Kansas, which is the Zoning Administrator.

Child-Care Facility, Family Day Care Home means a premises maintained for the purpose of providing children with food or lodging, or both, away from such children's home(s), for less than 24 hours a day with a maximum of six children less than 16 years of age and a maximum of three children less than 18 months of age which is licensed by the state under the provisions of K.S.A. §65-501. A home with children who are related by blood, marriage, or legal adoption shall not be considered "Child-Care Facility, Family Day Care Home."

Child-Care Facility, Group Day Care Home means the premises on which care is provided for a maximum of 12 children under 16 years of age, with a limited number of children under five years of age in accordance with K.A.R. 28-4-114 (f).

Child-Care Facility, Youth Residential means any home, foster home, or structure which provides 24-hour-a-day care for children and which is licensed pursuant to K.S.A. Chapter 65, Article 5, as amended from time to time.

City means the City of Hays, Ellis County, Kansas.

City Commission means the City Commission for Hays, Ellis County, Kansas.

City Engineer means the person assigned by the Director of Public Works to complete technical tasks associated with City matters.~~stormwater issues.~~

Effective on: 5/6/2016

City Stormwater Superintendent means the City employee responsible for implementing, administering, and enforcing the provisions of Article 9.2, *Stormwater Management*.

Clearing means the destruction and removal of vegetation by manual, mechanical, or chemical methods.

Clinic means a facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an outpatient basis, including diagnostic services, treatment, training, administration, and services to outpatients, employees, or visitors. The term clinic includes immediate care facilities, where urgent care treatment is the dominant form of care provided at the facility, but does not include hospital, freestanding emergency medical care facility, or state-designated trauma center.

College/University/Vocational School means a community college, college, university, vocational/technical school, trade school, language school, business school, training center, beauty school, culinary school, and comparable advanced or continuing education facilities. The phrase "college/university/vocational school" does not include music schools, fitness centers, sports instruction, swimming instruction, or martial arts instruction.

Commercial Amusement, Indoor means uses that provide commercial amusement indoors, including, but not limited to:

1. Bowling alleys and pool rooms;
2. Movie theaters and live theaters;
3. Indoor skating rinks (ice or roller);
4. Indoor velodromes;
5. Video arcades; and
6. Local area network computer gaming centers (not including "Internet cafes/sweepstakes").

The phrase "commercial amusement, indoor" does not mean "sexually-oriented businesses."

Commercial Amusement, Outdoor means uses that provide commercial amusement outdoors, including, but not limited to:

1. Amusement or water parks;
2. Batting cages;
3. Fairgrounds;
4. Miniature golf establishments;
5. Golf driving ranges; and
6. Stadiums/arenas/drive-in theaters.

The phrase "commercial amusement, outdoor" does not mean "sexually-oriented businesses."

Commercial Outdoor Sales Event means the periodic outdoor sales of merchandise on-site by occupants of a commercial lot or parcel. This includes the erection of temporary structures (*e.g.*, tent, shelter, etc.) and/or connections to any utilities (*e.g.*, electric, water, etc.)

Commercial Retail, Heavy means retail and/or service activities that have regular outside service or outside storage areas, larger than average enclosed floor areas devoted to commercial use, or partially enclosed structures, as listed below:

A. Permanent retail operations that are located outside of enclosed buildings, except nurseries;

B. Home centers;

C. Lumber and other building materials;

D. Lawn, garden equipment, and related supply stores;

E. Warehouse clubs and super stores;

F. Recreational equipment rental where the equipment is stored outside;

G. Heavy truck or recreational vehicle leasing or sales; and

H. Industrial or construction equipment leasing or sales.

Common Open Space means an area of land or water or combination of the two which is planned for passive and active recreation, but does not include areas utilized for streets, alleys, driveways or private roads, off-street parking lots, 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."

Comprehensive Plan means the currently adopted *Comprehensive Plan* for the City and its extraterritorial jurisdiction ~~three-mile unincorporated planning~~ area.

Effective on: 5/6/2016

Condominium means a set of legal interests in real property consisting of:

1. An undivided interest in common in real property, in an interest or interests in real property, or in any combination thereof, together with
2. A separate interest in real property, in an interest or interests in real property, or any combination thereof.

Conical Surface means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to one for a horizontal distance of 4,000 feet.

Construction means the erection of a new building or structure, or the installation of infrastructure, on a parcel proposed for development.

Contaminated means containing substances regarded under state or federal law as being pollutants.

Contiguous means land that abuts other land or lands that are separated only by streets, alleys, pipelines, electric power lines, conduits, or rights-of-way, owned in fee or less than fee by third parties.

Grass, Cool Season means a grass species that possesses a C3 photosynthetic pathway and favors the cooler weather of spring and autumn, typically going dormant in hot, dry periods without supplemental irrigation. Most cool season grasses perform better in partial to full shade conditions. Common species of cool season grasses grown in the Hays area include varieties of Kentucky Bluegrass, fine fescues, tall fescues, sheep fescues, creeping bentgrasses and ryegrasses. For the purpose of this Code, native cool season grasses grown in a turf, such as western wheatgrass, will not be considered cool season grass and can be planted up to the allowable limits of warm season grasses.

Effective on: 1/22/2016

Costs of Capital Improvement means costs incurred in providing capital improvements to the stormwater management system or any portion thereof including, without limitation, alteration, enlargement, extension, improvement, construction, reconstruction, and development of the stormwater management system; professional services and studies connected thereto; principal and interest on bonds heretofore or hereafter issued, including payment of delinquencies of principal and interest due on bonds that are otherwise payable from special assessments; studies related to the operation of the system; costs of the stormwater management service fee study, performed to establish stormwater management service fees for the stormwater utility and to determine other start up costs of the stormwater utility; costs related to the National Pollutant Discharge Elimination System (NPDES) permit study, application, negotiation and implementation, as mandated by federal and state laws and regulations; acquisition of real and personal property by purchase, lease, donation, condemnation or otherwise, for the stormwater management system or for its protection; and costs necessary for the operation of the system or the utility.

Effective on: 1/22/2016

Cottage means a small single-family detached dwelling unit with ground level gross floor area of less than 1,000 square feet which is intended for small lots in specified zoning districts.

County means Ellis County, Kansas.

Covenants, Conditions, and Restrictions means a restriction on the use or development of land, or which requires affirmative actions to be performed (*e.g.*, the payment of dues to a property owners' association, maintenance of common open space, etc.), that is set out in a recorded agreement, and that runs with the land (*e.g.*, it is binding upon subsequent owners of the property).

Crematory means an establishment where certified apparatus is used in cremating human remains.

Culvert means a closed conduit used for the passage of stormwater under an embankment such as a street, railroad, or levee.

Cut-off Fixture means an outdoor lighting fixture, or luminaire, with shields, reflectors, or panels that direct and cut off the light at an angle that is less than 90 degrees.

D Terms

Debt Service means an amount equal to the sum of (i) all interest payable on bonds during a fiscal year, and (ii) any principal installments payable on the bonds during such fiscal year.

Effective on: 1/22/2016

Density means the number of dwelling units permitted per net acre of land.

Department, where not used in reference to a specific department (*e.g.*, "Utilities Department"), means the Planning, Inspection, Enforcement Division (PIE) of the Public Works Department (or title as amended).

Detention means a stormwater management technique of which the primary function is to control the peak rate of surface water runoff by utilizing temporary storage and a controlled rate of release. This may include, but not be limited to, the use of reservoirs, rooftops, parking areas, holding tanks, in-pipe storage, and in-channel storage.

Developed Property means real property, other than undisturbed property; provided that, property devoted to agricultural use, upon which no impervious area is located, shall not constitute developed property for purposes of this article.

Effective on: 1/22/2016

Developer means any person, firm, partnership, joint venture, limited liability company, association, or corporation who participates as owner, promoter, developer, or agent in the planning, platting, or development of a subdivision or development.

Development means:

1. Any man-made change to improved or unimproved real estate including but not limited to:
   a. Construction, reconstruction, or placement of a structure or any addition to a structure;
   b. Installing a manufactured home on a site, preparing a site for a manufactured home or installing recreational vehicle on a site for more than 180 days;
   c. Installing utilities, erection of walls and fences, construction of roads, or similar projects;
   d. Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
   e. Mining, dredging, filling, grading, excavation, or drilling operations;
   f. Construction and/or reconstruction of bridges or culverts;
   g. Storage of materials; or
   h. Any other activity that might change the direction, height, or velocity of flood or surface waters.

2. Development does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing, resurfacing roads, gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

Development Approval means any written authorization from a governmental entity that authorizes the commencement of development.

Diameter at Breast Height means the tree diameter measured at 4.5 feet above the ground.

Effective on: 5/6/2016

Discharge means the release, addition, or introduction of any substance directly or indirectly into the municipal stormwater drainage system.

Drinking Establishment means a building or premises which may be open to the general public where alcoholic liquor by the individual drink is sold, as defined by K.S.A. §41-2601, provided such building or premises is in compliance with applicable federal, state, and municipal laws.

Drive-In/Drive Through Facility means a facility used by an approved use to provide service to customers in vehicles who either:

1. Drive up to a window or station; or
2. Drive through to the building for purchases.

Driveway means a private accessway, primarily for vehicles, leading from a street to a parking or loading area.

Dry Bottom Basin means a natural or artificial stormwater storage area which is designed and maintained for temporary containment of stormwater runoff and is not designed to retain water.

Duplex means a single-family attached building which contains two dwelling units; each of which is totally separated from the other by:

1. An unpierced wall extending from foundation to roof ("side-by-side" duplex); or
2. A ceiling/floor that extends from exterior wall, pierced only by a stairway that is not inside of either dwelling unit ("over-under" duplex).

Dwelling means a building or portion of a building, not including manufactured homes, which is designed and used exclusively for residential purposes.

Dwelling, Multiple means a residential building having accommodations for and occupied exclusively by more than two families, independently.

Dwelling, Single-Family means a residential building having accommodations for and occupied exclusively by one family. A single-family dwelling includes a group home and a residential-design manufactured home, as defined by this Code.

Effective on: 5/6/2016

Dwelling, Two-Family means a residential building having accommodations for and occupied exclusively by two families.

Dwelling Unit means one or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family, with separate facilities for all of the following: sanitation, living, sleeping, cooking, and eating.

E Terms

Easement means any portion of a parcel subject to an agreement between a private property owner and another party which grants the other party the right to make limited use of that portion of the property, whether on, over, or under the property, for a specified purpose.

Easement, Conservation means a nonpossessory interest in land that restricts the manner in which the land may be developed in an effort to conserve natural resources for future use.

Edge of Stream Bank means a line formed by the outer boundary of the stream as delineated by the bankfull or channel-forming flow caused by the two-year rainfall event.

Effective Date means the date that this Code (Ord. No. 194-12) first became effective; or as since amended; or as as new regulations were added.

Effective on: 5/6/2016

Elevated Building means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground by foundation walls, shear walls, posts, piers, pilings, or columns.

Enclosed Conveyance System means a system for conveying stormwater runoff consisting of inlets, manholes, and storm sewers.

Encroachment means

1. A building or structure, or part thereof, that is located:
    a. In an easement which does not allow for the building or structure; or
    b. Between a lot line and the nearest required setback line for the building or structure; or
2. A part of a building or structure that crosses a lot line:
    1. Into another lot under separate ownership; or
    2. Onto a right-of-way.

Engineer shall mean a registered professional engineer registered in the State of Kansas.

Ephemeral Stream means a stream that flows only in direct response to effective precipitation (*e.g.*, during and immediately following a major storm). Ephemeral streams do not intercept groundwater flow and therefore have not base flow. Instead, ephemeral streams usually contribute to groundwater seepage through their porous channel beds.

Equivalent Residential Unit (ERU) means a unit of measure, established by the City Commission, that is equal to the average impervious area per dwelling unit, as calculated by dividing the total estimated impervious area of all residential developed property by the total dwelling units of said property located thereon within the City's limits.

Effective on: 1/22/2016

Equivalent Residential Unit Rate or ERU Rate means a stormwater management service fee, established by the City Commission, charged for each ERU.

Effective on: 1/22/2016

Erosion means the process by which the ground surface is worn away by the action of the wind, water, ice, gravity, or artificial means, and/or land disturbance.

Event Facility means a facility that may temporarily hold a large number of persons that attend a special use such as a conference, ceremony, exhibit, etc. (*e.g.*, banquet hall or lodge). Meals may or may not be served or made available in such facilities.

Exempt Property means public right-of-way, public streets, public alleys, and public sidewalks and/or easements upon which the stormwater management system is constructed and/or located, or as defined by the Stormwater Superintendent.

Effective on: 1/22/2016

Existing Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this Code.

Effective on: 5/6/2016

Expansion to an Existing Manufactured Home Park or Subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

F Terms

Fabrication means producing from raw or semi-finished materials instead of being assembled from ready-make components or parts.

Façade means an elevation of a building that faces a street or that includes a principal public entrance.

Family means one or more persons related by blood, marriage, or adoption, living together as a single housekeeping unit; or a group of not more than four unrelated persons living together as a single housekeeping unit; plus, in either case, usual domestic servants. A family shall under no circumstances be construed as a boardinghouse, fraternity or sorority house, club, lodging house, hotel, or motel.

Farmers' Market means the seasonal selling or offering for sale at retail of home-grown vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables or produce or have taken the same on consignment for retail sale.

Farming Equipment Sales and Service means establishments selling or repairing agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming and ranching.

Farm Stand means a stand where agricultural products or commodities raised on the premises are for sale.

Filling means any act by which soil, rock, organic material or any other material is deposited, placed, pushed, pulled, or transported and includes the conditions that result from that act.

Fiscal Year means a 12-month period commencing on the first day of January of any year.

Effective on: 1/22/2016

Five-Year Storm means a rainstorm having a 20 percent chance of occurrence in any given year.

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

A. The overflow of inland waters;

B. The unusual and rapid accumulation or runoff of surface waters from any source; and

C. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A., above.

Flood Boundary or Floodway Map (FBFM) means an official map of a community on which the Floodplain Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

Flood Elevation Determination means a determination by the Floodplain Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

Flood Elevation Study means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations.

Flood Fringe means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

Flood Hazard Boundary Map (BHBM) means an official map of a community, issued by the Floodplain Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

Flood Hazard Map means the document adopted by the governing body showing the limits of the floodplain, the floodway, streets, stream channel, and other geographic features.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Floodplain Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Floodplain means the floodway and floodway fringe as identified by the Federal Insurance Administration, or such other designation of the floodplain as is subsequently adopted by the City, and representing the regulated 100-year water surface and corresponding elevations.

Floodplain Management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this UDC is presumed to be in violation until such time as that documentation is provided.

Effective on: 1/22/2016

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

Floodway or Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway Encroachment Lines means the lines marking the limits of floodways on federal, state, and local floodplain maps.

Floor Area Ratio (FAR) means a measure of the allowable size of floor area on a lot compared to the size of the lot. FAR gives developers flexibility in deciding whether to construct a low building covering most of the lot or a tall building covering only a small part of the lot, as long as the total allowable floor area coverage is not exceeded.

Food Truck Service means a large vehicle equipped with facilities for cooking and selling food.

Foot-candle means the unit of illuminance equal to one lumen per square foot.

Effective on: 1/22/2016

Fraternal Organization means a group of people formally organized for a common interest (*e.g.*, culture, religion, or public service), with regular meetings and formal written membership requirements.

Freeboard means a factor of safety expressed as the difference in elevation between the top of a retention/detention basin dam or channel bank and the design surface water elevation resulting from the storm for which the basin's required storage volume or channel's flow was determined.

Fuel Storage means any tank located above the ground to store fuel oil.

Funeral Chapel means a building used for human funeral services.

Funeral Home means a building that is used principally for:

1. Human funeral services;
2. Embalming and the performance of other services used in the preparation of the dead for burial;

3. The performance of autopsies and other tests or surgical procedures on human remains; and/or
4. Cremation of human remains.

In addition to the above functions, funeral homes may also store caskets, funeral urns, hearses, and other vehicles used in funeral processions.

G Terms

Golf Course means a tract of land that is designed for the game of golf, including tees, fairways, greens, and hazards. Such use may also include a clubhouse, pro shop, golf equipment rental, and incidental food vending.

Government or Public Institution means public safety (*e.g.*, police and fire stations) and service uses (*e.g.*, government buildings, which may include areas of public assembly), and associated uses (*e.g.*, utilities and infrastructure).

Grading means the excavating, filling (including hydraulic fill), or stockpiling of earth materials, or any combination thereof, generally for the purposes of preparing land for development.

Grass, Cool Season means a grass species that possesses a C3 photosynthetic pathway and favors the cooler weather of spring and autumn, typically going dormant in hot, dry periods without supplemental irrigation. Most cool season grasses perform better in partial to full shade conditions. Common species of cool season grasses grown in the Hays area include varieties of Kentucky Bluegrass, fine fescues, tall fescues, sheep fescues, creeping bentgrasses and ryegrasses. For the purpose of this Code, native cool season grasses grown in a turf, such as western wheatgrass, will not be considered cool season grass and can be planted up to the allowable limits of warm season grasses.

Effective on: 1/22/2016

Grocery Store means a retail store that is over 15,000 square feet in size and that sells primarily household foodstuffs for offsite consumption, including the sale of fresh produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods and/or prepared foods. Other household supplies or other products shall be secondary to the primary purpose of food sales. The definition of "grocery store" does not include "superstores".

Gross Floor Area (GFA) is the sum of the total horizontal areas of every floor of every building on a lot, computed by applying the following criteria:

1. The horizontal square footage is measured from the outside face of all exterior walls;
2. Penthouses, attics, covered or uncovered porches, balconies and decks, enclosed storage or mechanical areas, mezzanines, and similar structures shall be included as GFA wherever at least seven feet are provided between the finished floor and the ceiling; and
3. No deduction shall apply for horizontal areas void of actual floor space (*e.g.*, elevator shafts and stairwells). The protected upper floors of open atriums and foyers shall not be included.

Ground Cover means landscape materials, or living low-growing plants other than agricultural crops and turf grass, installed in such a manner so as to form a continuous cover over the ground surface.

Group Day Care Center means an establishment other than a public or parochial school, which provides day care, play groups, nursery schools, or education for seven or more unrelated children, ages three years or more. Group day care centers shall meet all requirements of the State Board of Health, Maternal Child Care Division.

Group Home means any dwelling occupied by not more than 10 persons, including eight or fewer persons with a disability who need not be related by blood or marriage and not to exceed two 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 the state.

H Terms

Habitable Dwelling Unit means a dwelling unit intended for and suitable for human habitation.

Hazardous Waste means any substance, material, or waste identified or listed as a hazardous waste by the Environmental Protection Agency (EPA) pursuant to 40 CFR Part 261.

Heavy Retail means retail and/or service activities that have regular outside service or outside storage areas, exceptionally large floor areas, or partially enclosed structures, as listed below:

1. Permanent retail operations that are located outside of enclosed buildings, except nurseries;
2. Home centers;
3. Lumber and other building materials;
4. Lawn, garden equipment, and related supplies stores;
5. Warehouse clubs and super stores; and
6. Manufactured home sales.

Heavy Truck or Recreational Vehicle Sales, Service, and Repair means trucks, including truck tractors, and similar vehicles with two or more rear axles, and recreational vehicles that sell and perform services. The inventory is stored for any length of time on-site. The phrase does not include auto body (*e.g.*, collision repair), paint or upholstery services.

Helistop means an area of land or water or a structural surface which is used for the landing and takeoff of helicopters, and any appurtenant areas which are used for fueling, maintenance, repairs, storage, buildings, and other heliport facilities.

Highest Adjacent Grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure means a structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
   a. By an approved state program as determined by the Secretary of the Interior or;
   b. Directly by the Secretary of the Interior in states without approved programs.

Home Occupations means a lawful business, occupation, or activity conducted for financial gain from within a dwelling unit.

Horizontal Surface means a horizontal plan 150 feet above the established airport elevation, the perimeter of which coincides with the perimeter of the horizontal zone.

Horse Riding Stables and Academies means a building in which horses are sheltered. It may be an accessory use to a residential use or another use to a freestanding principal use. The term "horse riding stables" includes private use.

Hospital means any facility providing medical, psychiatric, dependency, or surgical service for sick or injured persons primarily on an inpatient basis, including emergency treatment, diagnostic services, training, administration, and services to patients, employees, or visitors. The term "hospital" does not mean alcoholism or drug rehabilitation facilities, nor does it mean medical offices where patients are generally seen by appointment.

Hotel/Motel means a building or portion of a building, or a group of buildings, used as a transient abiding place which may or may not serve meals and whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, motor court, tourist cabin, tourist court, or other similar designation.

Household Hazardous Waste means any substance, material, or waste identified or listed as a household hazardous waste pursuant to K.A.R. 28-29-23b.

I Terms

Illicit Connections means either of the following:

A. Any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the municipal stormwater drainage system either directly or indirectly; or
B. Any drain or conveyance connected from a commercial or industrial land use to the municipal stormwater drainage system, either directly or indirectly, and which has not been documented in any approved plans, maps or equivalent records, or which has not otherwise been approved by the City Stormwater Superintendent.

Illicit Discharge means any occurrence prohibited under the provisions set out in Section 9.2.305, *Drainage Permits and Prohibited Acts*.

Impervious Area means the total number of square feet of hard surface area on a given property that either prevents or retards the entry of water into the soil matrix, or causes water to run off the surface in greater quantities or at an increased rate of flow, than it would enter under natural conditions as undisturbed property. "Impervious area" includes but is not limited to, roofs, roof extensions, driveways, pavement and athletic courts.

Effective on: 1/22/2016

Impervious Surfaces means an area that do not allow significant amounts of water to infiltrate into the ground. Examples of impervious surfaces are blacktop and concrete.

Improved Hard Surface means any street, driveway, alley, or parking lot surface paved with asphalt, concrete, brick pavers, or other approved uniform, hard material so as to provide a durable and dust-free surface for vehicular traffic.

Improvement means street work and utilities that are to be installed or agreed to be installed by the subdivider on the land to be used for public or private use of the lot owners in the subdivision and local neighborhood traffic and drainage needs, as a condition precedent to the approval and acceptance of the final map or filing of the record of the survey map thereof.

Inlet means an opening into a storm sewer system for the entrance of runoff.

Inner Zone means the area extending from a stream centerline or from the edge of bank for a specified width to protect the immediate streamside area for which construction and land disturbance is commonly prohibited.

Effective on: 5/6/2016

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

Intermittent Stream means a stream of mixed character, behaving as a perennial stream at certain times of the year and an ephemeral stream at other times. Depending on seasonal conditions these streams may feed to and from the groundwater.

Iridescent Color means a property of certain surfaces that appear to change color as the angle of view or the angle of illumination changes.

L Terms

Land Disturbing Activity means clearing, grading, excavating, filling, dumping, grubbing, stripping, or other alteration of the earth's surface where natural or human made ground cover is destroyed and which may result in, or contribute to, erosion and sediment pollution.

Landfill means an area of land or an excavation in which wastes are placed for permanent disposal. For the purposes of this Code, the word "Landfill" does not include clean debris, e.g., dirt, trees, rocks, etc.

Effective on: 5/6/2016

Landscape Area means that portion of a lot or parcel proposed for development which is required to contain landscape materials such as grass, ground covers, shrubs, vines, hedges, trees, and berms. Impervious surfaces are not counted as landscaped areas.

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

Landscape Surface Area means the surface area of land not covered by any buildings, storage areas, or impervious surfaces. These areas shall be maintained as lawn, formally or informally landscaped areas, or natural areas, and may be left undisturbed.

Landscape Surface Ratio (LSR) means the ratio of landscaped area to a unit of land area. Minimum LSRs for nonresidential and mixed use development are set out in Section 3.1.301, *Nonresidential and Mixed Use Development Standards*. LSR is calculated as provided in Section 14.1.109, *Open Space Ratio (OSR) and Landscape Surface Ratio (LSR)*.

Effective on: 1/22/2016

Landscaping means the finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs, and flowers. This treatment may also include the use of logs, rocks, fountains, water features, and contouring of the earth.

Land Surveyor means a registered land surveyor in the State of Kansas.

Lessee means any person(s) who leases all or a portion of a premises on a periodic basis.

Level of Service (LOS) means an indicator of the extent or degree of service provided by, or proposed to be provided by, a public facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility.

Library means a public, nonprofit facility in which literary, musical, artistic, or reference materials such as but not limited to books, manuscripts, computers, recordings, or films are kept for use by or loaning to patrons of the facility, but are not normally offered for sale. Such use may also offer periodic sale of surplus books.

Light Fixture, IES Type III means a fixture with bilateral symmetric distributions typically used at or near the edge of an illuminate area.

Light Fixture/Luminaire means the physical unit that holds a lamp and that may include parts to redirect the light produced by the lamp.

Light Industry means:

A. Industrial and wholesale uses that are relatively small in scale that have limited outside storage and limited environmental impacts or risks, as follows:

   1. The use is conducted in buildings that have:

      a. A ground floor area of less than 80,000 square feet; or

      b. Outside storage that occupies less than 15,000 square feet; or

      c. A height of less than 45 feet; and

   2. The use is one of the following:

a. Assembly of products, instruments, electronics, office and computing machines, and fixtures from pre-manufactured components;

b. Auto or marine body, paint, or upholstery services;

c. Building, development, and general contracting;

d. Communications facilities, except wireless telecommunications facilities;

e. Food production other than restaurants and micro-breweries;

f. Furniture making or refinishing;

g. Manufacture of textiles and apparel;

h. Printing and publishing, except copy centers;

i. Special trade contractors, excluding outside storage of any equipment that is more than 12 feet in height; and

j. Wholesale trade, durable and non-durable, except farm products and combustible or hazardous materials; and

3. Uses that have involve outside storage of heavy vehicles, and limited environmental impacts or risks, as follows:

a. Truck rental or heavy equipment rental;

b. Truck, recreational vehicle, and manufactured home sales; and

c. Transportation services; and

4. Heavy industrial uses that are small in scale and involve limited environmental impacts or risks, including:

a. High-tech heavy industry that meets the following criteria:

i. The use occupies less than 20,000 square feet; and

ii. Receives and ships via parcel courier service, not semi-trailers;

b. Any heavy industrial use that meets the following criteria:

i. The use occupies less than 20,000 square feet of a masonry building;

ii. The use has no outside storage or processing; and

iii. Receives and ships via parcel courier service, not semi-trailers; and

c. Mini-warehouses with outside storage; and

d. Regional utility substations or distribution stations that are located on sites that are at least two acres in area.

Limited Use means a use that is allowed in a zoning district, which is granted administratively subject to special standards that mitigate its impact on the environment or other uses in the district or that prevent a concentration of the use in a particular area. In some cases, the special standards may prohibit the use from being developed on every property in a district.

Live-Work Unit means a dwelling unit that provides space that is designed for one or more commercial or office uses that are allowed in the zoning district. Access between the dwelling unit and the commercial or office space is provided within the unit or from an exterior stairwell.

Lodges means a building(s) in which members of a community or association may gather for social, educational, or cultural activities.

Lot means an undivided tract or parcel of land having lot frontage on a public street or an approved open space and which is, or in the future may be, offered for sale, conveyance, transfer or improvement, which is designated as a district and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.

Lot Area means the area of a lot taken at its perimeter exclusive of any portion within a public or private street right-of-way.

Lot Averaging means the design of individual adjoining lots within a residential subdivision in which the average lot equals the minimum prescribed area for the zoning district.

Lot, Corner means a lot abutting upon two or more streets at their intersection.

Lot Coverage means the ratio of gross floor area of all buildings and structures and all areas that are associated with driveways and parking lots on a lot to the total lot area, expressed as a percentage.

Lot, Depth is the length of a line connecting the midpoints of the front and rear lot lines.

Lot, Double Frontage means a lot having a lot frontage on two non-intersecting streets, as distinguished from a corner lot.

Lot Frontage means the length of the property abutting on one side of a street measured along the dividing line between the property and the street.

Lot, Interior is a lot other than a corner lot.

Lot, Irregular is any lot not having equal front and rear lot lines or equal side lot lines; a lot, the opposite lot lines of which vary in dimension and the corners of which have an angle of either more or less than 90 degrees.

Lot Line means the boundary line of a lot.

Lot, Through means a lot that has a common property line with two street rights-of-way, but not a corner lot.

Lot Width is that distance measured along a line connecting two side lot lines along the front building line.

Lot of Record means a lot which is part of a subdivision, the plat 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 prior to the adoption of the ordinance.

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

Effective on: 5/6/2016

Low Impact Development (LID) means a comprehensive land planning and engineering design approach with the goal of maintaining, as a minimum, the pre-development hydrologic regime on the site without solely using traditional storm drainage conveyance systems *(e.g.*, detention/retention basins) to satisfy drainage and flood mitigation requirements. LID integrates small-scale measures scattered throughout the development site, including such things as constructed green spaces, native landscaping, and a variety of innovative bioretention (*e.g.*, bioswales) and infiltration techniques to capture and manage stormwater on-site. LID reduces peak runoff by allowing rainwater to soak into the ground, evaporate into the air, or collect in storage receptacles for irrigation and other beneficial uses. In areas with slow drainage or infiltration, LID captures the first flush before excess stormwater is diverted into traditional storm conveyance systems.

M Terms

Manufactured Home means a structure which is subject to the federal act and which is transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein, and such term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files with the United States department of housing and urban development a certification required by the secretary of housing and urban development and complies with the standards established under the federal act, except that such term shall not include any self-propelled recreational vehicle (*see* also K.S.A. 58-4202).

Manufactured Home Park means any area, piece, parcel, tract, or plot of ground equipped as required for support of manufactured homes and used or intended to be used by one or more occupied manufactured homes, but under no circumstances shall the manufactured home spaces be sold or offered for sale individually. The term "manufactured home park" does not include sales lots on which unoccupied homes, whether new or used, are parked for the purposes of storage inspection or sale.

Manufactured Home Park, New means a manufactured home park (or subdivision) for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the City.

Effective on: 1/22/2016

Manufactured Home Sales and Services means a business engaged in the sales or rental and service of manufactured homes.

Manufactured Home Space means a plot of ground within a manufactured home park which can accommodate one manufactured home and which provides the necessary utility services for water, sewage, and electricity.

Manufactured Home Subdivision means any area, parcel, tract, or plot of ground used or intended to be used for the purpose of selling lots for occupancy by a manufactured home.

Manufacturing means the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

Map Amendment means an amendment to the Official Zoning Map that involves a change of one or more district boundaries, generally with the intent of changing the zoning classification of specific property that is owned or controlled by the applicant for the map amendment.

Mausoleum means a building containing above-ground tombs.

Mean Sea Level means for purposes of the National Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

Medical Lab means a facility offering diagnostic or pathological testing and analysis of blood, blood fluids, pathological specimens, DNA sampling and analysis, and any other diagnostic test generally recognized in the health care industry.

Medical Office means office space used for the examination and/or treatment of patients on an outpatient basis (with no overnight stays by patients), generally by appointment, by such professionals as:

1. Medical doctors (*e.g.*, physicians, pediatricians, obstetricians, gynecologists, radiologists, geriatricians, general and specialist surgeons, podiatrists, opthamologists, anesthesiologists, etc.) and nurses;
2. Dentists, endodontists, orthodontists, and periodontists;
3. Optometrists;
4. Midwives;
5. Physical therapists, occupational therapists, and speech therapists;
6. Chiropractors, licensed massage therapists, and acupuncturists;

7. Nutritionists and homeopaths;
8. Psychiatrists, clinical psychologists, clinical social workers, and marriage and family therapists;
9. Physiatrists, physiotherapists, orthotists, prosthetists, recreational therapists, audiologists, respiratory therapists, rehabilitation counselors, prosthetic technicians, and personal care assistants; and
10. Other comparable health care professionals.

The phrase "medical office" includes medical labs to the extent necessary to carry out diagnostic services for the medical office's patients. The phrase "medical office" does not include the phrase "clinic."

Meeting Hall means a building that is designed for public gatherings or meetings.

Mitigation means a negotiated action involving the avoidance, minimization, or compensation for possible adverse impacts.

Mixed Use means development in which a combination of residential and nonresidential uses (*e.g.*, residential-over-retail), or several classifications of nonresidential uses (*e.g.*, office and retail), are located on the same parcel proposed for development.

Mixed Use Lofts means apartments not housed on the ground/bottom floor of a building.

Effective on: 1/22/2016

Mobile Home means a structure which is not subject to the federal act and which is transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width and 36 body feet or more in length and is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. A mobile home is not a manufactured home as defined by this Code (*see* also K.S.A. 58-4202).

Effective on: 5/6/2016

Model Home/On-Site Residential Sales Office means a permanent, residential dwelling structure used as a show home and/or residential sales office to conduct business for the construction of homes within that particular subdivision, and of which as least 50 percent of said subdivision must be under the ownership of the model home owner; and further provided the model home may only exist for a period not to exceed three years from the date of issuance of the certificate of occupancy, or upon the sale of 75 percent of the lots within the subdivision, whichever comes first.

Modular Home means a structure which is:

1. Transportable in one or more sections;
2. Designed to be used as a dwelling on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and
3. Certified by its manufacturer as being constructed in accordance with a nationally recognized building code (*see* also K.S.A. 58-4202).

Mortuary means an establishment providing services such as preparing the human dead for burial or cremation and arranging and managing funerals, and may include limited caretaker facilities and a chapel. The term "mortuary" does not include "cemetery."

Multi-Family means buildings that contain three or more dwelling units that:

1. Are accessed by from interior elevators or hallways, or from individual exterior entrances (*e.g.*, an apartment complex);
2. Are separated by interior walls and/or floors; and
3. Are intended to be rented, leased, or owned as a condominium by a family.

The term multi-family does not include boarding houses, dormitories, fraternities, sororities, single-family attached, or overnight accommodations (*e.g.*, hotels and motels).

Effective on: 1/22/2016

Municipal Stormwater Drainage System means the system of conveyances (including sidewalks, roads, streets, curbs, gutters, ditches, designated drainage easements, inlets, drains, catch basins, pipes, tunnels, culverts, channels, creeks, rivers, streams, retention/detention basins, and ponds) owned, operated, or otherwise utilized by the City for collecting or conveying stormwater and stormwater drainage, and that is not intended for the collection or conveyance of sewage.

Museum means an institution devoted to the procurement, care, study, and display of objects of lasting interest or value.

N Terms

Native Grasses means species of perennial grass other than those designated as noxious weeds by the state.

New Construction means:

1. For the purpose of determining flood insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
2. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
3. For all other purposes, "new construction" means construction in a location where no buildings or structures existed at the time a permit is sought pursuant to this Code, except where such construction is a modification or expansion of an existing building or structure into an additional land area.

Effective on: 5/6/2016

NPDES Stormwater Discharge Permit means an NPDES stormwater discharge permit issued by the EPA, or issued by a state under authority delegated pursuant to 33 USC § 1342(b), which permit authorizes and regulates discharges into surface waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Nonconforming Building or Structure means a building, structure or parts thereof lawfully existing at the time this Code or a subsequent amendment became effective which does not conform to the dimensional requirements of the district in which it is located (*see* Section 12.1.202, *Classification of Nonconformities*).

Effective on: 5/6/2016

Nonconforming Landscape Areas means any landscape areas, legally established prior to the adoption of this Code, which does not fully comply with the standards of this Code (*see* Section 12.1.202, *Classification of Nonconformities*).

Effective on: 5/6/2016

Nonconforming Lot means an unimproved lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the original adoption of the ordinance from which this chapter was derived, and neither such lot nor parcel complies with the lot width or area requirements for any permitted use in the zoning district in which it is located (*see* Section 12.1.202, *Classification of Nonconformities*).

Nonconforming Parking Lot means any parking lot, including the minimum number and design of parking spaces and parking aisles, legally established prior to the adoption of this Code, which does not fully comply with the standards of this Code (*see* Section 12.1.202, *Classification of Nonconformities*).

Effective on: 5/6/2016

Nonconforming Sign means any sign, legally established prior to the adoption of this Code, which does not fully comply with the standards of this Code (*see* Section 12.1.202, *Classification of Nonconformities*).

Effective on: 5/6/2016

Nonconforming Use means an existing use of land or use of a building or structure lawfully existing at the time this or a subsequent amendment to this became effective which does not conform to the use requirements of the zoning district in which it is located (*see* Section 12.1.202, *Classification of Nonconformities*).

Nonconformities, Generally occur when, on the effective date of this Code, or amendment thereto, or under previous versions of the regulations now part of this Code, an existing lot, building, structure, landscape area, parking lot, sign, or use of an existing lot, building, or structure does not conform to one or more of the regulations currently applicable to the zoning district in which the lot, building, structure, landscape area, parking lot, sign, or use is located (*see* Section 12.1.202, *Classification of Nonconformities*).

Effective on: 5/6/2016

Non-Profit Institution is an organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986.

Nonresidential means any use, building, or structure (or portion of a building or structure) occupied or intended to be occupied, in whole or in part, for a use other than a dwelling unit, home, residing place, or permanent living space or sleeping space for one or more human beings.

Non-Stealth, Freestanding Wireless Telecommunications Facilities ("WTF") are lattice towers, monopole towers, guyed towers, or other freestanding facilities that do not meet the definition for stealth freestanding communications facilities and consist of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines, and also means a broadcast tower.

Nursery/Greenhouse, Retail means an enterprise that conducts the sale of plants grown off of the premises. The terms also include, as an accessory use, the sale of a limited selection of items (*e.g.*, soil, planters, pruners, mulch, lawn or patio furniture, garden accessories, etc., but not power equipment) that are directly related to the care and maintenance of landscapes. The term "nursery / greenhouse, retail" does not include the cultivation of trees (or other vegetation normally associated with landscaping) where the principal use is growing nursery stock for sale at off-site retail businesses, as this is more appropriately classified as agriculture.

Nursery/Greenhouse, Wholesale means an enterprise that conducts the sale of plants grown on the premises. The terms also include, as an accessory use, the sale of a limited selection of items (*e.g.*, soil, planters, pruners, mulch, lawn or patio furniture, garden accessories, etc., but not power equipment) that are directly related to the care and maintenance of landscapes.

Nursing or Convalescent Home means an institution or agency licensed by the state for the reception, board, care, or treatment of three or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addition.

O Terms

Office, General means uses in which professional, business, information processing, or financial services are provided. The term includes such uses as:

1. Accounting, auditing, and bookkeeping;
2. Administration of businesses (*e.g.*, corporate headquarters);
3. Advertising and graphic design;
4. Architectural, engineering, geo-technical, urban planning, and surveying services;
5. Attorneys and court reporters;
6. Banks, mortgage companies, and financial services;
7. Call centers;
8. Computer programming;
9. Counseling services;
10. Data processing and word processing services;
11. Detective agencies;

12. Government offices;
13. Insurance;
14. Interior design;
15. Real estate sales;
16. Research and development that does not include on-site manufacturing;
17. Retail catalog, internet, and telephone order processing, but not warehousing; and
18. Virtual office services.

Official Zoning Map means the map showing the location and boundaries of the zoning districts established by this Code. This map is entitled, the "Official Zoning Map of the City of Hays, Kansas."

Effective on: 5/6/2016

Oil/Gas Operations means the drilling, extraction, and transportation of subterranean fossil gas and petroleum, and necessary attendant uses and structures, but excluding refining, processing, or manufacturing thereof.

100-Year Storm means a rainstorm having a one percent chance of occurrence in any given year.

Opacity means the measurement of the screening effectiveness of a bufferyard or fence, expressed as the percent of view across the bufferyard or fence that may be blocked to a height of 35 feet, based on the spacing of fence slats or expected volume of landscape material at a variety of heights that is likely to result from a given planting program.

Opaque means not able to be seen through; not transparent.

Open Conveyance System means a system for conveying stormwater runoff consisting of natural and/or improved open channels with intermittent culverts or bridges crossing streets, railroads, or other surfaced areas.

Open Space means 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 lots, or loading areas.

Open Space Ratio (OSR) means the proportion of a development required to be set aside and preserved as open space. Minimum OSRs for residential development are set out in Section 3.1.201, *Standards of New Neighborhoods*. OSR is calculated as provided in Section 14.1.109, *Open Space Ratio (OSR) and Landscape Surface Ratio (LSR)*.

Operating Budget means the annual stormwater utility operating budget adopted by the City for the succeeding fiscal year.

Effective on: 1/22/2016

Operations and Maintenance means, without limitation, the current expenses, paid or secured, for operation, maintenance and repair and minor replacement of the system, as calculated in accordance with generally accepted accounting practices, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses including professional services, equipment costs, labor costs, and the cost of materials and supplies used for current operations.

Effective on: 1/22/2016

Outdoor Recreation means uses that provide active or passive outdoor recreation opportunities for the public or for residents of a subdivision or development. The phrase "outdoor recreation" includes but is not limited to:

1. Jogging, cycling, tot-lots, fitness trails, playing fields, playgrounds, outdoor swimming pools, and tennis courts;
2. Arboretums, wildlife sanctuaries, forests, and other natural areas which may be used for walking or hiking; or
3. Other passive recreation-oriented areas, including picnic areas and community garden plots.

The phrase "outdoor recreation" does not include "commercial amusement, outdoor".

Outdoor Storage means the storage of materials or equipment used in production or other course of business for a period of more than 24 consecutive hours outside of an enclosed building or structure (t-structures, lean-to type structures, or roofed-over, fenced-in areas are not enclosed buildings). The intent of the definition is to include items that are comparable to any of the following:

1. Personal or business property or supplies, except passenger vehicles and light trucks stored in driveways, carports, or parking lots that are intended for overnight parking;
2. Business inventory for sale or lease, except nursery plants;
3. Raw materials or industrial inputs for processing;
4. Appliances, machinery, vehicles, or other items to be repaired;
5. Fuel stored in above-ground tanks;
6. Construction materials and construction equipment;
7. Landscape maintenance equipment; or
8. Recyclable materials.

The phrase "outdoor storage" is not intended to include "outdoor display of merchandise," nor does it include "junk yards".

Owner/Operator means the person who owns the property, or a person who lives or operates on (through rent, lease, or for free), or in some other way manages or works on the property (including any employees or outside contractors who are engaged to work on or from the property).

P Terms

Parcel Proposed for Development means any legally described parcel of land which is designated by the owner or developer as land to be used or developed as a single unit, or which has been developed as a unit as determined by the Zoning Administrator.

Parking Aisle means the area of a parking lot or parking structure which provides for vehicular access to off-street parking stalls. The phrase "parking aisles" does not include the word "driveway" or the phrase "access point."

Parking Lot means an area of land that is designated for parking spaces for automobiles and light trucks, the related parking aisles, the landscaped areas that are surrounded by the parking lot's paved areas, and the landscaped areas at the corners of the paved areas insofar as their inclusion in the parking lot area gives it a regular shape. The phrase "parking lot" does not include driveways on individual residential lots, nor does it include individual garages or carports. Parking lots that are principal uses of property are not related to a specific land use on the same parcel.

Parking, Stand-Alone means parking lots or parking structures that are not provided as required parking for a specific use, and where a fee for use is typically charged. The phrase "parking, stand-alone" also includes facilities that provide both parking for a specific use and regular fee parking for people not connected to the use. The phrase includes small structures intended to shield attendants from the weather.

Parking Row means a row of parking spaces that are parallel to each other and take access to a parking aisle or street. Parking rows may exist as singular rows, or may be located back-to-back to each other providing access to different, but parallel parking aisles.

Parking, Shared means parking lots or spaces which is shared by tenants, visitors, and the general public.

Parking Space means an area of land designated for the parking of motor vehicles, and connected to a street, parking aisle, or other accessway.

Parking Structure means a structure that is composed of one or more levels that are used exclusively for parking spaces for motor vehicles. A parking structure may be totally below grade (underground parking structure); or partially or totally above grade (above-ground parking structure); and may be separate from or integrated into a building that is used for other purposes. Parking structures include parking lifts. Parking structures that are principal uses of property are not related to a specific land use on the same parcel.

Parking Structure, Stand Alone means a structure that is composed of one or more levels that are used exclusively for parking spaces for motor vehicles. A parking structure may be totally below grade (underground parking structure); or partially or totally above grade (above-ground parking structure); and separate from a building. Parking structures include parking lifts. Parking structures that are principal uses of property are not related to a specific land use on the same parcel.

Pawn Shop means an establishment that is engaged in the business of:

1. Lending money on the security of pledged goods; or
2. Purchasing goods on condition that the goods may be redeemed or repurchased by the seller for a fixed price within a fixed period.

Peak Rate of Runoff means the maximum rate of runoff for a given return frequency storm.

Permanent Foundation means permanent masonry, concrete, or a footing or foundation to which a manufactured home, modular home, building, or structure may be affixed.

Permit means a development approval consisting of one or more documents issued by the City allowing a person to begin an activity provided for in this Code or other codes, ordinances, and regulatory provisions administered by the City. A permit allows only the work or development specified in the permit.

Effective on: 5/6/2016

Permitted Use means a use that is allowed by right in a zoning district after the issuance of a permit (in most cases), provided such use is authorized as a permitted use by this Code and the Zoning Administrator determines compliance with all applicable provisions of other applicable ordinances and regulations.

Effective on: 5/6/2016

Personal Services means establishments providing services to individuals as a primary use. Examples of personal uses include:

1. Barber shops;
2. Hair/beauty salons;
3. Day spas;
4. Nail salons; and
5. Tanning salons.

Pervious means a surface that allows rainfall to infiltrate into the ground.

Pervious Cover means the area of land on a parcel proposed for development that allows significant amounts of water to infiltrate into the ground. Pervious areas predominantly consist of vegetated areas and do not include impervious surfaces such as buildings, patios, sidewalks, parking lots, and streets, etc.

Petroleum Refining means oil-related industrial activities involving the processing or manufacture of substances such as: asphalt and tar paving mixtures; asphalt and other saturated felts (including shingles); fuels; lubricating oils and greases; paving blocks made of asphalt, creosoted wood, and other compositions of asphalt and tar with other materials; and roofing cements and coatings.

Place of Public Assembly means a building in which people assemble for civic, educational, religious, or cultural purposes. This use includes facilities used for the following:

1. Event Facilities;
2. Fraternal Organizations;
3. Meeting Halls; and
4. Places of Worship.

The phrase "place of public assembly" does not include the phrase "commercial amusement, indoor" or "school, private" or "school, public."

Place of Worship means a facility where persons regularly assemble for religious purposes and related social events.

Planned Cluster means a type of residential neighborhood in which single-family detached and single-family attached dwelling units are concentrated on a portion of the parcel proposed for development, in order to allow the remaining land to be used for recreation, open space, or preservation of sensitive land areas.

Planned Development means a land development project comprehensively planned as an entity via a unified site plan which permits flexibility in building siting, mixtures of building types (could be mixed housing types for residential-only developments, or mixed residential and nonresidential buildings for mixed use development), and land uses, usable open spaces, and the preservation of significant natural features.

Effective on: 1/22/2016

Planning Commission means the Planning Commission for the City of Hays, Ellis County, Kansas.

Plat, Final means a plan or map prepared in accordance with the provisions of this Code and those of any other applicable local and/or state regulation, which plat is prepared to be placed on record in the Office of the Register of Deeds of Ellis County.

Effective on: 5/6/2016

Plat, Preliminary means a map made for the purpose of showing the design of a proposed subdivision and the existing conditions in and around it. This map need not be based on accurate or detailed, final survey of the property.

Effective on: 1/22/2016

Pollutant means any substance or material which contaminates or adversely alters the physical, chemical, or biological properties of water, including changes in the temperature, taste, odor, turbidity, or color of water. Pollutant includes, but is not limited to the following: dredged spoil; spoil waste; incinerator residue; animal waste; trash, refuse and garbage; sewage and sewage sludge; chemical waste; biological materials; radioactive materials; wrecked or discarded objects and equipment; rock, sand and soil; yard waste; hazardous waste and household hazardous waste; oil and petroleum products or waste; paints, varnishes and solvents; automotive fluids; nonhazardous liquid and solid wastes and yard wastes; pesticides, herbicides, and fertilizers; fecal coliform and pathogens; dissolved and particulate metals; and wastes and residues which result from the construction or demolition of any building or structure.

Portable Storage Unit means an enclosed storage container that may be used to transport goods, but may then also be stationary on a single site for any period of time before or after transport. The term includes, but is not limited to:

1. A truck container, with or without the chassis attached to it;
2. A moving van;
3. A portable on demand (POD) moving container;

4. A pre-assembled storage structure; or
5. A shipping container.

Effective on: 1/22/2016

Power Generation, Small-Scale (Renewable/Noncombustible) means facilities that generate electricity from renewable noncombustible sources (*e.g.*, wind, water, geothermal, or solar, but not alcohol or biodiesel) and deliver it to the power grid as either base load or peak load, also known as a "power plant" or "peaker power plant;" that are scaled to serve more than one building, but are not utility scale. The capacity rating of small scale power generation does not exceed two megawatts.

Power Generation, Utility-Scale means utility scale power plants that generate electricity using fossil fuels or renewable fuels, such as biomass, biodiesel, alcohol, wind, water, geothermal, or solar, and delivers it to the power grid as either base load or peak load. Also known as a "power plant" or "peaker power plant."

Primary Surface means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set out in Section 2.1.302, *Airport Hazard Zones*. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Principal Building means a building in which the principal use of a lot or parcel is conducted.

Principal Structure means, if there is no principal building, the structure in which the principal use of a lot or parcel is located, or the largest structure on a lot or parcel. Fences and garden walls are not principal structures.

Principal Use means the main use to which a parcel, lot, or premise (*e.g.*, a leased space in a shopping center) is put.

Principally Above Ground means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

Private Club means a building or premises which is only accessible to persons who are bona fide members paying annual dues. It shall be permissible to serve food, meals, alcoholic beverages, and provide entertainment for members and their guests; provided that such food, meals, alcoholic beverages, or entertainment are in compliance with the applicable federal, state, and local laws.

Private Horse Stable means an accessory building, structure, or premises designed, intended, or used for the keeping of horses for the exclusive use of occupants of a dwelling located on the same lot.

Private Restrictions means easements or covenants, conditions, and/or restrictions on property which are enforceable between private parties.

Prohibited Use means a use that is not allowed in a specified zoning district and in some cases the entire City.

Property Lines. *See* Lot Line.

Property Owners' Association means an incorporated nonprofit organization operating under recorded land agreements through which:

1. Each lot, unit, or home or business owner in a planned or cluster subdivision (or other described land area) is automatically a member;
2. Each lot, unit, or homeowner or business owner is automatically subject to a charge for a proportionate share of the expense of the organization's activities (*e.g.*, maintaining open space, common open space, or other commonly owned property such as entrance monuments, common parking lots, and landscape areas); and
3. The charge, if unpaid, becomes a lien against the property.

Property owners' associations may also be called such things as "community associations," "condominium associations," "homeowner associations," "neighborhood associations," etc.

Protected Tree means:

1. *Individual Trees*. Any tree of at least eight-inches in diameter at breast height (DBH) measured at four and one-half feet above the ground (or if the tree splits below four and one-half feet, then the trunk is measured at its most narrow point beneath the split) which is on the approved plant list or established for at least five years and not on the prohibited plant list.
2. *Required Trees*. Any tree that is shown on an approved landscape plan that is necessary to:
   a. Meet the planting requirements of this Code; or
   b. Meet a condition of approval of the development to which the landscape plan applies.
3. *Exceptions*. Trees which meet the above criteria are not considered protected trees if they are:
   a. Overmature;
   b. Diseased;
   c. Poor in form; or
   d. Leaning heavily over buildings.

Effective on: 5/6/2016

Public Improvement means any on-site or off-site roadways, water lines, sewer lines, storm water facilities, flood control improvements, open space, landscaping, street lighting, street furniture, traffic control devices, sidewalks and paths, trails, transportation improvements, parking areas and similar infrastructure and related improvements to be constructed and dedicated for public use, or otherwise providing a public benefit and made available for public use by easement, license, or other form of agreement.

Public Institution means public service, institutional, utility, and assembly uses (*e.g.*, governmental and school buildings and facilities, utility stations, semi-public places of assembly, etc.).

Public Special Event means any planned special event or gathering held on private property, regardless of whether a fee is charged, which invites the general public to an identifiable place and at a specified time and is likely to generate visitors sufficient in quantity to obstruct, delay, or interfere with the safe and orderly movement of pedestrian or vehicular traffic. Public special events could include outdoor gatherings; auctions; art sales; outdoor festivals or concerts; auctions; carnivals; circuses; outdoor meetings; special athletic activities (*e.g.*, running races), and special entertainment at commercial properties, etc. The term "public special events" does not include "parades".

Public Utilities mean utility substations or transmission and local distribution facilities, including electric, gas, telephone, water, wastewater, and stormwater. Whether a substation or transmission facility, the transmission lines shall either be in road rights-of-way, adjacent to the rights-of-way, or in easements or separate rights-of-way 20 feet or less in width.

Public Works, Director means the individual appointed by the City Manager as the Director of Public Works or his/her duly authorized designee.

R Terms

Radio and Television Studio means commercial and public communications uses including radio and television broadcasting and receiving stations and studios, with facilities entirely within buildings.

Railroad Yard means an area of land, a portion of which is covered by a system of tracks, which provides for the making up of trains by one or more railroads or private industry concerns. Necessary functions of a railroad yard include but are not limited to the classifying, switching, storing, assembling, distributing, consolidating, moving, repairing, weighing, or transferring of cars, trains, engines, locomotives, and rolling stock.

Recreation/Personal Fitness, Indoor means uses that provide active indoor recreation opportunities, on a subscription or membership basis, on a per-unit of time basis, or free of charge, for the public or for residents of a subdivision or development. The phrase "recreation / personal fitness, indoor" includes but is not limited to:

1. Subdivision, neighborhood, or community recreation centers or athletic clubs;
2. Gymnasiums;
3. Indoor swimming pools; or
4. Indoor tennis, basketball, racquetball, handball or other play courts.

The phrase "recreation/personal fitness, indoor" does not include the phrase "commercial amusement, indoor" nor does it include indoor playgrounds that are accessory to restaurants. The phrase "recreation/personal fitness, indoor" is subsumed by the phrases "amusement or water park" when such facilities include indoor recreation activities.

Recreation/Personal Fitness, Outdoor means uses that provide active or passive outdoor recreation opportunities, on a subscription or membership basis, on a per-unit of time basis, or free of charge, for the public or for residents of a subdivision or development. The phrase "recreation/personal fitness, outdoor" includes but is not limited to:

1. Jogging, cycling, tot-lots, fitness trails, playing fields, playgrounds, outdoor swimming pools, and tennis courts;
2. Arboretums, wildlife sanctuaries, forests, and other natural areas which may be used for walking or hiking; or
3. Other passive recreation-oriented areas, including picnic areas and community garden plots.

The phrase "recreation/personal fitness, outdoor" does not include outdoor shooting ranges.

Recreational Vehicle (RV) means a vehicular-type unit built on or for use on a chassis and designed primarily as living quarters for recreational, camping, vacation or travel use and which has its own motive power or is mounted on or drawn by another vehicle, and which has a body width not exceeding eight feet and a body length not exceeding 40 feet; but such term shall not include a unit which has no electrical system which operates above 12 volts and has no provisions for plumbing, heating and any other component or feature for which a standard is set out in K.ansas Statutes Annotated. The term "recreational vehicle" shall include but not be limited to a motor home, truck camper, travel trailer and camping trailer; provided, however, a recreational vehicle shall not include a boat, or a manufactured, mobile, or modular home (*see* also K.S.A. 75-1212).

Recreational Vehicle (RV) Park means a unified development of recreational vehicle spaces, community facilities, and permitted permanent buildings which are combined to support two or more recreational vehicles used as living or sleeping quarters by the day, week, or month, whether a charge is or is not made.

Recreational Vehicle (RV) Space means a specific part of a lot or area in an RV park that has been reserved for the placement of one recreational vehicle.

Recycling Collection Facility means a facility designed to collect, sort and package, or prepare for shipment, consumer recyclable materials such as paper, glass, aluminum, ferrous metal cans, and materials of like substance. Not to include salvage/scrap processing yards, reclamation or remanufacturing processes, etc. or operation involving or containing hazardous material substances.

Redevelopment means any of the following:

1. The complete demolition of a principal building, followed by the construction of a new building; or
2. The destruction of a principal building to an extent that is equal to or greater than 50 percent of its assessed value, followed by reconstruction and repurposing of the building for a type of use for which the original building was not designed; or
3. Expansion of a principal building by more than 50 percent of its floor area.

Release means to dump, spill, leak, pump, pour, emit, empty, inject, leach, dispose, add, or otherwise introduce any substance, directly or indirectly, or intentionally or unintentionally, into the municipal stormwater drainage system.

Researching and Testing Laboratories means a structure or group of structures used primarily for applied and developmental research, where product testing is an integral part of the operation and goods or products may be manufactured as necessary for testing, evaluation, and test marketing.

Residential means any use, building or structure (or portion of a building or structure) that is used for premises that contain habitable rooms for non-transient occupancy, designed primarily for living, sleeping, cooking, and eating. Residential uses are typically contained within single-family detached, single-family attached, and multi-family dwelling units. The term "residential" does not mean "overnight accommodations."

Restaurant means a public eating establishment at which the principal use is the preparation and serving of food.

Effective on: 1/22/2016

Restaurant, Drive-In or Drive-Through means an establishment whose primary purpose is the sale, dispensing or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves, except that this shall not be construed to include what is commonly called a cafeteria.

Restoration means the act of improving, enhancing, and reestablishing a once viable and now degraded stream segment to a state in which its stability, functions, and values approach its natural state.

Retail Sales and Services means the sale of goods and/or services directly to a consumer that are not specifically defined elsewhere in this Code, and which do not include regular outside storage or sales. The phrase includes uses that are comparable to the following:

1. Art and craft supply stores;
2. Bicycle sales;
3. Book and stationary stores;
4. Branch banking and check cashing;
5. Candy and ice cream stores;
6. Clothing, clothing accessory, and jewelry stores;
7. Computer and small appliance repair;
8. Copy centers, parcel service drop-off locations, and mailbox services;
9. Electronics and appliance stores;
10. Fix-it shops (including radio, television, and small appliances);
11. Florist, card, and gift shops;
12. Food and beverage stores (not grocery stores);
13. Furniture and home furnishings stores;
14. General merchandise stores;

15. Hardware stores, plumbing supplies, electrical supplies, lighting stores;
16. Health and personal care stores;
17. Hobby, stamp, and coin shops;
18. Laundromat, retail dry cleaning, tailoring, shoe repair, furrier, millinery, custom dressmaking, and clothes restoration;
19. Leather goods and luggage stores;
20. Lock and key shops;
21. Miscellaneous store retailers;
22. Music, dance, martial arts, yoga, and other similar instruction;
23. News stands;
24. Paint and wallpaper stores;
25. Pet stores (not including animal boarding and veterinarian services, small animal and animal boarding and veterinarian services, large animal);
26. Photography shops;
27. Second-hand stores;
28. Shoe repair and shoe shine shops;
29. Sporting goods, hobby, book, and music stores;
30. Tattoo parlors; and
31. Tutoring.

"Retail sales and services" that include a drive-in or drive-through facility are limited to those areas where a drive-in, drive-through is a permitted use.

Effective on: 5/6/2016

Retention means a stormwater management technique of which the primary function is to hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground.

Revenues means all rates, fees, assessments, rentals, charges, or other income received by the stormwater utility in connection with the management and operation of the stormwater management system, including amounts received from the investment or deposit of monies in any fund or account, as calculated in accordance with generally accepted accounting practices.

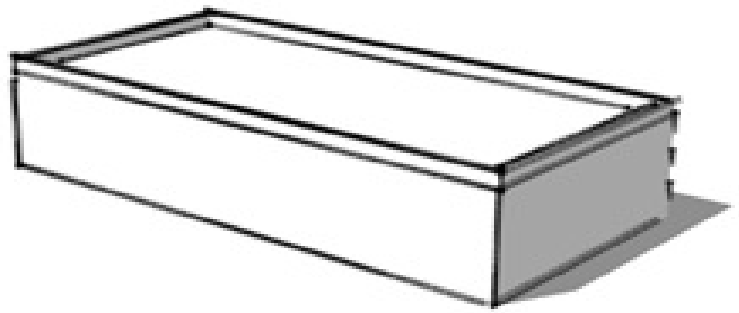
Effective on: 1/22/2016

Rezoning means an amendment to the official zoning map.

Right-of-Way means an area of land not on a lot that is dedicated for public or private use to accommodate a transportation system. In no case shall a right-of-way be construed to mean an easement.

Roof, Flat means a roof that has no pitch, or is inclined by no more than one-half inch per foot (*see* Figure *Flat Roof*, below).

Figure Flat Roof



Roof, Mansard means any roof that has an angle greater than 45 degrees and which derives part of its support from the building wall and is attached to but not necessarily a part of a low slope roof and which extends along the full length of a side building wall of three-quarters of the length of a side building wall. For the purposes of this Code, a low slope roof shall mean any roof with a pitch less than three inches rise per 12 inches horizontal.

Effective on: 5/6/2016

Roof, Pitched means a shed, gabled, or hipped roof having a slope or pitch of at least one-foot rise for each four feet of horizontal distance in the direction of the slope or pitch of the roof.

Runoff means water resulting from precipitation which is not absorbed by the soil, evaporated into the atmosphere, or entrapped by ground surface depressions and vegetation, and which flows over the ground surface.

Runway means a defined area on an airport prepared for landing and taking off of aircraft along its length.

S Terms

Satellite Dish means a dish-shaped type of antenna that is designed to receive communications via satellite relay.

Schools, Private means parochial or nonprofit school (irrespective of accreditation by the state board of education) that which regularly offers education at the elementary or secondary level and attendance at which satisfies the compulsory school attendance laws of this state.

Schools, Public means a school operated by a unified school district organized under the laws of the state. It also includes charter schools which must be accredited by the state board of education.

Seasonal Sales means the temporary outdoor sale of merchandise from private property that permit either temporary seasonal retail sales or outdoor display or sale of goods related to a holiday event (*e.g.*, sale of holiday trees or Fourth of July fireworks, etc.), particular seasonal activity (*e.g.*, sale of pumpkins in the Fall), or other similar merchandise or other articles of arts and crafts related to the seasonal sales activity.

Sediment means soil and rock material transported, carried, or deposited by water.

Setback means a minimum distance that is required from a lot line to a building, structure, or sign, as the context requires.

Showrooms means a stand alone and retail showroom establishment engaged in the retail sales of larger-scale new merchandise including appliances and indoor or outdoor furniture.

Shrubs means any self-supporting, woody plant of a species, which normally grows to an overall height of less than 15 feet in the region.

Sidewalk means a pedestrian way that extends along, parallel to, and within the right-of-way of a public or private street or an abutting easement.

Sidewalk Sale means a temporary, special outdoor sale conducted on public or private sidewalks immediately adjacent and contiguous to commercial establishments; provided, the merchandise being sold is consistent with the merchandise of the adjacent and contiguous business.

Sidewalk Setback means the setback between the sidewalk and the curb.

Sight Distance Triangle means the triangular area formed by a diagonal line connecting two points located on intersecting street right-of-way lines, or a right-of-way line and the curb or edge of a driveway (*see* Section 6.2.207, *Sight Triangle Requirements*).

Sign means a billboard or other device which displays or includes any letter, work, model, banner, flag, pennant, insignia, propeller, balloon, device or representation used as, or which is in the nature of an advertisement or announcement or which directs attention to an object, product, place, activity, person, institution, organization or business; but the terms shall not include display of official notice nor flag, pennant, emblem, or insignia of any nation or group of nation or of any state or political unit.

Sign, A-Frame means a stationary outdoor sign with two faces attached at one surface on each face to form a triangle with one side parallel to the grade.

Sign, Animated means an electronic message sign depicting action, motion, light, or color changes through electrical or mechanical means. Although technologically similar to flashing signs, the animated sign emphasizes graphics and artistic display and may include video displays.

Sign, Area means the entire area within a single continuous perimeter enclosing the extreme limits of the sign, exclusive of the base on which it is mounted or from which it is suspended. For signs designated as double faced signs where both faces cannot be viewed from any one point at the same time and with both faces parallel, and the distance between the faces does not exceed two feet, then only one face of the sign shall be considered in determining the gross surface area. On lots where more than one sign is located, the total gross area of all the signs shall not exceed the maximum gross area permitted by this Code.

Effective on: 5/6/2016

Sign, Attached means any sign supported by uprights, braces, or other devices, or painted on, or otherwise attached to any building.

Sign, Awning or Canopy means a projecting sign attached to, hung from, or painted on a canopy or covered structure which extends beyond the building line or property line.

Sign, Billboard means a sign which directs the attention of the public to any goods, merchandise, property, business, service, entertainment, amusement, or point-of-view conducted or produced which is brought or sold, furnished, offered or dealt elsewhere than on premises where such sign is located or to which it is affixed.

Sign, Business means an outdoor sign which lists, directs, and identifies to a business or to occupants to a profession conducted within a retail centers, industrial centers, office complexes, institutional campuses, or to products, services, or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

Sign, Carried means a sign that is hand-carried by an individual.

Sign, Construction means a temporary sign accessory to ~~indicating the names of the architects, contractors, and similar artisans involved in~~ the design and construction of a structure, complex, or project only during the construction period and only on the premises on which the construction is taking place.

Effective on: 5/6/2016

Sign, Directional/Information means any attached or detached on-premise sign giving directions, instructions, or facility information, (*e.g.*, entrance or exit signs, one-way, location of parking, etc.). ~~which may contain the name or logo of an establishment but no other advertising copy.~~

Effective on: 5/6/2016

Sign, Double-Faced means any sign with copy on two sign faces that are back to back, facing in opposite directions.

Sign, Election means any temporary, portable sign announcing or supporting candidates or issues in connection with any national, state, or local election.

Sign, Electronic Message means a variable message sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs, LCDs, or a flipper matrix, and may also enable changes to be made to messages from locations other than at the sign. ~~Electronic message signs shall be classified as animated, flashing, or moving signs when the rate of copy and/or graphic changes is more than one change per eight seconds.~~

Effective on: 5/6/2016

Sign Face means the area or display surface used for the message on a sign.

Sign, Flashing or Moving means any illuminated sign on which the artificial light is not constant in intensity and color at times. For the purpose of this Code, any revolving, rotating, moving or animated, signs with moving lights, or signs which create the illusion of movement, shall be considered as a "Flashing Sign."

Effective on: 5/6/2016

Sign, Freestanding means any sign which is permanently affixed in or upon the ground, supported by one or more structural members on a sign structure, with air space between the ground and the sign face.

Sign, Hanging means a sign which is suspended over a sidewalk, street, or other public right-of-way.

Sign, Height means the height measured from the ground elevation at the base of a sign to the highest element of the sign.

Sign, Illuminated means a sign designed to give forth artificial light or designed to reflect light derived from any source.

Sign, Integral means a sign that is cut into any masonry surface on the wall of a building or when constructed of bronze or other incombustible materials mounted on the wall of a building.

Effective on: 5/6/2016

Sign, Interim means a temporary business advertising sign intended to provide signage in an interim period during which permanent signage is being fabricated, repaired, and/or prepared for installation or erection.

Sign, Marquee means a permanent roof-like structure constructed of rigid materials that is supported by and extending from the facade of a building and which is designed to include (manual or electronic) changeable copy.

Sign, Monument (Ground) means a freestanding sign which is separate from buildings and the entire bottom of which is in contact with or in close proximity to the ground.

Sign, Off-Premises means any sign normally used for promoting an interest other than that of a business, individual, products, or service available on the premises where the sign is located.

Sign, Off-Premise Advertising means any sign or advertising device which directs attention to a business, profession, product, service, activity, or entertainment that is not conducted, sold, or offered on the premises upon which the sign is located. An off-premises advertising sign includes "billboards."

Effective on: 1/22/2016

Sign, On-Premises means any sign used for promoting a business, individual, product, or service available on the premises where the sign is located.

Sign, Pole means any sign placed upon, or supported by, the ground independently of the princpal building or structure on the property where the bottom edge of the sign six feet or more above the ground level.

Effective on: 1/22/2016

Sign, Political and Noncommercial means any sign designed for the purpose of supporting or opposing a candidate, proposition, or other measure at an election or for any other noncommercial expression not related to the advertisement of any product or service or the identification of any business.

Sign, Portable means any sign or advertising device that is not permanently embedded in the ground or affixed to a building or other structure, including any sign that rests upon the ground, a frame, a building, or other structure or item. By its construction or nature, a portable sign may be or is intended to be freely moved from one location to another. When on a trailer, the removal of the wheels or undercarriage does not place the sign in another category, neither does the anchoring of the sign by means of concrete blocks, sandbags, or other types of temporary anchors. Portable signs include, but are not limited to, trailer signs (with or without wheels), hot air or gas filled balloons or other inflatable objects, signs mounted for advertising purposes on a vehicle that is parked and visible from street right-of-way (except signs identifying the related business when the vehicle is being used in the normal, day-to-day operations of that business), and sidewalk or curb signs. A portable sign shall not be interpreted to prohibit any lettering, advertising, or identification permitted to be mounted on or painted on and incidental to the primary use of a vehicle as a delivery, service, or transportation vehicle. Further, a portable sign shall not be interpreted to prohibit advertising on buses or taxis. Portable signs include:

A. Election signs mean any temporary, portable sign in connection with any national, state, or local election; and

B. Sandwich board sign means a portable, non-illuminated sign consisting of two sign faces hinged at the top and separated at the bottom so that it is self-standing, which is for the purpose of directing attention to a business, commodity, service, or entertainment offered within a building on the site upon which the sign is located. Sandwich board signs are also referred to as A-frame signs.

Effective on: 5/6/2016

Sign, Projecting means a sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.

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

Sign, Residential Name Plate means a sign permitted for the sole purpose of identifying the inhabitant residing therein, the house name, or identifying the address of the house.

Sign, Roof means a sign totally supported on the roof of a structure.

Sign, Snipe means any temporary sign or poster that is tacked, nailed, posted, pasted, glued, or otherwise attached of affixed to a tree, fence, pole, stakes, fence, or other object. A snipe sign is an illegal sign.

Sign Structure means the supports, uprights, bracing, or framework of any building or structure exhibiting a sign.

Sign, Subdivision Entrance means a detached or wall sign identifying a recognized subdivision, condominium complex, or residential development and denoting its entrance or exit.

Temporary, Sign means a sign intended to be of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs~~any sign (*e.g.*, a banner) or advertising device or display constructed of cloth, fabric, plastic, canvas, vinyl, cardboard, wallboard, plywood, paper, or other rigid or non-rigid materials, with or without frames, intended to be displayed for a limited period of time. Temporary signs are not permanently affixed to sign structures, structures or buildings and are not intended to be used as permanent signage.~~

Effective on: 5/6/2016

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

Sign, Window means any sign, poster, or other similar material affixed on commercial properties or that is painted directly on a window, affixed to the inside of a window, or hung within 12 inches of a window promoting any message, including but not limited to, grand openings and special events (commercial and non-commercial).

Significant Alterations to Existing Development means development on improved real estate that is altered or changed in such a manner that one or more of the following is applicable:

A. The alteration results in the construction of a building, structure or addition that increases the gross square footage of the existing development by more than 30 percent; provided that separate incremental developments below the 30 percent amount shall not be used to avoid the requirements of this Code if, in the aggregate, the developments over a period of 18 months would meet those requirements.

B. The estimated construction costs of the alterations exceed 50 percent of the most recent appraised fair market value of the existing property as determined by the county appraiser; provided that separate incremental developments below the 50-percent amount shall not be used to avoid the requirements of this Code if in the aggregate the development over the period of 18 months would meet those requirements.

C. The alteration results in the construction of a new, permanent, irrigation system.

D. The alteration results in changes to an existing permanent irrigation system that have the effect of connecting an existing irrigation system to the city's water system.

E. The alteration increases the permanently irrigated area of an existing property by more than 400 square feet.

F. The alteration results in the replacement of existing vegetation or parts of existing vegetation in any proportion which requires additional supplemental irrigation once established.

G. The alteration results in the replacement of permanent irrigation system components responsible for irrigating greater than 50 percent of an existing irrigated area on a property.

Significant alterations to existing development do not include the following:

A. The replacement of permanent irrigation system components responsible for irrigation of 50 percent or less of an existing irrigation system, so long as the vegetation type does not change to vegetation requiring additional supplemental irrigation, once established.

B. The replacement and/or movement of sprinkler heads without the expansion of existing irrigation, so long as vegetation type does not change to vegetation requiring additional supplemental irrigation, once established.

C. Irrigation systems connected to privately owned wells under non-domestic water rights in good standing with the State of Kansas.

D. Irrigation systems used to serve public properties.

E. Irrigation systems constructed, altered or repaired in connection with an audit or rebate program.

Effective on: 1/22/2016

Single-Family Attached means dwelling units located in a single building where each unit is constructed on an individual lot or land that is designated as a limited common element in a declaration of condominium; and contains:

A. Two but not more than six dwelling units that are designed so that individual units have individual ground-floor access and are separated from each other by unpierced common walls from foundation to roof (*e.g.*, side-by-side duplexes, triplexes, and townhouses); or

B. Two dwelling units that are designed so that individual units:

1. May or may not have individual exterior doors, but provide no direct access between the first floor and second floor unit (access may be through a common interior foyer that provides access to both units or through separate exterior doors); and

2. Are separated from each other by a floor (*e.g.*, over-under duplexes).

The phrase single-family attached does not include multi-family.

Single-Family Detached means dwelling units that are:

A. Located in individual buildings that are constructed on:

1. Individual lots; or

2. Land that is designated as a limited common element in declaration of condominium;

B. Separated from each other by outside walls; and

C. Intended for the use of a single housekeeping unit.

The phrase "single-family detached" does not include "duplexes", "triplexes", or "townhouses".

Site means the entire lot or series of adjoining lots on which a use is or will locate and that is otherwise subject to the provisions of this Code.

Effective on: 5/6/2016

Site Plan means a plan showing proposed improvements for a parcel proposed for development. It may be required as part of an application for a rezoning, special use permit, or variance. More detailed development plans are required for all nonresidential and mixed use development (*i.e.*, commercial site and building plan review). It does not mean a plat, or a site plan that is normally required for building permits or sign permits.

Slaughterhouse means a facility for the slaughtering and processing of animals and the refining of their byproducts.

Slopes means the inclined surface of a fill, excavation, or natural terrain expressed as a ratio of horizontal distance to vertical distance over a measured inclined surface.

Solar Arrays (also known as photovoltaic systems) convert sunlight into electricity which are used to generate renewable energy. Solar arrays can be mounted on the ground as its own individual structure, or as an accessory structure on a building or other structure (*e.g.*, water tower).

Special Hazard Area means an area having special flood hazards and shown on the FHBM, FIRM, or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.

Special Use means a use, which because of its potential impacts, may be permitted in a given zoning district (as specified in Division 2.2.200, *Permitted, Limited, Special, Temporary, and Prohibited Uses)*, only after public hearing review and issuance of a special use permit. Special uses are subject to specific standards (*see* Division 2.2.300, *Compatibility Standards for Limited and Special Uses*), which are intended to improve compatibility for abutting properties and the community as a whole.

Special Use Permit means a written permit issued by the Zoning Administrator with the written authorization of the Board of Zoning Appeals. This special use permit provides permission under special conditions to make certain special uses of land in certain zoning districts as stipulated in each zoning district.

Standard Neighborhood means a non-agricultural residential subdivision or condominium development where the entire parcel proposed for development consists of a single housing type (*e.g.*, single-family detached, single-family attached, manufactured homes, and/or multi-family housing) as allowed per zoning district. Standard neighborhoods are not planned developments.

Effective on: 1/22/2016

Start of Construction means:

1. For floodplain management purposes, includes substantial improvement and means:
    a. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date.
    b. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a permanent foundation.

c. Permanent construction does not include the land disturbing activity needed to prepare the land for development (*e.g.*, clearing, grading and filling); nor does it include the installation of streets, sidewalks, and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the principal structure.

d. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

2. For other purposes, that a building permit or other written permit required to be issued by the City has been issued, and authorized work has commenced under such permit. This is recognizable upon an inspection of the property and which work is of a nature and character that reflects a good faith intention to continue the construction until completion, such as the clearing of rights-of-way, rough-grading of the roadway, the installation of a drainage system or stormwater management facilities, and the placement and active maintenance of erosion and sediment control measures. Control of weeds and cutting of vegetation, without more, do not qualify as "start of construction."

State means the State of Kansas.

State Coordinating Agency means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Floodplain Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in the state.

Stealth Wireless Telecommunication Facility (WTF) means the same as the definition for Wireless Telecommunication Facility, Freestanding Stealth.

Effective on: 5/6/2016

Storage, Flammable Materials and Substances means the storage of those gases, liquids, and solids that will ignite and continue to burn in air if exposed to a source of ignition.

Storage, Self means a building or group of buildings that are used for the storage of personal property or records, where individual owners or tenants control individual storage spaces.

Storage Yard means outdoor storage of operable equipment and building or infrastructure construction materials for off-site projects. The phrase "storage yard" does not include outdoor storage areas that are associated with an on-site heavy industry.

Storm Sewer means a closed conduit for transporting stormwater runoff that has been collected by inlets.

Effective on: 1/22/2016

Stormwater means any surface flow, runoff or drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Superintendent means the person appointed by the City Manager to manage and oversee the stormwater management provisions of this Code.

Effective on: 1/22/2016

Stormwater Management means the mitigation of the hydrologic impacts of lost natural runoff storage by the use of conventional storm conveyance systems or low impact development.

1. For water quantity control, a system of vegetative, structural, and other measures that may control the volume and rate of stormwater runoff which may be caused by land disturbing activities or activities upon the land; and
2. For water quality control, a system of vegetative, structural, and other measures that control adverse effects on water quality that may be caused by land disturbing activities or activities upon the land.

Stormwater Management System, Sewer System or System means storm sewers which exist at the time the ordinance codified in the stormwater management provisions of this Code is adopted or that are hereafter established, and all appurtenances necessary in maintaining and operating the same, including, but not limited to, pumping stations; enclosed storm sewers; outfall sewers; surface drains; street, curb and alley improvements associated with storm or surface water improvements; natural and manmade wetlands; channels; ditches; rivers; streams; wet and dry-bottom basins; and other flood control facilities and works for the collection, transportation, conveyance, pumping, treatment, controlling, managing, and disposing storm or surface water or pollutants originating from or carried by storm or surface water.

Effective on: 1/22/2016

Stormwater Management User Fee means a fee authorized by this Code, as set out in a resolution or an ordinance adopted or amended by the City Commission, established to pay operations and maintenance, costs of capital improvements, debt service associated with the stormwater management system, and other costs included in the operating budget.

Effective on: 1/22/2016

Stormwater Utility means the utility created by this Code to operate, maintain, and improve the stormwater management system and for all other purposes, as set forth in this Code.

Effective on: 1/22/2016

Story means the portion of a building included between the surface of any floor and the surface of the next floor above it; if there is no floor above it, the space between such floor and the next ceiling above it. A half story is a story under a sloped roof, the wall heights of which on at least two opposite, exterior walls are less than four feet.

Stream means a body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet, or river that flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.

Stream Corridor means an area surrounding an identified stream segment, including adjacent floodplains and lands with slope greater than 15 percent. The stream corridor is a protective zone for the adjacent stream segment. Inner and outer zones are located on each side of the stream segment. Together, these zones and the stream segment compose the stream corridor.

Street means a public right-of-way which provides primary vehicular access to abutting land, whether designated as a street, highway, thoroughfare, parkway, throughway, avenue, lane, boulevard, road, place, drive or however otherwise designated.

Street, Alley means a public or private minor way which are used primarily as a secondary means of access to the back or the side of properties otherwise abutting on a street, the right-of-way of which is 20 feet or less in width.

Street, Arterial means a thoroughfare designated as a freeway, expressway, major arterial or minor arterial in the most recently adopted City thoroughfare plan. The primary function of an arterial is to carry traffic through the City, and (an arterial) is designed for as high a speed as possible, to carry as much traffic as possible.

Street, Collector means a street that primarily carries traffic from local or residential streets to major thoroughfares and highways, including the principal entrance streets for circulation to schools, parks and other community facilities within such a development, and also including all streets which carry traffic through or abutting to nonresidential areas.

Street, Cul-de-Sac means a street having one end open to traffic and being permanently terminated by a vehicular turn-around.

Street Line means a dividing line between a lot, tract, or parcel of land and the contiguous street.

Street, Local means a street which provides direct access to abutting land and local traffic movement whether in residential or nonresidential areas.

Street, Marginal Access means a local street, parallel and adjacent to an arterial street, but separated from it by a long strip, which provides access to abutting properties and control of intersections with the major street.

Street, Private means any street right-of-way that is not dedicated to public use, and which is maintained by a private entity, such as a property owners' association.

Street, Public means any street right-of-way that is publicly owned by deed, right-of-way dedication, prescription, or any other conveyance, and maintained by a federal, state, or local unit of government.

Structure means anything constructed or erected, the use of which requires permanent location on the ground (*e.g.*, a shed), above the ground (*e.g.*, a tree house), or below the ground (*e.g.*, a pool), or attached to something having a permanent location on the ground including but not limited to fences, trash enclosures, signs, kiosks, or similar uses. A "structure" may sometimes be subsumed by the phrase "building."

Subdivider means any person or any agent thereof dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner, or authorized agent of such owner or equitable owner, of land to be subdivided.

Subdivision means the division of a tract of land into two 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 "resubdivision" and shall include any further subdivision of a lot or parcel of land previously subdivided, for sale, or other purposes, which varies from the latest approved subdivision of the lot or parcel of land.

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

Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This phrase includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The phrase does not, however, include either:

A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

B. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Substation means a set of equipment that reduces the high voltage of electrical power transmission to that suitable for supply to consumers.

Effective on: 1/22/2016

Suburban refers to a type of community character that is not as dense as urban areas but is more dense than the rural areas where there are lower floor area ratios and building heights, moderate building height to street width ratios, and lower impervious cover along with a moderate landscape surface ratio. Suburban areas are most readily identified as those with larger, wider lots with greater setbacks, wider street sections, and where the auto is parked in a driveway or surface parking lot. In lieu or larger lots, suburban areas may also be smaller lots clustered around common open space, which has a comparable gross density but a higher net density.

Effective on: 5/6/2016

T Terms

Temporary Construction Building means a stick-built or modular building that is used as an administrative office for construction related activities occurring on the same lot under an active building permit.

Temporary Construction Dumpster means a large trash or recycling receptacle located on private property (*e.g.*, outside the public right-of-way) which is used to collect construction debris and other development related materials for transport off-site.

Temporary Construction Yard means a temporary fenced enclosure used for the storage and maintenance of contractor supplies and operational equipment used for and located on the same lot of an active building permit or within one-half mile of the construction for which the construction relates.

Effective on: 1/22/2016

Temporary Special Use Permit means a temporary approval of a special use permit for something that is designated as "T" in Table [@@391], *Temporary Uses*. Since these types of uses can be longer in duration than many temporary uses, and because they can have larger impacts (*e.g.*, an asphalt or concrete batching plant), these uses require review by the Board of Zoning Appeals. These applications follow the same procedures as a normal special use permit, but are just approved for a maximum not to exceed duration.

Temporary Use means a use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time.

Ten-Year Storm means a rainstorm having a 10 percent chance of occurrence in any given year.

Text Amendment means changes to the text of the and includes changes that supplement, modify, or repeal any of its present or future provisions of this Code. Changes to the zoning maps are excluded (see "Map Amendment").

Effective on: 5/6/2016

Thoroughfare Plan means the proposed transportation corridor connections set out on Map 5.1, *Hays Development Concept*, of the City's adopted Comprehensive Plan, which may be amended from time to time. The purpose of the thoroughfare plan is to ensure that adequate rights-of-way are preserved with a general alignment and sufficient width to allow for orderly and efficient expansion, improvement, and connectivity of the arterial and collector street network.

Townhouse means a single-family attached building which contains four to six dwelling units arranged in a linear form, each of which is totally separated from the other by an unpierced wall extending from foundation to roof and has totally exposed front and rear walls that are used for individual unit access, light, and ventilation. There are three types of townhouses (based on design) for the purposes of these Regulatons, to which different requirements may apply:

A. Standard townhouses, which are generally two- or three-story buildings;

B. Weak link townhouses, which have a one-story and a two-story component in each unit, and are typically wider than standard townhomes; and

C. Roof deck townhouses, which provide a useable outdoor space on the roof of each unit.

Transitional Surfaces means surfaces that extend outward at 90 degree angles to the runway centerline and the runway centerline extends at a slope of 20 feet horizontally for each one-foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

Transportation Stop means a curbside place where passengers board or alight transit, that may or may not include a small shelter usually having three walls and a roof designed to provide for the protection and convenience of passengers.

Transportation Terminal means premises used for loading or unloading of trucks and trains upon which storage of cargo is incidental to the primary function of freight shipment or shipment point and which is designed to accommodate the simultaneous loading or unloading of five or more trucks and/or two trains.

Tree means a woody plant that can be classified into one of the following classifications:

1. Large Tree;
2. Small Tree; or
3. Evergreen Tree.

Tree Caliper means the diameter of a tree measured four feet above finished grade.

Tree Dripline means the outermost edge of a tree's canopy. When depicted on a map or plan, the dripline of a tree will generally appear as an irregularly-shaped circle that follows the contour of the tree's branches as seen from overhead.

Tree, Evergreen means a broad leaf evergreen tree or cone-bearing evergreen tree that, at maturity, typically has a height of greater than 35 feet. For the purposes of this Code, evergreen trees that typically have a height of 12 to 35 feet at maturity are considered small trees, and evergreens that typically have a height of less than 12 feet at maturity are considered shrubs.

Effective on: 5/6/2016

Tree, Large means a tree with a canopy that, at maturity, would occupy the upper level of a forest in a natural ecological situation. These trees are commonly called shade trees. They typically reach heights of more than 50 feet at maturity.

Tree, Protected means any tree not classified as “not protected,” and meeting the following criteria:

A. Six inch diameter or larger trees measured 4.5 feet above natural grade.

B. Four inch diameter or larger for small maturing trees measured 4.5 feet above natural grade.

C. Four inch for multi-trunk trees, calculated by measuring the largest trunk and one half the diameter of the sum of all other trunks.

D. Historical tree: Any tree recognized as historically significant by a bona fide local, state, or national organization is considered a protected tree.

Tree Protected Zone means a specifically defined area totally encompassing a tree within which work activities are strictly controlled. When depicted on a map or plan, the outermost edge of the protected zone will generally appear as an irregularly- shaped circle that follows the contour of the dripline. In no case shall the protected zone be less than eight feet from the trunk of a tree.

Tree Removal means the physical removal of a tree or causing the death of a tree through damaging, poisoning, or other direct or indirect action.

Tree, Small means a tree with a canopy that would occupy the intermediate level of a forest in a natural ecological situation. They are also found as dominant species in old field succession. These trees are commonly called ornamental trees. Small trees are deciduous trees that typically reach heights of 12 to 44 feet at maturity, and evergreen trees that typically reach heights of 12 to 35 feet at maturity.

Tree Survey means an on-the-ground survey drawing containing the location of the trees, their circumference, type (species) and protected zone limits.

Triplex means a single-family attached building which contains three dwelling units arranged in a linear form, each of which is totally separated from the other by an unpierced wall extending from foundation to roof and has totally exposed front and rear walls that are used for individual unit access, light, and ventilation.

Truckload Sale means the temporary sale of merchandise outdoors from the back or bed of a truck or trailer by persons who are not employed by the owners or managers of the lot or parcel on which the sale occurs, or tenants of buildings on the lot or parcel on which the sale occurs.

Turf Grass means a species of perennial grass grown as permanent lawns or for landscape purposes as distinguished from those species grown for agricultural or commercial seed purposes.

U Terms

Undisturbed Property means real property that has not been altered from its natural condition in a manner that disturbed or altered the topography or soils on the property to the degree that the entry of water into the soil matrix is prevented or retarded.

Effective on: 1/22/2016

Urban refers to a class of community character that includes three distinct types: urban core, urban, and auto-urban. An urban character relates to the most dense areas, (e.g., downtown) where there are high floor area ratios, building height to street width ratios, and impervious cover along with a low landscape surface ratio. Urban areas are most readily identified as those with smaller, narrower lots with minimal or no setbacks, urban, walkable street sections, and where the auto is parked either on the street, in the rear yard, or in structured parking.

Effective on: 5/6/2016

Use means any activity occurring on a lot or parcel for which land or a building or a structure is arranged, designed, or intended, or for which land or a building or a structure is or may be occupied. This includes both principal uses and accessory uses.

V Terms

Variance means a development approval that provides relief from the standards of this Code (*see* Section 11.2.411, *Variances*).

Effective on: 5/6/2016

Vegetation Requiring Additional Supplemental Irrigation Once Established refers to the removal of existing vegetation when that vegetation is replaced with vegetation types with greater water needs than the existing vegetation. Appropriate horticultural and turf literature will be referenced to determine specific cases, but in general, the following are common examples: replacement of warm season grass species with cool season grass species and replacement of a xeriscape with a cool season grass species.

Effective on: 1/22/2016

Vehicle Gas and Fueling Station means a gasoline service station or fuel stations (*e.g.*, hydrogen, compressed natural gas, or liquefied petroleum gas) for alternative fuel vehicles, which may include a convenience store as an accessory use.

Vehicle Repairs and Service, Heavy means the general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, including body work, framework, welding, and major painting service.

Vehicle Sales, Rental, and Service means uses that sell, rent, and perform service on automobiles, light trucks, motorcycles, all-terrain vehicles, etc., where the inventory is stored for any length of time on-site. The phrase does not include auto body (*e.g*., collision repair), paint or upholstery services.

Vehicle Wash means any area or business using self-service, in-bay automatic, or conveyor equipment for cleaning and washing motor vehicles, whether as a part of another business operation (*e.g.*, as an accessory use to an automobile fueling or charging station, or automobile sales, rental, and service), or as a stand-alone operation, of any type, on a commercial basis. The phrase "vehicle wash" includes fleet and municipal in-bay automatic and conveyor vehicle wash facilities.

Vehicle Wrecking and Salvage Yard; Junkyard means:

1. *Vehicle Wrecking and Salvage Yard*. Vehicle wrecking and salvage yard means an outdoor place where a person stores three or more vehicles for the purpose of dismantling or wrecking the vehicles to remove parts for sale or for use in automotive repair or rebuilding.
2. *Junkyard*. Junkyard means a place where a business that owns junk, and is operated to store, buy, or sell junk, keeps all or part of the junk outdoors until the business disposes of the junk.

W Terms

Warehousing and Distribution means a facility where goods are received from heavy trucks and then stored for subsequent delivery to off-site wholesalers, retailers, or consumers.

Warm Season Grass means a grass species which possesses a C4 photosynthetic pathway and favors warmer weather of summer. These grasses typically stay dormant until adequate warmth has reached the soil and air and again go dormant when cold temperatures arrive in autumn. Most warm season grasses perform best in areas with little or no shade. Perennial varieties will typically enter dormancy during drought. Most warm season grasses used for turf in the Hays area require significantly lower amounts of supplemental irrigation to maintain vigor. Common species of warm season grasses grown in the Hays area include varieties of buffalo grass, Bermuda grass and blue grama grass. Zoysia grass varieties are now being grown near Hays and may become more common locally.

Effective on: 1/22/2016

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Watercourse means a stream channel (perennial, intermittent, mapped, or unmapped) with banks and a bed within which water regularly flows.

Water Surface Elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain riverine areas.

Wholesale Services means an establishment that is primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers. The term "wholesale services" does not include wholesale membership clubs that offer memberships to the general public.

Wildlife Hazard means a potential for a damaging aircraft collision with wildlife on or near an airport.

Wind Energy Conversion System (WECS) means an electrical generating facility comprised of one or more wind turbines and accessory facilities that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid. WECS include but are not limited to:

A. Power lines;

B. Transformers;

C. Substations; and

D. Meteorological towers that operate by converting

Wind Turbine means a wind energy conversion device that produces electricity; typically three blades rotating about a horizontal axis and positioned up-wind of the supporting tower.

Wireless Telecommunications Facilities (WTF), Attached means facilities that are affixed to an existing structure (including buildings, water tanks, and communications towers) and consist of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines, and also means a broadcast tower.

Wireless Telecommunications Facilities (WTF), Freestanding Non-Stealth are lattice towers, monopole towers, guyed towers, or other freestanding facilities that do not meet the definition for "WTF, freestanding stealth" and consist of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines, and also means a broadcast tower.

Wireless Telecommunications Facilities (WTF), Freestanding Stealth are facilities that have been designed to be architecturally compatible with the surrounding area. They camouflage or conceal the presence of the tower and the antennas that are mounted on it; and include, but are not limited to: artificial rocks and trees, freestanding clock towers and bell steeples, light poles, flagpoles, and artistic structures); and consist of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines, and also means a broadcast tower.

X Terms

Xeriscaping means a method of landscaping which requires little to no supplemental irrigation once the vegetation is established. Plants used in xeriscape must be well adapted to the extremes of the local climate, particularly drought, high solar radiation, wind gusts and low winter temperatures. Xeriscape may be constructed with many types of groundcover, including 100 percent ground coverage with living plants or individual and group plantings surrounded by mulches and the incorporation of decorative rocks and gravel. Weed barriers must be made of water-permeable material. Xeriscape includes traditional hardscapes such as sidewalks, decks, driveways and patios only if they incorporate vegetation.

Effective on: 1/22/2016

Y Terms

Yard means a space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings or structures from the ground upward.

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

Yard, Interior means an open space area between the interior side lot line and the required interior side building setback line, extending between the front building setback line and the rear building setback line.

Yard, Rear means a yard extending across the full width of the lot, the depth of which is the least distance between the rear lot line and the rear setback line.

Yard, Side means a yard extending from the front yard, or front lot line where no front yard is required, to the rear yard.

Yard, Side Street means a yard extending from the front setback line to the rear lot line, located between the side street lot line and the side street setback line.

Z Terms

Zoning Administrator is the Superintendent of the Planning, Inspection, Enforcement Division (PIE) of the Public Works Department in the City of Hays, Ellis County, Kansas.

Effective on: 1/22/2016

Zoning District means a designation shown on the official "zoning map" as being in a district enumerated in Article 2.1, *Zoning Districts*, in which a specific set of zoning standards apply. The phrase may refer to the standards or an area so mapped. The phrase includes "zoning classification" or "zoning designation."

Zoning Map means the map showing the location and boundaries of the zoning districts established by this Code. This map is entitled, the "Official Zoning Map of Hays, Kansas."

Effective on: 5/6/2016