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ARTICLE 1. CITY PLANNING COMMISSION

- 16-101. PLANNING COMMISSION CREATED. There is hereby created a planning commission for the City of Roeland Park.
- 16-102. COMMISSION MEMBERSHIP; APPOINTMENT. The City planning commission shall consist of seven members, one of whom may be a non-resident of the City who resides within ten miles of the City's boundaries. Three members of the commission shall be appointed by the mayor with the consent of the city council, and one member of the commission shall be jointly appointed by the two city council members from each of the City's wards with the consent of the city council. The four members appointed by city council members each shall each be a resident of the ward from which the city council members who made the joint appointment were elected. Commission members shall be appointed for terms of three years each. Vacancies shall be filled by appointment for the unexpired terms only. In the event that any commission member no longer resides in the ward from which the city council members who jointly appointed the member were elected, the governing body shall declare a vacancy and appoint a new member to fill the vacancy. In the event any planning commission member fails to attend three or more regular meetings of the commission within any 12-month period of time, the governing body may declare a vacancy and appoint a new member who resides in that same ward to fill the vacancy. The planning commission shall appoint two of its members to serve as representatives from the commission to the city council redevelopment committee. The commission shall elect one member as chairperson and one member as vice-chairperson who shall serve one year and until their successor has been elected. A secretary shall also be elected who may or may not be a member of the commission. A record of all proceedings of the commission shall be kept. Members of the commission shall serve without compensation for their service. (Ord. 614, 1994)
- 16-103. POWERS AND DUTIES. The City planning commission shall operate and have those powers and duties as set forth herein or in applicable provisions of the Kansas Statutes Annotated.

ARTICLE 2. DEFINITIONS

- 16-201. DEFINITIONS. For the purpose of this chapter, certain terms or words used herein shall be interpreted or defined as follows unless the context clearly indicates otherwise:
- (a) Accessory Use or Building is a subordinate use or building or a portion of the main building, customarily incidental to and located on the same lot with the main use or building.
 - (b) Alteration as applied to a building or structure is a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by

extending on a side or by increasing in height, or moving from one location or position to another.

- (c) Antenna shall mean an exterior apparatus designed for transmitting or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.
- (d) Basement is a story having part but not less than one-half of its height below grade.
- (e) Boarding House is a building other than a hotel, where, for compensation and by pre-arrangement for definite periods, if meals or lodging are provided for three or more persons.
- (f) Building is any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property. When a structure is divided into separate parts by unpierced walls from the ground up, each part is deemed a separate building.
- (g) Building Height the vertical dimensions measured from the average elevation of the finished lot grade at the front of the building to the highest point of ceiling or 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 ridge of a gable, hip or gambrel roof.
- (h) Communication Antenna shall mean an antenna or array of antennas at one location intended to broadcast and receive signals as part of a wide-area, communication system such as cellular telephone systems, pager systems or wireless computer networks, but excluding short-wave radio antennas operated primarily as a hobby.
- (i) Communication Facility shall mean a land use facility supporting antennas and microwave dishes that sends and/or receives radio frequencies signals. Communication Facility shall include structures or communication towers, antennas, associated structures and accessory' buildings.
- (j) Communication Tower shall mean a ground-mounted or self-supported, guyed, lattice or monopole tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment, constructed to support one or more antennas; provided that, for purposes of this ordinance, the term "communication tower" shall not include any tower that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
 - (1) Guyed Tower shall mean a communication tower that is supported, in whole or in part, by guy wires and ground anchors.
 - (2) Lattice Tower shall mean a guyed or self-supporting three or four sided, open, steel frame communication tower.
 - (3) Monopole Tower shall mean a communication tower consisting of a single pole, constructed without guy wires and ground anchors.
- (k) Communication Tower Height shall mean the vertical distance measured from the base of the communication tower at grade to the highest point of the communication tower. If the tower is on a sloped grade, then the average

between the highest and lowest grades shall be used in calculating the communication tower height.

- (l) Driveways which are designed or used for residential dwelling purposes shall be considered structures.
- (m) Duplex is a dwelling designed for or occupied exclusively by two families.
- (n) Dwelling is any building, or portion thereof, which is designed or used for residential dwelling purposes.
- (o) Family means one or more persons who are related by blood or marriage, living together and occupying a single housekeeping unit with single kitchen facilities; or a group of not more than five persons, living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities, on a nonprofit, cost-sharing basis.
- (p) Hotel is a building occupied or used as a more or less temporary abiding place of individuals or groups of individuals who are lodged with or without meals and in which there are more than 12 sleeping rooms and no provisions for cooking in individual rooms.
- (q) Lodging House is a building where lodging only is provided for compensation to three or more, in contradistinction to hotels open to transients.
- (r) Lot is a parcel of land occupied or intended for occupancy by one main building together with its accessory buildings, including the open spaces required by this chapter.
- (s) Lot, Corner is a lot abutting upon two or more streets at their intersection.
- (t) Lot, Depth of is the mean horizontal distance between the front and rear lot lines.
- (u) Lot of Record is a lot which is a part of a subdivision, map of which has been recorded in the office of the Register of Deeds of Johnson County, Kansas, or a lot described by metes and bounds the description of which has been recorded in the office of the Register of Deeds of Johnson County, Kansas
- (v) Manufactured Home means a dwelling unit that is substantially assembled in an off-site manufacturing facility for installation or assembly at the building site, bearing a label certifying that it was built in compliance with the National Manufactured Home Construction and Safety Standards (24 C.F.R. 320 et seq.), promulgated by the U.S. Department of Housing and Urban Development.
- (w) Medical, Dental or Health Clinic is any building designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings, including but not limited to doctors of medicine, dentistry, chiropractors, osteopaths, optometrists, podiatrists, and in which no retail sales are made.
- (x) Multiple-Family Dwelling is a dwelling or portion thereof designed for or occupied by three or more families, but which may have joint services or facilities for more than one family.
- (y) Nonconforming Use is any building or land lawfully occupied by a use at the time of the passage of this ordinance or amendments hereto, which use does

not conform to this Chapter after the passage of this ordinance or amendment hereto.

- (z) Parking Area is any parking lot and vehicular use area.
- (aa) Person includes a corporation, members of a partnership or other business organization, committee, board, trustee, receiver, agent or other representative.
- (bb) Public Utility is any business, the purpose of which is to furnish to the general public either telephone service, telegraph service, cable television, electricity, natural gas, water, transportation of persons and property, sanitary sewer systems and any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state.
- (cc) Recycling Collection Point is an accessory use or structure that serves as a drop-off point for pre-sorted recyclable materials. The temporary storage of these items is permitted, but no processing is allowed.
- (dd) Shall is mandatory.
- (ee) Single-Family Dwelling is a dwelling designed for or occupied exclusively by one family.
- (ff) Story is that portion of a building, other than a basement, included between the surface of any floor above it or, if there be no floor above it, the space between the floor and the ceiling next above it.
- (gg) Story, Half is a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which space not more than two-thirds of the floor area is finished off for use. A half-story containing independent living quarters shall be counted as a full story.
- (hh) Structure is anything constructed or erected, the use of which requires permanent location on the ground or which is attached to something having a permanent location on the ground, but not including fences or single standing walls.
- (ii) Use, Occupy or Occupied as applied to any land or building shall be construed to include the words "intended," "arranged" or "designed" to be used or occupied.
- (jj) Yard is an open space on the same lot with a building, unoccupied and obstructed by any part of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the mean horizontal distance between the lot line and the adjacent wall of the main building shall be used.
- (kk) Yard, Front is a yard extending across the front of a lot between the side yard lines and being the minimum horizontal distance between the street line and the main building or any projection thereof other than steps, unenclosed balconies and unenclosed porches.
- (ll) Yard, Rear is a yard extending across the rear of a lot measured between lot lines and being the minimum horizontal distance between the lot line and the rear of the main building or any projection other than steps, unenclosed balconies or unenclosed porches. On corner lots, the rear yard shall be

considered as opposite to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard. One-half the alley width may be considered a part of the adjacent rear yard.

(mm) Yard, Side is a yard between the building and the side line of the lot extending from the front lot line to the rear lot line. (Ord. 666, Sec. 1)

16-202. DEFINITIONS NOT INCLUDED. Words or terms not herein defined shall have their ordinary meaning in relation to the context.

ARTICLE 3. APPLICATIONS AND PROCEDURES

DIVISION I - GENERAL APPLICATIONS AND PROCEDURES

16-301. WHO MAY APPLY; APPLICATION FEES.

- (a) Application for a zoning text amendment may only be filed by the governing body or the planning commission.
- (b) An application for rezoning to a conventional or planned zoning district or for a preliminary development plan, revised preliminary development plan, final development plan or revised final development plan for a planned zoning district may be filed by either the governing body, the planning commission or the landowner or the landowner's agent. If an application for rezoning to a planned district is filed by the governing body or planning commission, the application may be filed and approved prior to the filing or approval of a preliminary and/or a final development plan, provided that no building permit shall be issued for development in a planned zoning district until a final development plan has been approved as required by this Article.
- (c) All other applications provided for in this chapter may only be filed by the landowner or the landowner's agent.
- (d) Fees for all applications provided for in this Article shall be established by the governing body by resolution.
- (e) All applications shall be made on forms prescribed by the city and available at city hall.
- (f) All landowners or landowner's agents who desire to make an application provided for in this Article shall, at their request, be provided with a copy of Chapter XVI of Roeland Park City Code, the Zoning and Subdivision Regulations, or those portions of Chapter XVI which they may request. The landowners or the landowners' agent shall reimburse the City for the cost of providing the requested materials in an amount established by the city clerk. (Ord. 670, Sec. 1)

16-302. APPLICATIONS -- PROOF OF OWNERSHIP AND/OR AUTHORIZATION OF AGENT.

- (a) Where an application has been filed by, or on behalf of, a landowner, an affidavit of ownership shall be submitted to the City.

- (b) Where an application has been filed by an agent of, a landowner, an affidavit of the landowner establishing the agent's authorization to act on behalf of the landowner shall also be submitted.
- (c) The affidavits required by this section shall be on forms prescribed by the City or in a form as is acceptable to the city attorney, and shall be submitted at the time of filing the application.

16-303. **PRE-APPLICATION CONFERENCE.** A pre-application conference with city officials is encouraged and may, in the discretion of the building inspector, be required prior to submission of any application for a rezoning, special use permit or preliminary development plan. The purpose of this conference is to: acquaint the applicant with the procedural requirements of this ordinance; provide for an exchange of information regarding the proposed development plan and applicable elements of this ordinance, the comprehensive plan and other development requirements; advise the applicant of any public sources of information that may aid the application; identify policies and regulations that create opportunities or pose significant restraints for the proposed development; review any proposed concept plans and consider opportunities to increase development benefits and mitigate undesirable project consequences and permit city input into the general design of the project.

16-304. **SUBMISSION OF TECHNICAL STUDIES.**

- (a) The city engineer may require applicants for rezoning, special use permits, preliminary development plans, or preliminary plats to submit technical studies as may be subject to the approval of the city engineer. The costs of all studies shall be borne by the applicant. Any decision of the city engineer to require any study or to disapprove the person or firm selected by the applicant to perform the study may be appealed to the planning commission. The decision of the planning commission on any appeal shall be final.
- (b) Notwithstanding the fact that the city engineer did not require submission of any technical study in support of the application, either the planning commission or the governing body may require the submission of a study prior to taking action on the application. In that case, the persons or firms selected to perform the studies shall be subject to the approval of the entity requesting that the study be performed. Any decision of the planning commission or the governing body to require that a study be performed or to disapprove the person or firm selected by the applicant to perform the study shall be final.

16-305. **ADEQUATE PUBLIC FACILITIES AND SERVICES.**

- (a) At the time of submittal of a rezoning or special use permit application, the applicant shall submit proof of having reviewed the development proposal with applicable water, sewer, fire, gas and electric utility officials. Proof of this review shall be provided on forms furnished by the department of public works. The forms shall provide an opportunity for applicable water, sewer, fire, gas and electric officials to provide comments on the existing and future

availability and timing of services provided by their respective districts to the subject property.

- (b) At the time of submittal of a final development plan application, the applicant shall submit proof that adequate water, sewer, fire, gas and electric services are presently available to the subject property. If adequate public facilities and services are not presently available at the time of submittal of applications for final development plans, or are not planned for the near future to appropriately serve the proposed development, as determined by the affected utility company or agency, the final development plan may be denied.

16-306. WHEN APPLICATIONS DEEMED COMPLETE. No application shall be deemed complete until all items required to be submitted in support of the application have been submitted. Subject to the provisions of Section [16-307](#), however, all items required to be submitted in support of an application need not be submitted at the same time that the application is filed.

16-307. APPLICATION AND SUBMISSION DEADLINE. The building inspector or the planning commission may administratively provide for submission deadlines for materials required in support of any application provided for in this chapter. Compliance with these deadlines shall generally be required in order to have the application placed on an agenda to be heard by the planning commission. At the discretion of the chairperson of the planning commission, non-agenda items may be brought before the planning commission for hearing; provided that, the planning commission, in its sole discretion, may refuse to hear non-agenda items.

16-308. CONDITIONAL APPROVALS. In approving any application, the approving authority may stipulate that the approval is subject to compliance with certain specified conditions including, but not limited to, limitations on permitted uses, time of performance requirements, limitation on hours of operation, participation in transportation systems management programs, participation in improvement districts or other programs for financing public facilities, etc.

16-309. FINAL DECISION WHERE ORDINANCE REQUIRED. In the case of approval of a zoning text amendment, rezoning, special use permit or other application where adoption of an ordinance is required, the decision approving the application shall not be deemed to be final until the ordinance has been published in an official city newspaper. In all other cases, the decision shall be deemed final as of the date that the approving authority votes to approve or deny the application.

16-310. APPEALS OF FINAL DECISION. Except where this ordinance provides for an appeal to another quasi judicial or administrative body, any person, official or agency aggrieved by a final decision on an application provided for in this ordinance desiring to appeal that decision shall file the appeal in the District Court of Johnson County within 30 days of the making of the decision.

16-311. COMPLIANCE WITH SUBDIVISION REGULATIONS. From and after the adoption of this ordinance, compliance with [Arti 14](#), Subdivision Regulations, shall be required as a condition of the issuance of a building or zoning permit, to the extent that those regulations are applicable to the proposed development.

DIVISION II - NOTICES AND HEARINGS

16-312. PUBLICATION NOTICES. Unless otherwise specifically provided for in this chapter, all publication notices for public hearings required by this chapter shall be published in one issue of the official City newspaper, and at least 20 clear days shall elapse between the date of the publication and the date set for hearing. For purposes of this section, in computing the time both the day of publication and the day of the public hearing shall be excluded. The publication notice shall fix the time and place for the public hearing. Where the hearing is for consideration of changes in the text of the ordinance, or a general revision of the boundaries of zoning districts, the notice shall contain a statement regarding the proposed changes in the ordinance or in the boundaries of the zone or district. If the hearing is on an application which concerns specific property, the property shall be designated by legal description and general street location, and the notice shall contain a general statement regarding the purpose of the application.

16-313. NOTICES TO SURROUNDING PROPERTY OWNERS.

- (a) Unless otherwise specifically provided in this chapter, whenever notice to surrounding property owners is required for consideration of an application, the notice shall be given as follows. The applicant shall mail notices at least 20 days prior to the hearing to all owners of record of lands located within at least 200 feet of the property which is the subject of the application, thus notifying the property owner of the opportunity to be heard. The mailed notice shall be given by certified mail, return receipt requested, and shall be in letter form stating the time and place of the hearing, a general description of the proposal, the general street location of the property subject to the proposed change, a statement that a complete legal description of the property is available for public inspection at city hall, and a statement explaining that the public may be heard at the public hearing. Newspaper clippings of the publication notices shall not be used for the mailed notice. Mailed notices shall be addressed to the owners of record of the property. When the notice has been properly addressed and deposited in the mail, failure of any party to receive mailed notice shall not invalidate any action taken on the application. Mailed notice may be waived provided that a verified statement specifically indicating the waiver is signed by all property owners within the notification area and filed with the secretary of the planning commission, or the board of zoning appeals, as the case may be, at least two business days prior to the hearing. Prior to the public hearing, the applicant shall file with the secretary of the planning commission, or the board of zoning appeals, as the case may be, the returned receipts from the certified mailings and an affidavit stating the names and addresses of the

persons to whom notice was sent; failure to submit the affidavit prior to the hearing may result in a continuance of the hearing.

- (b) In the case of rezonings and special use permits, the applicant shall place a sign on the property informing the general public that a public hearing will be held at a specific time and place concerning proposed changes in use. The sign shall be furnished by the City to the applicant, and the applicant shall maintain the sign for at least 20 clear days between the date of posting and the date set for the public hearing. The sign shall be firmly affixed and attached to a wood or metal backing or frame and placed within 5 feet of the street right-of-way line in a central position on the lot, tract or parcel of land so that the sign is free of any visual obstructions surrounding the sign. If a lot, tract or parcel of land is larger than 5 acres, a sign as required herein shall be placed so as to face each of the streets abutting thereto. The size, style, coloring and wording of signs for rezonings and special use permits may be determined by the governing body by resolution. The applicant shall file an affidavit with the planning commission at the time of the public hearing verifying that the sign has been maintained and posted as required by this ordinance and applicable resolutions; failure to submit the affidavit prior to the hearing may result in a continuance of the hearing. The sign may be removed at the conclusion of the public hearing and must be removed at the end of all proceedings on the application or upon withdrawal of the application. It shall be a public offense for any person to remove, deface or destroy any sign provided for in this subsection, except in compliance with this subsection.

16-314. PUBLIC HEARINGS. Where the consideration of an application requires a public hearing, the following provisions shall apply:

- (a) The purpose of a public hearing is to allow the applicant and all other interested parties a reasonable and fair opportunity to be heard, to present evidence relevant to the application and to rebut evidence presented by others.
- (b) An accurate written summary of the proceedings shall be made for all public hearings.
- (c) The governing body, planning commission and board of zoning appeals may adopt rules of procedure for public hearings by resolution or bylaws.
- (d) If an item which is subject to a public hearing is continued or otherwise carried over to a subsequent date and the public hearing has been opened, then the public hearing shall not be deemed concluded until the date on which the hearing is formally closed. No additional notices shall be required once the public hearing is opened.

16-315. CONTINUANCES.

- (a) Any applicant or authorized agent shall have the right to one continuance of a public hearing before the planning commission or board of zoning appeals; provided that, a written request therefor is filed with the secretary of the planning commission or board of zoning appeals at least two business days prior to the date of the scheduled hearing. The applicant shall make every

attempt to notify all persons previously notified of the continuance either by mail or telephone. In any event, the applicant shall cause written notice of the rescheduled public hearing date to be sent to surrounding property owners in the same manner and in accordance with the same time schedule as required for notice of the original hearing.

- (b) The planning commission, board of zoning appeals or the governing body may grant a continuance of an application at any time for good cause shown. The record shall indicate the reason the continuance was made and any stipulations or conditions placed upon the continuance. If the planning commission or board of zoning appeals continues a public hearing on its own motion, it may direct the secretary thereof to renotify property owners within 200 feet of the subject property, if notification was required in the first instance; if the continuance is made at the request of the applicant, the planning commission or board of zoning appeals may direct the applicant to renotify property owners within 200 feet of the subject property. This renotification shall be by first class United States mail, postage prepaid. Where renotification is to be made by the applicant, an affidavit shall be submitted that the renotification has occurred.
- (c) All motions to grant a continuance shall state the date on which the matter is to be heard. A majority vote of those members of the official body present at the meeting shall be required to grant a continuance.

DIVISION III - ZONING AMENDMENTS AND SPECIAL USE PERMITS

16-316. CONSIDERATION OF ZONING TEXT AMENDMENTS.

- (a) Public Hearing Required. Consideration of zoning text amendments shall require a public hearing before the planning commission following publication notice as provided in Section [16-312](#).
- (b) Action by Planning Commission. A majority of the members of the planning commission present and voting at the hearing shall be required to recommend approval, approval with conditions or denial of the zoning text amendment to the governing body. The planning commission's recommendation shall include a statement of the reasons for the recommendation.
- (c) Governing Body Action Upon Planning Commission Recommendation.
 - (1) When the planning commission submits a recommendation to approve a zoning text amendment and the governing body approves that recommendation, then the governing body shall adopt the submitted ordinance. When the planning commission submits a recommendation to disapprove a zoning text amendment and the governing body approves that recommendation, no further action need be taken by the governing body and the application shall be deemed terminated.
 - (2) Upon receipt of a recommendation of the planning commission which the governing body disapproves, the governing body may either return the recommendation to the planning commission for

further consideration, together with a statement specifying the basis for disapproval, or may override the planning commission's recommendation by a 2/3 majority vote of the membership of the governing body. A failure to obtain a vote necessary to approve the planning commission's first recommendation shall constitute a disapproval. Requests, for amendments or modifications which constitute substantial changes, or requests for clarification by the planning commission, shall be treated as disapprovals for purposes of these procedures.

- (d) Applications Returned to Planning Commission. Upon receipt of an application returned by the governing body, the planning commission, after considering the same, may resubmit its original recommendation giving the reasons therefor or submit a new or amended recommendation. If the planning commission fails to deliver its recommendation to the governing body following the planning commission's next regular meeting after receipt of the governing body's statement specifying disapproval, the governing body may consider the course of inaction on the part of the planning commission as a resubmission of the original recommendation and proceed accordingly.
- (e) Reconsideration by Governing Body. Upon receipt of the planning commission's recommendation after reconsideration, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt the recommendation by ordinance, or it need take no further action thereon.

16-317. REZONING APPLICATIONS -- SUBMISSION REQUIREMENTS. The following items shall be submitted in support of any application for rezoning:

- (a) Legal description of the property.
- (b) A statement of the reasons why rezoning is being requested.
- (c) The written comments of the redevelopment committee on the concept plan, if applicable pursuant to Section [16-320](#).
- (d) A preliminary development plan, except for rezonings to a single-family residence district and duplex residence district.
- (e) All studies as may reasonably be required pursuant to Section [16-304](#).
- (f) Assurances of adequate public facilities as required by Section [16-305](#).

16-318. SPECIAL USE PERMIT.

- (a) Any of the use restrictions provided for in this Article may be waived in hardship cases provided that a written application for a special use permit is made to the governing body.
- (b) Communication towers and communication antennas may be permitted by special use permit as follows:
 - (1) In a single-family residence district
 - (2) In a duplex residence district
 - (3) As an accessory use to a non-residential use in a residential zoning district where the communication tower or communication antenna:
 - (i) is designed as an architecturally compatible element of the structures on the parcel of land proposed for the

- communication tower or communication antenna, but exceeds the height limitations of the zoning district or any permitted height exceptions; or
 - (ii) Is not designed as an architecturally compatible element of the structures on the parcel of land proposed for the communication tower or communication antenna.
 - (c) In residential districts, communication antennas located on a structure on property developed with residential uses.
 - (d) On public lands and public and private parks.
 - (e) As an accessory use in a multiple residence district.
 - (f) As an accessory use in the office building, retail business, planned office building, planned restricted business, planned general business and the planned industrial park districts. (Ord. 666, Sec. 7)

16-319. SPECIAL USE PERMIT APPLICATIONS -- SUBMISSION REQUIREMENTS.

- (a) The following items shall be submitted in support of an application for a special use permit requested pursuant to Section [16-318\(a\)](#).
 - (1) Legal description of the property that is covered by the application for a special use permit.
 - (2) A statement of the reasons why the special use permit is being requested.
 - (3) The written comments of the redevelopment committee on the concept plan required pursuant to Section [16-319](#).
 - (4) If the application is for a communication antenna, either a site plan or a preliminary development plan, whichever is, in the opinion of the building inspector, necessary in order for the city staff, planning commission and governing body to properly evaluate the application. If a preliminary development plan is not required, the building inspector shall specify in writing the information to be included on the required site plan. Notwithstanding a determination by the building inspector that only a site plan is required, the planning commission or governing body may require the submission of a preliminary development plan prior to taking action on the application.
 - (5) With respect to applications for special use permits for a communication antenna or a communication tower, a statement that alternative sites or communication towers within one-half mile radius of the subject site are not available due to one or more of the following reasons, when the reasons are applicable.
 - (i) Unwillingness of the owners of the alternate sites, or owners of existing or approved communication towers or structures capable of accommodating applicant's planned equipment to entertain applicant's communication facility proposal.
 - (ii) Topographic limitations of alternate sites.
 - (iii) Impediments adjacent to existing or approved communication towers that would obstruct adequate transmission.

- (iv) Physical site constraints that would preclude the construction of a communication tower.
- (v) Technical limitations of the communications transmission system.
- (vi) The applicant's planned equipment would exceed the structural capacity of existing and approved communication towers and facilities and structures generally capable of accommodating a communications transmission system, considering existing and planned use of communication towers and facilities and structures.
- (vii) The applicant's planned equipment would cause radio frequency interference with other existing or planned communication towers or facilities that cannot be reasonably prevented.
- (viii) Existing or approved communication towers or facilities do not have space on which applicant's planned equipment can be placed so it can function effectively and reasonably.
- (ix) The applicant demonstrates that there are other limiting factors that render existing communication towers and facilities and structures unsuitable.
- (x) The owner's facilities and transmission demands on structures.
- (6) All studies as may reasonably be required pursuant to Section [16-304](#).
- (7) Assurance of adequate public facilities as required by Section [16-305](#).
- (b) Each application for a special use permit for a communication tower shall be accompanied by the following information:
 - (1) A preliminary development plan.
 - (2) A report from a licensed professional engineer that describes the communication tower's proposed capacity, including the number and type of communication antennas it can accommodate.
 - (3) A study comparing all potential host sites within an approximate one-half mile radius of the subject site. Potential sites shall include existing structures and communication towers in excess of one hundred (100) feet and properties on which communication towers are permitted by right or by special use permit. The building inspector, the planning commission or the governing body may require the review of additional sites pending review of the initial study. The study shall include a description of the surrounding sites, a discussion of the ability or inability of the site to host a communication facility and the reasons why the site was excluded from consideration.
 - (4) A photo simulation of the proposed facility of a type and quality that is determined by the building inspector to be appropriate.
 - (5) A map showing the service area of the proposed tower and an explanation of the need for the tower to maintain the integrity of the system.

- (6) A signed statement from the applicant indicating its intention to share space on the communication tower with other providers at reasonable costs and its acknowledgment that the special use permit will be issued subject to the condition that the applicant make good faith efforts to offer space on the communication tower at reasonable costs and that the governing body shall have the right to revoke the special use permit if it determines at a public hearing that offers to share space at a reasonable cost are not made.
- (7) An engineer's certification that anticipated levels of electromagnetic radiation to be generated by communication facilities on the site, including the effective radiated power (ERP) of the communications antenna, shall be within the guidelines established by the Federal Communications Commission.

16-320. CONCEPT PLANS--SUBMISSION REQUIREMENTS, CONTENTS AND MEETING WITH REDEVELOPMENT COMMITTEE.

- (a) Prior to the submission of all applications for rezoning, pursuant to Section [16-317](#), except applications for rezoning to a single-family residence district and a duplex residence district, and for a special use permit pursuant to Section [16-318](#), a concept plan shall be submitted to the building inspector for his review and comment and for distribution to and review by the redevelopment committee.
- (b) The purposes of concept plan review are to, at an early stage in the development review process, familiarize the redevelopment committee with proposed projects, provide an opportunity for an exchange of views on project characteristics that are of mutual concern, ensure the project's compliance with Chapter XVI and policies embodied in the comprehensive plan, and ensure that proposed projects comply with fundamental planning and design principles and are compatible with adjacent development in the City.
- (c) Five copies of the concept plan review shall be submitted to the city engineer. Within three working days of the date the building inspector deems the concept plan complete pursuant to Section [16-306](#), the building inspector shall provide the members of the redevelopment committee with copies of the concept plan. The building inspector, and when requested, the city engineer shall review the concept plan and prepare written comments and recommendations on the plan.
- (d) Within seven working days from the date the concept plan is deemed complete, the building inspector shall coordinate with the members of the redevelopment committee and contact the applicant to schedule a date for a meeting between the applicant and the redevelopment committee to discuss the concept plan. Unless requested in writing by the applicant, the concept plan review meeting shall take place within 14 working days of the date the concept plan is deemed complete.
- (e) The concept plan shall contain the following information provided the building inspector may waive or modify submission of items deemed unnecessary:

- (1) a plot plan evidencing the location of the property, adjacent streets, the zoning designation of the subject property and adjacent properties within 300 feet, and generally where all proposed buildings and parking areas are to be located;
 - (2) preliminary estimate of the total square footage of buildings proposed;
 - (3) site photos;
 - (4) name, address and phone number of the property owner;
 - (5) date and signature of applicant, who, if not the owner, shall provide legally sufficient evidence that the applicant is the authorized agent of the owner;
 - (6) a narrative statement of what the applicant proposes to develop on the property; and
 - (7) evidence, satisfactory to the city engineer, of the applicant's ability to comply with the adequate public facilities and services requirements of Section [16-305](#).
- (f) At the concept plan review meeting, the chairperson of the redevelopment committee shall describe the requirements of the review process and the members of the redevelopment committee shall:
- (1) ask questions of the applicant to clarify their understanding of the applicant's intent; and
 - (2) state their concerns based upon preliminary review of project plans and materials.
- Within three working days after the meeting, the building inspector shall forward the written comments and recommendations of the redevelopment committee to the applicant.
- (g) The applicant may submit written responses to the redevelopment committee's comments within seven working days of the date of the committee's written responses, but in no event later than two days before any scheduled public hearing on the subject application. If written responses to the redevelopment committee comments are filed with the building inspector, these responses shall be included in the information submitted to the planning commission for consideration at the public hearing held pursuant to Section [16-314](#).

16-321.

CONSIDERATION OF REZONINGS AND SPECIAL USE PERMITS.

- (a) Public hearing required. Consideration of all applications for rezoning or a special use permit shall require a public hearing before the planning commission, with publication notice and notice to surrounding property owners as required by Sections [16-312](#) and [16-313](#), respectively.
- (b) Procedures. Except as hereinafter provided, the procedures for planning commission and governing body consideration of rezoning or special use permit applications shall conform to the procedures set forth in Section [16-316](#) for zoning text amendments. If the planning commission fails to make a recommendation, the planning commission shall be deemed to have recommended denial of the application. The governing body shall not take action on an original recommendation of the planning commission unless 14

days have elapsed after the date of the conclusion of the planning commission's public hearing held pursuant to publication notice in order to allow the filing of a protest petition as provided in subsection (c) provided, however, that where the right to file a protest petition has been waived in a verified statement signed by all property owners holding that right, the governing body may consider the recommendation at any time.

(c) Protest Petitions.

(1) A protest against any rezoning or special use permit application shall be filed in the office of the city clerk not later than the end of the business day (5:00 p.m.) on the 14th day following the date of the conclusion of the planning commission's public hearing held pursuant to the publication notice. In order to be considered a "valid" protest, a protest petition must be timely filed and duly signed and verified by the owners of record of 20% or more of the property subject to the application or by the owners of record of 20% of the total area, excepting public streets and ways, located within or without the corporate limits of the city and within 200 feet of the boundaries of the property subject to the application. Certification of the genuineness and correctness of the signatures on the protest petition, either individually or collectively, shall be made by a person who has signed the protest petition.

(2) The 14-day period for filing the protest petition shall begin with the day following the conclusion of the public hearing before the planning commission and shall end at 5:00 p.m. on the 14th calendar day thereafter. For purposes of calculating the 14-day period, weekends and holidays shall be counted. Provided, however, if the filing deadline falls on a weekend, holiday or other non-business day for city offices, then the filing deadline shall be at 5:00 p.m. on the next regular business day.

(3) Once a valid protest petition has been filed with the city, it may not be withdrawn unless every person eligible to sign the protest signs a verified affidavit which states and fully explains the rights being waived by the withdrawal of the protest petition. These affidavits of withdrawal must be filed with the city clerk on or before the last regular business day preceding the governing body meeting for which the protest applies. For purposes of withdrawal, signatures shall not be required of the city where city-owned property lies within the protest area or of entities controlling rights-of-way or utility easements.

(d) Adoption Where Protest Filed. Where a valid protest petition has been filed, an ordinance approving the rezoning or special use permit application shall not be passed except by the affirmative vote of at least seven members of the governing body.

(e) Factors to be Considered. In considering any application for rezoning or a special use permit, the planning commission and the governing body may give consideration to the factors stated below, to the extent they are pertinent

to the particular application. In addition, the planning commission and governing body may consider other factors which may be relevant to a particular application.

- (1) The character of the neighborhood.
- (2) The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with the zoning and uses.
- (3) The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations.
- (4) The length of time the property has remained vacant as zoned.
- (5) The extent to which approval of the application would detrimentally affect nearby properties.
- (6) The extent to which the proposed use would substantially harm the value of nearby properties.
- (7) The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property.
- (8) The extent to which utilities and services, including but not limited to, sewers, water service, police and fire protection, and parks and recreation facilities are available and adequate to serve the proposed use.
- (9) The extent to which the proposed use would create excessive storm water runoff, air pollution, water pollution, noise pollution or other environmental harm.
- (10) The extent to which there is a need for the use in the community.
- (11) The economic impact of the proposed use on the community.
- (12) The ability of the applicant to satisfy any requirements applicable to the specific use imposed pursuant to this ordinance.
- (13) The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.
- (14) The conformance of the proposed use to the comprehensive plan and other adopted planning policies.
- (15) The recommendation of professional staff. (Ord. 626)

16-322. PRELIMINARY DEVELOPMENT PLANS -- WHEN REQUIRED.

- (a) A preliminary development plan which meets the requirements of Section [16-322](#) shall be submitted in support of all applications for:
 - (1) rezoning, pursuant to Section [16-317](#), except applications for rezoning to a single-family residence district and a duplex residence district;
 - (2) a special use permit, pursuant to Section [16-318](#); and
 - (3) a building permit for a project, which involves the construction of buildings on undeveloped land, or the redevelopment of previously developed land, in all zoning districts, excepts the single-family and duplex residence districts.
- (b) A preliminary development plan shall be required as to (3) above only when a final development plan has not previously been approved for the project for

which the building permit is being sought or if a final development plan has been approved and then abandoned, pursuant to Section [16-330](#).

- (c) The governing body may waive the requirement for submission of a preliminary development plan for (3) above if it determines, in its sole discretion, that the nature or the content of the redevelopment does not warrant plan review.

16-323. PRELIMINARY DEVELOPMENT PLANS -- SUBMISSION REQUIREMENTS AND CONTENTS.

- (a) Eight copies of the preliminary development plan shall be submitted in support of the application. The preliminary development plan shall contain the following information:
 - (1) North arrow and scale.
 - (2) With regard to the subject property only:
 - (i) Existing topography with contours at 5-foot intervals, and delineating any land areas within the 100-year flood plain.
 - (ii) Proposed location of buildings and other structures, parking areas, drives walks screening, drainage patterns, public streets and easements.
 - (iii) Sufficient dimensions to indicate relationship between buildings, property lines, parking areas and other elements of the plan.
 - (iv) General extent and character of proposed landscaping.
 - (3) With regard to areas within 200 feet of the subject property:
 - (i) Any public streets which are of record;
 - (ii) Any drives which exist or which are proposed to the degree that they appear on plans on file with the city, except those serving single-family houses.
 - (iii) Any buildings which exist or are proposed to the degree that their location and size are shown on plans on file with the City. Single- and two-family residential buildings may be shown in approximate location and general size and shape.
 - (iv) The location and size of any drainage structures, such as culverts, paved or earthen ditches or storm water sewers and inlets.
 - (4) Preliminary sketches depicting the general style, size and exterior construction materials of the buildings proposed. Where several building types are proposed on the plan, a separate sketch shall be prepared for each type. These sketches shall include elevation drawings, but detailed drawings and perspectives are not required.
 - (5) A schedule shall be included indicating total floor area, land area, parking spaces and other quantities relative to the submitted plan in order that compliance with requirements of this ordinance can be determined.
 - (6) Name and address of landowner.
 - (7) Name and address of architect, landscape architect, planner, engineer, surveyor, or other person involved in the preparation of the plan.

- (8) Date of preparation of the plan.
- (b) The following information shall be submitted in support of the application for the preliminary development plan approval:
 - (1) All studies as may reasonably be required pursuant to Section [16-304](#).
 - (2) Assurances of adequate public facilities as required by Section [16-305](#).

16-324. CONSIDERATION OF PRELIMINARY DEVELOPMENT PLANS: CHANGE AS TO PRELIMINARY DEVELOPMENT PLANS.

- (a) When property is rezoned to a zoning district other than the single-family residence district or the duplex residence district, including all planned zoning districts, the preliminary development plan shall be considered and approved as a part of the rezoning application.
- (b) When submission of a preliminary development plan is required pursuant to Section [16-322\(a\)](#), it shall be considered and approved in accordance with all provisions and factors set forth in Section [16-321\(e\)](#). In addition, the following factors also shall be considered:
 - (1) The capacity of the site to accommodate the building(s), parking and drives, with appropriate open space and safe and easy ingress and egress;
 - (2) The degree of harmony between the architectural quality of the proposed building(s) and the surrounding neighborhood;
 - (3) The appropriateness of the minimum dimensions, areas of lots and yards and setbacks contained in the applicable zoning district regulations;
 - (4) The consistency of the plan with good land planning and site engineering design principles; and
 - (5) Compliance with all other applicable provisions of this chapter.
- (c) The planning commission shall hold a public hearing on each preliminary development plan submitted within 30 days of the date it is deemed complete pursuant to Section [16-306](#). If the planning commission fails to hold a public hearing within this period, the commission shall be deemed to have made a recommendation for denial and the preliminary development plan shall be considered by the governing body. The applicant and the mayor with the consent of the council may jointly agree in writing that the planning commission public hearing on a preliminary development plan may occur later than thirty days from the date the preliminary development plan is deemed complete, provided that a date certain for the hearing is established which is not greater than 45 days from the date the preliminary development plan is deemed complete.
- (d) Once a preliminary development plan has been approved, changes in the preliminary development plan may be made only after approval of a revised preliminary development plan. Each member of the governing body shall be notified immediately upon submission of a revised preliminary development plan. Changes in the preliminary development plan which are not substantial or significant may be approved by the planning commission, and disapproval

of these plans by the planning commission may be appealed to the governing body. Provided that, if any member of the governing body determines that the governing body should consider a revised preliminary development plan that contains changes that are not substantial or significant, as defined in subsection (e) of this section, the member of the governing body shall notify the mayor who shall in turn notify the planning commission of this determination. In this instance, the revised preliminary development plan may only be approved after rehearing by the planning commission and governing body; the hearing shall be subject to the notice and protest provisions set forth in Section [16-321](#). Substantial or significant changes in the preliminary development plan may only be approved after rehearing by the planning commission and governing body; the rehearing also shall be subject to the public hearing and protest provisions set forth in Section [16-321](#).

- (e) For purposes of this section, "substantial or significant changes" in the preliminary development plan shall mean any of the following:
 - (1) Increases of more than 10% in the total floor area of all buildings covered by the plan.
 - (2) Increases of lot coverage of more than 5%. "Lot coverage" means that portion of the net site area which is covered by the ground floor of any structure, parking lots, and private streets and drives. Pools, tennis courts, sidewalks and plazas are not counted toward lot coverage. "Net site area" means the land area of a lot or tract remaining after subtraction of all public street and alley rights-of-way as are required by this ordinance.
 - (3) Increases of more than 10% in the height of any building
 - (4) Changes of architectural style which will make the project less compatible with surrounding uses.
 - (5) Changes in ownership patterns or stages of construction that will lead to a different development concept.
 - (6) Changes in ownership patterns or stages of construction that will impose substantially greater loads on streets and other public facilities.
 - (7) Decreases of more than 5% of any peripheral setback.
 - (8) Decreases of areas devoted to open space of more than 5% or the substantial relocation of these areas.
 - (9) Changes of traffic circulation patterns that will affect traffic outside of the project boundaries.
 - (10) Modification or removal of conditions or stipulations to the preliminary development plan approval.
- (f) The determination of whether a proposed revised preliminary development plan contains "substantial or significant changes" shall be made by the building inspector within 10 business days following the date he deems the application complete. The determination of the building inspector may be appealed to the planning commission, whose decision shall be final.

- (g) In the event that the application for the revised preliminary development plan is denied, the previously approved preliminary development plan will remain in effect. (Ord. 626)

16-325. RECORDING OF PRELIMINARY DEVELOPMENT PLANS. Following the approval of a preliminary development plan, a statement shall be recorded with the register of deeds acknowledging that a preliminary development plan has been approved for the property. The statement shall be recorded in accordance with the forms and procedure established by the City and shall contain following information:

- (1) A legal description of the property;
- (2) A specification of the nature of the plan by identifying the zoning districts which apply to the property and the rezoning case number established by the rezoning ordinance, if applicable; and
- (3) A statement that the restrictions on development established by the preliminary development plan and the rezoning ordinance shall be binding upon all successors and assigns unless amended in conformance with the procedures set forth in the City's zoning regulations.

16-326. FINAL DEVELOPMENT PLANS -- WHEN REQUIRED. Submission and approval of final development plans are required in all instances in which preliminary development plans are required pursuant to the provisions of Section [16-322](#).

16-327. FINAL DEVELOPMENT PLANS -- CONTENTS AND SUBMISSION REQUIREMENTS.

- (a) Eight copies of the final development plan shall be submitted in support of the application. The final development plan shall contain the following information:
 - (1) A small key map indicating the location of the property within the City.
 - (2) A site plan including the following:
 - (i) Finished grades or contours for the entire site at 2 foot contour intervals.
 - (ii) All existing and proposed adjacent public street right-of-way with centerline location.
 - (iii) All existing and proposed adjacent public street and public drive locations, widths, curb cuts and radii.
 - (iv) Location, width and limits of all existing and proposed sidewalks.
 - (v) Location, size and radii of all existing and proposed median breaks and turning lanes.
 - (vi) Distance between all buildings, between buildings and property lines and between all parking areas and property lines.
 - (vii) Location of all required building and parking setbacks.

- (viii) Location, dimensions, number of stories and area in square feet of all proposed buildings.
 - (ix) Area of land on site plan in square feet or acres.
 - (x) Limits, location, size and material to be used in all proposed retaining walls.
 - (xi) Location and dimensions of all driveways, parking lots, parking stalls, aisles, loading and service areas and docks.
 - (xii) Location, height, candle power and type of outside lighting fixtures for buildings and parking lots.
 - (xiii) Location, size, type of material and message of all proposed monument or detached signs.
 - (xiv) Pertinent peripheral information to include adjacent developments, alignment and location of public and private driveways and streets, medians, public and semi-public easements.
 - (xv) Preliminary drainage design and location and existing drainage facilities.
- (3) Building elevations including the following:
- (i) Elevations of all sides of proposed buildings including notation indicating building materials to be used on exteriors and roofs.
 - (ii) Size, location, color and materials of all signs to be attached to building exteriors, unless private sign criteria have previously been approved by the planning commission.
 - (iii) Location, size and materials to be used in all screening of rooftop mechanical equipment.
 - (iv) Building sections.
- (4) Floor plans indicating dimensions and areas of all floors within proposed buildings.
- (5) Landscaping and screening plans which include:
- (i) Size, species, location and number of all proposed landscape materials.
 - (ii) Notation of all areas to be seeded or sodded.
 - (iii) Location, size and materials to be used for all screening, including screening of outside trash enclosure areas.
- (b) All site plans are to be drawn to a standard engineer's scale. The actual scale used will depend on the development and shall be subject to the approval of the city engineer.
- (c) One copy of the proposed site plan and one copy of the proposed building elevations shall be reduced onto 8-1/2 inch by 11 inch bond paper.
- (d) The following shall be submitted in support of the application for final development plan approval:
- (1) Deeds of dedication for all rights-of-way or easements required as a result of preliminary development plan approval if conveyance thereof is not to be made by plat or by the filing of the final development plan pursuant to Section [16-329](#).

- (2) A copy of all covenants and restrictions applicable to the development, if required by the terms of the preliminary development plan.
- (3) Evidence of the establishment of the agency for the ownership and maintenance of any common open space and all assurances of the financial and administrative ability of the agency required pursuant to approval of the preliminary development plan, if required by the terms of the approved preliminary development plan.
- (4) Evidence of satisfaction of any stipulations of the preliminary development plan approval which were conditions precedent to consideration of the final development plan.
- (5) Proof of filing of the statement required by Section [16-329](#).
- (6) Assurances of adequate public facilities as required by Section [16-305](#).

16-328.

CONSIDERATION OF FINAL DEVELOPMENT PLANS.

- (a) Each member of the governing body shall be notified immediately upon submission of a final development plan.
- (b) Final development plans that contain no modifications or additions from the approved preliminary development plan shall be approved by the planning commission if the commission determines that the landscaping and screening plan complies with all applicable Code requirements and that the final development plan complies with the applicable factors referred to and set forth in Section [16-320\(e\)](#). Denial of final development plans by the planning commission may be appealed to the governing body by the applicant within 15 days of the denial.
- (c) A final development plan that contains modifications from the approved preliminary development plan, but is in substantial compliance with the preliminary plan, may be approved by the planning commission without a public hearing, provided that the commission determines that the landscaping and screening plan complies with all applicable code requirements and that the final development plan complies with all of the applicable factors referred to and set forth in Section [16-321\(e\)](#). Provided further that, if any member of the governing body determines that the governing body should consider a final development plan that contains changes that are not substantial or significant changes from the approved preliminary development plan as determined by Section [16-324\(e\)](#), that member shall notify the mayor who shall notify the planning commission of the determination. In these instances, final development plans shall be considered by the governing body after the planning commission has recommended the approval or denial of the proposed final development plan to the governing body, specifying the reasons for its recommendation. If the planning commission fails to make a recommendation, the planning commission shall be deemed to have made a recommendation of denial. Any determination made by the planning commission under this subsection shall be appealable to the governing body by the applicant within 15 days of the date of the planning commission determination

- (d) In the event of a determination that the proposed final development plan is not in substantial compliance with the approved preliminary development plan, the application may not be considered except at a public hearing, following publication notice and notice to surrounding property owners as provided in Sections [16-313](#) and [16-314](#), respectively. The provisions of Section [16-324](#) relating to consideration of preliminary development plans shall apply to consideration of final development plans that are determined not to be in substantial compliance with the preliminary development plan. Following the public hearing, the planning commission shall recommend approval or denial of the proposed final development plan to the governing body, specifying the reasons for its recommendation. If the planning commission fails to make a recommendation on the proposed final development plan, the planning commission shall be deemed to have made a recommendation of denial. Following receipt of the planning commission recommendation, the governing body shall either approve or disapprove the proposed final development plan by a simple majority vote of those members present and voting; provided, however, that consideration of a proposed final development plan which has been determined to be not in substantial compliance with the approved preliminary development plan shall also be subject to the protest provisions set forth in Section [16-321\(c\)](#).
- (e) Revisions to approved final development plans which are insignificant in nature may be approved administratively by the building inspector. Provided, however, that in no event may revisions to approved final development plans be approved administratively if the proposed revised final plan contains "substantial or significant changes" as defined in Section [16-324\(e\)](#). (Ord. 626; Ord. 648 May 31, 1995)

16-329. **RECORDING OF FINAL DEVELOPMENT PLAN.** Following the approval of a final development plan, a statement acknowledging that a final development plan has been approved for the property shall be filed with the register of deeds. The statement shall be recorded in accordance with the forms and procedures established by the City and shall contain the following information:

- (1) A legal description of the property.
- (2) A statement that the restrictions on development and the responsibility for continuing maintenance and compliance with the final development plan shall be binding upon all successors and assigns unless the plan is amended in conformance with the procedures set forth in the City's zoning regulations.

16-330. **ABANDONMENT OF FINAL DEVELOPMENT PLAN.** In the event that a plan or a section thereof is given final approval and thereafter the landowner shall abandon the plan or section thereof and shall so notify the City 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 in either event the final approval shall terminate and shall be deemed null and void unless the time period is extended by the application by the landowner. Whenever a final plan or section thereof has

been abandoned as provided in this section, no development shall take place on the property until a new development plan has been approved.

16-331. SITE PLANS FOR NON-RESIDENTIAL DEVELOPMENT IN RESIDENTIAL DISTRICTS.

- (a) No permit for any construction or use of property for non-residential uses (parks, playgrounds, churches or schools) in a residential district shall be issued until a site plan for the development has been reviewed by the planning commission and approved by the governing body.
- (b) All site plans shall contain the following information:
 - (1) North arrow and scale.
 - (2) Location of existing rights-of-way, easements and infrastructure (streets, sewers, water lines, utilities, etc.).
 - (3) Size and location of existing and proposed structures and drives on the subject property, and existing structures and drives on surrounding properties.
 - (4) Location of flood plain.
 - (5) Location of proposed drives and parking areas.
 - (6) Platted setback lines.
 - (7) Elevations of proposed buildings.
 - (8) Final grades.
 - (9) Landscaping.
 - (10) Name and address of landowner.
 - (11) Name and address of architect, landscape architect, planner, engineer, surveyor or other person involved in the preparation of the plan.
 - (12) Date of preparation of the plan.
- (c) Prior to consideration of site plans by the planning commission, all site plans, and assurances of adequate public facilities as set forth in Section [16-305](#), shall be submitted to the building inspector for review and determination that all submittal requirements are complete. The city engineer may also require the submission of technical studies, and the provisions relating thereto set forth in Section [16-304](#) shall be applicable, except that appeals of the determination of the building inspector shall go directly to the planning commission.
- (d) Following the determination of the building inspector that all submittals are complete, a public hearing on the site plan shall be scheduled before the planning commission, with publication notice and notice to surrounding property owners as required by Sections [16-312](#) and [16-313](#).
- (e) Following the close of the public hearing, the planning commission shall determine the appropriateness of the proposed site plan according to the following criteria:
 - (1) The capability of the site to accommodate the building(s), parking and drives, with appropriate open space and safe and easy ingress and egress.
 - (2) The degree of harmony between the architectural quality of the proposed building(s) and the surrounding neighborhood.

- (3) The appropriateness of the minimum dimensions and areas of lots and yards contained in the applicable zoning district regulations may be considered and increased.
 - (4) The consistency of the plan with good land planning and site engineering design principles.
 - (5) The extent to which the proposed use and associated site improvements ensure that on-site storm water is appropriately managed, control the discharge of pollutants into storm water runoff, create air pollution, noise pollution, other types of water pollution, or involves excessive removal of existing on-site vegetation or other environmental harm.
- (f) The decision of the governing body to approve, approve with conditions or deny the site plan shall be final.(Ord. 626)

ARTICLE 4. ZONING DISTRICTS

DIVISION I - GENERAL PROVISIONS

- 16-401. **AUTHORIZATION AND REGULATION OF ZONES AND DISTRICTS.** The governing body hereby divides the City into zones and districts, in order to regulate and restrict the location of trades and industries, and the location, erection, alteration and repair of buildings designed for specific uses, and the uses of the land within each district or zone.
- 16-402. **ZONING DISTRICTS DESIGNATED.** For the purpose of regulating and restricting the use of land and the erection, construction, reconstruction, altering, moving or use of buildings and structures, the corporate area of the City is divided into five conventional zoning districts and five planned zoning districts.
- (a) The conventional zoning districts are designated as follows:
 - (1) Single-Family Residence District.
 - (2) Duplex Residence District.
 - (3) Multiple Residence District.
 - (4) Office Building District.
 - (5) Retail Business District.
 - (b) The planned zoning districts are designated as follows:
 - (1) CP-O, Planned Office Building District.
 - (2) CP-1, Planned Restricted Business District.
 - (3) CP-2, Planned General Business District.
 - (4) P-I Planned Industrial Park District.
 - (5) MXD, Planned Mixed Use District
 - (c) The overlaying zoning districts are as follows:
 - (1) 47th and Mission Road Area Design Review Overlay District. (Ord. 717, Sec. 1; Code 2003)

16-403. OFFICIAL ZONING MAP. The boundaries of the zoning districts enumerated in Section [16-402](#) shall be shown on a map officially designated as the Official Map, which map is hereby incorporated by reference.

16-404. GENERAL REQUIREMENTS APPLICABLE TO ALL ZONING DISTRICTS.

- (a) Except as otherwise specifically provided, no building or structure shall be erected, constructed, reconstructed, moved or altered, nor shall any building, structure or land be used for any purpose other than is permitted in this chapter by the regulations of the zoning district in which the building, structure or land is situated.
- (b) Except as otherwise specifically provided, no building or structure shall be erected, constructed, reconstructed, moved or altered to exceed the height or area limits established in this chapter by the regulations of the zoning district in which the building or structure is situated.
- (c) Except as otherwise specifically provided, no lot area shall be reduced or diminished so that the yards or other open spaces shall be smaller than prescribed, nor shall the density be increased in any manner, except in conformity by the regulations of the zoning district in which the lot or property is situated.
- (d) Except as otherwise specifically provided, no building, structure or site improvement shall be erected, constructed, reconstructed, moved or altered except in compliance with any applicable final development plans, site plans or other development plans approved by the governing body or the planning commission. For the purposes of this section, compliance with approved plans shall include both compliance with the content of the plan drawings and compliance with any conditions or stipulations attached to the approval. (Ord. 718, Sec. 1; Code 2003)

16-405. PROHIBITIONS. Prohibitions from the zoning regulations of the City shall be as follows:

- (a) No temporary or incomplete building nor any vehicular equipment, trailer, garage or appurtenance incident to a family dwelling, shall be erected, maintained or used for residence purposes in the city.
- (b) No temporary or outwardly incomplete structure or building or excavation for a basement or foundation, and no building or structure so damaged as to become unfit for use or inhabitation shall be permitted, maintained or remain in this condition with the City for a period of more than six months, except by special permission of the governing body.
- (c) No building material, equipment, machinery or refuse shall be stored or maintained upon a lot, tract or parcel within the City, other than during the period during which actual construction or repair operations are being regularly and continuously performed in accordance with the schedule of construction approved in conjunction with a building permit issued for these operations, as the schedule shall be amended from time to time, or otherwise beyond a reasonable period of time necessary to complete the construction or repair as determined by the building inspector in his sole discretion; provided, however, that the governing body may waive the prohibition

against the storage or maintenance in unusual cases for a limited time upon good cause shown therefor.

- (d) No building, structure, or land now located within the city nor any building hereafter erected therein, shall be used or occupied for any of the following purposes, unless otherwise provided for in this Article:
- (1) Junkyard or junk storage room;
 - (2) Slaughterhouse, commercial poultry dressing or processing establishment where the use is primary and not incidental to some authorized use;
 - (3) Trailer camps;
 - (4) Circuses or carnivals;
 - (5) Storage or selling of volatile or explosive materials;
 - (6) Boarding houses or lodging houses;
 - (7) Flea markets. (Ord. 641)

DIVISION II - ZONING DISTRICTS DESCRIBED

16-406. SINGLE-FAMILY RESIDENCE DISTRICT. The following uses and no other are permitted in a single-family residence district:

- (a) Single-family dwelling, and uses customarily incident to and located on the same lot or premises as the dwelling;
- (b) Public park or public playground, church, public or parochial school;
- (c) Group home, as defined by K.S.A. 12-736, and amendments thereto, located in a single-family dwelling;
- (d) Residential-designed manufactured homes conforming to the following architectural or aesthetic standards:
 - (1) The roof must be double-pitched and have a minimum vertical rise of 2.2 feet for each 12 feet of horizontal run, and covered with roofing material that is residential in appearance, including, but not limited to, approved wood, asphalt composition shingles or fiberglass, but excluding corrugated aluminum, corrugated fiberglass or metal roofs.
 - (2) All roof structures shall provide an eave projection of no less than 6 inches, which may include a gutter.
 - (3) 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.
 - (4) The manufactured home is set up in accordance with the recommended installation procedures of the manufacturer and the standards set by the National Conference of States on Building Codes and Standards and published in "Manufactured Home Installations, 1987" (referred to as NCS BCS A225.1), and a continuous, permanent masonry foundation or masonry curtain wall, unpierced

- except for required ventilation and access, is installed under the perimeter of the manufactured home.
- (5) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set in Chapter IV of the City Code, and attached firmly to the primary structure and anchored securely to the ground.
 - (6) All fuel supply systems shall be constructed and installed within the foundation wall or underground in accordance with all applicable building and safety codes except that any bottled gas tanks may be fenced so as not to be clearly visible from the street or abutting properties.
 - (7) The moving hitch, transporting lights, and wheels and axles shall be removed.
 - (8) The manufactured home must be oriented on the lot so that its long access is parallel with the street. A perpendicular or diagonal placement may be permitted if the narrow dimension of the unit, as it appears from the street, is no less than 50% of the unit's long dimension.
 - (9) The lot must be landscaped to ensure compatibility with surrounding properties.
 - (10) The manufactured home has a length not exceeding four times its width, with length measured along the longest access and width measured at the narrowest part of the other access. The minimum dimensions of the manufactured home shall be 22 feet in width and 40 feet in length.
 - (11) A garage or carport, constructed in accordance with the requirements of Chapter IV of the City Code is required.
- (e) Customary accessory uses.
 - (f) Communication towers designed as an architecturally compatible element of and attached to an existing non-residential use such as a school, church, etc. and communication antennas mounted on existing non-residential structures and non-residential buildings conforming to the following requirements:
 - (1) Communication towers are subject to site plan approval by the city engineer. The city engineer shall specify in writing the information to be contained in the required site plan. In addition, communication towers are subject to the same height and setback requirements as other structures within this district and the performance standards outlined in Section [16-1101\(a\)\(2\)](#)-(14), (17) and (20).
 - (2) Communication antennas may be installed on an existing structure located on property developed with a non-residential use or on a non-residential building subject to the performance standards outlined in [Article 11](#) hereof. (Ord. 666, Sec. 2)

16-407. SINGLE FAMILY RESIDENCE DISTRICT; DIMENSIONS. The minimum dimensions of yards and setbacks, and the minimum lot frontage, area and distance

between adjacent buildings and appurtenances thereto for each building, and the maximum height of structures, shall be as follows:

- (a) Front Yard Setback: There shall be a setback line of not less than 35 feet from the front line of each lot, tract or parcel where the street or streets or highways upon which the same fronts is 50 feet or less in width, and upon streets or highways exceeding 50 feet in width there shall be a setback line of not less than 30 feet from the front line of the lot.
- (b) Sideyard Setbacks: No residence (including attached or semi-attached garages and porches, enclosed or unenclosed) shall be located within five feet of either side of the lot, tract or parcel of land upon which it is erected; nor shall any residence, including the above enumerated appurtenances, occupy more than 80% of the width of the lot, tract, or parcel of land upon which it is erected, measured along the front set-back line. In addition, if the sideyard abuts on a street or highway, no residence (including attached or semi attached garages and porches, enclosed or unenclosed) shall be located within 20 feet of the street or highway right-of-way line. A minimum distance of 10 feet shall be provided and maintained between the residence and any building located upon adjacent premises.
- (c) Rear Yard: There shall be a rear yard having a minimum depth of 15 feet. In addition, if the rear yard abuts on a street or highway, no structure (including attached or semi attached garages and porches, enclosed or unenclosed) shall be located within 20 feet of the street or highway right-of-way line.
- (d) Lot Frontage and Area: Every building hereafter erected, moved or altered shall provide a minimum lot frontage of 60 feet, or in the alternative, a minimum lot width at the setback line of 60 feet, and a lot area of not less than 7,500 square feet per dwelling.
- (e) Height: The maximum height of dwellings shall be two and one-half stories, not exceeding 35 feet. The height of accessory uses and structures shall not exceed the height of the dwelling. The height of non-residential structures shall not exceed 35 feet, except that the maximum height may be increased by one foot for each additional foot that yards are increased on all sides above minimum requirements, up to a maximum height of 75 feet.
- (f) Landscaping, Screening and Green Space Requirements: Residential lots shall maintain a minimum of 55% of lot area as a permeable or uncovered surface. (Ord. 614, 1994)

16-408.

SINGLE FAMILY RESIDENCE DISTRICT; RESIDENTIAL PARKING SPACE.

- (a) For all buildings or structures hereafter erected, constructed, reconstructed, moved or altered, off-street parking in the form of garages or areas made available exclusively for the purpose shall be provided. For all residential uses, parking space shall be located on the premises with no portion, except the necessary drives, extending into any street or other public way.
- (b) Off-street parking spaces, each measuring at least 8.5 x 20.0 feet in size, shall be provided as follows:
 - (1) Single-family dwellings: two spaces for each dwelling unit.
 - (2) Churches and schools: to be determined at the time of site plan approval.

- (3) Public parks or playgrounds: to be determined at the time of site plan approval.

- 16-409. DUPLEX RESIDENCE DISTRICT. On a duplex residence district, no building or premises shall used and no building or structure shall be hereafter erected, moved or altered unless otherwise provided in this Article, except for the following:
- (a) Duplexes;
 - (b) Uses permitted in Section [16-406](#), subject to the same restrictions and provisions as provided therein.
 - (c) Customary accessory uses.
- 16-410. DUPLEX RESIDENCE DISTRICT; DIMENSIONS AND PARKING. The same restrictions and provisions shall apply which are set forth in Sections [16-407](#) and [16-408](#).
- 16-411. MULTIPLE RESIDENCE DISTRICT. In a multiple residence district, no building or premises shall be used and no building or structure shall be hereafter erected, moved or altered unless otherwise provided in this Article, except for the following:
- (a) Multiple-family dwellings.
 - (b) Duplexes.
 - (c) Uses permitted in Section [16-406](#), subject to the same restrictions and provisions provided therein.
 - (d) Customary accessory uses.
- 16-412. MULTIPLE RESIDENCE DISTRICT; DIMENSIONS. The minimum dimensions of yards and set-backs and the minimum lot frontage, area and distances between the adjacent buildings and appurtenances thereto, and the maximum height for each building shall be as follows:
- (a) Front Line Setback: There shall be a set-back line of not less than 35 feet from the front line of the lot or parcel of land.
 - (b) Side Line Setback: No building shall be located within 20 feet of either side of the lot, tract or parcel of land and shall not occupy more than 75% of the width or more than 50% of the depth. Where multiple buildings are located on the same lot, the minimum setback between buildings shall be 15 feet.
 - (c) Lot Frontage and Area: There shall be a minimum depth of 20 feet.
 - (d) Lot Frontage and Area: There shall be a minimum lot frontage of 80 feet for each lot and a lot area of not less than 2,500 square feet for each multiple-family dwelling unit. For other than multiple-family dwellings, the lot area shall be not less than 7,500 square feet for each building.
 - (e) Height: The maximum height of multiple-family dwellings shall be three stories, not exceeding 40 feet. For other than multiple-family dwellings, the maximum height of buildings and structures shall be as set forth in Section [16-407](#).
- 16-413. MULTIPLE RESIDENCE DISTRICT; PARKING. The same restrictions and provisions shall apply which are set forth in Section [16-408](#). (Ord. 581, Sec. 8, 1992)

16-414. OFFICE BUILDING DISTRICT. In any office building district no building or structure shall be hereafter erected, moved or altered unless otherwise provided in this Article, except for the following:

- (a) Office buildings to be used only for the administrative functions of companies, corporations, social or philanthropic organizations or societies.
- (b) Other offices limited to the following:
 - (1) Accountants;
 - (2) Architects;
 - (3) Brokers;
 - (4) Engineers;
 - (5) Dentists;
 - (6) Lawyers;
 - (7) Physicians, osteopaths, chiropractors;
 - (8) Real estate and insurance;
 - (9) Medical, dental, health clinic;
 - (10) Children's pre-school or nursery school;
 - (11) Savings and loan company (finance and loan);
 - (12) Public library;
 - (13) Small loan company (finance and loan);
 - (14) Travel agency;
 - (15) Tailor shop;
 - (16) Beauty salon.
- (c) Communication antennas mounted on existing structures; provided that, the communication antenna is installed on an existing structure (such as a building, utility pole, water tower etc.) three stories in height or greater, but no less than 35 feet; provided also that, the additional communication antennas shall add no more than 20 feet to the height of that existing structure. Communication antennas that are architecturally compatible with the building architecture may locate on nonresidential buildings less than three stories or 35 feet in height, subject to site plan approval in accordance with Section [16-331](#). Equipment associated with the communication antenna may be permitted on the roof so long as it is screened from view in accordance with Section [16-1010](#). Communication antennas mounted on a building or structure shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Ground-mounted equipment associated with the communication antenna is subject to the performance standards outlined in Section [16-1101\(a\)\(9\)-\(11\)](#), (14), (17) and (20).
- (d) Customary accessory uses; provided, however, no merchandise shall be sold or displayed and no equipment, material or vehicle shall be stored outside a building, except that this subsection shall not be construed as prohibiting the parking of passenger cars used by the owners, tenants and guests in traveling to and from the property located in the office building district. (Ord. 666, Sec. 3)

16-415. OFFICE BUILDING DISTRICT; DIMENSIONS. The minimum distance of setbacks, minimum free space and vision for accessibility to rear of premises, and

maximum height each building or structure shall be the same as for the retail business district.

- 16-416. OFFICE BUILDING DISTRICT; PARKING. Off-street parking spaces shall be provided in the ratio of four parking spaces for each one thousand square feet of total floor area.
- 16-417. RETAIL BUSINESS DISTRICT. In a retail business district, no building or premises shall be used and no building or structure shall be hereafter erected or altered, unless otherwise provided in this Article except for the following:
- (a) Retail stores;
 - (b) Retail trade and shops for custom work or the making of articles to be sold at retail on the premises;
 - (c) Manufacturing, clearly incidental or necessary to retail business, lawfully conducted on the premises; provided, that it does not in any way become a nuisance or hazard;
 - (d) Banks and savings and loan associations;
 - (e) Motor car light repair work;
 - (f) Automobile sales room;
 - (g) Hospital, sanitarium, or small animal hospital;
 - (h) Fire and police station, or other public buildings;
 - (i) Any uses enumerated in Section [16-414](#) hereof;
 - (j) Mortuaries;
 - (k) Gasoline service station;
 - (l) Private clubs allowing consumption of alcoholic liquors upon the premises.
 - (m) Restaurants.
 - (n) Customary accessory uses.
- 16-418. RETAIL BUSINESS DISTRICT; DIMENSIONS. The minimum distance or setbacks, minimum free space and vision for accessibility to rear of premises and maximum height each building, structure or place of business shall be as follows:
- (a) Front Line Setback: Each building structure or place of business shall be set back not less than 35 feet from the front line of each lot, tract or parcel within the district. Where a set-back line has previously been established within a block or separate section of the highway by the construction of a building or buildings at a lesser distance than 35 feet from the front line of the lot or tract upon which it stands, or if for any other reason within the discretion of the governing body, a lesser distance may be deemed advisable and proper under the existing conditions and circumstances of a specific lot, tract or parcel, the governing body may authorize a set-back line of less than 35 feet from the front line of any lot, tract or parcel.
 - (b) Side Line Setbacks: On corner lots, tracts or parcels, there shall be a setback line for the sidewalks of any building or structure a minimum distance of 15 feet from the side street. When existing or other unusual and peculiar conditions encountered render limitations as herein provided impracticable, the governing body, upon request may at any time in its discretion reduce the same. Provided, however, that the minimum side yard shall be 20 feet where

that side yard abuts any residentially zoned property, and the minimum side yard shall be 15 feet where that side yard is separated from any residentially zoned property by a street.

- (c) Rear Access: Accessibility to the rear portion on all lots, tracts, or parcels of land for the ingress and egress of four-wheeled vehicles from and to a public highway, street or alley shall be provided in the plans and construction of all buildings or structures, except in cases of architectural design, planning and construction treatment where access is otherwise amply provided in addition to the front or main entrance, or is obviously impracticable or unnecessary. In the case of any interior lot where access cannot be made available, the governing body may in its discretion, waive the rear access requirement. Where the rear yard of any retail business district property abuts any residentially zoned property, the minimum rear yard shall be 30 feet. Where the rear yard of any retail business district property is separated from any residentially zoned property by a street, the minimum rear yard shall be 20 feet.
- (d) Trash or Other Like Material Storage: No material to be disposed of, trash, garbage, or like items, shall be visible to the public either within a building or structure or outside a building or structure and these items shall be disposed of in a safe and sanitary manner.
- (e) Height: The maximum height of all buildings or structure shall be 40 feet.
- (f) Setback: The minimum setback of all buildings or structures from Roe Boulevard shall be 30 feet.(Ord. 626)

16-419. RETAIL BUSINESS DISTRICT; PARKING. Off-street parking spaces shall be provided in the ratio of four parking spaces for each one thousand square feet of total floor area. (Ord. 581, Sec. 9)

16-420. RETAIL BUSINESS DISTRICT; DEVELOPMENT AND PERFORMANCE STANDARDS. All uses permitted in the retail business district, pursuant to Section [16-417](#) or Section [16-318](#), shall meet the following minimum standards:

- (a) All goods, merchandise and equipment shall be sold and rented, and all business activities or services shall be rendered or conducted within completely enclosed buildings; provided that, each permitted use shall be allowed to locate food and/or drink vending machines immediately adjacent to the enclosed building from which that activity or service is conducted.
- (b) No goods, merchandise or equipment shall be stored or displayed outside of a fully enclosed building, except, if the storage or display is screened or fenced in accordance with a plan reviewed by the planning commission and approved by the governing body. (Ord. 641)

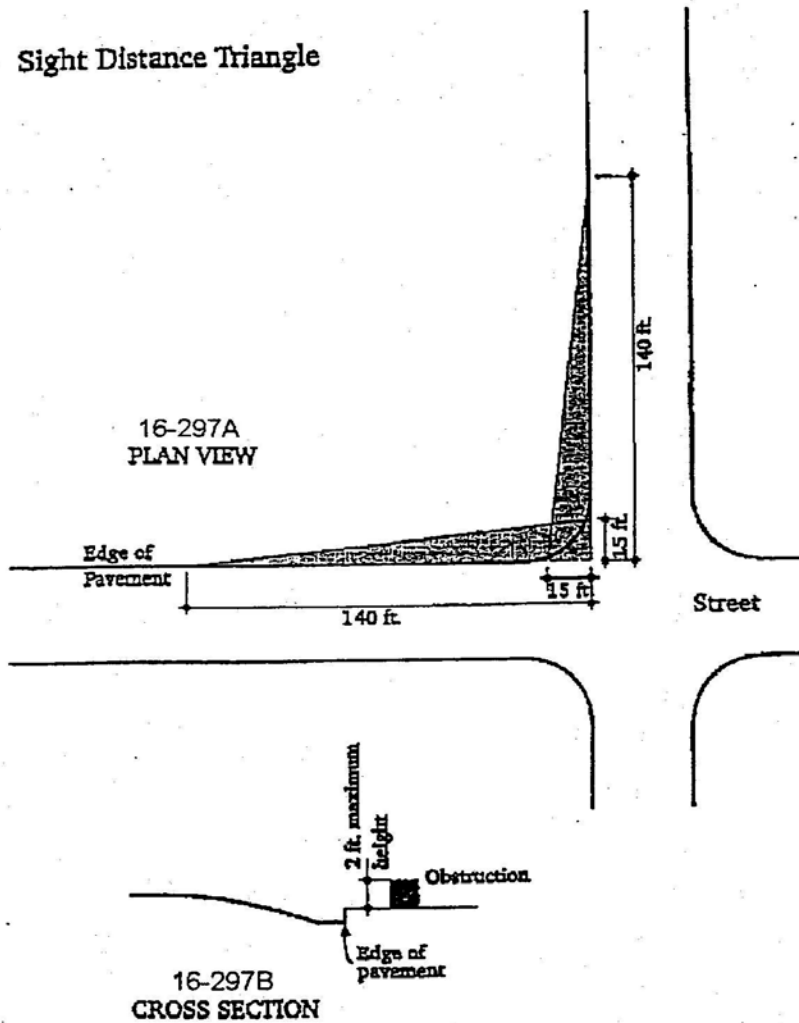
DIVISION III - HEIGHT AND AREA EXCEPTIONS

16-421. HEIGHT AND AREA EXCEPTIONS; GENERALLY. The regulations and requirements relating to the height of buildings and structures and the area of lots and yards shall be subject to the following exceptions and additional regulations set forth in this chapter.

- 16-422. HEIGHT AND YARD EXCEPTIONS -- PUBLIC OR SEMI-PUBLIC BUILDINGS. In any district, public or semi-public buildings, such as hospitals, churches and schools, either public or private, may be erected to a height of a public or semi-public building exceeds the maximum height established for the district in which the building is located, the building shall have yards which shall be increased one foot on all sides for each additional foot that these buildings exceed the maximum height.
- 16-423. YARD EXCEPTIONS -- PLATTED SETBACK LINES. Where a setback line for a front yard, side yard or rear yard is established on any plat approved by the City, which platted setback is more restrictive than the yard requirements set forth in this title, the setbacks shall control and building permits shall not be issued for any building or structure outside of the platted setback which would not otherwise be allowed to be located in the yard pursuant to this title.
- 16-424. YARD EXCEPTIONS -- RESIDENTIAL DISTRICTS; FRONT YARDS. In residential districts where lots comprising 40% or more of the frontage on the same side of a street between two intersecting streets are developed with buildings having front yards with a variation of not more than 10 feet in depth, the average of these front yards shall establish the minimum front yard depth for the entire frontage; provided, however, that where a recorded plat has been filed showing a setback line which otherwise complies with the requirements of this title, but which is less than the established setback for the block as provided herein, the setback line shall control. Provided further that the board of zoning appeals may establish a reasonable setback by variance where the configuration of the ground and buildings is such as to make conformity with the front yard requirements established pursuant to this section impractical.
- 16-425. YARD EXCEPTIONS -- REQUIRED YARDS.
- (a) Every part of a required yard shall be open from its lowest point to the sky unobstructed except for the ordinary projection of sills, belt courses, cornices, chimneys buttresses, ornamental features and eaves; provided however, that none of the above projections shall extend into a court more than 6 inches nor into a minimum yard more than 30 inches; and provided further that canopies or open porches having a roof area not exceeding 60 square feet may project a maximum of 6 feet into the required front or rear yard. Unenclosed decks not more than 30 inches above natural grade may extend into the rear yard to the same extent as a detached accessory building. For purposes of this section the height above natural grade shall be measured along the perimeter of the deck and shall not exceed 30 inches at any point. Patios, pools or similar structures which are at or below grade may be located in any side or rear yard area provided they are at least 3 feet from any property line.
 - (b) In the case of corner lots or double frontage lots the rules stated in subsection (a) of this Section shall be modified as follows:
 - (1) No accessory structure of any kind shall be built in platted landscape easement.

- (2) In the case of a double frontage lot or corner lot whose rear yard abuts a collector or local street no accessory structure of any kind shall be built closer than 15 feet to the street right-of-way.

16-426. YARD EXCEPTIONS -- SIGHT DISTANCE ON CORNER LOTS. All corner lots shall provide two sight distance triangles, the short leg of which shall be 15 feet, and the long leg of which shall be 140 feet measured along the edge of the pavement as depicted in FIGURE 16-297A. The area within the triangles, as depicted in FIGURE 16-297B shall be and remain free of shrubbery, fences or other obstructions to vision more than 2 feet in height measured above the edge of pavement at a point nearest the obstruction.



16-427. EXCEPTIONS -- REAR YARD ADJOINING ALLEYS. In computing the depth of a rear yard for any building where the yard adjoins an alley, one-half of the alley may be counted as a portion of the rear yard.

DIVISION IV - PLANNED DISTRICTS

16-428.

PLANNED ZONING DISTRICTS; STATEMENT OF OBJECTIVES. The zoning of land to one of the planned zoning districts designated in Section [16-402\(b\)](#) shall be for the purpose of encouraging and requiring orderly development at a quality level generally equal to or exceeding that commonly found in projects developed under conventional zoning, but permitting deviations from the normal and established development techniques. The use of planned zoning procedures is intended to encourage large-scale developments, efficient development of small tracts, innovative and imaginative site planning, conservation of natural resources and minimum waste of land. The following are specific objectives of the planned zoning districts:

- (a) The conventional zoning districts should generally not be applied to the improvement of land by other than lot-by-lot development. Consequently, with the exception of residential subdivisions, development proposals which are intended to be subdivided into multiple lots should generally be rezoned to one or more planned zoning districts to ensure the compatibility, coordination, timing and sequencing of development. From and after the adoption of these planned zoning provisions, property shall not be rezoned to either office building district or retail business district except under unique circumstances, and only upon a showing that requiring rezoning to a planned zoning district would result in undue hardship upon the landowner.
- (b) Planned developments are groupings of buildings or building sites that are planned as an integrated unit or cluster on property under unified control or ownership at the time the zoning was approved by the City. The sale, subdivision or other partition of the site after zoning approval does not exempt the protect or portions thereof from complying with the development standards, architectural quality, sign concepts and other conditions that were committed to at the time of the rezoning. The submittal by the developer and the approval by the City of development plans represents a firm commitment by the developer that development will indeed follow the approved plans in concept, intensity of use, aesthetic levels and quantities of open space.
- (c) Planned commercial and industrial developments should be designed so as to result in attractive, viable and safe centers and clusters, as opposed to strip patterns along thoroughfares. Control of vehicular access, architectural quality, landscaping and signs will be exercised to soften the impact on nearby residential neighborhoods, and to assure minimum adverse affects on the street system and other services of the community.
- (d) The developer will be given latitude in using innovative techniques in the development of land not feasible under application of conventional zoning requirements.
- (e) Deviations from the performance and development standards, as provided for in Section [16-449](#), may be approved if it is deemed that other amenities or conditions will be gained to the extent that an equal or higher quality development is produced.

16-429.

PLANNED ZONING DISTRICTS; STANDARDS OF DEVELOPMENT.

- (a) The uses permitted in any planned zoning district shall be those set forth in the section applicable to that planned zoning district. Provided, however,

were found to be reasonably necessary in the interest of the public health, safety and general welfare, the city may condition approval of a development plan by specifying that certain uses otherwise permitted in the district shall not be allowed in that particular development.

- (b) At the time of preliminary development plan approval, the applicant may propose, or the City may require, that a phasing plan be submitted setting forth the timing and sequencing of development among various types of uses or subgroups of uses or buildings in the development.
- (c) As a general rule, the floor area ratio shall be as set forth in the section applicable to a particular planned zoning district. Provided, however, that as long as the overall density of the development does not exceed the density otherwise permitted for a parcel of that size, taking into consideration standard street patterns and right-of-way requirements, the density of portions of the development may vary from that otherwise applicable to that planned zoning district. In determining whether or not to allow the density of development to be varied, the planning commission and governing body shall give consideration to the following: (1) the amount, location and proposed use of common space; (2) the location and physical characteristics of the site of the proposed development; and (3) the location, design and type of uses.
- (d) Any common open space resulting from the variance of standards for density of land shall be set aside for the use and benefit of the occupants of the development. The amount of common open space shall be determined at the time of preliminary development plan approval. As a condition of preliminary plan approval, the planning commission or governing body may require that the developer provide for and establish an agency for the ownership and maintenance of any common open space and may require assurance of the financial and administrative ability of any agency. Further, the planning commission or governing body may require that any agency shall not be dissolved or permitted to dispose of any common open space by sale or otherwise (except to a new agency assuming all the duties and obligations of the original agency) without first offering to dedicate the same to the city or any other government agency. Failure of the agency to maintain the common open space shall be considered to be a violation of this ordinance.
- (e) At the time of final development plan approval the planning commission may apply the provisions of [Article 14](#), Subdivision Regulations, to the planned development and upon the acceptance of the governing body, the filing of the final development plan with the Register of Deeds shall constitute the effective dedication of easements, rights-of-way, access control and the equivalent of an alternate for the platting of land prior to the issuance of buildings permits for the planned development. Rule exceptions to the standards set forth in [Article 4](#) may be granted at the time of the final development plan approval under the same conditions applicable to plat approvals.

- (f) Standards for the design, bulk and location of buildings and structures shall be as set forth in the sections applicable to any planned zoning district. Provided, that the planning commission or governing body may, in the process of approving preliminary or final development plans, approve the following deviations from the minimum standards where there is ample evidence that the deviations will not adversely affect neighboring property and that this action will not constitute the mere granting of a privilege:
- (1) Setbacks of buildings and paved areas from a public street right-of-way may be reduced to 75% of the stated requirement.
 - (2) Setbacks of buildings from a property line other than a public street right-of-way may be reduced to 85% of the stated requirement and setbacks of paved areas from a property line other than a public street right-of-way may be reduced to zero, if existing or proposed development on that adjacent land justifies any reduction.
 - (3) Side yards between buildings may be reduced to zero.
 - (4) Setbacks of buildings and paved areas from a freeway right-of-way may be reduced to 5 feet.
 - (5) A portion of the parking area required under this title may remain unimproved until such time as the city council deems it must be improved to serve parking demand adequately.
 - (6) Reduction of setbacks or other open space shall be compensated by additional open space in other appropriate portions of the project and shall be in keeping with good land use planning principles.
- (g) The planning commission or governing body may, in the process of approving preliminary or final development plans, approve deviations from applicable development standards other than those listed in subsection (f) of this section only if it finds that all of the following conditions are met:
- (1) That the deviation requested arises from a condition which is unique to the property in question, is not ordinarily found in the same zoning district, and is not created by an action or actions of the landowner or the applicant.
 - (2) That the granting of the deviation will not adversely affect the rights of adjacent landowners or residents.
 - (3) That the strict application of the provisions of this ordinance would constitute unnecessary hardship upon the landowner represented in the application.
 - (4) That the deviation desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
 - (5) That the granting of the deviation will not be opposed to the general spirit and intent of this ordinance.
- (h) The design of all planned developments shall be that access and circulation by firefighting equipment and other emergency vehicles is assured and may not be retarded by steep grades, heavy landscaping or building spacing.

16-430. PLANNED INDUSTRIAL PARK DISTRICT; USES. In a planned industrial park district, District P-I, no building or premises shall be used and no building or

structure shall be hereafter erected or altered, unless otherwise provided in this Article, except for the following:

- (a) Manufacturing, processing, fabrication or assembling of any commodity or equipment, except junk or salvage;
- (b) Sale, distribution, wholesaling, warehousing and storage of any commodity, except junk or salvage;
- (c) Offices, laboratories;
- (d) Public utility facilities;
- (e) Storage of vehicles clearly accessory and necessary to the normal operation of the uses;
- (f) Freight terminals;
- (g) Restaurants and automatic food and beverage vending machines;
- (h) Structures and uses that are clearly accessory and necessary to the normal operation of the above uses, including signs as provided in this code.
- (i) Communication towers and communication antennas mounted on existing structures.(Ord. 666, Sec. 4)

16-431. PLANNED INDUSTRIAL PARK DISTRICT; STANDARDS. All uses above shall meet the following minimum standards:

- (a) A planned industrial park shall consist of a minimum area of four acres; provided, however, that an area of less than four acres may be zoned for a planned industrial park so long as it abuts an area presently zoned planned industrial park district;
- (b) All operations shall be conducted within a fully enclosed building;
- (c) All storage of material, products or equipment shall be within a fully enclosed building or in an open yard, fenced or screened as required by the planning commission;
- (d) No use shall create harmful noise in excess of that of normal daily traffic measured at the lot lines of the premises;
- (e) No use shall create harmful dust, dirt, particulate matter, smoke, obnoxious odor, radiation, obnoxious gases, heat, unscreened glare, vibration or confusion;
- (f) All lights, other than publicly installed street lights, shall be located and installed to reflect the light away from abutting properties in an area zoned for or developed with residential structures;
- (g) Industrial wastes shall be of a quantity and nature as to not overburden the public sewage disposal facilities or to cause odor and unsanitary effects beyond the property line.
- (h) Communication towers are permitted to a maximum height of 100 feet. An additional 75 feet of height to accommodate co-location may be approved administratively by the city engineer if the applicant submits information to the city engineer's satisfaction certifying the capacity of the tower for two additional providers and a letter from the applicant indicating its intent to share space with other providers on the communication tower. A lightning rod, not to exceed 10 feet, shall not be included within the height limitations. In addition, the communication tower shall be subject to the performance standards outlined in Section [16-1101\(a\)\(2\)](#)-(14), (17) and (20).

Communication antennas located on existing buildings shall be subject to the performance standards set out in [Article 11](#) of this Chapter.

- 16-432. **PLANNED INDUSTRIAL PARK DISTRICT; HEIGHT, OPEN SPACE AND LANDSCAPE REQUIREMENTS.**
- (a) The height of buildings, including equipment on the roof shall not exceed three stories or 50 feet in height.
 - (b) Minimum Open Space Requirement. At least 25% of the site in the industrial park district must be set aside as open space exclusive of all buildings, parking facilities and access drives. This open space shall be landscaped and maintained in a manner as to provide park-like setting for the building or buildings.
 - (c) Landscape Requirements. All required setback areas and open space shall be landscaped with grass, trees, shrubs and other appropriate materials in a manner as to provide a park like setting for the building or buildings. These areas shall be kept free of debris and refuse and shall be maintained by the owner, occupant or developer.
- 16-433. **PLANNED INDUSTRIAL PARK DISTRICT; MINIMUM LOT DIMENSIONS.** The minimum dimension of setbacks and yards shall be determined at the time the preliminary development plans are approved by the planning commission.
- 16-434. **PLANNED INDUSTRIAL PARK DISTRICT; PARKING.** Off-street parking shall be provided on the site of the industry or the business which it serves in an amount sufficient to meet the needs of all persons associated with the use, either as employees, customers, suppliers, or visitors, however, in no case shall all the amount of off-street parking depicted on the site plan be less than one space for each 1,000 square feet of contributing floor area. Provided however, the planning commission, may for good cause shown, allow the deferral of the actual building of off-street parking, so long as the requisite spaces are provided on the preliminary and final development plans and the area maintained as open space until building of the parking spaces is required. This open space may not be utilized to comply with the requirements set forth in Section [16-432\(b\)](#).
- 16-435. **PLANNED OFFICE BUILDING DISTRICT; STATEMENT OF INTENT.** The zoning of property as CP-O, planned office building district, is intended to provide for restricted commercial development, limited to office uses and certain service and retail uses compatible with offices.
- 16-436. **PLANNED OFFICE BUILDING DISTRICT; PERMITTED USES.** On property zoned CP-O no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses, subject to the development and performance standards set forth in Section [16-439](#):
- (a) Offices for the administrative and management functions only of businesses and civic organizations.
 - (b) Services, limited to the following:

- (1) Accounting and bookkeeping;
 - (2) Advertising;
 - (3) Alterations and tailoring;
 - (4) Banks and financial institutions;
 - (5) Barber shops and beauty salons;
 - (6) Broadcasting studios;
 - (7) Business machine services (including photocopy; tele-facsimile; computer and data processing);
 - (8) Consulting services;
 - (9) Employment services;
 - (10) Engineering, architects and designers;
 - (11) Information services;
 - (12) Insurance;
 - (13) Investment services;
 - (14) Labor unions and business associations;
 - (15) Libraries;
 - (16) Legal services;
 - (17) Medical and dental offices and clinics;
 - (18) Medical and optical labs;
 - (19) Postal services;
 - (20) Public and private utilities;
 - (21) Real estate;
 - (22) Securities and commodities brokers;
 - (23) Travel agents.
- (c) Marketing, display or repairs of office business equipment.
- (d) Communication antennas mounted on existing structures; provided that, the communication antenna is installed on an existing structure (such as a building, utility pole, water tower etc.) three stories in height or greater but no less than 35 feet and; provided also that, the additional communication antennas shall add no more than 20 feet to the height of that existing structure. Communication antennas that are architecturally compatible with the building architecture may locate on nonresidential buildings less than three stories or 35 feet in height, subject to site plan approval in accordance with Section [16-331\(e\)](#). Equipment associated with the communication antenna may be permitted on the roof so long as it is screened from view in accordance with Section [16-1010](#). Ground-mounted equipment associated with the communication tower is subject to the performance standards outlined in Section [16-1101\(a\)\(9\)-\(11\)](#), [\(14\)](#) and [\(17\)](#).
- (e) Day care centers and preschools.
- (f) Institutions of higher learning and classrooms for business and professional schools.
- (g) Customary accessory uses.(Ord. 666, Sec. 6)

16-437. PLANNED OFFICE BUILDING DISTRICT; HEIGHT AND AREA REGULATIONS. The height of buildings and the minimum dimensions of lots and yards shall be as follows:

- (a) Height: permitted height shall be determined at the time of preliminary development plan approval.
- (b) Minimum front yard:
 - (1) Buildings 30 feet in height or less - 30 feet.
 - (2) Buildings in excess of 30 feet in height -equal to the average height of the building above finished grade, but need not be more than 100 feet.
- (c) Side yard setbacks:
 - (1) Setbacks from an interior side lot line:
 - (i) Buildings not exceeding 18 feet in height - 7 feet;
 - (ii) Buildings not exceeding 30 feet in height - 10 feet;
 - (iii) Buildings in excess of 30 feet in height - 20 feet.
 - (2) Setbacks from street-side lot lines:
 - (i) Buildings up to 60 feet in height - 30 feet;
 - (ii) Buildings in excess of 60 feet in height - equal to one-half of the average height of the building above finished grade, but not less than 30 feet.
- (d) Minimum rear yard - 30 feet.
- (e) Floor area ratio: the maximum floor area ratio shall be .35. For purposes of this section, and other applicable sections of this ordinance, the term "floor area ratio" shall mean the numerical ratio between the floor area of the building(s) on the site and the gross land area of the site, measured in square feet. "Floor area" shall mean the sum of areas for use on all floors of a building measured from the outside faces of the exterior walls including halls, lobbies, stairways, elevator shafts, enclosed porches and balconies, and below grade areas used for habitation and access, work or storage space. Not countable as floor area are parking garages, carports, open terraces, patios, atriums or balconies. "Gross land areas" shall mean all land, described as conveyed to the owner, for which a preliminary development plan is sought and includes all existing and proposed public and private streets plus one-half of any abutting street rights-of-way, excluding state and federal street rights-of-way.

16-438. PLANNED OFFICE BUILDING DISTRICT; PARKING REGULATIONS. A minimum of 3.8 off-street parking spaces shall be provided the premises, but not within 30 feet of a street right-of-way, for each 1,000 square feet of total floor area.

16-439. PLANNED OFFICE BUILDING DISTRICT; DEVELOPMENT AND PERFORMANCE STANDARDS.

- (a) No merchandise shall be handled or displayed except inside buildings and no equipment or vehicle other than passenger cars shall be stored outside a building in this district for more than twenty-four hours in a 30-day period.
- (b) Pharmacies or optical shops are permitted as an accessory use in medical office buildings, provided that there shall be no street exterior entrance to the pharmacy or optical shop and no exterior sign or advertising relative to the pharmacy or optical shop.

- (c) In no case shall the noise level exceed 60 dB(A) at repeated intervals or for a sustained length of time measured at any point along the property line.
- (d) Any lighting used to illuminate an off-street parking area, sign or other structure shall be arranged as to deflect light away from any adjoining residentially zoned property or from public streets. Direct or sky-reflected glare from flood lights or commercial operations shall not be directed into any adjoining property. The source of lights shall be hooded or controlled. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights that cast light on a public street shall not exceed one footcandle (meter reading) as measured from the center line of the street. Any light or combination of lights that cast light on adjacent residentially zoned property shall not exceed 0.5 foot-candles (meter reading) as measured from the property line.
- (e) All business shall be conducted within the building, except as follows:
 - (1) Financial institutions may be permitted drive-up or walk-up service as part of final development plan approval.
 - (2) Day-care centers and preschools may be permitted outdoor activity areas as part of final development plan approval.
- (f) Areas devoted to the display of business equipment shall not exceed 50% of any tenant space. Areas devoted to repair services shall not exceed 10% of any tenant space. No over-the-counter sales shall be permitted.

16-440. PLANNED RESTRICTED BUSINESS DISTRICT; STATEMENT OF INTENT. The zoning of property as CP-1, planned restricted business district, is intended to provide for the majority of retail business uses within the City. These districts are limited to retail activities which are conducted wholly within the facility, with certain minor exceptions. The districts are intended to be used primarily for neighborhood shopping centers.

16-441. PLANNED RESTRICTED BUSINESS DISTRICT; PERMITTED USES. On property zoned CP-1, no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses, subject to the development and performance standards set forth in Section [16-444](#):

- (a) Any use permitted in District CP-O subject to the applicable development and performance standards.
- (b) Retail sale of goods and services including or similar to the following, but excluding any use specifically listed in District CP-2:
 - (1) Apparel;
 - (2) Antiques;
 - (3) Appliances;
 - (4) Appliance and electronics repair;
 - (5) Art galleries and studios (inc. photo);
 - (6) Automotive parts;
 - (7) Bakeries (retail only);
 - (8) Books and periodicals;
 - (9) Cameras and photo equipment;

- (10) Carpet and floor coverings;
 - (11) Consumer electronics;
 - (12) Drugs and cosmetics;
 - (13) Flowers and plants;
 - (14) Food (including candy, meat and specialty items);
 - (15) Furniture and home furnishings;
 - (16) Greeting cards and stationery;
 - (17) Hardware;
 - (18) Health or fitness clubs;
 - (19) Housewares and kitchenware;
 - (20) Interior decorating;
 - (21) Jewelry;
 - (22) Junior department stores (less than 80,000 square feet);
 - (23) Mortuaries and funeral parlors;
 - (24) Music and musical instruments;
 - (25) Office supplies;
 - (26) Optical shops;
 - (27) Package sales of alcoholic liquor or cereal malt beverages;
 - (28) Paint and wallpaper;
 - (29) Pet stores;
 - (30) Photocopying and retail printing;
 - (31) Picture framing;
 - (32) Restaurants;
 - (33) Shoe repairs;
 - (34) Sporting goods and bicycles;
 - (35) Toys and hobby supplies;
 - (36) Veterinarian (domesticated pets only);
 - (37) Video rental.
- (c) Dry cleaning and laundry pick-up or coin-operated laundry and dry cleaning operations classified as low hazard in applicable codes.
 - (d) Customary accessory uses.

16-442. PLANNED RESTRICTED BUSINESS DISTRICT; HEIGHT AND AREA REGULATIONS. The maximum height of buildings and the minimum dimensions of lots and yards shall be as follows:

- (a) Height: permitted height shall be determined at the time of preliminary development plan approval.
- (b) Minimum front yard:
 - (1) Buildings not exceeding 30 feet in height - 30 feet.
 - (2) Buildings in excess of 30 feet in height - 30 feet plus one foot for each 5 feet in height over 30 feet or portion thereof.
- (c) Side yards:
 - (1) No side yard is required except that where a side lot line abuts the side lot line of residentially zoned property, or property zoned office building district or planned office building district, a side yard shall be provided which is at least equal to the minimum side yard required

in the district which the property abuts, plus one foot for every 6 feet of building height over 30 feet or portion thereof.

- (2) On the street side of a corner lot, a side yard shall be provided of 15 feet, plus one foot for every 4 feet of building height over 30 feet or portion thereof.
 - (3) Except where the foregoing provisions would require a greater side yard, the minimum side yard shall be 20 feet where that side yard abuts any residentially zoned property, and the minimum side yard shall be 15 feet where that side yard is separated from any residentially zoned property by a street.
- (d) Rear yard -- no rear yard is required except as provided hereinafter. Where a rear lot line abuts residentially zoned property or property zoned office building district or planned office building district, a rear yard shall be provided of not less than 10 feet, plus one foot for every 6 feet of building height over 30 feet or portion thereof; where a rear lot line abuts a street, a rear yard shall be provided of not less than 15 feet, plus 1 foot for every 6 feet of building height over 30 feet for a portion thereof; in any case, where the rear yard abuts any residentially zoned property, the minimum rear yard shall be 30 feet, and where the rear yard is separated from any residentially zoned property by a street, the minimum rear yard shall be 20 feet.
- (e) Floor area ratio: The maximum floor area ratio shall be .25.
- (f) Setback: The minimum setback of all buildings or structures from Roe Boulevard shall be 30 feet.(Ord. 626)

16-443. PLANNED RESTRICTED BUSINESS DISTRICT; PARKING REGULATIONS. In district CP-1, parking shall be provided on the premises in the following minimum amounts:

- (a) 4 spaces per 1,000 square feet of total floor areas for any structure up to 400,000 square feet in total floor area.
- (b) 4.5 spaces per 1,000 square feet of total floor area for any shopping center in excess of 400,000 square feet in total floor area.

16-444. PLANNED RESTRICTED BUSINESS DISTRICT; DEVELOPMENT AND PERFORMANCE STANDARDS.

- (a) No wholesale sales shall be conducted.
- (b) No goods, merchandise, or equipment shall be stored or displayed outside of a fully enclosed building, except, if the storage or display is screened or fenced in accordance with an approved final development plan.
- (c) All goods, merchandise and equipment shall be sold or rented, and all business activities or services shall be rendered or conducted inside of a fully enclosed building, except that drive-up or walk-up service shall be permitted if approved as a part of a final development plan; provided, however, that drive-up, walk-through or walk-up restaurants shall not be permitted; provided further, that each permitted use shall be allowed to locate food and/or drink vending machines immediately adjacent to the enclosed building from which the business or service is conducted.

- (d) No smoke, radiation, vibration or concussion, heat or glare shall be produced that is perceptible outside a building, and no dust, fly ash or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
- (e) In no case shall the noise level exceed 60 dB(A) at repeated intervals or for a sustained length of time measured at any point along the property line.
- (f) Sales and consumption of cereal malt beverages or alcoholic liquor are prohibited except as follows:
 - (1) Package liquor stores licensed with the State of Kansas and the City shall be allowed provided that the exterior walls of the establishment are at least 200 feet from the nearest property line of any hospital, school, church or library. For purposes of this section, the term "school" shall mean any public, private or parochial learning facility for children in pre-school through grade 12 accredited by the State Board of Education or, where required, certified as a pre-school by the Kansas Department of Health & Environment.
 - (2) Food service establishments serving cereal malt beverages and clubs serving alcoholic liquor shall be allowed where the sales of food for consumption on the premises exceeds 30% of the annual gross income for the establishment, provided that the exterior walls of the establishment are at least 200 feet from the nearest residentially zoned property line. A special use permit shall be required for those establishments within 200 feet of residentially zoned property.
 - (3) Package sales of cereal malt beverages not for consumption upon the premises shall be allowed.
- (g) Eating establishments may have an outdoor service area that is accessory to the main restaurant function. The outdoor service area must be a well-defined space, designed and serviced to keep debris from blowing off the premises. Patrons must gain entrance through the main entrance to the restaurant, but at least one exit shall be provided for fire safety. Parking shall be provided on-site at a ratio of one parking space for each three seats.
- (h) Any lighting used to illuminate an off-street parking area, sign or other structure shall be arranged as to deflect light away from any adjoining residentially zoned property or from public streets. Direct or sky-reflected glare from floodlights or commercial operations shall not be directed into any adjoining property. The source of lights shall be hooded or controlled. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights that cast light on a public street shall not exceed one footcandle (meter reading) as measured from the centerline of the street. Any light or combination of lights that cast light on adjacent residentially zoned property shall not exceed 0.5 foot-candles (meter reading) as measured from that property line. (Ord. 641)

16-445. PLANNED GENERAL BUSINESS DISTRICT; STATEMENT OF INTENT. The zoning of property as CP-2, planned general business district, is intended to provide for all but the harshest commercial uses. Outside storage and display of merchandise is permitted in this district.

16-446.

PLANNED GENERAL BUSINESS DISTRICT; PERMITTED USES. On property zoned CP-2, no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses, subject to the development and performance standards set forth in Section [16-449](#):

- (a) Any use permitted in district CP-1 subject to the applicable development and performance standards.
- (b) Retail sale of goods and services including or similar to the following:
 - (1) Building supplies;
 - (2) Communication and specialty electronics;
 - (3) Delivery services;
 - (4) Department stores;
 - (5) Gasoline and other motor vehicle fuels;
 - (6) Glass;
 - (7) Medical equipment;
 - (8) Newspaper publishing and printing;
 - (9) Office equipment;
 - (10) Theaters, movie and stage.
- (c) Rental, leasing or sale at retail or wholesale of new or used automobiles, motorcycles, trucks, trailers, recreational vehicles, boats, construction equipment and farm machinery.
- (d) Rental or leasing of furniture and home furnishings.
- (e) Passenger car repair in connection with new passenger car sales, and automotive services limited to class installation and replacement, brake and muffler repairs, window tinting, radio and stereo installation, tire and battery stores, and tune-up, quick lube and auto diagnostic centers.
- (f) Sales and servicing of swimming pools, patio furnishings and related equipment.
- (g) Rental or leasing of lawn care equipment.
- (h) Commercial or wholesale facilities for bakeries, printing and publishing, cold storage and ice, and nurseries and greenhouses.
- (i) Car washes.
- (j) Clubs and drinking establishments.
- (k) Services such as pest control, custom maintenance and small equipment repair.
- (l) Classrooms and training facilities for business and trade schools.
- (m) Entertainment or recreational uses including or similar to the following: bowling alleys; pool or billiard parlors; skating rinks; tennis and racquet courts; and miniature golf.
- (n) Plumbing and electrical supplies and services.
- (o) Taxi and limousine dispatching centers.
- (p) Hospitals.
- (q) Hotels and motor hotels.
- (r) Customary accessory uses.

16-447.

PLANNED GENERAL BUSINESS DISTRICT; HEIGHT AND AREA REGULATIONS. The maximum height of buildings and the minimum dimensions of lots and yards shall be as follows:

- (a) Height: permitted height shall be determined at the time of preliminary development plan approval.
- (b) Minimum front yard:
 - (1) Buildings not exceeding 30 feet in height - 30 feet.
 - (2) Buildings in excess of 30 feet in height - 30 feet, plus one foot for every 4 feet in height over 30 feet or portion thereof.
- (c) Side yards:
 - (1) No side yard is required except that where a side lot line abuts the side lot line of residentially zoned property, or property zoned office building district or planned office building district, a side yard shall be provided which is at least equal to the minimum side yard required in the district which the property abuts, plus one foot for every 6 feet of building height over 30 feet or portion thereof.
 - (2) On the street side of a corner lot, a side yard shall be provided of 15 feet, plus one foot for every 4 feet of building height over 30 feet or portion thereof.
 - (3) Except where the foregoing provisions would require a greater side yard, the minimum side yard shall be 20 feet where that side yard abuts any residentially zoned property, and the minimum side yard shall be 15 feet where that side yard is separated from any residentially zoned property by a street.
- (d) Rear yards -- no rear yard is required except as provided hereinafter. Where a rear lot line abuts residentially zoned property, or property zoned office building district or planned office building district, a rear yard shall be provided of not less than 10 feet, plus one foot for every 6 feet of building height over 30 feet or portion thereof where a rear lot line abuts a street, a rear yard shall be provided of not less than 15 feet, plus 1 foot for every 6 feet of building height over 30 feet or a portion thereof; in any case, where the rear yard abuts any residentially zoned property, the minimum rear yard shall be 30 feet, and where the rear yard is separated from any residentially zoned property by a street, the minimum rear yard shall be 20 feet.
- (e) Floor area ratio: the maximum floor area ratio shall be .25.
- (f) Setback: The minimum setback of all buildings or structures from Roe Boulevard shall be 30 feet.(Ord. 626)

16-448.

PLANNED GENERAL BUSINESS DISTRICT; PARKING REGULATIONS. In district CP-2, parking shall be provided on the premises in the following minimum amounts:

- (a) 4 spaces per 1,000 square feet of total floor area for any structure up to 400,000 square feet in total floor area.
- (b) 4.5 spaces per 1,000 square feet of total floor area for any shopping center in excess off 400,000 square feet in total floor area.

16-449.

PLANNED GENERAL BUSINESS DISTRICT; DEVELOPMENT AND PERFORMANCE STANDARDS. All uses permitted in the planned general business district, pursuant to Section [16-446](#) or Section [16-318](#), shall meet the following minimum standards:

- (a) Drive-through service wherein a patron is served through a window or other device while remaining in a motor vehicle may be provided except where cereal malt beverages in any form are served or sold through the drive-through window. All property for which drive-through food service is provided shall comply with the following standards:
 - (1) No order box or order window shall be located within 175 feet of any residentially zoned property; provided, however, that the 175-foot distance may be reduced by a maximum of 25% at the time of final development plan approval where circumstances warrant the reduction.
 - (2) A solid screening fence or wall shall be required to be placed between any property used for a drive-through facility and any abutting residentially zoned property in order to screen passenger car headlight glare from adjacent residential property. The extent and height of the fence or wall is to be determined at the time of final development plan approval, but with a minimum height of 6 feet.
 - (3) Adequate passenger car stacking space shall be provided from the order box or order window to ensure that public right-of-way or common driveway easements will not be blocked due to the drive-through facility. The amount of stacking space is to be determined as a part of the preliminary development plan at the time of the rezoning of the property and after consultation with the city engineer.
- (b) Offices for the rental, lease or sale of new and used motor vehicles may be permitted only after final development plans for these uses have been approved with the following standards applying:
 - (1) The servicing of the motor vehicles shall occur inside a building.
 - (2) The number of vehicles to be kept on the site at any one time shall be determined by the size and location of the site and its relationship to surrounding property. The motor vehicles shall be stored in an orderly manner on the site as depicted on the approved plan.
 - (3) No advertising shall be permitted on the motor vehicles.
- (c) No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building and no dust fly ash or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
- (d) In no case shall the noise level exceed 60 dB(A) at repeated intervals or for a sustained length of time measured at any point along the property line.
- (e) Any lighting used to illuminate an off-street parking area, sign or other structure shall be arranged as to deflect light away from any adjoining residentially zoned property or from public streets. Direct or sky-reflected glare, from floodlights or commercial operations, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled. Bare incandescent light bulbs shall not be permitted in view of adjacent

property or public right-of-way. Any light or combination of lights that casts light on a public street shall not exceed one foot-candle (meter reading) as measured from the centerline of the street. Any light or combination of lights that cast light on adjacent residentially zoned property shall not exceed 0.5 foot-candles (meter reading) as measured from that property line.

- (f) No goods, merchandise, or equipment shall be stored or displayed outside of a fully enclosed building, except if the storage or display is screened or fenced in accordance with an approved final development plan. In no event shall merchandise displayed or stored outside a fully enclosed building in accordance with an approved final development plan be stored on the public sidewalk or street, reduce the capacity of a parking lot below that required by this Chapter, or occupy an area greater than 20% of the ground floor area of the building. Motor vehicles for sale may be stored or displayed outside a building, but not within 15 feet of a street right-of-way, nor within 6 feet of a side or rear lot line.
- (g) The sale and consumption of cereal malt beverages and alcoholic liquor shall be subject to the provisions set out in Section [16-444\(f\)](#).
- (h) The sale, dispensing, or changing hands of any cereal malt beverages shall be prohibited at facilities used for motor vehicle repair, service or the sale of gasoline or other motor vehicle fuels, except where the business conforms to all of the following minimum requirements.
 - (1) The business shall contain not less than 800 square feet of sales display area, exclusive of storage rooms and walk-in refrigeration coolers.
 - (2) The business shall have at least two employees on duty on the premises at all times.
- (i) Outdoor kennels or runs are not permitted in conjunction with veterinary clinics without a special use permit.(Ord. 641)

16-450. “MXD” PLANNED MIXED-USE DISTRICT; GENERAL PURPOSE AND DESCRIPTION. The zoning of property to MXD, planned mixed use district, is intended to encourage sustainable neighborhoods with a mixture of land uses, independently or when combined with adjacent mixed use zoned areas, which create a distinctive and unique sense of place. This district is expected to have a pedestrian orientation with a mixture of residential, office and retail uses in closer proximity to one another than would be possible with conventional zoning districts. Developments in this district are expected to have a defined character, public spaces and a central gathering space or focal point. Developments are also expected to utilize shared parking facilities linked to multiple buildings and uses by an attractive and logical pedestrian network that places more emphasis on the quality of the pedestrian experience than is generally found in typical suburban development. Buildings are intended to be primarily multistory structures with differing uses organized vertically rather than the horizontal separation of uses that commonly results from conventional zoning districts.

16-451. PERMITTED USES. Mixed use districts are encouraged to include a mix of residential, office and commercial uses, either within an individual property zoned

“MXD” or as part of a larger area of similarly zoned properties. The size, location, appearance and method of operation may be specified to the extent necessary to ensure compliance with the purpose of this district. After approval of the MXD District, uses may be added, changed or deleted by amendment. The procedure for considering an amendment shall be the same as for the original adoption. Permitted uses include the following, unless otherwise modified or prohibited by the ordinance granting a MXD planned mixed use district:

- (a) Any use permitted in District CP-1.
- (b) Multiple-family dwellings.
- (c) Live-work spaces.
- (d) Any other use established by the ordinance granting a MXD planned mixed use district.

16-452. DESIGN GUIDELINES. Development in areas zoned MXD, planned mixed use district shall be subject to any design guideline standards for the area as adopted by resolution.

16-453. AREA AND HEIGHT REGULATIONS. Area and height regulations for each separate MXD, planned mixed use district, shall be set forth in the ordinance granting the MXD district and may include but shall not be limited to: lot area, lot width, lot depth, yard setbacks, building height, lot coverage, dwelling unit size, density, and other requirements as the city council may deem appropriate.

(a) Building Height.

- 1) No maximum height, provided that the height of buildings shall be as determined by the MXD development plan;
- 2) At least 50 percent of the total floor area (excluding structured parking) shall be located above the ground floor, with the exception of auditoriums, conference facilities, theaters, and other similar uses.

(b) Setbacks: The requirements regulating setbacks shall conform to the following, unless otherwise approved by the city council as a part of the preliminary development plan. Additionally, during the rezoning or preliminary development plan approval process, the city council may require additional setbacks, if it is determined that the yard is necessary to provide adequate open space, access to light and air, a healthful living environment, prevent visual obstruction of adjoining properties, or to ensure compatibility with existing adjacent development.

- 1) Front Yard Setback. No minimum requirement. The front yard setback shall be established as shown on the approved MXD plans.
- 2) Side Yard Setback. No setback required except that where a lot line abuts the lot line of a residentially zoned property, a setback shall be required which is at least equal to the minimum setback required in the district which the MXD District abuts.
- 3) Rear Yard Setback. No setback required except that where a lot line abuts the lot line of a residentially zoned property, a setback shall be required which is at least equal to the minimum setback required in the district which the MXD District abuts.

16-454.

PARKING AND LOADING REGULATIONS. Off-street parking and loading requirements for each separate MXD, planned mixed use district, shall be as set forth in Section [16-801](#) through [16-820](#) unless otherwise modified by the ordinance granting the MXD district.

- (a) The city council may reduce the parking and loading requirements set forth by Section [16-801](#) through [16-820](#) after considering documentation and/or study provided by the applicant, staff's recommendation, and giving decisive weight to all relevant facts including, but not limited to the following factors: Availability and accessibility of alternative parking; the availability of bicycle parking; impact on adjacent residential neighborhoods; existing or potential shared parking arrangements; the characteristics of the use, including hours of operation and peak parking demand times; design and maintenance of off-street parking that will be provided; and whether the proposed use is new or a small addition to an existing use.
- (b) Shared or community parking areas shall be required. Off-street parking areas shall be small in scale and divided into surface parking fields not to exceed 50 parking spaces, unless otherwise approved by the city council.
- (c) Maximum grade level parking allowed per use or per project shall be 150 percent of the minimum parking required for that use. Any new parking facility with a capacity 200 spaces shall accommodate no more than 50 percent of the total parking at grade level.
- (d) On-street parking spaces on public and private streets may be counted towards the required off-street parking, provided the on-street spaces are located on an adjacent or internal street that allows on-street parking. These on-street parking spaces must be identified on plans at time of submittal to the City.
- (e) Unless otherwise approved by city council, no open parking areas shall be located closer than 15 feet to a street right-of-way, or no closer than 10 feet to a property line other than a street line. Parking areas within the building, or within a parking structure extending more than 6 feet above the finished grade, shall comply with the setback regulations of the main building. The parking setback and other open areas shall be brought to finish grade and planted with grass, shrubs and trees, and maintained to at least the average level of maintenance of the other developed property within the immediate neighborhood.
- (f) No parking areas shall be located between the front of a building and the street toward which the building faces.
- (g) No parking structures shall have any façade on any public street. All visible sides of parking structures shall be constructed with similar materials as the main building.
- (h) **Bicycle Parking.** To encourage the use of bicycles, safe and convenient bicycle parking shall be required for development in the MXD district. At least one (1) bicycle parking space shall be required for each ten (10) automobile parking spaces required in Section [16-818](#). Bicycle parking must be provided by bicycle racks or lockers that are anchored so that they cannot be easily removed. Unless otherwise approved by city council, bicycle parking must be located within 50 feet of an entrance to the building.

DEVELOPMENT AND PERFORMANCE STANDARDS. Unless otherwise approved by the city council, development within the MXD zoning district shall comply with the standards pursuant to Section [16-449](#), any duly adopted design guidelines applicable for that property, and the following minimum guidelines.

- (a) Signage. Sign standards including the location, height, size, materials and design of all proposed signage shall be established by the MXD plans and set forth in the ordinance granting the MXD district.
- (b) Public Open Space/Civic Space. Formal and informal areas of usable outdoor open spaces are required. These serve as areas for community gatherings, landmarks, and as organizing elements for the neighborhood. Usable open space includes squares, plazas, greens, preserves, parks, and greenbelts.
- (c) Pedestrian and Bicycle Network. An interconnected network of pedestrian and bicycle facilities shall be integrated into the overall development and street design. The design of streets shall include adequate right-of-way to create safe and well furnished pedestrian and bicycle corridors in the public streetscape.
- (d) The streetscape design should include sidewalks, landscaping and street trees, pedestrian lighting, and other pedestrian amenities and furnishings such as benches, trash receptacles, bicycle racks, and similar elements contributing to the character of the area.
- (e) Street Network. An interconnected network of streets shall be required. Dead-end streets, including cul-de-sac streets, are prohibited unless determined with the MXD plan approval that the most desirable plan requires laying out a dead-end street.
- (f) Roadway Design. The roadway designs used within the different areas of a MXD district may vary depending on the proposed function of the roadway, the anticipated adjacent land uses, the anticipated traffic load, and appropriate accommodations for pedestrian and bicycle facilities as directed by the city engineer. Streets in a MXD district may be narrower than in conventional development, as well as more varied in size and form to control automobile traffic and give character to the district or neighborhood. A variety of unique and innovative roadway designs that lend character to the neighborhood and provide safe pedestrian and bicycle facilities are required.
- (g) Vehicular Access to Alleys or Lanes. Residential driveway access from a lot to an alley or lane in a MXD is permitted and preferred. Driveway access from a lot to a street is permitted, subject to architectural design and setback requirements detailed with development plan approvals. Where garage access is from the street, special architectural and setbacks are required to ensure the garage is not the dominant building feature.
- (h) Drive-up and Drive-Thru Services. All drive-up, drive-thru, and drive-in services shall be prohibited, unless specifically exempted in the ordinance granting the MXD district. When permitted, these facilities shall be integrally designed into the development; the drive-thru lane and drive-thru window shall not be located where visible from the public street or private drive network; and shall comply with the minimum standards pursuant to Section [16-449](#), or as specifically granted in the ordinance granting the MXD district.

- (i) Service and Loading Areas. All service and loading areas shall be entirely screened from view. Loading docks and overhead doors shall be incorporated into the building design and screened or located in a manner to not be visible from public streets.
- (j) Outdoor Eating and Drinking. Outdoor areas for eating and drinking shall be permitted and are encouraged as part of the development design. Any outdoor areas shall be designated on a final development plan. When located on public right-of-way, these areas may be subject to a right-of-way maintenance agreement.
- (k) The MXD, planned mixed use district, shall conform to all other sections of Chapter 16 unless specifically exempted in the ordinance granting the MXD district.

16-456. PRELIMINARY AND FINAL DEVELOPMENT PLANS. The procedure for establishing a MXD district shall follow the procedure for zoning amendments as set forth in Section [16-317](#). A tract of land may be zoned "MXD" only upon approval of a preliminary development plan. In addition, an approved final development plan shall be required for development in the MXD district. The preliminary and final development plan process shall follow the procedures established in Sections [16-323](#) through [16-330](#).

ARTICLE 5. OVERLAY DISTRICTS

16-501. 47th AND MISSION ROAD AREA DESIGN REVIEW OVERLAY DISTRICT.

(a) Purpose and Authority. The 47th and Mission Road Area Concept Plan ("Concept Plan") was prepared pursuant to (1) the interlocal cooperation act, Sections 12-2901 through 12-2909 of the Kansas Statutes Annotated; (2) section 12-744(c) of the Kansas Statutes Annotated; and (3) the interlocal agreement between the Cities of Roeland Park, Westwood, and the Unified Government of Wyandotte County/Kansas City, Kansas (collectively "Jurisdictions"). This Concept Plan was approved by the Roeland Park planning commission on October 17, 2000, and by the city council on October 18, 2000. The 47th and Mission Road Area Design Review Overlay District ("Overlay District") is established by this section, enacted to implement the goals and policies of the 47th and Mission Road Area Concept Plan, adopted by the cities of Westwood, Roeland Park, and the Unified Government of Wyandotte County/Kansas City, Kansas. This section translates the relevant portion of the Concept Plan within the boundaries of the City into the zoning ordinance, in addition to all current regulations. A similar ordinance will be adopted by each of the above-referenced jurisdictions to ensure consistent implementation of the 47th and Mission Road Area Concept Plan. Sections [16-1601](#) through [16-1604](#) of the City Code establishes the 47th and Mission Road Area Development and Management Committee as a multi-jurisdictional body to assist in implementation of the concept plan, and establish the City's involvement and representation as part of that committee.

- (b) Applicability.
- (1) Property.
- (i) This section shall apply to all property within the area of the City that is covered by the 47th and Mission Road Area Design Review Overlay District, as described by the official 47th and Mission Road Area Design Review Overlay District Map (including the lot and parcel number identification list), which is hereby incorporated by reference. All tracts of land covered by the 47th and Mission Road Area Design Review Overlay District shall, for clarification, be identified on the zoning map by adding the designation "47M-O."
- (ii) The standards in this section shall apply to all property currently or subsequently zoned for commercial or multi-family use.
- (iii) Any property zoned for single-family residential use shall be subject to the restrictions of this section to indicate neighborhood areas to be protected by commercial use or multi-family use buffers and design enhancements established in this section. In addition, to further protect existing neighborhoods, any property currently zoned for single-family residential use, which is subsequently rezoned to multi-family or commercial uses, must satisfy all design standards in this section.
- (2) Type of Development. These standards shall be applied to new development, re-development, or exterior modifications that significantly alter the appearance of a building or site within the area covered by the 47th and Mission Road Area Design Review Overlay District ordinance including, but not limited to, building additions, facade improvements, or landscaping improvements. Only those standards required by this section and directly related to proposed development, redevelopment, or exterior modification shall be applied.
- (3) Non-Conforming Uses. Site conditions and other current circumstances on tracts of land within the area covered by the 47th and Mission Road Area Design Review Overlay District, which came into being lawfully, but which do not conform to this Chapter, shall be allowed to continue to exist and the land shall be allowed to be put to productive use, but the overall intent of this Chapter is to cause as many aspects of these types of uses to be brought into conformance with the regulations of this Chapter as is reasonably practicable. Notwithstanding the foregoing, development on tracts of land within the 47th and Mission Road Area Design Review Overlay District shall be required to comply with this Chapter when a use that came into being lawfully, but which does not conform to this Chapter, has ceased for any reason for a period of more than 180 consecutive days (except where government action causes cessation).

- (4) Other Regulations. Within the overlay district, all City Code provisions, policies, regulations, and plans shall apply. Where conflicts occur regarding development standards in this section, the standards established in this section shall supersede those in the conflicting ordinance, policy, regulation, or plan.
- (c) Definitions. For the purposes of this section, the following terms and phrases shall have the meaning given in this section. All other terms and phrases shall use definitions given in [Article 2](#) of this Chapter or other provisions of the City Code, unless context indicates that a standard dictionary definition is more appropriate. Terms and phrases not defined in this Section or by any provision of the City Code shall have the standard dictionary definition.
- Adjacent lot: a lot having a common border with another lot, or lots that would have a common border or endpoint in the absence of an existing right-of-way.
- Commercial use: the use of a site for business purposes and that are not residential or industrial. Typical uses include retail businesses and offices.
- Development: the construction of man-made structures on an improved or unimproved parcel of land.
- Distinctly different hours of operation: uses with hours of operation where 50% or more of one use's hours of operation, including peak hours of operation (based on a parking demand study), are mutually exclusive of the hours of operation of the other uses with which it proposes to share parking.
- Distinctly different peak hours of operation: the peak hours of operation (based on a parking demand study) of uses proposing to share parking that are mutually exclusive of one another.
- Established existing building line: a line created by three or more consecutive buildings which have in effect a validly issued permit for occupancy and are oriented in a consistently similar pattern in relation to the right-of-way. Deviations in the orientation of the buildings of 20% or less shall be considered consistent and the line shall be determined by averaging the distances. Deviations of more than 20% shall not be considered consistent.
- Exterior modification: any maintenance, improvement, construction, or reconstruction, of a structure or site, or any portion of a structure or site, that will result in a change visible that is visible from the right-of-way or adjacent property.
- Multi-family use: the use of a site for three or more dwelling units within a single building. Typical uses include triplexes, fourplexes, apartments, senior housing, residential condominiums and townhouses.
- Re-Development: the reconstruction, enlargement, conversion, re-location of a manmade structure involving structural modifications.
- Significantly Alter: any change to a structure or site that may potentially result in a comprehensive perceptible difference in the appearance of a specific physical element of a site, or the entire site. However, a proposed change that replaces site or structure elements consistent with the existing

appearance, but inconsistent with the overlay district design standards, will not prevent the change from being considered a significant alteration.

(d) 47th and Mission Road Area Development and Management Committee.

- (1) All applicants for development approvals within the area covered by the 47th and Mission Road Area Design Review Overlay District shall submit two additional sets of applications to the building official or zoning administrator. The building official or zoning administrator shall forward these additional applications to the secretary of the committee for review.
- (2) All applications received by the secretary prior to two weeks in advance of the next regularly scheduled committee meetings, shall be placed on the committee's agenda for discussion. Any applicant who submits applications more than one month prior to the next regular committee meeting may make a request to the chairperson of the committee that a special meeting be called to hear the application.
- (3) Applications placed on the committee agenda shall be discussed for compliance with the 47th and Mission Road Area Concept Plan, and the standards of this section.
- (4) The applicant may appear, or otherwise be represented at the committee meeting, and shall be given the opportunity to discuss the application before the committee.
- (5) After discussion of an application, the committee shall make a recommendation to the planning commission, or board of zoning appeals, as the case may be, on the application's compliance with the 47th and Mission Road Area Concept Plan, and the standards of this section.
- (6) The committee may continue an application once after discussion, if the committee feels it has received incomplete information or it needs more information to make a recommendation. However, any continuance must be reheard before the committee within one month, unless the applicant agrees on the record to a greater duration. Additionally, the applicant may elect to proceed to the planning commission or board of zoning appeals, as the case may be, upon the understanding that the application will automatically carry a "recommendation to deny due to incomplete application" from the committee.
- (7) To assist the committee in its duties, the building official or zoning administrator, other staff, or appointed consultants shall prepare a staff report on each application within the 47th and Mission Road area specifically addressing the application's compliance with the 47th and Mission Road Area Concept Plan, and the standards of this section. The staff report shall be submitted to the secretary of the committee at least five business days before the scheduled committee meeting.
- (8) All committee meetings shall be open to the public, with notice published and records kept in accordance with the laws of the State of

Kansas. The secretary of the committee shall be the custodian of records for the committee.

(e) Uses.

- (1) Underlying Zoning Uses. The uses allowed on property within the area covered by the 47th and Mission Road Area Design Review Overlay District shall be those uses allowed in the underlying zoning district.
- (2) Future Uses. All future development and uses on property within the area covered in the 47th and Mission Road Area Design Review Overlay District shall meet the design standards established in this chapter.
- (3) Rezoning. Any rezoning shall be consistent with the 47th and Mission Road Area Concept Plan.
- (4) Overlay Uses. In addition to those uses allowed in the underlying zoning district, all property in the area covered by the 47th and Mission Road Area Design Review Overlay District that is zoned for commercial use shall be allowed residential uses as a supplemental use, subject to the following:
 - (i) No property with an underlying zone for commercial use may have residential uses on the ground floor or at street level.
 - (ii) No structures with supplemental residential uses may exceed 40 feet in height or 3 1/2 stories, whichever is less.
 - (iii) All structures with supplemental residential uses, whether new or existing at the time of adoption of this section, must comply with all other standards established in this section to be eligible for supplemental residential uses.

(f) Commercial Site Design Standards. All development on property covered by the 47th and Mission Road Area Design Review Overlay District shall conform to the principles outlined in the 47th and Mission Road Concept Plan. The following site design standards implement and shall be considered to be consistent with the concept plan.

(1) Building Placement.

- (i) Front Setback. All new buildings shall be built to the right-of-way line, except as provided in Section [16-501\(f\)\(1\)\(vii\)](#).
- (ii) Side Setbacks. The minimum side setbacks shall be:
 - (A) Zero feet, provided each side wall of all buildings on the zero-foot side are constructed with a fire wall;
 - (B) Five feet, if a firewall is not provided;
 - (C) Property abutting residential districts, shall have a side setback equivalent to that of the abutting residential district. In this case, the side setback area shall constitute the buffer required by Section [16-501\(f\)\(5\)](#).
- (iii) Rear Setback. Minimum rear setbacks shall be 15 feet, except that property with a rear lot line abutting a residential district shall have a setback equivalent to the abutting residential

district. In this case, the rear setback shall constitute the buffer required by Section [16-501\(f\)\(5\)](#).

- (iv) Continuous Building Frontage. The development and re-development of building facades on the street frontage should be maximized to provide continuous corridors consistent with the design standards of the 47th and Mission Road Area Design Review Overlay District. All lot frontages should be occupied by building frontages except for entrance drives or alleys to rear parking, courtyards or patios, or any side parking. In the case of courtyards and patios or side parking, the appearance of a continuous building frontage shall be maintained by a two and one-half to four foot fence or wall constructed out of the same material as the building facade, or by a continuous landscape element impenetrable by pedestrians. In all cases at least 60% of the lot frontage shall be occupied by a building facade.
- (v) Main Entrance. The main entrance of all buildings shall be oriented to the street. In the case of corner lots, a building may have one entrance on each street or may have one corner entrance.
- (vi) Building Area. In addition to meeting all site requirements for landscaping, parking, and building setbacks, no building shall occupy more than 75% of the total lot area.
- (vii) Exception. Buildings on commercial lots outside the Village Area described in the attached Exhibit A may be set back from the right-of-way line. In no case shall a front building setback exceed 80 feet. Any parking facilities in front of buildings shall be setback a minimum of 10 feet from the right-of-way line.

(2) Site Access.

- (i) Pedestrian Access. All buildings shall have a continuous sidewalk along the frontage of the lot. The sidewalk shall be a minimum of 10 feet wide, except as provided in subsection [\(f\)\(2\)\(iv\)](#), below.
- (ii) Vehicle Access. Curb cuts should be minimized. Wherever possible, adjacent properties should utilize shared parking or shared access to separated parking lots.
- (iii) Connections. Continuous pedestrian connections shall be provided through all parking lots and between parking lots and storefront sidewalks. These pedestrian connections shall primarily be pedestrian-only sidewalks, but may include crosswalks across parking lot drive aisles and driveways where necessary. The following design elements shall be used to maintain pedestrian connections and minimize conflicts with vehicles:

- (A) Alleys, driveways, and parking lot drive aisles shall not exceed 24 feet for two-way access or 12 feet for one way access.
 - (B) "Bulb outs" for pedestrian-only travel should be used to minimize the distance of pedestrian walkways across driveways, alleys, parking lots, or other vehicle access ways.
 - (C) All pedestrian walkways across driveways, alleys, parking lots, or other vehicle access ways shall be distinguished from the vehicle access way by a visually identifiable path or distinctly textured surface.
- (iv) Exception. Pedestrian access on commercial lots outside the Village Area in the attached Exhibit A may be provided by smaller sidewalks, but shall meet the minimum accessibility standards of the Americans with Disabilities Act across the front of all lots. Additional pedestrian access may be provided as the site allows or may be provided on private property. If the building is setback from the right-of-way line, an additional pedestrian sidewalk, at least eight feet wide, shall be provided across the front of the building and connected to the sidewalk at the lot frontage as provided in Section [16-501\(f\)\(2\)\(iii\)](#).
- (3) Parking.
- (i) Required Parking. The required parking shall be established by the applicable standards for the underlying zoning district. However, parking shall not cover more than 50% of the lot area.
 - (ii) Location. Parking shall be provided primarily behind buildings in the Village Area, however up to 50% of the required parking may be provided to the side of a building. No off-street parking shall be provided in front of the building line in the Village Area. Parking on commercial lots outside the Village Area should be located primarily behind the building, but may be located on the side or in front of the building.
 - (iii) Shared Parking. Parking requirements may be met through shared parking according to the following conditions and standards:
 - (A) A written agreement for the joint use of parking facilities shall be executed by the parties, approved by the city and recorded with the Johnson County Register of Deeds. The agreement shall include any cross access easements among property owners deemed necessary by the City to effectuate the agreement.

- (B) Parking requirements are cumulative except that parking may be shared, at the sole discretion of the city, according to the following standards:
 - (I) When two or more uses located on the same or adjacent lot have distinctly different hours of operation (e.g. commercial office and residential, or church and school) 100% of the required parking may be shared. Required parking shall be based on the use that demands the greatest amount of parking per the requirements of the underlying zoning district.
 - (II) When two or more uses located on the same or adjacent lot have distinctly different peak hours of operation- (e.g. office and restaurant/entertainment), 50% of the required parking spaces may be shared among the uses.
 - (III) Shared parking shall not be allowed if the parking spaces are more than 700 feet from the main entrance of the building.
- (C) Direct pedestrian access, meeting the requirements of Section [16-501\(f\)\(2\)\(iii\)](#), shall be provided between any shared parking and the main entrance of any building proposing to share parking.
- (D) Applicants for shared parking shall submit a statement indicating the ability of the proposed shared parking arrangement to meet the demands of all uses involved. The statement shall include hours of operation, hours of peak operation, forecasted demand, and other data indicating the appropriateness of shared parking.
- (E) Any change of use or other change causing violation of the shared parking agreement or these standards shall invalidate the shared parking eligibility and the parking requirements of the underlying zoning district shall be met.
- (iv) On-Street Parking. Any on-street parking, authorized by the City and within 300 feet of the lot, may be credited towards the on-site parking requirements at a rate of one on-site parking space credit for every four on-street parking spaces. A maximum of 50% of the required parking may be satisfied by on-street parking credits. On street parking spaces may be counted by more than one user in meeting this requirement.
- (v) Bicycle Parking. Bicycle parking facilities are encouraged. Any bicycle parking spaces provided within 100 feet of the main entrance of a building may be credited towards the on-site parking requirements at a rate of one parking credit for every 5 bicycle parking spaces. A maximum of 10% of the

required parking may be satisfied by the bicycle parking credit.

- (vi) Landscape Elements. Parking lots larger than 20 spaces shall incorporate at least one internal landscape island into the lot design. Landscape islands shall be at least 10% of the parking lot area. Each required landscape island shall be a minimum of 20 square feet and a maximum of 500 square feet. Landscape islands shall maintain a minimum five foot width at all times. Landscape islands shall be planted with landscape elements consistent with Section [16-501\(f\)\(5\)](#). Landscape elements along the perimeter of a parking lot shall not count towards the landscape island requirement.
- (vii) Lighting. Exterior lighting on commercial properties shall be designed and maintained so as to not cast obtrusive glare onto sidewalks, streets, or property used for residential purposes.

(4) Architecture Features.

- (i) Enhanced Entrances. All main entrances shall be enhanced by architectural details. These details may include recessed or slightly protruding entrances, building material variations, color variations, or artistic elements and other special treatments.
- (ii) Windows. All buildings shall be predominantly transparent at the street level with a minimum of 40% and a maximum of 80% of the facade occupied by windows. Upper levels may be less transparent with a minimum of 25% of the facade occupied by windows.
- (iii) Building Materials. The preferred building material is masonry, including brick or stone. Commercial grade materials should only be incorporated into the building as accent features.
- (iv) Colors. Primary building colors should be earth tones. Trim or other specialty features should compliment the material and color of the building. Brighter or more dramatic color applications may be provided on doors, windows, awnings, and signs.
- (v) Awnings and Canopies. Awnings or canopies are encouraged on facades to provide weather protection and shade to pedestrians, and to add visual appeal. Awnings and canopies may project into the building setback or right-of-way, provided they are a minimum of 7½ feet above grade. All awnings shall be fabric and shall not be backlit. Permanent canopies may be constructed if designed as an integral part of the structure. All awnings or canopies on a single block shall be hung at the same height above finished grade.
- (vi) Facade Lighting. Facade lighting is encouraged. Facade lighting may be used to highlight architectural features of a

building, provide secondary light to the pedestrian zone, or to enhance visibility of signs. Facade lighting shall be shielded so that the light source is applied to the building and does not provide any direct light or glare on sidewalks or streets.

(vii) Proportion. Deviations in building heights of greater than one story or fifteen (15) feet, whichever is less, shall be prohibited between adjacent buildings. Three-story buildings or buildings between 35 and 40 feet shall only be allowed at the intersections of streets, unless the entire block is constructed of buildings of the same height. No buildings shall exceed 40 feet in height.

(viii) Roofs. Flat and pitched roofs are allowed. Flat roofs shall incorporate a roof-screening element such as a parapet or pediment as part of the building design. Pitched roofs shall not have a reflective finish and shall have a color complementary to the building color and design.

(5) Landscape Requirements and Screening.

(i) Residential Buffers. All commercial uses shall provide a landscape buffer from all single-family uses. The landscape buffer shall be of a density to provide an all-season visual screen from the single-family property. Treatments may include a combination of earth-berms, masonry walls or privacy fences, and tree, bush and shrub plantings. The buffer shall be a minimum of 10 feet in width.

(ii) Landscape Materials. All private landscape materials shall be consistent with the standards for public landscape improvements in the 47th and Mission Road Area Design Review Overlay District, and be consistent with the 47th and Mission Road Area Concept Plan.

(iii) Screening. Specialty equipment such as antennas, satellite dishes, trash and recycling containers, meter and utility boxes and HVAC equipment shall be screened from direct view from streets, sidewalks, and other areas of regular public access. Ground-mounted equipment shall be screened from view with year-round landscape or masonry wall enclosure consistent with the main building material. Roof-mounted equipment shall be placed far enough from the roof edge, or shall be screened with architectural elements incorporated into the design of the building, so as to not be seen from the sidewalk across any adjacent street.

(6) Signs. The following signs are allowed:

(i) Wall Signs. One wall sign shall be allowed per building tenant, identifying the business or tenant, however, no more than seven percent of a building wall or facade may be occupied by wall signs.

- (ii) Canopy or Projecting Signs. One canopy or projecting sign shall be allowed per building tenant. Canopy or projecting signs may be suspended from canopies or awnings, or affixed perpendicular to a building. Canopy or projecting signs shall not be lower than 7'6" from grade level and shall not exceed 10 square feet. Building-affixed pedestrian signs shall not protrude more than three feet from the building surface or 1/3 of the sidewalk width from the building surface, whichever is less.
- (iii) Monuments Signs. Each building shall be allowed one monument sign no greater than four feet in height and no larger than 40 square feet in area. Where a building has multiple tenants, only one monument sign shall be allowed which may identify the multiple tenants. No monument sign shall obscure any vehicle or pedestrian sight lines or obstruct pedestrian and vehicle movement. Monument signs shall be constructed of the same material as the primary building material, or with materials consistent with the public streetscape elements.

Illumination of all signs should only be by external illumination. Internal sign illumination and backlit signs are strongly discouraged.

- (g) Multi-Family Site Design Standards. All multi-family site design shall conform to the principles outlined in the 47th and Mission Road Concept Plan. All new free-standing multi-family development on property within the 47th and Mission Road Area Design Review Overlay District shall consist of townhouses or senior housing and conform to the following development standards. Multi-family residential units are allowed as mixed-use development in the Village Area described in the 47th and Mission Road Area Design Review Overlay District Map, which is hereby incorporated by reference.

- (1) Building Placement.

- (i) Front Setback. All new buildings shall have a minimum front setback of 10 feet and a maximum front setback of 20 feet from the right-of-way line. However, in the event that there is an established existing building line on an adjacent lot on the same side of a block, in no case shall the front setback be more than 10 feet closer to the right-of-way line than the established existing building line. Covered front porches or uncovered stoops may encroach up to five feet into the minimum front setback.
- (ii) Side Setbacks. The minimum side setbacks shall be:
 - (A) Zero feet, provided each side wall of all buildings on the zero foot side are constructed with a firewall. No more than six side by side units may be constructed without a separation between buildings;

- (B) otherwise, a minimum 10 foot side setback or a minimum 20 foot building separation is required; and
 - (C) Property abutting single-family residential districts, shall have a side setback equivalent to that of the abutting single-family residential district. In this case, the side setback area shall constitute the buffer required by Section [16-501\(g\)\(5\)](#).
- (iii) Rear Setback. Minimum rear setbacks shall be 20 feet except that property with a rear lot line abutting a single-family residential district shall have a setback equivalent to the single-family residential district. In this case, the rear setback shall constitute the buffer required by Section [16-501\(g\)\(5\)](#).
 - (iv) Main Entrance. The main entrance of all buildings shall be oriented to the street. This requirement may be satisfied by a main entrance of each unit opening onto the street, or a common entrance of all units opening onto the street. All main entrances shall be directly connected to the sidewalk with pedestrian access. All individual dwelling units shall have frontage on the street, whether through windows, balconies, or a direct entrance into the units.
 - (v) Building Area. In addition to meeting all site requirements for landscaping, parking, and building setbacks, no building shall occupy more than 60% of the total lot area.
 - (vi) Building Height. Buildings are limited to 3½ stories or 40 feet, whichever is less.
- (2) Site Access.
 - (i) Pedestrian Access. All buildings shall have a continuous sidewalk along the frontage of the lot. The sidewalk shall be a minimum of five feet wide.
 - (ii) Vehicle Access. Curb cuts should be minimized. Wherever possible, multi-family residential lots should be accessed by a rear alley.
 - (3) Parking. Parking requirements shall conform to the requirements of the underlying zoning district. However, no parking or vehicle storage entrances shall be provided on the front of any building. In addition, no more than 25% of a lot area shall be dedicated to surface parking.
 - (4) Architectural Features.
 - (i) Enhanced Entrances. All main entrances shall be enhanced by architectural details. These details may include recessed or slightly protruding entrances, building material variations, color variations, or artistic elements and other special treatments.
 - (ii) Building Materials. The preferred building material is masonry, including brick or stone. Commercial grade

materials should only be incorporated into the building as accent features.

- (iii) Colors. Primary building colors should be earth tones. Trim or other specialty features should compliment the material and color of the building. Brighter or more dramatic color applications may be provided on doors, windows, awnings, and signs.
- (iv) Roofs. Pitched roofs, which shall not have a reflective finish and shall have a color complementary to the building color and design are required.

(5) Landscape and Screening.

- (i) Residential Buffers. All multi-family uses shall provide a landscape buffer from any single-family uses. The landscape buffer shall be of a density to provide an all-season visual screen from the single-family property. Treatments may include a combination of earth-berms, masonry walls or privacy fences, and tree, bush and shrub plantings. The buffer shall be a minimum of 10 feet in width.
 - (ii) Landscape Materials. All private landscape materials shall be consistent with the standards for public landscape improvements in the 47th and Mission Road Area, and be consistent with the 47th and Mission Road Area Concept Plan.
 - (iii) Screening. Specialty equipment such as antennas, satellite dishes, trash and recycling containers, meter and utility boxes and HVAC equipment shall be screened from direct view from streets, sidewalks, and other areas of regular public access. Ground-mounted equipment shall be screened from view with year-round landscape coverage or masonry wall enclosure consistent with the main building material. Roof-mounted equipment shall be placed far enough from the roof edge, or shall be screened with architectural elements incorporated into the design of the building, so as to not be seen from the sidewalk across any adjacent street.
- (h) Public Improvements. Prior to inclusion of any public improvements in the capital improvements program, or construction of public improvements within the 47th and Mission Road Area Design Review Overlay District, the City shall send notice of the intent to construct public improvements to the secretary of the committee, and to each jurisdiction. Notice to the jurisdictions shall be sent in the same manner as an, application for development within the district for that jurisdiction. This notice shall provide the opportunity for the committee and the jurisdictions to coordinate for construction of public improvements consistent with the 47th and Mission Road Area Concept Plan and Streetscape Design Concept Plans. (Ord. 717, Sec. 2; Code 2003)

ARTICLE 6. ACCESSORY USES AND STRUCTURES

- 16-601. ACCESSORY USES AND STRUCTURES; INTENT AND INTERPRETATION.
- (a) It is the intent of this Chapter to regard certain activities as being accessory to the principal use of the premises that may be carried on underneath the umbrella of the principal use. An activity will be considered an accessory use or structure when it is conducted in conjunction with the principal use and the activity constitutes only an incidental part of the total activity that takes place on the property, and is commonly associated with the principal use and integrally related to it.
 - (b) For purposes of interpreting subsection (a):
 - (1) A use or structure may be regarded as "incidental" if it is both insubstantial and subordinate in relation to the principal use.
 - (2) To be "commonly associated" with a principal use, it is not necessary for an accessory use or structure to be connected with the principal use more times than not, but only that the association of the accessory use or structure with the principal use takes place with sufficient frequency that there is common acceptance of their relatedness.
- 16-602. ACCESSORY USES AND STRUCTURES; ALL RESIDENTIAL DISTRICTS. For the purpose of this Chapter, certain terms or words used herein shall be interpreted or defined as follows unless the context shall indicate that the word shall have a different definition or interpretation.
- The following are accessory uses and structures in a residential district; subject to the performance standards set forth in Section [16-613](#):
- (a) Fence or walls.
 - (b) Flag poles.
 - (c) Garages and car ports.
 - (d) Gardens.
 - (e) Gates or guard houses for subdivisions or multi-family projects.
 - (f) Ground-mounted satellite dish antennas.
 - (g) Hobby activities.
 - (h) Home occupations.
 - (i) Keeping of animals.
 - (j) Outside storage of equipment, materials or vehicles.
 - (k) Parking areas.
 - (l) Play equipment.
 - (m) Signs.
 - (n) Solar collectors.
 - (o) Swimming pools.
 - (p) Television and radio receiving antennas.
 - (q) Tool-lawn equipment sheds not exceeding 200 sq. ft.
 - (r) Recycling collection point.
 - (s) Communication towers, communication facilities and communication antennas by special use permit, if an accessory use or structure to a non-

residential use and, if Section [16-318\(b\)\(3\)\(i\)](#) or [\(ii\)](#) apply, and also subject to the performance standards set forth in Chapter [11](#) of this Article.

- (t) Communication antennas located on a non-residential structure located on property developed with residential uses approved by special use permit, subject to the performance standards set forth in Chapter [11](#) of this Article. (Ord. 666, Sec. 9)

16-603. ACCESSORY USES AND STRUCTURES; MULTIPLE RESIDENCE DISTRICT. The following are accessory uses and structures in the multiple residence district, subject to the performance standards set forth in Section [16-613](#):

- (a) Power generators.
- (b) Recreation areas and buildings, swimming pools and clubhouses.
- (c) Trash collection centers.
- (d) Vending machines, restrooms and laundry facilities and common areas of a multi-family projects.
- (e) Maintenance buildings for the projects.
- (f) Communication towers, communication facilities and communication antennas by special use permit.(Ord. 666, Sec. 10)

16-604. ACCESSORY USES AND STRUCTURES; ALL COMMERCIAL DISTRICTS. The following are accessory uses and structures in all commercial districts, subject to the performance standards set forth in Section [16-613](#):

- (a) Cooling towers.
- (b) Dwelling units, other than mobile homes or manufactured homes, for security, management or maintenance personnel.
- (c) Fences or walls.
- (d) Flagpoles.
- (e) Food service and vending machines for tenants.
- (f) Parking areas.
- (g) Private parking garages.
- (h) Satellite dish antennas.
- (i) Signs.
- (j) Solar collectors.
- (k) Television, radio or microwave receiving antennas not exceeding 60 ft. in height, except as provided for in subsection (m) hereof.
- (l) Recycling collection points.
- (m) Communication towers, communication facilities and communication antennas, by special use permit, also subject to the performance standards set forth in Chapter [11](#) of this Article. (Ord. 666, Sec. 11)

16-605. ACCESSORY USES AND STRUCTURES; OFFICE BUILDING DISTRICT AND DISTRICT CP-O.

- (a) The following uses are accessory uses in the office building district and district CP-O where located in buildings exceeding 100,000 square feet of gross building area; subject to the performance standards set forth in Section
- (b) [16-613](#):
 - (1) Retail sale of office supplies.

- (2) Clubs and drinking establishments.
- (3) Dry cleaning and laundry pickup and delivery.
- (4) Newsstands.
- (5) Restaurants and cafeterias.
- (6) Health and fitness clubs.
- (7) Copy centers and print shops.
- (c) Pharmacies and drug stores and optical shops are accessory uses in districts C-O and CP-O, subject to the performance standards set forth in Section [16-449](#).

16-606. ACCESSORY USES AND STRUCTURES; RETAIL BUSINESS DISTRICT AND DISTRICT CP-2. In the retail business district and the district CP-2, single-bay, automatic car washes not exceeding 1000 square feet in gross floor area may be operated in conjunction with gasoline service stations.

16-607. ACCESSORY USES AND STRUCTURES; DISTRICT P-1. The following are accessory uses and structures in district P-1, subject to the performance standards set forth in Section [16-613](#):

- (a) Dwelling units, other than mobile homes or manufactured homes, for security, management or maintenance personnel.
- (b) Employee recreation areas.
- (c) Gate houses.
- (d) Loading equipment.
- (e) Parking loading areas.
- (f) Satellite dish antennas.
- (g) Security and screening fences.
- (h) Signs.
- (i) Solar collectors.
- (j) Television, radio or microwave receiving antennas not exceeding 60 ft. in height, except as provided for in subsection (l) hereof.
- (k) Recycling collection points.
- (l) Communication towers, communication facilities and communication antennas, by special use permit, also subject to the performance standards set forth in Chapter [11](#) of this Article. (Ord. 666, Sec. 12)

16-608. ACCESSORY USES AND STRUCTURES; ACCESSORY USES PERMITTED BY INTERPRETATION. Uses other than those listed above may be determined to be accessory uses in any district based upon an interpretation by the mayor.

16-609. ACCESSORY USES AND STRUCTURES; HOTELS AND MOTEL HOTELS. The following uses are accessory uses within a hotel or motor hotel provided the use is located within the main building and designed to serve primarily the occupants and patrons of the hotel or motor hotel: restaurants; clubs; drinking establishments; banquet rooms; package sales of alcoholic liquor or cereal malt beverages; sales of notions; newsstands; vending machines; barber shops and hair salons; arcades; and flower and gift shops.

- 16-610. ACCESSORY USES AND STRUCTURES; HOSPITALS. The following uses are accessory uses within a hospital where located within the main building and designed to serve hospital personnel, visitors or patients: residential quarters for staff and employees; nursing or convalescent quarters; storage and utilities buildings; food service and vending machines; laundry and dry cleaning pickup and delivery; and flower and gift shops.
- 16-611. ACCESSORY USES AND STRUCTURES; PUBLIC UTILITY BUILDINGS. Outside storage of materials and equipment is an accessory use in buildings used by public utilities provided all storage is screened from view off the premises.
- 16-612. ACCESSORY USES AND STRUCTURES; CONSTRUCTION SITES. Mobile homes and hauling trailers may be used as a temporary construction office on the site of a construction project, provided the mobile home or trailer is removed upon completion of the project. In residential districts, any mobile home or trailer must be removed upon the issuance of a certificate of occupancy for the first residential dwelling unit for the subdivision or project or, in the case of a subdivision or project for which approval has been given for phased development, for the first dwelling unit for that phase.
- 16-613. ACCESSORY USES AND STRUCTURES; DEVELOPMENT AND PERFORMANCE STANDARDS.
- (a) Fences or walls.
- (1) Fences or walls may be constructed to a maximum height of 8 feet above the average grade subject to the restrictions of this subsection. Where a new fence or wall is constructed or an existing fence or wall is being extended, a permit shall be obtained from the building inspector. A fence permit shall also be required for the replacement or reconstruction of 50% or more of the linear length of the entire existing fence. Any replacement or reconstruction shall comply with all the provisions of this subsection, except setbacks.
 - (2) Fences or walls (including retaining walls) in any planned district shall be approved by the planning commission as part of the final development plan prior to the issuance of any fence permit.
 - (3) Retaining walls may be permitted where they are reasonably necessary due to the topography of the lot, where the wall is located at least 2 feet from any street right-of-way, and where the wall does not extend more than 42 inches above the ground level of the land being retained.
 - (4) All fences or walls constructed prior to the adoption of these regulations which do not meet the standards of this subsection may be replaced and maintained resulting in a fence of the same size, type and material; provided, however, that no fence shall be replaced or reconstructed in a manner which obstructs the sight distance triangles as defined in Section [16-426](#).
 - (5) In residential districts the following restrictions and standards shall apply to all fences and walls:

- (b) Location.
- (1) Front Yard. A fence or wall in excess of 30 inches high may not be constructed in the front yard or in front of the front platted building line, whichever is more restrictive. A decorative wall or fence 30 inches high or lower may be constructed in a front yard, provided that no fence or wall may be located in public right-of-way. For purposes of this subsection, a "decorative" wall or fence shall be limited to structures constructed of wood rail, masonry, wrought iron, or spaced wooden pickets; where the construction has both a finished and an unfinished surface, the finished surface shall face outward.
 - (2) Rear Yard. A fence or wall may be constructed on the rear property line on all lots whose rear lot lines abut another lot or a designated thoroughfare. However, no fence shall be permitted in any platted landscape easement except as a part of an approved master fence/screening plan. In the case of a double frontage lot whose rear yard abuts a collector or local street, a fence or wall may be constructed no closer than 15 feet to the rear property line.
 - (3) Side Yard. A fence or wall may be constructed on the side property line, except that no fence shall be closer than 15 feet to any collector or local street right-of-way. In addition, no fence shall be permitted in any platted landscape easement except as a part of an approved master fence/screening plan.
- (c) Design Standards.
- (1) All fences and walls shall be constructed with a finished side facing outward from the property. The posts and support beams shall be on the inside or shall be designed as an integral part of the finished surface.
 - (2) All fence segments abutting a designated thoroughfare, except on corner lots, shall provide one gate opening per lot to allow access to the area between the fence and the edge of the street for maintenance and mowing.
- (d) Exceptions for fences in landscape easements. Where a master fence/screening plan has been approved as part of a final development plan, all fences in the platted landscape easement shall conform with the approved master fence/screening plan. Changes to this plan shall be permitted only if a new master fence/screening plan is approved in accordance with the procedures established in this chapter.
- (1) In all commercial and industrial districts, a fence or wall may be constructed on any side or rear property line but shall not be located in any required front yard setback or be closer to any public or private street than the required setback for a building. Planning commission approval will be required for fences or walls in any planned zoning district.
- (e) Garages, carports and storage buildings.
- (1) For any single-family or duplex dwelling, there shall be permitted one detached garage or covered carport. Detached garage or carport

spaces shall not exceed 250 square feet for each 3,000 square feet of lot area; provided, that in no event shall these areas exceed a total of 1,200 square feet. An attached garage or carport shall be subject to the same required setbacks as the main structure. A detached garage or carport shall be subject to the setbacks required for detached accessory buildings.

- (2) For any multi-family residential development, all detached garages or carports shall be subject to the setbacks required for detached accessory buildings. If the applicable district regulations do not contain separate provisions for accessory structures, then the setback requirements for the main structure shall apply.
 - (3) In all residential districts, the design and construction of any garage, carport or storage building shall be similar to or compatible with the design and construction of the main building. The exterior building materials and colors shall be similar to the main building or shall be commonly associated with residential construction.
- (f) Hobby activities.
- (1) A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation so long as the activity is not in conflict with any city ordinance. Articles produced or constructed shall not be sold unless the activity complies with the requirements for a home occupation.
- (g) Home occupations.
- (1) Home occupations are permitted as an accessory use to a residence subject to the following provisions:
 - (2) Purpose and intent. It is the purpose and intent of these requirements to:
 - (i) maintain neighborhood integrity and preserve the residential character of neighborhoods by encouraging compatible land uses.
 - (ii) provide residents of the city with an option to utilize their residences as places to enhance or fulfill personal economic goals as long as the choice of home occupations does not infringe on the residential rights of neighbors.
 - (iii) establish criteria for operating home occupations in dwelling units within residential districts.
 - (iv) assure that public and private services such as streets, sewers, water or utility systems are not burdened by home occupations to the extent that usage significantly exceeds that which is normally associated with a residence.
 - (3) Performance criteria. Home occupations shall comply with the performance criteria of Article 6, Chapter V, of the City Code, which are incorporated herein by reference as if set out in full
 - (4) Other regulations. Home occupations shall comply with all other local, state or federal regulations pertinent to the activity pursued, and

the imposition of requirements under this chapter shall not be construed as an exemption from these regulations.

- (h) Outside storage and use of equipment, material or vehicles.
 - (1) Where permitted in residential districts, storage of not more than one of the following is permitted: a boat, a camping trailer, a pickup camper, a motor home, a recreational vehicle or a hauling trailer. Storage shall not occur in the front yard or the street side of a corner lot. Storage areas are not required to be paved. These items may be parked in the customary driveway for purposes of loading or unloading or trip preparation for a period of time not to exceed 72 hours during which these items are being loaded or unloaded.
 - (2) Except as may be otherwise provided in Chapter V or VII of the City Code, no other equipment, material or vehicle, other than operable passenger vehicles or motorcycles, shall be stored for more than 24 hours in a 30-day period in a residential district.
 - (3) Exceptions from the above may be granted by the governing body upon approval of plans indicating screening to be installed and setbacks to be used.
 - (4) In commercial districts, trucks, vans and trailers may be parked, but not for a period in excess of 72 hours, nor shall trucks, vans or trailers be used for storage or sale of merchandise.
 - (5) Notwithstanding the foregoing, useful items may be stored outside to the extent permitted elsewhere in the City Code. Storage of these items shall be permitted only to the extent that it is accessory to the residential use of the property; storage related to any business activity shall not be permitted.
- (i) Satellite dish antennas. Satellite dish antennas shall be subject to the provisions of Article 11, Chapter IV, of the City Code, which are incorporated herein by reference as if set out in full.
- (j) Signs. Signs shall be subject to the provisions of [Article 9](#), Chapter XVI and Article 9, Chapter IV of the City Code which are incorporated by reference as if set out in full.
- (k) Solar collectors. Solar collectors shall be subject to the provisions of Article 10, Chapter IV, of the City Code, which are incorporated herein by reference as if set out in full.
- (l) No temporary or incomplete building, and no automotive equipment, trailer, recreational vehicle, garage or other use or building accessory to a family dwelling shall be erected, maintained or used for residential purposes.
- (m) No accessory use or structure except basketball goals, flag poles and fences, as permitted, shall be located in any front yard.
- (n) Unless otherwise specifically provided, any accessory use or structure greater than 10 feet in height shall be located a distance of at least 1/3 its height from any side or rear property line.
- (o) The total floor area of all accessory uses listed in Section [16-605](#) shall not exceed 10 percent of the gross floor area of any building.

- (p) A recycling collection point as defined in this ordinance maybe permitted as an accessory use only after approval of a final development plan by the governing body. Prior to granting any approval, the governing body shall consider the impact of the proposed activity and structure on:
- (1) Adjacent properties and uses;
 - (2) The visual appearance of the area; and
 - (3) Traffic circulation on and off the site.
- In all residential districts, recycling collection points may be permitted only in conjunction with a nonresidential use such as a school, church, or community building. (Ord. 691, Sec. 1)

ARTICLE 7. SPECIAL EVENTS

- 16-701. SPECIAL EVENTS; PURPOSE AND INTENT. The purpose and intent of this Article is to provide for the temporary use of land for special events in a manner consistent with its normal use and beneficial to the general welfare of the public. Furthermore, it is the intent of this Article to protect nearby property owners, residents and businesses from special events that may be disruptive, obnoxious, unsafe or inappropriate given site conditions, traffic patterns, land use characteristics and the nature of the propose use. Finally, it is the intent of this Article to preserve the public health, safety and convenience. (Code 1998)
- 16-702. SPECIAL EVENTS; DEFINED. The term "special event" shall mean a temporary, short-term use of land or structures, not otherwise included as permitted or accessory use by this chapter, for one or more of the following types of activities:
- (a) Type 1. Fund raising or non-commercial events held outside an enclosed permanent structure for non-profit religious, educational or community service organizations that periodically and routinely operate in the city; including any on-site signs and structures in conjunction with the event;
 - (b) Type 2. Christmas tree sales;
 - (c) Type 3. Promotional activities or devices intended to attract attention to a specific place, business, organization, event or district such as banners as defined in Section [16-903\(e\)](#) hereof, and attention-attracting devices as defined in Section [16-903\(c\)](#) hereof;
 - (d) Type 4. Significant commercial activities intended to sell, lease, rent or promote specific merchandise, services or product lines, such as tent sales, trade shows, farmers' markets, seasonal merchandise sales or product demonstrations;
 - (e) Type 5. Significant public events intended primarily for entertainment or amusement, such as carnivals, concerts or festivals.
- The term "special events" should not include garage sales, transient merchants, or off-site promotional signs and sales. (Code 1998)
- 16-703. SPECIAL EVENTS; PERMIT NOT REQUIRED. Special events meeting the type 1 definition are allowed without a special event permit provided all the following performance standards are met:

- (a) The special event is conducted entirely on private property owned or leased by the sponsoring organization as a permanent facility or with the written permission of the property owner or lessee.
- (b) Any structure used in conjunction with the special event shall meet all applicable yard setbacks, shall be the subject of a valid building permit, and shall be promptly removed upon the cessation of the event.
- (c) The special event shall be restricted to hours of operation between 8:00 a.m. and 11:00 p.m., to a maximum duration of four days, and to a maximum frequency for similar events of six non-consecutive times per calendar year. (Code 1998)

16-704.

SPECIAL EVENTS; ADMINISTRATIVE PERMIT REQUIRED. Special events meeting the following standards shall be issued a special event permit administratively by the building inspector. In administering the provisions of this section, the building inspector shall be guided by applicable city policies as adopted by the governing body. Any applicant denied a special event permit shall be notified in writing of the reasons for the denial and have the opportunity to appeal the denial to the governing body. No more than two special event permits per calendar year shall be issued administratively at any location.

- (a) Special events meeting the type 2 definition may be permitted administratively by the building inspector, subject to prior review and approval by the public works and police departments for traffic control and fire safety; provided that, all of the following performance standard are met:
 - (1) An application is made and a fee paid in accordance with Section [16-706](#);
 - (2) A site plan indicating the location of the merchandise being sold, aisles, parking and sales trailers;
 - (3) A lighting plan to be approved by the fire department and building inspector;
 - (4) The permit may be valid from Friday after Thanksgiving until December 26th, with hours of operation from 8:00 a.m. to 10:00 p.m.;
 - (5) Any structure used in accordance with the special event shall meet all site distance (see Section [16-426](#)) and set-back requirements, shall be subject to a valid building permit, and shall be promptly removed upon cessation of tree sales; the tree sales shall be conducted only on private property in a commercial or industrial zoning district, and shall submit evidence that the property owner has granted appropriate permission for tree sales.
- (b) Special events meeting the type 3 or type 4 definition, and type 1 events not meeting the standards of Section [16-703](#), may be permitted administratively by the building inspector subject to the prior review and approval of the police and fire departments. No administrative permit shall be issued unless all the following performance standards are met:
 - (1) An application is made and a fee paid in accordance with Section [16-706](#);

- (2) The special event shall not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections and traffic controls;
- (3) If involving a banner, no more than one banner is displayed and the size and design of the banner is appropriate given the size of the building to which it is attached and the character of the surrounding neighborhood and the banner shall be displayed for a maximum duration of 15 days per permit;
- (4) The activity shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces caused by the event itself;
- (5) The special event shall not endanger the public health, safety, or general welfare given the nature of the activity, its location on the site, and its relationship to parking and access points;
- (6) The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter, or visual pollution;
- (7) Any structure used in conjunction with the special event shall meet all site distance requirements (see Section [16-426](#)), shall be the subject of a valid building permit, and shall be promptly removed upon the cessation of the event;
- (8) The special event shall be conducted on private property in a commercial or industrial zoning district, except that non-profit organizations may conduct events on any property where the property owner has granted the appropriate permission;
- (9) The duration and hours of operation of the special event shall be consistent with the intent of the event and the surrounding land uses, but in no case shall the duration exceed 10 days; and
- (10) The special event shall comply with all applicable state and federal health, safety, environmental and other applicable requirements.
(Code 1998)

16-705. **SPECIAL EVENTS; GOVERNING BODY APPROVAL REQUIRED.** All type 5 events and any other event not meeting the criteria of Sections [16-703](#) or [16-704](#) may be granted a special event permit by the governing body after review and report by the building inspector. The permit may be subject to conditions and safeguards as the governing body may deem reasonably necessary to protect the public health, safety, and general welfare. These conditions may include but shall not be limited to:

- (a) restrictions on the hours of operation, duration of the event, size of the activity, or other operation or characteristic;
- (b) the posting of performance bonds to help ensure that the operation of the event and the subsequent restoration of the site are conducted according to governing body expectations;
- (c) the provision of traffic control or security personnel to increase the public safety and convenience; and

- (d) obtaining liability and personal injury insurance in forms and amounts as the governing body may find necessary to protect the safety and general welfare of the community. (Code 1998)

16-706. APPLICATION AND FEE.

- (a) No special event permit shall be issued until an application has been submitted to the building inspector and the appropriate fee paid. The application will be made on forms provided by the City, and shall be accompanied by the following items as applicable:
 - (1) A letter from the applicant describing the proposed event, the hours of operation, the duration of the event, anticipated attendance, and any structures, signs, banners or attention-attracting devices used in conjunction with the event;
 - (2) A sketch plan showing the location of the proposed activities, structures and/or signs in relation to existing buildings, parking areas, streets and property lines; and
 - (3) A letter from the property owner or manager, if different from the applicant, agreeing to the special event.
- (b) Each application for a special event permit shall be accompanied by an application fee, except that the fee may be waived for any applicant registered with the State of Kansas as a non-profit organization. The fee for type 2 applications shall be \$25 and the fee for all other types of applications shall be \$50.
- (c) The special event permit shall be posted on the site for the duration of the event. (Code 1998)

ARTICLE 8. VEHICLE PARKING AND LOADING

16-801. PARKING REQUIRED FOR ALL STRUCTURES. For all buildings or structures hereafter erected, constructed reconstructed, moved or altered, off-street parking in the for of garages or areas made available exclusively for a parking shall be provided. These parking spaces shall be located entirely on the same property as the main use with no portion other than the necessary drives extending into any street or other public way. Parking shall be provided in quantities stated in the various zoning district regulations, except that certain occupancies which may have unusual parking needs are separately listed below. The issuance of building permits or certificates of occupancy shall require compliance with the minimum parking standards even though a development plan may have been approved previously which included fewer parking spaces due to the unknown or changing status of occupancy, except as hereinafter provided, no parking of motor vehicles shall occur except on paved parking areas required by this Article.

16-802. IMPROVEMENT OF PARKING AREAS. All parking areas and drives leading thereto shall be ready for use upon occupancy of a building and shall be surfaced with a permanent, bituminous or concrete paving meeting the standards of the city prior to the issuance of a certificate of occupancy, unless special permission is granted by the city engineer due to weather conditions not being satisfactory for

placing asphaltic materials. All parking lots and drives leading thereto, except those serving one-family dwellings, shall have curbs and drainage facilities approved by the city engineer.

16-803. ACCESS TO PARKING AREAS. Ingress and egress to all parking areas, garages and carports shall be by means of paved driveways not exceeding 35 feet in width.

16-804. NONCONFORMING STATUS OF RESIDENTIAL DRIVEWAYS AND PARKING AREAS NOT PAVED WITH HARD SURFACE. All residential driveways and parking areas in existence prior to December 18, 1991, and not paved with a hard surface in compliance with Section [16-802](#) of the City Code shall be considered a "nonconforming site improvement," as defined in Section [16-1201\(g\)](#). These driveways and parking areas shall not be required to be paved, but shall be required to comply with all maintenance standards established for these driveways and parking areas. To be granted "nonconforming site improvement" status, the existence and relative size and location of the driveway must be recorded with the city clerk.

Residence and property owners will have until December 31, 1994, to register their property by showing that a driveway or parking area existed prior to December 18, 1991. After December 31, 1994, unpaved driveways and parking areas that are not registered with the city clerk will be presumed to be unlawful unless the property owner can provide convincing evidence to the contrary. (Ord. 617)

16-805. MAINTENANCE OF RESIDENTIAL DRIVEWAYS AND PARKING AREAS NOT PAVED WITH A HARD SURFACE. Where permitted, residential driveways and parking areas that are not paved with a hard surface shall be maintained to meet the following standards:

- (a) The surface of the driveway or parking area shall consist of a uniform layer of gravel evenly distributed from edge to edge, and shall be free of bare spots and vegetation.
- (b) The depth of the gravel layer shall be an average of 2 inches and a minimum of 1 inch.
- (c) The material used for gravel driveway or parking area shall be rock or crushed stone not more than 1 inch in diameter and shall not contain dirt, sticks, construction debris or other foreign material. Sand, rock powder or other similar material less than 1/8 inch in diameter is not prohibited, but shall not be included in the measurement of minimum gravel depth. (Ord. 617, 1994)

16-806. DIMENSIONS OF PARKING AREAS.

- (a) Standard parking stall dimensions shall be not less than 9 feet by 18 feet, plus the necessary space for maneuvering into and out of the space. Where the end of the parking space abuts a curbed area at least 5 feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by 2 feet. The overhang shall be

measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

PARKING CONFIGURATION:

	90-degree	60-degree	45-degree
Aisle Width			
(1) One-way traffic	---	18 feet	14 feet
(2) Two-way traffic	24 feet	20 feet	20 feet
End Parking Bay Width			
(1) Without overhang	18 feet	20 feet	19 feet
(2) With overhang	16 feet	18 feet	17 feet
Center Parking Bay Width	18 feet	18 feet	16 feet

- (b) Minimum dimensions for a parallel parking space shall be 9 feet by 23 feet.
- (c) Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the governing body.

16-807. **HANDICAPPED PARKING.** For those buildings where parking is required, parking areas servicing each building entrance shall have the number of level parking spaces for person(s) with disabilities set forth in the following "Accessible Parking Spaces Table" and be identified by above-grade signs as reserved for person(s) with disabilities set forth in the following " Accessible Parking Spaces Table" and be identified by above-grade signs as reserved for person(s) with disabilities.

Accessible Parking Spaces Table

<u>Total Parking in Lot</u>	<u>Required Minimum Number of Accessible Spaces</u>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	two percent of total
1,001 and over	20 plus 1 for each 100 over 1,000

These parking spaces shall conform with the requirements of the building code and applicable state law with regard to parking space dimensions and signage. (Code 2003)

- 16-808. HEAD-IN PARKING. Head-in parking from any public right-of-way shall not be permitted.
- 16-809. SETBACKS.
- (a) Parking areas in conventional zoning districts shall be set back as follows:
 - (1) Except as hereinafter provided, no parking area shall be located within 6 feet of a lot line.
 - (2) For one-family dwellings and two-family dwellings in any district, no parking area shall be located within 2 feet of a lot line.
 - (3) For multi-family dwellings, no parking area shall be located within 30 feet of a street right-of-way.
 - (4) No parking area for a non-residential use in any residential district shall be located within 20 feet of any street right-of-way.
 - (5) In the office building district, no parking area shall be located within 30 feet of any street right-of-way.
 - (6) In the retail business district, no parking area shall be located within 15 feet of any street right-of-way.
 - (b) Parking area setbacks in planned zoning districts shall be the same as that in the most analogous conventional zoning district, subject to modifications as provided in Section [16-429](#).
 - (c) Parking area setbacks for special uses shall be determined at the time of plan approval for the special use permit. (Ord. 626; Ord. 648)
- 16-810. LIGHTING. Lighting used to illuminate parking areas shall be arranged located or screened to direct light away from any adjoining or abutting residential district or any street right-of-way.
- 16-811. SCREENING. Where any off-street parking area abuts a) a street right-of-way, or b) any adjacent property, the parking area shall be screened by a buffer strip consisting of a wall, fence, or screen planting of an adequate height; provided that, if the subject off-street parking area is located in a commercially zoned area and abuts residentially zoned property, the wall, fence or screen planting shall be a minimum of 6 feet in height; provided further that: if the off-street parking area is located in a commercially zoned area and abuts another commercially zoned area the wall, fence, or screen planting shall be a minimum of 3 feet in height. In specific cases, the governing body may require that any wall, fence or screen planting around a parking area shall be set back from a street if the setback will prevent adverse effects upon the appropriate use of adjacent property or will prevent a traffic hazard, but the setback need not be greater than the respective front or side yard requirement applicable to the zoning district. (Ord. 626)
- 16-812. LANDSCAPING. The interior of parking areas shall be landscaped in accordance with the provisions set forth in Section [16-1007](#).
- 16-813. DEFERRED CONSTRUCTION OF PARKING SPACES. A portion of the parking area required under this chapter may remain unimproved until the time as the governing body deems that it must be improved to adequately serve the parking

demand. This delayed construction of parking may be permitted only after the governing body is satisfied that the initial occupancy of the premises will be adequately served by the lesser number of spaces and only after approval of a final development plan clearly indicating the location, pattern and circulation to and from the deferred parking spaces. The land area so delineated for future parking shall be brought to finished grade and landscape, and shall not be used for building, storage, loading or other purposes.

- 16-814. **PARKING FOR ONE- AND TWO-FAMILY DWELLINGS.** No driveway serving a one- or two-family dwelling shall be located within two feet of an adjoining lot line except for a driveway serving two properties. Paved parking areas or customary driveways in the required yards abutting streets shall not exceed 35% of the area of the yards.
- 16-815. **SMALL CAR PARKING.** In district CP-O, and for schools, churches and any special uses deemed by the planning commission and governing body to have low parking turnover and high user familiarity with the parking area 30% of the required off-street parking spaces may be designated for small cars. Parking stall dimensions for small cars shall be not less than 8 feet by 16 feet, plus the necessary space or maneuvering into and out of the stall. Acceptable aisle width, layout of spaces, and overall design of the parking area shall be shown on the final development plan. A minimum of 30 parking spaces must be required before a portion of the spaces can be built to the smaller standard.
- 16-816. **SHARED PARKING REQUIREMENTS.** Where convention centers, conference centers, assembly halls, ballrooms or other similar facilities are built in conjunction with hotel, office park or shopping center, the planning commission or governing body may permit the construction of fewer parking spaces, without deferral thereof, due to overlapping usage of a portion of the parking spaces. Permission for shared parking must be received as part of a preliminary development plan approval.
- 16-817. **PARKING AREAS IN COMMERCIAL DISTRICTS.** In commercial zoning districts, the required parking area shall not be used for motor vehicle maintenance or repair.
- 16-818. **PARKING FOR SPECIFIC USES.** Parking for certain uses shall be as indicated in the following table:

<u>Land Uses</u>	<u>Key</u>
Churches, restaurants, cafeterias, armories, assembly halls, theaters, athletic fields and other seating facilities	D
Libraries	BG
Hotels, motor hotels, motels, apartment	BC

hotels, dormitories and similar boarding facilities	
Hospitals, nursing or convalescent homes, or congregate care facilities	EF
Mortuaries	BD
Taverns, clubs or drinking establishments	A
Miniature golf courses	GH

Key

A	--	one space for each employee plus one space for each two seats or building capacity calculated by Building Code standards
B	--	one space for each two employees
C	--	one space for each guest room
D	--	one space for each three seats
E	--	one space for each three beds
F	--	one space for each staff person or visiting doctor
G	--	one space for each 200 square feet service floor area
H	--	one space for each 300 square feet outside area

When more than one parking space is requirement is indicated and referenced in the key, the parking requirements shall be cumulative.
(Ord. 581, Sec. 5, 1992)

16-819. PARKING FOR USES NOT LISTED. Any use not included in the parking requirements in this title shall be assigned a parking requirement by the governing body.

16-820. LOADING AREAS. Loading areas adequate to serve the uses or categories of uses proposed shall be determined at the time of site plan or preliminary development plan approval.

ARTICLE 9. SIGN REGULATIONS

16-901. PURPOSE. The purpose of this Article is to create the framework for a comprehensive and balanced system of content- and viewpoint-neutral regulation of signs to facilitate easy and pleasant communication between people while protecting the First Amendment rights of resident individuals and businesses of the City and preserving and improving the quality of the City's environment by avoiding visual clutter harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance. With these purposes in mind, it is the intent of these regulations:

- (a) to authorize the use of signs that are
 - (1) compatible with their surroundings,
 - (2) appropriate to the activity that displays them,
 - (3) expressive of the identity of individual activities and the community as a whole, and
 - (4) legible under the circumstances in which they are seen; and
- (b) to ensure that nonconforming signs are eliminated in the City after a reasonable grace period that allows sign owners to recoup their initial investments in those nonconforming signs. (Ord. 625)

16-902. FINDINGS. The governing body hereby finds that:

- (a) Sign regulations may impact First Amendment rights and that these rights are important constitutional rights that must be protected;
- (b) Unregulated signage has direct and secondary effects that are harmful to the safety and general welfare of the City as a whole and to its individual citizens;
- (c) These direct and secondary effects result from the visual clutter that occurs as a result of the unregulated installation and lack of maintenance of signs;
- (d) These direct and secondary effects include harm, to traffic and pedestrians' safety, depreciation of property values within the City, decreased business opportunities for individual and business residents of the City (resulting in decreased sales, property and other tax revenues that are necessary to provide an adequate level of public service to City residents), community blight, and an overall less pleasing community appearance;
- (e) Because of these direct and secondary effects, the City has a compelling interest in regulating signs within the City;
- (f) These regulations are content- and viewpoint-neutral, reasonable time, manner and place restrictions that directly advance the City's stated interests;
- (g) The scope of the regulations is proportionate to the interests served and narrowly tailored to achieve the desired objective;
- (h) A direct nexus exists between the desired City's goals and the means chosen in these regulations to achieve its desired goals;
- (i) The goals of this ordinance cannot be fully achieved if existing signs, which do not conform to the regulations contained herein, are allowed to remain as they exist on the effective date of this ordinance for an unlimited amount of time, therefore, a grace period of five and one half (5 1/2) years is hereby established to allow the owners of existing, nonconforming signs a reasonable period of time to conform these signs to the provisions of this ordinance or remove them, which grace period shall end on November 25, 1999;
- (j) The strict application of this grace period to all nonconforming signs, in some unique situations, may be unreasonable and therefore this ordinance provides a procedure that allows the owners of certain nonconforming signs to establish that the strict application of the grace period would result in substantial loss to the owner of the sign and, therefore, that the grace period for a particular sign should be extended for a designated amount of time;

- (k) The establishment of this grace period and the a procedure for extension of the grace period strikes a reasonable balance between the interest of the general public sought to be achieved by this ordinance and the interest of affected owners of nonconforming signs;
- (l) Although the expression of political speech is an important constitutionally protected right, under certain circumstances, it may be necessary to regulate the time, place and manner of the expression of such speech in order to advance and protect other compelling legitimate interests of local government;
- (m) Political signs have certain characteristics that distinguish them from many of the other types of signs permitted and regulated by the City. These characteristics include the fact that many of these signs, intended to be temporary in nature, do not meet the regular structural and insulation requirements necessary to prevent them from being affected by weather and other natural forces and therefore present a potential hazard to persons and property. Severe weather conditions, including, without limitation, thunderstorms with accompanying high winds, tornadoes, ice accumulation and flooding, are characteristic of local weather conditions;
- (n) The primary purpose of political signs placed along a roadway is to attract the attention of drivers, thus distracting them from their primary responsibility of paying constant attention to traffic and. road conditions. This concern is especially acute in residential areas where young children present a significant potential hazard for drivers. With respect to residential areas, with their appropriately lower speed limits, it is concluded that the maximum sign surface area per face allowed is adequate to convey most political messages. Although it is recognized that certain individuals may wish to express a political message that requires a larger sign surface area to be adequately conveyed, a larger sign surface area would further distract drivers' attention, presenting an unacceptable safety risk, and it is believed that there exist in the community adequate other means of conveying these messages. In nonresidential areas motorists frequently are guided by or reasonably expect to see larger signs, therefore their attention is not as easily distracted; higher speed limits, larger lot areas, and competing distractions require larger sign size to adequately convey political messages, and thus a larger sign size can be allowed consistent with safety requirements in these areas. Further, since permitted signage in residential areas is minimal, the aesthetic impact of signs in residential areas is much greater than in nonresidential areas;
- (o) In addition to the safety and traffic interests affected by political signs, the governing body concludes that the unrestrictive proliferation of political signs creates visual clutter and blight, has an adverse effect on the aesthetic quality of the City (with accompanying adverse economic effects), and detracts from the desirable visual environment that the City has made a strong effort to create through its land use and other ordinance and regulations; and

- (p) The governing body concludes that the interests to be protected by these regulations are sufficiently compelling to justify the content- and viewpoint neutral regulation of political speech contained herein, and that it represents a reasonable accommodation of the City's interests and individual First Amendment rights. (Ord. 625)

16-903.

DEFINITIONS.

- (a) "A-Frame or Sandwich Sign" means any sign supported from the ground utilizing one or more rear supporting braces, in which the combination of the sign and supports forms the letter "A," in the manner of an artist's easel.
- (b) "Abandoned Sign" means any sign on any building, structure or premises that has been vacated for a six (6) month period of time.
- (c) "Attention-Attracting Device" means a device with flashing, blinking, rotating, twirling or moving action, a changeable copy sign on which the message changes more than eight (8) times per day, but not including time or temperature instruments, a search light, or a balloon or an air or gas filled object designed or intended to attract the attention of the public to an establishment or to a sign.
- (d) "Backlight Sign" means any sign that displays direct or indirect light from the back of that sign through a transparent, translucent or open material.
- (e) "Banner" means any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered a banner.
- (f) "Building Marker" means any sign indicating the name of a building and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent surface.
- (g) "Building Inspector" means the building official of the City of Roeland Park, Kansas, or other designated authority charged with the administration or enforcement of the provisions of this Article, or his or her duly authorized representatives.
- (h) "Business Identification Sign" means any sign identifying or directing attention to the building, development, business, product, activity or service provided or offered on the premises.
- (i) "Canopy Sign" means any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.
- (j) "Center Identification Sign" means any sign identifying only the name and location of an entire development in a commercial, office or industrial zoning district developed or managed under one owner or under single control.
- (k) "Changeable Copy Sign" means a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the Sign Surface.
- (l) "Code" means the Code of the City of Roeland Park, Kansas, as hereinafter amended.

- (m) "Commercial Sign" means any sign that directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.
- (n) "Commercial and Industrial Sales or Leasing Sign" means any sign identifying the building, structure, or premises upon which the sign is located as "now renting" or "now leasing" or "for sale."
- (o) "Curb Line" means the line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curb line shall be established by the building inspector.
- (p) "Detached Sign" means a sign located on the ground or on a structure located on the ground and not attached to a building.
- (q) "Directional Sign" means any sign that contains directions to a specific building, structure, use, or lot.
- (r) "Directly Illuminated Sign" means any sign the source of illumination of which is exposed to the human eye, such as, but not limited to, an incandescent bulb or fluorescent tube.
- (s) "Indirectly Illuminated Sign" means any sign that is partially or completely illuminated at any time by a light source that is shielded so as to not be visible at eye level.
- (t) "Marquee" means any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed, and constructed to provide protection from the weather.
- (u) "Marquee Sign" means any sign attached to, or in any manner made a part of a Marquee.
- (v) "Menu Board" means any sign listing the services or products provided and the corresponding prices of these products or services.
- (w) "Monument Sign" means a detached sign the width of which is a minimum of one and one half (1-1/2) times the width of the widest part of Sign Surface and the base of which consists of two (2) or more supports and the height of the base is not more than two (2) feet above the average grade of the ground. The materials of the base of a monument sign shall be made of masonry, wood, anodized metal, stone or concrete.
- (x) "Neon Sign" means a directly illuminated sign for which the light source is luminescent gas.
- (y) "Non-Affixed Sign" means any sign that is not permanently affixed to a building, structure or the ground.
- (z) "Noncommercial Sign" means any sign that is not a commercial sign as defined herein.
- (aa) "Nonconforming Sign" means any sign that does not comply with the sign provisions of this Article or any other applicable provision of the Code.
- (bb) "Outdoor Advertising Sign" means any sign advertising or directing attention to a name, a business, product, development, project, or service that is offered, manufactured, or sold at a location other than the premises upon which the sign is situated (commonly known as a billboard).
- (cc) "Pole or Pylon Sign" means a detached sign supported by uprights, braces, columns, poles, or other vertical members that are not attached to a building.

- (dd) "Project Identification Sign" means a sign that only identifies the project.
- (ee) "Political Sign" means a sign relating to a candidate, political party, ballot issue, or other political issue to be voted upon in any public election.
- (ff) "Portable Sign" means any sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to an A-frame or sandwich frame sign, balloons or other gas or air filled objects used as commercial signs; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless that vehicle is used in the normal day-to-day operations of the business.
- (gg) "Projecting Sign" means any sign located on the face of the building extending more than one (1) foot from the face of the building to which it is attached.
- (hh) "Public Property," for the purposes of this Article only, means:
 - (1) Any public building or premise owned by a governmental entity;
 - (2) any sidewalk, public bridge, crosswalk, curb, paved portion of any street or highway, or the median strip of any divided street or highway;
 - (3) the unpaved area between the street lines of any street adjacent to a tract of land owned or leased by a governmental entity;
 - (4) any street sign or any traffic sign or signal;
 - (5) any telephone, telegraph, electric wire, power, street lamp post or any other utility pole or line, or any fire hydrant;
 - (6) any tree or other vegetation on public property, including without imitation those in between the street lines of a public street; and
 - (7) any public park, open space area, bench, drinking fountain, or other property owned or leased by a governmental entity and used for governmental purposes.
- (ii) "Real Estate Sign" means any sign identifying the residential structure, building, or premises on which the sign is located as "now renting" or "now leasing" or "for sale."
- (jj) "Roof Sign" means any sign erected, constructed and maintained fully upon or over the roof or parapet of a building or structure and having the roof or parapet as its principle means of support.
- (kk) "Semi-illuminated Sign" means any sign located on a building face that is uniformly illuminated over the sign surface by use of electricity or other artificial light.
- (ll) "Sight Distance Triangle" means the two (2) areas on all corner lots within the triangles formed by a short leg fifteen (15) feet long and a long leg one hundred-forty (140) feet, both distances measured along the curblin or edge of the pavement.
- (mm) "Sign" means any framed, bracketed, free-form, or engraved surface, and the support therefor, that is fabricated to create words, numerals, figures, devices, designs, trademarks, or logos, and that is mounted on or affixed to a building, structure, or the ground, and that is visible to persons not located on the premises where the sign is located, with the purpose of attracting the attention of these persons or communicating information to them.

- (nn) "Sign Alteration" means the replacement, enlargement, reduction, reshaping, changing or adding to of a sign, or sign structure or other supporting members.
- (oo) "Sign Maintenance" means the normal care and minor repair necessary to retain a safe, attractive and finished sign, sign surface or sign structure. Changing copy or a logo on a sign surface without increasing sign dimensions shall be considered sign maintenance if the information, product or service depicted remains the same and if the sign is to serve the identical establishment using the same business firm name as before the change.
- (pp) "Sign Refacing" means changing or replacing the words, numerals or other aspects of the sign surface to serve a different establishment or business, or to create a substantially different visual effect without alternating, moving or replacing the sign, sign structure, or sign surface.
- (qq) "Sign Structure" means the support, poles, upright bracing or brackets and framework for any sign that is mounted on or affixed to a building, structure or the ground.
- (rr) "Sign Surface" means the entire area within a square, circle, rectangle, triangle or combination thereof that encompasses the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including the sign structure.
- (ss) "Snipe Sign" means any sign made of material such as cardboard, paper, pressed wood, plastic or metal that is attached to a fence, window, tree, utility pole or temporary structure or any sign that is not securely fastened to a building or structure or firmly anchored to the ground.
- (tt) "Street Line" means the dividing line between the street right-of-way and the abutting property.
- (uu) "Temporary Sign" means any sign intended to be displayed for a limited period not exceeding thirty (30) days and for not more than one (1) thirty (30) day period in any six (6) month period.
- (vv) "Time or Temperature Instrument" means a wall sign displaying only time and/or temperature information with no additional advertising or comments other than the name of a business establishment.
- (ww) "Two-Faced Sign" means a sign with two (2) sign faces and where the angle of separation of the faces is not greater than ninety percent (90%).
- (xx) "Wall" means the exterior or surface of a building or structure. For the purposes of the sign provisions of this Article, walls shall include mansard-type or sloped-roof structures.
- (yy) "Wall Bulletin" means any sign painted on a wall or a painted sign or poster that is attached to but does not project more than twelve (12) inches from the building or structure.
- (zz) "Wall Sign" means any sign attached to and erected parallel to and within one (1) foot of the face or wall of a building, including wall bulletins.
- (aaa) "Window Sign" means any sign that is placed inside a window or upon the panes or glass and is visible from the exterior of the window. (Ord. 625)

- 16-904. REGULATIONS GENERALLY. Other than lawful nonconforming signs, no signs shall be permitted in any zoning district of the City except in accordance with these provisions. (Ord. 625)
- 16-905. COMPUTATIONS. The following principles shall control the computation of sign surface area and sign height.
- (a) Computation of sign surface area of individual signs. The area of a sign surface (that is also the sign area of a wall sign or any or other sign with only one "face) shall be computed by measuring the area of the smallest circle, square, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming integral part of the background of the sign or used to differentiate the sign from the backdrop or sign structure against which it is placed, but not including the sign structure or decorative fence or wall between the fence or wall otherwise meet zoning ordinance regulations and that is clearly incidental to the display itself.
 - (b) Computation of area of multi-face signs. The sign surface area for a sign with more than one face shall be computed by adding together the area of all sign surfaces on the sign.
 - (c) Computation of height. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lowest of (a) existing grade prior to construction, or (b) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zoned lot, whichever is lower. (Ord. 625)
- 16-906. PROHIBITED SIGNS. The following types of signs shall be prohibited, except where specifically permitted in this Article:
- (a) Any sign that is not otherwise included as a type of sign authorized hereby.
 - (b) Any sign that prevents free ingress to or egress from any door, window, or fire escape.
 - (c) Any sign that obstructs the view within the sight distance triangle of a street intersection or that interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public or private streets.
 - (d) Any outdoor advertising sign.
 - (e) Any non-affixed sign.
 - (f) Any roof sign, banner, portable sign, pennant, searchlight, A-frame or sandwich sign, snipe sign or temporary sign.
 - (g) Any directly, indirectly or semi-illuminated sign and neon sign.
 - (h) Pole or pylon signs.
 - (i) Any sign located on public property.

- (j) Any sign that, by reason of its size, location, movement, content, coloring, or manner of illumination, may be confused with or construed as a traffic-control sign, signal or device, or the light of an emergency vehicle or that hides from view any traffic or street sign or signal or device.
- (k) Any sign giving false statements concerning zoning or land use.
- (l) Any abandoned sign.
- (m) Any sign containing obscene, indecent or profane messages.
- (n) Any sign containing false or misleading advertising.
- (o) Any changeable copy sign, except on churches, public or private schools, or public buildings, theater listing signs, and service station price signs.
- (p) Attention-attracting devices.

16-907. **SIGN PERMIT REQUIRED; WHEN; APPLICATION PROCEDURES.**

- (a) Except as otherwise provided in Section [16-908](#), no sign shall be installed, erected or set in place, nor shall any sign alteration or sign refacing occur, until a sign permit has been issued by the building inspector and until a sign permit fee as set forth in Chapter IV, Article 9 of the City Code is paid.
- (b) Any person desiring to erect a sign for which a permit is required shall submit an application to the city clerk on a form provided by the City that shall contain the following information:
 - (1) name, address and telephone number of the applicant;
 - (2) location of building, structure or lot to which or upon which the sign is to be attached or erected;
 - (3) position of the sign in relation to nearby buildings or structures, streets and sidewalks;
 - (4) drawing of the sign and specifications describing the sign;
 - (5) length of time the sign will be displayed;
 - (6) written consent of the owner of the building, structure or land to which or on which the sign is to be attached or erected, including the owner's address and phone number;
 - (7) other information as the city clerk and/or building inspector shall require to show full compliance with this Article and all other provisions of the City Code.
- (c) When the sign permit application is complete, the city clerk shall forward the application to the building inspector. It shall be the duty of the building inspector, upon receipt of the application, to review the application and to conduct other investigation as is necessary to determine the application's accuracy. If the applicant has provided the information requested in the application, the information is accurate and it appears that the proposed sign will comply with this Article and all other applicable provisions of the City Code, the building inspector shall issue a sign permit. All issued sign permits shall contain the number of the permit and the date the permit is issued. If the building inspector determines that the proposed sign is not in compliance with all requirements of the City Code, the building inspector shall notify the applicant in writing that the requested permit will not be issued, state in the notice the reasons for the denial, and inform the applicant of his or her right to appeal the building inspector's determination to the board of zoning

appeals. The building inspector shall either issue or deny the sign permit within thirty (30) days of the date the city clerk receives the application for the permit. If, on the thirtieth (30th) day after the city clerk received the application, the application is not complete, the building inspector shall deny the requested permit.

- (d) Any person aggrieved by the denial of an application for a sign permit by the building inspector may appeal the building inspector's refusal to the board of zoning appeals by giving written notice to the city clerk not later than twenty (20) days after notice of the building inspector's refusal to issue the requested sign permit. In any appeal, the board of zoning appeals shall review the action of the building inspector at its next regularly scheduled meeting, but not later than thirty (30) days after notice of appeal is received by the city clerk, and if it determines that the action of the building inspector was incorrect, shall order the issuance of the permit under the terms and conditions as are appropriate.
- (e) In certain instances, as specifically designated in these regulations, the planning commission shall consider and approve or deny sign permit applications. In this instance, the building inspector shall not issue a sign permit unless the planning commission has first approved the subject sign permit application. The planning commission shall consider the sign permit application within the time frames set forth hereinabove for the building inspector to either issue or deny the sign permit. If the planning commission denies the sign permit application, the applicant may appeal the planning commission's denial to the governing body by giving written notice to the city clerk not later than twenty (20) days after the planning commission's denial. The applicant shall be provided written notice of the planning commission's consideration of the sign permit application and the governing body's review of the applicant's appeal of the planning commission's denial, if the appeal is requested. The governing body shall consider the sign permit applicant's appeal at its next regularly scheduled meeting and the time frame for the building inspector to issue or deny the sign permit shall be tabled until two (2) working days after the governing body has heard the sign permit applicant's appeal.
- (f) All rights and privileges acquired pursuant to this Article, or any amendment hereto, are mere licenses and are revocable at any time by the City for cause, and all permits shall contain this provision.
- (g) All signs hereafter installed shall have permanently affixed thereto a label clearly visible at all times indicating the number of the sign permit. (Ord. 625)

16-908. **SIGNS EXCLUDED FROM SIGN PERMIT REQUIREMENT.** The following signs are not required to obtain a permit, however, these signs shall otherwise comply with this Article and all other applicable provisions of the City Code.

- (a) Sign maintenance.
- (b) Signs not exceeding two square feet in area that are customarily associated with residential use and that are not a commercial sign, such as signs giving property identification names or numbers, names of occupants, signs on

mailboxes or newspaper tubes, signs on private property relating to private parking or signs warning the public against trespassing or dangers from animals.

- (c) Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and information signs, and traffic, directional or regulatory signs.
- (d) Official noncommercial signs erected by public utility companies.
- (e) Flags, pennants or insignia of any governmental body, public or private school, church, synagogue or other place used primarily for worship, community centers, or other public, semi-public, or civic organizations or other similar noncommercial entity, when not displayed in connection with a commercial promotion or as an advertising device, and; provided that, not more than three flags, pennants or insignia shall be displayed on any building, structure or premises.
- (f) Integral decorative or architectural features of buildings, so long as these features do not contain letters, trademarks, moving parts or lights.
- (g) Signs on or adjacent to doors at the rear of commercial or industrial buildings displaying only the names and addresses of the occupants. Where multiple tenants share the same rear door, the sign may display the name and address of each tenant. These signs shall not exceed four square feet.
- (h) Signs painted or otherwise permanently attached to a currently licensed motor vehicle, which vehicle is not primarily used as a sign.
- (i) Contractor remodeling signs identifying the contractor(s) performing remodeling or property improvement work; provided that, not more than one detached, non-illuminated, single-faced sign, not exceeding four square feet, shall be permitted for each contractor only during the period of active construction by the contractor on the premise where the remodeling sign is located.
- (j) Non-illuminated, real estate signs in single family, duplex residential and multi-residence districts.
- (k) Commercial and industrial sales or leasing signs.
- (l) Political signs.
- (m) Temporary signs that advertise a garage sale in accordance with Section 5-408 of the City Code.
- (n) Temporary signs at churches, synagogues and other similar places of worship, community centers, public and private schools and buildings or structures owned or leased and used by other public, semi-public, or civic organizations.
- (o) Building markers. (Ord. 683, Sec. 2)

16-909. **SIGNS PERMITTED IN ALL DISTRICTS.**

- (a) Churches, synagogues, and other similar places of worship, schools, libraries, community centers, or other public or semi-public facilities shall be allowed two (2) wall signs, with not more than one (1) on each facade. No sign shall have a sign surface area exceeding twenty-five (25) square feet. In lieu of one (1) of the wall signs, one (1) detached monument sign shall be permitted. The monument sign shall be located on the premises, be not less

than ten (10) feet from the street line, and the sign surface of each sign face shall not exceed twenty-five (25) square feet in area per face. The height of the sign shall not exceed five (5) feet; provided, that for each two (2) foot setback from the street line in excess of ten (10) feet, one (1) additional foot may be added to the height of the sign to a maximum of eight (8) feet.

- (b) One parking lot directional sign shall be permitted at each entrance to a building site. These signs may be a pole or pylon sign, single- or two-faced and shall not exceed three feet in height, and four square feet of sign surface per face. These signs may indicate entrances, exits, addresses, direction of traffic-flow and the location of loading docks, parking areas, delivery doors, drive-through lanes and similar facilities. The sign shall be located on the premises and shall be set back from the street line a minimum of three feet. Up to 25% of the sign surface area may be used to display the name or logo of the developer, building or principal tenant.
- (c) Official governmental jurisdiction flags, including flags indicating weather conditions, and flags that are emblems of religious, charitable, public and nonprofit organizations. A single corporate flag shall be permitted in conjunction with at least one (1) governmental flag. No flag shall exceed fifty (50) square feet in area.
- (d) Building markers.
- (e) Noncommercial signs, provided that these signs shall conform to all sign surface and sign type area, height, setback, location, construction and maintenance requirements applicable to all other signs in the zoning district in which the noncommercial sign is located as set forth in this Article or any other applicable provisions of the Code. (Ord. 625)

16-910. SIGNS ALLOWED IN THE SINGLE-FAMILY RESIDENCE, DUPLEX RESIDENCE AND MULTI-RESIDENCE DISTRICTS.

- (a) One (1) non-illuminated, detached real estate sign is permitted on any lot. The sign may be a pole or pylon sign, shall have one (1) face, have a sign surface not more than six (6) square feet in area with a maximum height of six (6) feet, and shall be set back a minimum of ten (10) feet from the street line. Three (3) "open house" pole or pylon signs for a single-family or duplex residence that is being offered for sale shall be allowed in addition to the real estate sign during the period that the property is actually open for inspection. One (1) "open house" sign may be placed on the property that is offered for sale. Open house signs shall not exceed three (3) feet per side in area. The "sold" language may be placed on a real estate sign in a manner so as not to increase the height or area of that sign in excess of the size limitation as set forth in this section for a total period of time not to exceed seven (7) consecutive calendar days following the execution of the contract for sale.
- (b) Construction site identification signs may be permitted during the development of any project. The sign may be a pole or pylon sign, and may identify the project, the owner or developer, the future tenants, the architect, engineers, realtors, contractors and subcontractors involved, funding sources, and may contain related information including, but not limited to, sales or leasing information. Not more than one (1) detached, non-illuminated

construction site identification sign shall be permitted for each one thousand (1,000) square feet of perimeter street frontage or portion thereof. If the project has more than one (1) street frontage, then a separate construction site identification sign may be permitted on each frontage; provided that, a maximum of three (3) construction site identification signs shall be permitted for any project.

These signs shall not exceed eight (8) feet in height, thirty-two (32) square feet in sign surface area per face, with a maximum of two (2) faces, and shall be set back at least twenty (20) feet from the street line. For each additional one' (1) foot setback from the street line over twenty (20) feet, the sign surface area per face may be increased one (1) square foot, to a maximum of one hundred (100) square feet. For each additional ten (10) foot setback from the street line over twenty (20) feet, the height may be increased six (6) inches, to a maximum of twelve (12) feet. No sign shall be located closer than fifty (50) feet from any residential structure. All signs for residential projects shall be removed when certificates of occupancy have been issued for ninety percent (90%) of the dwelling units in the project.

- (c) In addition to construction site identification signs, each multi-residence project may have one banner not exceeding fifty (50) square feet. The banner may be located only on the roof or wall of the project clubhouse or on one (1) of the individual multi-residence buildings within the project. That banner shall be in place for a maximum time period of sixty (60) days from the issuance of the sign permit and may not be renewed except that each project may obtain additional permits for the afore-described banners after a three (3) year time period is passed from the issuance of previous sign permits for a banner for the subject multi-residence project. These banners may only contain the words "now renting" or "now leasing" or "for sale," along with the name of the project, address or location, phone numbers, development company or owner and directional symbols.
- (d) Upon removal of construction site identification signs for a multi-residence project or congregate care facility, a temporary sales or leasing sign may be constructed or placed on the property. A temporary sales or leasing sign may be a pole or pylon sign shall be non-illuminated and shall not exceed five (5) feet in height, and shall not exceed fifteen (15) square feet of sign surface per face. The sign shall be within two (2) feet of the project identification sign. These signs may only contain the words "now renting" or "now leasing" or "for sale," along with the name of the company, address or location, phone numbers, development company or owner and directional symbols.
- (e) Project identification signs for a subdivision or residential project may be permitted at each entrance to the subdivision or residential project. All project identification signs shall be monument signs, may be indirectly or semi-illuminated signs and, except as hereinafter provided, shall be located on the premises. The sign shall not exceed five (5) feet in height and the sign surface shall not exceed fifty (50) square feet in area per face. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of three (3) feet on all sides of the

sign base. For a project that is situated on both sides of a public or private street, one (1) project identification sign may be located on each side of the street, or, alternatively, one (1) project identification sign may be located in a landscaped median with the approval of the planning commission. Where a project identification sign is to be located in the area between the street lines of a street, plans shall be submitted to the planning commission indicating the location, size and design of the project identification sign, as well as a copy of the bylaws or other documentation of the association that will have permanent responsibility for maintenance of the sign and required landscaping.

In addition to project identification signs permitted at entrances to the subdivision or project, one project identification sign may be permitted on the premises, adjacent to each intersection of two (2) thoroughfares and each intersection of a thoroughfare and a collector street.

- (f) One (1) non-illuminated banner may be mounted on a residential property that is featured on an annual or semi-annual homes tour sponsored by an organization that encourages ownership, remodeling or renovation during the days that the homes tour takes place. No more than two (2) banners that bring attention to a special announcement or event at those premises may also be displayed on schools, churches, or other places of worship not more than three (3) times each calendar year for a period not to exceed ten (10) days. A permit for banners four (4) feet by eight (8) feet in size or smaller may be issued by the building inspector. Permits for larger banners or for periods exceeding ten (10) days must be first approved by the planning commission.
- (g) Noncommercial signs, provided, no sign shall exceed eight (8) feet in height; the sign surface area does not exceed fifty (50) square feet in area per face, with a maximum of two faces; and the sign shall be set back a maximum of five (5) feet from the street line. Noncommercial signs may be wall signs, detached signs, pole or pylon signs, temporary signs and banners. These signs shall not be directly illuminated. No noncommercial sign shall be displayed on private property without the written consent of the property on which the sign is displayed. (Ord. 625)

16-911. **SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL DISTRICTS.**

- (a) To the extent that the residential land use is permitted in a commercial or industrial zoning district, signs for a residential land use shall be permitted as in the single-family, duplex residential and multi-residence districts.
- (b) Construction site identification signs may be permitted during the development of any project. These signs may identify any contractor or subcontractor performing work on the property and may be pole or pylon signs. These signs may identify the project, the contractor or subcontractor and the nature of the work performed by that contractor or subcontractor. No more than one (1) detached, non-illuminated, construction site identification sign shall be permitted for each contractor or subcontractor. If a development has more than one (1) street frontage, then a separate construction site identification sign may be permitted for each frontage for each contractor or

subcontractor. These signs shall not exceed eight (8) feet in height or thirty-two (32) square feet in sign surface per face, with a maximum of two (2) faces, and shall be set back at least twenty (20) feet from the street line. For each additional one (1) foot setback from the street line over twenty (20) feet, the area per face may be increased one (1) square foot, to a maximum of one hundred (100) square feet. For each additional ten (10) foot setback from the street line over twenty (20) feet, the height may be increased six (6) inches, to a maximum of twelve (12) feet above average grade. No sign shall be located closer than fifty (50) feet from any residentially zoned property. All signs shall be removed prior to the issuance of the certificate of occupancy, for the last building of each phase of the project.

- (c) All commercial and industrial districts.
 - (1) Upon removal of construction site identification signs for *a commercial or industrial project, one commercial sales or leasing sign may be constructed or placed on the property for each building. Provided that, any commercial sales or leasing sign that is displayed longer than two hundred seventy (270) days shall be required to obtain a permit pursuant to Section [16-907](#). Any sign displayed for a period longer than provided for herein for which a sign application has not been submitted to the city clerk shall be a nonconforming sign. No sign that is displayed longer than two hundred seventy (270) days for which a sign permit application is pending shall be a nonconforming sign. The sign shall be non-illuminated, may be a pole or pylon sign, may be single- or double-faced, shall not exceed five (5) feet in height, and shall not exceed twenty (20) square feet of sign surface per face. Any sign may contain the words "now renting," "now leasing," or "for sale," along with the name of the project, address or location, phone numbers, development company or owner and directional symbols. Signs permitted by this section in the office building, planned industrial park, and planned office building districts shall be located within ten (10) feet of the building that is being advertised on the sign. Signs permitted by this section in retail business, planned restricted business and planned general business districts shall be set back a minimum of fourteen (14) feet from the street line of a public street or the curb line of private streets. In the case of vacant land, all signs shall be set back a minimum of twenty-five (25) feet from the street line of a public street or the curb line of private streets.
 - (2) One (1) corporate flag may be displayed in conjunction with not more than two (2) governmental flags.
 - (3) One (1) window sign in lieu of any sign permitted by this Article, provided that, the window sign shall not have a sign surface area exceeding eight (8) square feet.
- (d) Office building and planned office building districts.
 - (1) In the office building and planned office building districts, not more than three (3) wall signs shall be permitted on each office building,

- no more than one (1) sign on any facade. No sign shall have a sign surface area exceeding seven percent (7%) of the area of the wall upon which it is mounted.
- (2) In lieu of the wall signs, one monument sign for each building shall be permitted. The sign shall not exceed five (5) feet in height and the sign surface area shall not exceed fifty (50) square feet per face if located at least ten (10) feet from the street line of public street or private street curb line. For each additional two foot setback from the street line of a public street or a private street curb line over 10 feet, one additional foot may be added to the height of the sign to a maximum of ten (10) feet if not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of three (3) feet on all sides of the sign base.
 - (3) In lieu of one (1) wall sign, one (1) marquee sign or one (1) canopy sign shall be permitted. The sign shall be first approved by the planning commission.
 - (4) In addition to signs, if a development plan is required for the use, the marquee sign or canopy sign shall be approved at the time of final development plan approval permitted above, a wall directory sign containing the names and addresses of tenants may be installed by each exterior entrance to the building. No sign shall exceed four (4) square feet in area.
- (e) Retail business and planned restricted business districts.
- (1) In retail business and planned restricted business districts, wall signs as indicated above for office building and planned office building districts shall be permitted except that these signs shall be allowed for each business or commercial establishment in a multi-tenant building and shall be located on the facade of the tenant space. These signs may be indirectly illuminated or semi-illuminated, but shall not extend above the height of the wall upon which they are mounted, and any wall bulletin shall not be larger than ten (10) square feet in area. In addition, one (1) non-illuminated wall sign, not more than six (6) square feet in area, may be placed at each major entrance to a multi-tenant building.
 - (2) In lieu of one of the wall signs, one monument sign for each building shall be permitted. The sign shall not exceed five (5) feet in height and the sign surface area shall not exceed fifty (50) square feet per face if located at least ten (10) feet from the street line of a public street or private street curb line. For each additional two (2) foot set back from the street line of a public street or private street curb line over ten (10) feet, one (1) additional foot may be added to the height of the sign, to a maximum of ten (10) feet. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of three (3) feet on all sides of the sign base.

- (3) In lieu of one (1) wall sign, one (1) projecting sign of the same area as the wall sign replaced shall be permitted, provided that no projecting sign shall extend more than three (3) feet from the face of the building or one third (1/3) of the sidewalk width from the wall of the supporting building, whichever is less. The lower edge of a projecting sign shall be no closer than ten (10) feet to any sidewalk or fourteen (14) feet to any street or alley surface where vehicles may pass below. The upper edge of a projecting sign shall neither stand vertically above the eave line of a single structure nor above the second-story sill line of a multi-story structure. All projecting signs shall be attached at right angles to the supporting structure and may be anchored no more than six inches from the structure.
- (4) In lieu of one wall sign, one neon sign not exceeding 10 square feet in sign surface area shall be permitted. Any neon signs located within the building and within 48 inches of any window or door and visible from outside of the building shall constitute the one neon sign allowed in lieu of one wall sign. Retail liquor stores so licensed by the Kansas Division of Alcoholic Beverage Control using a neon sign shall be further limited to a sign that has a border, lettering, figure or design of the sign or tubing that is not more than four inches high or three inches wide, restricted to lines that shall be not more than one inch apart, only one line shall be allowed to be in excess of three feet in length, and any border shall not allow the sign surface to exceed 10 square feet. Any retail liquor store sign shall be located on the corner of a window or on the door. In addition, retail liquor stores shall be allowed to use interior neon tubing to partially or fully outline a window or windows providing that neon tubing does not flash, blink, rotate or move.
- The neon border shall not be permitted to be wider than a maximum of four inches. In measuring the area of the sign or tube, a rectangle shall be constructed from the highest, lowest and widest points where the sign or tube, exists, and the area shall be calculated to include all that area within the rectangle. In no event shall a neon sign be used on any facade of the main structure except as otherwise provided herein. No neon signs shall blink, flash or otherwise be used to display intermittent lighting sequences or to simulate motion. Neon signs shall be installed, wired and inspected in accordance with the National Electrical Code, as it may be amended.
- (5) In lieu of one wall sign, one marquee sign or one canopy sign shall be permitted. The sign shall be first approved by the planning commission. If a development plan is required for the use, the marquee sign or canopy sign shall be approved at the time of final development plan approval.
- (6) Drive-through restaurants and car washes may have two single-faced menu boards located in conjunction with the drive-through lane. The

sign shall not exceed eight feet in height or 32 square feet of sign surface area per face.

- (7) In the case of a shopping center designated as one unified entity and consisting of one or several attached or free-standing buildings, one indirectly or semi-illuminated monument sign, in addition to all other authorized signs may be permitted identifying the entire center. A monument sign shall not exceed five feet in height, and the sign surface area shall not exceed 50 square feet per face if located 10 feet from the street line of a public street or private street curb line. For each additional two foot setback from the street line of a public street or private street curb line, one additional foot may be added to the height of the sign to a maximum of 10 feet. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of three feet on all sides of the sign base.
 - (8) Except in the case of a shopping center designated as one unified entity and consisting of one or several attached or free-standing buildings, one indirectly or semi-illuminated monument sign shall be permitted in lieu of one wall sign for each commercial building, which sign shall conform to the height, size and setback requirements applicable to monument signs in the office building, and planned office building districts.
 - (9) Banners may be used as architectural or decorative accessories in shopping centers provided they are generally uniform throughout a group of shops, and in harmony with the architectural theme of the center. No banner shall be installed unless its location and design have first been approved by the planning commission.
- (f) Planned general business and planned industrial park district.
- (1) Each business establishment shall be permitted not more than three indirectly or semi-illuminated wall, marquee or canopy signs, not more than one on each business facade, the sign surface area of the sign shall not exceed seven percent of the total area of the facade upon which it is placed. wall signs shall not extend above the height of the wall. Marquee and canopy signs shall not extend more than six inches beyond the front of the marquee or canopy on which they are located, above the height of the wall on which the marquee or canopy is mounted, and their lower edge shall be no closer than 10 feet to any sidewalk or 14 feet to any street or alley surface where cars may pass below. Any wall bulletin. shall not exceed 10 square feet in sign surface area. In addition, one (1) non-illuminated wall sign, not more than six square feet in sign surface area, may be placed on each major entrance to a multi-tenant building.
 - (2) In lieu of one of the above signs, one projecting sign shall be permitted for each establishment provided that the sign surface area of the projecting sign shall not exceed seven percent (7%) of the total area of the facade upon which it is attached, shall not extend more

than three (3) feet from the face of the building or one-third (1/3) of the sidewalk width, whichever is less, above the roof level of the building where the sign is located, and the signs' lower edge shall be no closer than ten (10) feet to any sidewalk or fourteen (14) feet to any street or alley surface where cars may pass below.

- (3) In addition, project identification signs shall be permitted. All signs shall be monument signs and may be indirectly or semi-illuminated signs. Except as hereinafter provided, project identification signs shall be located on the premises at least 10 feet from the street line. These signs shall not exceed five feet in height, and the sign surface area shall not exceed 50 square feet per face. For each additional two foot setback from the street line over 10 feet, one additional foot may be added to the height of the sign, to a maximum of 15 feet, and four square feet may be added to the sign surface area of the sign, to a maximum of 100 square feet. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a maximum of three feet on all sides of the sign base. Where a project is situated on both sides of a public or private street, one project identification sign may be located on each side of the street, or, alternatively, one project identification sign may be located in the public or private street right-of-way with the approval of the planning commission. Where a project identification sign is to be located in the public or private street right-of-way, plans shall be submitted to the planning commission indicating the location, size and design of the project identification sign, as well as a copy of the bylaws or other documentation of the association which will have permanent responsibility for maintenance of the sign and required landscaping. In addition to project identification signs permitted at entrances to the project, one project identification sign may be permitted on the premises adjacent to each intersection of two thoroughfares and each intersection of a thoroughfare and a collector street.

- (i) Drive-through restaurants and car washes may have two single-faced menu boards located in conjunction with the drive-through lane. Each sign shall not exceed eight feet in height or 32 square feet of sign surface area per face. (Ord. 625)

16-912.

ADDITIONAL REGULATIONS APPLICABLE TO ALL DISTRICTS.

- (a) Any sign authorized in any zoning district may contain non commercial copy in lieu of other authorized copy; provided that, the sign must comply with the sign surface, height, type, setback, location, construction and maintenance requirements set forth in this Article or any other provision of the City Code applicable to the zoning district in which the sign is located.
- (b) All signs shall be of sound structural quality, be maintained in good repair and have a clean and neat appearance. Land adjacent to these signs shall be kept free from debris, weeds and trash.

- (c) No part of any sign shall be located closer than ten (10) feet from a side or rear property line.
- (d) Time and/or temperature instruments may be permitted in lieu of one (1) permitted wall sign in each commercial and industrial zoning district. The time and/or temperature instrument may be a projecting sign in lieu of a wall sign. Provided that the design, size, materials, and illumination of the instrument is in harmony with the building and is architecturally compatible. The instrument shall be approved by the planning commission.
- (e) Any backlighted sign or backlighted canopy, marquee or panel shall comply with all federal, state and local laws concerning the placement, dimensions, materials or other regulations controlling these signs; provided, however, that the dimensions of a backlighted sign or backlighted canopy, marquee or panel shall be measured by constructing a rectangle for the highest, lowest and widest points of the object, display or surface that displays a light source, except that the opaque surfaces immediately related to or a part of that same sign or panel shall also be calculated in the dimensions of the sign. Provided further, in calculating the dimensions of a continuous panel which spans at least eighty percent (80%) of any one (1) facade or a single common structure with multi-tenants, the continuous opaque areas between, over and below the lighted area for these independent operations shall not be calculated to determine the dimensions of the signs, canopies, marquees, or panels. Up to twenty-five percent (25%) of the surface of any face of any marquee, facie, or wall may be backlighted so long as it is ornamental or decorative in purpose and does not employ any business and/or company logo, trademark, or pattern exclusive to a business and/or company. Similarly, canopies may be backlighted to the extent of twenty-five percent (25%) of the wall area to which they are attached. The backlighted area shall be in addition to signage areas otherwise allowed.
- (f) Identification of services and products shall not exceed twenty percent (20%) of the total sign surface.
- (g) The background panel of all semi-illuminated signs shall be opaque, with only the lettering illuminated. (Ord. 625)

16-913.

SERVICE STATIONS. Service stations shall be permitted the following signs:

- (a) One non-illuminated, indirectly illuminated or semi-illuminated monument sign provided the sign is not closer than 50 feet to any boundary of a residential district. The sign shall not exceed 10 feet in height nor 70 square feet in sign surface area per face. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of three feet on all sides of the sign base.
- (b) No more than two signs that display fuel prices shall be permitted. These signs may be monument or wall signs, indirectly illuminated or semi-illuminated signs, but shall not exceed 15 square feet in sign surface area each.
- (c) Each fuel pump island may have a sign on each end identifying whether the island is a "full service" or "self service" island. If a service station is

completely self-service, a maximum of two "self service" signs shall be permitted. These signs shall not exceed four square feet in area each.

- (d) A maximum of two non indirectly or semi-illuminated signs displaying credit card information shall be permitted. These signs shall not exceed one square foot in area each.
- (e) Fuel pumps may display signs indicating only the type and brand name of fuel, in addition to signs required by law which shall be of minimum size and quantity.
- (f) A maximum of two additional non-illuminated signs not to exceed six square feet in area and to be mounted not to exceed four (4) feet in height shall be allowed. These signs may display fuel prices. (Ord. 625)

16-914. SIGNS PERMITTED IN CONJUNCTION WITH SPECIAL USE PERMITS.

- (a) In the case of uses authorized by a special use permit, all signs in conjunction therewith shall be approved by the planning commission, except where private sign criteria, in accordance with Section [16-916](#), have been previously approved for development.
- (b) In reviewing and approving the signs, the planning commission shall take into consideration:
 - (1) the use of the facility;
 - (2) the height of the building;
 - (3) the surrounding land uses and zoning districts;
 - (4) the relationship of the site to public streets and the type of public street; and
 - (5) the topography of the site. Where appropriate, the sign regulations of the underlying zoning district or the most analogous zoning district shall be allowed. (Ord. 625)

16-915. POLITICAL SIGNS.

- (a) Political signs may be placed on private property only after permission has been granted by the owner of the property or his or her authorized agent.
- (b) Political signs shall not be directly illuminated signs.
- (c) The maximum permissible area of political signs shall be as follows:
 - (1) On land that is platted or developed for residential uses, and on land that is vacant and unplatted, but shown on the City's comprehensive plan as residential, these signs shall not exceed three square feet of sign surface area per face.
 - (2) On land that is zoned for commercial, office or business uses, and on land that is vacant and unplatted, but shown on the City's comprehensive plan as commercial, office or business, the sign shall not exceed 32 square feet per face. If a tract shall include land meeting the requirements of both subsections (c) (1) and (c) (2) hereof, the entire tract shall be entitled to the maximum sign size as specified in this subsection (c) hereof.
- (d) Political signs may be pole or pylon signs, snipe signs, non-affixed signs, detached signs and/or temporary signs.

- (e) It shall be unlawful for any person to place or allow to remain on any private or public property within the City, in a stationary manner, any vehicle designed or used for the primary purpose of displaying a political sign. A vehicle that is temporarily stationed or in motion may display a political sign so long as the sign, as displayed when the vehicle is stationary, does not interfere with its ability to lawfully operate on the public streets. A vehicle shall be considered temporarily stationed when the vehicle is engaged in the regular business, transportation or work of the owner, is temporarily parked or stopped between usage, and is not used merely, mainly or primarily, to display a political sign.
- (f) No political signs shall be positioned in a manner that may cause a hazard to life or safety.
- (g) Political signs shall not be placed, painted, marked, written, posted or otherwise affixed to or on public property. Political signs may be placed on the unpaved area between the street lines of any street adjacent to private property that is not owned or leased by a public entity, provided the owner or agent of the adjacent private property has granted permission, and the signs comply with all other applicable City Code provisions.
- (h) With respect to political signs, the candidate for office shall be presumed to be the person responsible for the posting of the sign, unless written notice has been given to the City of the name, address, telephone number and signed consent of the other responsible person. All notices concerning violations shall be given to the candidate, at the address listed on the election records, or to the other properly designated responsible person. Political signs relating to an identifiable group or individual shall be presumed to be the responsibility of the chairman of any organized political group publishing or represented by the sign, or any individual identified on the sign as its sponsor. All the political signs shall be presumed to be the responsibility of the owner or person in control of the private property where the sign is located.
- (i) When the building inspector shall determine that any political sign is in violation of these regulations, the building inspector shall cause personal, telegraphic or written notice of the violation to be given to a responsible party by the most expedient means feasible. All signs shall be abated, removed or made to conform to these regulations within twenty-four (24) hours after notice is given. The notice shall indicate that unless an objection is received from a responsible party within twenty-four (24) hours after receipt of that notice, all political signs that remain in violation shall be deemed to be abandoned signs and are subject to removal by the City without further notice or procedure. There shall also be a presumption that any political sign concerning a scheduled public election campaign that remains after the day of that election shall be considered an abandoned sign and subject to summary removal. The City may cause any political sign that is an immediate peril to persons or property to be removed summarily and without notice. Nothing in this section shall be deemed to make any person liable, criminally or civilly, for any political sign posted on a person's

property without his or her permission by persons unknown to him or her, or by persons over whom the person has no control. (Ord. 625)

16-916. PRIVATE SIGN CRITERIA. All hotels and motor hotels, and shopping centers business parks, office parks or industrial parks shall be required to prepare a set of sign criteria governing all exterior signs in the development. The criteria shall be binding upon all subsequent purchasers or lessees within the development. The size, colors, materials, styles of lettering, appearance. of logos, types of illumination and location of signs shall be set out in the criteria. In all respects, the criteria shall be within the regulations set out in this Chapter and shall be for the purpose of assuring harmony and visual quality throughout the development. Final development plans (in the case of a planned zoning district) or building permits (in the case of a conventional zoning district) shall not be approved until the governing body has approved the sign criteria. No sign permit shall be issued for a sign that does not conform to the criteria. For purposes of this section, the terms "shopping centers, business parks, office parks or industrial parks" shall mean a project of one or more buildings that has been planned as an integrated unit or cluster on property under unified control or ownership at the time that zoning was approved by the City. The sale, subdivision or other partition of the site after zoning approval does not exempt the project or portions thereof from complying with these regulations relative to the number of detached signs, harmony and visual quality of signs to be installed.

16-917. REMOVAL OF UNSAFE, UNLAWFUL OR ABANDONED SIGNS.

- (a) If the building inspector shall find that any sign regulated herein is unsafe or insecure, or is a menace to the public, or, has been constructed or erected, or is being maintained in violation of this Article or Chapter 4, Article 9 of the City Code, the building inspector shall give notice to the permittee thereof. If the permittee fails to alter or remove the sign so as to comply with the standards herein set forth within 48 hours after notice, the sign may be removed or altered to comply with these provisions by the building inspector at the expense of the permittee or owner of the property upon which the sign is located, and the permit shall be revoked. The building inspector shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed. The building inspector may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice.
- (b) If the time period set forth in subsection (a) hereof has elapsed and the sign or signs have not been removed, the building inspector shall send written notification by certified mail, return receipt requested, to the record owner of the property on which the sign is located indicating when the sign shall be, removed. If the sign has not been removed within 30 days after receipt of the notice, the City may have the sign removed and the cost assessed to the property owner.
- (c) Where a sign has been removed by the City pursuant to subsection b hereof, the city clerk shall mail a statement of the cost of removal of that sign or signs to the last known address of the record owner or persons in charge of the property. If the cost is not paid within 10 days from the mailing of the

notice, the governing body shall proceed to pass an ordinance levying a special assessment for the cost against the lot or piece of land and the city clerk shall certify the assessment to the county clerk for collection of payment the same as other assessments and taxes are collected and paid to the City.

- (d) If a building, structure or premise is a vacated for a six-month period of time, the owner of that property shall be responsible for removing any signs located thereon with the exception of commercial and industrial sales or leasing signs. In addition, the owner shall be responsible for restoring the facade of the building, structure or premise to its normal appearance. (Ord. 625)

16-918. PROHIBITION AND AMORTIZATION OF NONCONFORMING SIGNS.

- (a) All nonconforming signs that existed on May 25, 1994, shall be discontinued and removed within 5 1/2 years of the effective date hereof. No changes in the basic structure, source of illumination, location or appearance of a sign, sign alteration, or sign refacing shall be made to any sign. If the business to which the sign is related should move to another site (which move, in the opinion of the building inspector, creates, in effect, an outdoor advertising sign) then the sign shall be removed or otherwise brought into full compliance with all applicable provisions of the Code.
- (b) Upon application to the city clerk, the governing body may extend the time for discontinuance and/or removal of a nonconforming sign. No extension of time shall be granted for a period of time longer than that necessary to allow the owner of the sign to recoup the owner's initial investment in the nonconforming sign. The application for extension shall be on a form provided by the City and shall be accompanied by:
 - (1) a copy of the original sign permit issued for the nonconforming sign or other evidence satisfactory to the City of the date upon which the nonconforming sign was initially installed;
 - (2) evidence that annual sign inspections in accordance with Chapter 4, Article 9 have taken place each year since the initial date of installation of the nonconforming sign;
 - (3) documentation evidencing the initial cost of purchase or construction and installation of the sign;
 - (4) if the nonconforming sign is not on property owned by the sign owner, the lease or other document establishing the sign owner's right to place the sign at its present location and all amendments thereto; and
 - (5) all documents evidencing the degree to which the value of the sign has been depreciated for income tax or other purposes.
- (c) In determining whether to grant the extension and the length of the extension, if one is to be granted, the governing body shall consider the following:
 - (1) The nature of the nonconforming sign;
 - (2) The character of the sign;
 - (3) The location of the sign;

- (4) That part of the owner's total business that will be impacted by the removal or replacement of the nonconforming sign;
- (5) The sign owner's original capital investment in the nonconforming sign;
- (6) The investment realization from the nonconforming sign to date;
- (7) Depreciation taken by the owner of the sign for income tax or other purposes;
- (8) The life expectancy of the nonconforming sign;
- (9) The existence or non-existence of lease obligations;
- (10) The existence of a contingency clause in any lease permitting termination of the lease;
- (11) The other economic uses of any leasehold interests in the land or structure upon which the sign is located;
- (12) The value of, or feasibility of, subleases and assignments of any lease.
- (13) The extent to which the investment of the owner in the nonconforming sign has been recouped;
- (14) The fact that similar signs are prohibited in the same area;
- (15) Other reasonable uses of the land;
- (16) The salvage value of the nonconforming sign;
- (17) The sign owner's loss of sharing revenue, if any; and
- (18) The ability of the sign owner to transfer the nonconforming sign to another location where it could be placed and would be in compliance with this Article and all other provisions of the Code. (Ord. 625)

16-919. APPROVAL OF VARIANCES. Any variance from these regulations may be approved only by the board of zoning appeals after an application for a permit has been denied for the proposed sign, by the building inspector as provided in these regulations. (Ord. 625)

ARTICLE 10. LANDSCAPING AND SCREENING

16-1001. STATEMENT OF INTENT. The intent of the following provisions is as follows: to provide greenery to visually soften paved areas and buildings; to establish optimum environmental conditions by providing shade, air purification, oxygen regeneration, groundwater recharge, retardation of storm water runoff, and abatement of noise glare and heat; to ensure the replenishment of the local stock of native trees by utilizing plant materials that are generally native or hearty to the region; to preserve existing trees; to screen certain unsightly equipment or materials from the view of persons on public streets or adjoining properties; and to buffer uncomplimentary land uses and generally enhance the quality and appearance of developed properties within the City.

16-1002. INTERPRETATION OF LANDSCAPING TERMS. Where necessary to interpret the precise meaning of technical landscaping terms utilized in this Chapter or

elsewhere in this City Code, reference shall be had to The American Standard For Nursery Stock, as published by the American Association of Nurserymen.

16-1003. GENERAL REQUIREMENTS. All land areas which are too be unpaved or not covered by buildings shall be brought to finish grade and planted with turf or native grass or other appropriate ground cover. In addition to the minimum number of trees required to be planted by this Chapter, appropriate number or amount of shrubs, ground cover and/or turf each plantings shall be included within each project, to be determined by the design criteria for the project relating to visual safety, species and landscape function.

16-1004. LANDSCAPING PLAN REQUIRED. All plans submitted in support of a final development plan, site plan, building permit or land use permit, except for property in the single-family residence district or the duplex residence district, shall include a landscaping plan signed by a registered landscape architect. All landscaping plans shall include the following information:

- (a) North point and scale.
- (b) Topographic information and final grading adequate to identify and properly specify planting for areas needing slope protection.
- (c) The location, size and surface of materials of all structures and parking areas.
- (d) The location, size an type of all above-ground and underground utilities and structures with proper notation, where appropriate, as to any safety hazards to avoid during installation of landscaping.
- (e) The location, size, type and quantity of all proposed landscaping materials, along with common and botanical names of all plant species. The size, grading and condition shall be specified according to American Association of Nurserymen Standards.
- (f) The location, size and common name of all existing plant materials to be retained on the site.
- (g) Mature sizes of plant materials shall be drawn to scale and called out on the plan by a common name or appropriate key.
- (h) Location of hose connections and other watering sources.
- (i) The location of all trees, 12-inch caliper or larger, measured at 4-1/2 feet above ground level, that are proposed for removal.
- (j) All screening required by this chapter.

16-1005. MINIMUM TREE REQUIREMENTS.

- (a) In the multiple residence district, one tree per 40 feet of public or private street frontage, or portion thereof, shall be required within the landscaped setback abutting that street frontage. Trees may be clustered or arranged within the setback and need not be placed evenly at 40-foot intervals. In addition to the trees required based upon street frontage.
- (b) In the office building district and district CP-O one tree for every 40 feet of public or private street frontage or portion thereof, shall be required within the landscaped setback abutting that street frontage. These trees may be clustered or arranged within the setback and need not be placed evenly at 40-foot intervals. In addition to the tree required based upon street frontage, one

tree shall also be required for every 3,000 square feet of landscaped open space. These trees may include the trees required in parking lot pursuant to Section [16-1007](#).

- (c) In the retail business district and districts CP-1 and CP-2 one tree for every 40 feet of public or private street frontage, or portion thereof, shall be required within the landscaped setback abutting that street frontage. These trees may be clustered or arranged within the setback and need not be placed evenly at 40-foot intervals. In addition to the trees required based upon street frontage, one tree shall be required for every 4,000 square feet of landscaped open space these trees may include the trees required in parking lots, pursuant to Section [16-1007](#).
- (d) In district P-1, one tree for every 40 feet of public or private street frontage, or portion thereof, shall be required within the landscaped setback abutting that street frontage. These trees may be clustered or arranged within the setback and need not be placed evenly at 40-foot intervals. In addition to the trees required based upon street frontage, one tree shall be required for every 4,000 square feet of landscape open space. These trees may include the trees required in parking lots pursuant to Section [16-1007](#).
- (e) Existing trees saved on the site during construction may be credited toward the minimum number of trees specified for each zoning district, provided that the trees are a minimum of 4-inch caliper as measured 4-1/2 feet above ground for medium and large deciduous species or 3 feet in height for ornamental and evergreen species. All existing plant material saved shall be healthy and free of mechanical injury.

16-1006. **MINIMUM PLANTING REQUIREMENTS.** Minimum planting requirements shall be as follows:

- (a) Medium and large deciduous shade trees - 2 inch measured 6 inches above ground.
- (b) Small deciduous or ornamental trees - 6 feet on height, with the exception of true dwarf species.
- (c) Conifers - 5 to 6 feet in height.
- (d) Upright evergreen trees -4 feet in height, except for true dwarf species.
- (e) The size of deciduous and conifer shrubs, including spreader and globe tree forms, shall be determine by the applicant.
- (f) Ground cover plants, whether in the form of crowns, plugs or containers, shall be planted in a number as appropriate by species to provide 50% surface coverage after two growing seasons.
- (g) All areas shall be sodded unless otherwise approved for seeding at the time of final development plan approval by the governing body or, in the case of conventional zoning districts, by the building inspector.

16-1007. **PLANTING REQUIREMENTS WITHIN PARKING AND VEHICULAR USE AREAS.** Except in those districts not requiring a landscaping plan automobile storage lots, multiple level parking structures and parking lots having a paved area no wider than a double-loaded aisle or more than 65 feet in width, all parking areas and all zoning districts shall include the following as minimum requirements in

order to encourage interior landscaping within vehicular parking areas, to break up the large expanses of pavement to provide relief from reflected glare and heat, and to guide vehicular and pedestrian traffic:

- (a) Not less than 6% of the interior of a parking lot shall be landscaped. The interior of a parking lot shall be calculated by multiplying the number of parking spaces by 280 square feet. Plantings required along the perimeter of a parking lot shall not be considered as part of the interior landscaping requirement.
- (b) Landscaping and planting areas shall be reasonably dispersed throughout the parking lot.
- (c) The interior dimensions of any planting area or planting median shall be sufficient to protect the landscaping material planted therein and to ensure proper growth; in no event shall any area be less than 60 square feet in area or less than 5 feet in width. Each area shall be protected by portland cement concrete vertical curbs or similar structures.
- (d) The primary landscaping materials used in parking lots shall be trees which provide shade or are capable of providing shade at maturity. Shrubbery, hedges and other planting materials may be used to complement the tree landscaping, but shall not be the sole means of landscaping. Effective use of earth berms and existing topography is also encouraged as a component of the landscaping plan.
- (e) In those instances where plant materials exist on a parking lot site prior to its development, these materials may be used if approved as meeting the requirements in Section [16-1006](#).
- (f) No landscaping, tree, shrub, fence, wall or similar item shall be placed in zones of ingress or egress at street corners, or in the intersection of a public right-of-way, that the traffic engineer of the City, or his or her designee, determines is an obstruction to visibility, extends into a sight distance triangle as set forth in Section [16-426](#), or is otherwise a traffic hazard.

16-1008. **TIME LANDSCAPING REQUIRED TO BE IN PLACE.** All required landscaping materials, both living and non-living, shall be in place prior to the time of issuance of a final certificate of occupancy, weather permitting. In periods of adverse weather conditions, a temporary certificate of occupancy may be issued, subject to the posting of a cash escrow or irrevocable letter of credit in an amount equal to one and one-half times the estimated cost of the landscaping, with that estimated cost to be certified by a landscaping provider. The cash escrow or revocable letter of credit may be forfeited if the landscaping is not completed within one year after the issuance of the temporary certificate of occupancy. Forfeiture of any cash escrow or revocable letter of credit shall not relieve the owner of the responsibility to complete the required landscaping.

16-1009. **MAINTENANCE OF LANDSCAPING.**

- (a) Trees, shrubs, and other landscaping materials depicted on landscaping plans approved by the City shall be considered to be elements of the project in the same manner as parking, building materials and other details. The developer, its successor and/or subsequent owners and their agents shall be responsible

for maintenance of landscaping on the property on a continuing basis for the life of the development. Plant materials which exhibit evidence of insect pests, disease and/or damage shall be appropriately treated, and dead plants promptly removed and replaced within the next planting season after installation. All landscaping will be subject to periodic inspection by the City's building inspector, or his or her designee. Should landscaping not be installed, maintained and replaced as needed to comply with the approved plan, the owner and its agent or agents shall be considered in violation of the terms of the certificate of occupancy. The mayor is empowered to enforce the terms of this Chapter.

- (b) As a condition to issuance of a final certificate of occupancy, a cash escrow of irrevocable letter of credit in the amount of 25% of the initial landscaping costs shall be posted to ensure the needed replacement of materials and the continued maintenance of the same for a period of two years after initial installation. The cash escrow or irrevocable letter of credit may be forfeited if the necessary maintenance and replacement has not been performed in a satisfactory manner within the two-year period. Further, should it be determined that the landscaping as approved on the landscaping plan is not being maintained as specified beyond the initial two-year maintenance period, resubmission of the approved plan and the posting of an additional maintenance escrow may be required by the City.

16-1010. SCREENING REQUIREMENTS. Landscaping plans for all residential projects containing multi-family dwellings and all commercial and industrial projects shall include a detailed drawing of enclosure and screening methods as provided hereinafter.

- (a) Trash enclosures shall be screened from public view on at three sides with a 6-foot solid fence constructed of cedar, redwood, masonry or other compatible building material, and shall be appropriately landscaped.
- (b) Exterior ground-mounted or building-mounted equipment including, but not limited to, mechanical equipment, utilities, and banks of meters, shall be screened from public view with landscaping or with an architectural treatment compatible with the building architecture.
- (c) All rooftop equipment shall be screened from public view with an architectural treatment which is compatible with the building architecture.
- (d) For purposes of this section, the phrase "screened from public view" means not visible from adjoining properties or any street right-of-way.
- (e) All buildings or additions thereto in commercial or industrial districts shall provide a solid screen or wall not less than 6 feet in height along all rear and side property lines which are common to property zoned for residential purposes, except that the screening shall not extend in front of the building line or adjacent dwellings. The screening shall not be required where similar screening exists on the abutting residential property.

ARTICLE 11. TOWERS AND ANTENNAS

16-1101.

PERFORMANCE STANDARDS.

- (a) The following performance standards shall apply to all communication towers allowed by special use permit.
 - (1) The maximum communication tower height that may be approved is 175 feet. A lightning rod, not to exceed 10 feet, shall not be included within the height limitations. All new communication towers in excess of 100 feet shall be designed to accommodate at least two additional providers. The location of additional communication antennas on a legally existing communication tower shall not require additional approval from the planning commission or governing body.
 - (2) All communication towers shall maintain a galvanized finish or be painted grey or light blue unless otherwise required by the governing body or if other standards are required by the Federal Aviation Administration.
 - (3) All communication towers and facilities shall be sited to have the least practical adverse effect on the surrounding environment. In addition, communication towers should be designed and sited to avoid, wherever possible, the application of Federal Aviation Administration lighting and painting requirements.
 - (4) Site location and development should preserve the preexisting character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless the disturbance would result in less visual impact of the site on the surrounding area.
 - (5) The area covered by the application for a communication tower special use permit shall be sufficient to accommodate all communication facilities that can be accommodated on the proposed communication tower.
 - (6) Communication towers and accessory buildings shall meet the setback requirements of the zoning district in which they are located unless greater setbacks are required by the governing body. The setback requirements for communication towers locating on residentially zoned property shall be determined at the time of the consideration of the special use permit application. All communication towers, except those designed as an architecturally compatible element in terms of material, design and height of the existing or proposed use of the property, shall be setback 200 feet from any surrounding property that is zoned for single-family residence, duplex residence or multiple family residence; provided, however, that the distance may be reduced or waived by the governing body.
 - (7) All communication towers, except those designed as an architecturally compatible element in terms of material, design and height of the existing or proposed use of the property, shall comply with the following separation requirements:

	TOWERS IN EXCESS OF 100'	TOWERS 100' OR LESS
TOWERS IN EXCESS 100'	1,500'	750'
TOWERS 100' OR LESS	750'	750'

- (8) The governing body may grant a deviation from the height, setback and/or separation requirements. In support of a request for a deviation from the separation requirements, the applicant shall submit a technical study acceptable to the city which confirms that there are no other suitable sites available within the separation requirements. A deviation shall only be granted if the governing body determines that the deviation will not undermine the spirit and intent of this chapter.
- (9) All parking areas and drives associated with a communication facility shall comply with Section [16-802](#), except that the governing body may waive the requirements for curbing and drainage facilities when they are not needed for drainage purposes.
- (10) Mobile or immobile equipment not used in direct support of a communication facility shall not be stored or parked on the site unless repairs to the communication facility are being made.
- (11) Accessory uses shall include only those buildings and facilities necessary for transmission functions and satellite ground stations associated with them, but shall not include broadcast studios, offices, vehicle storage areas, or other similar uses not necessary for the transmission function. All accessory buildings shall be constructed of building materials consistent with the primary use of the site, if the site has a primary use other than communication tower, and shall be subject to site plan approval. The site plan shall contain the information set forth in Section [16-331\(b\)](#) and consideration and approval shall be in accordance with the procedures set forth in Section [16-331\(c\)](#), [\(e\)](#).
- (12) Communication towers shall only be illuminated as required by the Federal Communications Commission and/or the Federal Aviation Administration. Security lighting around the base of a communication tower may be provided if the lighting is shielded so that no light is directed towards adjacent properties or rights-of-way.
- (13) All communication towers must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communication Communications, and any other agency of the federal government with the authority to regulate communication towers and antennas. If these standards and regulations change, the owners of the towers and antennas governed by this ordinance shall bring the towers and communication antennas into compliance with the revised standards and regulations within six months of the effective date of such standards and regulations unless a more

stringent compliance schedule is mandated by the controlling federal agency. Failure to bring these towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- (14) In all areas of the city where the cables, wires and other like facilities of public utilities exist underground, or are required by the city to be placed underground, applicant shall also place all cables, wires, or other facilities associated with the communication facility underground.
- (15) The base of the communication tower shall be screened from view with a solid screening fence a minimum of six feet in height. The materials of the fence, including any proposed razor wire or other security wire, shall be subject to the review of the planning commission and approval of the governing body. The governing body may waive the required screening where the design of the accessory building is architecturally compatible with the primary use of the property
- (16) A landscaping plan shall be required in accordance with Section [16-1004](#). A continuous landscaped area shall be provided around the perimeter of the accessory building or screening wall. All plant materials are subject to Section [16-1006](#) and shall include a mixture of deciduous and coniferous planting materials. Drought tolerant plant materials are encouraged. Where the visual impact of the equipment building would be minimal, the landscaping requirement may be reduced or waived by the governing body. Any communication antenna or communication tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of the communication antenna or communication tower shall remove the same within 90 days of a receipt of notice from the city notifying the owner of the abandonment. If the communication antenna or communication tower is not removed within 90 days, the city may remove the communication antenna or communication tower at the owner's expense. If there are two or more users on a single communication tower, then this provision shall not become effective until all users cease using the communication tower.
- (17) Any communication antenna or communication tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of the communication antenna or communication tower shall remove the same within 90 days of receipt of notice from the City notifying the owner of the abandonment. If the communication antenna or communication tower is not removed within 90 days, the City may remove the communication antenna or communication tower at the owner's expense. If there are two or more users on a single communication

tower, then this provision shall not become effective until all users cease using the communication tower.

- (18) To ensure the structural integrity of communication towers, the owner of a communication tower shall ensure that it is constructed and maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the building inspector concludes that a communication tower fails to comply with these codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the communication tower, the owner shall have 30 days to bring the communication tower into compliance with these standards. If the owner fails to bring the communication tower into compliance within the 30 days, the City may cause the removal of such communication tower at the owner's expense.
 - (19) At least every 12 months, the communication tower shall be inspected by an expert who is regularly involved in the maintenance, inspection and/or erection of communication towers as approved by the city engineer. At a minimum, this inspection shall be conducted in accordance with the tower inspection checklist provided in the Electronics Industries Association (EIA) Standard 222 "Structural Standards for Steel Antenna Towers and Antenna Support Structures." A copy of the inspection record shall be provided to the City.
 - (20) In the case of any disturbance to a street or other public property, caused by an applicant during the course of constructing or maintaining its communication facility, the applicant shall, at its own expense, replace and restore all paving, sidewalk, driveway, landscaping, or surface of any street or other public property disturbed to as good or better condition as before the disturbance in accordance with applicable federal, state and local laws, rules, regulations or administrative decisions. The duty to restore the street or other public property shall include the repair of any area identified by the city engineer as being weakened or damaged as a result of a cut or of other invasion of the pavement of a street or other public property.
- (b) Every communication tower shall be subject to administrative review by the city engineer after three years regardless of the approved term (if any) of the special use permit or the date the communication tower was installed. Reviews will subsequently be required every three years thereafter. At the time of this review the holder of the special use permit shall demonstrate to the satisfaction of the city engineer that:
- (1) The general appearance of the communication tower has been adequately maintained. This shall include landscaping, fencing, surfacing, communication tower appearance, etc.

- (2) The structural integrity of the communication tower is uncompromised. A report from a licensed professional engineer shall be submitted by the holder of the special use permit certifying the structural integrity.
- (3) A good faith effort has been made to cooperate with other providers to establish co-location at the tower site. Good faith effort shall include, but is not limited to, timely response to co-location inquiries from other providers and sharing of technical information to evaluate the feasibility of establishing co-location.
- (4) The City may request that the holder of the special use permit hire a qualified third party to prepare a report providing measurements of radio frequency radiation emissions and certifying compliance with all applicable regulations.
Failure to adequately demonstrate compliance on anyone of these items shall subject the holder of the permit to revocation of the special use permit. The determination whether or not to revoke the special use permit shall be made by the governing body after a public hearing noticed in accordance with Section [16-311](#). (Ord. 666, Sec. 8)

ARTICLE 12. NONCONFORMING SITUATIONS AND VESTED RIGHTS

- 16-1201. NONCONFORMING SITUATIONS; DEFINITIONS. Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined in this Article shall have the meaning indicated when used in this Article.
- (a) Expenditure. A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures as well as any other substantial changes in position.
 - (b) Nonconforming Dimension. A nonconforming situation that occurs when the height, size, or minimum floor area of a structure or the relationship between an existing building or buildings and the other buildings or lot lines does not conform to the regulations applicable to the zoning district in which the property is located.
 - (c) Nonconforming Lot. A lot existing on December 19, 1991 (and not created for purposes of evading the restrictions of this ordinance), that does not meet the minimum area requirement of the zoning district in which the lot is located.
 - (d) Nonconforming Project. Any structure, development, or undertaking that is incomplete on December 19, 1991, and would have been inconsistent with one or more of the regulations applicable to the zoning district in which it is located, if completed as proposed or planned.
 - (e) Nonconforming Sign. A sign that, on December 19, 1991, did not conform to one or more of the regulations set forth in this ordinance.
 - (f) Nonconforming Site Improvement. A nonconforming situation that occurs when, on December 19, 1991, an existing site improvement on a lot, including but not limited to parking areas, storm drainage facilities,

sidewalks and landscaping, no longer conformed to one or more of the regulations of this ordinance applicable to the property.

- (g) Nonconforming Use. A nonconforming situation that occurs when property is used for a purpose or in any manner made unlawful by the use regulations or development and performance standards applicable to the zoning district in which the property is located. The term also refers to the activity that constitutes the use made of the property.
- (h) Nonconforming Situation. A situation that occurs when, on the effective date of this ordinance, an existing lot, structure or improvement, or the use of an existing lot, structure or improvement no longer conforms to one or more of the regulations applicable to the zoning district in which the lot, structure or improvement is located.

16-1202. CONTINUATION OF NONCONFORMING SITUATIONS AND COMPLETIONS OF NONCONFORMING PROJECTS.

- (a) Unless otherwise specifically provided in this Chapter and subject to the restrictions and qualifications set forth in Sections [16-1203](#) through [16-1209](#), nonconforming situations that were otherwise lawful on December 19, 1991, may be continued.
- (b) Nonconforming projects may be completed only in accordance with the provisions of Section [16-1209](#).
- (c) The burden shall be on the landowner or developer to establish entitlement to continuation of nonconforming situations completion of nonconforming projects.

16-1203. NONCONFORMING LOTS.

- (a) This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. For purposes of this section, a substantial structure shall include any structure in excess of 600 square feet in floor area which was constructed for a use which was a principal use permitted in the zoning district at the time of construction. A change in use of a developed nonconforming lot may be accomplished only in accordance with Section [16-1206](#).
- (b) When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimum lot area applicable to that zoning district, then the lot may be used as proposed just as if it were conforming. However, no use that requires a greater lot size than the established minimum lot size of a particular district is permissible on a nonconforming lot.
- (c) When the use proposed for a nonconforming lot is one that is conforming in all other respects, but the applicable setback requirements cannot be complied with, then the governing body may allow deviations from the applicable setback requirements if it finds that:
 - (1) development of the property is not reasonably possible for the use proposed without deviations;
 - (2) the deviations are necessitated by the size or shape of the nonconforming lot; and

- (3) the property can be developed as proposed without any significant adverse impact on surrounding properties or the public health or safety.
- (d) For purposes of subsection (c) above, development in compliance with the applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with the setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.
- (e) Subject to the following sentence, if, on the date this ordinance becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his or her successors in interest may take advantage of the provisions of this section. This subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where the lot is located and within 500 feet of the lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require the combination when that would be out of character with the neighborhood that has previously been developed.

16-1204. EXTENSION OR ENLARGEMENT OF NONCONFORMING SITUATIONS.

- (a) Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if the activity results in:
 - (1) an increase in the total amount of space or building area devoted to a nonconforming use; or
 - (2) greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations or density requirements, or other requirements such as parking requirements.
- (b) Subject to Section [16-1204\(d\)](#), a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this ordinance, was manifestly designed or arranged to accommodate this use. However, except as otherwise provided in Section [16-1209](#), a nonconforming use may not be extended to additional buildings or to land outside the original building.
- (c) Except as otherwise provided in Section [16-1209](#) a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming; provided, however, that a use that involves the removal of natural materials from the land may be expanded to other portions of the lot where the use was established at the time it became nonconforming, if 10% percent or more of the earth products had already

been removed on December 19, 1991, and where the development and performance standards otherwise applicable to a use were complied with.

- (d) The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in-kind and no violations of other paragraphs of this section occur.
- (e) Notwithstanding subsection a above, any structure used as a one-family dwelling and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of the existing nonconformities with respect to these matters as setback and parking requirements. This paragraph is subject to the limitations stated in Section [16-1208](#).

16-1205. REPAIR, MAINTENANCE AND RESTORATION OF PROPERTY WHERE A NONCONFORMING SITUATION EXISTS.

- (a) Minor repairs to and routine maintenance of structures and property where nonconforming situations exist are permitted and encouraged. Major renovation, i.e., work estimated to cost more than 50% of the fair market value of the structure to be renovated, shall not be permitted.
- (b) If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or restoration would not exceed 50% of its fair market value, then the damaged structure may be repaired or restored only in accordance with a nonconforming situation permit issued by the building inspector pursuant to this section. This subsection does not apply to structures used for one-family dwellings, which structures may be reconstructed pursuant to a building permit just as they may be enlarged or replaced as provided by Section [16-1204\(e\)](#).
- (c) Any repairs, renovation or restoration of a structure, pursuant to this section, which would require the issuance of any permit under Chapter IV of the City Code shall also require the issuance of a nonconforming situation permit by the building inspector. In support of the application for the permit, the applicant shall submit information as may be required to satisfy the city engineer that the cost of the proposed repairs, renovation or restoration would not exceed 50% of the fair market value of the structure.
- (d) For purposes of this chapter:
 - (1) The "cost" of renovation or repair or restoration shall mean the fair market value of the materials and services necessary to accomplish the renovation, repair or restoration.
 - (2) The "cost" of renovation or repair or restoration shall mean the total cost of all intended work, and no person may seek to avoid the intent of this chapter by doing the work incrementally.

16-1206. CHANGE IN USE OF PROPERTY WHERE A NONCONFORMING SITUATION EXISTS.

- (a) A change in use of property (where a nonconforming situation exists) may not be made except in accordance with Section [16-1206\(b\)](#) through (e). However, this requirement shall not apply if only a sign permit is needed.
- (b) If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this title applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this title is achieved, the property may not revert to its nonconforming status.
- (c) If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this ordinance applicable to that use cannot reasonably be complied with, then the change is permissible only if the governing body issues a nonconforming situation permit authorizing the change. This permit may be issued if the governing body finds, in addition to any other findings that may be required by this chapter, that the intended change will not result in a violation of Section [16-1204](#) and that all of the applicable requirements of this chapter will be complied with that are reasonably possible. Compliance with a requirement of this chapter is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or without moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting these requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. Further, in no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformities would thereby be created.
- (d) In making a determination under subsection (c) whenever (1) there exists a lot with one or more structures on it, and (2) a proposed change in use that does not involve any enlargement of a structure is proposed for the lot, and (3) the parking or loading requirements that would be applicable as a result of the proposed change cannot be satisfied on these lots because there is not sufficient area available on the lot that can practicably be used for parking or loading, then the proposed use shall not be regarded by the governing body as resulting in an impermissible extension or enlargement of a nonconforming situation in violation of Section [16-1204](#). However, if the proposed use is approved, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land, and shall also be required to obtain off-site parking if parking requirements cannot be satisfied on the lot with respect to which the land use permit is required and the off-site parking is reasonably available. If off-site parking is not reasonably available at the time the nonconforming situation permit is granted, then the permit recipient shall be required to obtain it if and when it does become reasonably available. This requirement shall be a continuing condition of the nonconforming situation permit.

16-1207.

NONCONFORMING SITE IMPROVEMENTS.

- (a) On lots with nonconforming site improvements, no additions to, or repairs or renovations of, any structure or site improvement may be made without first either bringing the nonconforming site improvements into complete conformity with the regulations applicable to the zoning district in which the lot is located or obtaining a nonconforming situation permit pursuant to this section. Provided, however, that this section shall not apply to the following circumstances:
 - (1) Repairs or restoration of a structure pursuant to Section [16-1205\(b\)](#);
or
 - (2) Minor repairs or renovation of a structure or site improvement.
- (b) For purposes of this section, "minor repairs or renovation" shall mean repairs or renovation costs which do not exceed 10% of the fair market value of a structure or site improvement.
- (c) When an addition to or repairs or renovation of, any structure or site improvement is proposed on a lot with a nonconforming site improvement(s), the governing body may approve a nonconforming situation permit allowing the addition or repairs or renovation if it finds that:
 - (1) the nonconforming site improvement(s) is the only nonconforming situation pertaining to the property,
 - (2) compliance with the site improvement requirements applicable to the zoning district in which the property is located is not reasonably possible, and
 - (3) the property can be developed as proposed without any significant adverse impact on surrounding properties or the public health or safety.
- (d) For purposes of subsection (c), mere financial hardship does not constitute grounds for finding that compliance with the site improvement requirements is not reasonably possible.

16-1208.

ABANDONMENT AND DISCONTINUANCE OF NONCONFORMING SITUATIONS.

- (a) When a nonconforming use is discontinued for a consecutive period of 180 days, or discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes.
- (b) If the principal activity on property where a nonconforming situation other than a nonconforming use exists is discontinued for a consecutive period of 180 days, or discontinued for any period of time without a present intention of resuming that activity, then the property may thereafter be used only in conformity with all of the regulations applicable to the preexisting use unless the governing body issues a permit to allow the property to be used for this purpose without correcting the nonconforming situations. The permit may be issued if the governing body finds that eliminating a particular nonconformity is not reasonably possible (i.e., cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained or without moving a substantial structure that is on a

permanent foundation). The permit shall specify which nonconformities need not be corrected.

- (c) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building for 180 days shall not result in a loss of the right to rent the apartment or space thereafter so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.
- (d) When a structure or operation made nonconforming by this ordinance was vacant or discontinued on December 19, 1991, the 180-day period for purposes of this section began to run on December 19, 1991.

16-1209. COMPLETION OF NONCONFORMING PROJECTS -- VESTED RIGHTS.

- (a) All nonconforming projects on which construction was begun at least 180 days before December 19, 1991, as well as all nonconforming projects that are at least 10% completed in terms of the total expected cost of the project on December 19, 1991, may be completed in accordance with the terms of their permits, so long as those permits were validly issued and remain unrevoked and unexpired, and a vested rights permit is obtained from the public works director. If a development is designed to be completed in stages, this subsection shall apply only to the particular phase under construction.
- (b) Except as provided in subsection (a) or in Section [16-1210](#), all work on any nonconforming projects shall cease on the effective date of this ordinance, and all permits previously issued for work on nonconforming projects may begin or may be continued only pursuant to a vested rights permit issued in accordance with this section by the governing body. The governing body shall approve a permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his or her position in some substantial way in reasonable reliance on the development regulations as they existed before the effective date of this ordinance and thereby would be unreasonably prejudiced if not allowed to complete its project as proposed. In considering whether these findings may be made, the governing body shall be guided by the following, as well as other relevant considerations:
 - (1) All expenditures made to obtain, or pursuant to a validly issued and unprovoked building, land use or sign permit shall be considered as evidence of reasonable reliance on the development regulations that existed before December 19, 1991.
 - (2) Except as otherwise provided in subdivision (b)(1), no expenditures made more than 180 days before December 19, 1991, may be considered as evidence of reasonable reliance on the development regulations that existed before December 19, 1991. An expenditure is

made at the time a person incurs a binding obligation to make that expenditure.

- (3) To the extent that expenditures are recoverable with a reasonable effort, a person shall not be considered prejudiced by having made those expenditures. For example, a person shall not be considered prejudiced by having made some expenditure to acquire a potential development site if the property obtained is approximately as valuable under the new classification as it was under the old, for the expenditure can be recovered by a resale of the property.
 - (4) To the extent that a nonconforming project can be made conforming and that expenditures made or obligations incurred can be effectively utilized in the completion of a conforming project, a person shall not be considered prejudiced by having made these expenditures.
 - (5) An expenditure shall be considered substantial if it is significant in dollar amount and in terms of the total estimated cost of the proposed project and the ordinary business practices of the developer.
 - (6) A person shall be considered to have acted in good faith if actual knowledge of a proposed change in the development regulations affecting the proposed development site could not be attributed to that person.
 - (7) Even though a person had actual knowledge of a proposed change in the development regulations affecting a development site, the governing body may still find that the person acted in good faith if the person did not proceed with his plans in a deliberate attempt to circumvent the effects of the proposed ordinance. For example, the governing body may find that the developer did not proceed in an attempt to undermine the proposed ordinance if it determines that at the time the expenditures were made, either there was considerable doubt about whether any ordinance would ultimately be passed or it was not clear that the proposed ordinance would prohibit the intended development, and the developer had legitimate business reasons for making expenditures.
- (c) When it appears from the developer's plans or otherwise that a project was intended to be or reasonably could be completed in phases, stages, segments, or other discrete units, the developer shall be allowed to complete only those phases or segments with respect to which the developer can make the showing required under Section [16-1209\(b\)](#). In addition to the matters and subject to the guidelines set forth in Section [16-1209\(b\)\(6\)](#), the governing body shall, in determining whether a developer would be unreasonably prejudiced if not allowed to complete phases or segments of a nonconforming project, consider the following in addition to other relevant factors:
- (1) whether any plans prepared or approved regarding uncompleted phases constitute conceptual plans only or construction drawings based upon detailed surveying, architectural or engineering work,

- (2) whether any improvements, such as streets or utilities, have been installed in phases not yet completed, and
- (3) whether utilities and other facilities installed in completed phases have been constructed in a manner or location or to a scale, in anticipation of connection to or interrelationship with approved but uncompleted phases, that the investment in utilities or other facilities cannot be recouped if the approved, but uncompleted, phases are constructed in conformity with existing regulations.
- (d) The governing body shall not consider any application for a vested rights permit authorized by Section [16-1209\(b\)](#) that is submitted more than 60 days after December 19, 1991. The governing body may waive this requirement for good cause shown, but in no case may it extend the application deadline beyond one year from the effective date of this ordinance.

16-1210. **COMPLETION OF SINGLE-FAMILY RESIDENTIAL DEVELOPMENTS.** Nothing in this chapter shall prevent the developer of a single-family residential development from developing in accordance with the terms of a final plat duly recorded in the office of the Register of Deeds of Johnson County. Provided, however, if construction is not commenced on any land within 5 years of the recording of the plat, the development rights shall expire. Provided, further, that if construction has commenced on any project, but is thereafter abandoned for a period in excess of 5 years, the project may only be completed in accordance with the provisions of Section [16-1209](#).

16-1211. **NONCONFORMING SIGNS.**

- (a) Subject to the remaining restrictions of this Section, and the provisions of Section [16-1208](#), nonconforming signs that were otherwise lawful on the effective date of this ordinance may be continued.
- (b) No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in a manner as to aggravate the nonconforming condition, nor may illumination be added to any nonconforming sign.
- (c) A nonconforming sign may not be moved or replaced, and the message may not be changed except to bring the sign into complete conformity with this ordinance, except for "sign maintenance" as defined in Section 4-903 of the City Code.
- (d) Subject to the other provisions of this Section, nonconforming signs may be maintained and repaired so long as the cost of the work within any 12-month period does not exceed 50% of the value (tax value if listed for tax purposes) of the sign. No work shall be done without the person proposing to do the work first submitting information as may be required to satisfy the city engineer that the cost of the work would not exceed 50% of the value of the sign.
- (e) If a nonconforming sign, other than an outdoor advertising sign, advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign

shall be deemed abandoned and shall be removed within 30 days after abandonment by the sign owner, owner of the property where the sign is located, or other person having control over the sign.

- (f) If a nonconforming outdoor advertising sign remains blank for a continuous period of 180 days, that billboard shall be deemed abandoned and shall, within 30 days after abandonment, be altered to comply with this Article or be removed by the sign owner, owner of the property where the sign is located, or other person having control over the sign. For purposes of this section, a sign is "blank" if:
- (1) it advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or
 - (2) the advertising message it displays becomes illegible in whole or substantial part; or
 - (3) the advertising copy paid for by a person other than the sign owner or promoting an interest other than the rental of the sign has been removed.

ARTICLE 13. FLOODPLAIN MANAGEMENT STATUTORY AUTHORIZATION FINDING OF FACT, AND PURPOSES

16-1301. STATUTORY AUTHORIZATION.

- (a) Approval of Draft Ordinance by Kansas Chief Engineer Prior to Adoption. The following floodplain management regulation, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on June 4, 2002.
- (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 government units to adopt floodplain management regulations designed to protect the health, safety and general welfare. (Ord. 719, Sec. 1)

16-1302. FINDINGS OF FACTS.

- (a) Flood Losses Resulting from Periodic Inundation. The special flood hazard areas of the city are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety, and general welfare.
- (b) General Causes of these Flood Losses. These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; (2) the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages. (Ord. 719, Sec. 1)

- 16-1303. STATEMENT OF PURPOSE. It is the purpose of this Article to promote the public health, safety, and general welfare; to minimize those losses described in Section [16-1302\(a\)](#); 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. 5-44-4 by applying the provisions of this Article to:
- (a) Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increase in flood heights or velocities;
 - (b) Require uses vulnerable to floods, including public facilities that serve these uses, be provided with flood protection at the time of initial construction; and
 - (c) Protect individuals from buying lands which are unsuited for intended purposes due to the flood hazard. (Ord. 719, Sec. 1)

DIVISION I - GENERAL PROVISIONS

- 16-1304. DEFINITIONS. Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application.
- (a) 100-year Flood see base flood.
 - (b) Accessory Structure means the same as appurtenant structure.
 - (c) Actuarial Rates see risk premium rates.
 - (d) Administrator means the Federal Insurance Administrator.
 - (e) Agency means the Federal Emergency Management Agency (FEMA).
 - (f) Appeal means a request for review of the floodplain administrator's interpretation of any provision of this Article or a request for a variance.
 - (g) Appurtenant Structure means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.
 - (h) Area of Special Flood Hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
 - (i) Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.
 - (j) Basement means any area of the structure having its floor sub-grade (below ground level) on all sides.
 - (k) Building see structure.
 - (l) Chief Engineer means the chief engineer of the division of water resources, Kansas Department of Agriculture.
 - (m) Chief Executive Officer or Chief Elected Official means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.
 - (n) Community means any state or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.
 - (o) Development means any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, levees,

- levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- (p) Elevated Building means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
 - (q) Eligible Community or Participating Community means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).
 - (r) Existing Construction means for the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures.
 - (s) Existing Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
 - (t) Expansion to an Existing Manufactured Home Park or Subdivision means the preparation of additional sites by the construction 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).
 - (u) Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1),
 - (v) Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by the administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.
 - (w) Flood Hazard Map means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) street; (4) stream channel; and (5) other geographic features.
 - (x) Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

- (y) Flood Insurance Study (FIS) means an examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations.
- (z) Floodplain or Flood-Prone Area means any land area susceptible to being inundated by water from any source (see flooding).
- (aa) 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.
- (bb) Floodplain Management Regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purposes ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes the state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.
- (cc) 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.
- (dd) 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.
- (ee) Floodway fringe is that area of the flood plain of the floodway, that on the average is likely to be flooded once every one hundred years (i.e., that has a one percent chance of flood occurrence in any one year).
- (ff) Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.
- (gg) Functionally Dependent Use means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.
- (hh) Highest Adjacent Grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (ii) Historic Structure means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered

historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

- (jj) 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 the enclosure is not built so as to render the structure in violation of the applicable flood proofing design requirements of this Article.
- (kk) Manufactured Home means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term manufactured home does not include a recreational vehicle.
- (ll) Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- (mm) Map means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).
- (nn) Market Value or Fair Market Value means an estimate of what is fair, economic, just and equitable value under normal local market conditions.
- (oo) Mean Sea Level means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referred.
- (pp) New Construction means, for the purpose of determining insurance rates, structured 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 these structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to these structures.
- (qq) New Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.
- (rr) (NFIP) means the National Flood Insurance Program (NFIP).

- (ss) Participating Community also known as an eligible community, means a community in which the administrator has authorized the sale of flood insurance.
- (tt) Permit means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state, or federal authorities.
- (uu) Person includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.
- (vv) Principally Above Ground means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.
- (ww) Recreational Vehicle means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (xx) Remedy a Violation means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.
- (yy) Risk Premium Rates means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. Risk premium rates include provisions for operating costs and allowances.
- (zz) Special Flood Hazard Area see area of special flood hazard.
- (aaa) Special Hazard Area means an area having special flood hazards and shown on an FHBM or FIRM as zones (unnumbered or numbered) A, AO, AE, or AH.
- (bbb) Start of Construction includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the state of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any

wall, ceiling, floor, or other structural part of a building, whether or, not that alteration affects the external dimensions of the building.

- (ccc) State Coordinating Agency means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the Nation Flood Insurance Program (NFIP) in that state.
- (ddd) Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term included a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in the construction, alteration or repair, unless the materials or supplies are within an enclosed building on the premises.
- (eee) Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (fff) Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of the structure, the cost of which equals or exceeds 50 percent of the market value of the structure before start of construction of the improvement. This term includes structured which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (ggg) Variance means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.
- (hhh) 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 Article is presumed to be in violation until the time as that documentation is provided.
- (iii) 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. (Ord. 719, Sec. 8)

- 16-1305. LANDS TO WHICH ARTICLE APPLIES. This Article shall apply to all lands within the jurisdiction of the city identified as unnumbered A Zones on the Index Map dated June 17, 2002, of the Flood Hazard Boundary Map (FHBM); as amended, and any future revisions thereto. In all areas covered by this Article, no development shall be permitted, except through the issuance of a floodplain development permit, granted by the city council or its duly designated representative under safeguards and restrictions as the city council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Sections [16-1313](#) - [1316](#). (Ord. 719, Sec. 2)
- 16-1306. COMPLIANCE. No development located within known flood hazard areas of this community shall be located, extended, converted or structurally altered without full compliance with the terms of this Article and other applicable regulations. (Ord. 719, Sec. 2)
- 16-1307. ABROGATION AND GREATER RESTRICTIONS. It is not intended by this Article to repeal, abrogate or impair any existent easement, covenants, or deed restrictions. However, where this Article imposes greater restrictions, the provision of this Article shall prevail. All other ordinances inconsistent with this Article are hereby repealed to the extent of the inconsistency only. (Ord. 719, Sec. 2)
- 16-1308. INTERPRETATION. In their interpretation and application, the provisions of this Article shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes. (Ord. 719, Sec. 2)
- 16-1309. WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by manmade or natural cases, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside unnumbered A zones or land uses permitted within these districts will be free from flooding or flood damage. This Article shall not create liability on the part of the City, any officer or employee thereof for any flood damages that may result from reliance on this Article or any administrative decision lawfully made thereunder. (Ord. 719, Sec. 2)

DIVISION II - ADMINISTRATION

- 16-1310. FLOODPLAIN DEVELOPMENT PERMIT. A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Section [16-1305](#). 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 permit or development. (Ord. 719, Sec. 3)

16-1311.

DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

- (a) The building official is hereby appointed to administer and implement the provisions of this Article as the floodplain administrator.
 - (b) Duties of the floodplain administrator shall include, but not be limited to:
 - (1) Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this Article 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 or subdivisions, to determine whether these 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 shall submit evidence of notification to the Federal Emergency Management Agency (FEMA).
 - (6) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
 - (7) Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest flood (including basement) of all new or substantially improved structures.
 - (8) Verify, record and maintain record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed.
 - (9) When floodproofing techniques are utilized for a particular nonresidential structure, the floodplain administrator shall require certification from a registered professional engineer or architect.
- (Ord. 719, Sec. 3)

16-1312.

APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

- (a) Describe the land on which the proposed work is to be done by lot, block tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
- (b) Identify and describe the work to be covered by the floodplain development permit.
- (c) Indicate the use or occupancy for which the proposed work is intended.
- (d) Indicate the assessed value of the structure and the fair market value of the improvement.

- (e) Identify the existing base flood elevation and the elevation of the proposed development.
- (f) Give other information as reasonably may be required by the floodplain administrator.
- (g) Be accompanied by plans and specifications for proposed construction.
- (h) Be signed by the permittee or his or her authorized agent who may be required to submit evidence to indicate authority. (Ord. 719, Sec. 3)

DIVISION III - PROVISIONS FOR FLOOD HAZARD REDUCTION

16-1313. GENERAL STANDARDS.

- (a) No permit for floodplain development shall be granted for new construction, substantial improvements and other improvements including the placement of manufactured homes within any numbered and unnumbered A zones unless the conditions of this section are satisfied.
- (b) All areas identified as unnumbered A zones in the Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM) are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this Article. If flood insurance study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state or other sources.
- (c) All new construction, subdivision proposal, substantial improvements, prefabricated structures, placement of manufactured homes and other developments shall require:
 - (1) Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - (2) Construction with materials resistant to flood damage.
 - (3) Utilization of methods and practices that minimize flood damages.
 - (4) All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (5) New or replacement water, supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
 - (6) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
 - (i) All 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.
 - (iv) All proposals for development, including proposals for manufactured home parks and subdivisions, of five acres or 50 lots, whichever is lesser, include within the proposals base flood elevation data.
- (d) Storage; Material and Equipment:
 - (1) The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
 - (2) Storage of other material or equipment may be allowed if not subject to major damage by floods if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.
- (e) Nonconforming Use. A structure, or the use of a structure or premises that was lawful before the passage or amendment of this Article, but which is not in conformity with the provisions of this Article, may be continued subject to the following conditions:
 - (1) If the structure, use, or utility service is discontinued for six consecutive months, any future use of the building shall conform to this Article.
 - (2) If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations, or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.
- (f) Accessory Structures: Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-flood proofed provided there is no human habitation or occupancy of the structure, the structure is of single-wall design, a variance has been granted from the standard floodplain management requirements of this Article, and a floodplain development permit has been issued.
- (g) Critical Facilities:
 - (1) All new or substantially improved critical nonresidential facilities including, but not limited, to governmental buildings, police stations, fire stations, hospitals, orphanages, penal institutions, communication centers, water and sewer pumping stations, water and sewer treatment facilities, transportation maintenance facilities, places of public assembly, emergency aviation facilities, and schools shall be elevated above the .2 percent annual chance flood event, also referenced to as the 500-year flood level or together with attendant utility and sanitary facilities, be floodproofed so that below the 500-year flood level the

structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. The certification shall be provided to the floodplain administrator as set forth in Section [16-1311\(b\)\(7\)](#), (9).

- (2) All critical facilities shall have access routes that are above the elevation of the 500-year flood.
- (3) No critical facilities shall be constructed in any designated floodway.
- (h) Hazardous Materials. All hazardous material storage and handling sites shall be located out of the special flood hazard area.
- (i) Cumulative Improvement. A structure may be improved (remodeled or enlarged) without conforming to current requirements for elevation so long as the cumulative value of all work done within the last five calendar years does not exceed 50% of the structure's current market value. If the cumulative value of the improvement exceeds 50% of the structure's current market value, the structure must be brought into compliance with Section [16-1314](#) which requires elevation of residential structures to or above the base flood elevation or the elevation/floodproofing of non-residential structures to or above the base flood elevation. (Ord. 719, Sec. 4)

16-1314. SPECIFIC STANDARDS.

- (a) In all areas of special flood hazard, once base flood elevation data is obtained, as set forth in Section [16-1313\(b\)](#), the following provisions are required:
- (b) Residential Construction: New construction or substantial improvements of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above one foot above the base flood level. The elevation of the lowest floor shall be certified by a licensed land surveyor.
- (c) Non-Residential Construction: New construction or substantial improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standard of this subsection are satisfied. The elevation of the lowest floor shall be certified by a licensed land surveyor. Floodplain administrator as set forth in Section [16-1311\(b\)\(9\)](#).
- (d) Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor be 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:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - (2) 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 floodwaters.
- (e) In all areas of special flood hazard, once floodway data is obtained, as set forth in Section [16-1313\(b\)](#), the following provisions are required:
- (1) The designated floodway shall be based on the standard that the area chosen for the floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation more than one foot at any point; and
 - (2) The community shall prohibit any encroachments, including fill, new construction, substantial-improvements, and other development within the designated regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge. (Ord. 719, Sec. 4)

16-1315. MANUFACTURED HOMES.

- (a) All manufactured homes to be placed within special flood hazard areas shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- (b) Require manufactured homes that are placed or substantially improved within unnumbered A zones on the community's FIRM or FHMB on sites:
 - (1) outside of manufactured home park or subdivision;
 - (2) in a new manufactured home park or subdivision;
 - (3) in an expansion to and existing manufactured home park or subdivision; or
 - (4) in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, be elevated on a permanent foundation so that the lowest floor of the manufactured home is elevated a minimum of one foot above the base flood level and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor.

- (c) Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered A zones on the community's FIRM or FHMB, that are not subject to the provisions of Section [16-1315\(b\)](#), be elevated so that either:
 - (1) the lowest floor of the manufactured home is a minimum of one foot above the base flood level; or
 - (2) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 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. (Ord. 719, Sec.4)

16-1316. RECREATIONAL VEHICLES.

- (a) Require that recreational vehicles placed on sites within all unnumbered A Zones on the community's FIRM or FHMB either:
- (b) be on the site for fewer than 180 consecutive days;
- (c) be fully licensed and ready for highway use*; or
- (d) meet the permitting, elevation, and anchoring requirements for manufactured homes of this Article.

*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

(Ord. 719, Sec. 4)

DIVISION IV - FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES

16-1317. ESTABLISHMENT OF APPEAL BOARD. The board of zoning appeals (appeal board), as established by the City of Roeland Park, Kansas, shall hear and decide appeals and requests for variances from the floodplain management requirements of this Article. (Ord. 719, Sec. 5)

16-1318. RESPONSIBILITY OF APPEAL BOARD. Where an application for a floodplain development permit is denied by the floodplain administrator, the applicant may apply for a floodplain development permit or variance directly to the appeal board, as defined in Section [16-1317](#).

The appeal board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this Article. (Ord. 719, Sec. 5)

16-1319. FURTHER APPEALS. Any person aggrieved by the decision of the appeal board or any taxpayer may appeal that decision to the district court of the county as provided in K.S.A. 12-759 and 12-760 of the City Code. (Ord. 719, Sec. 5)

16-1320. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA. In passing upon applications for variances, the appeal board shall consider all technical data and

evaluations, all relevant factors, standards specified in other sections of this Article, and the following criteria:

- (a) Danger to life and property due to flood damage;
- (b) Danger that materials may be swept onto other lands to the injury of others;
- (c) Susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owner;
- (d) Importance of the services provided by the proposed facility to the community;
- (e) Necessity to the facility of a waterfront location, where applicable;
- (f) Availability of alternative locations, not subject to flood damage, for the proposed use;
- (g) Compatibility of the proposed use with existing and anticipated development;
- (h) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (i) Safety of access to the property in times of flood for ordinary and emergency vehicles;
- (j) Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
- (k) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets, and bridges. (Ord. 719, Sec. 5)

16-1321. **CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES.**

- (a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (b) through (f) below have been fully considered. As the lot size increased beyond the one-half acre, the, technical justification required for issuing the variance increases.
- (b) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provided the proposed activity will not preclude the structure's continued historic designation.
- (c) Variances shall not be issued within any designated floodway if any significant increase in flood discharge would result.
- (d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (e) Variances shall only be issued upon:
 - (1) showing of good and sufficient cause,
 - (2) determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (3) 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.

- (f) A community shall notify the applicant in writing over the signature of a community official that
 - (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and
 - (2) the construction below the base flood level increases risk to life and property. The notification shall be maintained with the record of all variance actions as required by this Article. (Ord. 719, Sec. 5)

16-1322. **CONDITIONS FOR APPROVING VARIANCES FOR ACCESSORY STRUCTURES.** Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Sections [16-1320](#) - [1321](#) of this Article.

In order to minimize flood damages during the one percent annual chance flood event, also referred to as the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed.

- (a) Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM).
- (b) For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Section [16-1313\(c\)\(2\)](#) of this Article.
- (c) The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Section [16-1313\(c\)\(1\)](#) of this Article. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
- (d) Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section [16-1313\(c\)\(4\)](#) of this Article.
- (e) The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Section [16-1314\(d\)](#) of this Article.
- (f) The accessory structures must comply with the floodplain management floodway encroachment provisions of Section [16-1314\(b\)](#) of this Article. No variances may be issued for accessory structures within any designated

floodway, if any increase in flood levels would result during the 100-year flood.

- (g) Equipment, machinery, or other contents must be protected from any flood damage.
- (h) No disaster relief assistance under any program administered by any federal agency shall be paid for any repair or restoration costs of the accessory structures.
- (i) A community shall notify the applicant in writing over the signature of a community official that:
 - (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and
 - (2) any construction below the base flood level increases risks to life and property. Notification shall be maintained with the record of all variance actions as required by this Article.
- (j) Wet-floodproofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction. (Ord. 719, Sec. 5; Code 2003)

16-1323. **PENALTIES FOR VIOLATION.** Violation of the provisions of this Article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this Article or fails to comply with any of its requirements shall, upon conviction thereof, be fined according to the provisions in Section [16-1605](#), and in addition, shall pay all costs and expenses involved in the case. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city or other appropriate authority from taking other lawful action as necessary to prevent or remedy any violation. (Ord. 719, Sec. 6)

16-1324. **AMENDMENTS.** The regulations, restrictions, -and boundaries set forth in this Article may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of time and place of the hearing shall be published in a newspaper of general circulation in the city. At least 20 days shall elapse between the date of this publication and the public hearing. A copy of the amendments will be provided to the Region VII office of FEMA. The regulations of this Article are in compliance with the National Flood Insurance Program (NFIP) regulations. (Ord. 719, Sec. 7)

ARTICLE 14. SUBDIVISION REGULATIONS, LOTS AND LOT SPLITS

DIVISION I - GENERAL PROVISIONS

- 16-1401. AREA COVERED. The subdivision regulations contained in this Article shall govern the subdivision of land located within the City.
- 16-1402. AUTHORITY. These regulations are adopted pursuant to the authority of applicable provisions of the Kansas Statutes Annotated and Article 2, Section 5 of the Kansas Constitution.
- 16-1403. RULES OF INTERPRETATION. For purposes of interpreting these regulations, the following rules shall apply.
- (a) Unless the context clearly indicates to the contrary words used in the present tense include the future tense, words used in the singular include the plural, words used in the plural include the singular, words importing the masculine gender include the feminine and neuter, the word "shall" is mandatory, the word "building" includes the word "structure", and the term "used for" includes "designed for" or "intended for".
 - (b) Unless specifically provided, in computing any period of time prescribed or allowed by these regulations, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday. A half-holiday shall be considered as other days and not as a holiday. "Legal holiday" includes any day designated as a holiday by the Congress of the United States or by the Kansas legislature. Whenever a notice, petition or other document is required to be filed within a specified time period, the notice, petition or document must be filed with the appropriate city official or in the appropriate City office not later than 5:00 p.m. on the last day of the period as computed above.
 - (c) Where these regulations permit or require an act on the part of an "owner" or "landowner," or and a particular lot or tract of land is owned by several persons, whether in joint tenancy, tenancy in common, partnership, joint venture or other form of joint ownership, the act shall be taken on behalf of, and with the express consent of, all these persons.
- 16-1404. DEFINITIONS.
- (a) Where a word or term is not defined in this Article but is defined elsewhere in this chapter or in the City Code, the definition shall be applicable unless the context indicates that a standard dictionary definition is more appropriate.
 - (b) Where a word or term is defined in this Article and also defined elsewhere in this chapter, the definition contained in this Article shall be generally applicable except in the article or section to which the other definition applies.

- (c) The words and terms contained hereinafter shall be defined to mean as follows:
- (1) The "City Code" means the Code of the City of Roeland Park, Kansas.
 - (2) "Flood plain" or "100-year flood plain" means the area within the floodway and the floodway fringe.
 - (3) "Floodway" means the channel of a river or other waste course and the adjacent land areas that must be reserved in order to discharge a flood having a one percent change of being equaled or exceeded in any given year without cumulatively increasing the water surface elevation more than one foot at any point assuming equal conveyance reduction outside the channel from the two sides of the flood plain.
 - (4) "Platted" means real property which is the subject of a final plat, or replat, recorded with the Register of Deeds of Johnson County, Kansas. "Final plat" means a drawing of a permanent nature showing the precise location and dimension of the feature as streets, lots, easements and other elements pertinent to transfer of property and prepared for permanent record. "Preliminary plat" means a drawing showing the proposed general pattern of streets, lots and land uses within a tract to be subdivided.
 - (5) "Rule exceptions" means the allowing of a subdivision to deviate from one or more specific standards and requirements of these rules and regulations.
 - (6) "Subdivider" means a person, firm or corporation undertaking the subdivision of land.
 - (7) "Subdivision," except for "lot-split" as defined below, means the division of a lot, tract or parcel of land into two or more lots, plots or sites, and includes the re-subdivision of land and the vacation of streets, lots or alleys. The creation of a street, alley or other public way by dedication shall be deemed a subdivision. "Lot-split" means the division of a lot into two or more lots or portions thereof.

16-1405. **SUBDIVISION APPROVAL.** Except as otherwise provided in this Article, no subdivision may be developed within the City until both a preliminary and final plat have been filed and approved in accordance with the provisions set forth herein; provided, however, that the landowner may elect to submit a final plat without first having had a preliminary plat approved. Approval of a preliminary plat does not constitute acceptance of the subdivision, but authorizes preparation of the final plat. No improvements shall take place in the subdivision prior to approval and recording of the final plat and submittal of street construction plans to the city engineer, and the approval thereof.

16-1406. **CONDITIONS STATED ON PLAT.** All conditions to approval of a subdivision by the planning commission which run with the land or the acceptance of dedications of land by the governing body, and all rule exceptions granted by the planning commission, shall be clearly stated on the final plat prior to its recording by appropriate city officials.

- 16-1407. **ENDORSEMENT AND FILING OF PLATS.** Approval of a final plat by the planning commission shall be endorsed on the plat by the chairman of the planning commission acceptance of lands dedicated for public purposes that have been approved by the governing body shall be endorsed on the plat by the mayor. Thereafter, the final plat shall be filed with the Register of Deeds as provided by law; no plat shall be filed with the Register of Deeds prior to its endorsement by the appropriate city officials. No final plat shall be recorded except by the city without approval of the city engineer, or his or her designee.
- 16-1408. **PROTECTION FROM FLOODING.** Subdivision proposals shall be designed to assure that all proposals are consistent with the need to minimize flood damage, that all public utilities and facilities (such as sewer, gas, electrical and water systems) are located, elevated and constructed to minimize or eliminate flood damage and that adequate drainage is provided so as to reduce exposure to flood hazards.
- 16-1409. **SUBDIVISION ARRANGEMENT.** Care shall be exercised in the design and layout out of streets, lots and other elements of a subdivision so that good planning principles are followed, efficient use is made of land and natural assets, such as trees and topography, can be retained wherever practicable. Except as provided in Section [16-1411](#) dead-end streets shall not be permitted except where the streets are provided to connect with future streets on adjacent land, off-center street intersections with an offset of less than 15 feet between center lines shall not be permitted. Surface drainage easements shall be provided as necessary, and the City may request installation of pipe, masonry or rip-rap flumes, or other protective devices in order that adjacent or surrounding property shall not be endangered and maintenance requirements will be kept to a minimum.
- 16-1410. **REGULATION OF STREETS TO ADJOINING STREETS AND LAND.** The system of streets designated for a subdivision must connect with any streets already platted to its boundary from abutting subdivisions. Streets must be continued to the boundaries of the tract subdivided at reasonable intervals so that future abutting subdivisions may connect therewith.
- 16-1411. **CUL-DE-SACS.** Cul-de-sacs may be permitted where a vehicular connection is not essential. Cul-de-sacs shall provide proper access to all lots and a turnaround shall be provided at the closed end with a outside street line radius of at least 50 feet. The length of cul-de-sacs shall not exceed 700 feet, measured from the near-side right-of-way line of the intersecting street to the center line of the cul-de-sac turnaround.
- 16-1412. **STREET ARRANGEMENTS FOR OVERSIZED LOTS.** A tract subdivided into parcels larger than normal building lots shall be arranged so as to permit the opening of future streets and a logical pattern of re-subdivision.
- 16-1413. **STREET DESIGN STANDARDS.** All streets within subdivisions shall conform to the applicable minimum design standards set forth in Section 13-107 of the City Code.

- 16-1414. PRIVATE STREETS. No plat containing proposed private streets shall be approved by the planning commission unless the proposal to utilize private streets has been previously approved by the governing body and adequate assurances are provided for maintenance of those streets. Private streets shall be designed in conformance with the minimum design standards set forth in Section 13-107 of the City Code, and shall be designated as a separate tract or tracts under common ownership on the plat. In addition, public access easements shall be dedicated to assure adequate access to all subdivision lots served by the private street for government agencies and public utilities consistent with access provided elsewhere by public streets.
- 16-1415. BLOCK LENGTHS. Intersecting streets determining block lengths shall be provided at intervals as to serve cross traffic adequately and to meet existing or future streets. Where no existing plats control, block lengths shall not exceed 1,500 feet.
- 16-1416. PEDESTRIAN WALKWAYS. In blocks where substantial pedestrian traffic may occur, e.g., adjacent to schools, the planning commission may require pedestrian walkways through blocks: The walkways shall be 10 to 15 feet in width, constructed of concrete the entire length and adequately fenced. These walkways may be required to be dedicated to the public in the same manner, as streets.
- 16-1417. LOTS ON COLLECTOR STREETS. The number of residential lots facing onto collector streets shall be kept to a minimum in each subdivision. The street patterns shall be so designed that the side lines of lots abut collector streets wherever land shapes and topography permit.
- 16-1418. LOT FRONTAGE.
- (a) Every residential lot shall front on a public or private street.
 - (b) Every non-residential lot shall front on a public or private street or have access to a public or private street by means of a public access easement to a point approved by the City.
- 16-1419. DOUBLE-FRONTAGE LOTS. The use of double-frontage lots shall be minimized in all subdivisions.
- 16-1420. RESIDENTIAL LOTS ON ARTERIALS. Residential lots shall not be designed so as to face onto existing arterials. No person shall construct or have constructed a driveway on a residential lot with direct access onto a designated thoroughfare. All plats shall contain language prohibiting the construction of driveways onto arterials.
- 16-1421. ACREAGE DEPTH OF RESIDENTIAL LOTS. Residential lots in conventional zoning districts shall have an average depth of not less than 115 feet.
- 16-1422. MINIMUM LOT DIMENSIONS. All lots shall conform to the applicable zoning district regulations pertaining to minimum lot dimensions. Lots otherwise containing sufficient lot area may have a width at the front lot line of not less than 35 feet when the lots front on a cul-de-sac.

- 16-1423. **RULE EXCEPTIONS.** In case of hardship caused by the size, location or configuration of land, topography or other factors which affect a specific tract or subdivision or portion thereof, the subdivider may request a rule exception from the requirements of this Article relating to lot and street layout, block lengths, cul-de-sac lengths, or minimum lot dimensions. Rule exceptions shall be requested at the time of filing the application for the preliminary or final plat on forms provided by the city. Rule exceptions shall not be approved by the planning commission unless it finds that the approval will not be contrary to the public interest or unnecessarily burden the city.
- 16-1424. **BUILDING OR ZONING PERMITS.** No building or zoning permits shall be issued pursuant to other provisions of the City Code unless the applicant can demonstrate compliance with the provisions of this Article. Provided, however, that land which has already been platted need not be replatted so long as all other requirements of this Article, including development standards and required improvements, are satisfied. Provided further, that the owner of a single lot may apply to the board of zoning appeals for a variance from any applicable development standards in appropriate cases. The board of zoning appeals shall consider variance requests in the same manner, and subject to the same standards, as requests for variances from the zoning regulations.
- 16-1425. **RELATIONSHIP TO PRIVATE RESTRICTIONS.** The provisions of these regulations are not intended to abrogate any deed restriction, covenant, easement or any other private agreement or restriction on the use of land. Provided, that, where the provisions of this ordinance are more restrictive or impose higher standards than any private restriction, the requirements of this ordinance shall control. Where the provisions of any private restriction are more restrictive or impose higher standards than the provisions of this ordinance, private restrictions shall control, if properly enforced by a person having the legal right to enforce these restrictions. Private restrictions shall not be enforced by the City.
- 16-1426. **PENALTY FOR VIOLATIONS AND CIVIL REMEDIES.**
- (a) The violation of any provision of these regulations is hereby declared to be a public offense and subject to the general penalty provisions contained in Section 1-117 of the City Code. Each day's violation of these regulations shall constitute a separate offense.
 - (b) The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of these regulations and to abate nuisances maintained in violation thereof. In the event that any building or structure is or is proposed to be erected constructed, altered, converted or maintained in violation of these regulations, or any building, structure or land is proposed to be used in violation of these regulations, the city attorney, or other appropriate authority of the City may, in addition to any other remedies, institute injunction, mandamus or other appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance or

use, or to correct or abate the violation, or to prevent the occupancy of the building, structure or land.

- 16-1427. **DEDICATION OF RIGHT-OF-WAY FOR ABUTTING STREETS.** Whenever a proposed subdivision abuts a public street, or a proposed public street as indicated on the plat or the official street map, and adequate right-of-way does not exist for the street or proposed street in accordance with the standards set forth in Section 13-107 of the City Code, or other right-of-way requirements established by a transportation corridor study, traffic analyses or area plan accepted by the City, the subdivider shall dedicate to the City the right-of-way as is necessary to provide conformity with the standards up to a total of one-half of the dedicated right-of-way requirements, the dedication shall be shown on the preliminary and final plat.
- 16-1428. **RESERVATION OF OPEN SPACE OR PARKLAND.** In residential subdivisions, the planning commission shall require the reservation or dedication of land for open space or public recreational use in order to ensure the proper balance of uses and to avoid the overcrowding of land. The reservation or dedication shall be determined by the geometric design of the streets, lots, blocks or other natural features of the subdivision, but the reservation or dedication shall not exceed 10% of the tract being subdivided, exclusive of streets, alleys, easements or other public ways. Dedication of land for open space or public parkland shall be subject to acceptance by the governing body as provided in Section [16-1437\(d\)](#). In lieu of dedication of land or open space or public parkland, the planning commission or governing body may require the developer to pay a fee to the City. Any fees shall be in the amount of the fair market value of the land otherwise required to be dedicated, or other amount which appropriately reflects the proportionate benefit to the subdivision, and shall be deposited in a fund earmarked for the recreational facilities. The determination of the amount of the fee to be paid shall be made by the governing body at the time the plat is submitted to the governing body for consideration of acceptance of land to be dedicated for public purposes. The landowner shall be entitled to present evidence to the governing body concerning the appropriate fee to be paid, including, but not limited to, evidence of the fair market value of the land.

DIVISION II - LOT SPLITS

- 16-1429. **LOT SPLITS.**
- (a) A previously platted lot may be divided as a lot split by either metes and bounds description or by replatting. If a lot is to be divided by metes and bounds description, it may only be divided one time and by only one new dividing lot line, and shall not again be divided without replatting. Any lot split need not comply with the procedures set out in this ordinance for platting. All lots produced by a lot split shall conform to all minimum standards of this ordinance and other applicable provisions of the City Code. No building permit shall be issued for a lot produced by a lot split until the lot split has been reviewed and approved in writing by the city engineer, or his or her designee, as being in compliance with these regulations.

- (b) Lots zoned for industrial purposes may be divided into two or more tracts without replatting the lot. Provided, however, that the lot so produced shall conform to all minimum standards of this Article and other applicable provisions of the City Code.

16-1430. APPLICATIONS FOR LOT SPLITS. Applications for lot splits shall be accompanied by a survey showing the new lots to be created, together with legal descriptions of each new lot.

16-1431. CONSIDERATION OF LOT SPLITS. The building inspector shall approve applications for lot splits if it is determined that the lot has not been previously split, that the new lots so created conform to the requirements of this ordinance, and that adequate street rights-of-way and easements exist to serve the properties. The building inspector may require the dedication of additional street rights-of-way or easements as a condition precedent to issuance of buildings permits for the new lots where the dedications are reasonably related to the development of the properties. All applications for lot splits shall be acted upon by the building inspector within 30 days after receipt of a complete application therefor. Denial of an application for a lot split by the building inspector may be appealed to the planning commission, which shall act on the appeal within 30 days following the filing thereof. All decisions of the planning commission shall be final.

DIVISION III - PLATS

16-1432. PRELIMINARY PLATS -- CONTENTS AND SUBMISSION REQUIREMENTS.

- (a) Eight copies of the preliminary plat shall be submitted in support of the application. The plat shall contain the following information:
 - (1) North arrow and scale.
 - (2) Legal description.
 - (3) The proposed name of the subdivisions and the names of adjacent subdivisions.
 - (4) The boundary lines of the tract with approximate dimensions.
 - (5) The general pattern and sizes of proposed lots and tracts.
 - (6) The general location, width and alignment of existing and proposed streets, alleys and sidewalks.
 - (7) All platted or existing streets and property lines or land adjacent for a distance of not less than 400 feet.
 - (8) Topography of the area contained in the plat shown by 2-foot contour intervals.
 - (9) Approximate gradients of proposed streets within the plat.
 - (10) Description of any existing streets or roads which abut, touch upon or extend through the subdivision. The description shall include types and widths of existing surfaces, right-of-way widths, and dimensions of any bridges or culverts.
 - (11) Boundary limits of the 100-year flood plain.
 - (12) The proposed use of land, whether for single-family, multi-family, commercial, industrial, parks, schools, etc.

- (13) Name and address of landowner.
- (14) Name and address of architect, landscape architect, planner, engineer, surveyor or other person involved in the preparation of the plat.
- (15) Date of preparation of the plat.
- (16) Signature block for appropriate City officials.
- (b) The following items shall be submitted in support of an application for preliminary plat approval:
 - (1) All technical studies as may be reasonably be required by the city engineer.
 - (2) Assurances of adequate public facilities as required by Section [16-305](#).

16-1433. **ADEQUATE PUBLIC FACILITIES AND SERVICES.**

- (a) At the time of submittal of a preliminary plat application, the applicant shall submit proof of having reviewed the development proposal with applicable water, sewer, fire, gas and electric utility officials. Proof of review shall be provided on forms furnished by the city engineer. These forms shall provide an opportunity for applicable water, sewer, fire, gas and electric officials to provide comments on the existing and future availability and timing of services provided by their respective districts to the subject property.
- (b) At the time of submittal of a final plat application, the applicant shall submit proof that adequate water, sewer, fire, gas and electric services are presently available to the subject property. If adequate public facilities and services are not presently available at the time of submittal of applications for final plats, or are not planned for the near future to appropriately serve the proposed development, as determined by the affected utility company or agency, the final plat may be denied.

16-1434. **PRELIMINARY PLAN AS SUBSTITUTE FOR PRELIMINARY PLAT.** Where property has been zoned to a planned zoning district, an approved preliminary development plan may substitute for a preliminary plat where that preliminary development plan contains all information required for preliminary plats as set forth in Section [16-1436](#).

16-1435. **CONSIDERATION OF PRELIMINARY PLATS.**

- (a) Consideration of preliminary plats shall be at a public hearing, following written notice of the time and place of the hearing being sent to surrounding property owners within 200 feet of the area covered by the preliminary plat. The notice shall be sent by certified mail, return receipt requested, at least 10 days prior to the date scheduled for the hearing. Where the plat is a replat of a part of an existing subdivision, and property rights or interests of property owners within the subdivision (but not included within the area being replatted) may be affected by the replatting, notice shall also be sent, in the same manner, to all property owners whose property rights or interests may be affected.
- (b) The planning commission shall approve the preliminary plat, if it finds that the following criteria are satisfied:

- (1) Proposed preliminary plat conforms to the requirements of this Article, the applicable zoning district regulations and any other applicable provisions of the City Code, subject only to acceptable rule exceptions.
 - (2) The subdivision represents an overall development pattern that is consistent with the comprehensive plan and the official street map.
 - (3) The plat contains a sound, well-conceived parcel and land subdivision layout which is consistent with good land planning and site engineering design principles.
 - (4) The spacing and design of proposed curb cuts and intersection locations is consistent with good traffic engineering design and public safety considerations.
 - (5) All submission requirements have been satisfied.
- (c) The action of the planning commission to approve or deny the proposed preliminary plat shall be taken by a majority vote of the membership thereof. A preliminary plat shall be deemed to have been approved if the planning commission has not taken action to approve or deny the proposed preliminary plat within 60 days after the first meeting of the commission following the date of submission of the plat to the secretary. The decision of the planning commission to approve or deny the proposed preliminary plat shall be final.

16-1436.

FINAL PLATS -- CONTENTS AND SUBMISSION REQUIREMENTS.

- (a) Final plats shall be drawn to a scale of one inch to 100 feet, or at another scale acceptable to the city engineer. Eight copies of the final plat shall be submitted in support of the application. The final plat shall contain the following information:
- (1) North arrow and scale.
 - (2) Legal description.
 - (3) The name of the subdivision and adjacent subdivisions.
 - (4) A system of lot and block numbers in orderly sequence.
 - (5) The names of streets which shall conform to the existing pattern.
 - (6) A boundary survey of third order surveying accuracy (maximum closure error one in 5,000) with bearings and distances referring to section or fractional section corners or other baseline shown on the plat and readily reproducible on the ground.
 - (7) Calculation sheets containing the following data: length and radii of all curb, street and lot lines; bearings and length of all straight street and lot lines; and the area in square feet of each lot. Bearings and distances referring to section or fractional section corners or other baseline shown on the plat shall be readily reproducible on the ground.
 - (8) The dimensions, in feet and decimals of feet, of setback lines along front and side streets and the location and dimension of all necessary easements.
 - (9) Certification of dedication of all streets, highways and other rights-of-way or parcels for public park or other public use, signed by the

owners and all other parties who have a mortgage or lien interest in the property

- (10) A statement on the plat concerning utility easements as follows:
"An easement or license to enter upon, locate, construct and maintain or authorize the location, construction or maintenance and use of conduits, water, gas, sewer pipes, poles, wires, drainage facilities, ducts and cables, and similar facilities, upon, over and under these areas outlined and designated on this plat as "Utility Easement" or "U/E," is hereby granted to the City of Roeland Park, Kansas, and other governmental entities as may be authorized by state law to use the easement for these purposes. "
 - (11) A statement on the plat concerning prior easement rights as follows:
"The undersigned proprietor of that property shown on this plat does hereby dedicate for public use and public ways and thoroughfares, all parcels and parts of land indicated on that plat as streets, terraces, places, roads, drives, lanes, avenues and alleys not heretofore dedicated. Where prior easement rights have been granted to any person, utility or corporation on those parts of the land so dedicated, and any pipes, lines, poles and wires, conduits, ducts or cables heretofore installed thereupon and therein are required to be relocated, in accordance with proposed improvements as now set forth, the undersigned proprietor hereby absolves and agrees to indemnify the City of Roeland Park, Kansas, from any expense incident to the relocation of any existing utility installations within the prior easement. "
 - (12) Location and elevations of the 100-year flood plain for all lots thereby affected shall be shown and shall include calculations.
 - (13) Certification by a registered surveyor to the effect that the plat represents a survey made by him or her.
 - (14) Name and address of landowner.
 - (15) Name and address of the engineer and surveyor preparing the plat.
 - (16) Date of preparation of the plat.
 - (17) Signature block for appropriate City officials.
- (b) The following items shall be submitted in support of the application for final plat approval:
- (1) All technical studies as may reasonably be required by the city engineer.
 - (2) Assurances of adequate public facilities as required by Section [16-305](#).

16-1437. CONSIDERATION OF FINAL PLATS.

- (a) Where the landowner elects to submit a final plat without first having had a preliminary plat approved, the proposed final plat may not be approved except after public hearing with written notice to surrounding property owners in the same manner as required for preliminary plats pursuant to Section [16-1435\(a\)](#) and after planning commission findings that the criteria set forth in Section [16-1435\(b\)](#) are satisfied.

- (b) Final plats shall be approved by the planning commission if it determines that:
 - (1) The final plat substantially conforms to the approved preliminary plat and rule exceptions granted thereto.
 - (2) The plat conforms to all applicable requirements of the City Code, subject only to approved rule exceptions.
 - (3) All submission requirements have been satisfied.
- (c) The action of the planning commission to approve or deny the proposed final plat shall be taken by a majority vote of the membership thereof. A final plat shall be deemed to have been approved if the planning commission has not taken action to approve or deny the proposed final plat within sixty (60) days after the first meeting of the commission following the date of submission of the plat to the secretary.
- (d) Following approval of the final plat by the planning commission, the final plat shall be submitted to the governing body for review of land proposed to be dedicated for public purposes. The governing body shall approve or disapprove the dedication of land for public purposes within 30 days after the first meeting of the governing body following the date of the submission of the plat to the city clerk. The governing body may defer action for an additional 30 days for the purpose of allowing for modifications to comply with the requirements established by the governing body. No additional filing fees shall be assessed during that period. If the governing body defers or disapproves any dedication, it shall advise the planning commission of the reasons therefor. No plat shall be filed with the Register of Deeds unless the plat bears the endorsement that the land dedicated to public purposes has been approved by the governing body.
- (e) Final plats shall be recorded with the Register of Deeds within 15 months following governing body approval of land dedicated to public purposes. Final plats which are not recorded within that time period shall be deemed null and void.

DIVISION IV - REQUIRED IMPROVEMENTS

16-1438. **CONSTRUCTION OF REQUIRED PUBLIC IMPROVEMENTS.** The subdivider shall be required to construct certain public improvements within the subdivision as hereinafter provided. These improvements shall not be installed prior to proper recording of the final plat by the City. All improvements installed by the developer shall comply with the specifications and standards of the City as set forth in this ordinance or elsewhere in the City Code.

16-1439. **STREETS.**

- (a) The subdivider shall be responsible for the installation of all streets including curbing, within the boundaries of the subdivision. No grading or other construction shall take place within a street right-of-way until the construction plans have been approved by the city engineer. All street construction shall conform to the specifications of the City and compliance

therewith shall be confirmed by the city engineer prior to release of any surety required hereinafter.

- (b) In the case of a subdivision which abuts an existing or proposed collector or arterial street that does not contain a paved surface conforming to the standards established in Section 13-107 of the Code, then the following standards and procedures shall apply. If the street or roadway consists of seal-coated surface, crushed rock or material other than asphaltic concrete, or if the surface is less than 24 feet in width and 3 inches in depth, or has an irregular deteriorated surface as determined by the city engineer, then the subdivider shall improve the length of the roadway abutting the subdivision as part of the subdivision development process. These improvement shall consist of not less than a 3-inch overlay of hot mix asphaltic concrete 24 feet in width. The subdivider shall also perform whatever grading is necessary so that the subdivision grades are compatible with those depicted for any adjacent proposed collector or thoroughfare street in street plans available from the city engineer. In the event that preliminary or final street plans have not been prepared for the collector or arterial street, the subdivider will be required to furnish a preliminary street plan which employs the standards established in Section 13-107 of the City Code. Plans and specifications for that pavement and grading, and where applicable preliminary street plans shall be approved by the city engineer in the same manner as other construction in the city. Preliminary street plans shall be approved by the city engineer, and will be kept on file in the office of the building inspector.

16-1440. SIDEWALKS.

- (a) Within the boundaries of a subdivision, sidewalks shall be installed by the subdivider on both sides of all arterials and collector streets and on one side of all local residential streets. In industrial parks or business parks, sidewalks shall be required only on arterial, collector streets or peripheral streets. All sidewalks shall be no less than 4 feet in width, of portland cement concrete, and shall comply with the specifications of the City. Sidewalks shall be located in the platted street right-of-way abutting the property line. Sidewalks shall also be installed in any pedestrian easements as may be required by the planning commission. Sidewalks need not be installed where a rule exception has been approved by both the planning commission and the governing body.
- (b) Where a subdivision abuts an existing collector street or an arterial that does not contain a paved surface conforming to the standards in Section 13-107 of the City Code, the subdivider need not install sidewalks, but shall pay to the City sufficient funds to pay the costs of construction of all required sidewalks abutting the collector streets or arterials. Payment shall be made prior to the recording of the final plat. The amount of the payment is to be estimated by the city engineer and is to be based upon the work involved and shall be deposited in cash with the city clerk. If the sum is \$50,000 or greater, the applicant may deposit either cash or an irrevocable letter of credit from an acceptable financial institution payable to the City, collectible no later than one year from the date of recording of the plat.

The funds collected from the applicant or from the irrevocable letter of credit shall be placed in an escrow account and set aside for the construction of the sidewalks to be constructed when scheduled on the City's capital improvements program or, in any event, within 20 years from the time the cash is placed in escrow, or within 19 years from the cashing of the irrevocable letter of credit. In the event that the construction of these sidewalks is not made within the time stated above, the funds from the escrow account, together with the actual accrued interest, shall be returned to the subdivider or its successors in interest.

16-1441. **STORM DRAINAGE FACILITIES.** The subdivider shall install culverts, storm sewers, rip-rap slopes, stabilized ditches, storm water detention facilities and other improvements necessary to adequately handle storm water. All improvements shall comply with the standards in Section 13-107 of the City Code and shall be approved by the city engineer prior to construction.

16-1442. **UNDERGROUND UTILITIES.**

- (a) Except as otherwise provided in this section, all utilities shall be installed underground within designated easements by the subdivider or utility company prior to the issuance of a certificate of occupancy. For purposes of this Section, the term "utilities" shall include, but not be limited to, all pipes, poles, wires, connections, conductors, switchers, line transformers and insulators which supply natural gas, electricity, sewage or water, or which may be used for communications transmission.
- (b) The subdivider, developer or owner of any area or portion thereof shall make the necessary arrangements for the installation of underground utilities. These arrangements shall be made with the utility company. A letter from the utility company confirming that the underground installation as required by this section has been completed shall be submitted to the building inspector at the time that a certificate of occupancy is requested. A certificate of occupancy shall not be granted absent confirmation.
- (c) The provisions of this section shall not apply to any of the follow uses:
 - (1) All electrical power lines rated at or above "feeder" line class. For purposes hereof, a "feeder" line is defined as that portion of an electrical circuit which provides power from a power substation and which has a rated capacity of 3,000 KVA or more.
 - (2) All telecable lines rated at or above "trunk" line class. For purposes hereof, a "trunk" line is defined as that portion of a telecable systems line that is .750 inches in diameter.
 - (3) Existing poles, overhead wires, and associated overhead structures, when part of a continuous line, or services to individual properties from existing overhead lines that are within a subdivision previously approved in accordance in conformance with existing regulations.
 - (4) Existing poles, overhead wires, and associated overhead structures, when part of a continuous line, or services to individual properties from existing overhead lines that serve properties adjacent to but not within areas being subdivided.

- (5) Any communication line which would otherwise be required by this section to be underground that uses an overhead pole or structure exempted by this section.
 - (6) Radio and television antennas.
 - (7) Structures on corner lots, in streets and alleys, and on easements adjacent thereto, and in cases where electrical and communication wires cross a street or other district boundary from an area where overhead wires are not prohibited, may be connected to those overhead wires.
 - (8) Overhead lines attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location of the building to another location of the building or to an adjacent building without crossing a property line.
 - (9) Poles used exclusively for street or area lighting or for traffic control facilities.
 - (10) Service terminals, transformers, regulators, meters or other on- and aboveground appurtenances normally used with and as a part of an underground distribution system.
- (d) Nothing in this section will prevent the replacement of poles, overhead wires, and associated overhead structures on these lines when necessary for the purpose of maintaining the line or upgrading the capacity thereof or, in the case of single-phase lines, the addition of the necessary facilities to three-phasing of the line.

16-1443. **SANITARY SEWERS, WATER AND UTILITIES.**

- (a) The subdivider shall be responsible for the proper installation of sanitary sewers (and connection to approved treatment facilities), and the provision of water supply, natural gas, electricity and telephone service. All services and utilities shall be installed according to the specifications and minimum standards of the controlling utility company or public agency except as otherwise provided by this ordinance.
- (b) Except as may be otherwise provided pursuant to Section 15-201 of the City Code, no subdivision shall be approved and no construction therein permitted until a sewer district has been created.

16-1444. **STREET SIGNS.** The developer shall be responsible for paying the cost of installation of street signs as determined by the public works department at all street intersections within the subdivision. These signs shall follow the street names designated on the approved final plat. The signs shall be installed by the City. Payment for the installation of these signs shall be made in full prior to approval of construction plans for each phase of development.

16-1445. **STREET LIGHTING.** Street lighting shall be installed by the subdivider In accordance with the provisions of Section 13-107 of the City Code.

16-1446. **IMPROVEMENT BONDS.** The proper installation of streets, curbs and gutters, sidewalks, storm drainage facilities, pedestrian walkways, street lights, right-of-way

and lot grading and other required improvements shall be guaranteed by the subdivider or his agent by furnishing surety in the form of a performance and maintenance bond. The bond shall be to the favor of the city and shall be furnished at the time construction plans are submitted for approval. The amount of the bond shall be for the full cost of the improvements and shall remain in effect for one year from the date of completion and acceptance by the City. The bond shall be properly executed prior to any grading or construction and shall be released upon written approval of the city engineer. A building permit shall not be issued for a lot or tract in a subdivision which abuts a street for which a bond has not been furnished.

16-1447. FUNDS FOR IMPROVEMENT OF ABUTTING ARTERIALS AND COLLECTORS. Where a subdivision abuts an existing or proposed collector street or arterial that does not contain a paved surface conforming to the standards established in Section 13-107 of the City Code, funds shall be contributed for the improvement of the roadway as provided herein.

- (a) Prior to the recording of an approved final plat, the subdivider shall pay to the City sufficient funds to pay one-half of the cost of construction of a 36-foot wide collector street or streets abutting the subdivision. The amount of these funds is to be estimated by the city engineer and is to be based upon the work involved. These funds shall be deposited in cash with the city clerk.
- (b) If the amount required pursuant to subsection (a) above is \$50,000 or greater, the subdivider may deposit with the city clerk either cash or an irrevocable letter of credit from an acceptable financial institution payable to the City, collectible no later than one year from the date of issuance. The funds collected from the subdivider or from the irrevocable letter of credit shall be placed in an escrow account set aside for the improvement of that street or streets to the standards established in Section 13-107 of the City Code. The escrow account shall be the only financial contribution paid by the subdivider or its successors in interest for collector or thoroughfare streets serving the platted land, and the improvements will be made when scheduled on the City's capital improvements program. Improvements shall be made within 20 years from the time cash is placed into escrow or within 19 years from the cashing of the irrevocable letter of credit. In the event that the improvements are not made within the time stated above, the funds from the escrow account, together with the actual accrued interest, shall be returned to the subdivider or its successors in interest.
- (c) The governing body may waive all or a portion of the payment required by this section in cases where it determines that the circumstances are unique and compensating benefits are provided to the public.

ARTICLE 15. BOARD OF ZONING APPEALS

16-1501. BOARD OF ZONING APPEALS CREATED. There is hereby created a board of zoning appeals for the City of Roeland Park in accordance with the provisions of the Kansas Statutes Annotated. The word "board" when used in this Article shall be construed to mean the board of zoning appeals.

- 16-1502. COMPOSITION OF BOARD. The board shall consist of five residents of the City to be appointed by the mayor by and with the consent of the city council. The term of office of the members of the board shall be for three years excepting that the five members first appointed shall serve respectively for terms of one for one year; two for two years; and two for three years. The presence of three members of the board shall constitute a quorum for the transaction of business, provided, however, that the concurring vote of three members of the board shall be necessary to effect a ruling in favor of an appellant or applicant.
- 16-1503. CHAIRPERSON; REMOVAL OR MEMBERS. The board shall elect the chairperson who shall serve or until a successor is elected. The board may adopt reasonable regulations for the conduct of its affairs. Board members may be removed for cause by a majority vote of the governing body.
- 16-1504. POWERS AND DUTIES. The board shall operate and have those powers and duties as set forth herein or in applicable provisions of the Kansas Statutes Annotated.
- 16-1505. FEES. When an application is filed with the board pursuant to its rules there shall accompany each application a fee in an amount established by resolution of the governing body.
- 16-1506. APPEALS TO THE BOARD OF ZONING APPEALS.
- (a) Appeals may be taken by any person aggrieved, or by any officer of the city or any government body or agency affected by any order, requirement, decision, or determination made by any administrative official of the City in the enforcement of Chapter 16, or of any ordinance adopted pursuant thereto.
 - (b) No appeal, pursuant to this section, shall be heard by the board until the individual appealing the order, requirement, decision or determination has met with the administrative official who made the determination to receive a full explanation of the zoning requirements in question as currently interpreted. No notice of appeal shall be processed until it has been deemed complete by the building inspector, the fee paid, and all required additional information submitted.
 - (c) The appeal shall be taken within a reasonable time as provided by the rules of the board. An appeal shall be initiated by filing with the person whose decision is being appealed and with the board a notice of appeal specifying the decision being appealed from and a statement as to the reason of the appeal. The notice must be accompanied by the fee set by the governing body, pursuant to Section [16-1505](#). The building inspector or the board may require that drawings or photos of the property in question and a list of all surrounding property owners be submitted to the board prior to consideration of the appeal by the board.
 - (d) When all requirements established in Section [16-1506\(b\)](#) and (c) have been complied with, the building inspector shall notify the chairman and the chairman shall schedule a meeting of the board and shall send copies of the notice to the board members. At least twenty days prior to the board meeting,

an official notice to the public shall be published in the official city newspaper explaining the appeal and the time and place of the scheduled hearing. A copy of the notice shall be mailed to each party to the appeal and to the planning commission. At the hearing, any party may appear in person or by an agent or by an attorney.

- (e) An appeal stays all proceedings and furtherance of action appealed from unless the building inspector certifies to the board, after the notice of appeal has been filed, that, by reason of facts stated in the notice, a stay would cause imminent peril to life or property.
- (f) At its next meeting, the board shall hear all facts and testimony from all parties wishing to be heard concerning the appeal. The appeal shall be heard by the board at the next meeting following compliance with the requirements established in Section [16-1506\(b\)](#), (c) and (d).
- (g) In its deliberations, the board must only consider whether or not the interpretation in question conformed to the specific language of the ordinance being enforced. The board may not declare the zoning regulations unfair or attempt to act contrary to their purpose. The board may clarify ambiguities or resolve conflicts between opposing sections. Since the board's decisions will affect future application of the regulation in question, the specific hardship of the applicant should not be considered when reaching a determination on an appeal filed pursuant to this section.
- (h) The board may either affirm, reverse, or modify the order, requirement or interpretation at issue. If the decision of the board is not made at the meeting where the hearing was held, a written decision, shall be mailed to affected parties.

16-1507. VARIANCES.

- (a) When an applicant feels that the strict application of the requirements of the zoning regulations have created an undue hardship, the applicant may request a variance from the board.
- (b) A variance should be issued only to the specific restrictions on physical construction; not to permissible land uses within a given district, and only if it reasonably constitutes the minimum variance necessary and the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done.
- (c) To initiate a request for a variance the applicant or his authorized agent shall submit a completed application on the form provided by the City to the building inspector and pay the appropriate fee as set forth in Section [16-1505](#). The application shall be accompanied by a sketch map showing proposed and existing structures and uses of the property for which the variance is being requested and of immediately adjacent properties. The building inspector may require applicant to submit photos of the subject property. No application shall be processed until it has been deemed completed by the building inspector, the fee paid and all additional information submitted.
- (d) When all requirements established in Section [16-1507\(b\)](#) and (c) have been complied with, the building inspector shall notify the chairman, and the

chairman shall schedule a regular meeting of the board and send to the board members copies of the application and all additional information submitted. At least 20 days prior to the board meeting, an official notice to the public shall be published in the official City newspaper explaining the variance request and the time and place of the scheduled hearing, and a copy of the notice shall be mailed to the applicant, the planning commission, and to all owners of record of lands located within 100 feet of the property which is the subject of the application for variance. The form of the notice and the procedure for providing the notice shall be in accordance with Subsection [16-331\(a\)](#).

- (e) At the scheduled meeting of the board, it shall hear all facts and testimony from all parties wishing to be heard concerning the requested variance. In each case, the board shall not grant a variance unless by a vote of three members of the board finds, based upon the evidence presented, facts which conclusively support all the following findings.
 - (1) Uniqueness. The variance requested arises from conditions which are unique to the property in question, which are not ordinarily found in the same zoning district, and which are not caused by the action of the property owners or applicant. These conditions include the particular physical surroundings, shape, or topographical condition of the specific property involved which would result in a practical difficulty or unnecessary hardship for the applicant, as distinguished from a mere inconvenience, if the requested variance was not granted.
 - (2) Adjacent Property. The granting of the variance will not be materially detrimental or adversely affect the rights of adjacent property owners or residents
 - (3) Hardship. The strict application of the provisions of the zoning regulations from which a variance is requested will constitute unnecessary hardship upon the applicant. Although the desire to increase the profitability, of the property may be an indication of hardship, it shall not be a sufficient reason by itself to justify the variance.
 - (4) Public Interest. The variance desired will not adversely affect the public health, safety, morals, order, convenience, or general welfare of the community. The proposed variance shall not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.
 - (5) Spirit and Intent. Granting the request for variance should not be opposed to the general spirit and intent of the zoning regulations.
- (f) The board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the board, decisions of the board and the vote upon each question. Records of all official actions of the board shall be filed in city hall and shall be public record.

- (g) The board may either grant, grant conditionally, or deny the application for a variance. If the decision of the board is not made at the meeting at which the hearing was held, a written decision shall be sent to affected parties and the planning commission.

16-1508. APPEALS FROM BOARD OF ZONING APPEALS. Any person or an official of a government agency dissatisfied with any order or determination of the board may bring an action to determine the reasonableness of any order or determination within thirty days after the making of the order or determination, in the District Court of Johnson County, Kansas.

ARTICLE 16. ADMINISTRATION AND ENFORCEMENT

DIVISION I - 47th AND MISSION ROAD AREA DEVELOPMENT AND MANAGEMENT COMMITTEE

16-1601. 47th AND MISSION ROAD AREA DEVELOPMENT AND MANAGEMENT COMMITTEE ESTABLISHED. The 47th and Mission Road Area Development and Management Committee ("committee") is hereby established, effective upon the passage of a similar ordinance by the City of Westwood, Kansas, and the Unified Government of Wyandotte County/Kansas City, Kansas. The committee is established for the following purposes: (1) implement the objectives of 47th and Mission Road Area Concept Plan ("Concept Plan"), as adopted and amended by the City; (2) review the development applications within the 47th and Mission Road area, as authorized by the City through ordinances; (3) make recommendations as to whether development applications are in compliance with the concept plan and all ordinances adopted by the City to implement the concept plan; (4) coordinate efforts for cooperation among the City of Roeland Park, Kansas, the City of Westwood, Kansas, and the Unified Government of Wyandotte County/Kansas City, Kansas, in planning and construction of public improvements within the 47th and Mission Road area to ensure that public improvements are in compliance with the concept plan and consistent among the City of Roeland Park, Kansas, the City of Westwood, Kansas, and the Unified Government of Wyandotte County/Kansas City, Kansas; (5) promote development within the 47th and Mission Road area that is in compliance with the concept plan and all ordinances adopted by the City of Roeland Park, Kansas, the City of Westwood, Kansas, and the Unified Government of Wyandotte County/Kansas City, Kansas, to implement the concept plan, including business recruitment and business retention and redevelopment; (6) coordinate with business owners for special events and promotions; (7) work with neighborhood associations to achieve long-term goals of the concept plan; and (8) pursue grants to help with public funding and implementation of the concept plan. (Ord. 716, Sec. 1; Code 2003)

16-1602. APPOINTMENT AND TERMS.

- (a) The committee shall consist of nine members, three of which shall be appointed by the City of Roeland Park, Kansas, three by the City of

Westwood, Kansas, and three by the Unified Government of Wyandotte County/Kansas City, Kansas.

- (b) The mayor shall appoint three members to the committee, with the advice and consent of the city council, and consistent with the qualification requirements in Section [16-1603](#).
- (c) Of the three initial appointments, one shall be for one year, one shall be for two years, and one shall be for three years.
- (d) Upon the expiration of any initial appointment, successor appointments shall all be for a period of three years.
- (e) Committee members shall serve their full term, or until a successor is appointed.
- (f) Committee members may be appointed to more than one successive term.
- (g) Vacancies, by resignation, incapacitation, dismissal, or otherwise, shall be filled in the same manner as an initial term, and shall be for the duration of the vacated committee member's term.
- (h) Committee members may be dismissed for cause after a hearing before the city council. (Ord. 716, Sec. 2; Code 2003)

16-1603.

QUALIFICATIONS.

- (a) Committee members may serve in any other elected or appointed position.
- (b) The mayor shall appoint three committee members, each having one of the following designations: a current planning commission member, a current city councilmember, and a current resident from Ward 2.
- (c) If the qualifications in subsection (b), above, cannot be satisfied, a Committee member shall, at a minimum, have at least one of the following special qualifications that will enable him/her to fulfill the purposes of this Section: (1) a resident with professional experience in a development profession such as planning, architecture, real estate development, or engineering; (2) a business owner within the 47th and Mission Road Area Design Review Overlay District; (3) a resident with experience in other elected or appointed municipal positions dealing with planning, zoning, or community development; (4) a resident with membership in a neighborhood association or committee within the area covered by 47th and Mission Road Area Design Review Overlay District; or (5) a resident with any other demonstrated civic involvement that will enable the committee member to understand and enhance the implementation of the 47th and Mission Road area concept plan. (Ord. 716, Sec. 3; Code 2003)

16-1604.

POWERS AND DUTIES.

- (a) The committee is authorized to adopt bylaws for conducting its business, consistent with the purposes and authority granted by Section [16-1601](#) of the City Code.
- (b) After discussion of an application, the committee shall make a recommendation to the planning commission, or board of zoning appeals, as the case may be, on the application's compliance with the 47th and Mission Road area concept plan, and the standards associated with the 47th and Mission Road Area Design Review Overlay District.

- (c) The committee may continue an application once after discussion, if the committee feels it has received incomplete information or it needs more information to make a recommendation. However, any continuance must be reheard before the committee within one month, unless the applicant agrees on the record to a greater duration. Additionally, the applicant may elect to proceed to the planning commission or board of zoning appeals, as the case may be, upon the understanding that the application will automatically carry a "recommendation to deny due to incomplete application" from the committee.
- (d) To assist the committee in its duties, the planning department, other staff, or appointed consultants shall prepare a staff report on each application within the 47th and Mission Road area specifically addressing the application's compliance with the 47th and Mission Road area concept plan, and the standards of this ordinance. The staff report shall be submitted to the secretary of the committee at least five business days before the scheduled committee meeting.
- (e) The committee may use funds designated by any jurisdiction or awarded by any local, state, or federal grant, to retain staff members or consultants to review applications or otherwise assist in implementing the 47th and Mission Road area concept plan.
- (f) All committee meetings shall be open to the public, with notice published and records kept in accordance with the laws of the State of Kansas. The secretary of the committee shall be the custodian of records for the committee. (Ord. 716, Sec. 4; Code 2003)

DIVISION II Reserved

DIVISION III Reserved

DIVISION IV Reserved

DIVISION V – ENFORCEMENT

16-1605. PENALTY. Any person, firm or corporation who violates or disobeys, omits, neglects or refuses to comply with this chapter shall, upon conviction, be fined not less than \$10 nor more than \$500, or be imprisoned for not more than six months, or be both fined and imprisoned. Each day that a violation is permitted to exist shall constitute a separate offense. The City shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provisions of this Article and to abate nuisances maintained in violation thereof; and in addition to other remedies, institute injunction mandamus, or other appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation or to prevent the occupancy of the building, structure or land.