ARTICLE 1

GENERAL PROVISIONS

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16-1-1 TITLE

This Ordinance, Articles 1 through 9, inclusive and as may be amended and supplemented, shall be known and may be cited and referred to as the Leawood Development Ordinance or as the Development Ordinance of the City of Leawood, Kansas.

16-1-2 INTERPRETATION

In their application, the provisions of this Ordinance shall be interpreted in accordance with the following:

16-1-2.1 Purpose

The provisions of this Ordinance have been established for the purpose of promoting the health, safety, and general welfare of the community and for maintaining a high quality living environment. The zoning regulations and districts have been designed and developed to lessen congestion in the streets; to secure safety from fire and other hazards; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements; to maintain the aesthetics of development and redevelopment; to conserve property value; to promote innovative and energy conscious design, and ensure efficient and effective circulation systems; to encourage the conservation of land resources, minimization of auto travel; and to promote orderly economic growth. The zoning regulations and districts have been made with reasonable consideration of the character of the district, the suitability and aesthetic quality for the particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community in accordance with the City's Comprehensive Plan.

This Ordinance is adopted under the authority of Kansas Statutes and any amendments thereto and other applicable authority.

16-1-2.2 Overlapping or Contradictory Regulations

Where the conditions imposed by any provision of this Ordinance upon the use of land, buildings, or structures are either more restrictive than comparable conditions imposed by any other provisions of this Ordinance or of any other law, ordinance, resolution, rule or regulation of any kind, the more restrictive provisions or parts thereof shall govern.

16-1-2.3 Private Agreements

This Ordinance is not intended to abrogate, annul or void any easement, covenant or any other private agreement or legal relationship. This Ordinance and its amendments are separate and apart from any such private agreement or relationship.

16-1-2.4 Unlawful Uses

No building, structure, or use which was not lawfully existing at the time of the adoption of this Ordinance shall become or be made lawful solely by reason of the adoption of this Ordinance; and to the extent that, and in any respect that, said unlawful building, structure or use is in conflict with the requirement of this Ordinance, said building, structure or use remains unlawful hereunder.

16-1-2.5 Not a Licensing Ordinance

Nothing contained in this Ordinance shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any building, structure or facility to carry on any trade, industry, occupation or activity.

16-1-2.6 Cumulative Provisions

The provisions of this Ordinance are supplementary and additional limitations upon all other laws and ordinances, heretofore passed or which may be passed hereafter, governing any subject matter in this Ordinance.

16-1-2.7 Severability

It is hereby declared to be the intention of the Governing Body of the City of Leawood that the several provisions of this Ordinance are separable, in accordance with the following:

A) If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance.

B) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular parcel of land, building or other structure, such judgment shall not affect the application of said provisions to any other parcel of land, building or structure.

16-1-3 BUILDINGS, STRUCTURES, AND USES OF THE CITY

All buildings, structures, or uses owned or operated by the City of Leawood shall be exempted from the regulation of this Ordinance and shall be permitted in any district provided that plans are submitted and approved in accordance with the notice and hearing provisions of Article 5 of this Ordinance.

16-1-4 PUBLIC UTILITIES AND PUBLIC SAFETY USES

16-1-4.1 General

The following structures or uses shall be permitted in any district, but shall be subject to the express regulations of this Development Ordinance, unless otherwise approved by the Governing Body, including the special use permit process, requirements for franchise agreements, building codes, the requirement for underground lines, and to all other ordinances or regulations of the City:

A) Poles, wires, cables, conduits, vaults (when totally screened), laterals, pipes, mains, valves, or any other similar equipment for transmission or distribution to customers of telephone or other communication services, electricity, gas, steam or water, or the collection of sewage or surface water, operated or maintained by a public utility;

B) Railroad tracks signals, bridges and similar facilities and equipment located on a railroad right-of-way.

Utility structures that otherwise meet the terms and requirements of this Ordinance may be placed in the rear and side setbacks when such structures have been reviewed and approved by the Director of Planning and Development as being in compliance with this Ordinance. All new utility facilities, other than replacement structures of equal or lesser size, shall be placed underground unless otherwise approved by the Governing Body.

In the case of a new or amended preliminary or final plan or plat, the owner, developer, and/or applicant shall be responsible for placing all existing utilities underground prior to issuance of a building or occupancy permit or at such time mandated by the approved plan or plat.

(Ord. 2039, 12-15-03)

16-1-4.2 Minimum Standards

A) General requirements – All districts. This section shall establish supplementary requirements for accessory "Utility and Service Facilities." The facilities subject to this section shall include any cabinet, pedestal, box, vault, building or other accessory facility used for public utility services, public service corporations, or telecommunications providers including any associated equipment such as condensing units and generators (hereinafter collectively referred to as "facilities" or "utility boxes"). Traffic signal controllers shall not be considered utility or service facilities nor shall substations or other utility facilities that require a special use permit or other planned approval as a principal use of property. Except as may be expressly otherwise waived by the City, the following general requirements shall apply to all utility facilities and utility boxes:

1) All facilities shall be placed underground unless otherwise authorized in this section.

2) Aboveground pedestals, vaults, or other aboveground facilities may be installed only if approved by the City where alternative underground facilities are not reasonably feasible or where above-ground placement is otherwise authorized in this section.

3) All facilities, whether on right-of-way or public or private property, shall be subject to all other zoning or other restrictions established by ordinances or regulations of the City unless otherwise provided herein.

4) The design, location, and nature of all facilities shall require approval of the City Engineer, which approval shall be considered in a nondiscriminatory manner, in conformance with this Ordinance, and subject to reasonable conditions as may be necessary to meet these requirements.

5) All aboveground facilities, where authorized, shall be screened. Unless otherwise approved, screening shall include use of evergreen trees, shrubs, or other landscaping, planted to form an effective and actual sight barrier within two years. A landscape plan signed by a Kansas registered landscape architect shall be submitted and approved by the city. At the time of planting, plant material screening the ground mounted utility, shall be a minimum of 6 inches taller than the utility it is to screen, with lower shrubs in foreground to eliminate any gaps in screening. The utility shall be responsible for the installation, maintenance, repair, or replacement of the aforementioned screening materials when the real property on which the aboveground facility is located is owned by the utility. When said aboveground facility is located on non-utility owned real property, maintenance of all landscaping shall be the responsibility of the utility, unless the property owner provides written acceptance of such responsibility, running with the land. Aboveground facilities and low profile mini-pad transformers needed for underground utilities, located in rear yards, serving not more than two single-family dwellings are exempt from screening requirements.

6) Each electric vehicle charging station shall be posted with signage indicating the space is only for electric vehicle charging purposes. In addition, the electric charging station may include signage on the charging station identifying it as an electric charging station, instructions on its use, and listing of owners/sponsors of the charging station. However, such listing of owners/sponsors shall be limited to a total of 48 sq.in. All signage must conform to the requirements of the Leawood Development Ordinance and shall not contain advertisements for products or services. Signage on any one side of the charging station shall be a maximum of 50% of the surface area on that side. The maximum height of lettering for any sign shall be 6 in.

7) All facilities will be constructed in such a manner so as not to emit any unnecessary intrusive noise.

8) Within residential developments, all City approved aboveground facilities shall be placed in the rear yard wherever practical. If locating these facilities in the rear yard is not practical or appropriate, as determined by the City Engineer, then such facilities shall be at least twenty-five (25) feet behind the right-of-way.

9) Facilities shall be prohibited from being located within the right-of-way, unless otherwise approved by the City Engineer if necessary and appropriate.

10) Any material changes or extensions to such facilities or the construction of any additional structures shall be subject to the requirements and approval of the City Engineer in conformance with the requirements of this section.

11) As technology permits, permit holder shall reduce the size or remove the utility boxes at this site.

12) All facilities and utility boxes shall be deemed abandoned after six continuous months of non-use, and thereafter the approval for such facilities shall be deemed null and void and shall be removed within 30 days thereafter at the cost of the utility.

13) Fencing and gates associated with utility and service facility shall comply with the regulations contained in Section 16-4-9 of this Ordinance.

B) In residential districts, the following additional requirements apply:

1) All new utility boxes with a height of less than 55 inches, a footprint of equal to or less than 15 square feet in area, or a pad footprint of equal to or less than 15 square feet, may be installed only with the prior approval of the Director of Community Development as being in compliance with this Ordinance. However, all new electric vehicle charging stations shall only be permitted within the interior of a garage.

2) All new utility boxes with a height of 55 inches or greater, a footprint greater than 15 square feet in area, or a pad footprint greater than 15 square feet in area, shall be authorized only by approval of a special use permit prior to construction.

C) In commercial districts, the following additional requirements apply:

1. All utility boxes, not otherwise approved on a Development Plan, with a height of less than 55 inches, a footprint of 15 square feet in area or less, or a pad footprint of 15 square feet in area or less, may be installed only with the prior approval of the Director of Community Development as being in compliance with this Ordinance.

2. Electric vehicle charging stations may be installed only with the prior approval of the Director of Community Development as being in compliance with this ordinance if the following apply.

a) The electric vehicle charging station has a height of 72” in. or less, and a footprint of 3 sq.ft. or less, or a pad footprint of 3 sq.ft. or less in area.

b) The electric vehicle charging station has a height of less than 55 in., and a footprint of 15 sq.ft. or less.

2) All utility boxes, not otherwise approved on a Development Plan, with a height of 55 inches or greater, a footprint greater than 15 square feet in area, or a pad footprint greater than 15 square feet in area, or all electric vehicle charging stations that do not meet the size specifications of Section 16-1-4.2(C)(1) of this Ordinance, may be installed only with the prior recommendation of the Planning Commission as being in compliance with this Ordinance based on review of a site plan containing such final development plan information as may be required by the City, and approval by the Governing Body. The City may impose conditions on approval, including but not limited to duration or renewal requirements, where the circumstances are sufficiently unusual to warrant the conditions.

(Ord. 2439, 04-13-10)
(Ord. 2718, 02-24-15)

16-1-5 NUMBER OF BUILDINGS, STRUCTURES AND USES ALLOWED PER ZONING LOT

16-1-5.1 Single-Family Lots

Within any district, other than the AG district, having a lot authorized or maintained for use as a single-family dwelling, only one principal permitted use or building shall be located on such lot except as may be otherwise expressly authorized.

16-1-5.2 Agricultural Uses

In the AG district, any number of buildings, structures or uses permitted by this Ordinance may be established for agricultural uses, provided that the individual district regulations are met. However, only one dwelling shall be permitted on a single lot with a minimum of 40 acres for such dwelling.

16-1-5.3 Planned Uses

All structures and uses subject to a development plan requirement as set forth in Article 3, shall conform to the approved Final Development Plan.

16-1-6 LOTS AND BUILDINGS TO FRONT ON PUBLIC OR APPROVED PRIVATE STREET

All lots created after the effective date of this Ordinance shall front upon a public street or an approved private street, and no building shall be hereafter erected or constructed except upon such a lot.

16-1-7 GATES ON PUBLIC STREETS (Ord. 1975)

16-1-7.1 Application

No person or entity may place any gate upon the public right-of-way without receiving approval of an amendment to the final development plan. No person or entity may seek such approval until the City Administrator or the Governing Body has certified compliance with Section 13-337 of the Code of the City of Leawood, 2000.

(Ord. 1975, 12-16-02)

16-1-7.2 Planning Commission Consideration

The Planning Commission shall hold a public hearing regarding the request. Notice of the hearing shall be sent to the president of any homeowners' association having property adjacent to the proposed gate and to

any affected neighboring municipality. The Planning Commission shall consider the factors stated in Section 13-337 of the Leawood Code and shall consider the factors set forth in this Development Ordinance and such other information submitted to it. The Planning Commission shall then make a recommendation to the Council for or against the proposed gate.

(Ord. 1975, 12-16-02)

16-1-7.3 Governing Body Consideration

Notwithstanding any other provision of this Article, no amendment to a final development plan, reflecting the addition of a gate in or upon the public right-of-way, shall become effective unless and until approved by the Governing Body. The Governing Body shall have the powers and authority granted to it by statute to accept or reject the Planning Commission recommendation.

(Ord. 1975, 12-16-02)

ARTICLE 2

ZONING DISTRICTS

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16-2-1 ESTABLISHMENT OF DISTRICTS

The following zoning districts are hereby established (listed in the order of most restrictive to least restrictive):

More Restrictive

Less Restrictive

Special Purpose Districts	
REC	Planned Recreation
FL	Flood Hazard Overlay
Residential Districts	
AG	Agricultural
RP-A5	Planned Rural Density Single Family Residential (5 Acres Per Dwelling)
R-1	Planned Single Family Low-Density Residential (15,000 Sq. Feet Per Dwelling)
RP-1	Planned Single Family Residential District (12,000 Sq. Ft. Per Dwelling)
RP-2	Planned Cluster Detached Residential District (6000 Sq. Ft. Per Dwelling)
RP-3	Planned Cluster Attached Residential District (6000 Sq. Ft. Per Dwelling)
RP-4	Planned Apartment Residential District (4000 Sq. Ft. Per Dwelling)
Commercial Districts	
SD-O	Planned Office
SD-NCR	Planned Neighborhood Retail
SD-NCR2	Planned Neighborhood Retail 2
SD-CR	Planned General Retail
MXD	Mixed Use District
BP	Planned Business Park

16-2-2 ZONING MAP

The City is hereby divided into districts as shown on the Official Zoning Map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. Regulations within each district shall be applied uniformly to each class or kind of structure or land.

16-2-2.1 Identification and Location of Zoning Map

The Official Zoning Map shall be marked "official copy of zoning district map incorporated into zoning regulations by adoption of an ordinance by the governing body of the City on the 18th day of November, 2002." The Official Zoning Map shall be located in the Department of Planning and Development.

16-2-2.2 Amendment of Official Zoning Map

Amendments made to the Official Zoning Map in accordance with provisions of this Ordinance shall be entered on the Official Zoning Map promptly upon receiving a copy of the ordinance signed by the Mayor and City Clerk approving said amendment.

16-2-2.3 Interpretation of Boundaries

The boundaries of the districts on the official zoning map shall be determined by the legal descriptions associated with approved zoning applications, or lacking such legal descriptions, on the basis of the location of the boundary as depicted on the official zoning map. Where uncertainty exists regarding the boundaries of districts, the following rules shall apply:

A) The district boundary lines are center lines of streets or railroads or such lines extended, property lines or such lines extended, a line lying in the center of a stream or drainage way, or the city limits of the City.

B) In the event the exact location of a boundary cannot be determined by the foregoing methods, the Board of Zoning Appeals shall, upon application, determine the location of the boundary.

16-2-2.4 GENERAL REVISION OF EXISTING ZONING DISTRICT REGULATIONS

All District regulations in effect on the date of adoption of this Leawood Development Ordinance shall be as set forth in this Chapter. After the effective date of this Ordinance, properties may only be rezoned or amended to one of the district classifications provided in Article 2 of this Chapter and, until so amended, each zoning district existing immediately prior to adoption of this Ordinance ("Prior Zoning Districts") shall be governed by the correlating regulations in this Chapter designated as "Applicable Regulations" as reflected on the following conversion chart:

Zoning District Conversion Chart	
Prior Zoning Districts	**Applicable Regulations**
REC	REC
FL	FL
AF	AG
RP-A5	RE-A5
RP-A	R-1
R-1	R-1
RP-1	RP-1
RP-2	RP-3
RP-3	RP-4
RP-4	RP-2
CP-O	SD-O
CP-1	SD-NCR
CP-2	SD-CR
SD-O	SD-O
SD-NCR	SD-NCR
SD-CR	SD-CR
N/A	MXD
PB	BP
PI	BP

16-2-3 APPLICATION AND SCOPE OF USE REGULATIONS

16-2-3.1 Permitted and Planned Uses

Except for agricultural uses on land zoned AG, Agriculture District, or other uses specifically designated as "permitted" in the applicable district on Table of Uses, Section 16-2-7, all uses of land and rezoning of property within the City of Leawood shall be subject to the planned zoning procedures in Article 3. Except as may be exempted in Article 3, all uses of property in any zoning district on the Zoning Map adopted herewith and for which no development plans have been submitted and approved, shall require the submittal of preliminary and final development plans for any new construction, reconstruction and alteration of any building, structure, parking area or other new or altered activity and shall meet all other requirements of Article 3.

16-2-3.2 Special Uses

In addition to compliance with the Planned Development plan process, all uses designated as requiring a "Special Use Permit" in the Table of Uses 16-2-7 shall be authorized in the applicable district only to the extent permitted by a Special Use Permit approved pursuant to 16-4-3. No use of a building, structure or land that is designated as a Special Use in any zoning district shall hereafter be established, and no existing Special Use, or part thereof, shall hereafter be expanded or changed to another Special Use in such district, unless a Special Use Permit has been secured in accordance with the provisions of Section 16-4-3 of this Ordinance and in addition to compliance with the Planned Development Procedures in Article 3. Any established use on the effective date of this Ordinance that would be reclassified as a Special Use in the district in which it is located has all the rights of an approved Special Use and does not require any additional approval or review. No Special Use already established on the effective date of this Ordinance shall be altered, modified, or enlarged unless a new Special Use Permit is issued in conformance with the regulations applicable to the zoning district in which such use is located.

16-2-3.3 Temporary Uses

Temporary uses shall be permitted only as provided in Article 4 of this Ordinance.

16-2-3.4 Accessory Buildings, Structures, and Uses

No accessory building, structure or use, or temporary building, structure or use shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory building, structure or use is permitted by and in conformance with the provisions of Section 16-4-1 of this Ordinance, and all other regulations or requirements pertaining, whether generally or specifically, to the district in which such building, structure or use is located.

16-2-3.5 Classification of Uses Not Listed

In the case where a use is not authorized on the Table of Uses, Section 16-2-7, as a permitted, planned or special use in the applicable district, or authorized as an Accessory Use as provided in Article 4 of this Ordinance, such use shall be prohibited unless the Planning Commission determines that the proposed use is sufficiently similar to a use expressly authorized in the applicable district and not otherwise prohibited or intended to be prohibited by this Ordinance or other applicable regulations and such determination is approved by the Governing Body. Except as provided in this subsection, uses not listed have been determined either not to be appropriate in any district, incompatible with certain existing uses, or are sufficiently rare or unexpected as to be incapable of being listed at the time of adoption of this Ordinance. Any use not shown as an authorized use, but constituting a use that is required to be permitted by law shall be authorized only in the BP-Business Park district subject to the following conditions:

A) The use shall be permitted only to the extent required by law to be permitted;

B) The use shall be approved only as a planned use, except if by law it is required to be permitted by right;

C) The use shall be located no closer than 1000 feet from any residence, residential property, park, school, or church, except as may be modified by the Governing Body through a Planned Use procedure; and

D) The use shall maintain a distance of at least 1000 feet from any other such use.

16-2-4 APPLICATION AND SCOPE OF BULK REGULATIONS

16-2-4.1 Incorporation of Other Requirements

In addition to all other generally applicable requirements in this Ordinance and of the Code of the City of Leawood, each District shall also be deemed to incorporate and require for each use, where applicable, compliance with the following supplementary requirements:

A) Parking Requirements, Section 16-4-5;

B) Signage, Section 16-4-6;

C) Landscaping and Screening, Section 16-4-7;

D) Performance Standards, Section 16-2-9; and

E) Types of Construction, Section 16-2-10.

16-2-4.2 Conformance to Bulk Regulations Required

This Ordinance expresses “Bulk” regulations in terms of maximum building or structure height, maximum lot coverage, open space, minimum lot size, and minimum front, side and rear setbacks, and related regulations in each District. Unless permitted elsewhere in this Ordinance or author-

ized as a lawful nonconforming use, no building, structure, or part thereof, shall hereafter be built, moved, remodeled, and no building, structure, lot or land shall hereafter be used, occupied or designed for use or occupancy that does not conform to the established bulk regulations and the requirements applicable to the zoning district set forth in this Article or elsewhere in this Ordinance.

16-2-4.3 Setbacks Required

All setbacks required by this Ordinance shall be provided and maintained as open, unobstructed space except as follows:

A) **All Required Setbacks:** The following are allowed to encroach in all required setbacks: awnings, shutters, canopies, grade level window wells, chimneys, overhanging eaves and gutters, provided these do not project into a setback more than 3 feet from the vertical wall of the structure; flag poles; steps necessary for access to a building or lot, hedges and other vegetation, and fences and walls (to the extent permitted in Section 16-4-9 of this Ordinance).

B) **Required Front Setbacks**: The following are allowed to encroach in required front setbacks: bay windows, oriels, or balconies projecting not more than 5 feet into the required front setback; off-street parking as may otherwise be allowed by law, except that the clear site triangle shall be maintained on corner lots in accordance with in this Ordinance.

C) **Required Rear Setbacks:** The following are allowed to encroach in required rear setbacks: accessory uses, buildings or structures only as permitted by Section 16-4-1.2 of this Ordinance; off-street parking as may otherwise be allowed by law; balconies, breezeways, open unroofed porches, terraces, decks and bay windows projecting not more than 5 feet into the required rear setback.

D) **Required Side Setbacks**: The following are allowed to encroach in required side setbacks: open off-street parking, except as provided for in Section 16-4-1.2 of this Ordinance (Accessory Uses).

16-2-4.4 Continuing Maintenance Required

The maintenance of any setback, open space, minimum lot area, or off-street parking space required by this Ordinance shall be the continuing obligation of any owner and occupant of property to which such requirements apply. Maintenance shall include meeting the minimum standards set forth for private or public property in the City's property maintenance code or other regulations.

16-2-4.5 Modification of Required Setbacks--Residential Districts

It is the intent of this Ordinance to maintain the existing streetscape, building separation and green areas within residential neighborhoods by regulating front and rear yard setbacks, while protecting the legitimate interests of property owners in making modifications to structures in an orderly way subject to the provisions contained herein.

A) Construction of new or additions to existing residential property shall provide a front setback equal to or greater than the setback provided for in the district regulations.

Where the front setback on the existing structure exceeds the minimum regulation of this Ordinance, the setbacks set forth in the subsections below shall apply:

1) **Single street frontage:** Any construction of new or additions to existing residential buildings located on or along a single street frontage shall provide a front setback equal to or greater than the average of the front setback provided by the existing structures on the two adjoining properties. If any one of the structures on the adjoining lots is situated on a curve or corner, then the calculation set forth above shall utilize an average setback for such structure, calculated by averaging the smallest and largest front setbacks provided by the structure.

2) **Corner lot - structure facing intersection of two streets:** Any construction of new or additions to existing residential buildings located on a corner lot with the structure facing the intersection of two streets, shall provide for a front setback which shall not be less than the setback provided by the existing structures on the adjoining lots. The setback lines provided by each adjoining lot shall be drawn to an intersecting point outlining the area allowed for the front setback for such corner lot.

3) **Corner lot - structure facing one street:** Any construction of new or additions to existing residential buildings located on a corner lot with the structure facing one street, shall provide a front setback equal to or greater than the average measurement of the two nearest structures on either side of the subject property along the same street.

If the setback of any structure to be used in the formula set forth above provides a setback, which is less than the setbacks mandated in the City's district regulations, then the setback mandated in the district regulation shall be used in the calculation.

B) Where the rear yard of a home is fully adjacent to a platted outlot owned and maintained by a Homeowners Association, then the rear yard setback may be encroached upon by 10 feet if:

1) The owner of the home secures written consent by the Homeowners Association for the encroachment; and

2) The outlot does not contain buildings, swimming pools or structures of any kind.

(Ord. 1998, 7-15-03)

16-2-4.6 Bulk and Off-Street Parking Requirements – Not Cumulative

No part of a setback, open space, lot area, off-street parking, or loading space required in connection with any building, structure or use for the purpose of complying with this Ordinance shall be used to satisfy any part of such bulk, off-street parking or loading space requirements for any other building, structure or use.

16-2-4.7 Structures Permitted Above the Height Limits

Subject to the limitations of this Section, the following may exceed the district height limitations provided they are allowed for a use permitted in the district in which they are erected or constructed and provided architectural design and appearance have been approved by the Planning Commission and the Governing Body: chimneys, cooling towers, condensers, elevator bulkheads, belfries, stacks, steeples, ornamental towers, monuments, cupolas, domes, spires, and necessary mechanical appurtenances and their protective housing, and provided that a parapet wall is used to screen such mechanical appurtenances from view. Parapet walls shall not be calculated in the overall height of the structure they serve. No portion of any such structure may be erected to a height exceeding 75 feet without approval of the Governing Body incorporated in the conditions of an approved Development Plan. Unless otherwise provided for in an approved Development Plan, any increase in the permitted height of any such structure above the height allowed herein or in such district regulations shall require at least one additional foot of setback space on all sides for each additional foot by which such building or structure exceeds such height limit. Provided, further, in no event shall any such structure exceed the height of 155 feet, unless otherwise allowed by height limitations in the applicable district [see e.g., Section 16-3-9(A)(8)].

Buildings and structures constructed for the purpose of public religious worship, such as churches, synagogues and temples, may exceed the height limitations of the district provided that such buildings and structures do not exceed 105 feet in height, and provided further that such building or structure allows for at least one additional foot of setback space on all sides for each additional foot by which such building or structure exceeds the height limitation in the district and provided, further, that, to the extent the lot of such building or structure is adjacent to a residential area, an additional three feet of setback space for each additional foot by which such building or structure exceeds the height limitation in the district is required between such building and the lot lines of the adjacent residential neighborhood.

16-2-5 RESIDENTIAL DISTRICTS

16-2-5.1 AG (Agricultural District)

A) General Purpose and Description: The AG District is intended to conserve farm land for agricultural purposes and to serve as a “holding” zone to prevent the premature development of large land acreages and of recently annexed land for which the most appropriate future use has not yet been determined. In order to promote these purposes, the regulations for this district allow a very limited range of uses so that the present development character of the land may be maintained and future development options preserved pending comprehensive study and analysis of the area.

B) Principal Permitted Uses: Only the uses set forth as authorized in AG as specified in the Table of Uses 16-2-7 are permitted principal uses in the AG District. All uses and any erection, construction, or alteration of any structure or building are subject to the requirements of this District and shall further be subject to all other requirements of this Ordinance except as may be expressly exempted.

C) Accessory Uses: Accessory Uses in this district are governed by 16-4-1 of this Ordinance.

D) Special Uses: Only as authorized in Table 16-2-7 of this Ordinance.

E) Bulk Regulations:

Requirement	*Minimum Distance/Area*
Front Setback:	50 feet
Side Setback:	50 feet
Rear Setback:	50 feet
Lot Area:	40 acres
Lot Frontage:	330 feet
Open Space	30% of lot area
Height Limit:	35 feet, as measured from grade at the front of the building.

F) Sewage Disposal: Connection to a public sanitary sewer system is required except where sewer mains of a public or private sewer system are found to be impractical by the Governing Body after report of the City Engineer. In such cases, use of individual sewage treatment system shall be permitted subject to the approval of a permit for the system by the Governing Body after recommendation of the Johnson Wastewater Department.

(Ord. 2379, 01-05-09)

16-2-5.2 RP-A5 (Planned Rural Residential District) (5 Acres Per Dwelling)

A) **General Purpose and Description:** Property zoned and developed as RP-A5 Planned Rural Density Single Family Residential shall provide for single-family detached dwellings and other selected uses that are compatible with the low density residential character of this district. Property zoned RP-A5 should be those tracts that correspond to the rural density residential land use category identified in the Comprehensive Plan.

B) **Principal Permitted, Planned and Special Uses:** Only the uses set forth as authorized in RP-A5 as specified in the Table of Uses 16-2-7 are authorized in the RP-A5 District. All uses and any erection, construction, relocation, or alteration of any structure or building are subject to the requirements of this District and shall further be subject to all other requirements of this Ordinance except as may be expressly exempted.

C) **Accessory Uses:** Accessory Uses in this district are governed by 16-4-1 of this Ordinance.

D) **Bulk Regulations:**

Requirement	*Minimum Distance/Area*
Front Setback:	150 feet
Corner Lot Side Setback:	100 feet
Side Setback:	35 feet
Rear Setback:	100 feet
Lot Size:	5 acres
Lot Frontage:	150 feet
Open Space	30% of lot area
Height Limit:	35 feet, as measured from grade at the front door of the dwelling.

E) **Sewage Disposal:** Connection to a public sanitary sewer system is required.

(Ord. 2380, 01-05-09)

16-2-5.3 R-1 (Planned Single Family Low Density Residential District) (15,000 Sq. Feet Per Dwelling)

A) **General Purpose and Description:** Property zoned and developed as R-1 Planned Single Family Residential shall provide for single family detached dwellings and other selected uses which are compatible with the low density residential character of this district while preserving the character of the existing neighborhoods within the district, each having their own characteristic lot size and residential architecture. Redevelopment in this District shall be subject to such additional regulations as may be necessary to preserve the unique character of the specific neighborhood. Property zoned R-1 should be those tracts that correspond to the low density land use category identified in the Comprehensive Plan.

B) **Principal Permitted, Planned and Special Uses:** Only the uses specified as authorized in "R-1" in the Table of Uses 16-2-7 are permitted principal uses in the R-1 District. All uses and any erection, construction, relocation, or alteration of any structure or building are subject to the requirements of this District and shall further be subject to all other requirements of this Ordinance except as may be expressly exempted.

C) **Accessory Uses:** Accessory Uses in this district are governed by 16-4-1 of this Ordnance.

D) **Bulk Regulations:**

For purposes of this Section of this Ordinance, the following terms shall have the meanings as set forth below:

Average Single-Family Floor Area Ratio – 0.23

Base Lot Area – 15,000 sq. ft.

Base Lot Depth – The base lot depth is calculated by dividing the minimum lot area required per the bulk regulations below by the minimum lot width required per the bulk regulations below. In an R-1 district, this calculation is 15,000/100=150.

Garage Allowance - 450 sq.ft.

Lot Depth - The lot depth is the measurement from the front property line to the rear property line. For non-rectangular lots, lot depth will be calculated by measuring the distance from the midpoint of the front lot line to both the point on the rear lot line that is closest and that which is the farthest away. The average of these two measurements will then be taken to determine the lot depth.

Lot Width -The horizontal distance between the side property lines measured at the required front yard setback line.

New – A dwelling that is constructed on a lot upon which a dwelling has never existed.

Rebuild – A dwelling that is constructed on a lot upon which a dwelling has previously existed.

Remodel – Any improvement to the exterior or interior of a dwelling that requires a building permit, including construction that increases the size of a dwelling in terms of height, length, width or total floor area.

Single Story Dwelling – A dwelling which has no habitable living space above the floor on which the main entrance is located.

Square Footage – The livable area of a dwelling excluding any basement area.

Two-Story Dwelling – A dwelling wherein there is a habitable living space above the floor on which the main entrance is located.

Requirement	***Minimum Distance/Area***
Front Setback:	35 feet, unless the setback regulations in Section 16-2-4.5 apply. In addition, no rebuild, as defined in Subsection E below, shall be permitted to have a front setback greater than the average of the midpoints (50% of the depth) of the adjacent homes facing the same street on either side of the subject property. Midpoints will be calculated by determining the distance from the front property line to the midpoint of the dwelling along the side directly adjacent to the subject lot. In addition, the Board of Zoning Appeals shall have the power to grant an exception to the required Front Setback for the addition of a non-enclosed front entryway to an existing structure, after notice and public hearing as provided for in Section 16-5-3, and upon a determination that such exception shall not cause adverse impact on surrounding properties and that the following conditions are met: a) The existing structure was legally constructed and the structure

Requirement	Minimum Distance/Area
	meets the required front yard setback; and b) The proposed entryway addition is no larger than 75 sq. ft., and protrudes into the required setback by no more than 6 feet; and c) The proposed entryway addition will be architecturally attached to and be constructed of the same materials as the primary residence; and d) The exception is necessary to allow for the entryway improvement to be made.
Side Setback:	15 feet; except that the Board of Zoning Appeals shall have the power to grant an exception to the required Side Setback for additions to existing structures, after notice and public hearing as provided for in Section 16-5-3, and upon a determination that such exception shall not cause adverse impact on surrounding properties and that the following conditions are met: a) The existing structure was legally constructed with a Side Setback of less than 15 feet; and b) In no case shall the existing structure and any proposed addition be any closer than 10 feet to the property line; and c) The proposed addition will be continuous and consistent with the existing side build line of the existing structure; and d) The proposed addition shall not cause further encroachment than that of the existing structure.
Corner Lot Side Setback:	30 feet
Rear Setback:	For lots that have a depth of 150 feet or less, 30 feet. For lots that have a depth of more than 150 feet, the rear yard setback shall be calculated using the following formula: 70% x (Lot depth-150) + 30. If the dwelling has a front setback greater than the front setback required per these bulk regulation or the requirement contained in Section 16-2-4.5 of this Ordinance, then the rear setback shall be reduced by an amount equal to the difference between the actual front setback and the required minimum front setback; provided in no circumstance shall the rear setback be less than 30 feet.
Irregular Lot Rear Setbacks:	On lots, with an irregular rear property line, with a primary structure placed at approximately a 45 degree angle toward the street or lots of other than generally rectangular shape, the rear yard setback shall have an average distance of 30 feet. This setback shall be determined by extending the sidewalls of the structure to the rear property line and calculating the square footage within the area between the rear walls, the side extensions and the rear property line(s). This fig-

Requirement	Minimum Distance/Area
	ure will then be divided by the distance between the extended side-wall lines. This will give the average depth of the area enclosed and this must be equal to or greater than 30 feet. In no case shall the structure be located less than 15 feet from any property line.
Lot Area; existing lots:	15,000 square feet per dwelling
Lot Area; new lots:*	The greater of 15,000 sq. ft. or the average (up to a maximum of 1 acre) of all lot sizes within 300 feet of any lot line
Lot Frontage:	100 feet
Minimum Lot Width:	100 feet as measured at the front setback
Height Limit:	35 feet as measured at grade at the front door, unless one of the restrictions or exceptions outlined in Subsection E below should apply.
Maximum Square Footage	The maximum square footage allowed for any single family residential structure shall be determined by the following formula: (.23 x Base Lot Area x (Lot Width/Minimum Lot Width) x (Lot Depth/Base Lot Depth))+Garage Allowance
Open Space	30% of lot area

*Lots created after the effective date of this Ordinance.

E) Restrictions on Height. The maximum height of a dwelling shall be further limited as follows:

1) Additional Restrictions.

a. Rebuilt or Remodeled Dwellings other than those situated between two Two-Story Dwellings: The maximum height of the exterior wall at the side-yard setback shall not exceed 23 feet in height as measured from the front door elevation; provided, that for each additional foot of setback, one additional foot of height may be added up to thirty feet. Provided, that the total height of the dwelling shall not exceed 30 feet as measured at grade at the front door.

b. Rebuilt or Remodeled Dwellings situated between two Two-Story Dwellings: If the Rebuilt or Remodeled dwelling has two story dwellings on either side, then the maximum height of the exterior wall adjacent at the side-yard setback shall not exceed 23 feet in height as measured from the front door elevation; provided, that for each additional foot of setback, one additional foot of height may be added, provided, the subject dwelling shall not be greater than the taller of the two adjacent dwellings. If one of the adjacent dwelling received

an adjustment in height as provided in Subsection F below, then such adjustment shall be subtracted from the height of the adjacent dwelling for purposes of determining the allowed height for the subject dwelling.

c. If the Rebuilt or Remodeled dwelling is situated on a corner lot, then the above guidelines shall apply using the dwellings on the two nearest abutting lots on either side of the subject dwelling to determine the height limit. See Figure A below.

2) Rebuilt or Remodeled Dwelling Height Limit Modified. In all cases, however, a rebuilt or remodeled dwelling may be built to the dimensions of the previous dwelling existing prior to the demolition or destruction. In addition, an increase in height may be granted at a rate of 1 foot for every 1 foot in side yard setback provided above the minimum side yard setback required, up to a maximum of 3 feet.

F) Board of Zoning Appeals Authorized to Grant Exceptions. The Board of Zoning Appeals shall have the power to grant an exception to the above stated height and bulk restrictions for, rebuilt or remodeled dwellings, after notice and public hearing as provided for in Section 16-5-3, and upon a determination that such exception shall not cause adverse impact on surrounding properties, and that the following conditions are met:

1) Exception for Height Limit:

a. The additional height allowed shall not be more than 2 feet for a maximum height of 37 feet for instances where the 35 foot height limit applies and 32 feet for instances where the 30 foot height limit applies; and

b. The dwelling has not already received the height increase allowed in Subsection E above for additional side yard setback provided; and

c. The grade of the subject lot is such that applying the height limit restrictions contained in Subsection E above would cause a hardship on the applicant in light of the proposed design of the applicant's dwelling and the design of the neighboring dwellings; and

d. The proposed height of the, rebuilt or remodeled dwelling shall reflect the character of the other surrounding dwellings in the neighborhood.

2) Exception for Maximum Square Footage:

a. The additional square footage allowed shall not be more than 20 percent of the maximum square footage allowed pursuant to this Ordinance; and

b. The proposed size of the rebuilt or remodeled dwelling shall reflect the character of the other surrounding dwellings in the neighborhood.

G) Grade Change. The natural grade of the lot on which the, rebuilt or remodeled dwelling is to be placed shall not be vertically altered by more than 1 foot, unless the alteration is to provide compliance with storm and waste water regulations or guidelines. Provided, such alteration to the natural grade of the lot of more than 1 foot shall not exceed the most stringent grading standard that will provide compliance with the City's storm and waste wa-

ter regulations, and any such alteration shall first be approved in writing by the City Engineer.

H) Sewage Disposal: Connection to a sanitary sewer system is required.

Figure A

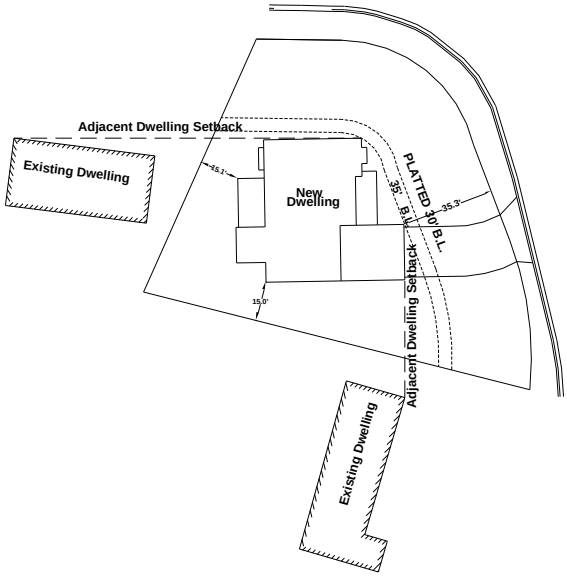
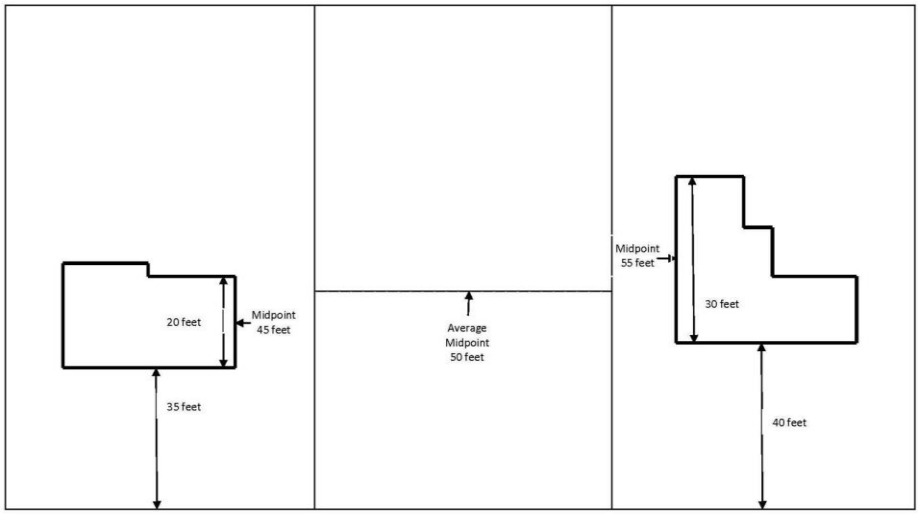


Figure B:



(Ord. 2475, 12-20-10)
(Ord. 2478, 12-20-10)

16-2-5.4 RP-1 (Planned Single Family Residential District) (12,000 Sq. Feet Per Dwelling)

A) **General Purpose and Description:** Property zoned and developed as RP-1 Planned Single Family Residential shall provide for single family detached dwellings and other selected uses which are compatible with the low density residential character of this district while preserving the character of the existing neighborhoods within the district, each having their own characteristic lot size and residential architecture. Redevelopment in this District shall be subject to such additional regulations as may be necessary to preserve the unique character of the specific neighborhood. Property zoned RP-1 should be those tracts that correspond to the low density land use category identified in the Comprehensive Plan.

B) **Principal Permitted, Planned and Special Uses:** Only the uses specified as authorized in "RP-1" in the Table of Uses 16-2-7 are permitted principal uses in the RP-1 District. All uses and any erection, construction, relocation, or alteration of any structure or building are subject to the requirements of this District and shall further be subject to all other requirements of this Ordinance except as may be expressly exempted.

C) **Accessory Uses:** Accessory Uses in this district are governed by 16-4-1 of this Ordinance.

D) **Bulk Regulations:**

For purposes of this Section of this Ordinance, the following terms shall have the meanings as set forth below:

Average Single-Family Floor Area Ratio – 0.23

Base Lot Area – 12,000 sq. ft.

Base Lot Depth – The base lot depth is calculated by dividing the minimum lot area required per the bulk regulations below by the minimum lot width required per the bulk regulations below. In an RP-1 district, this calculation is 12,000/100=120.

Garage Allowance - 450 sq.ft.

Lot Depth - The lot depth is the measurement from the front property line to the rear property line. For non-rectangular lots, lot depth will be calculated by measuring the distance from the midpoint of the front lot line to both the point on the rear lot line that is closest and that which is the farthest away. The average of these two measurements will then be taken to determine the lot depth.

Lot Width - The horizontal distance between the side property lines measured at the required front yard setback line.

New – A dwelling that is constructed on a lot upon which a dwelling has never existed.

Rebuild – A dwelling that is constructed on a lot upon which a dwelling has previously existed.

Remodel – Any improvement to the exterior or interior of a dwelling that requires a building permit, including construction that increases the size of a dwelling in terms of height, length, width or total floor area.

Single Story Dwelling – A dwelling which has no habitable living space above the floor on which the main entrance is located.

Square Footage – The livable area of a dwelling excluding any basement area.

Two-Story Dwelling – A dwelling wherein there is a habitable living space above the floor on which the main entrance is located.

Requirement	***Minimum Distance/Area***
Front Setback:	35 feet, unless the setback regulations in Section 16-2-4.5 apply. In addition, no rebuild, as defined in Subsection E below, shall be permitted to have a front setback greater than the average of the midpoints (50% of the depth) of the adjacent homes facing the same street on either side of the subject property. Midpoints will be calculated by determining the distance from the front property line to the midpoint of the dwelling along the side directly adjacent to the subject lot. In addition, the Board of Zoning Appeals shall have the power to grant an exception to the required Front Setback for the addition of a non-enclosed front entryway to an existing structure, after notice and public hearing as provided for in Section 16-5-3, and upon a determination that such exception shall not cause adverse impact on surrounding properties and that the following conditions are met: a) The existing structure was legally constructed and the structure meets the required front yard setback; and b) The proposed entryway addition is no larger than 75 sq. ft., and protrudes into the required setback by no more than 6 feet; and c) The proposed entryway addition will be architecturally attached to and be constructed of the same materials as the primary residence; and d) The exception is necessary to allow for the entryway improvement to be made.
Side Setback:	12 feet
Corner Lot Side Setback:	30 feet
Rear Setback:	For lots that have a depth of 150 feet or less, 30 feet. For lots that have a depth of more than 150 feet, the rear yard setback shall be calculated using the following formula: 70% x (Lot depth-150) + 30. If the dwelling has a front setback greater than the front setback required per these bulk regulation or the requirement contained in Section 16-2-4.5 of this Ordinance, then the rear setback shall be reduced by an amount

Requirement	Minimum Distance/Area
	equal to the difference between the actual front setback and the required minimum front setback; provided in no circumstance shall the rear setback be less than 30 feet.
Irregular Lot Rear Setbacks:	On lots, with an irregular rear property line, with a primary structure placed at approximately a 45 degree angle toward the street or lots of other than generally rectangular shape, the rear yard setback shall have an average distance of 30 feet. This setback shall be determined by extending the sidewalls of the structure to the rear property line and calculating the square footage within the area between the rear walls, the side extensions and the rear property line(s). This figure will then be divided by the distance between the extended sidewall lines. This will give the average depth of the area enclosed and this must be equal to or greater than 30 feet. In no case shall the structure be located less than 15 feet from any property line.
Lot Area; existing lots:	12,000 square feet per dwelling
Lot Area; new lots:*	The greater of 12,000 sq. ft. or the average (up to a maximum of 1 acre) of all lot sizes within 300 feet of any lot line
Lot Frontage:	100 feet
Minimum Lot Width:	100 feet as measured at the front setback
Height Limit:	35 feet as measured at grade at the front door, unless one of the restrictions or exceptions outlined in Subsection E below should apply.
Maximum Square Footage	The maximum square footage allowed for any single family residential structure shall be determined by the following formula: (.23 x Base Lot Area x (Lot Width/Minimum Lot Width) x (Lot Depth/Base Lot Depth))+Garage Allowance
Open Space	30% of lot area

*Lots created after the effective date of this Ordinance.

E) Restrictions on Height. The maximum height of a dwelling shall be further limited as follows:

1) Additional Restrictions.

a. Rebuilt or Remodeled Dwellings other than those situated between two Two-Story Dwellings: The maximum height of the exterior wall at the side-yard setback shall not exceed 23 feet in height as measured from the front door elevation; provided, that for each additional foot of setback, one additional foot

of height may be added up to thirty feet. Provided, that the total height of the dwelling shall not exceed 30 feet as measured at grade at the front door.

b. Rebuilt or Remodeled Dwellings situated between two Two-Story Dwellings: If the Rebuilt or Remodeled dwelling has two story dwellings on either side, then the maximum height of the exterior wall adjacent at the side-yard setback shall not exceed 23 feet in height as measured from the front door elevation; provided, that for each additional foot of setback, one additional foot of height may be added, provided, the subject dwelling shall not be greater than the taller of the two adjacent dwellings. If one of the adjacent dwelling received an adjustment in height as provided in Subsection F below, then such adjustment shall be subtracted from the height of the adjacent dwelling for purposes of determining the allowed height for the subject dwelling.

c. If the Rebuilt or Remodeled dwelling is situated on a corner lot, then the above guidelines shall apply using the dwellings on the two nearest abutting lots on either side of the subject dwelling to determine the height limit. See Figure A below.

2) Rebuilt or Remodeled Dwelling Height Limit Modified. In all cases, however, a rebuilt or remodeled dwelling may be built to the dimensions of the previous dwelling existing prior to the demolition or destruction. In addition, an increase in height may be granted at a rate of 1 foot for every 1 foot in side yard setback provided above the minimum side yard setback required, up to a maximum of 3 feet.

F) Board of Zoning Appeals Authorized to Grant Exceptions. The Board of Zoning Appeals shall have the power to grant an exception to the above stated height and bulk restrictions for, rebuilt or remodeled dwellings, after notice and public hearing as provided for in Section 16-5-3, and upon a determination that such exception shall not cause adverse impact on surrounding properties, and that the following conditions are met:

1) Exception for Height Limit:

a. The additional height allowed shall not be more than 2 feet for a maximum height of 37 feet for instances where the 35 foot height limit applies and 32 feet for instances where the 30 foot height limit applies; and

b. The dwelling has not already received the height increase allowed in Subsection E above for additional side yard setback provided; and

c. The grade of the subject lot is such that applying the height limit restrictions contained in Subsection E above would cause a hardship on the applicant in light of the proposed design of the applicant's dwelling and the design of the neighboring dwellings; and

d. The proposed height of the, rebuilt or remodeled dwelling shall reflect the character of the other surrounding dwellings in the neighborhood.

2) Exception for Maximum Square Footage:

a. The additional square footage allowed shall not be more than 20 percent of the maximum square footage allowed pursuant to this Ordinance; and

b. The proposed size of the rebuilt or remodeled dwelling shall reflect the character of the other surrounding dwellings in the neighborhood.

G) Grade Change. The natural grade of the lot on which the, rebuilt or remodeled dwelling is to be placed shall not be vertically altered by more than 1 foot, unless the alteration is to provide compliance with storm and waste water regulations or guidelines. Provided, such alteration to the natural grade of the lot of more than 1 foot shall not exceed the most stringent grading standard that will provide compliance with the City's storm and waste water regulations, and any such alteration shall first be approved in writing by the City Engineer.

H) Sewage Disposal: Connection to a sanitary sewer system is required.

Figure A

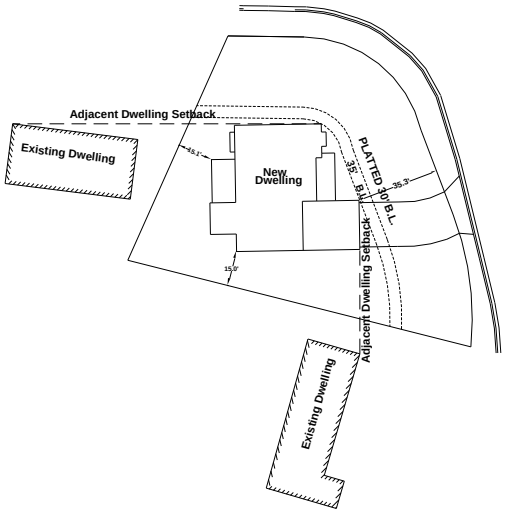
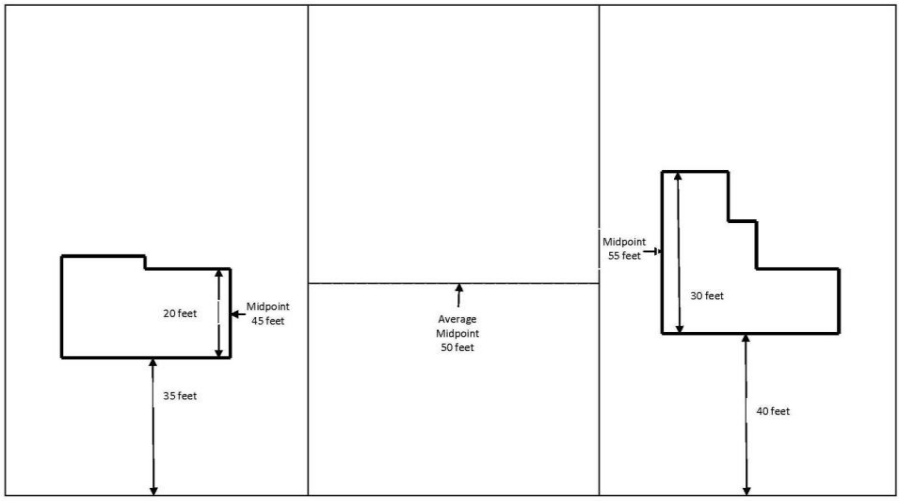


Figure B:



(Ord. 2381, 01-05-09)
(Ord. 2476, 12-20-10)
(Ord. 2478, 12-20-10)

16-2-5.5 RP-2 (Planned Cluster Detached Residential District) (6000 Sq. Ft. Per Dwelling)

A) **General Purpose and Description:** Property zoned and developed as RP-2 Planned Cluster Detached Residential shall be to provide for detached villa style single-family residential units which are compatible with the medium density residential character of this district. Property zoned RP-2 should be those tracts that correspond to the Medium Density land use category identified in the Comprehensive Plan and that meet the intent and objectives of Planned District Requirements in Article 3 of this Ordinance.

B) **Principal Permitted, Planned and Special Uses:** Only the uses set forth as authorized in RP-2 as specified in the Table of Uses, Section 16-2-7, are permitted in the RP-2 District. All uses and any erection, construction, relocation, or alteration of any structure or building are subject to the requirements of this District and shall further be subject to all other requirements of this Ordinance except as may be expressly exempted.

C) **Accessory Uses:** Accessory Uses in this district are governed by 16-4-1 of this Ordinance.

D) **Bulk Regulations:**

Requirement	*Minimum Distance/Area*
Front Setback:	30 feet
Side Setback:	10 feet

Corner Lot Street Side Setback	20 feet
Rear Setback:	20 feet
Lot Area:	6,000 square feet per dwelling unit
Open Space	30% of lot area
Height Limit:	35 feet, as measured from grade at the front door of the dwelling.

E) **Sewage Disposal:** Connection to a public sanitary sewer system is required.

(Ord. 2381, 01-05-09)

16-2-5.6 RP-3 (Planned Cluster Attached Residential District) (6000 Sq. Ft. Per Dwelling)

A) **General Purpose and Description:** Property zoned and developed as RP-3 Planned Cluster Attached Residential shall provide for single-family attached housing such as townhouses and condominiums located on separate platted lots for each dwelling unit which are compatible with the medium/high density residential character of this district. Property zoned RP-3 should correspond to the Medium and High Density land use category identified in the Comprehensive Plan and meet the intent and objectives of Planned District Requirements in Article 3 of this Ordinance.

B) **Principal Permitted, Planned and Special Uses:** Only the uses set forth as authorized in RP-3 as specified in the Table of Uses, 16-2-7, are permitted in the RP-3 District. All uses and any erection, construction, relocation, or alteration of any structure or building are subject to the requirements of this District and shall further be subject to all other requirements of this Ordinance except as may be expressly exempted.

C) **Accessory Uses:** Accessory Uses in this district are governed by 16-4-1 of this Ordinance.

D) **Bulk Regulations:**

Requirement	***Minimum Distance/Area***
Front Setback:	30 feet
Side Setback:	30 feet *
Side Lot Corner Setback	30 feet
Rear Setback:	30 feet*
Density:	6,000 square feet per dwelling unit
No. of Attached Units	4 per building

Open Space	30% of lot area
Height Limit:	40 feet, as measured from grade at the front of the building.

*Measured from building lines and building clusters.

E) **Sewage Disposal:** Connection to a sanitary sewer system is required.

(Ord. 2183, 09-05-06)

16-2-5.7 RP-4 (Planned Apartment Residential District) (4000 Sq. Ft. Per Dwelling)

A) **General Purpose and Description:** Property zoned and developed as RP-4 Planned Apartment Residential shall provide for apartment units and developments which are compatible with the high density residential character of this district. Property zoned RP-4 should correspond to the High Density land use category identified in the Comprehensive Plan and meet the intent and objectives of Planned District Requirements in Article 3 of this Ordinance. This district is to be limited in its use and placement so as not to detrimentally affect adjoining residential land uses. The RP-4 district is to be placed at intersecting arterial streets and/or be used to buffer more intense land use from less intense residential land use.

B) **Principal Permitted, Planned and Special Uses:** Only the uses set forth as authorized in RP-4 as specified in the Table of Uses, 16-2-7, are permitted in the RP-4 District. All uses and any erection, construction, relocation, or alteration of any structure or building are subject to the requirements of this District and shall further be subject to all other requirements of this Ordinance except as may be expressly exempted.

C) **Accessory Uses:** Accessory Uses in this district are governed by 16-4-1 of this Ordinance.

D) **Bulk Regulations:**

Requirement	***Minimum Distance/Area***
Front Setback:	30 feet
Side Setback:	30 feet *
Side Lot Corner Setback	30 feet
Rear Setback:	30 feet*
Density	4,000 square feet per dwelling unit
No. of Attached Units:	12 per building
Open Space:	30% of lot area

Height Limit:	40 feet, as measured from grade at the front of the building.

*Measured from building lines and building clusters.

E) **Sewage Disposal:** Connection to a sanitary sewer system is required.

(Ord. 2382, 01-05-09)
(Ord. 2658, 04-21-14)

16-2-6 COMMERCIAL DISTRICTS

16-2-6.1 SD-O (Planned Office District)

A) **General Purpose and Description:** Property zoned and developed, as SD-O Planned Office District shall contain buildings of high architectural quality, be located in a setting of uncrowded space containing substantial trees, shrubs, lawn areas, and other suitable landscaping in order to sustain property values, business viability, and safety and general welfare of the community. Certain land areas may, however, have characteristics whereby buildings of greater height may be in the public interest and may be in keeping with the Comprehensive Plan and other policies of the City of Leawood.

B) **Principal Permitted, Planned and Special Uses:** Only the uses set forth as authorized in the SD-O district as specified in the Table of Uses, 16-2-7, are permitted in the SD-O District. All uses and any erection, construction, relocation or alteration of any structure or building are subject to the requirements of this District and shall further be subject to all other requirements of this Ordinance except as may be expressly exempted.

C) **Accessory Uses:** Accessory Uses in this district are governed by 16-4-1 of this Ordinance.

D) **Bulk Regulations:**

Requirement	***Minimum Distance/Area***
Front Setback:	Structures: 40 feet plus 10 feet/story over 2 stories Surface Parking (Loading and Service Areas prohibited): 25 feet
Side Setback:	Structures: 40 feet Surface Parking, Loading, and Service Areas: 25 feet
Interior Property Line Setback:	Structures: 40 feet Surface Parking, Loading, and Service Areas: 10 feet
Rear Setback:	Structures: 40 feet Surface Parking, Loading, and Service Areas: 25 feet
Building Setback from residen-	Greater of 75 feet or applicable yard requirement from

Requirement	Minimum Distance/Area
tial	property zoned, used, or master-planned for residential use
Open Space	30% minimum
Minimum Acres	10 acres per development, provided however that an applicant may seek a deviation as set forth in Section 16-3-9 of the Leawood Development Ordinance
Floor Area Ratio	.25 maximum
Height Limit:	6 stories (maximum 90 feet)

E) **Performance Standards:** Section 16-2-9 sets forth the applicable performance standards. In addition, in the SD-O district, not more than 20% of the maximum building area shall be devoted to retail sales or use.

(Ord. 2365, 11-3-08)

16-2-6.2 SD-NCR (Planned Neighborhood Commercial Retail) and SD-NCR2 (Planned Neighborhood Commercial Retail 2)

All regulations contained in this Ordinance and any and all other laws and regulations of the City of Leawood that pertain to property zoned and developed as SN-NCR (Planned Neighborhood Commercial Retail) shall also apply to property zoned as SD-NCR2 (Planned Neighborhood Commercial Retail 2) with the exception of the uses contained in Table of Uses found in Section 16-2-7 herein.

A) **General Purpose and Description:** Property zoned and developed, as SD-NCR Planned Neighborhood Retail shall provide for selected neighborhood retail business uses within the City. This district is limited to retail activities that are conducted wholly within the facility with noted exceptions. The intended purpose is to provide for neighborhood shopping centers properly landscaped to ensure open space and promote compatibility to surrounding neighborhoods.

B) **Principal Permitted, Planned and Special Uses:** Only the uses set forth as authorized in the SD-NCR district as specified in the Table of Uses are permitted in the SD-NCR District. All uses and any erection, construction, relocation, or alteration of any structure or building in the SD-NCR District, are subject to the requirements of this District and shall further be subject to all other requirements of this Ordinance except as may be expressly exempted.

C) **Accessory Uses:** Accessory Uses in this district are governed by 16-4-1 of this Ordinance.

D) **Bulk Regulations:**

Requirement	***Minimum Distance/Area***
Front Yard Setback:	Structures: 40 feet Surface Parking (Loading and Service Areas Prohibited): 25 feet
Side Yard Setback:	Structures: 40 feet Surface Parking, Loading, and Service Areas: 25 feet
Interior Property Line Setback	Structures: 10 feet Surface Parking, Loading, and Service Areas: 10 feet
Rear Yard Setback:	Structures: 40 feet Surface parking, Loading, and Service Areas: 25 feet
Building Setback from residential	75 feet from property zoned, used, or master-planned for residential use
Open Space	30% minimum
Minimum Acres	10 acres per development, provided however that an applicant may seek a deviation as set forth in Section 16-3-9 of the Leawood Development Ordinance
Floor Area Ratio	.20 maximum
Height Limit:	40 feet

(Ord. 2366, 11-3-08)

16-2-6.3 SD-CR (Planned General Retail)

A) **General Purpose and Description:** Property zoned and developed as SD-CR Planned General Retail shall be to provide for general retail business uses within the City. This district is designed to serve the motoring public or uses involving vehicular traffic and requiring areas bounded by a major street system for their most beneficial operation and which generally are larger in area and more intense in their operation than other retail districts.

B) **Principal Permitted, Planned and Special Uses:** Only the uses set forth as authorized in the SD-CR district as specified in the Table of Uses are permitted in the SD-CR District. All uses and any erection, construction, relocation or alteration of any structure or building are subject to the requirements of this District and shall further be subject to all other requirements of this Ordinance except as may be expressly exempted.

C) **Accessory Uses:** Accessory Uses in this district are governed by 16-4-1 of this Ordinance.

D) **Bulk Regulations:**

Requirement	***Minimum Distance/Area***
Front Yard Setback:	Structures: 40 feet Surface Parking (Loading and Service Areas prohibited): 25 feet
Side Yard Setback:	Structures: 40 feet Surface Parking, Loading, and Service Areas: 25 feet
Interior Property Line Set-back	Structures: 10 feet Surface Parking, Loading, and Service Areas: 10 feet
Rear Yard Setback:	Structures: 40 feet Surface Parking, Loading, and Service Areas: 25 feet
Building Setback from residential	125 feet from property zoned, used, or master-planned for residential use
Open Space	30% minimum
Minimum Acres	10 acres per development, provided however that an applicant may seek a deviation as set forth in Section 16-3-9 of the Leawood Development Ordinance
Floor Area Ratio	.25 maximum
Height Limit:	50 feet

(Ord. 2367, 11-3-08)

16-2-6.4 MXD (Mixed-Use Development District)

A) **General Purpose and Description:** This section contains the regulations for the planned Mixed-Use Development District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Ordinance which are incorporated as part of this section by reference. Mixed-Use developments shall only be approved in areas designated as appropriate for mixed uses in the Comprehensive Plan. All uses authorized by the MXD District shall be subject to the Development Plan process set forth in Article 3 of this Ordinance.

This section establishes a zoning classification which permits planned developments that include a mixture of residential, retail, office, and cultural uses in a single structure or multiple structures and that incorporate a coordinated, consistent theme throughout the development in its pedestrian and vehicular access and ways. It is the purpose of these regulations to encourage a mixed-use, pedestrian oriented development within unified projects located in proximity to designated major roadways and intersections. The MXD

District allows for traditional town center marketplace development and other coordinated pedestrian-oriented mixed-use development by authorizing interrelated uses and structures with specific additional regulation of design, architecture, lighting, greenspace and other site requirements appropriate to ensure the location of employment and retail centers in proximity to higher density housing.

B) **Permitted Land Uses and Developments:** Permitted land uses and developments shall be established in the conditions of the Ordinance and resolution governing the particular Mixed-Use Development District; specific uses may include uses designated as Permitted, Planned or Special Uses in any of the RP-2, RP-3, RP-4, SD-0, SD-NCR, and SD-CR Districts. Each Mixed Use Development District shall include a mix of both multi-family residential and commerical uses, with not less than twenty (20) percent of the total gross floor area constructed dedicated to residential uses.

C) **Accessory Uses:** Accessory Uses in this district are governed by 16-4-1 of this Ordinance.

D) **Bulk Regulations:**

Requirement	***Minimum Distance/Area***
Front Yard Setback	Structures: 40 feet Surface Parking (Loading and Service Areas prohibited): 25 feet
Side Yard Setback:	Structures: 40 feet Surface Parking, Loading, and Service Areas: 25 feet
Interior Property Line Setback	Structures: 10 feet Surface Parking, Loading, and Service Areas: 10 feet
Rear Yard Setback:	Structures: 40 feet Surface Parking, Loading, and Service Areas: 25 feet
Building Setback from residential	75 feet from property zoned, used, or master-planned for single family residential use
Minimum Acres	10 acres per development, provided however that an applicant may seek a deviation as set forth in Section 16-3-9 of the Leawood Development Ordinance
Floor Area Ratio	.25 maximum, calculated as described in Section F, below

Requirement	Minimum Distance/Area
Minimum residential unit size	1000 sq. feet for at least 80% of units; not less than 750 sq. feet for all remaining units
Required Use Ratios	Not less than 20% of the total floor area within the development shall be designated for residential use; not less than 10% of the floor area shall be designated for retail uses; and not less than 20% of the total floor area shall be designated for office use.
Residential Density	Established in the conditions of the Ordinance governing the particular Mixed-Use Development District but in no event shall the density exceed 15 units per acre of land in the total development including land remaining within the 100-year flood plain elevation, as identified in the Flood Plain District Regulations. This density restriction, however, shall not apply to hotels.
Open Space	30% of lot area; This open space shall be devoted to plazas, courts or other landscaped areas.
Height Limit:	90 feet

E) **Additional Conditions.** Additional conditions for establishment of the MXD District shall be as established by the Development Plan pursuant to Article 3 and as may be appropriate to ensure the suitability of mixed-uses and the design of the specific location designated.

F) **Floor Area Ratio (FAR) Calculation.** The floor area ratio for this district shall be calculated using the full square footage amount of commercial space (office and retail) and a 25% discount of the square footage of residential space, divided by the square footage of the entire site (including any dedicated right of way). A discount of up to a total of 55% of the square footage of residential space may be recommended by staff and will be subject to Governing Body approval.

G) **Deviations.** In addition to the deviations in Section 16-3-9 (A) 4, the following deviations to the FAR requirement may be granted in this district:

1) Increased Open Space. Projects with permanent open space in excess of the required minimum and the deviations already allowed may receive up to 15% increase in the applicable maximum FAR based on not less than a 1:1 ratio of increased floor area to increased open space. The additional open space must provide a benefit to the community as habitat area for native flora and fauna, strom water recharge/ management potential, and /or passive recreational potential for the public;

2) Cultural Use. Projects which include a minimum 10% of the total square footage for cultural uses may receive up to 10% increase in the applicable maximum FAR based on not less than a 1:1 ratio of increased floor area to square footage of cultural use.

(Ord. 2165, 05-01-06)
(Ord. 2368, 11-3-08)
(Ord. 2731, 05-26-15)

16-2-6.5 BP (Planned Business Park)

A) **General Purpose and Description:** The Business Park District is intended to provide for a mixture of land uses of varying types in a single coordinated development. The district may include mixtures of office, sales, distribution, warehouse, and related service uses. The district would be a suitable location for many business activities that desire to combine all of their functions in one location. This district is not intended to be used by general retail businesses without supporting office and/or distribution services. Services are allowed which would support other businesses in the park such as copy services and childcare centers. Assembly or processing which meets strict performance standards is allowed. Assembly of "high tech" goods such as electronic equipment is encouraged. This district is not intended for heavy industrial uses that would be better suited in an industrial district.

B) **Principal Permitted, Planned and Special Uses:** Only the uses set forth as authorized in the BP district as specified in the Table of Uses are permitted in the BP District. All uses and any erection, construction, relocation, or alteration of any structure or building are subject to the requirements of this district and shall further be subject to all other requirements of this Ordinance except as may be expressly exempt.

C) **Accessory Uses:** Accessory Uses in this district are governed by 16-4-1 of this Ordinance.

D) **Bulk Regulations:**

Requirement	***Minimum Distance/Area***
Front Yard Setback:	Structures: 40 feet Surface Parking (Loading and Service Areas prohibited): 25 feet
Side Yard Setback:	Structures: 25 feet Surface Parking, Loading, and Service Areas: 10 feet
Interior Property Line Setback	Structures: 40 feet Surface Parking, Loading, and Service Areas: 10 feet
Rear Yard Setback:	Structures: 25 feet

Requirement	Minimum Distance/Area
	Surface Parking, Loading, and Service Areas: 10 feet
Building Setback from residential	75 feet from property zoned, used, or master-planned for residential use
Open Space	30% minimum
Minimum Acres	20 acres per development
Floor Area Ratio	.25 maximum FAR for each development and each building site
Height Limit:	40 feet

E) **Performance Standards:** In addition to the general standards set forth in Section 16-2-9 of this Ordinance, the following standards apply in the BP District:

1) All products that are stored, sold and materials used in production, shall be kept inside a building, and all services shall be rendered inside a building with the exception of outdoor play areas for licensed childcare facilities.

2) All company service vehicles, fleet trucks, etc. used in conjunction with a permitted use shall be stored overnight such that they are not visible from a public street. Such vehicles shall be stored inside of a structure, or screened with a landscape buffer as approved by the Planning Commission and Governing Body.

3) Each occupancy shall be of a type that has limited contact with the general public, does not produce unusually high traffic volumes, and involves a low incidence of truck traffic.

4) Warehousing, storage, assembly, and processing shall not occupy more than 75% of the total gross floor area of any building.

5) Any retail sales that occur shall be not more than 20% of the permitted use in the same building.

6) No smoke, radioactive emission, 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 injurious to humans or property shall be produced.

7) In no case shall the noise level exceed 60 dB at repeated intervals or for a sustained length of time, measured at any point along the property line.

8) A business park shall contain not less than 20 acres and shall be developed by a single entity. Lots may be sold to separate users but the sale of lots must be accompanied by protective covenants assuring a high level of architecture, site improvements and their continued maintenance. Covenants shall include at a minimum, property owners' association, maintenance of individual sites and common

areas, standards for finishing of buildings, and design standards for signs. Such items shall be submitted with the preliminary site plan.

9) Jumbo brick, concrete blocks, corrugated metal or pre-engineered metal components installed with exposed fasteners, and precast "T" shaped concrete wall sections are prohibited on any building exterior wall.

10) Architectural quality of the buildings must be equal on all sides of the structure such that all sides of the building are "finished".

11) Any loading dock or loading area shall be completely screened from public streets by a solid wall, fence or evergreen plantings.

12) All utility distribution lines shall be installed underground within and adjacent to the project.

13) All trash must be stored inside of a structure that is compatible with the building design. The structure must be of materials that are comparable to the materials used in the buildings in the park. The design of the trash enclosures must be shown on the preliminary and final site plan.

14) All sidewalks, where provided, shall be a minimum of 5 feet wide.

16-2-7 TABLE OF USES

Land Uses and Development. The following Table of Uses establishes the principal uses that are permitted subject to the provisions of this Ordinance, permitted as a planned use under this Article, or permitted as a special use under this Ordinance for each zoning district. Notwithstanding the designation on the Table of Uses, any use required to be permitted as a right in a residential district by applicable federal or state law shall be so permitted.

TABLE OF USES

• = Permitted Use P= Planned Use S= Special Use		Zoning Districts										
(Uses)	AG	RP-A5	R-1	RP-1	RP-2	RP-3	RP-4	SD-O	SD-NCR	SD-NCR2	SD-CR	BP
Residential												
Apartment House (up to 12 units)							P					
Assisted Living; independent; skilled nursing	S		S	S	S	S	S	S	S	S	S	
Group Home	S	P	P	P	P	P	P					
Single Family Attached (1-4 dwelling units)						P	P					
Nursing or Convalescent Home	S		S	S	S	S	S	S	S	S	S	S
Single Family Residential (detached)	•	P	P	P	P							
Non-Residential												
Adult Entertainment									S		S	
Agriculture	•											
Art Studio/Gallery									P	P	P	
Assembly halls, community centers, auditorium								S	S	S	S	S
Athletic Fields, (privately owned)									S	S	S	

TABLE OF USES

• = Permitted Use P= Planned Use S= Special Use		Zoning Districts										
(Uses)	AG	RP-A5	R-1	RP-1	RP-2	RP-3	RP-4	SD-O	SD-NCR	SD-NCR2	SD-CR	BP
Aviation fields or airports	S	S	S	S	S	S	S	S	S	S	S	S
Bank or Financial Services								P	P	P	P	
Bank or Financial Services w/ accessory drive-thru								S	P		P	
Bed and Breakfast	S	S	S	S	S	S	S	S	S	S	S	
Campgrounds, picnic groves and fishing lakes	S	S	S	S	S	S	S	S	S		S	S
Cemeteries, mausoleums or crematories	S	S	S	S	S	S	S	S	S	S	S	
Churches, synagogues, other places of worship	S	S	S	S	S	S	S	S	S	S	S	
Club, Private	S	S	S	S	S	S	S	S	S		S	
Communication Tower	S							S	S	S	S	S
Convention Centers	S							S	S	S	S	S
Cultural Service								S	P	P	P	
Delivery Services (Not to include freight transfer, i.e. semi-tractor trailers)										P	P	
Day Care, Limited (1-6)	•	•	•	•	•	•	•					
Day Care, General (7-10)								S	S	S	S	S
Day Care, Commercial (11+)/Montessori School								S	S	S	S	S
Funeral Home or Mortuary								P	P		P	
Gun Clubs, Skeet Shoots, Target Ranges	S								S	S	S	S
Health Club								S	P	P	P	P
Hospital	S							S	S	S	S	S
Hotel/Motel	S							S	S		S	S
Kennel									P		P	P
*Veterinary									S		S	S
*General											S	S
*Commercial												S
Manufacturing, assembly, processing												
*Electronic equipment												P
*Medical and dental equipment												P
*Drafting and optical equipment												P
*Watches and clocks												P
*Cosmetics, drugs and pharmaceutical products												P
*Computer equipment												P
Medical Outpatient Care Facility								S		P	P	
Medical/Dental Lab									P	P	P	P
Medical/Dental Service								P	P	P	P	P
Office, General								P	P	P	P	P
Office, Medical								P	P	P	P	P
Off-Street Parking Lots	S	S	S	S	S	S	S	S	S	S	S	S
Parking Structures	S							S	S		S	S
Personal Services								P	P	P	P	P
Photography services, photo processing								S	P	P	P	P
Printing and Publishing												P
Public Utility Facilities	S	S	S	S	S	S	S	S	S	S	S	S
Public Uses/Government Uses	P	P	P	P	P	P	P	P	P	P	P	P
Recreation and Entertainment, Indoor (excludes uses in retail Sales and Services)											P	
Recreation and Entertainment, Outdoor	S							S	S		S	S
Repair Service												P
Research Service												P
Research Services - Limited										S		
Reservoirs, water towers, filter beds, or water treatment plants 1	S	S	S	S	S	S	S	S	S	S	S	S

TABLE OF USES

• = Permitted Use
P= Planned Use
S= Special Use

Zoning Districts

(Uses)	AG	RP-A5	R-1	RP-1	RP-2	RP-3	RP-4	SD-O	SD-NCR	SD-NCR2	SD-CR	BP
Retail Sales and Service												
*Appliance and Electronics Sales									P	P	P	P
*Auto Parts supply										P	P	P
*Auto sales/service (not to include used car lots separate from new auto sales)											S	
*Auto Service Centers/TBA (Tire, Battery & Accessories)											P	
*Bakery (Retail only)									P	P	P	
*Bar/Tavern									S		P	
*Barber/Beauty Shop									P	P	P	
*Bicycle Shop									P	P	P	
*Boat Sales/Service											S	
*Book/Stationery/Gift Shop									P	P	P	
*Bowling Alley/Center											P	
*Building Materials Sales, Indoor/Totally Enclosed											P	
*Business Equipment												P
*Business Services												P
*Camera Shop/Photographic Studio									P	P	P	
*Car Wash, Full Service/Totally Enclosed											P	
*Catalog Center											P	P
*Clothing/Accessory Store									P	P	P	
*Community service organization								P	P	P	P	
*Computer Sales and Service									P	P	P	P
*Construction Sales and Service, Indoor/Enclosed												P
*Convenience Store (w/o gasoline sales)									S		P	
*Convenience Store (with gasoline sales)											S	
*Department Store									S		P	
*Drug Store/Health Care Supply									P	P	P	
*Drug Store with Drive Thru											S	
*Dry Cleaner/Laundry									P	P	P	S
*Dry Cleaner with Drive Thru											S	
*Flower Shop/Garden Store									P	P	P	
*Food Stores, Specialty									P	P	P	
*Furniture Upholstery/repair												P
*Furniture/Home Furnishings									P	P	P	
*Gas Station/Service Station											S	
*Gift/souvenir shop									P	P	P	
*Graphic, Industrial, Interior Design												P
*Greenhouse, commercial	S										P	P
*Grocery Store/Supermarket									P		P	
*Hardware Store									P	P	P	
*Home Accessory Shop/Boutique									P	P	P	
*Home Remodeling and Light construction Supply/Sales										P	P	P
*Laundromat									P		P	
*Medical and hospital equipment supplies												P
*Motorcycle sales and service (indoor)											P	
*Movie Rental/Sales									P	P	P	
*Movie Theater/Indoor											P	
*Music Store									P	P	P	
*Nursery sales office (wholesale or retail) flower shop, green house	S								P		P	
*Office Supply									P	P	P	
*Packaged Liquor Sales									S		S	

TABLE OF USES

• = Permitted Use P= Planned Use S= Special Use		Zoning Districts										
(Uses)	AG	RP-A5	R-1	RP-1	RP-2	RP-3	RP-4	SD-O	SD-NCR	SD-NCR2	SD-CR	BP
*Pet Shop									P		P	
*Recreational Vehicles sales/service											S	
*Restaurant, Fast Food with Drive Through											S	S
*Restaurant, Fast Food, Dine In/Carry Out									S		P	S
*Restaurant, General									P		P	
*Sewing/Fabric Store									P	P	P	
*Shoe Repair									P	P	P	
*Shopping Center, Neighborhood									P		P	
*Shopping Center, Regional									S		P	
*Sporting Goods Sales/Rental									P	P	P	
*Tailoring/Alterations									P	P	P	
*Toy/Hobby Shop									P	P	P	
*Truck sales and service (1 ton or less "light")											S	
*Vehicle and Equipment Sales and Service											S	
*Vending/game machine sales/service												P
*BIG BOX RETAIL											S	
Retail Sales with Limited Manufacturing											S	
Riding stables and tracks	S	S	S	S	S	S	S	S	S		S	S
School, Public & Private, Elementary, Middle or High	S	S	S	S	S	S	S	S	S	S	S	
School, business/secretarial										P	P	P
School, college or university	S							S	S	S	S	
School, technical/vocational												P
Studio, Television or Film								P				P
Television and amateur radio antennae exceeding district height limitations	S	S	S	S	S	S	S	S	S	S	S	S
Towers, radio, television and microwave	S	S	S	S	S	S	S	S	S	S	S	S
Veterinarian/Animal Care	S							S	P		P	P
Warehouse												P
Wastewater treatment plant	S	S	S	S	S	S	S	S	S	S	S	S
Wholesale establishment												P
Wireless Communications Facilities & Antennae †	S	S	S	S	S	S	S	S	S	S	S	S

[1]Reservoirs, water towers, filter beds or water treatment plants developed pursuant to an interlocal agreement between the applicant and the Governing Body are exempt from the Special Use Permit requirement.

† *Subject to requirements of16- 4-12.*

(Ord. 2387, 4-14-09)
(Ord. 2437, 3-09-10)
(Ord. 2494, 6-28-11)
(Ord. 2526, 03-27-12)
(Ord. 2668, 05-27-14)
(Ord. 2671, 06-16-14)
(Ord. 2744, 08-25-15)

16-2-8 SPECIAL DISTRICTS

16-2-8.1 REC (Planned Recreation)

A) **General Purpose and Description:** The REC District is intended to provide for the development of certain lands for recreational purposes to serve Leawood residents. In order to promote the most compatible uses to adjoining property, this district is narrow in scope and offers a very limited range of uses.

B) **Principal Permitted and Special Uses:** In District REC, 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 principal permitted or special uses:

1) Public golf courses, and accessory driving ranges, subject to Article 3 plan approval, but excluding pitch and putt and miniature golf courses;

2) City or private parks including trails for jogging, walking, and bicycling, playgrounds and other customary park uses;

3) Public/Government uses.

4) Private Club; Horseback Riding Academies; Athletic Fields; Batting Cages; Skating Rinks (roller and ice, indoor and outdoor); Commercial or Club Facilities (for tennis, handball, racquetball, swimming and similar facilities). All of these uses are subject to a special use permit approval in accordance with Article 5.

C) Performance Standards:

1) All surfaces subject to vehicular traffic or other surfaces deemed appropriate by the Planning Commission and Governing Body shall be hard surfaced with either an approved pervious surface or asphaltic concrete or Portland cement concrete as approved by the Planning Commission and Governing Body.

2) Alcoholic and cereal malt beverages may be sold on the premises only after a special use permit has been approved by the Governing Body.

3) Any noise, light, glare, commotion, or any structure or use of the premises which may adversely affect adjoining property shall be screened or otherwise treated in a manner acceptable to the Director of Planning and Development.

D) **Plan Approval:** Preliminary and final plans of the project shall be submitted and approved by the Planning Commission and Governing Body prior to the issuance of permits.

E) **Additional Standards:** The specific ordinance establishing a particular REC District or resolutions adopted therefor may provide additional standards for the design, development, operation and maintenance of uses and structures and as otherwise provided in Article 3.

(Ord. 2013, 08-04-03)

16-2-8.2 FL (Flood Hazard Overlay District)

A) Statutory Authorization, Finding of Fact, and Purposes

1) Approval of Draft Ordinance by Kansas Chief Engineer Prior to Adoption. The following floodplain management regulations, as written, were approved in draft form by the chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on May 14, 2009.

2) Statutory Authorization: The Legislature of the State of Kansas has in K.S.A. 12-741 et seq., and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the Governing Body of the City of Leawood, Kansas ordains as follows.

B) Findings of Fact:

1) Flood Losses Resulting from Periodic Inundation. The special flood hazard areas of the City of Leawood, Kansas are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

2) 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, and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

3) Methods Used to Analyze Flood Hazards. The Flood Insurance Study (FIS) that is the basis of this Ordinance uses a standard engineering method of analyzing flood hazards that consists of a series of interrelated steps.

a. Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this Ordinance is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this Ordinance. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated on the Federal Insurance Administrator's Flood Insurance Study, and illustrative materials of the most recent date, as amended, and any future revisions thereto.

b. Calculation of water surface profiles based on a standard hydraulic engineering analysis of the capacity of the stream channel and over-bank areas to convey the regulatory flood.

c. Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point.

d. Delineation of floodway encroachment lines within which no development is permitted which would cause any increase in flood height.

e. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

C) Statement of Purpose. It is the purpose of this Section to promote the public health, safety, and general welfare; to minimize those losses described in Section 16-2-8.2(B)(1); 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 44CFR 60.3(d) and K.A.R. 5-44-4 by applying the provisions of this Ordinance to:

1) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.

2) Require that uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction.

3) Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

D) General Provisions. Lands to which Section Applies. This Section shall apply to all lands within the jurisdiction of the City, identified as numbered and unnumbered A Zones, AE, AO, and AH Zones, on the Index Map dated August 3, 2009 of the Flood Insurance Rate Map (FIRM) as amended, and any future revisions thereto. In all areas covered by this Ordinance, 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 such safeguards and restriction 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 where specifically noted in Section 16-2-8.2(G) and 16-2-8.2(I).

1) Compliance. No development located within the special flood hazard areas of this City shall be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.

2) Abrogation and Greater Restrictions. It is not intended by this Section to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Section are hereby repealed to the extent of the inconsistency only.

3) Interpretation. In their interpretation and application, the provisions of this Section shall be held to be minimum requirements, 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.

4) Warning and Disclaimer of Liability. The degree of flood protection required by this Section 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 causes, such as ice jams and bridge openings restricted by debris. This Section does not imply that areas outside floodway and floodway fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This Section shall not create liability on the part of the City of Leawood, Kansas, or any officer or employee thereof for any flood damages that may result from reliance on this Section or any administrative decision lawfully made there under.

5) Severability. If any section, clause, provision or portion of this Section is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this Section shall not be affected thereby.

E) Floodplain Development Permit

1) Permit Required. 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 16-2-8.2(G). No person, firm, corporation, or unit of government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

2) Administration.

a. The Director of Public Works is hereby appointed to administer and implement the provisions of this Section.

b. Duties of the Director of Public Works shall include, but not be limited to:

i. Review all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this Section have been satisfied.

ii. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required by Federal, State, or local law.

iii. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.

iv. Issue floodplain development permits for all approved applications.

v. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

vi. Assure that maintenance is provided within the altered or relocated portion of any watercourse so that the flood carrying capacity is not diminished.

vii. Maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures.

viii. Maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved nonresidential structures have been flood proofed.

ix. When floodproofing techniques are utilized for a particular nonresidential structure, the Director of Public Works shall require certification from a registered professional engineer or architect.

3) 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. Identify and describe the work to be covered by the floodplain development permit.

b. Describe the land on which the proposed work is to be done by lot, block, tract, house and street address, or similar description that will readily identify and specifically locate that proposed structure or work.

c. Indicate the use or occupancy for which the proposed work is intended.

d. Be accompanied by plans and specifications for proposed construction.

e. Be signed by the permittee or his/her authorized agent who may be required to submit evidence to indicate such authority.

f. Give such other information as reasonably may be required by the Director of Public Works.

i. Indicate the assessed value of the structure and the fair market value of the improvement.

ii. Specify whether development is located in designated flood fringe or floodway.

iii. Identify the existing base flood elevation and the elevation of the proposed development.

F) Establishment of Zoning Districts**.** The mapped flood plain areas within the jurisdiction of this Section are hereby divided into the two following districts: A floodway overlay district

(FW) and a floodway fringe overlay district (FF) identified in the Flood Insurance Study [and accompanying map(s)]. Within these districts, all uses not meeting the standards of this Section shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones (including AE, AO and AH zones) as identified on the official FIRM and identified in the Flood Insurance Study provided by the Federal Emergency Management Agency.

G) Standards For The Floodway Overlay District And The Floodway Fringe Overlay District

1) General Standards. The following are general standards for the Floodway Overlay District and the Floodway Fringe Overlay District:

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 (including AE, AO, and AH zones) unless the conditions of this section are satisfied.

b. All areas identified as unnumbered A zones on the FIRM 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 provision of this Section. If Flood Insurance Study data are 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. A “100 year flood” refers to a flood level with a 1 percent greater chance of being equaled or exceeded in any given year.

c. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood.

d. All new construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:

i. Design or adequate anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

ii. 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 shall be located so as to avoid impairment or contamination.

iii. Construction with materials resistant to flood damage.

iv. Utilization of methods and practices that minimize flood damages.

v. All electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

vi. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:

1. The proposals are consistent with the need to minimize flood damage
2. The public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage,
3. Adequate drainage is provided so as to reduce exposure to flood hazards, and
4. Proposals for development, including proposals for manufactured home parks and subdivisions, of 5 acres or 50 lots, whichever is lesser, include within such proposals the base flood elevations data.

e. Storage, Material and Equipment.

i. Storage or processing of materials within the special flood hazard area, which materials are buoyant in time of flooding, flammable, explosive, or could be injurious to human, animal or plant life, is prohibited.

ii. Storage of other material or equipment may be allowed if not subject to major damage by floods and if firmly anchored to prevent flotation or if such material or equipment is readily removable from the area within the time available after flood warning.

2) Specific Standards. In all areas identified as numbered and unnumbered A zones, AE, and AH Zones, where base flood elevation data have been provided, as set forth in Section 16-2-8.2(G)(1), the following provisions are required:

a. Residential Construction. New construction or substantial improvement of any residential structures, including manufactured homes, shall have the lowest floor elevated a minimum of two (2) feet above base flood elevation. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

b. 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, elevated a minimum of two (2) feet above the base flood elevation or, together with attendant utility and sanitary facilities, be dry flood proofed or elevated to at least as high as the

depth number specified in feet on the FIRM above the highest adjacent natural grade. In AH Zones, if no depth number is specified on the FIRM, it shall be dry flood proofed or elevated at least two feet above the highest adjacent natural grade. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. The elevation of the lowest floor shall be certified by a licensed land surveyor or registered professional engineer. Such certification shall be provided to the floodplain administrator as set forth in Section 16-2-8.2(E)(2)(b)(ix).

c. Other Construction. All new construction and substantial improvements, that have fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

i. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

ii. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

3) Manufactured Homes

a. Manufactured homes placed within all unnumbered and numbered A zones, AE, and AH zones, on the community's FIRM, shall 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. Manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's FIRM, may only be installed as follows:

i. Outside of manufactured home park or subdivision;

ii. In a new manufactured home park or subdivision;

iii. In an expansion to an existing manufactured home park or subdivision; or

iv. If such home is in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, then such home must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a

minimum of two (2) feet above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor or registered professional engineer.

c. Manufactured homes which are placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, and are not subject to the provisions of Section 16-2-8.2(G)(6) of this Section, must be elevated so that either:

i. The lowest floor of the manufactured home is a minimum of two (2) feet above the base flood level; or

ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor or registered professional engineer.

4) Areas of Shallow Flooding (AO and AH zones). Located within the areas of special flood hazard as described in Section 16-2-8.2(D) are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

a. AO Zones

i. All new construction and substantial-improvements of residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

ii. All new construction and substantial-improvements of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely flood proofed to that so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

iii. Adequate drainage paths shall be required around structures on slopes, in order to guide flood waters around and away from proposed structures.

b. AH Zones

i. The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in Section 16-2-8.2(G)(5).

ii. Adequate drainage paths shall be required around structures on slopes, in order to guide flood waters around and away from proposed structures.

5) Floodway. Located within areas of special flood hazard established in Section 16-2-8.2 (G)(2) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris and potential projectiles, the following provisions shall apply:

a. The City shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point.

b. The City shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the City during the occurrence of the base flood discharge.

c. If Section 16-2-8.2(I) is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Section 16-2-8.2(G).

d. In unnumbered A zones, the City shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in Section 16-2-8.2(G)(2).

6) Recreational Vehicles.

a. Require that recreational vehicles placed on sites within all unnumbered and numbered A zones, AO, AE, and AH zones on the community's FIRM either:

i. Be on the site for fewer than 180 consecutive days, or

ii. Be fully licensed and ready for highway use meaning that the vehicle is on wheels or a jacking system and is attached to the site only by quick-disconnect type utilities and security devices and it has no permanently attached additions; or

iii. Meet the permitting, elevating, and the anchoring requirements for manufactured homes of this Section.

H) Floodway Overlay District

All new residential lots shall be completely located outside Floodway Overlay Districts. Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance and are otherwise permitted under the Leawood Development Ordinance. All uses within the Floodway Overlay District are subject to the development plan procedures as set forth in Article 3. All encroachments, including fill, new construction, substantial improvements and other developments must be prohibited unless certification by a professional Kansas registered engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge. No use shall increase the flood levels of the regulatory flood elevation.

I) City Flood Hazard Overlay District

1) This section provides for the establishment of a city flood hazard overlay district. This district will include those areas subject to periodic inundation by 100-year flood but are not delineated on the most recent maps prepared by the Federal Insurance Administration.

2) Generally, residential structures in this area shall have the lowest floor (including basement) elevated at least two feet above the floor hazard elevation. If this entirely precludes the development of the lot the Director of Public Works shall decide another form of mitigation.

3) Structures having a use other than residential shall, in general, be held to the same criteria as otherwise provided in this Ordinance. The enforcement of this section shall depend upon the determination of the Director of Public Works.

J) Variance Procedures

1) The Board of Zoning Appeals as established by the City of Leawood shall hear and decide appeals and requests for variances from the requirements as set forth in Article 6.

2) In reviewing such applications, the Board of Zoning Appeals shall consider all technical evaluation, all relevant factors, standards specified in other sections of this Ordinance, and:

a. The danger that materials may be swept onto other lands to the injury of others;

b. The danger to life and property due to flooding or erosion damage;

c. The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. The importance of the services provided by the proposed facility to the community;

e. The necessity to the facility of a waterfront location, where applicable;

f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

g. The compatibility of the proposed use with existing and anticipated development;

h. The relationship of the proposed use to the Comprehensive Plan and flood plain management program for that area;

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

k. The 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, and streets and bridges.

3) Conditions for Approving 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 in Section 16-2-8.2(J)(2) having been fully considered. As the lot size increases 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 for the State Inventory of Historic Places, or local inventory of historic places upon determination, provide the proposed activity will not preclude the structure's continued historic designation.

c. Variances shall not be issued within any designated floodway if any increase in 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 (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a 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. The City shall notify the applicant in writing over the signature of a City official that (a) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such noti-

fication shall be maintained with the record of all variance actions as required by this Section.

K) Nonconforming Use.

1) A structure or the use of a structure or premises which was lawful before the passage or amendment of the Ordinance but which is not in conformity with the provisions of this Section may be continued subject to the following conditions:

a. If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance.

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% 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, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, a State Inventory of Historic Places, or local inventory of historic places upon determination.

L) Penalties for Violation

Any person or other entity who violates this article shall be guilty of a misdemeanor punishable by a fine of not less than $10 and not more than $100 for each and every day that such violation continues, or by imprisonment for 10 days for each and every day such violation shall continue, but in no case to exceed 3 months of imprisonment, or by both such fine and imprisonment in the discretion of the Court. However, if the offense be willful, on conviction thereof, the punishment shall be a fine of not less than $100 or more than $500 for each and every day that such violation shall continue or by imprisonment for 10 days for each and every day such violation shall continue, but in no case to exceed 3 months of imprisonment, or by both such fine and imprisonment in the discretion of the Court.

M) Amendments

The regulations, restrictions, and boundaries set forth in this Section 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 such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Leawood, Kansas. At least 20 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency VII office. The regulations of this Section are in compliance with the National Flood Insurance Program Regulations.

N) Definitions

Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the meaning they have in common usage and to give this Section its most reasonable application. The following definitions apply for purposes of this Section:

"**100-year Flood**" see "base flood"

"**Accessory Structure**" means the same as "appurtenant structure"

"**Actuarial or Risk Premium Rates**" mean 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 Act and the accepted actuarial principles. "Risk premium rates" include provisions for operating costs and allowances.

"**Administrator**" means the Federal Insurance Administrator

"**Agency**" means the Federal Emergency Management Agency (FEMA)

"**Appeal**" means a request for a review of the Director of Public Works' interpretation of any provision of this Section or a request for a variance.

"**Appurtenant Structure**" means a structure that is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

"**Area of shallow flooding**" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"**Area of special flood hazard**" is the land in the flood plain within a community subject to one percent or greater chance of flooding in any given year.

"**Base flood**" means the flood having one percent chance of being equaled or exceeded in any given year.

"**Basement**" means any area of the structure having its floor subgrade (below ground level) on all sides.

"**Building**" see "structure"

"**Chief Engineer**" means the chief engineer of the division of water resources, Kansas Department of Agriculture.

"**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.

"**City flood hazard overlay district**" means areas that are subject to periodic inundation by 100-year flood waters but are not delineated on the most current maps available from the Federal Insurance Administration.

"**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.

"**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, drilling operations or storage of equipment or materials.

"**Elevated Building**" means for insurance purposes, a non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

"**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).

"**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."

"**Flood**" or "**flooding**" means a general and temporary condition of partial or complete inundation of normally dry land areas from: (a) the overflow of inland or tidal waters; (b) the unusual and rapid accumulation of runoff of surface waters from any source.

"**Flood Boundary and Floodway Map (FBFM)**" means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

"**Flood Elevation Determination**" means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

"**Flood Elevation Study**" means an examination, evaluation and determination of flood hazards.

"**Flood Fringe**" means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

"**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.

"**Flood Hazard Map**" means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

"**Flood Insurance Rate Map**" (FIRM) means an official map of a community, on which the Administrator has delineated the Flood Hazard areas and the risk premium zones applicable to the community.

"**Flood Insurance Study (FIS)**" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood. Means an examination,

evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

"**Floodplain**" **or** "**Flood-prone Area**" means any land area susceptible to being inundated by water from any source *(see "flooding").*

"**Floodplain Management**" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

"**Floodplain Management Regulations**" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"**Floodproofing**" means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

"**Floodway**" or "**Regulatory Floodway**" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"**Floodway Encroachment Lines**" means the lines marking the limits of floodways on Federal, State and local floodplain maps.

"**Floodway Fringe**" is that area of the flood plain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one percent chance of flood occurrence in any one year).

"**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 wave action, such as bridge openings and the hydrological effect of urbanization of the watershed.

"**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.

"**Highest adjacent grade**" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"**Historic Structure**" means 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.

"**Lowest Floor**" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this Ordinance.

"**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."*

"**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).

"**Market Value**" **or** "**Fair Market Value**" means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

"**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 referenced.

"**New Construction**" means structures for which the start of construction or substantial improvement is commenced on or after the effective date of the FIRM.

"**(NFIP)**" means the National Flood Insurance Program (NFIP).

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

"**Participating Community**" also known as an *"eligible community,"* means a community in which the Administrator has authorized the sale of flood insurance.

"**Person**" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

"**Principally Above Ground**" means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

"**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.

"**Risk Premium Rates**" means those rates established by the Administrator pursuant to individual community studies and investigations that 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.

"**Special Flood Hazard Area**" *see "area of special flood hazard."*

"**Special Hazard Area**" means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.

"**Start of Construction**" for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the 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.

"**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 National Flood Insurance Program (NFIP) in that state.

"**Structure**" means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground and a gas or liquid storage tank that is principally above ground. *"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 includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

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

"**Substantial improvement**" means any reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds 50 percent of the market

value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not; however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code 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".

"**Variance**" is a grant of relief to a person from the requirements of this Ordinance, which permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

"**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 Ordinance is presumed to be in violation until such time as that documentation is provided.

"**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. 2399, 7-28-09)

16-2-9 PERFORMANCE CRITERIA

Unless otherwise expressly provided in an approved Development Plan, the following performance criteria shall be complied with as provided in this Section.

16-2-9.1 All Districts

A) No use shall create noise in excess of that of normal daily traffic measured at the lot lines of the premises. In no case shall the noise level exceed 60 dB at repeated intervals or for a sustained length of time, measured at any point along the property line. Hospital Generators installed on or before January 1, 2003, are exempted from the noise limitation in this section while testing the generators as required by federal, state or local law, or operating them under conditions of a loss of standard power, provided that (1) the generators, in combination with any noise reduction enclosures around them, shall have manufacturer's specification indicating that the sound/noise emanating from testing or other operation of the emergency generator shall be no greater than 70 decibels measured at 25 feet from the generator and no higher than 6 feet above grade, and (2) provided further however, that because numerous factors may potentially result in noise from generator operation exceeding the manufacturer-specified 70 decibel maximum, under no circumstance will the noise levels from the testing or operation of the generators exceed 75 decibel at 25 feet from the generator and no higher than 6 feet above grade. After the effective date of

this ordinance, any generator not otherwise exempt as set forth above and to be newly located on property subject to revised preliminary or final plan approval shall not fall under this exemption and shall comply with all other City ordinances regarding noise levels.

B) Architectural quality of the buildings must be of sufficient similarity on all sides of the structure such that all sides of the building are "finished."

C) All public sidewalks, where required or otherwise provided, shall be a minimum of 5 feet wide. Sidewalks at store fronts shall be a minimum of 8 feet wide.

D) No use shall create dust, dirt, particulate matter, smoke, noxious odor, radiation, noxious gases, heat, unscreened glare, vibration or concussion which is perceptible without special instruments at the lot lines of the premises.

E) The design of all developments, whether residential, commercial or industrial shall be such that access and circulation by firefighting equipment is assured and not retarded by steep grades, heavy landscaping or building spacing.

F) Fences and walls up to 6 feet in height may be allowed by the Planning Commission and Governing Body if designed as an integral part of a development to provide privacy, security, or as part of an entry monument detail or, in some cases, required to provide screening from one property to another.

G) All lights, other than publicly installed street lights, shall be located and installed to reflect the light away from abutting properties zoned for or developed with residential structures. Maximum 0.5 footcandle at the property line.

(Ord. 2633, 7-23-13)

16-2-9.2 Non-Residential Uses

A) General. In all non-residential districts other than the BP-Planned Business Park District, the following additional standards shall apply:

1) Except as provided by an approved development plan or special use permit, all products shall be sold and all services rendered inside a building.

2) Alcoholic beverages and cereal malt beverages shall not be sold for consumption on the premises except that places serving food for consumption inside the building may serve cereal malt beverages provided the wholesale cost of the cereal malt beverage sold does not exceed 20% of the gross sales of the establishment on an annual basis.

3) Drive in restaurants where food is normally served to customers in parked vehicles or where food is consumed outside a building are not permitted unless specifically authorized by an approved development plan and/or special use permit.

4) A maintained minimum required illumination for parking lots and building entries is 0.50 footcandle (fc). Parking lot lighting shall not cause illumination in excess of

0.5 foot candles when measured at the property line of the subject parking lot. Illumination shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination. Such measurement shall be taken with the photoelectric photometer while held parallel, 3 feet above the ground at the property line of the subject parking lot. Parking lot lighting shall be accomplished with pole mounted cut-off fixtures which shall be of a no-tilt, shoebox, or similar type design, equipped with flat lenses and nonadjustable mounted arms or brackets. Parking lot lighting shall have an initial average uniformity ratio of 4 to 1 (average (fc) over minimum (fc)). Pedestrian walkway lighting may use point-to-point lighting, such as light bollards, with a minimum maintained average illumination of .18 footcandles (fc).

5) Storm Water Collection and On-Site Management shall comply with the City's storm water regulations.

B) Lighting

1) Site lighting should achieve intended illumination within parking lots, plaza/pedestrian spaces, storm water collection and detention areas and other areas where design or safety considerations are warranted. Site lighting is meant to create safe, recognizable, and aesthetically pleasing environments throughout public and private developments.

2) The use of "moonlighting," "silhouette lighting," or "path point-lighting" techniques are all suggested for use in these areas, and may be used in combination with more conventional area lighting usually provided by parking lot and roadway lights. Mast-carried luminaries shall not to exceed 18' in height.

3) High-pressure sodium lights and/ or other non-color corrected lights shall not be used.

4) A maintained minimum required illumination for parking lots and building entries is 0.50 footcandle (fc). Parking lot lighting shall not cause illumination in excess of 0.5 foot candles when measured at the property line of the subject parking lot. Illumination shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination. Such measurement shall be taken with the photoelectric photometer while held parallel, 3 feet above the ground at the property line of the subject parking lot. Parking lot lighting shall be accomplished with pole mounted fixtures which shall be of a no-tilt, shoebox, or similar type design, equipped with nonadjustable mounted arms or brackets. Parking lot lighting shall have an average uniformity of 4 to 1. Pedestrian walkway lighting may use point-to-point lighting, such as light bollards, with a minimum maintained average illumination of .18 footcandles (fc).

5) Lighting shall highlight, complement, and reinforce landscape and architectural design as focal points of interest.

6) Lighting shall not impact traffic movements.

7) Building Lighting – Interior/Exterior

a. Building illumination and architectural lighting shall be indirect in character (no light source visible). Indirect wall lighting, overhead down-lighting, or interior illumination that spills into the landscape is encouraged. Architectural lighting shall articulate and animate the particular building design as well as provide the required functional lighting for safety and clarity of pedestrian movement.

b. Lighting shall highlight, compliment, and reinforce landscape and architectural design as focal points of interest.

c. Use of minimum wattage metal halide or color corrected sodium light sources, which provide "natural" light are required. Non-color corrected low-pressure sodium and mercury vapor light sources are prohibited as building lighting sources.

8) Wall pack light fixtures shall not be used.

C) Special Lighting Conditions – Non-Residential Districts

1) Direct site lighting shall be limited to design elements such as signage, entries, and special features.

2) Up-lighting trees and/or "moonlighting" effects (use of combined up and down lights) as a key landscape lighting condition is strongly encouraged.

3) Back-lighted or internally lighted fabric awnings are prohibited.

4) Use of neon lighting shall be reviewed on a case-by-case basis; however, use of neon tubes for such uses as building borders or outlines shall be prohibited.

D) Relationship of Building to Street, Parking, and Adjacent Properties

1) All buildings shall be designed to create a strong physical relationship with their street frontages.

2) Smaller retail stores that are a part of a larger principal building shall have display windows and separate outside entrances.

3) Each principal building shall have a clearly defined, highly visible entrance with distinguishing features, such as canopies, arches and integral planters.

4) Every building shall have a main entrance oriented toward the street-side of the building, connecting with the sidewalk. Additional entrances may be provided and oriented toward parking courts or pedestrian paths.

5) Individual property owners shall consult with adjacent owners to coordinate development activities and resources such as site linkages, shared service alleys, parking structures, etc.

6) Sidewalks, landscaping and other pedestrian amenities shall be provided in parking lots.

7) Provide a continuous separation between principal internal walkways and parking areas.

E) Pedestrian/Bicycle Circulation

1) All development proposals must provide adequate parcel-to-parcel pedestrian and bicycle access to facilitate the efficient movement of non-vehicular traffic throughout the City. Where pedestrian and bikeways exist on adjacent parcels, parcel development plans shall include connections to such systems. Where such systems are not present on adjacent parcels, development plans shall initiate them by providing walks and paths that create potential linkages between two or more adjacent parcels.

2) Along pedestrian routes, provisions for landscape amenities such as seating, art installations, fountains, and tree planting for shade and cover, shall be considered. Required and additional landscape plantings shall provide screens or buffers at parcel edges allowing non-vehicular movement through such areas, with the intention of creating an attractive system of street-edge amenities and parallel pedestrian and bike access throughout the City.

3) Approved materials for pedestrian circulation routes include:

   a. Brick pavers

   b. Stone pavers

   c. Concrete – scored and/or patterned

   d. Crushed granite or other gravel-like material with appropriate binder (low use/ non-vehicular areas)

4) Where pedestrian routes intersect vehicular access routes, the material of the pedestrian route shall be enhanced and differentiated from the vehicular paving material.

5) Sidewalks shall be placed at least 6 feet from the façade of the building to provide landscaping between the building and the sidewalk.

6) Limit curb cuts to preserve the continuity of the sidewalk space and reduce traffic hazards.

F) Plazas/Pedestrian Spaces

1) For every 125 parking spaces created, or portion thereof, a minimum of 1000 square feet of plaza/pedestrian space shall be created as part of the site and building development. See also FAR Bonus provisions, Article 3.

2) Plaza/Pedestrian Spaces are meant to enhance the use and appearance of development within the City by providing pleasant living, working and gathering envi-

ronments. Provisions for outdoor seating, landscaping which may include water features, and lighting shall be provided in such spaces.

3) The creation of private plaza space is strongly encouraged for outdoor use by the development for dining, vending operations, programmed events and gatherings, and other activities allowed by this Development Ordinance.

4) Approved paving materials for Plazas/Pedestrian Spaces include:

   a. Brick pavers

   b. Stone pavers

   c. Concrete – scored and/or patterned and/or colored

   d. Crushed granite or other gravel-like material with appropriate binder (low use/ non-vehicular areas)

5) At least fifty percent of the total plaza/pedestrian space shall be landscaped. Where storm water detention or management systems are designed as architectural features incorporated into the design of plazas and pedestrian spaces, the developed water-related landscape may serve as the one-quarter required landscape.

6) All plaza/civic spaces shall be adequately lighted to provide for safety and reasonable night use.

7) At least one community amenity shall be provided where there is high pedestrian volume like plaza areas and street intersections.

G) Natural Site Conditions

Proposed landscaping shall accentuate the overall natural character of the site in terms of existing topography and plant material. All parcels shall be developed so as to create a minimum disturbance to the existing natural systems found on site. Maintenance or preservation of natural or undisturbed areas within a site and connectivity between such areas ("patches") within single parcels and adjoining parcels shall be considered in the site plan for development. The intent of the design standards is to minimize removal of natural systems that provide habitat, visual qualities of value, and the existing natural capacity for storm water control and mitigation.

H) Service, Loading, and Utilities/Outside Storage & Display; Screening

1) Service or loading areas shall be accommodated entirely on-site for each parcel.

2) Parallel parking space for delivery vehicles shall be provided along service drives or in specially designated courts or loading areas.

3) Loading docks and service areas are not permitted on a street side of a building unless approved as a part of the development plan. In all cases the areas shall be screened from view with landscape or architectural elements designed as part of the building or structure. Enclosures and service elements such as loading doors shall be integrated with the building elevation design so as to minimize the

visual impact of such elements. Any loading dock or loading area shall be completely screened from public streets by a solid wall, fence or evergreen plantings. The design of the trash enclosures must be shown on the preliminary and final site plan.

4) Hours of loading and unloading may be limited, depending upon location and surrounding property use.

5) All new installations and replacement of existing exterior utilities such as water, gas, sewerage, electrical, communication lines, etc. shall be installed underground.

6) Where potentially visible from a public street or abutting structures, all mechanical equipment, utility meters, storage tanks, air conditioning equipment, and similar equipment shall be screened from view by landscaping or architectural elements integrated into the structure. The screening must be of materials that are comparable to the materials used in the buildings in the development.

7) All operations including storage and display of materials, merchandise, or products shall be conducted within a fully enclosed building; however, normal outdoor loading and unloading of materials is permitted.

8) No equipment or vehicle other than motor passenger cars shall be stored outside a building for more than 24 hours in a 30-day period.

9) Screening -- Storage, service and truck loading areas, utility structures and mechanical equipment of the ground or roof shall be screened from public view. Any emission of noise, vapor, heat or fumes shall be mitigated. Consideration should be given to developing common service courts at the interior of parcels. Garbage, recycling collection and utility areas shall be enclosed and screened around their perimeter by walls minimum of 6 feet in height and constructed of materials consistent with the rest of the building.

10) Fences designed for privacy shall be constructed of stone or architectural textured stucco or concrete. The use of metal is limited to material for gates. Chain links, plastic, wood or wire fencing is prohibited. Mechanical units, utility equipment and telecommunication antennas and devices located on the roof shall be grouped together and incorporated into the roof design or thoroughly screened from view. Fences and walls up to 6 feet in height may be required to provide screening and/or buffering of one property from another.

(Ord. 1999, 02-20-06)
(Ord. 2363, 11-3-08)
(Ord. 2406, 8-11-09)

16-2-10 ARCHITECTURE/CONSTRUCTION STANDARDS

The requirements of this section shall apply to all buildings and structures (including single-family detached dwellings except where noted), unless otherwise expressly provided in a development

plan. The character of the architecture of Leawood shall be driven by the desire to create quality buildings of lasting beauty. Precedents of style and quality within the region should be viewed as positive models for new construction. The use of traditional materials and forms is encouraged. In all cases, buildings shall strive to be accurate and true to their particular style, (i.e. Italianate, Spanish Mission, Modern, etc.). These requirements shall be in addition to and in conjunction with requirements set forth in an approved Development Plan.

16-2-10.1 Building Massing, Scale

A) Each building is to have simple, well-proportioned, volumetric form -- a simple form that is manipulated for relief. Massing of the buildings shall reflect a continuous mass of the building envelope. Parapets must read as integral to the mass of the building. No flat vertical surface projections will be allowed above the building roofline. No colonnades of one story in height shall be permitted to project beyond the face of buildings. Loggias and other architectural elements may be created by “carving” into the mass of the building, not by applied decoration.

B) Building Scale within areas designated for commercial land use shall have the appearance of two floors minimum on all sides. Generally building scale shall reflect the particular use housed in the building. Details that provide human scale to structures should be fully considered and incorporated into the design.

C) Roof forms and pitch shall be consistent for all roofs part of the same building or block of buildings.

D) Deviation from simple forms shall be allowed to accentuate building entries and significant corners or points of access. Corners of buildings shall provide significant articulation through fenestration, material, and detailing.

E) Two towers, projections, or roof accents, (i.e. finials, cupolas etc.) per building shall be allowed. Any proposed deviation from the guideline shall be reviewed on an individual basis.

F) To maintain a coherent architectural image within the City and to reduce conflict between facades of adjacent buildings, special attention shall be paid to regulating lines established by existing buildings. Building heights, cornice lines, sill heights, floor levels, entry heights are all important references to be respected to reduce visual conflicts between adjacent buildings.

G) Linear massing will be regulated on public frontage by articulating the facade with architectural elements. A contiguous building facade (longer than 100 feet) shall have a building element, such as an entrance, courtyard, arcade, or other element dividing the facade visually. Buildings shall avoid long monotonous, uninterrupted walls or roof planes.

H) All four sides of a building shall be constructed to the same standard of design and maintain consistency in architecture.

16-2-10.2 Shading Devices

Buildings shall provide a means for solar shading at all fenestration. This may include freestanding or attached screen walls or shade fins, architecturally constructed awnings, roof or building overhangs, recessed openings, and/or upper level balconies. Applied awnings shall be constructed of metal, canvas, and/or glass and shall be integrated into the overall design of the facade. No plastic awnings shall be allowed.

16-2-10.3 Materials and Colors

To create a harmonious and coherent image for each development, building designs shall pay close attention to choice of materials and colors. Building construction shall be of high quality and durable materials. Equally valued materials and colors shall wrap all exposed elevations of the building as a solid mass.

A) Permitted Building Materials

1) Stone
2) Brick
3) EIFS for detailing only
4) Finished Concrete
5) Copper
6) Plaster Stucco
7) Clear Glass
8) Metal for Detailing and Awnings
9) Wood
10) Vinyl soffits. Vinyl products must have an approved evaluation report in conformance with the currently approved City Building Code.
11) Vinyl windows meeting or exceeding the following AAMA/NWWDA 101/1.S.2-97 Design Specifications: All vinyl windows, except basement windows shall have a minimum Structural Test Pressure of 45.0 pounds per square foot. All basement windows shall have a minimum Structural Test Pressure of 37.5 pounds per square foot.

B) Prohibited Building Materials:

1) Vinyl siding and details (including downspouts)
2) Plastic Columns or other Ornamentation for other than residential uses.
3) Aluminum siding
4) CMU (concrete masonry units) for other than residential landscape purposes
5) Corrugated Metal

6) Reflective or Mirror Glass

7) Steel siding

C) Roof Materials For All Buildings, Except Single-Family Residential:

1) Intent: The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:

a. Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.

b. Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.

c. Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.

2) Required Permits: All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) Submission Requirements: A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed complete without the following:

a. An approved evaluation report in conformance with the currently approved City Building Code.

b. A Master Spec specification.

c. A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 square feet and have a minimum of two courses.

d. Installation specifications provided by the manufacturer of the product.

e. List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.

f. A list of the manufacturers of the requested product.

g. The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination: The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) Appeals: A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard: The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile.

7) Roofing Safety and Performance Standards: All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:

a. Slate

b. Clay Tile

c. Concrete Tile

d. Synthetic Slate:

i. Must be within a similar color range of slate, clay tile or concrete tile; and

ii. Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and

iii. Required to be installed with sheet metal valleys and flashings; and

iv. Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1x4's; and

v. Must have a minimum U.L. Class B fire rating

e. Synthetic Shingles:

i. Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and

ii. Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and

iii. Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and

iv. Must be installed with sheet metal valleys and flashings; and

v. Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1x4's; and

vi. Must have a minimum U.L. Class B fire rating.

f. Stone Coated Steel Roofing:

i. Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and

ii. Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and

iii. Must be installed with sheet metal valleys and flashings; and

iv. Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1X4's; and

v. Must have a minimum U.L. Class B fire rating.

g. Metal Roofing:

i. Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and

ii. Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and

iii. Be installed with sheet metal valleys and flashings; and

iv. Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1X4's; and

v. Must have a minimum U.L. Class B fire rating.

h. Laminated Composition Shingles in a RP-4 (Planned Apartment Residential District) provided that they are (1) approved in a Development's Final Plan on or before September 1, 2010 and (2) meet the following requirements:

i. Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and

ii. Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and

iii. Required to be installed with sheet metal valleys and flashings; and

iv. Required to be installed with preformed ridge shingles; and

v. Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and

vi. Must use a minimum of five (5) color blend granules; and

vii. Must be a minimum of 300 lbs. per square; and

viii. Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1X4's; and

ix. Is required to be U.L. Class A fire rated material.

8) Flat Roofs: Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

D) Roof Materials in Single-Family Residential Districts:

1) Intent: The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:

a. Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.

b. Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.

c. Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.

2) Required Permits: All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) Submission Requirements: A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed complete without the following:

a. An approved evaluation report in conformance with the currently approved City Building Code.

b. A Master Spec specification.

c. A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sq ft and have a minimum of two courses.

d. Installation specifications provided by the manufacturer of the product.

e. List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.

f. A list of the manufacturers of the requested product.

g. The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination: The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) Appeals: A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard: The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile. Each roof installed on a single-family residence shall be comprised of a single material selected from the City's approved roofing materials and associated permitted colors list as referenced in Paragraph 3 of this Subsection. The Director of Community Development shall have the ability to administratively grant an exception to allow for the use of more than one roofing material on a single-family residence when the request is made for a second roofing material to be used with such architectural details, including but not limited to, bay windows, bow windows, dormers, shed dormers, shed roofs and flat roofs.

7) Roofing Safety and Performance Standards: All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:

a. Wood Shingles:

i. Number 1 or 2 grade

b. Wood Shakes:

i. Number 1 or 2 grade

ii. Minimum ½ inch thickness measured at butt

c. Slate

d. Clay Tile

e. Concrete Tile

f. Synthetic Slate:

i. Must be within a similar color range of slate, clay tile or concrete tile; and

ii. Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and

iii. Required to be installed with sheet metal valleys and flashings; and

iv. Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1X4's; and

v. Must have a minimum U.L. Class B fire rating

g. Synthetic Shingles:

i. Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and

ii. Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and

iii. Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and

iv. Must be installed with sheet metal valleys and flashings; and

v. Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1X4's; and

vi. Must have a minimum U.L. Class B fire rating.

h. Stone Coated Steel Roofing:

i. Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and

ii. Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and

iii. Must be installed with sheet metal valleys and flashings; and

iv. With the exception of stone coated steel being placed over an existing wood roof using an approved fire resistive non-asphaltic fiberglass based underlayment, stone coated steel roofs must be placed on solid decking and all existing roofing materials shall be removed down to the stringers and/or 1X4's; and

v. Must have a minimum U.L. Class B fire rating.

i. Metal Roofing:

i. Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and

ii. Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and

iii. Be installed with sheet metal valleys and flashings; and

iv. Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1X4's; and

v. Must have a minimum U.L. Class B fire rating.

j. Laminated Composition Shingles meeting the following standards:

i. Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and

ii. Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and

iii. Required to be installed with sheet metal valleys and flashings; and

iv. Required to be installed with preformed ridge shingles; and

v. Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and

vi. Must use a minimum of five (5) color blend granules; and

vii. Must be a minimum 300 lbs. per square; and

viii. Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1X4's; and

ix. Is required to be U.L. Class A fire rated material.

k. Class 4 Impact Rated Laminated Composition Shingles:

i. Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and

ii. Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and

iii. Required to be installed with sheet metal valleys and flashings; and

iv. Required to be installed with preformed ridge shingles; and

v. Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and

vi. Must use a minimum of five (5) color blend granules; and

vii. Must be a minimum 275 lbs. per square; and

viii. Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1X4's; and

ix. Is required to be U.L. Class A fire rated material.

8) Flat Roofs: Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

E) Colors

1) Building colors shall be selected from an approved range of colors approved by the City. Generally, façade colors shall be of low reflectance, subtle, neutral, or earth tone colors. Color patterns shall have subtle color range.

2) All buildings and structures that have had the paint colors approved by plan shall maintain the approved paint color. Any owner seeking to modify paint colors from the original approved colors must obtain approval of a final development plan application for color change prior to proceeding with the work.

(Ord. 2031, 10-20-03)
(Ord. 2035, 11-17-03)
(Ord. 2085, 09-27-04)
(Ord. 2430, 01-12-10)
(Ord. 2454, 07-27-10)

16-2-10.4 Accessibility

A) All buildings shall conform to the ADA (Americans with Disabilities Act) Standards for accessibility according to the terms of that Act.

B) Accessible entries shall be integrated into the design of the building and not separated from main building entries.

(Ord. 2413, 09-29-09)

16-2-11 TYPE OF CONSTRUCTION -- MANUFACTURED HOMES

16-2-11.1 Exterior Walls/Siding

Exterior walls and siding of all residential design manufactured homes shall be as required for all other homes, except as may be required by law. Non-masonry siding material shall extend below the top of the exterior foundation or curtain wall and the joint shall be flashed in accordance with the building codes.

16-2-11.2 Minimum Floor Area

All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than 2 ½ times the shortest exterior dimension.

16-2-11.3 Foundation

All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access shall be installed under the perimeter of the home.

16-2-11.4 Garage

The home shall have an attached two-car garage.

16-2-11.5 Roof

Roofing shall be the same as for single-family dwellings as stated in this subsection.

ARTICLE 3

PLANNED DEVELOPMENT PROCEDURES

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16-3-1 STATEMENT OF INTENT

The division of the City into zoning districts is based on the principle that similar conditions prevail throughout a particular district. Development or redevelopment of any given use within these districts has the potential, if not properly planned, to impact adversely the community with regard to traffic, incompatibility of uses, property values, utilities or otherwise. It is the intent of this Article to authorize new

or changed uses of property as well as certain site alterations, as specified herein, if the location and circumstances are appropriate to the use or change under the standards provided in this Article. It is also the intent of this Article to increase the flexibility of development design by authorizing deviations to the standard district regulations subject to the conditions and/or approval of the Governing Body. Any approval of any development plan shall be deemed to incorporate the provisions of this Ordinance.

16-3-2 DEVELOPMENT PLANS — WHEN REQUIRED

In any zoning district, an approved development plan as provided by this Article shall be required for (A) any change in zoning district classification, other than to the AG district, or (B) any change in use, or (C) any construction or alteration of a structure, landscaping, parking, or drive isles on property or other exterior change in any zoning district <u>except</u> when such change is:

A) Authorized by a previously approved development plan under this Planned Development Procedure that has not expired by its own terms or as provided for in this Article;

B) Expressly exempted from the development plan requirements by the underlying zoning district;

C) An alteration or construction of one or more single-family dwellings where no subdivision of land is required, provided a plot plan for the property is submitted and approved;

D) A change only in use that does not require a change in underlying zoning district or special use permit and does not propose or require the alteration of parking, traffic volume or patterns, exterior change or construction, or other physical site requirements;

E) An authorized Agricultural use in the AG Agricultural District;

F) Ordinary maintenance which does not change the exterior color, style, design, or material type;

G) Otherwise exempted from development plan requirements by state or federal law;

H) Changes authorized to be administratively approved by the Director of Planning pursuant to Section 16-3-3.

16-3-3 ADMINISTRATIVE APPROVALS

The following changes to a site, building or structure may be approved by the Director of Planning and shall not require approval or amendment of a Development Plan:

A) Change of permanent signage or sign facing if the size, characteristics, and number of signs remain the same;

B) Change in landscaping (including location, bed material, related species, etc.) if the size and type of landscaping remain the same or if the number of landscaping specimens is increased;

C) Change in architectural detail if it is consistent with the general intent and requirement of the Development Plan approval; and

D) Changes in lighting if the changes otherwise satisfy the Development Plan requirements and applicable provisions of this Ordinance.

The Director of Planning may administratively approve these changes if the proposed change is consistent with the provisions and intent of an approved Development Plan and other applicable regulations. The

Director may deny the change, impose conditions necessary to satisfy applicable requirements, or refer the request to the Planning Commission. If a party is aggrieved by a denial or conditions imposed on an administrative approval, the change shall be resubmitted pursuant to the Development Plan Procedure established in this Article.

16-3-4 DEVELOPMENT PLAN APPROVAL PROCESS

A "development plan" shall consist of both a preliminary and final development plan approved as provided in this Article. No construction of a structure or commencement of a use, or change or alteration in a use, structure or site, requiring a development plan shall be authorized until approval of the final development plan. Approval of the preliminary development plan shall be considered an act of rezoning subject to the procedural requirements for rezoning as set forth in Article 5, except as provided herein. A final development plan is intended only to provide final additional details or minor changes but shall otherwise conform to the approved preliminary development plan.

The minimum steps required for approval of a Development Plan approval required by this Article are summarized as follows:

A) Application for preliminary development plan (Section 16-3-5)

B) Notice and public hearing before the Planning Commission (Section 16-5-3)

C) Recommendation on preliminary development plan by the Planning Commission

D) Governing Body enacts ordinance approving or approving with conditions the preliminary development plan or denies the plan

E) Submission of Final Development Plan to the Planning Commission

F) Approval of Final Development Plan:

   1) No changes or minor changes – approval by the Planning Commission and review by the Governing Body for final approval, conditional approval, or denial in accordance with voting procedures for preliminary plan approval.

   2) Substantial changes – submission of new preliminary development plan and repeat of development plan process.

16-3-5 PRELIMINARY DEVELOPMENT PLANS — APPLICATION, CONTENTS AND SUBMISSION REQUIREMENTS

A) A preliminary development plan shall be required for any use or circumstance requiring a development plan as identified in Section 16-3-2. A preliminary development plan shall be approved by ordinance, which may include the simultaneous change in zoning district classification.

B) Application Requirements. The applicant shall submit to the Planning Department 3 copies of the proposed preliminary development plan, or such other number required by the Director. The preliminary development plan, detail requirements, and required maps shall be provided in paper

and in compatible electronic format unless otherwise waived by the Director and shall bear such professional certifications and seals as the Director may require. The preliminary development plan shall be accompanied by a completed application form approved by the Director, which shall include, except as may be otherwise required by the Director:

1) Detail requirements: A depiction of the property to be included in the proposed development, plus the area within 500 feet thereof or all adjacent properties, whichever is greater) shall be shown, including the location of existing and proposed:

   a. Buildings and other structures;

   b. Property lines with ownership delineated;

   c. Parking areas, loading spaces, drives and walkways;

   d. Screening and landscaping, including location, height and materials;

   e. Drainage patterns and structures, including location and size of any culvert, sewer, ditch or other drainage structure;

   f. Public streets and curb cuts;

   g. Fences and walls, including location, height and materials;

   h. Signage, including conceptual graphics and elevations;

   i. Easements;

   j. Utilities; including preliminary input of water, sewer, gas and electric facilities;

   k. Any areas proposed for public use and/or dedication;

   l. Identification of noise generation locations; and

   m. Boundary of each zoning district and acreage therein within the site.

2) Maps: One or more maps of the proposed development, plus the area within 200 feet thereof, that includes the following:

   a. Existing topography with contours at 2-foot intervals;

   b. Delineation of any land areas subject to 100-year flood, certified by a Kansas licensed engineer and tied to the approved FEMA map;

   c. A vicinity map (showing 1/2 mile radius);

   d. Scale at 1" = 40', or larger, written & graphic scales;

   e. North point or top on right of drawing;

   f. Boundaries, exterior bearings and dimensions clearly shown;

   g. A current aerial photograph (1" = 100 feet) and map of the site and the area within 1000 feet of the subject property showing the following:

      i. Public streets and classification, *i.e.,* local, collector, arterial;

      ii. Surrounding uses and adjacent properties; and

      iii. Existing streams, bodies of water, and watersheds.

3) Legal description: A written and electronic copy of the legal description of the property included in the proposed development, including total acreage.

4) Architectural elevations: Preliminary sketches shall be submitted depicting the general style, size, color and exterior construction materials of the buildings proposed. In the event of several buildings, a typical sketch may be submitted. When several building types, such as apartments and business buildings are proposed on the plan, a separate sketch shall be prepared for each type. Single-family residential buildings may be shown in approximate location and general size and shape. Such sketches shall include elevation drawings, but detailed drawings and perspectives are not required.

5) Schedules. A schedule shall be included indicating the total amount of required and provided: floor area, dwelling units, land area, parking spaces, land use intensity, hours of operation of the business, and bulk requirements specified in the applicable zoning district regulations.

6) Supplemental information: Such other information as may be requested by the Director as may be reasonably needed or appropriate to adequately review the proposed development and any potential impacts.

C) Phases of development. Phases of development must be shown on the preliminary development plan, if applicable. If the development will occur in phases, the applicant shall submit a development plan that also displays the entire development at the completion of all phases. The phased development shall have the phases clearly outlined with expected dates for beginning of construction and date of completion of construction. No building permit shall be issued for any phase of development until a final development plan for that phase is approved, in accordance with the provisions of this chapter. Any deviation from the phasing approved by a final development plan shall be authorized only upon submission and approval of a revised final development plan.

D) Statement of need for deviations from district regulations. A narrative statement that explains the need for any deviation from applicable zoning or subdivision district regulations, if requested pursuant to Section 16-3-9, shall be submitted in support of the application for the preliminary development plan approval and specifically identifying the deviation sought.

16-3-6 SUBMISSION OF TECHNICAL STUDIES

A) Technical studies required by Director or other designated official. At any time prior to approval of a final development plan, the Director or other designated official may require applicants to submit any technical studies that the Director or other designated official deems necessary to enable the appropriate person or entity to fully evaluate the application. Examples of technical studies or technical reviews that may be required shall include, but not be limited to, traffic, lighting, engineering, geologic or hydrogeologic review, floodplain, environmental impact assessments, noise, or surface water management/drainage studies. The persons or firms preparing the studies shall be as approved by the Director.

B) Technical studies required by Planning Commission or Governing Body. Notwithstanding the fact that the Director or other designated official did not require submission of a technical study in support of an application, either the Planning Commission or the Governing Body may require the

submission of such technical study prior to taking action on an application where deemed necessary.

C) Costs borne by Applicant. All costs of any study or review required by the City shall be borne by the applicant. The City may, at its option, require the applicant to reimburse the City for its reasonable costs of the City contracting for such required study and may require the applicant to deposit the estimated costs in advance of proceeding with the study and further processing of the application.

D) Application deemed not complete. Technical studies may be required before or after an application has been initially deemed complete. If required after, the application shall be deemed incomplete until such study is completed and submitted as required.

16-3-7 CONSIDERATION OF PRELIMINARY DEVELOPMENT PLANS

A) Procedure. A preliminary development plan shall be approved by ordinance subject to the same procedures and requirements of initiation, Planning Commission review and recommendation, and Governing Body approval as set forth in Article 5, for amendments to zoning district boundaries.

B) Criteria for approval. The Planning Commission may recommend and Governing Body may approve, deny, approve with conditions, or remand, any preliminary development plan. An approved development plan may permit deviations from the underlying district regulations only as specified in this Article. A preliminary development plan approved subject to conditions or restrictions may specify requirements that must be met before an applicant may submit a final development plan application. In considering any preliminary development plan application, the Planning Commission and the Governing Body may give consideration to all relevant factors to the extent they are pertinent to the particular application, including:

1) Satisfaction of the conditions and requirements applicable to the requested planned use, as set forth in this Article, including but not limited to any conditions imposed relating to the granting of deviations.

2) The criteria governing the rezoning of the property, as set forth in the standards and requirements found elsewhere in the development code or in other applicable law.

3) Whether the development is designed, located and proposed to be operated so that the public health, safety and welfare will be protected.

4) Whether an identified community need exists for the proposed use.

5) Whether the development will impede the normal and orderly development and improvement of the surrounding property, or impair the use, enjoyment, or value of neighboring properties.

6) Whether the development incorporates, as approved by the City, adequate ingress and egress and an internal street network that minimizes traffic congestion.

7) The capability of the site to accommodate the building, parking, and drives with appropriate open space and safe, easy ingress and egress.

8) The degree of harmony between the architectural quality of the proposed building and the surrounding neighborhood.

9) The appropriateness of the minimum dimensions and areas of lots and yards set forth in the applicable zoning district regulations.

10) The incorporation of standards and principles as may be adopted by the City in its comprehensive plan or adopted regulations into the development.

C) Required finding. Prior to the approval of any planned zoning district or Development Plan, the Governing Body shall find that such zoning or development plan is in general conformity with the provisions of the Comprehensive Plan.

D) Development plan as condition of zoning ordinance. If the preliminary development plan application was submitted with an application to change the zoning district category, any development plan approved through the hearing process, concurrent with such application, shall be deemed a condition of the ordinance that amends the zoning district category of the property, whether or not the change in district classification is approved in the same ordinance as the preliminary development plan.

E) Duration of validity. The approved preliminary development plan shall specify the duration of its validity, but in no event shall an approved preliminary development plan be valid for a period longer than twenty-four (24) months from the date of such approval until approval of a final development plan. The Governing Body may grant one extension not exceeding twelve (12) months upon written request. Where the preliminary development plan shows future development phases for which sufficient detail is not anticipated to be available at the time of final development plan approval, the Governing Body may approve a final development plan showing such conceptual phases as future "development," provided that the information required by the preliminary development plan is also shown. No building permit shall be issued for any phases approved as "future development" prior to amendment of the final development plan containing all detail as required in this Article.

16-3-8 STANDARDS OF DEVELOPMENT

A development plan, and all uses and activities within a planned district, shall comply with the following standards:

A) District Regulations. Except for express deviations authorized by this Article, development plans shall comply with and be deemed to incorporate all regulations set forth in or referenced by the applicable district.

B) Public Land Dedication. Reservation or dedication of land for public parks, playgrounds, school sites, open spaces and other public areas shall be provided in accordance with the standards and requirements set forth in the approved Development Plan, as amended, and in the ordinance related thereto.

1) Reservation or dedication of land may be required by the City as a condition of development plan approval, or the developer may voluntarily offer land to the City for reservation or dedication but may only be accepted by the Governing Body as provided in this Section. Notwithstanding the above, park impact fees shall be paid prior to issuance of a building

permit for a wholly non-residential development and prior to final plat recording for any residential development.

2) Any reserved or dedicated lands must be of suitable size, location, dimension, topography and general character and must have proper and adequate road and/or pedestrian access for the particular purpose for which such land is intended to be used. Reserved or dedicated land shall be clearly indicated as such on the preliminary development plan. The Planning Commission may, at its discretion and in accordance with the Comprehensive Plan, recommend the granting of compensating density in exchange for all or a portion of land dedicated pursuant to this provision in order to achieve a balanced project and a fair and equitable result.

3) In its approval of a development plan that proposes reservation or dedication, the Planning Commission may recommend such conditions as deemed necessary to ensure that the purposes and intent of this section are satisfied.

4) The final plan of a tract including reservation or dedication of land shall be consistent with the approved development plan and shall incorporate all conditions and requirements imposed by the City.

5) A final plat that has been approved by the Planning Commission and which shows dedication of land shall be submitted to the Governing Body for acceptance or rejection of the proposed dedication. No dedications shall be deemed approved without express action of the Governing Body in the form of a written "Acceptance of Dedication." Failure of the Governing Body to execute an Acceptance of Dedication shall be deemed to be a refusal of the proposed dedication. A final plat that shows a dedication that has not been accepted by the Governing Body shall not be dated or endorsed by the Planning Commission.

6) If the Governing Body refuses to accept the dedication, the final plat and plan shall be returned to the applicant for resubmission to the Planning Commission with appropriate changes to indicate the use of the portion of the property originally proposed to be dedicated and for reconsideration of the plat and plan as a whole.

C) Development Fees. The development plan shall be deemed to incorporate and impose as a condition of approval the payment of all development fees, impact fees or other fees or development dedications required in this Ordinance or by other ordinances or regulations of the City.

D) Preliminary Development Plan Ordinance Compliance. The final development plan shall comply with and be subject to all provisions and conditions of the ordinance approving the preliminary development plan.

E) Other applicable regulations. The final development plan shall be subject to all other applicable regulations of the City, whether in this Ordinance or elsewhere, and whether in existence at the time of the development plan or thereafter, to the full extent permitted by law.

16-3-9 DEVIATIONS

A) In reviewing a preliminary development plan, preliminary plat or final plat, the Planning Commission may recommend and the Governing Body may approve deviations from the minimum

standards set forth in the applicable district or other applicable provisions, at the request of the applicant or otherwise, provided that any deviation so approved shall be in keeping with accepted land planning principles and must be clearly set out in the minutes as well as on exhibits in the record, in accordance with the limitations in this section. Deviations shall only be approved as may be authorized in this section.

1) Standards applicable to all deviations. In addition to the specific deviation requirements set forth below, no deviations shall be granted except when the following requirements are satisfied:

   a. Any negative impacts that may result from the deviation are adequately addressed through appropriate mitigation or other conditions that benefit the public and fully offset any such impact;

   b. The deviation is not inconsistent with the provisions or intent of the Comprehensive Plan;

   c. The deviation does not violate the general purposes, goals and objectives of this Ordinance, the regulation subject to deviation, and other applicable regulations.; and

   d. The deviation and the resulting development promote the public benefit.

2) Use Regulations. No deviations shall be permitted to allow uses not otherwise permitted in the zoning district governing the property.

3) Lot area. Deviations from minimum lot or development areas may be granted where buildings are clustered so long as the overall density of the development does not exceed applicable floor area ratios for the entire parcel. Any common open space resulting from the variance of such density standard shall be set aside for the use and benefit of the occupants of such development or the general public as may be required by the City.

   Deviations from the required minimum lot area of 10 acres for commercial developments may also be granted where the owner/developer makes diligent efforts, as determined by the Community Development Director, to work with neighboring tract owners on a development plan to include the neighboring tracts to no avail. A development plan for less than 10 acres must take into account existing development and development plans for surrounding properties, including paths of ingress and egress for both pedestrian and vehicular traffic. Additionally, deviations may be allowed for landlocked parcels of less than 10 acres, where the surrounding property has already been developed.

4) Floor area ratio. Deviations from the required floor area ratios ["FAR"] may be granted in conformance with bonus criteria as specified in this subsection. The determination of the satisfaction of the bonus criteria, and the amount of any bonus to be awarded shall be at the sole discretion of the City. The total FAR for any development plan, including all bonuses, shall not increase to more than .45, unless approved by a 3/4 super-majority vote of the members of the Governing Body. FAR calculations shall be based on the total gross building square footage, generally excluding structured parking area, and the total site square footage. All approved bonus increases are to be added together before being applied to the base FAR of the district for calculation. Floor area ratio, FAR, bonuses may be granted as follows:

a. Increased open space. Projects with permanent natural open space ratios in excess of the required minimum may receive up to 10% increase in the applicable maximum FAR based on not less than a 1:1 ratio of increased floor area to increased open space. Such permanent natural open space must provide value to the community by preserving and providing habitat areas for native flora and fauna, storm water recharge/ management potential, and/ or passive recreational potential for the public;

b. Superior site planning. Projects with a landscape architectural plan demonstrating qualities of landscape conditions significantly superior to those required and/or existing in other developments in the City, provided that the quantity of landscaping is not reduced, may receive up to 10% increase in the applicable maximum FAR based on a 1:1 ratio of the construction value for allowable floor area to the construction value of those qualities deemed to be unique to the project and superior to required or existing landscape developments in the City. Projects with architecturally significant/superior fountains, sculpture/environmental art, site lighting conditions, extensive planting, reduction of heat islands, the limited use of potable water for irrigation, and other aesthetic or decorative features may be considered by the City as demonstrating significantly superior landscape conditions justifying such a deviation;

c. Architectural significance and Superior Environmental Design. Projects with an architectural plan demonstrating qualities of building conditions significantly superior to those required and/ or existing in other developments in the City may receive up to 10% increase in the applicable maximum FAR based on a 1:1 ratio of the construction value for allowable floor area to the construction value of those qualities deemed to be unique to the project and superior to required or existing developments in the City. Projects with architecturally significant and consistent materials, massing, environmental systems such as solar shading or natural ventilation, loggias or covered outdoor areas that are part of the building's use or primary circulation system, refined details such as window and door systems, the incorporation of innovative wastewater technologies to reduce municipal water use, the inclusion of energy systems that are highly efficient or that utilize renewable energy systems, the reduction of waste or the use of recycled/salvage construction, demolition or land clearing waste, the use of materials with recycled contents that are manufactured locally or utilize rapidly renewable materials, the promotion of high indoor air quality and the efficient delivery of fresh air, the incorporation of materials and systems that reduce VOC emissions, the maximizing of natural light through design or other demonstrably superior qualities may be considered by the City as demonstrating conditions that would allow such a bonus;

d. Pedestrian amenities. Projects with substantial pedestrian plazas and linkages, including walkway linkages to buildings and off-site public ways, street furniture and other features designed to encourage pedestrian circulation and usage may receive up to 10% increase in the applicable maximum FAR based on not less than a 1:1 ratio of value in added amenities to value in increased floor area;

e. Integrated storm water detention. Projects containing aerated wet basin storm water management ponds that are designed to be an integral architectural and site design element and that complements pedestrian uses on the site may receive up to 10%

increase in the applicable maximum FAR based on a .5:1 ratio of additional allowable floor area to wet basin area; and

f. Parking structures. Projects incorporating above ground parking structures resulting in significant increases in landscaped open space may receive up to 10% increase in the applicable maximum FAR based on a 1:1 ratio of additional open space area to additional allowable floor area. Projects incorporating underground parking resulting in significant increases in landscaped open space may receive up to 15% increase in the applicable maximum FAR based on a 1:1 ratio of additional open space area to additional allowable floor area.

5) Setbacks. Unless provided below, subject to the general requirements for deviations, the following deviations to required setbacks may be granted only when compensating common open space (not less than a 1:1 ratio) is provided elsewhere in the project and where there is ample evidence that the deviation will not adversely affect neighboring property.

a. Setbacks of buildings and paved areas from a public street may be reduced to 75% of the standard requirement.

b. Setbacks of buildings, excluding side and rear yard setbacks for uses in RP-2, RP-3 and RP-4, from a property line other than a public street, may be reduced to 85% of the standard requirement.

c. Side yards between buildings may be reduced to zero when the City approves adequate open space for the project and between buildings.

d. Interior property line setbacks may be reduced to zero when the City approves adequate open space for the project and between buildings.

e. Setbacks of buildings and paved areas from a freeway right-of-way may be reduced to 5 feet.

6) Lot Width. Lot width may be reduced to 80% of the standard requirement. Any common space resulting from the variance of such density standard shall be set aside for the use and benefit of the occupants of such development or the general public.

7) Parking. The parking ratio for grouped commercial projects shall conform to section 16-4-5 of this Ordinance, except for deviations as may be granted consistent with this section. A portion of the required parking area may remain unimproved until such time as the Governing Body deems it must be improved to serve parking demand adequately.

8) Height. In recognition of the special nature of the MXD District, the City may grant deviations from standard height limitation, where and to the extent that said deviations may be necessary to allow for the construction of signature buildings unique to the area, upon approval by a 3/4 super-majority vote of the members of the Governing Body.

(Ord. 2364, 11-3-08)
(Ord. 2513, 10-25-11)

16-3-10 APPROVAL OF PRELIMINARY DEVELOPMENT PLAN; CONDITIONS

A) Approving Ordinance. A preliminary development plan shall be approved by ordinance pursuant to the procedures for rezoning set forth in Article 5. The approving ordinance shall adopt the preliminary plan, subject to any changes or conditions required by the Governing Body, and may specifically set forth the specific uses, authorized density and/or building coverages, design requirements, public improvements, and other conditions or requirements of the approved preliminary development plan.

B) Consistent with the purposes of this Article, the City may approve a preliminary development plan subject to conditions as may be necessary to address any impacts of the development on the public, achieve the purposes of this Article or as necessary to warrant a requested deviation. Such conditions may include, but are not limited to, the following:

1) The type and extent of improvements and landscaping;

2) The methods or types of development practices, improvements, and common ground required;

3) Maximum bulk of dwelling unit in relationship to lot size or dimension;

4) Dedication of land, improvements, or payment of fees for public open space, civic space, road improvements, schools, or for other infrastructure or public facilities impacted by the development;

5) Required provisions for funding of maintenance agreements or trust indentures, including requiring the establishment of an agency for the ownership and maintenance of any common open space, financial guaranty, and/or limitation on the sale or use of any common open space;

6) Architectural materials, or design requirements;

7) Regulation of permissible uses, mix of uses, hours of operation, or other use restrictions;

8) Regulation of the duration of approvals, uses, site characteristics, or nonconformities.

16-3-11 FINAL DEVELOPMENT PLANS

Approval of a final development plan is required any time a preliminary development plan is required. No building permit including land disturbance or grading permit shall be issued for any structure on the property until a final development plan is approved and recorded, unless approved by the Planning Commission and Governing Body.

16-3-12 FINAL DEVELOPMENT PLANS — APPLICATION CONTENTS AND SUBMISSION REQUIREMENTS

A) The number of copies of the final development plan, as required by the Director, shall be submitted in support of the application. The final development plan shall be accompanied by all general application requirements, except as may otherwise be required by the Director.

B) One or more maps shall be submitted with the final development plan. Each map shall contain all map submission requirements, and shall bear such professional certifications and seals as the City may require. The maps shall show:

1) Finished grades or contours for the entire site (2-foot contour intervals shall be required by the Director, depending on the site).

2) All proposed and existing adjacent public street rights-of-way with centerline location.

3) All proposed and existing adjacent public street and public drive locations, widths, curb cuts and radii.

4) Location, width and limits of all existing and proposed sidewalks.

5) Location, size and radii of all existing and proposed median breaks and turning lanes.

6) Distance between all buildings, between buildings and property lines and between all parking areas and property lines.

7) Location of all required building and parking setbacks.

8) Location, dimensions, number of stories and area in square feet of all proposed buildings.

9) Area of land in square feet or acres.

10) Limits, location, size and material to be used in all proposed retaining walls, including top and bottom of wall elevations;

11) The location, number, size, and type of landscaping plants and material;

12) Location and dimensions of all driveways, parking lots, parking stalls, aisles, loading and service areas, trash enclosures and docks.

13) Location, height, intensity, type, and color of outside lighting and fixtures for buildings and parking lots (photometric study shall be provided).

14) Location, size, and type of material of all proposed signs, including monument or freestanding signs.

15) The location of adjacent developments, alignment and location of public and private driveways and streets, medians, and public and semi-public easements.

16) Final storm water collection, detention and erosion control plans.

17) Final analysis of the capacity of the existing sanitary sewer receiving system.

18) Final water and sanitary sewer plans.

C) One or more illustrations shall be submitted with the final development plan showing building elevations (except for single-family dwellings) including the following:

1) Elevations of all sides of proposed buildings including notation indicating building materials to be used on exteriors and roofs and height dimensions on the building.

2) Size, location, color and materials of all signs to be attached to building exteriors.

3) Location, size and materials to be used in all screening of rooftop or ground-level mechanical equipment, trash and refuse collection areas, and loading areas.

4) Building sections.

5) A three-dimensional model of the proposed buildings.

6) Design guidelines relating to signage, architecture, and similar design features if the development involves multiple buildings.

7) Dimensions and areas of all floors within proposed buildings.

8) Landscaping, tree preservation and planting and bufferyard plans as required.

D) One or more illustrations shall be submitted with the final development plan showing dimensions and areas of all floors within proposed buildings.

E) One or more illustrations shall be submitted with the final development plan showing landscaping, tree preservation and planting and bufferyard plans as required.

F) One copy of the proposed plan, building elevations and landscaping, tree preservation, screening and planting and bufferyard plans shall be reduced onto 8 ½ by 11-inch bond paper.

G) The following additional comments 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 only by plat.

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 / or storm water system and all assurances of the financial and administrative ability of such agency, if required by the terms of the approved preliminary development plan, to maintain such space.

4) Evidence of satisfaction of any conditions of the preliminary development plan approval that were conditions precedent to consideration of the final development plan; e.g. easements, design guidelines, covenants.

16-3-13 CONSIDERATION OF FINAL DEVELOPMENT PLANS

A) No changes and minor changes. A final development plan that contains minor changes or no changes from the approved preliminary development plan may be approved by the Planning Commission and Governing Body, without requirement for additional hearing or notice.

B) Substantial changes. A final development plan that contains substantial changes from the approved preliminary development plan may only be approved upon submission of a new preliminary development plan and review and decision as provided for in this Article.

C) Definition of substantial changes. For purposes of this Article, "substantial changes" to or from the approved preliminary development plan shall mean any change to any use, density, FAR, structure, size, traffic, any other change to a requirement or specification of the development plan that is not identified as a "minor change", and any change that is materially contrary to the intent of the approved preliminary development plan.

D) Definition of minor changes. For purposes of this section, "minor changes" to or from the approved preliminary development plan shall mean all changes that are not "substantial", including but not limited to any of the following:

1) Increases in the density or intensity of residential uses between 0% and 5%.

2) Increases in the total floor area of all nonresidential buildings covered by the plan between 0% and 5%.

3) Increases of lot coverage between 0% and 5%.

4) Increases in the height of any building between 0% and 5%.

5) Decreases of areas devoted to open space between 0% and 5%.

6) Changes in exterior fixtures, trash enclosures, exterior colors, awnings, or other site appearance (other than maintenance) that otherwise qualifies as a minor change.

7) Changes in signage, except where such signage fully conforms to specific sign design (color, size, material) requirements in the approved preliminary development plan.

8) Changes in landscaping that do not reduce the required number of specimens;

9) Changes in lighting design or changes in approved lighting requirements.

E) Subdivision Regulations. A final development plan shall conform to the requirements of the subdivision ordinance and shall be subject to approval of a final plat as may be required for the development. Except in unusual circumstances, the final plat will be approved simultaneous with the approval of the final development plan.

F) Conditions on Final Approval. If the City attaches conditions to the approval of a final development plan, it shall designate specific requirements, if any, that must be met before issuance of a building permit and/or prior to recording of the plat. The Planning Commission or Governing Body may delegate to the Director the authority to determine whether the specifically prescribed conditions attached to the approval have been satisfied by the applicant.

16-3-14 EXPIRATION OF AN APPROVED DEVELOPMENT PLAN

Final development plan approval shall not be valid for a period longer than five (5) years from the date of such approval, unless within such period a building permit is obtained and substantial construction is commenced and all additional building permits necessary to complete the project as approved in the final development plan schedule are obtained in a timely fashion. The Governing Body may grant an extension upon written request of the original applicant. An application for extension of a final development plan may be granted if the application is filed before the final development plan expires. Upon granting an extension, the Governing Body has the authority to attach new conditions to the final development plan, as it deems appropriate. Substantial construction as used in this section shall mean completion of at least ten (10) percent of the building construction (excluding grading and site preparation) in terms of the total expected cost of the project for which the permit was issued and diligent pursuit of construction continues. Whenever a final plan or phase thereof has expired as provided in this section, it shall be deemed abandoned and no development shall take place on the property until a new preliminary and final development plan has been approved.

16-3-15 RECORDING OF DEVELOPMENT PLANS

Following the approval of a final development plan, a copy of the final development plan signed by the Director shall be filed by the applicant with the Register of Deeds of Johnson County. All filing fees shall be paid by the applicant. The authorization for the use approved by the development plan shall not become effective until a copy of the recorded plan bearing its recordation notations shall be returned and placed on file with the City Clerk. The statement shall be recorded in accordance with the forms and procedures established by the City and shall contain the following information:

A) An accurate legal description of the property.

B) A copy of the resolution approving the final development plan and a statement that the development of the property shall be in compliance with the Development plan, and with any conditions attached to the approval of the approved final development plan.

C) A statement that all elements of the final development plan and all conditions of plan approval will be maintained by the property owner.

D) 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 this chapter.

16-3-16 SUBDIVISION REGULATIONS AND ENFORCEMENT

A) The filing of the plat, in conformance with the requirements of the final development plan, with the Register of Deeds shall constitute the effective dedication of easements and rights-of-way. Deviations to the standards set forth in the subdivision regulations may be granted by the final development plan and plat as authorized in this Article. The City shall be entitled to enforce the requirements of any such development plan pursuant to enforcement provisions for zoning and subdivision violations and by all other means as may be available by law.

B) Any violation of a final development plan by a developer, owner, successor in interest, or other party, shall be deemed to violate this Ordinance and shall be punishable as set forth in 16-6-1.

16-3-17 CHANGES AFTER APPROVAL OF FINAL DEVELOPMENT PLAN

Minor changes to a final development plan may be made after approval of a final development plan pursuant to the procedures in section 16-3-13 for minor changes prior to approval, provided that any amended final development plan shall be recorded and subject to the same requirements herein as all other final development plans. All other changes shall require approval of a new development plan under the procedures set forth herein.

ARTICLE 4

SUPPLEMENTAL PROVISIONS

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16-4-1 ACCESSORY USES

16-4-1.1 General Conditions

These regulations regard certain activities authorized or prohibited as uses accessory to the main use of the premises. An activity may be undertaken in any district only when it meets the definition of an accessory use and complies with the requirements of this Ordinance. All accessory buildings, structures, and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthy, disturbing so as to create a public nuisance and shall be located on the premises of the main use.

16-4-1.2 Location and Height of Accessory Uses, Buildings and Structures

A) Location. No accessory use, building, or structure permitted by this Ordinance may be located in a required setback, except as otherwise specifically authorized.

B) Location Exceptions.

1) Tennis court perimeter fences and swimming pools shall maintain a minimum of 10 feet from side and rear property lines. Play equipment, including swings, jungle gyms,

children's playhouses, etc., but not including sport courts, may be allowed anywhere in a rear yard.

2) Yard perimeter fences, walls, and retaining walls may be placed on property line. Retaining walls exceeding 6 feet in height shall be setback from the property line one foot for each foot of additional height, or part thereof.

3) At grade patios, walkways and driveways may extend to property line.

4) Garden structures as set forth herein may be allowed anywhere in the side or rear yard.

5) Gazebos shall be limited to the rear yard and shall maintain a minimum 10' setback from all property lines.

6) Outdoor kitchenettes or detached fireplaces shall be limited to the rear yard and may encroach the rear yard setback no more than 5'. Roofed structures shall be required to meet the rear yard setback.

C) Accessory Building and Structure Size Limitations.

1) No accessory building or structure permitted by this Ordinance shall exceed one floor level and a height of 15 feet measured from ground level, except as otherwise specifically authorized.

a. Attached sunrooms, as defined in Section 16-4-1.3(B)(24a) herein, may exceed a height of 15 feet measured at ground level, but the sunroom shall not exceed the height of the primary residential structure to which it is attached.

b. Agricultural (AG) District, Planned Recreation (REC), and Planned Rural Residential District (RP-A5) accessory uses and structures shall be exempt from this requirement.

c. Playground equipment provided on school property shall be a maximum height of 25 ft. measured from ground level and shall meet all ASTM (American Society for Testing and Material) 1487 and CPSC (U.S. Consumer Product Safety Commission) current standards.

(Ord. 2703, 12-9-14)

2) No accessory building or structure permitted by this Ordinance shall exceed 2% of the lot coverage nor shall the total lot coverage exceed 75% for all impervious surfaces within the site. Agricultural (AG) District and Planned Rural Density Single Family Residential (RP-A5) accessory uses and structures shall be exempt from this requirement.

16-4-1.3 Permitted Accessory Uses, Buildings and Structures

The following accessory uses, buildings, and structures shall be permitted in the following districts:

A) Agricultural Districts

1) Any structure used in conjunction with a permitted use;

2) Any accessory use allowed in "R" districts may be used in conjunction with a single family home;

3) Signs permitted in 16-4-6 of this Ordinance;

4) Windmills and wind-driven power generators are permitted provided that any such structure otherwise complies with this Ordinance and other applicable law.

5) Living quarters for farm attendants may be located in an accessory building in the Agricultural (AG) District provided the building code is met.

6) Recycling bins located at a school, church or other public facility may be approved as an authorized accessory use subject to required administrative approval by the Director of Community Development for location and screening design. In order to prevent a negative influence on the neighborhood and creation of a potential nuisance, the following conditions shall be considered minimum requirements to be met:

   a. Recycling bins shall be placed on hard surfaces only.

   b. No recycling bin shall be permitted to exceed 8 cu.yds.

   c. Recycling bins shall only be allowed to be located in the side or rear yard and shall not be located closer than 25 feet from any property line. To the extent possible, recycling bins shall be located adjacent to existing service or trash areas on the property. All recycling bins shall be located outside of vehicular and pedestrian traffic areas.

   d. Recycling bins shall only be required to be screened in the two following instances:
      i. If the recycling bin is visible within 200 feet of property that is zoned, used, or master planned for residential use, then the recycling bin must be screened from view from said residential property.
      ii. If the recycling bin is located within 100 feet of any property line, then the recycling bin must be screened on the side adjacent to said property line.

   e. Such screening shall consist of either evergreen landscaping or masonry enclosure constructed of materials matching adjacent buildings. Should evergreen landscaping be used, then at the time of planting, the plantings shall provide screening to at least 80 percent of the area required to be screened, and within 2 years shall provide screening to the entire area required to be screened. Evergreen landscaping screening may be installed anywhere between the recycling bin location and the adjacent property line; provided, that such evergreen landscaping shall sufficiently screen the recycling bin from view pursuant to Subsection 6(c) above.

   f. Recycling bins shall only be permitted to be moved or emptied between the hours of 7:00 a.m. and 5:00 p.m. Monday through Saturday. No recycling bins may be moved or emptied on Sunday.

   g. All recycling bins shall be maintained such that the contents are completely contained within the bin. Overflow or stacking of items around the bins is prohibited.

   h. The Board of Zoning Appeals shall have the power to grant exceptions to the location or screening requirements for recycling bins. Such exceptions may be granted by the Board if it concludes that the granting of the exception outweighs any adverse impact the presence of the recycling bin may have by considering the following factors:

      i. The effect on surrounding property;

ii. The location of the recycling bin on the property; and

iii. Proximity to residential property;

In no case shall the Board allow a recycling bin to not be screened from property that is zoned, used, or master planned for residential use.

7) Portable or Permanently Installed Power Generators for residential use shall be permitted provided the following conditions are met:

a. Portable and permanently installed generators shall both be permitted to be used only for emergency use during periods of power outages. Provided, that a portable generator shall be removed from the exterior of the residential dwelling within 48 hours of power being restored following the power outage or emergency for which it was being used. Provided further, permanently installed generators shall be permitted to be turned on for testing and maintenance once a week for a maximum of a 20 minute period between the hours of 10:00 a.m. to 9:00 p.m., not including Sundays.

b. Only one generator, either portable or permanently installed, per residential lot shall be permitted. However, should a permanently installed generator be in disrepair during a power outage or other emergency, a portable generator shall be permitted to be used, provided that such portable generator must comply with all requirements for portable generators set forth in this section of this ordinance.

c. Permanently installed generators shall be either natural gas or propane powered. Portable generators may also be powered with gasoline.

d. Permanently installed generators for residential dwellings shall be permitted only within the rear yard; provided, that permanently installed generators shall be confined to being located in the yard space contained within the back outside corners of the residence and the rear yard setback. All generators shall be situated no more than 5 ft. away from the primary residential structure, unless provided otherwise in the generator manufacturer's specifications. No permanently installed generator shall be permitted to be situated within any setback.

e. All permanently installed generators shall be screened. Such screening shall be installed within 3 ft. to 5 ft. of the generator, unless provided otherwise in the generator manufacturer's specifications. Permitted screening materials shall include a fence or wall as outlined in Subsection (f) below or evergreen plantings that will substantially shield the generator from the view of neighboring properties.

f. Any fence or wall used for screening the permanently installed generator shall be a maximum of 4 ft. in height and meet all the requirements of Section 16-4-9 of this Ordinance. Further, any wall used for screening the permanently installed generator shall be constructed of a material compatible with the materials comprising the primary residential structure on the lot on which the generator is situated.

g. The noise from any generator shall be a maximum of 60 db as measured at the property line. If it is determined that the noise from a permanently installed generator is greater than 60 dbs at the property line, then noise mitigation shall be required in

the form of an approved screening plan. This shall be verified at the time of final inspection of such permanently installed generator.

h. Permanently installed generators for residential dwellings larger than 20 KW or 48 cu.ft. shall be required to be reviewed as part of a final landscape plan relating to location, screening and design subject to approval by the Governing Body and recommendation of the Planning Commission pursuant to Section 16-5-2.1(B) of this Ordinance. Permanently installed generators for residential dwellings equal to or smaller 20KW or 48 cu. ft. shall be required to be reviewed as part of a final landscape plan relating to location, screening and design subject to the approval of the Director of Community Development.

i. The following must be required with the submission of an application for a permanently installed generator in a residential district:

   i. A site plan drawn to scale showing the location of the generator on the property and the screening material to be used to screen the generator. Unit placement must meet setback requirements and not be placed in front of the building line.

   ii. The size of gas line used to provide gas to the generator must be shown.

   iii. The location of the transfer switch for the generator must be shown.

B) Single Family Residential Districts (RP-A5, R-1, & RP-1)

1) Solar collectors provided that all components servicing the collector panel are concealed and all exposed metal shall be finished with warm earth tones or black, in color;

2) Satellite receiving dish antennae of one meter or less; such antennae in excess of one meter are not allowed except as may be required by law;

3) Readily moveable sports, recreation or outdoor cooking equipment;

4) Outdoor kitchenettes and detached fireplaces. Masonry structures, which are limited to permanent cooking facilities, fireplaces, and incidental storage related to the specific use, i.e. cooking utensils, firewood, etc. may be approved as an authorized accessory use subject to required administrative approval by the Director of Planning for the location and design. In order to prevent a negative influence on the neighborhood and creation of a potential nuisance the following conditions shall be considered minimum requirements to be met:

   a. The structure shall be complimentary in design to the primary structure.

   b. A landscape plan shall be submitted at the time of application indicating plant material, size, location and spacing proposed.

   c. In the case of a chimney, a chimney cap shall be required.

5) In ground swimming pools.

6) Sports courts/Tennis courts. Paved areas and other surfaces designed for sports or similar recreational uses (hereinafter referred to as “courts”), may be approved as an authorized accessory use subject to required administrative approval by the Director of Planning for the location and design. In order to prevent a negative influence on the

neighborhood and creation of a potential nuisance the following conditions shall be considered minimum requirements to be met.

a. Courts must be accessory to the principal use it is intended to serve. Courts on separate lots will not be considered as standalone structures.

b. Plans shall be submitted for approval and shall be based upon compliance with the following standards: 1) The need for screening to protect the privacy of adjoining properties, including noise and lighting, if proposed, and 2) appropriate management of surface water runoff. These standards are to be considered minimums and other factors may be considerations for approval by the Director of Planning.

c. Courts shall not be constructed within a required front yard and shall be located a minimum of 10 feet from any rear or side lot line. Screen plantings of a height necessary to muffle noise and block lights may be required as a condition to the special use approval.

d. Fences for courts may be up to 12 feet in height and shall be of a green or black PVC coated chain link fabric. Said fences shall be located a minimum of 10 feet from any rear or interior side lot line.

e. Courts shall be designed so that the surface water will be carried to the street or storm drainage system on the owner's property, or by underground pipe to the public street or storm drainage system, or if across other ownership's, easements must be obtained. A statement along with a detailed drawing from a professional engineer, P.E., shall be submitted showing and stating that these drainage requirements have been or will be met.

f. All court lighting shall be subject to approval either in conjunction with the application for a sport court or separately as an addition at a later date. Existing courts requesting lighting shall be authorized only by issuance of a special use permit. A lighting plan shall be submitted which indicates the lumins (footcandles) at the property line and distance to the nearest structures. Footcandles shall not exceed 0.5 footcandle measured anywhere along the adjacent property lines. Illumination levels shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination. A lighted court may be required to have additional screening in order to mitigate the affect of lighting on any adjoining properties. Cutoffs shall be provided to eliminate the view of the light source from adjoining properties.

g. No court lighting shall be permitted between the hours of 10:00 p.m. and 7:00 a.m.

h. A landscape plan shall be submitted at the time of application indicating plant material, size, location and spacing proposed.

i. All courts shall require a building permit prior to grading and/or installation.

7) Home Occupations; (See 16-4-10 of this Ordinance);

8) Fences, walls and retaining walls (Sealed engineering plans shall be submitted and approved prior to construction of any wall or retaining wall 4 feet in height or higher);

9) Garage sales limited to 2 sales per year (4 days per sale), provided, however, in no event shall items sold include items that have been transferred to the site specifically for purposes of the sale, other than for purposes of a bona fide neighborhood garage sale;

10) Children's play equipment including swing sets, jungle gyms, sandboxes, playhouses, tree houses and other related equipment, provided playhouses do not exceed 64 square feet in gross floor area, with a maximum door width of 24" and 15 feet in total height measured from the ground to the highest point. Only one playhouse is allowed per residence;

11) Dog houses, dog runs, and dog kennels, provided they do not exceed a 64 square foot area and a 6' height, limited to the rear yard and adjacent to the existing structure;

12) Flag poles;

13) Attached wood decks;

14) At grade patio constructed of concrete stone, brick, and/or pavers but not including asphalt;

15) Bath house, pool house, and cabana only in conjunction with swimming pools;

16) Firewood stacked for home use;

17) Garden structures consisting of parallel colonnades supporting an open roof or girders and cross rafters, commonly known as pergolas, arbors and trellises, and garden statuary;

18) Gazebos that are open on all sides with a pitched roof design, having a maximum area of 64 square feet and designed for recreational use only and not for habitation. The roof and the materials of construction shall match with the primary building;

19) Storage or parking of recreational vehicles and equipment as otherwise allowed in this Ordinance;

20) Horse pasturing shall be permitted as an accessory use in Planned Rural Residential District (RP-A5) on a minimum lot area of 3 acres;

21) Hobby or craft activities operated by the occupant only provided that articles produced or constructed are not sold on the premises;

22) Signs permitted in 16-4-6 of this Ordinance;

23) Mother's day out programs and preschools shall be permitted accessory uses in church, religious, educational, and community buildings;

24) Estate sales. Estate sales shall be permitted provided the following conditions have been met:

    a. Residents within 200 feet have been notified by regular mail postmarked not less than 10 days prior to the date of the sale.

    b. Means of parking and traffic control have been established and coordinated with the police and public works departments.

    c. Signage shall be limited to that permitted by this Ordinance.

d. Tents or other accessory structures; food vendors; and/or any other such atypical residential uses shall require Temporary Use Permits as provided in 16-4-4 dealing with temporary short term uses.

e. Sales limited to 1 per calendar year per location, operated for not more than 4 consecutive days during daylight hours.

f. Permit required.

25) Architecturally attached structures shall be allowed only when the accessory structure is connected to the primary structure with a minimum 10' wide structure, such as a breezeway, pergola, or other usable shade type structures constructed of similar materials to which it will be attached. The accessory structure and the primary structure shall not be more than 15' apart, measured from the exterior wall of the accessory structure to the exterior wall of the primary structure. Not to be included as an allowable connection is a fence, deck, awning or other types of non-compatible or non-shade type structures.

25a) Sunrooms attached to the primary residential structure are permitted; provided, that the roof portion of the sunroom shall be comprised of no more than 400 sq.ft. of glass. All glass used to comprise the sunroom shall be a non-glare and non-mirrored variety. All sunrooms shall also meet all requirements contained in Section 16-4-1.2(C) of this Ordinance. A sunroom is defined as a room or an enclosed porch with both glass walls and roof.

26) Docks and any ancillary accessory structures. Docks and ancillary accessory structures to the docks are approved as an authorized accessory use subject to approval by the Governing Body and recommendation of the Planning Commission pursuant to Section 16-5-2.1(B) of this Ordinance of a final plan relating to location and design. In order to prevent a negative influence on the neighborhood and creation of a potential nuisance, the following conditions shall be considered minimum requirements to be met.

a. Only one dock and one ancillary accessory structure to the dock shall be allowed on any lot or tract of land.

b. The dock and any ancillary accessory structure to the dock must be accessory to the principal residence it is intended to serve. Docks and any ancillary accessory structures to any docks on separate lots will not be considered as standalone structures.

c. The lot or tract of land where the dock and any ancillary accessory structure to the dock is to be located shall be at least 3 acres in size.

d. The dock and any ancillary accessory structure to the dock shall maintain a distance of 250 feet between the subject structure(s) and any public right of way and shall maintain side and rear yard setbacks as provided in this Ordinance for the zoning district in which the dock is to be located.

e. Any ancillary accessory structure to the dock shall not exceed 300 square feet in gross floor area, shall not exceed one floor level and shall not exceed 15 feet in total height measured from the ground to the highest point.

f. The dock and any ancillary accessory structure to the dock shall be complimentary in design to the primary structure located on the lot or tract of land which they are to be placed.

27) Portable storage containers for temporary on-site storage shall be permitted provided the following conditions have been met:

a. The container must be placed on the drive or personal parking area and does not obstruct any city right of way or interfere with any vehicular or pedestrian circulation.

b. Portable storage containers shall never be utilized as permanent accessory structures in any residential district.

c. The container(s) shall be no larger than eight (8) feet in width, sixteen (16) feet in length and eight (8) feet in height. No single dimension can be exceeded.

d. No portable storage container shall remain at any residential site for more than thirty (30) days.

e. Permit required.

28) Recycling bins located at a school, church or other public facility are permitted; provided, any recycling bin shall be subject to required administrative approval by the Director of Community Development for location and screening design. In addition, all requirements listed in Section 16-4-1.3(A)(6) of this Ordinance shall be met.

29) Hot tubs are permitted provided that no hot tub shall be located within 10 feet of any property line. In addition, no hot tub shall be permitted to be located anywhere in the front yard. Fencing for hot tubs as provided in Section 16-4-9 of this Ordinance shall be installed and maintained.

30) Portable or Permanently Installed Emergency Use Power generators; provided, such generators shall meet all requirements contained in Section 16-4-1.3(A)(7) above.

31) Rain barrels shall be permitted within the RP-A5, R-1, RP-1 and RP-2 districts only, provided that the following criteria are satisfied:

a. The rain barrel shall be located in the side yard or rear yard.

b. The rain barrel shall be no greater than 70 gallons, or greater than 5 ft. in height above grade.

c. The rain barrel shall not be elevated more than 6 in. above adjacent grade and shall be placed on a level, hard surface of not to include wood or gravel.

d. The rain barrel shall be fed by a downspout and be located within 6 in. of the house.

e. The rain barrel shall be retrained in such a way to prevent tipping.

f. A lid shall be fitted to the top of the rain barrel.

g. The rain barrel shall be permanently fitted or constructed with an insect guard, which effectively prevents entry by mosquitoes or other insects.

h. The rain barrel is decorative in its design and of a neutral color not to include black, or white.

C) Planned Cluster Detached Residential District (RP-2), Planned Cluster Attached Residential District (RP-3) and Planned Apartment Residential (RP-4) Districts. In addition to the accessory uses permitted in Section 16-4-1.3(B) above, the following are accessory uses for the RP-2, RP-3 and RP-4 Districts, provided that such uses are set forth in the approved development plan:

1) Parking areas;

2) Signs permitted in 16-4-6 of this Ordinance;

3) Tenant used recreation facilities including minor buildings;

4) Trash collection centers;

5) Portable or Permanently Installed Emergency Use Power Generators; provided, such generators shall meet all requirements contained in Section 16-4-1.3(A)(6) above;

6) Vending machines located inside tenant buildings.

7) Sunrooms; provided, that any sunroom shall meet all the requirements contained in Section 16-4-1.2(C) and Section 16-4-1.3(B)(25a) of this Ordinance.

8) Recycling bins located at a school, church or other public facility; provided, any recycling bins shall be subject to required administrative approval by the Director of Community Development for location and screening design. In addition, all requirements listed in Section 16-4-1.3(A)(6) of this Ordinance shall be met.

D) Office, Commercial, Industrial and Special Development Districts. The following are additional accessory uses for office, commercial, industrial and special development districts, provided that any exterior modifications due to such uses are set forth in the approved development plan:

1) Off street parking lots as approved in the final development plan;

2) Signs permitted in 16-4-6 of this Ordinance;

3) Food service and vending machines located inside of a building;

4) Private garage for motor vehicles;

5) Low level exterior lighting;

6) Flagpoles;

7) Health club for employees or tenants when located inside of the primary building;

8) Day care center for employees or tenants when located inside of the primary building;

9) Restaurants, cafeterias, drug stores, gift shops and newsstands when located inside of the building;

10) Fencing;

11) Pharmaceutical sales, medicines, etc. when incidental to the practice of medicine in a medical office;

12) Eyeglass sales when incidental to the practice of optometry;

13) Satellite receiving dish antennae may be placed on the roof of a building provided that the antennae shall only be located on a flat roof and shall be screened from view. The

screen shall be architecturally compatible with the structure as to shape, size, material color and bulk.

14) Recycling bins located at a school, church or other public facility; provided, any recycling bin shall be subject to required administrative approval by the Director of Community Development for location and screening design. In addition, all requirements listed in Section 16-4-1.3(A)(6) of this Ordinance shall be met.

15) Portable or Permanently Installed Emergency Use Power Generators are permitted, provided, that permanently installed generators shall be required to be reviewed as part of a final site plan subject to approval by the Governing Body and recommendation of the Planning Commission pursuant to Section 16-5-2.1(B) of this Ordinance.

(Ord. 2422, 11-24-09)
(Ord. 2331, 7-21-08)
(Ord. 2349, 10-6-08)
(Ord. 2502, 7/18/13)
(Ord. 2583 11/13/12)

16-4-1.4 Attached Accessory Structure Requirements and Exemptions

A) All accessory structures shall be attached to the primary structure, except for the following: Readily moveable fireplaces, sports recreation or outdoor cooking equipment; outdoor kitchenettes and fireplaces; in ground swimming pools; sports courts; fences, walls and retaining walls; children's play equipment; tree houses; dog houses, dog runs and dog kennels; flag poles; at grade patio; bath houses, pool houses, and cabanas; stacked firewood; garden structures and garden statuary; gazebos, docks and any ancillary accessory structures to the docks and hot tubs.

B) Architecturally attached structures shall be allowed only when the accessory structure is connected to the primary structure with a minimum 10' wide structure, such as a breezeway, pergola, or other usable shade type structures constructed of similar materials to which it will be attached. The accessory structure and the primary structure shall not be more than 15' apart, measured from the exterior wall of the accessory structure to the exterior wall of the primary structure. Fences, decks, awnings or other types of non-compatible or non-shade type structures shall not be used to provide the necessary connection referenced above.

(Ord. 2331, 7-21-08)
(Ord. 2396, 6-16-09)
(Ord. 2431, 1-12-10)
(Ord. 2460, 9-28-10)

16-4-2 PROHIBITED USES

16-4-2.1 Buildings in Residentially Zoned Area

A) No business building shall be erected in a residentially zoned district, nor shall any dwelling be converted to or used for any business purpose or character in a residentially zoned district, other than the MXD District, except as specifically authorized in 16-4-10, Home Occupations.

B) No accessory building may be used for residential dwelling purposes at any time.

(Ord. 2120, 07-18-05)

16-4-2.2 Detached Structures

No detached structure including garages, barns, sheds, greenhouses, above ground pools, or outbuildings, shall be permitted, unless expressly allowed by this Ordinance.

16-4-2.3 Ceasing or Abandonment of Construction

No building, structure or appurtenance shall be permitted or maintained upon which construction has ceased for a period longer than 6 months.

16-4-2.4 No Damaged Building Left Unrepaired Over Three Months

No building, structure or appurtenance damaged by fire, windstorm, hail, water, tree or any other means shall be permitted to remain in such damaged condition for a period longer than 3 months, except with permission of the Governing Body of the City of Leawood.

16-4-2.5 No Building Material Stored, Etc.

A) No building material, inoperable vehicle, construction equipment, machinery, trailer, construction trailer or refuse shall be maintained or kept in the open upon any lot, plot, tract or premises other than after receiving a building permit for construction operations upon said premises or related premises, for the purposes of construction.

B) Outdoor storage shall not be allowed except as specifically authorized in the district regulations.

C) Standing or parked advertising trailers shall not be allowed.

16-4-2.6 Sewage Disposal; Septic Tanks

Except as provided herein, no permit for a dwelling or other building or land use that will produce sewage shall be issued until a public sanitary sewer system is available for connection thereto. The use of septic tanks for disposal of sewage from buildings hereafter erected or moved into the City of Leawood is prohibited, except that approved individual treatment systems may be approved in areas where authorized by the applicable zoning district and provided that attachment to or extension of sewer mains of a public or private sewer system is found to be impractical by the Governing Body. In such cases, use of individual treatment systems shall be subject to the approval of a permit for system by the Governing Body. Buildings and uses utilizing septic tanks shall connect with the public sanitary sewer system and shall cease use of such septic system within 3 years after a public sanitary sewer becomes available within 200 feet of the property line of the affected property.

(Ord. 2483, 03-15-11)

16-4-2.7 Storage of Hazardous Materials

See the Code of the City of Leawood for restrictions on placement and allowable quantities.

16-4-2.8 Use of Temporary Protective Coverings on Buildings

The use of temporary protective coverings, (i.e. tarp, salvage covers, tarpaper) on external portions of buildings, structures or appurtenances shall not be allowed to exceed 30 days. The Building Official may grant one 30-60 day extension, if the property owner or representative has provided a set of plans and/or written strategy for repairing the structure within the initial 30 days of installing the temporary protective covering. The temporary protective covering may not be placed for more than 90 days without permission from the Governing Body of the City of Leawood.

16-4-2.9 Oil and Natural Gas Wells

A) For the purposes of this section, the following definitions shall apply:

"Exploration" shall mean geologic or geophysical activities related to the search for natural gas or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas deposits.

"Extraction" shall mean the digging or drilling of a well for the purposes of exploring for, developing or producing natural gas or other hydrocarbons.

"Natural Gas" means any gaseous substance, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions and/or the gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons. "Natural Gas Exploration and Production Wastes" shall mean any garbage, refuse, sludge, or other discarded materials, including solid, liquid, semisolid, or contained gaseous material that results from the exploration, drilling or extraction of natural gas

"Oil" means crude petroleum oil, and other hydrocarbons, regardless of gravity, which are produced at a well head in liquid form by ordinary production methods.

B) No person, firm or corporation shall conduct any exploration for natural gas or oil, drill any well for natural gas or oil; transfer, store, treat or dispose of natural gas or oil production wastes; or erect a derrick, building or other structure or place any machinery or equipment for such purposes within the boundaries of the City of Leawood.

(Ord. 2503, 08-09-2011)

16-4-3 SPECIAL USE PROVISIONS

16-4-3.1 Statement of intent

Some uses of land are not appropriate in all locations within a district or under circumstances where the use imposes an inappropriate impact on the public or neighboring properties and are therefore designated as "special uses." These uses may be approved at a particular location through the receipt of a special use permit where the impact of these uses does not inappropriately affect or impair the use and enjoyment of neighboring property.

16-4-3.2 Special Use Permit Required for Applicant

A special use permit shall be required for any use authorized in the applicable district as a "special use" on the table of uses, 16-2-7 and for any other use otherwise requiring a special use permit by this ordinance. A special use is prohibited and a special use permit may not be granted except as authorized in the table of uses, 16-2-7 or elsewhere in this ordinance. A special use permit shall allow the specified use by the applicant only and shall not run with the land and is not transferable unless otherwise approved by the governing body by stipulation in the special use permit approval.

16-4-3.3 Preliminary Development Plan required

A special use permit in a district requiring plan approval may only be issued where a preliminary development plan for the use has been approved, unless expressly exempted herein. No authority under a special use permit in a district requiring plan approval shall become effective until after final development plan pertaining to said use shall have been approved. The approval of a special use permit may be included in an ordinance approving a Development Plan or by separate ordinance approved simultaneous with approval of a Development Plan.

16-4-3.4 Procedure for Approval

Special uses may be authorized by the Governing Body by issuance of a special use permit as set forth in the approval procedures set forth in Article 5.

16-4-3.5 Standards for Approval

In addition to the requirements for approval of a Development Plan, a special use permit may only be granted by the Governing Body upon a finding that the applicant has satisfied the burden of establishing that the following additional criteria have been met:

A) The proposed use will not be detrimental to the public health, safety, or general welfare of the City; and

B) The proposed use will be operated in a manner that will be compatible with the surrounding uses.

16-4-3.6 Conditions

In granting any special use permit, the Governing Body may impose any conditions of the special use it deems appropriate to meet the requirements of approval. Such conditions must serve a legitimate zoning purpose and: (1) be clearly expressed with sufficient clarity to give notice of the limitations on the use of the land; (2) relate directly to the proposed use of the land; and (3) address a legitimate zoning purpose that bears a relationship to the public health, safety, and welfare. Unless otherwise set forth in the express provisions of the special use permit, each special use permit shall have a duration of 20 years, after which such special use shall terminate if no new special use permit is applied for and granted by the City.

16-4-3.7 Special Uses Designated

All special uses delineated in this Ordinance shall comply with the underlying district requirements and all Development Plan requirements. The following designated special uses may only be approved subject to the following additional specific conditions:

A) Automotive service station, gas station or convenience store. An Automotive Service Station or Convenience Store shall require a development plan and shall be subject to the following conditions and restrictions:

1) Fuel tanks. All tanks shall be below the surface of the ground, except propane tanks, which shall be subject to approval by the fire department.

2) Fuel pumps. Fuel pumps shall be set back twenty (20) feet from the right-of-way line and two hundred (200) feet from a residential dwelling. The design, location, covering, colors, and screening of the gas pumps shall be compatible with the design of the structures.

3) Vehicle rentals and leasing. Leasing or renting of vehicles or trailers shall not occur unless specifically approved as part of the development plan.

4) Traffic. The development shall be located with at least one direct access to an arterial street, or on a collector street with at least one access drive within 500 feet of an arterial street, a traffic study shall be required for all automotive service stations, gas stations or convenience stores. The person preparing the report must be a certified engineer qualified to do traffic analyses in Kansas. The cost of the study shall be borne by the applicant. The traffic study shall address potential external and internal traffic circulation concerns, and the development plan shall not be approved unless all traffic concerns are adequately addressed to promote safety and reasonable traffic flow.

5) Residential screening. The City may require a buffer if vehicle headlights from any vehicles entering, parking, standing, or exiting would shine onto residentially zoned property. If the site cannot be screened from residentially zoned property such that vehicle headlights will not shine onto residentially zoned property, or if the development would otherwise create a nuisance for neighboring properties, the hours of operation may be restricted to preclude operation between the hours of 10:00 p.m. and 6:00 a.m., or any portion thereof as determined by the City.

6) Use authorization. Applicant shall indicate whether the business will sell alcoholic beverages, maintain video games for use by customers, sell prepared food for consumption on the premises or off the premises, provide car washing services, perform mechanical repairs on motor vehicles, provide an automatic teller machine or sell grocery type items. The development plan shall specify whether or not the business shall be authorized to perform any or all of these functions. In evaluating the development plan application, the impact of any of the foregoing uses on the surrounding area may be considered.

7) Screening. All rooftop or ground-level mechanical equipment, trash and refuse collection areas, loading areas, and outdoor public restrooms shall be screened from public view with materials and with such design as shall be approved by the City.

8) Outside sales. The outside sale of merchandise is prohibited.

9) Additional standards. The development shall also be subject to such other applicable standards and requirements as may be found elsewhere in the development code or other applicable law.

B) Financial Services and drug store or pharmacy facilities with accessory drive-through lanes:

1) A minimum stacking distance of five car lengths must be provided for each drive-through lane,

2) Drive through lanes must be attached and integral to a drug store or full-service banking facility,

3) The automobile movements in and out of the drug store or bank facility shall not interfere with the adjacent public street system.

C) Temporary use of land or building for commercial or industrial purposes, provided that any building or structure constructed thereon which is not otherwise permitted in the District in which such land is situated shall be temporary, and any stored equipment or material shall be removed upon the date of expiration of the special use permit, which permit shall be valid for not more than 2 years but may be renewed after public hearing;

D) Horse pasturing: Special use permit required for lots of less than 3 acres in residential districts.

E) Temporary self-contained health care suites located within an attached garage are allowed if intended to provide an “in-home” physical care facility as a temporary alternative to a nursing home environment.

F) House or structure relocation to a permanent site within the City Limits provided the following conditions can be met:

1) The house or structure shall be found to be compatible with the surrounding houses or structures and neighborhood including, but not limited to, size, design or general architecture, lot location, and lot size;

2) The structure shall be made habitable within 6 months of relocation;

3) The applicant shall conform to all other provisions of this Ordinance and of the Code of the City of Leawood.

G) New utility boxes with a height of 55 inches or greater, a footprint of 15 square feet in area or greater, or a pad footprint of 15 square feet in area or greater, must have a special use permit prior to construction and must meet the express provisions of 16-1-4 of this Ordinance.

16-4-3.8 Revocation of Special Use Permits

A) Basis for Revocation

Any special use permit granted under the authority of this chapter is subject to revocation for any or all of the following reasons:

1) Non-compliance with any applicable requirement.

2) Non-compliance with any special conditions imposed at the time of approval of the special use permit.

3) Violation of any provisions of law pertaining to the use of the land, construction or uses of buildings or structures or activities conducted on the premises by the applicant or agents of the applicant.

4) Violation of any other applicable provisions of any local, state or federal law or regulation by the applicant or agents of the applicant, provided that such violations relate to the conduct or activity authorized by the special use permit or the qualifications of the applicant or its agents to engage in such conduct or activity.

B) Procedure for Revocation

1) Revocation proceedings may be initiated by City staff or the Governing Body.

2) Unless the applicant and landowner agree in writing that the permit may be revoked, the Governing Body shall hold a public hearing to consider the revocation of the special use permit.

3) The City shall give the applicant and landowner certified mail notice, return receipt requested, of the scheduled revocation hearing at least five days prior to the date scheduled for such hearing. Notice must be published in the official newspaper a minimum of 5 days but not greater than 20 days prior to the hearing.

4) No special use permit shall be revoked unless a majority of the Governing Body is satisfied by a preponderance of the evidence that grounds for revocation exist. Any motion of the revocation must clearly state the grounds for revocation. Passage of any motion to revoke a special use permit may be made subject to subsequent adoption of written findings of fact and conclusions of law, at the discretion of the Governing Body.

(Ord. 2411, 9-29-09)

16-4-4 TEMPORARY USES STANDARDS

16-4-4.1 Temporary Use Permit Required

Uses authorized by herein as "Temporary Uses" may be approved only as provided for herein by issuance of a Temporary Use Permit by the Director of Planning. Temporary uses may include uses such as trade shows, street fairs, expositions, promotional ventures, entertainment, seasonal sales, balloons, search lights, and tents, or other uses of temporary duration satisfying the criteria herein.

16-4-4.2 Procedure

A temporary use permit application shall be submitted to the Director of Planning, with a site plan indicating the proposed use, proposed length of use, off-street parking requirements and schedules, and traffic circulation, with the required filing fee. A temporary use permit shall be approved, denied or conditionally approved by the Director based on the following criteria:

A) The use is of a limited and temporary duration;

B) The use will serve a public need or contribute to the public convenience and welfare;

C) The use bears some functional or other beneficial relationship to a permitted use within the district;

D) The use will not be likely to interfere with the appropriate use and enjoyment of nearby properties that may be affected by its operation; and

E) The use does not conflict with the requirements or intent of an approved Development Plan or other provisions of this Ordinance.

16-4-4.3 Performance Criteria

A) Seasonal flower and plant sales

1) Seasonal flower and plant sales events shall not exceed a total of ninety (90) days per year and shall remain subject to the following requirements:

a. Merchandise shall be limited to bedding plants, flowers, pumpkins, straw bales (10 bales maximum within 25 feet of any structures) and evergreen ornamentals.

b. Merchandise shall be displayed at or near the store frontage without impeding ingress / egress, or general convenience to pedestrian or vehicular traffic.

c. Outdoor storage of the following material, equipment and accessories shall be prohibited: mulch, manure, soil, rock, sand, lime, fertilizer, landscape construction materials, wood pallets, trailers, tents and greenhouses.

2) Merchants shall make application to the City of Leawood and shall provide a scaled plot plan, which accurately depicts the proposed location of the sales event. The applicant shall also provide verification of the following items:

a. Preservation of all existing parking spaces and emergency access corridors;

b. Type and quantity of material to be sold;

c. Proposed advertising / signage;

d. Method of trash containment;

e. Sales start and completion dates.

Duly received applications shall be reviewed within five (5) business days from the date of submittal receipt. Under no circumstance shall the sale event commence without the applicant first obtaining the required Administrative Special Use Permit.

16-4-4.4 Criteria for Approval

A Temporary Use permit may authorize the temporary use of a specified parcel of land in any district, provided the following conditions are met:

A) The applicant shall submit in written form a complete description of the proposed use, including estimated accumulation of automobiles and persons, hours of operation, and other characteristics and effects on the neighborhood.

B) The applicant shall submit a site plan showing the location of any proposed structure.

C) The temporary use shall not be operated longer than 10 consecutive days.

D) No more than 6 special event permits per calendar year shall be issued administratively at any location. Any additional permits may be granted by the Governing Body.

E) Fees for temporary use permits issued hereunder shall be established by the fee schedule approved by the governing body. If an applicant applies for all six allowable administrative special use permits at one time, the applicant's fee will be reduced to 2/3 of the total ordinary cost. (For example, if the ordinary fee is $50 per permit, an applicant applying for the six allowable permits at one time will pay only $200 instead of the $300 the applicant would pay is applying for the permits on separate occasions within any given year.)

F) Upon the cessation of the temporary use, all materials and equipment shall be promptly removed and the property restored to its normal condition.

G) Any structure used in conjunction with the special event shall be subject to inspection by the fire marshal.

H) 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.

I) The activity shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces used by the event itself.

J) 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.

If, after giving full consideration to the effect of the requested temporary use on the neighborhood and the community, the Director of Planning deems the temporary use reasonable, the temporary use permit for

the short-term use may be approved. Conditions of operation, provision for surety bond, and other reasonable safeguards may be written into the special use permit.

Any applicant denied a Temporary Use Permit shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Governing Body.

16-4-5 OFF-STREET PARKING, STORAGE, LOADING REGULATIONS AND PARKING LOT DESIGN STANDARDS

16-4-5.1 Off-Street Parking and Loading Spaces Required

No structure shall hereafter be built or moved and no structure or land shall hereafter be used, occupied, or designed for use or occupancy unless the minimum off-street parking and off-street loading space requirements are met. No structure or use already established on the effective date of this Ordinance shall be enlarged, expanded or increased in use unless the minimum off-street parking and loading requirements for such enlargement, expansion or increase in use, are provided.

16-4-5.2 Development Plan Required

A development plan shall be submitted and approved prior to the construction or creation of any parking lot or the expansion of any existing parking lot in accordance with the provisions of Article 3 of this Ordinance, unless this Ordinance provides that such plan approval is not required.

16-4-5.3 Design Standards

A) Parking Lots, Driveways and Serviceways

1) Parking lots, driveways, and serviceway areas shall be adequately landscaped and screened from public streets and ways per the landscape requirements of this Ordinance.

2) Parking lots shall be marked at the primary entries with an approved standard color, and scaled sign.

3) The parking lot area shall be divided into separate modules by required landscape plantings and/ or other design features so that no more than 40 parking spaces are developed within an individual module.

4) Unless otherwise provided, no more than 40% of any site boundary length that fronts onto a public street may be developed as parking areas. The remaining 60% of such site frontage shall be developed as either a landscape, plaza/pedestrian space as required in Section 16-2-9.2(F) of this ordinance, pedestrian paths that provide a direct connection between a primary building entrance and the perimeter public sidewalk, or building condition to a depth of 90 feet from the property boundary. However, if the property has less than 5 acres and more than two sides that front onto a public street, the two frontages with higher street classifications as determined by the City shall meet the above

requirement, but the other frontage shall not be subject to this requirement, provided that all other setback and screening requirements are satisfied.

(Ord. 2704, 12-9-14)

5) In order to create simple, easily recognizable entries to commercial developments, the City encourages coordination of access points from all major streets between contiguous parcels.

6) Driveways and parking areas should be designed to accommodate efficient vehicle stacking during peak periods, based on a site specific traffic analysis.

B) Parking Space Dimensions.

1) Each parking space shall contain a rectangular area at least 18 feet long and 9 feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required herein.

2) Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than 22 feet by 9 feet.

C) Required Widths of Parking Area Aisles and Driveways.

1) Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

Table 16-4-5.3
AISLE WIDTHS

Parking Angle	*Aisle Width*	
	One-way Traffic	Two-way Traffic
0°	13’	20’
30°	13’	20’
45°	15’	24’
60°	18’	24’
90°	22’	24’

2) Driveways shall be not less than 12 feet in width for one-way traffic and 20 feet in width for two-way traffic.

3) No paved driveways, including ingress and egress points, shall exceed 35 feet in width except as otherwise approved on the development plan.

D) Parking Structures

1) Building elevations not occupied by retail or commercial uses or entries should be screened in a manner that is integrated with the building architecture, materials, and overall concept.

2) Ground floor areas should be articulated and designed to create a harmonious appearance with the buildings that they serve.

E) General Design Requirements.

1) Vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street.

2) Vehicle accommodation areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.

3) Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

4) Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.

5) Within single family residential districts, exterior paved areas, other than residential driveways, within the front yard that are in excess of 400 sq.ft., and whose primary purpose is for the parking of automobiles, shall require written approval from the Director of Community Development. The following conditions shall be considered minimum requirements.

a) Installation of the pad shall not cause the subject property to be noncompliant with all other requirements as listed in this ordinance, including all bulk regulations of the zoning district in which the property is located.

b) Such parking pads shall be setback a minimum of 10 ft. from all property lines.

c) Plans shall be submitted for approval and shall be based upon compliance with the following standards:

1) The pad shall be screened from the neighbors by landscaping or other methods.

2) The pad shall be designed so that the surface water will be carried to the street or storm drainage on the owner's property, or by underground pipe to the public street or storm drainage system, or if across other ownership's, easements must be obtained. A statement along with a detailed drawing from a professional engineer, P.E., shall be submitted showing and stating that these drainage requirements have been or will be met.

(Ord. 2405, 8-3-09)
(Ord. 2747, 8-25-15)

16-4-5.4 Required Parking Ratios

A) The following table sets forth the minimum required parking ratios. Parking requirements may be modified on a project basis with supporting traffic engineering/ parking plan approved by the City.

PARKING RATIOS		
District	***Land Use Designation***	***Parking Requirements – Number of Spaces***
AG; RP-A5; R-1; RP-1; RP-2	Residential-Single Family	2 per unit (totally enclosed)
RP-3 **RP-4**	Residential-Multi-Family	2 per unit (totally enclosed) 2 per unit (1 totally enclosed)
MXD	Mixed-Residential and Commercial	2 per residential unit + 3.0 to 3.5 per 1,000 SF lease space
SD-0	Commercial-Office	3.0 to 4.0 per 1,000 SF lease space
SD-NCR; SD-CR	Commercial-Retail	3.5 to 4.5 per 1,000 SF lease space
SD-NCR; SD-CR	Commercial-Service	3.5 to 4.5 per 1000 SF lease space, except food related - 1 per 2 seats, 2 per service bay, or alternative by parking study.
REC	Open/Civic Space	1 per 10 persons rated capacity

B) All land uses included herein shall provide 1 space/employee on the maximum shift. Additional spaces shall be provided for certain uses, as follows:

1) Art Gallery. 1 per 500 square feet gross area.
2) Auditorium. 1 for every 4 permanent seats plus 1 per 100 square feet area devoted to assembly use. Without permanent seating 1 per 50 square feet floor area devoted to assembly use.
3) Automobile Service Station. 3 spaces plus 1 space for each service bay.
4) Churches & Synagogues. 1 space for each 3 permanent seats.
5) Convenience Store. 5 per 1000 square feet gross area.
6) Convalescent & Nursing Homes. 1 space for each 2 beds.
7) Day Care Center. 1.5 per employee on maximum shift.
8) Elementary/Jr./High School. 1 space for each teacher and staff member.
9) Funeral Home. 1 per 100 square feet of viewing area or other public area.

10) Golf Course. 50 spaces for each 9 holes.

11) Health Club. 1 per 200 square feet plus 1 per employee on maximum shift.

12) Hospitals. 0.35 spaces per bed plus 0.95 spaces per doctor and 0.35 spaces per employee.

13) Hotels. 1 space per bedroom plus 1 space per employee. Restaurants & meeting rooms included in the hotel shall provide an additional parking space for each 4 seats of seating capacity.

14) Movie Theater. 1 for each 3 permanent seats plus 1 per employee on maximum shift.

15) Retirement Community. 0.27 per dwelling unit (weekday) and 1 per dwelling unit (Sunday).

16) Swim Club. 10 per employee (Saturday).

C) The following provisions shall govern the computation of required off-street parking and loading spaces:

1) Where computation of required off-street parking spaces results in a fractional number, the required spaces for the use shall be the next higher whole number.

2) Where more than one use is established on a single lot, the off-street parking and loading requirements for the lot shall be the sum of the separate requirements for each use established on the lot.

3) Where a lawful use exists at the time of adoption of this Ordinance that is deficient in the provision of required off-street parking, any new use hereafter established in its place shall conform to the parking requirements of this Ordinance.

D) A proposed parking area that exceeds the number of spaces required in the ordinance may not be permitted without approval of the City. For applications to exceed required parking ratios, applicant shall submit a detailed traffic/parking generation study prepared by a registered engineer.

E) Joint Use of Required Parking Spaces

1) One parking area may contain required spaces for several different uses, but except as otherwise provided herein, the required space assigned to one use may not be credited to any other use.

2) To the extent that developments that wish to make joint use of the same parking spaces operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally 90% vacant on weekends, another development that operates only on weekends could be credited with 90% of the spaces on that lot. Or, if a church parking lot is generally occupied only to 50% of capacity on days other than Sunday, another development could make use of 50% of the church lot's spaces on those other days.

(Ord. 2001, 07-07-03)
(Ord. 2745, 08-25-15)

16-4-5.5 Location of Required Parking and Loading Spaces

All off-street parking and loading spaces required by this Ordinance shall be located on the same lot as the use for which such spaces are required, with the following additional regulations and exceptions:

A) Required off-street parking and/or loading spaces shall not be located upon any public right-of-way unless specifically authorized and approved by the City.

B) Where, within an office, commercial, or industrial district, an increase in the number of off-street parking spaces is required by an alteration, enlargement, or change of a use, the required off-street parking spaces may be located no farther than 300 feet from the use(s) they serve. Whenever off-street parking is required and cannot be provided within the principal building or upon the same lot as the principal building and is located on another parcel or property as permitted herein, such parcel or property shall be owned by the owner of the principal building or, in the alternative, shall be restricted by a recorded agreement to off-street parking purposes during the lifetime of the use within the principal building. If and when such use would expire, the required off-street parking for a new use within the principal building would be evaluated on its own merit.

C) Off-street loading spaces shall be located only on the side or rear of buildings, but not in required setback areas.

16-4-5.6 Off-Street Loading Space Requirements

In addition to all other requirements of 16-4-5, the following shall apply.

A) The required number of off-street loading spaces for truck and/or other bulk pickup or deliveries shall be determined through the plan review process.

B) Such loading and unloading space(s) shall be an area of adequate size for the type of building use as approved by the City and must be able to accommodate vehicles entirely off street rights-of-way. Area for ample turnaround space and maneuvering must be allotted so that all vehicle/truck activity shall be accommodated entirely on-site and without interference with traffic movements either on or off-site. Vehicles shall not be allowed to back onto or off of street rights-of-way.

C) Such loading space(s) shall be permanently surfaced of either asphaltic concrete or Portland cement concrete and have direct access from a permanently surfaced drive of the same. Where turnaround for truck/vehicle traffic is required, such turnaround space must also be permanently surfaced of the same.

D) When off-street loading is required, such loading space(s) shall be provided at the time of erection, alteration, establishment, or addition of any building, structure, or use of the land.

E) Required off-street loading space(s) shall not be used for storage and shall be open for its function at all times.

F) The provision of off-street loading space(s) shall be a continuing obligation of the owner of the real estate on which any use is located. It shall be unlawful for an owner of any building or land use activity affected by the off-street loading requirements of this section to discontinue, reduce, or dispense with (or cause same) the required off-street loading space(s) as established herein.

Should an existing building change use, the size of the loading and unloading space(s) shall be reevaluated as to the adequacy in regard to the new use and thereafter altered as necessary.

16-4-5.7 Off-Street Parking Requirements in Office, Commercial, and Industrial Districts

A) Off-Street Parking. In addition to all other requirements of 16-4-5, the following shall apply.

1) Required off-street parking spaces shall not be used for storage and shall be open for their function at all times.

2) The provision of off-street parking shall be a continuing obligation of the owner of the real estate on which any use is located. It shall be unlawful for an owner of any building or land use activity affected by the off-street parking requirements to discontinue, reduce, or dispense with (or cause same) the required off-street parking as established herein.

3) Off-street parking space(s) shall be screened in accordance with the approved development plan.

B) Improvement of Parking Areas.

1) The developer shall be responsible for hiring a geotechnical firm to provide inspection of the curbs and parking lot pavement during construction. A certification letter from the geotechnical firm sealed by a Professional Engineer licensed in the State of Kansas stating the parking lot sub-grade and pavement was constructed per the City Standards shall be submitted and approved by Code Administration prior to issuance of a Temporary Certificate of Occupancy.

A soil report shall be completed prior to compaction of the sub-grade identifying the types of soils, characteristics of the soils and requirements for compaction. Soil properties for Liquid Limit (LL) shall be less than fifty (50) and Plastic Limit (PL) shall be less than twenty-five (25). If the soils are above this range, the geotechnical engineer shall provide a recommendation on soil stabilization methods (pavement thickness will not be allowed to be reduced for using soil stabilization). The sub-grade under the parking lot shall be compacted to at least 95 percent of standard density and the moisture content of the soil at the time of compaction shall not be lower than three (3) percentage points below the optimum moisture content. Additional Quality Control and Testing requirements are listed in Table A of this Section.

Asphaltic concrete pavement shall meet the BM-2B and BM-2 mix designs developed by the Kansas Department of Transportation. Portland cement concrete pavement and concrete curbs shall meet Kansas City Materials Metro Board mix design specifications for 4,000 psi strength. Loading docks/garbage collection areas shall include Fibermesh 650, or approved equal, at the manufacturer's recommended application rate.

Asphaltic concrete and portland cement concrete pavement within the parking lot shall have a minimum grade of 1.50%. Areas near low points and high points may be flatter than 1.50% to allow for smooth transitions. Portland cement concrete pavement joint spacing shall be a maximum of 20 times the pavement thickness.

The City recommends that the developer hire a geotechnical firm to determine the pavement type(s) and thickness for their development. The minimum pavement type and thickness shall be in accordance with Table B of this Section.

The developer may request a deviation to use pervious concrete pavement. The developer shall submit a geotechnical report sealed by a Professional Engineer licensed in the State of Kansas that includes the minimum aggregate and pavement thickness calculations in accordance with National Ready Mix Concrete Association (NRMCA) Pervious Hydrological Software. The contractor and ready mix concrete supplier responsible for construction of the pervious pavement shall be certified for pervious concrete construction through either the Concrete Promotional Group of Kansas City (CPG) or NRMCA.

The Final Plan submittal to the Planning Department shall include a plan view indicating the location of pavement types and minimum pavement thicknesses.

The City Administrator may approve the construction of a temporary parking lot. The parking lot shall be constructed with a minimum of 6" aggregate and 3" asphaltic concrete pavement. The City Administrator will determine the length of time allowed for use of the temporary parking lot. The parking lot shall be removed at the end of approved time period, unless an extension of time has been authorized by the City Administrator.

Table A: Quality Control and Testing Requirement

Material	Test	Applicable Standard	Sampling and Testing Frequency
Concrete Curb & Gutter and Portland Cement Concrete Pavement	Temperature Slump Air Content Unit Weight Compressive Strength	ASTM C1064 ASTM C143 ASTM C231 ASTM C138 ASTM C39	One set of four cylinders for the first 50 cy and then one set of four cylinders for every 100 cy thereafter or as needed. One cylinder from each set shall be tested at 7 days, 2 cylinders from each set tested at 28 days and hold one cylinder from each set. Temperature, slump and air content tests shall be completed with each set of cylinders. Maturity testing in accordance with KDOT Specifications is acceptable for determining concrete strength.
Asphaltic Concrete Pavement	Relative Density (Nuclear)	KT-32	One location per 2,500 sf for each lift of asphalt.

Material	Test	Applicable Standard	Sampling and Testing Frequency
Earthwork	Moisture-Density (Proctor) Liquid Limit Plastic Limit Relative Density (Nuclear) Proof Rolling	ASTM D698 ASTM D423 ASTM D424 ASTM D2922 Tandem axle dump truck with a minimum gross weight of 20 tons	Moisture-Density (Proctor), Liquid Limit and Plastic Limit shall be determined for each on-site soil type. Relative Density (Nuclear) testing shall be completed as follows: a. Embankments - each lift b. Trench Backfill - each lift c. Pavement Sub-grade - One location per 2,000 sf. Proof rolling shall be performed on all pavement sub-grade.

Table B: Minimum Pavement Thickness

	Asphalt Pavement	Concrete Pavement
Parking areas and adjacent drive aisles (not including parallel parking areas)	8" Asphaltic Concrete or 7" Asphaltic Concrete with 4" AB-1	6" Portland Cement Concrete or 5" Portland Cement Concrete with 4" AB-1
Entrances, circulation drives, parallel parking areas and delivery truck lanes	9" Asphaltic Concrete or 8" Asphaltic Concrete with 4" AB-1	8" Portland Cement Concrete or 7" Portland Cement Concrete with 4" AB-1
Loading docks and garbage collection areas (to be paved the full length of the design vehicle)	-	8" Portland Cement Concrete with 4" AB-1

2) Head-in parking from any public right-of-way shall not be permitted.

3) Parking lot lighting shall be so arranged as to direct light away from any adjacent premises in a residential district. Parking lot lighting shall not cause illumination in excess of 0.5 foot candles when measured at the property line of the subject parking lot. Illumination shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination. Such measurement shall be taken with the photoelectric photometer while held parallel, 3 feet above the ground at the property line of the subject parking lot. Parking lot lighting shall be accomplished with pole mounted cut-off fixtures which shall be of a no-tilt, shoebox, or similar type design, equipped with flat lenses and nonadjustable mounted arms or brackets. Parking lot lighting shall have an initial average uniformity ratio of 4 to 1 (average (fc) to minimum (fc)).

4) All parking lots and drives leading thereto shall have curbs and drainage facilities approved by the City Engineer.

5) No signs shall be permitted except those necessary for the orderly parking thereon. Not more than 1 sign with maximum area of 6 square feet shall be permitted at each entrance to identify such parking area and present any regulations governing same. Signs identifying reserved parking shall first be reviewed and recommended by the Planning Commission and approved by the Governing Body as part of an overall sign concept and shall include complimentary materials to the building it serves.

6) The City may require that a parking area be screened on any side where it may adversely affect adjacent property.

C) Maintenance of Parking Areas.

The maintenance of parking areas shall be a continuing obligation of the owner of the real estate on which parking areas are located.

(Ord. 2370, 11-3-08)
(Ord. 2407, 8-11-09)

16-4-5.8 Handicapped Parking Space Requirements

Handicapped Parking shall be provided pursuant to the regulations set forth in the City's Building Code.

16-4-5.9 Special Provisions for Off-Street Parking and Storage of Vehicles in Residential District

A) Statement of Intent. In order to avoid the obstruction of public streets and sidewalks, improve traffic visibility, insure the provision of necessary light and air to residential dwellings, and maintain the aesthetics and visual streetscape harmony and character deemed appropriate in residential neighborhoods and others areas within the City, it is the intent of this ordinance that the provisions hereof should be narrowly construed so as to prohibit any parking or storage of vehicles except as clearly and specifically authorized herein. These provisions shall govern the off-street parking or storage of vehicles, trailers and boats as an accessory use to any permitted residential use.

B) The parking or storage of any type of vehicle, including passenger vehicles, recreational vehicles and trailers, is prohibited, except as clearly authorized herein.

C) Definitions. The following definitions shall govern the interpretation of this Section.

1) **"Driveway".** A hard drivable surface constructed of concrete, asphalt, brick pavers, or other solid impervious surfaces upon which vehicles are driven from the street to the garage.

2) **"Pad".** A hard drivable surface constructed of concrete, asphalt, brick pavers, or other solid impervious surfaces used to park or store vehicles off of driveways so as not to conflict with the daily use of the driveway.

3) **"Parking".** The placement of a vehicle, trailer or boat on a lot for seven consecutive days or for any portion of each of 14 total days in any 30 day period.

4) **"Passenger Vehicle".** A self-propelled motor vehicle, designed primarily for the transportation of people as opposed to equipment, freight or other vehicles. The following are expressly excluded from the definition:

   a. Vehicles that have had external modifications to the structure or body, including aerial buckets or platforms (e.g. "cherry pickers"), welding equipment and mechanical lifts or arms designed to assist in loading and unloading freight, but not including cosmetic changes or common vehicle accessories;

   b. Pickup trucks that do not have the traditional pickup bed and side walls, and vans that have an expanded cargo area that is taller or wider than a passenger van, including step vans, box vans, flatbed trucks, buses, semi-tractors and trailers;

   c. Recreational vehicles, trailers, cement mixers, construction equipment, and any vehicle with dual rear axles.

5) "**Recreational Vehicles**". Any unit designed for recreation, living, or sleeping purposes, permanently equipped with wheels or placed upon a wheel device for the purpose of transporting from place to place. This shall include but is not limited to camping trailers, campers, tent trailers, motor homes, tent campers, buses, snowmobiles, jet skis/wave runners and boats of all sizes.

6) "**Storage**". The placement on a residential lot of any vehicle for more than seven consecutive days or for any portion of each of 15 or more days, whether or not consecutive, in a 30 day period.

7) "**Trailer**". A vehicle without motor power designed for the carrying of property, trash or debris.

D) Standards Governing the Parking of Trailers and Recreational Vehicles in Residential and Agricultural Districts.

1) No person shall park any recreational vehicle or trailer on any street of the City, or upon any lot, improved or unimproved, in a residential or agricultural area of the City, except for the purpose of making a delivery or pickup, and except for parking of recreational vehicles and trailers as provided herein.

2) Parking of trailers and recreational vehicles shall be allowed in single family residential districts upon residential lots provided that such parking shall be in an enclosed garage or on a driveway or pad.

E) Storage of Trailers and Recreational Vehicles. Outside storage of trailers and / or recreational vehicles shall be allowed in agricultural and single-family residential districts upon residential lots provided that the storage meets the express terms of this Ordinance.

1) If the proposed storage shown does not meet the terms of the Ordinance, then the applicant may apply, in writing and with a site plan of the property, to the Planning and Development Department for an exception to the terms of the ordinance. The Neighborhood Services Administrator may only grant an exception to the setback or screening requirements. The Neighborhood Services Administrator may grant such an exception if it finds that the following elements are present:

a. The screening around the recreational vehicle, including existing vegetation on adjoining lots, provides a sufficient buffer from the street and from any other residences so that the storage of the recreational vehicle does not unreasonably damage the area streetscape or landscape;

b. The configuration of the lot or tract and the buildings thereon, does not allow for storage in accordance with the terms of this ordinance; and

c. The proposed storage meets the intent of the terms of this ordinance.

Provided, however, that if the Neighborhood Services Administrator grants an exception based upon the existence of screening in neighboring lots, said exception shall expire if such screening is in any way lessened.

If the Neighborhood Services Administrator denies the request for an exception, the applicant may seek appeal to the Governing Body and the matter shall be scheduled on the next available agenda for hearing.

2) Storage shall be in an enclosed garage or on a pad, or supported by appropriate at grade pavers or other surfacing placed beneath the tires and any supporting system of the vehicle touching the ground, provided that such pavers or surfacing serve to prevent such vehicle form damaging the yard surface.

3) Storage shall not be allowed in front of the building or the line of the building as it extends to each side property line.

4) Storage shall be allowed in a side yard of the residence, provided that such storage does not encroach on the required side yard setback and that the recreational vehicle/trailer is screened on the two longest sides of the recreational vehicle/trailer and the end not facing the ingress / egress access point to the lot. Those sides of the vehicle/trailer that are not screened by the primary structure shall have reasonable screening between the vehicle and the adjoining property line. For the purpose of this section, reasonable screening shall be, at a minimum, use of evergreen plantings to substantially shield the vehicle/trailer from the view of neighboring properties.

5) Storage shall be allowed in a side yard with adjoining street frontage provided that the recreational vehicle/trailer is screened on the two longest sides of the vehicles and the end not facing the ingress / egress access point to the lot. Those sides of the vehicle that are not screened by the primary structure shall have reasonable screening between the vehicle and the adjoining property line.

6) Storage shall be allowed in the rear of the residence, provided that the recreational vehicle/trailer is screened on the two longest sides of the vehicle and the end not facing the ingress / egress access point to the lot. Those sides of the vehicle that are not screened by the primary structure shall have reasonable screening.

7) The combined length of recreational vehicles and trailers stored on any lot shall not exceed 48 feet.

F) Parking and Storage of Passenger Vehicles and Box Vans.

1) The storage of passenger vehicles shall be allowed in residential and agricultural districts upon residential lots provided that the passenger vehicles are stored in a garage or on a driveway or adjacent pad and the storage is not otherwise prohibited by law.

2) The parking of passenger vehicles and box vans shall be allowed in any district, upon any lot or tract, provided that the passenger vehicle or box van is parked in a garage or on a driveway or adjacent pad and the parking is not otherwise prohibited by law. Parking in and upon streets shall be governed by the Code of the City of Leawood.

G) Parking and Storage of Recreational Vehicles and Trailers in Other Districts. Storage of trailers and recreational vehicles in other districts shall be prohibited except when approved by the Planning Commission and Governing Body as part of a site development plan approval process. Parking of trailers and recreational vehicles shall be allowed a maximum of 3 hours in any seven-day period.

H) Vehicles as Living Quarters. No vehicle, recreational vehicle, pickup camper, camping trailer or similar item shall be used as living or sleeping quarters, provided, that, Leawood residents may allow visitors to utilize such vehicles for sleeping, for a period of not more than one week in any calendar year, provided that the resident notifies the Leawood Police Department in advance of the location of such vehicle, number of persons expected to sleep in said vehicle, and the applicable dates.

I) Effective Date. This ordinance shall become effective January 1, 2003. Those property owners currently storing recreational vehicles on their property shall notify the City within 6 months of the effective date of this ordinance. Those notifying the City of Leawood will be allowed to continue storing the recreational vehicle in the same manor for a maximum of three years. At the end of three years, all residents must be in full compliance of this ordinance. All property owners that have not notified the City within 6 months of the effective date of this ordinance will be required to come into compliance immediately.

16-4-5.10 Registration of Recreational Vehicles

A) Any owner or possessor of a recreational vehicle / trailer, which recreational vehicle / trailer is parked or stored upon any lot or tract of land in the City of Leawood, must register such vehicle with the Neighborhood Services Division of the City of Leawood, on or before September 30, 2003.

B) Such registrant shall provide the recreational vehicle's identification number, make, model, license number if applicable, the name and address of the owner or possessor of the recreational vehicle / trailer and a general description of the location of the parking or storage of the recreational vehicle / trailer (to include address, placement in relation to the house or building on the lot), and the amount of time during any calendar year that such recreational vehicle / trailer is parked or stored. The Neighborhood Services Administrator shall provide forms for this purpose.

C) For purposes of this Section, the term “recreational vehicle” is defined as follows:

D) Any unit designed primarily for recreation, living, or sleeping purposes, and permanently equipped with wheels or permanently placed upon a wheel device for the purpose of transporting from place

to place. This shall include but is not limited to camping trailers, campers, tent trailers, motor homes, tent campers, buses, snowmobiles, jet skis/wave runners and boats of all sizes. This definition shall not include such vehicles or units parked or stored inside an enclosed garage.

(Ord. 2015, 08-18-03)

16-4-6 SIGN REGULATIONS

16-4-6.1 Statement of Intent

The Governing Body finds that unregulated proliferation of signs results in visual clutter, which is harmful to neighborhood aesthetics and property values and may cause traffic hazards. The provisions of these Sign Regulations are intended to regulate and control all signs in the City of Leawood. It is the intent to limit visual clutter and reach a level of aesthetic quality by reducing disharmony in signage and to establish a sign identity and promote traffic safety for Leawood by limiting the size, type, location and materials of which signs may be constructed. These regulations are enacted to protect the property values in the City by enhancing the physical appearance of the City and by authorizing the use of signs that are compatible with their surroundings.

16-4-6.2 Applicability

A sign may be erected, placed, established, created, or maintained in the city only in conformance with the standards, procedures, exemptions, and other requirements of this Ordinance. Signs are permitted only as provided in Tables 16-4-6.13, 16-4-6.14, and 16-4-6.15, and subject to the further regulations set forth in this Article and as otherwise provided by law. All other signs are prohibited.

16-4-6.3 Office, Commercial and Industrial Signage in Planned Districts

For purposes of these regulations, the terms shopping center, business park, office park, industrial park or other grouping of buildings shall mean a project of one or more buildings with two or more tenants that has been planned as an integrated development or cluster on property under unified control or ownership at the time that zoning was approved by the City. No permit shall be issued for an individual sign unless and until Sign Development Standards have been submitted to and approved by the Governing Body after recommendation by the Planning Commission.

A) Sign Standards: The developer shall prepare a set of sign standards regulating all signage. Such standards shall run with the land with all leases or sales of portions of the development. The sale, subdivision or other partition of the site after the zoning approval does not exempt the project or portions thereof from complying with these regulations. The size, color, materials, styles of lettering, type of illumination and location shall be set out in such standards. The Final Development Plan shall include the Sign Development Standards and be approved as part of the Final Development Plan. These standards may be revised by resubmitting them to the Governing Body for approval after recommendation by the Planning Commission.

   Sign Development Standards for a Planned District shall meet all requirements of this Ordinance and are subject to the limitations set forth herein and shall maintain the following as conditions of approval and acceptance:

1) The Development sign standards, once approved, represent a firm commitment by the developer that development will indeed follow the approved plans.

2) The sign concept is to be planned and developed in a manner that will result in clear, readable, effective signage.

3) The developer may be given latitude in using innovative techniques in the development of sign concepts.

4) No permit shall be issued for an individual sign in a planned district unless and until Sign Development Standards for the development have been submitted to the Governing Body for approval after recommendation by the Planning Commission and the sign is otherwise in conformance with the Standards and with this Ordinance. Provided, however, that signs that conform with both the City approved Sign Development Standards for the applicable development and the sign requirements of this Ordinance may be permitted via a sign permit granted by the Director of Comm16-4-6.3unity Development per Section 16-4-6.14 of this Ordinance. In the event any ambiguity exists as to whether a sign conforms to either the City approved Sign Development Standards for the applicable development or the sign requirements of this Ordinance, or the Director otherwise denies the request for permit, then the applicant may apply for sign approval by the Governing Body after recommendation of the Planning Commission.

B) Deviation From Requirements: Deviations in size, colors, location, number of signs, and illumination, may be approved by the Governing Body after recommendation by the Planning Commission if it is deemed that an equal or higher quality of development will be produced. The City may, in the process of approving sign concepts, approve deviations from the standard requirements as follows, provided any deviation so approved shall be in keeping with the intent of this Ordinance, shall be clearly set out in the minutes as well as on exhibits in the record, and provided that specific reasons justifying deviations are included in the record. The following deviations may be granted:

1) In commercial districts if private sign standards have been approved as part of the Final Development Plan, then deviations as listed above may be approved; provided, the maximum of all wall and canopy signs shall be 5% of the total area of the façade, 200 square feet, whichever is less.

2) Directory Signs may be permitted that are scaled to pedestrian traffic.

3) One sign for a subtenant may be permitted per primary tenant provided that all of the following apply:

   a. The primary tenant's gross floor area shall be a minimum of 25,000 sq.ft.

   b. The subtenant sign is necessary to identify a subtenant that has a presence within the tenant space, but does not have a separate entrance into the primary tenant space.

   c. Signage shall be limited to the identification of the subtenant and shall not identify phone numbers, product, specific services offered or any other information about the tenant beyond the name and/or logo of the subtenant.

d. The maximum height of the subtenant sign shall be 75% of the maximum letter height of the primary tenant.

(Ord. 2523, 02-28-12)
(Ord. 2748, 09-29-2015)

16-4-6.4 Design, Construction, and Maintenance

All signs shall be designed, constructed, and maintained in accordance with the following standards:

A) Except for flags, temporary signs, informational signs, and window signs conforming in all respects with the requirements of this Ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or other structure.

B) All signs shall be maintained: a) in good structural condition; b) in compliance with all building and electrical codes; c) in conformance with this Ordinance, at all times.

C) Except for informational signs, no long-term temporary sign (to be used longer than 10 days) shall be constructed of solely paper type products (including cardboard), and must be made of a durable material.

16-4-6.5 Permits Required

A) Permits Required. Except as provided by this Ordinance, or by other ordinance or resolution of the city, it shall be unlawful for any person to erect, construct, alter, relocate or convert any sign or other advertising structure as defined herein, without first obtaining a sign permit from the Planning and Development Department after payment of the required fee. Furthermore, the property owner shall maintain in force, at all times, a sign permit for such sign in accordance with these regulations. No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this Ordinance in every respect and with the Sign Development Standards in effect for the property.

1) Applications for sign permits shall be made upon the forms provided by the Planning and Development Department.

2) One set of plans drawn to scale indicating the sign location on a site plan, sign size, method of illumination, colors, materials of the sign and method of attachment are required.

3) The applicant shall submit any other information deemed necessary by the Director of Planning and Development.

B) Permit Fees. Every applicant, before being granted a permit, shall pay a fee as established by the Governing Body. For any sign erected or placed without a permit, the fee shall be double the established fee.

C) Permit Issued If Application Is In Order. It shall be the duty of the Director, upon receipt of an application for a sign permit, to review the application and to conduct such other investigation as is necessary to determine the accuracy of the application. If it appears that the applicant has provided the information requested in the application and that the information is accurate and that

the proposed sign when placed will comply with the provisions of law, the sign permit shall be issued.

D) Denial of Application for Sign Permit. If the Director determines that the proposed sign is not in compliance with all the requirements of this article and with all other laws and ordinances of the city, the requested permit shall not be issued and the applicant shall be advised of the reason for such determination.

16-4-6.6 Exemptions from Permit Requirements

Permits shall not be required for the following:

A) Any sign erected by the City, County, State or Federal government including street markers and traffic signs.

B) Any sign necessary for public safety erected by utility companies within their respective easements.

C) Any sign specifically required by the building codes, Leawood Development Ordinance or Subdivision Regulations of the City of Leawood.

D) Maintenance of signs.

E) Temporary signs. [See Section 16-4-6.15 for regulations pertaining to Temporary signs.].

16-4-6.7 Sign Area Calculations

The following principles shall control the computation of sign area and sign height.

A) Computation of Area of Individual Signs. The area of single panel sign shall be measured within a single continuous perimeter enclosing the extreme limits of a sign panel, and in no case passing through or between any adjacent elements of the same; however, such perimeter shall not include structural elements or supports outside the limits of such sign and not forming an integral part of the display. The gross area of a sign composed of separate letters, symbols or words attached directly to an architectural facade shall be measured as the area enclosed by straight lines drawn closest to copy extremities encompassing individual symbols or words. Sign band area shall be included in the area calculations.

B) Computation of Area of Multifaced Signs. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

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 existing grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases 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 lot, whichever is lower.

D) In the event that a building has a curved wall, the area of the facade, for sign purposes, will be determined by drawing two lines perpendicular to the facade. This will then be considered as straight walls, with the area of this facade to be used in determining the size of the allowed signage.

E) Maximum area. A total of 200 square feet per sign is allowed for all permanent signage except as further limited as shown on Table 16-4-6.13.

16-4-6.8 Non-Conforming Signs

In the event a sign erected prior to the adoption of this Ordinance does not conform to the provisions and standards of the ordinance, then such sign(s) shall be modified to conform or be removed according to the following:

A) Nonconforming signs may only be replaced with conforming signs.

B) Any maintenance, repair or alteration of a nonconforming sign shall not cost more than 50% of the current value of the sign as of the date of alteration or repair.

C) Any maintenance, repair or alteration in excess of 50% shall require the sign to come into compliance.

16-4-6.9 Prohibited Signs

All signs not expressly permitted within this Ordinance or exempted from regulation herein are prohibited in the city. Prohibited signs include, but are not limited to:

A) Signs which are attached to any tree, fence, branch, another sign, or utility pole when such sign is located on public property, including right-of-way, provided, however, that this prohibition shall not apply to warning signs issued and properly posted by a utility company.

B) Signs other than those specifically allowed by this Ordinance that are capable of being carried, wheeled or moved from one location to another.

C) Attention-attracting devices not specifically allowed by this Ordinance.

D) Flashing or blinking signs.

E) Neon window signs.

F) Electronic graphic signs, with the exception of drive-thru order confirmation displays.

G) Strings of light bulbs except when used for decorative purposes during a holiday season and not in excess of 7 1/2 watts. Said strings of bulbs may not traverse street rights-of-way.

H) Roof signs.

I) Rotating signs.

J) Animated signs.

K) Digital readout signs, with the exception of drive-thru order confirmation displays.

L) Changeable copy signs, with the exception of drive-thru menu boards or drive-thru order confirmation displays.

M) Signs painted directly on exterior walls or surfaces.

N) Signs whose source of illumination is visible from off site.

O) Any sign within the public right-of-way, or on other public property, not authorized by the Governing Body.

P) Any sign which displays obscene matter.

Q) Pole signs.

R) Any sign that blocks the clear sight triangle of an intersection.

S) Real estate advertisements and signs not fairly and truthfully imparting to the public accurate information in regard to zoning classification and Comprehensive Plan information.

T) Signs displayed with twirlers, flags, balloons or other paraphernalia.

U) Illuminated signs with exposed incandescent bulbs or exposed incandescent fluorescent tubes.

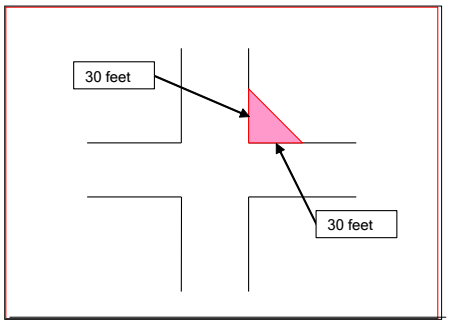
V) Signage associated with a drive-thru other than as explicitly permitted within this ordinance.

W) Signs which have been allowed to fall into a state of disrepair, without a clean and neat appearance.

X) Signs which are applied or affixed to a sidewalk, crosswalk, curb, curbstone, lamppost, hydrant, tree, shrub, tree stake or guard, railroad trestle, electric light or power or telephone or telegraph pole, or wire appurtenance thereof or upon any fixture of the fire alarm or police alarm system or upon any lighting system, pubic bridge, street sign or traffic sign.

Y) Signs placed at intersections of any street in such a manner as to obstruct free and clear vision; or any location where, by reason of the position, shape or color, the sign may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device; or which makes use of the words “stop,” “look,” “drive-in,” “danger,” or any other word, phrase, symbol or character in such manner as to interfere with or mislead or confuse traffic.

Sight Triangle



Z) Signs placed in the sight triangle of any roadway corner. This sight triangle is to be defined as the area achieved by measuring 30 feet in both directions from the point of intersection, and connecting these two lines diagonally.

AA) Box signs, “cut-sheet,” or other sign types where the entire sign surface is illuminated, with the exception of drive-thru menu boards.

BB) Permanent signs which identify phone numbers, product, or any other specific information about the tenant beyond the name of the tenant.

16-4-6.10 General Regulations

A) Unless otherwise noted herein, all background colors used on signs shall match or be compatible with primary accent colors used on building elevations, and shall be approved by the City.

B) Exterior neon signage and lighting that is visible from the public streets shall not be allowed without approval by the City.

C) Signage and building addresses on the facades of buildings shall be individual cast letters that reflect the style of the building. Metal lettering is encouraged. Anchor tenants shall have signage heights reviewed on an individual basis. Signage for remaining tenants shall be limited to 18 inches in height and placed on a recessed surface of the building. Signage color will be limited to one color per building or building group. Covered pedestrian walkways shall be allowed additional signage suspended from the ceiling or by plaques recessed in walls. Signage at covered walkways shall be limited in size and consistent in color, size, and material per building or building group. Signage in windows shall be permanently affixed to the glass by painting, with the exception of non-illuminated open/closed signs, which may be removable.

D) Monument signs shall comply with the following additional:

1) Dimensions -- 6' maximum in height (inclusive of base), 10' maximum in length, 18" minimum to 24" maximum in width.

2) Base -- brick masonry, stone, or other solid base that is coordinated with the primary finish material used in the project building elevation. The base of the sign should be 24" in height.

3) Graphics/Text -- signs may include the name or graphic identification of the project or development. Such graphic or text shall not exceed 18" in height.

4) All signs shall be of sound structural quality, be maintained in good repair, and have a clean and neat appearance.

5) Face of Sign shall be smooth. All signs or other advertising structures shall have a smooth surface and no nails, tacks or wires shall be permitted to protrude therefrom.

16-4-6.11 Abandoned or Unsafe Signs

A) Except as otherwise provided in this Ordinance, any sign including its structure which is located on a building, structure or premises that becomes vacant and unoccupied for a period of 6 months or more, or any sign which pertains to time, event or purpose which no longer applies, shall be deemed to have been abandoned.

B) An abandoned sign is prohibited and shall be removed by the owner of the sign or the owner of the premises. In addition, the facade or place where the sign was attached shall be restored to its normal appearance.

C) If the sign has not been removed after the 6 month time period has elapsed, the City shall notify the property owner of record in writing that the sign shall be removed within 10 days after the date of the notice. If the sign has not been removed within the 10 days, the Designated Official may have the sign removed and have the costs of the removal shall be paid by the property owner.

D) The Planning and Development Department shall mail a statement of removal costs of said sign to the last known address of the owner of the property, and if such costs are not paid within 10 days, the Designated Official shall take such further action as may be warranted to collect such sums.

E) If the Designated Official finds that any sign or other advertising structure regulated is unsafe, insecure, or a menace to the public, written notice shall be provided to the permittee. If the aforementioned sign was installed without a permit, the owner of the property shall be notified. If the permittee or owner fails to remove or alter the structure so as to comply with the standards set forth, within 48 hours after such notice, such sign or advertising structure may be removed, altered, or otherwise brought into compliance by the Designated Official at the expense of the permittee or owner of the property on which it is located.

16-4-6.12 Unlawful Signs

A) It is unlawful to place or maintain any sign in violation of the terms of this Ordinance.

B) It is unlawful to willfully remove a sign belonging to any other person without the consent of the owner of the sign or the owner of the property upon which the sign is placed.

C) Prosecution for Violation. If the Designated Official or his or her designee shall have reason to believe that any sign regulated herein is constructed, erected, or being maintained in violation of this Ordinance or that any provision of the Ordinance has been or is being violated, (s)he may give written notice, in accordance with Section 16-6-1 of this Ordinance, to the person who has posted or directed the posting of the sign. If that person fails to remove or replace the sign so as to comply with the standards herein set forth within the time frame provided in such written notice, the City may pursue enforcement through the remedies or other actions set forth in Section 16-6-1 of this Ordinance. For purposes of this Ordinance, any owner of property shall be responsible for compliance with these provisions and may be prosecuted for violation if he or she permits or maintains a sign upon his or her property in violation this Ordinance.

D) Removal. sign which has been placed on public property or in the right-of-way without the permission of the person or entity that has a duty to maintain such section of the right-of-way or is in the right-of-way and otherwise in violation of the provisions contained in this Ordinance shall be immediately removed by any officer of the City.

E) Revocation of Permit. The Director is hereby authorized and empowered to revoke any sign permit upon failure of the holder thereof to comply with any provision of this Ordinance.

F) Each day a violation of this Ordinance exists shall constitute a separate violation.

16-4-6.13 Permanent Sign Regulations

A) The following table sets forth the regulations relating to the types of permanent signs allowed by the City.

Signs Permitted in RP-A5, R-1, RP-1, RP-2, RP-3, RP-4 Districts	
Monument Sign (can be double faced)	
Allowable Type	Signs identifying entrances of a subdivision or entryway monumentation
Maximum Number	1 at each major entrance from an arterial or collector street

Maximum Area	As approved by the Governing Body after recommendation of Planning Commission
Lighting	None or Indirect only
Motion	None
Signs Permitted in SD-O District	
Wall Sign / Canopy Sign (must be located below eave or parapet)	
Allowable Type	Signs identifying commercial office buildings
Maximum Number	2
Maximum Area	Five percent (5%) of building façade (not to exceed a total of 200 sq. ft. per sign)
Lighting	None, indirect, or internally illuminated
Motion	None
Monument Sign (can be double faced)	
Allowable Type	Signs identifying the entrances of a business or office park
Maximum Number	As approved by the Governing Body after recommendation of Planning Commission
Maximum Area	As approved by the Governing Body after recommendation of Planning Commission
Lighting	None or indirect only
Motion	None
Signs Permitted in SD-CR, SD-NCR, MXD Districts	
Wall Sign / Canopy Sign (must be located below eave or parapet)	
Allowable Type	Signs identifying retail or services businesses
Maximum Number	2
Maximum Area	Five percent (5%) of building façade (not to exceed 200 sq. ft. per sign)
Lighting	None, indirect, or internally illuminated
Motion	None
Monument Sign (can be double faced)	
Allowable Type	Signs identifying retail or service of business
Maximum Number	None. In lieu of one wall or canopy sign, may be allowed by the Governing Body after recommendation by the Planning Commission
Maximum Area	50 sq. ft.
Lighting	None or indirect only
Motion	None
Directional Signs	
Maximum Number	2
Maximum Area	6 sq. ft.
Lighting	None
Motion	None
Directory Signs	
Minimum Number of Acres	Only permitted within developments with a minimum of 10 acres.
Function	The sign shall be limited to the identification of the location of businesses within the development and shall not include other advertisements, including but not limited to advertising of individual businesses, products, or services.
Maximum Number	The maximum number of directory signs within any single development shall be limited to one sign per 5 acres, but in no case shall exceed a total of 6 for the overall development.
Maximum Size	18 sq.ft. (Includes all components of the sign including supporting structures)
Maximum Height	6 ft. from grade. (Includes all supporting structures)
Sign Type	Wall, monument, or post and panel only.

Lighting	Externally illuminated, indirectly illuminated, or non-illuminated only.
Location	Shall be located outside of all structure setbacks and sight triangles.
Drive-Thru Menu Board	
Structural Type	Monument
Maximum Number of Signs	1 per drive-thru lane, not to exceed 2 total (per establishment)
Maximum Area of Sign	52 sq.ft.
Maximum Height	7 ft.
Maximum Height of Lettering	6 in.
Lighting	None, indirect or internally illuminated
Motion	None
Location	Shall be located adjacent to and oriented toward the drive-thru lane and shall be oriented away from adjacent areas that are used, zoned or master planned as residential.
Screening	The backs of menu boards shall be screened with either a masonry structure or evergreen landscaping of sufficient height to screen the back of the menu board.
Drive-Thru Order Confirmation Display	
Maximum Number	One per drive-thru lane, not to exceed 2 total (per establishment)
Maximum Area of Display	3 sq.ft.
Maximum Size of Support Structure	8 sq.ft. and 5 ft. in height for structures whose sole purpose is to house the order confirmation display, or as approved by the Governing Body if the order confirmation display is incorporated into another structure approved as part of the development plan for the drive-thru.
Menu Display	
Structure Type	Shall be placed inside a display case that shall be integrated into the façade of the building.
Maximum Number	1 per tenant entrance, not to exceed 2 total (per tenant)
Maximum Area	2 sq.ft.
Lighting	None or indirect only
Motion	None
Location	None
Signs Permitted in BP District	
Monument Sign (can be double faced)	
Allowable Type	Signs identifying the entrances of a business or office park
Maximum Number	As approved by the Governing Body after recommendation of Planning Commission
Maximum Area	As approved by the Governing Body after recommendation of Planning Commission
Lighting	None or indirect only
Motion	None
Wall Sign	
Allowable Type	Signs identifying business or commercial establishments within a business park
Maximum Number	1 per façade (maximum of 2 signs total).
Maximum Area	5% of façade (maximum 100 square feet)
Lighting	None or indirect only
Motion	None
Monument Sign (can be double faced)	
Maximum Number	1, only if substituted for one of the permitted wall signs

Maximum Area	50 square feet maximum
Lighting	None or indirect only
Motion	None
Directional Signs	
Maximum Number	As approved
Maximum Area	6 sq. ft.
Lighting	None
Motion	None
Signs Located on Architectural Structures	
Function	Shall identify the name of the overall development and/or the City of Leawood only.
Temporary Signage	No temporary signage shall be permitted to be placed on architectural structures.
Maximum Number of Signs Per Architectural Structure	A maximum of two signs per side of the architectural structure shall be permitted, one sign may be a logo.
Maximum Number Sides Displaying Signage	Signage shall not be displayed on more than two sides of the architectural structure.
Maximum Sign Area	The maximum area of all signs on any given façade of an architectural structure shall not exceed 15% of the façade, or a maximum of 36 sq.ft., whichever is less. All signage shall comfortably fit within the sign area of the architectural structure.
Maximum Character Height	The maximum height of characters, including logos, shall be 24 in.
Maximum Height of Multi-line Signs	The maximum height of multiline signage shall be 30 in.
Lighting	Halo illuminated, externally illuminated, or non-illuminated only.
Motion	None.
Public/Semi-Public Campuses in all Districts	
Associated Uses	Permitted only for Public and Semi-Public uses including government uses, churches, and schools.
Minimum Acres	10 acres.
Development Monument Signs	
Maximum Number	One per frontage. However, one additional sign may be added for street frontage along a public right-of-way exceeding 2,500 ft.
Maximum Size	50 sq.ft.
Maximum Height	6 ft. from grade.
Maximum Length	10 ft.
Sign Type	Monument only.
Lighting	Halo illuminated, externally illuminated, and non-illuminated only.
Location	A minimum of 5 ft. from all public right-of-way and outside of all site triangles.
Wall Signs	
Maximum Number	One per façade with a maximum of two per building not to include building identification symbols. However, a third sign with a maximum of 50 sq.ft. may be added in lieu of a monument sign.
Maximum Size	The maximum of all signage on a building façade shall be the lesser of 5% of the building façade, or 200 sq.ft.
Lighting	Internally illuminated, halo illuminated, externally illuminated, or non-illuminated only.

Building Identification Symbols	
Maximum Number	Limited to one per building façade with a maximum of three total.
Maximum Size	10 sq.ft.
Maximum Height	• 3 ft. for a wall sign • 6 ft. from grade for a monument sign or post and panel sign.
Sign Type	Wall, monument, or post and panel only.
Lighting	Halo illuminated, externally illuminated, or non-illuminated.
Location	Per approved development plan.
Directory Signs	
Maximum Number	• Limited to one per public street frontage within required exterior building setbacks, with a maximum of four total signs. • Interior of the site outside of required exterior building setbacks, with a maximum of four signs per building.
Maximum Size	18 sq.ft.
Maximum Height	6 ft. from grade.
Sign Type	Monument, or post and panel only.
Lighting	Externally illuminated, or non-illuminated only.
Location	Per approved development plan and outside of all site triangles.
Directional Signs	
Maximum Number	Two per building. However, no directional signage shall be located within any required exterior building setbacks.
Maximum Size	6 sq.ft.
Maximum Height	• 4 ft. from grade if the sign is a maximum of 4 sq.ft. • 3 ft. from grade if the sign is greater than 4 sq.ft., but in no case shall the sign be greater than 6 sq.ft.
Sign Type	Monument, or post and panel.
Lighting	Externally illuminated, or non-illuminated only.
Location	Per approved development plan and outside of all site triangles.
Banners Mounted on Light Poles	
Maximum Number	Two per light pole.
Maximum Size	9 sq.ft.
Maximum Height	6 ft.
Maximum Width	18 in.
Minimum Vertical Clearance	10 ft.
Lighting	Externally illuminated, or non-illuminated only.
Entry Door Signs	
Maximum Number	One per entrance.
Maximum Size	2 sq.ft.
Sign Type	Wall only
Lighting	Externally illuminated, or non-illuminated only.
Location	Directly on, or adjacent to an entry door.

(Ord. 2479, 01-03-11)
(Ord. 2535, 04-24-12)
(Ord. 2626, 05-04-13)
(Ord. 2629, 05-28-13)
(Ord. 2637, 08-27-13)

(Ord. 2641, 10-21-13)
(Ord. 2760, 11-10-15)

16-4-6.14 Permitted Signs by Type

A) The following table sets forth the types of signs permitted in each zoning district as approved by the City.

Permanent Sign Type	RPA-5	RP-1	RP-2	RP-3	RP-4	SD-O	SD-CR	SD-NCR	MXD	BP	AG
Address	R	R	R	R	R	R	R	R	R	R	R
Animated											
Awning							A	A	A		
Banner						C	C	C	C		
Canopy						A	A	A	A		
Changeable Copy											
Canopy Sign in an Existing Routed Metal Sign Band						C	C	C	C	C	
Directional						A	A	A	A	A	
Directory						A	A	A	A	A	
Electronic Display											
Exposed Neon							A	A	A		
Flags	C	C	C	C	C	C	C	C	C	C	C
Flashing											
Government	A	A	A	A	A	A	A	A	A	A	A
Marquee											
Monument	A	A	A	A	A	A	A	A	A	A	A
Multi-tenant											
Off-Site	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP
Painted Wall											
Pole											
Light Pole Banner							A	A	A		
Portable											
Roof											
Rotating											
Time and Temp											
V-Shaped Temporary											
Wall						A	A	A	A	A	
Window							C	C	C		

A: Allowed only with sign permit administratively approved, or as provided in Section 16-4-6.3, pending approval by the Governing Body after recommendation of Planning Commission

C: Conditionally permitted via sign permit
R: Required
SUP: Allowed only with special use permit, pending approval by the Governing Body after recommendation of the Planning Commission.
Blank Box: Prohibited

(Ord. 2482, 03-15-11)
(Ord. 2616, 04-09-13)

16-4-6.15 Temporary Signs

A) Purpose and Findings.

The Governing Body enacts this Ordinance to establish reasonable, narrowly tailored regulations for the posting of Temporary signs on public and private property. Temporary Signs left completely unregulated, can become a threat to public safety as a traffic hazard, and a detriment to property values as an aesthetic nuisance. By implementing these regulations, the City intends to:

1) Balance the rights of individuals to convey their messages through temporary signs and the right of the public to be protected against the unrestricted proliferation of signs;

2) Further the objectives of the City's comprehensive plan;

3) Protect the public health, safety and welfare;

4) Reduce traffic and pedestrian hazards;

5) Protect property values by minimizing the possible adverse effects and visual blight caused by signs;

6) Promote economic development; and

7) Ensure the fair and consistent enforcement of the temporary sign regulations.

This ordinance is not intended to, and should not be read to include, content based regulations. If for any reason any portion or part of this Ordinance set out in this Section, or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision will not affect the validity of the remaining portions of this Section.

B) Regulations.

Temporary signs, as defined in Article 9, may be posted on property in all Zoning Districts of the City, subject to the following requirements:

1) The total square footage for temporary signs on any lot in any district, in the aggregate, shall not exceed forty-eight (48) square feet, with no individual sign exceeding sixteen (16) square feet. The total square footage of a sign is measured to include all of the visible display area of only one side of the sign and only the area of one side of a double-sided sign is included in the aggregate calculation.

2) Signs shall not exceed five (5) feet in height measured from the average grade at the base of the sign.

3) No sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, or any other type of street furniture, or otherwise create a hazard, including a tripping hazard.

4) No sign shall be illuminated or painted with light reflecting paint.

5) A sign shall only be posted with the consent of the property owner or occupant. Signs posted in the public right of way may only be posted with the permission of the person or entity that has a duty to maintain such section of the right of way. Provided further, no temporary sign shall be placed closer than 5 feet to edge of the pavement or curb of the street.

6) All temporary signs must be maintained in a state of good repair.

C) Removal or Replacement of Temporary Signs:

1) The person who has posted or directed the posting of the sign is responsible for the removal or replacement of that sign.

2) If that person does not remove or replace the sign in accordance with these regulations, then the property owner or occupant of the building or lot where the sign is posted is responsible for the sign's removal or replacement.

D) Obscene Materials.

Obscene signs, flags, banners, or any sign of any type are prohibited. "Obscene" is defined as any material that (1) whether the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest; (2) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (3) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(Ord. 2448, 06-29-10)

16-4-7 LANDSCAPING AND SCREENING REQUIREMENTS

16-4-7.1 Landscaping and Screening

A) **Intent.** The landscaping and screening requirements of this Ordinance are intended to promote attractive and quality development within the City. These provisions are intended to improve the appearance of developed and preserved site areas, paved areas and buildings, give maximum absorption of surface water and provide shade. It is also intended by these provisions to preserve and enhance property values by ensuring that yards, open spaces, parking lots and those land areas abutting public right-of-ways are designed, installed and maintained in accordance with the provisions of this Ordinance. Property development shall consider and respect land capabilities and constraints, minimize erosion and destruction of natural amenities and provide a buffer between differing land uses.

B) **Scope.** The provisions of this section shall apply to all new construction including, but not limited to, structures, dwellings, buildings, parking lots, residential subdivisions, office parks, shopping

centers, and to redevelopment for which development plan approval is required. The Agricultural District shall be exempt from this section.

16-4-7.2 Landscaping Requirements – Single Family Residential

Single family and two family dwellings shall provide and maintain a minimum of thirty percent (30%) of lot area as a permeable and uncovered surface that contains living material. Single family and two family dwellings shall be exempt from all other requirements of this Ordinance except for Plant Material and Installation and Maintenance. Although, one (1) tree shall be provided for each 35 feet of street frontage and plant material shall be provided as part of entry features and common open space as recommended by the Planning Commission and approved by the Governing Body.

(Ord. 2003, 07-27-03)

16-4-7.3 Landscaping Requirements – Other Districts

A) General. Plantings, trees and shrubs shall be provided in landscaped open space areas in accordance with the requirements of the City and City Staff. The following represent the minimum requirements of such plantings, trees and shrubs. The minimum planting requirements are as follows:

1) Medium and large deciduous shade trees shall be 4 inch caliper as measured 6 inches above ground.

2) Small deciduous and ornamental trees shall be a minimum of 8 feet in height and 2" caliper as measured 6 inches above ground.

3) Conifers and evergreen trees shall be a minimum of 6 feet in height.

4) Interior parking lot shrubs shall be a minimum container size of 5 gallons with a recommended minimum height of 3 feet. Ground cover plants, whether in the form of crowns, plugs or containers, shall be planted in a number as appropriate by species to provide full surface coverage after 2 growing seasons.

5) Sodding for turf and seeding for native grass shall be as approved by the Governing Body after recommendation of the Planning Commission to provide soil stabilization and complete coverage within the first growing season.

6) Landscaped open space shall consist of a minimum of 60% living materials, the remaining areas may consist of non-living materials such as bark, wood chips, decorative rock or stone or other similar materials.

7) All landscaped areas shall be irrigated.

8) Existing trees saved on the site during construction may be credited towards the minimum number of trees required (except for street trees) provided that such trees are minimum 4 inch caliper as measured 4 1/2 feet above ground for a medium and large deciduous species or 6 feet in height for ornamental and evergreen species. All existing plant material saved shall be healthy and free from mechanical injury.

9) The following maximum grades shall be permitted:

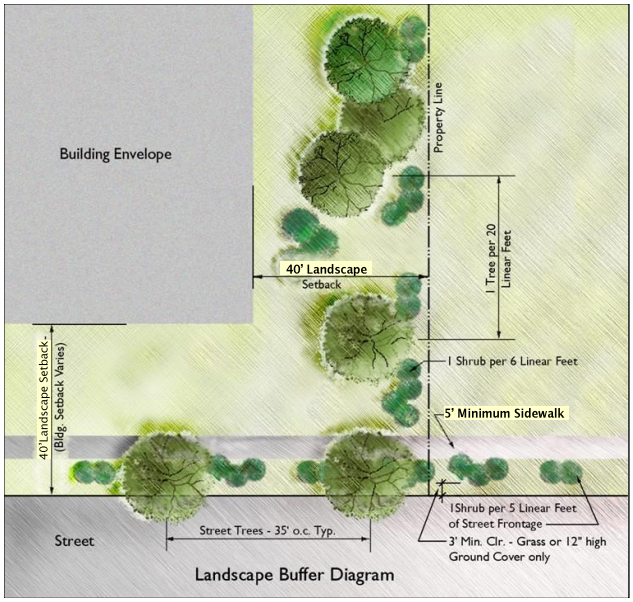
a. Sodded grass berms shall be a maximum of 3 feet horizontal for each 1 foot vertical rise; and

b. Planted berms that include ground cover shall be a maximum of 2 feet horizontal for each 1 foot vertical.

B) Perimeter Landscaping Adjacent to Public Rights-of-Way: The following requirements shall apply to all perimeter landscaped areas including parking setbacks, right-of-way buffers and transitional buffers.

1) One (1) tree shall be provided for each 35 feet of street frontage within the landscaped setback abutting said street frontage.

2) In addition to the street trees, one ornamental tree per 12 lineal feet and one shrub per 5 lineal feet or portion thereof, shall be planted within the setback. Additional trees may be clustered or arranged within the setback if approved as part of the landscape plan. For the purpose of this Ordinance a medium or large tree may be credited as 2 ornamental trees.



3) The perimeter area of all on-site, open parking areas shall be screened from the view of adjacent properties and streets at the time of planting to a minimum height of 3 feet by the use of a combination of berms and/or walls accented with plant material. The width of such screens shall not be less than 10 feet at any location on the parking lot perimeter.

4) Structures such as decorative walls or fences may be approved if they are consistent with the building architecture proposed for the site, complement the use of berms and plantings, and if the structure avoids a blank and monotonous appearance by such means as architectural articulation and/or the planting of vines, shrubs or trees.

5) All (100%) of the affected street frontage or property boundary, excluding intersecting driveways, must have the required screening.

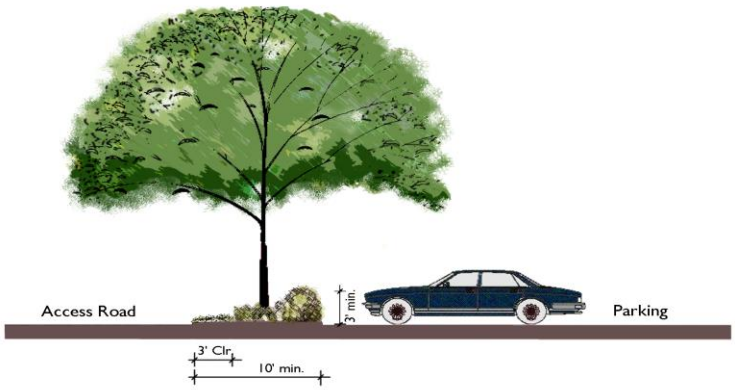
C) Perimeter Landscaping Not Adjacent to a Public Right-of-Way: A landscaped setback/buffer area is required along all property lines on the periphery of the area covered by the plan, other than street frontages.

1) The following requirements shall apply for those setback/buffer areas where a commercial use adjoins an area that is either zoned or designated by the Comprehensive Plan as something other than residential:

a. Notwithstanding any other provisions relating to yard requirements, such landscaped setback/buffer areas shall be a least 10 feet in width.

b. Shrubs, 36 inches at planting, shall be placed appropriately to provide a solid hedge within 3 years.

c. Additional shrubs may be clustered or arranged within the setback if approved as part of the landscape plan.



Parking Lot Buffer Diagram

2) The following requirements shall apply for those setback/buffer areas where a commercial use adjoins an area that is either zoned or designated by the Comprehensive Plan as residential:

a. Notwithstanding any other provisions relating to yard requirements, such landscaped setback/buffer areas shall be a least 10 feet in width.

b. All commercial and industrial uses that abut a residential or office district shall provide screening not less than 6 feet in height along the abutting property line(s).

Screening required by this section shall be equivalent to the following:

i. Solid fences or walls as approved by the Governing Body after recommendation of the Planning Commission on the final development plan.

ii. Within such landscaped setback/buffer area, one tree shall be provided for every 20 lineal feet along the property line, and one shrub shall be provided for every 6 feet along the property line. Such trees may be clustered or arranged within the setback.

iii. Shrubs, 36 inches at planting, shall be placed appropriately to provide a solid hedge within 3 years.

iv. Berms of not less than 3 feet in height that provide a maximum slope of 3:1 may be used in conjunction with plantings to achieve the solid visual screen as described in (c) above.

D) <u>Interior Landscaping:</u> The following requirements shall apply to interior portions of the site, those areas that are not part of any setback or buffer areas such as parking setbacks or transitional buffers.

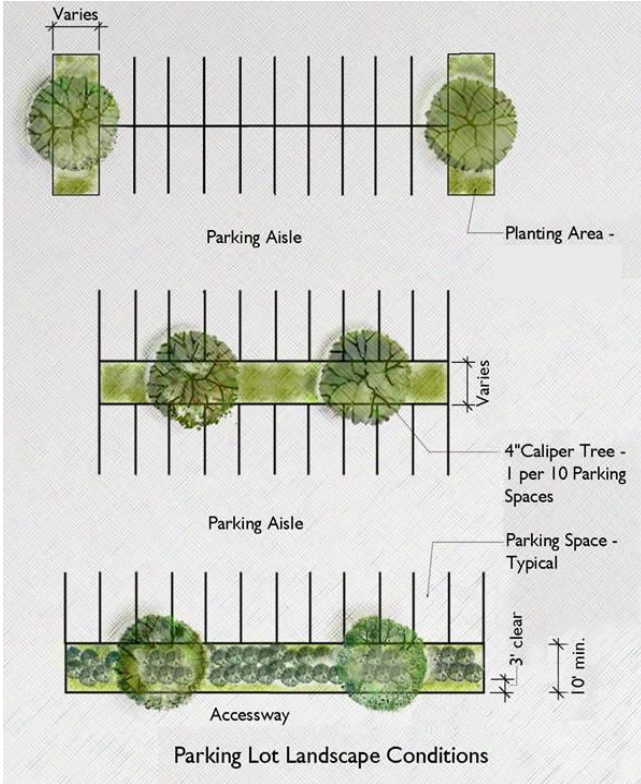
1) The percentage of interior portions of the site that are to be landscaped are listed in the table below. The percentage shown may be accomplished through planting islands, buffering adjacent to building, and/or an addition to the setback.

Total area of the site	7,000 sq.ft. – 49,000 sq.ft.	50,000 sq.ft. - 149,000 sq.ft.	150,000 sq.ft. - over
Percent of interior site to be landscaped	5%	8%	10%

2) Buffering adjacent to buildings is required to be a minimum of 10 feet deep.

3) Parking lot landscaping shall be reasonably dispersed throughout off-street parking areas.

4) The interior dimensions of any planting area used to satisfy interior landscaping standards shall be sufficient to protect plant materials and to ensure proper growth. Planting areas that contain trees shall be at least 60 sq.ft. in area and 8 feet in width, and all planting areas shall be protected by raised curbs or wheel stops to prevent damage by vehicle.



5) 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 required as a component of the landscape plan.

6) A minimum of one 4-inch caliper tree shall be planted for every ten (10) parking spaces constructed.

7) Additional trees shall be required at a ratio of one tree for every 3,000 sq.ft. of landscaped open space.

(Ord. 2003, 07-07-03)

16-4-7.4 Installation and Maintenance of Landscaping and Screening

A) All landscaping shall be installed in a sound workmanlike manner and according to accepted good planting procedures. Landscaped areas shall require protection from vehicular encroachment. A code enforcement officer, building inspector or other planning official shall inspect all landscaping and no certificates of occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided. Temporary occupancy permits may be issued due to weather related conditions upon approval by the Building Official and the Director of Planning and Development.

B) The owner, developer, tenant and/or their agents, if any, shall be jointly and individually responsible to maintain the landscaping in its proper condition. When replacement is necessary all plants and other non-living landscape materials shall be equal in size, density and appearance to those items requiring replacement. If plant material is reasonably unable to be replaced the Planning Director shall review and approve an equivalent replacement. Underground sprinkler systems shall be provided to serve all landscaped areas unless an equivalent watering system is approved by the Governing Body after recommendation of the Planning Commission.

C) All 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 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. 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 to be in violation of the terms of the Certificate of Occupancy.

Lawn grass shall be maintained on all areas not covered by other landscaping, parking, drives, buildings, or similar structures. Existing yards shall be maintained with grass or other approved ground cover.

16-4-7.5 Landscape Plan Requirements

All landscaping plans shall be prepared and sealed by a Kansas registered landscape architect and 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 and size of all structures and parking areas.

D) The location, size and 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, spacing 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. Site calculations used in computing quantities to meet these requirements shall also be submitted.

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) The location of all trees, 6 inch caliper or larger, measured at 4-1/2 feet above ground level, that are proposed for removal. All trees larger than 12 inch caliper shall be replaced on a 1:1 caliper inch ratio, or replaced with a suitable substitute approved by the Director of Planning.

I) All screening required by this section.

16-4-7.6 General Regulations

A) Sight Distance Triangles for Landscaping Adjacent to Public Right-of-Way and Points of Access. When an access drive intersects a public right-of-way, or when the subject property abuts the intersection of 2 or more public rights-of-way, all landscaping within the triangular areas described in 16-4-6.9 pertaining to signage, shall provide unobstructed cross-visibility at a level between 3 feet and 6 feet above the ground, provided however, trees having limbs and foliage trimmed in such a manner that no limbs or foliage extend into the cross-visibility area shall be allowed, provided they are so located so as not to create a traffic hazard. Landscaping except required grass or ground cover shall not be located closer than 3 feet from the edge of any access drive pavement. 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. In periods of adverse weather conditions, a temporary Certificate of Occupancy may be issued, subject to all landscaping being installed prior to the final Certificate of Occupancy being issued.

B) Plant Material

1) Quality. The quality of plant materials used shall conform to the highest standards of the nursery industry. Grass sod shall be clean and reasonably free of weeds and noxious pests or diseases. All plant materials shall be generally native to the area.

2) Trees. Trees shall be species having an average mature spread of crown of greater than 15 feet. Trees, having an average mature spread of crown less than 15 feet may be substituted by grouping the same so as to create the equivalent of a 15 foot crown spread. Tree species shall be a minimum 4” caliper and 8 feet overall height immediately after planting. Tree species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than 12 feet to such right of way, unless the tree root system is completely contained within an approved root barrier. A list of such tree species and approved standard root barrier construction details shall be maintained by the Department of Planning and Development.

3) Shrubs and hedges. Shrubs shall be a minimum of 36 inches in height when measured immediately after planting. Hedges, where required, shall be planted and maintained so

as to form a continuous, unbroken, solid, visual screen within a maximum of 2 growing seasons after time of planting.

4) Ground covers. Ground covers used in lieu of grass in whole or in part shall be planted in such a manner as to present a finished appearance at the time of installation, and complete coverage within 2 years after planting.

5) Lawn grass. Grass sod shall be planted in species normally grown as permanent lawns in our native climate. Grass areas shall be sodded unless the use of seed is specifically authorized by the Governing Body after recommendation of the Planning Commission.

All site utility services including but not limited to meters, vaults, sprinkler risers, vacuum breakers, trash containers, and service or loading areas shall be screened with walls or fences. These screening walls or fences shall be of a minimum height to extend above and completely block the view of such areas or devices. Solid fences or walls shall be constructed of material and design that are compatible with the building architecture.

The screening wall or fence shall be accented with landscaping materials to soften the appearance of the wall or fence. Landscaping shall consist of either shrubs, grasses or ornamental trees. Any mixture of shrubs or grasses shall be planted adjacent to the screen wall or fence at a rate of one (1) plant for every four (4) linear feet of screen wall or fence. Ornamental trees may be planted adjacent to the screen wall or fence in lieu of any or all required shrubs or grasses when planted at a rate of one (1) tree for every two (2) required shrubs or grasses. Any screening plans for site utility services, including screening walls or fences and associated landscaping shall be approved by the Governing Body following a recommendation of the Planning Commission.

(Ord. 2003, 07-07-03)
(Ord. 2486. 03-29-11)

16-4-8 NONCONFORMITIES IN GENERAL

Within the zoning districts established by this Ordinance or its subsequent amendment, there exist a) lots; b) structures; c) uses of land; d) uses of structures; e) uses of land and structures in combination; and f) characteristics of use, which were lawful before this Ordinance was adopted or amended, but which would now be prohibited, regulated or restricted under the terms of this Ordinance or its subsequent amendment. Such instances shall hereafter be considered lawful nonconformities.

16-4-8.1 General Statement of Intent

It is the intent of this Ordinance to recognize the legitimate interests of owners of lawful nonconformities by allowing such lawful nonconformities to continue, subject to the provisions contained herein. At the same time, it is recognized that lawful nonconformities may substantially and adversely affect the orderly development, maintenance, use and value of other property in the same zoning district, property that is itself subject to the regulations and terms of this Ordinance. In order to secure eventual compliance with the Leawood Comprehensive Plan, and with the standards of this Ordinance, it is therefore necessary to carefully regulate lawful nonconformities.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to

the adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. "Actual building construction" is hereby defined to include the placement of construction materials in permanent position and fastened in a permanent manner.

16-4-8.2 Lawful Nonconformities

A) Lots: Any lot having insufficient area, width or depth for the zoning district in which it is located, or insufficient frontage on an improved public street or an improved private street of a planned district, or any combination thereof, shall be considered a lawful nonconforming lot only if:

1) It was lawfully platted and recorded and on file in the office of the Johnson County Register of Deeds prior to the adoption of this Ordinance; or

2) There has been a building permit issued on that lot.

On any single lawful nonconforming lot within a zoning district which permits single-family detached residential dwellings, one such dwelling may be constructed by right, provided that height, lot coverage, and off-street parking requirements of the zoning district within which the parcel is located are complied with, and all appropriate permits are obtained prior to any construction activity.

Further, no such lot or portion thereof shall be used or sold in a manner which will increase its degree of nonconformity.

B) Structures. Structures that were lawfully constructed prior to the adoption of this Ordinance, but which could not be constructed under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, setbacks, location on the lot or other requirements concerning structures, shall hereafter be considered lawful nonconforming structures. As such, they may continue to exist so long as they remain otherwise lawful, provided that no reconstruction, enlargement or alteration of said structures shall occur that will increase their nonconformity except as otherwise provided in this Ordinance. However, any lawful nonconforming structure or portion thereof may be altered to reduce its nonconformity.

C) Uses.

1) Uses of Land. Any use of land, which would not be permitted under the terms of this Ordinance but lawfully existed at the time of the adoption of this Ordinance, shall hereafter be considered a lawful nonconforming use of land. As such, it may be continued so long as it remains otherwise lawful and provided that no enlargement, increase or extension of the lawful nonconforming use of land occurs so that a greater area of land is occupied than was occupied at the time of the adoption of this Ordinance, and that no additional structures or additions to structures existing at the time of the adoption of this Ordinance shall be constructed on the same zoning lot. Further, no such lawful nonconforming use of land shall be moved or relocated in whole or in part to any other portion of the zoning lot on which it is located than that portion occupied at the time of the adoption of this Ordinance. If any lawful nonconforming use of land ceases for any reason for a period of more than 180 consecutive days, any subsequent use of such land shall conform to the terms of this Ordinance.

2) Uses of Structures. Any use of a structure with a replacement cost of $1,000 or more which would not be permitted under the terms of this Ordinance but was lawfully existing at the time of the adoption of this Ordinance shall hereafter be considered a lawful nonconforming use of that structure. As such, it may be continued so long as it remains otherwise lawful and provided that the structure in which the lawful nonconforming use is located shall not be enlarged, extended, constructed, reconstructed, moved, relocated or structurally altered except in changing the use to a permitted use in the district in which it is located or as otherwise provided for in this Ordinance. However, a lawful nonconforming use of a structure may be extended throughout any parts of the structure in which it is located where said structure or parts thereof were manifestly arranged or designed for such use at the time of the adoption of this Ordinance, but no lawful nonconforming use of a structure shall be extended to occupy any land outside such structure. If any lawful nonconforming use of a structure is discontinued for any reason for a period of 180 days, such structure shall only thereafter be used in conformity with the terms of this Ordinance.

3) Uses of Land and Structures in Combination. Any use of land in combination with a structure which would not be permitted under the terms of this Ordinance but was lawfully existing at the time of the adoption of this Ordinance shall hereafter be considered a lawful nonconforming use of land and structure in combination. As such, it may continue so long as it remains otherwise lawful and provided the use complies with the provisions of Section 16-4-8.2 of this Ordinance.

4) Characteristics of Use. When an otherwise lawful existing use is permitted generally in any given zoning district but where, due to the adoption of this Ordinance, required off-street parking, paving of parking area, landscaping, screening, and similar regulations are not provided, such deficiencies attributable to the use shall be considered lawful, nonconforming characteristics of such use. Said deficiencies shall be brought into conformance when the use or structure is expanded, enlarged or the intensity is increased, even though the use itself is permitted generally.

16-4-8.3 Reconstruction of Certain Lawful Nonconforming Structures

Should any lawful nonconforming structure be destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, it may only be reconstructed in conformance with the provisions of this Ordinance and any associated use must also comply with this Ordinance; except that lawful nonconforming structures that are single-family detached dwellings, duplexes or townhouses of not more than 2 laterally attached single-family dwellings, or multi-family dwellings/townhouses not exceeding 4 units may be reconstructed to their former condition, dimensions and location on the lot provided that the destruction was caused by unintentional actions or a natural disaster and such reconstruction does not increase the degree of nonconformity that existed prior to destruction. Reconstruction of a lawful nonconformity, where permitted, must commence within 6 months of destruction. In such case where reconstruction does not commence within this time limit, the nonconformity will be considered abandoned and such structure shall be reconstructed only as a permitted use.

The Board of Zoning Appeals shall have the power to grant exceptions to this provision. Subject to the terms of this section, the Board may, in advance of destruction, grant an exception to allow the

reconstruction of structures destroyed by 51% or greater of its replacement cost at the time of destruction. Such exception shall apply only if the subject structure is destroyed by unintentional actions or a natural disaster. Further, the exception shall only allow the reconstruction to the original footprint and such reconstruction must be consistent with the current City building codes and any other safety regulations in place at the time of reconstruction. Prior to granting the exception, the Board must find the following factors to be present:

1) the nonconforming site improvement is the only nonconforming situation pertaining to the property;
2) compliance with the regulations applicable to the zoning district in which the property is located is not reasonably possible, provided, however, that financial hardship cannot constitute grounds for finding that compliance is not reasonably possible;
3) the property can be redeveloped or rebuilt without any significant adverse impact on surrounding properties or the public health or safety.

In any case, the exception must be requested within 6 months of actual destruction of a structure or the nonconformity will be considered abandoned and such structure shall be reconstructed only in conformance with the provisions of this Ordinance.

If a structure that has been granted an exception is actually destroyed, reconstruction plans must be approved by the Planning Commission and Governing Body.

(Ord. 2224, 03-05-07)

16-4-9 FENCES AND WALLS

16-4-9.1 Intent.

The intent of this provision is to:

A) To preserve the traditional and unique look of open space in residential areas established throughout the City of Leawood;

B) To buffer uncomplimentary land uses and generally enhance the quality and appearance of developed land areas;

C) To establish exterior boundaries of residential and commercial developments;

D) To ensure safety and protect from hazards incident to swimming pools, hot tubs, spas and other similar recreational bathing structures; and

E) To ensure that design, erection and construction of fences and walls conform to requirements including height and surface drainage.

16-4-9.2 Required Permits and Inspections

A) All walls and fences that require a permit shall be subject to inspection for compliance with approved plans and this Ordinance.

B) The following shall not be constructed without a building permit.

1) All fencing 3 feet in height and greater.

2) All walls greater than 4 feet in height.

3) Retaining walls exceeding 4 feet in height, whether terraced or not, shall be designed and constructed to support lateral loads and shall be accompanied by design calculations and plans sealed by a professional engineer registered in the State of Kansas. Said plans shall be reviewed prior to the issuance of a building permit.

4) All persons applying for permits for swimming pools, hot tubs, spas, or similar recreational bathing structures requiring fence shall work with the Building Inspections Division for issuance of the building permits for the pool structure and the fence at the same time.

(Ord. 2004, 07-07-03)

16-4-9.3 General Requirements

A) Fences and walls (with the exception of retaining walls) 3 feet or greater in height shall not be permitted in front of the building or line of the building as it extends to the side property line, and shall not be permitted beyond the build line of a street-side side yard of a corner lot.

B) Unless otherwise provided herein, fence height, for compliance with this Ordinance, shall be measured from the finished grade of the adjoining ground to the top of the fence.

1) When used in conjunction with a retaining wall, the fence height shall be a maximum of 4 feet in height, measured from the finished grade on the high side of the wall.

2) When attached to a deck the fence shall be a maximum of 4 ft. in height as measured from the floor of the deck to the top of the fence.

C) Post height, for compliance with this Ordinance, shall not exceed 8” above the height of the fence pickets.

D) In cases of interior rear setbacks, fences and walls shall be permitted to be located on the rear property line. In the case of through lots, fences and walls shall not extend beyond the applicable zoning district’s setback from the street frontage.

E) Wood fences shall be constructed with posts, rails, and other structural members located on the “inside” of the fence (finished side facing out). A second fence made of PVC coated chain link is permitted when a split-rail wood fence is already installed, and such second fence is needed to provide extra security due to gaps and/or spacing of the components of the split-rail wood fence. The PVC coated chain link fence shall be installed on the side of the split-rail wood fence facing the subject property and shall be limited in color to black, hunter green and dark brown.

(Ord. 2414, 09-29-09)

F) Fences and walls shall not restrict natural surface drainage nor be constructed to divert or channel water flow with increased velocity.

G) Fences and walls constructed within City owned and/or public utility easements may be removed to allow access for installation or maintenance of utilities and/or drainage. The property owner shall be responsible for the reconstruction and replacement of any fences and/or walls removed.

H) When the back property line of a residentially zoned lot shares a common boundary with that of another municipality, the least restrictive fence or wall height regulations of the two municipalities shall govern only for that property line which shares the municipal boundary. All other fences on the property within Leawood are limited to that allowed by this Ordinance.

I) Allowed fencing materials shall be limited to cedar, redwood, CCA treated wood, wrought iron, aluminum designed to have the appearance of wrought iron, chain link, PVC coated chain link or vinyl to have the appearance of wood.

16-4-9.4 Height and Location Requirements

The following are the requirements for fence height and location:

TYPE OF FENCE	LOCATION	HEIGHT / LENGTH
Fences/walls under 3' in height	May be located anywhere within required setbacks.	Maximum Height: Less than 3 feet. Maximum Length: 24 feet.
Fences/walls 3 feet to 4 feet in height, except retaining walls	Not permitted in front of the building or line of the building as it extends to the side property line, or beyond the build line on the street-side side setback of a corner lot.	Maximum Height: 4 feet.
Fences associated with sport courts	Not permitted in front of the building or line of the building as it extends to the side property line, or beyond the build line on the street-side side setback of a corner lot. The fence must be adjoining the sport court and must be approved as part of the required approval process for sport courts.	Maximum Height: 12 feet.
Fences/walls associated with patios and decks	Within 3 feet of patio or deck.	Maximum Height: 6 feet from grade, or if attached to a deck, a maximum of 4 feet in height as measured from the floor of the deck to the top of the fence.
Fences/walls associated with pools	A fence is required to circumscribe a pool. A fence may be constructed within and along all interior side and rear yards, but is not permitted in front of the building or	Minimum Height: 4 feet. Maximum Height:

TYPE OF FENCE	LOCATION	HEIGHT / LENGTH
	line of the building as it extends to the side property line, or beyond the build line on the street-side side setback of a corner lot.	6 feet.
Fences/walls associated with hot tubs	A fence is required to circumscribe a hot tub. A 4-foot fence may be constructed within and along all interior side and rear yards, but is not permitted in front of the building or line of the building as it extends to the side property line, or beyond the building line on the street side setback of a corner lot. A 6-foot fence may be erected within 3 feet of the hot tub, or within 3 feet of a patio or deck supporting the hot tub.	Minimum Height: 4 feet. Maximum Height: 6 feet.
Retaining walls 6 feet in height or less	Are permitted within all required setbacks.	
Retaining walls greater than 6 feet in height	Are permitted within all required setbacks provided that it shall be setback from the property line one foot for each foot, or part thereof, in excess of 6 feet in height. Any exceptions or deviations from this formula shall require site plan approval by the Governing Body after recommendation of the Planning Commission. At least 10 days prior to the Planning Commission consideration of the exception or deviation, all adjacent property owners shall be notified by certified mail of the pending application.	
Electric and barbed wire fences	Are prohibited except on Agricultural zoned properties for the purpose of containing livestock and when specifically authorized as part of an approved development plan.	Maximum Height: 6 feet.
Construction fencing	Is prohibited in all zoning districts as permanent fencing material, although maybe used on a construction site as a temporary measure for safety purposes only.	
Fencing/gates for utility and service facilities	Fencing for utility and service facilities is allowed in all zoning districts, provided that such fencing shall be approved by the Planning Commission and the Governing Body as part of a development plan.	Maximum Height: 6 feet, however, this height limitation may be subject to a deviation granted in the planning process if the utility shows that

TYPE OF FENCE	LOCATION	HEIGHT / LENGTH
		additional height is necessary under governing standards of security fencing for such utility provided, provided further that in no event shall such a fence exceed 8 feet in height.

(Ord. 2004, 07-07-03)
(Ord. 2438, 04-13-10)

16-4-9.5 Exceptions to Height Restrictions

The Board of Zoning Appeals shall have the power to grant exceptions to the height restrictions for fences and walls. Such exceptions may be granted by the Board if it concludes that the granting of the exception outweighs any adverse impact the fence or wall may have on the appearance of open space, considering the following factors:

A) The effect on adjoining property;

B) The uses and physical characteristics of adjoining property; and

C) Proximity to arterial streets;

In no case shall the Board allow a fence or wall that exceeds 6 feet in height, as measured per this Ordinance.

(Ord. 2551, 07-24-12)

16-4-10 HOME OCCUPATIONS

16-4-10.1 General Provisions

A) Home occupations shall be permitted as accessory uses within principal residential dwellings in any residential or agricultural district provided they meet all of the following conditions and all other requirements of the district in which located:

1) The home occupation must be clearly incidental and secondary to the primary residential use of the dwelling.

2) The home occupation must not change the outside appearance of the dwelling or be visible from the street. Exterior signage shall not be permitted.

3) The home occupation must not generate traffic, parking, sewerage or water use in excess of what is normal in the residential neighborhood.

4) The home occupation shall not create a hazard to person or property, result in electrical interference, or become a nuisance in the neighborhood.

5) No outside storage of any kind related to the home occupation shall be permitted.

6) No persons other than self or family members residing on the premises shall be employed or involved in any business activity related to the home occupation on the premises.

7) No more than 25% of the gross floor area of the dwelling unit shall be used for the operation of the home occupation. No accessory buildings shall be used in conjunction with a home occupation.

8) Deliveries of materials to and from the premises in conjunction with the home occupation shall not require the use of vehicles other than parcel post or similar parcel service vehicles.

9) Noise, vibration, smoke, odors, heat or glare as a result of a home occupation, which would exceed that normally produced by a single residence, shall not be permitted.

10) The home occupation shall not utilize more than one private commercial vehicle limited to one ton capacity.

11) The home occupation shall not allow the parking of any commercially licensed vehicle or other vehicle bearing commercial advertising or signage in excess of four square feet per side with a maximum of two sides on or in front of the premises for a period exceeding two hours.

12) No retail sales are allowed on the premises in conjunction with the home occupation unless clearly incidental to the home occupation.

13) Home occupations shall have all license(s) mandated by applicable local, state, and/or federal laws.

14) Where a Day Care for children is operated as a home occupation, it shall be limited to 6 children at any one time, to include the resident's own children under the age of 12. General Day Care and Commercial Day Care centers are prohibited as home occupations. (See definition of Day Care, Limited under Article 9 of this Ordinance.)

15) Because Limited Day Care includes elder care, a Limited Day Care use providing Day Care services to adults as a home occupation shall abide by the same number of persons as child care in (13) above. (See definition of Day Care, Limited under Article 9 of this Ordinance.)

B) Customer and client contact shall be primarily by telephone or mail and not on the premises of the home occupation, except those home occupations such as tutoring, teaching, day care or personal services which cannot be conducted without personal contact and as permitted herein.

C) Any proposed home occupation not specifically prohibited shall be permitted provided that all conditions listed above are observed. If, however, any one of these performance standards has the potential of being violated due to the nature of the home occupation, the Director of Planning

and Development shall retain the authority to deny the home occupation. Further, if after establishment of a home occupation, any one of the conditions listed above is violated, a complaint may be issued by the City and court action taken to insure compliance with the conditions. The City retains the authority to revoke an occupational license and any approval associated therewith at any time when the above stated conditions are violated.

(Ord. 2353, 10-20-08)

16-4-10.2 Prohibited Home Occupations

The following uses shall be specifically prohibited as home occupations:

A) Sales to the public on the premises not incidental thereto.

B) Equipment rental.

C) Automobile and other motor vehicle repair services and/or sales.

D) Radio, television, phonograph, recorder, small appliance and small engine repair services.

E) Physicians, dentists, chiropractors.

F) Beauty and barber services.

G) Upholstery and furniture making.

H) Animal grooming, boarding, and/or related services.

I) Uses requiring the storage or use of highly flammable, toxic or other hazardous materials.

J) Printing and/or typesetting services.

K) Photographic studio, where photographs are taken on the premises.

16-4-11 ADULT ENTERTAINMENT REQUIREMENTS AND DEFINITIONS

16-4-11.1 Purpose.

The purpose of this Chapter is to provide special design guidelines/standards and development regulations which regulate the time, place and manner of the operation of adult use facilities in order to minimize the negative secondary effects associated with such facilities. The specific purposes of this Chapter are to:

A) Establish a procedure which places strict limits on processing time and eliminates any possibility for the exercise of unfettered discretion in reviewing applications for establishing adult uses.

B) Ensure orderly and thorough city review of applications for adult uses.

C) Establish reasonable and uniform regulations that will reduce possible adverse secondary effects that adult uses may have upon the residents of the city and preserve the integrity of existing commercial areas of the city and of residential areas which are in close proximity to such commercial areas.

D) To protect the rights conferred by the United States Constitution to adult uses in a manner that ensures the continued and orderly development of property within the city and diminishes those undesirable negative secondary effects that recognized studies have shown to be associated with the development and operation of adult uses.

E) To allow a process whereby the unusual site development features or operating characteristics of such uses may be conditioned through an individual review, in order to be compatible with the surrounding uses of property.

16-4-11.2 Definitions.

In addition to the definitions contained in Article 9 of this Ordinance, the following words and phrases shall, for the purposes of this Chapter, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with this Ordinance, these definitions shall prevail:

A) **Administrator**: The Neighborhood Services Administrator.

B) **Adult Arcade**: Any business establishment or concern to which the public is permitted or invited and where coin or slug operated or electronically, electrically or mechanically controlled amusement devices, still or motion picture machines, projectors, videos or other image-producing devices are maintained to show images on a regular or substantial basis, where the images so displayed are considered 'adult material' as defined herein.

C) **Adult Bookstore**: An establishment having as a substantial or significant portion of its stock in trade, adult material, or an establishment with a segment or section devoted to the sale or display of such material.

1) An establishment shall be deemed to have a substantial or significant portion of its stock in trade if not less than twenty percent (20%) of the stock of the business or twenty percent (20%) of the floor area which houses the adult business is adult material provided, however, that if the adult business is housed in a building or structure which includes more than one business, then the 'floor area' shall mean and refer to only that portion of the building which is leased or otherwise demised to the adult business.

2) An establishment shall also be deemed to have a substantial or significant portion of its stock in trade if not less than twenty percent (20%) of the gross receipts of the business or use derived from the sale of 'adult material' (as defined below).

D) **Adult Business or Adult Use**:

1) Any business establishment or concern which is a regular and substantial course of conduct operates as an adult bookstore, adult theater, adult arcade, adult cabaret or adult nightclub, figure modeling studio, adult dance studio, adult entertainment studio, erotic dance studio, or adult hotel; or

2) Any business establishment or concern which as a regular and substantial course of conduct offers, sells, or distributes adult oriented merchandise or sexually oriented merchandise, or which offers to its patrons adult materials or other products, merchandise, services or entertainment characterized by an emphasis on matters

depicting, describing, or relating to specified sexual activities or specified anatomical parts.

E) **Adult Cabaret or Adult Nightclub**: A business establishment or concern which features live performances by dancers or similar entertainers in the nude.

F) **Adult Dance Studio**: Any business establishment or concern which provides for members of the public a partner for dance where the partner appears nude, or where the dance is distinguished or characterized by the emphasis on matter depicting, or describing or relating to specified sexual activities or specified anatomical areas.

G) **Adult Entertainment Studio**: Any premises to which the public, patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, wherein an entertainer provides entertainment to a member of the public, a patron or a member, when such entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An adult entertainment studio includes, without being limited to, any premises that is physically arranged and used as such, whether advertised or represented as an entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import. Adult entertainment studio shall not include theaters, concert halls, or similar establishments where entertainment is performed for groups of four or more.

H) **Adult Hotel**: A hotel which is used for presenting on a regular and substantial basis material which is distinguished or characterized by the emphasis on matter depicting or describing or relating to specified sexual activities or specified anatomical areas through closed circuit or cable television or through video tape recorder where video tapes are provided by the hotel/motel. For purposes of this subsection, a "Hotel" means any building or other structure which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are offered for pay primarily to transient guests and in which four or more rooms are used for the accommodation of such guests, regardless of whether such building or structure is designated as a motel, cabin camp, tourist cabin, or other type of lodging unit. Evidence that a sleeping room in a hotel has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult hotel as that term is defined herein.

I) **Adult Oriented Merchandise**: Sexually oriented implements, paraphernalia, or novelty items, such as, but not limited to: dildos, auto sucks, sexually-oriented vibrators, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery operated vaginas, and similar sexually-oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sado-masochistic activity or distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

J) **Adult Material**: Materials which are distinguished or characterized by their emphasis on matter which is distinguished or characterized by its emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

K) **Adult Theater**: A theater or other commercial establishment with or without a stage or proscenium which is used for presenting, on a regular or substantial basis, material which is

distinguished or characterized by an emphasis on matter depicting, or describing, or relating to specified sexual activities or specified anatomical areas.

L) **Arcade Booth**: Any enclosed or partially enclosed portion of an establishment in which an adult arcade is located, or where a live performance is presented, on a regular or substantial basis, where the material presented is distinguished or characterized by an emphasis on matter depicting, or describing, or relating or specified sexual activities or specified anatomical areas.

M) **Commercial Zoning District**: Any property within the City which is zoned SD-O (Planned Office, SD-NCR (Planned Neighborhood Retail), SD-CR (Planned General Retail), BP (Planned Business Park) or MXD (Mixed Use District) on the City's official zoning map adopted pursuant to Article 2 of the Leawood Development Ordinance, as may be amended from time to time.

N) **Dancer**: A Performer who dances or otherwise performs for an erotic dance studio and who seeks to arouse or excite the patron's sexual desires.

O) **Employee**: Any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult entertainment studio.

P) **Entertainer**: Any person who provides entertainment within an adult entertainment studio as defined in this Chapter, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

Q) **Entertainment**: Any exhibition, performance, display or dance of any type, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered for amusement.

R) **Erotic Dance Studio**: A fixed place of business which emphasizes and seeks, through one or more dancers or performers, to arouse or excite the patron's sexual desires.

S) **Figure Modeling Studio**: Any establishment or business which provides for members of the public, the services of a live human model for the purpose of reproducing the human body, wholly or partially in the nude, by means of photograph, painting, sketching, drawing, or other pictorial form.

T) **Industrial Zoning District**: Property within the City which is zoned BP (Planned Business Park) on the City's official zoning map adopted pursuant to Article 2 of the Leawood Development Ordinance, as may be amended from time to time.

U) **Massage**: Any method of pressure on, friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.

V) **Massage Establishment**: An establishment having a fixed place of business where massages are administered in accordance with the provisions of the Code of the City of Leawood, regarding Massage.

W) **Massage Therapy**: The application of Massage by a Massage Therapist as provided for by the provisions of the Code of the City of Leawood regarding Massage.

X) **Material**: Relative to adult businesses, material shall mean and include, but not be limited to, accessories, books, magazines, photographs, prints, drawings, paintings, motion pictures, pamphlets, videos, slides, tapes, or electronically generated images or devices including computer software, or any combination thereof.

Y) **Nude**: Any state of undress in which the whole or part of any human genitals, pubic region, buttock or female breast, at a point below the top of the areola, is less than completely and opaquely covered.

Z) **Obscene**: Any material or performance is obscene if the average person applying contemporary community standards would find that such material or performance, taken as a whole, appeals to the prurient interest; that the material or performance has patently offensive representations or descriptions of ultimate sexual acts, normal or perverted; and that the material or performance, taken as a whole, lacks serious literary, educational, artistic, political or scientific value.

AA) **Operator**: Any person, partnership, or corporation operating, conducting or maintaining an adult use or adult business.

BB) **Patron**: Any person who is a guest, member or customer on or in an adult business.

CC) **Performer**: Any person who is an employee or independent contractor of the adult business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an adult business and who seeks to arouse or excite the patron's sexual desires.

DD) **Person**: Any natural person, or any association, partnership, or corporation.

EE) **Religious Institution**: A facility used primarily for religious assembly or worship and related religious activities.

FF) **Residential Zone**: Any property within the City which is zoned AG (Agricultural), RP-A5 (Planned Rural Density Single Family Residential), R-1 (Planned Single Family Low-Density Residential), RP-1 (Planned Single Family Residential District, RP-2 (Planned Cluster Detached Residential district, RP-3 (Planned Cluster Attached Residential District or RP-4 (Planned Apartment Residential District) on the City's official zoning map adopted pursuant to Article 2 of the Leawood Development Ordinance, as may be amended from time to time.

GG) **School**: Any institution of learning for minors, whether public or private, which offers instruction in those courses of study required by the Kansas Board of Regents or which is maintained pursuant to standards set by the Kansas Board of Regents and also includes a nursery school, kindergarten, elementary school, junior high school, senior high school, but not including dancing schools, riding academies, or trade or vocational school.

HH) **Specified Anatomical Areas** shall mean:

1) When less than completely and opaquely covered;

   a. human genitals, pubic region;

   b. buttock, or

   c. female breast below a point immediately above the top of the areola; or

2) Any device or covering, when exposed to view, which simulates the female breast below a point immediately above the top of the areola, human genitals, pubic region or buttock; or

3) Human or simulated male genitals in a discernible turgid state, even if completely and opaquely covered.

II) **Specified Sexual Activities** shall mean:

1) Human genitals in a state of sexual stimulation or arousal;

2) Acts of human masturbation, sexual intercourse or arousal;

3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;

4) Masochism, erotic or sexually-oriented torture, beating, or the infliction of pain;

5) Human excretion, urination, menstruation, vaginal or anal irrigation;

6) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

JJ) **Tavern**: Any premises on which alcoholic or cereal malt beverages are sold or served for consumption on the premises pursuant to a license or permit issued by the State of Kansas, the County of Johnson, or any other political subdivision or agency of the State of Kansas.

16-4-11.3 Applicability

A) No Adult Business or Adult Use shall be constructed, established, or operated unless and until a Special Use Permit has been approved by the Governing Body.

B) Nothing in this Chapter, shall be construed to apply to any play, drama, ballet, or motion picture in any theater, concert hall, museum of fine arts, School, institution of higher education, or other similar establishment as a form of expression or opinion or communication of ideas or information, as differentiated from the promotion or exploitation of nudity for the purpose of advancing the economic welfare of a commercial or business enterprise.

C) The establishment of any Adult Business shall include any of the following activities:

1) The opening of such business as a new business.

2) The relocation of an Adult Business.

3) The conversion of an existing business to an Adult Business.

4) An increase of the square footage of an existing Adult Business.

5) The conversion of an existing Adult Business to a different type of Adult Business.

16-4-11.4 Locational Limitations

A) Subject to the limitations of this Ordinance, no Adult Businesses may be located in any Commercial Zoning District or Industrial Zoning District of the City as herein defined. No adult business shall be located in any Residential Zone. No adult business shall be located in any zoning district of the City except a Commercial Zoning District or Industrial Zoning District.

B) In the zoning districts where Adult Businesses regulated by this Ordinance would otherwise be permitted uses, it shall be unlawful to establish any such Adult Business if the location is:

1) Within a one-thousand (1,000) foot radius of a Residential Zone. The distance between a proposed use and a Residential Zone shall be measured from the nearest exterior wall of the facility housing the Adult Use or proposed Adult Use to the nearest property line included within the Residential Zone, measured along a straight line extended between the two points.

2) Within a one-thousand (1,000) foot radius of any School or Park. The distance between the proposed use and a School or Park shall be measured from the nearest exterior wall of the facility housing the Adult Use or proposed Adult Use to the nearest property line of the School or Park site, along a straight line extended between the two points.

3) Within a one-thousand (1,000) foot radius of a Religious Institution. The distance between the Adult Use or proposed Adult Use and a Religious Institution shall be measured from the nearest exterior wall housing the Adult Use or proposed Adult Use along a straight line extended to the nearest exterior wall of the facility housing the Religious Institution.

4) Within a one-thousand (1,000) foot radius of any other Adult Business. The distance between the Adult Use or proposed Adult Use and another Adult Business shall be measured from the nearest exterior wall housing the Adult Use or proposed Adult Use along a straight line extended to the nearest exterior wall of the facility housing the other Adult Business.

5) Within a one-thousand (1,000) foot radius of any Tavern. The distance between the Adult Use or proposed Adult Use and a Tavern shall be measured from the nearest exterior wall housing the Adult Use or proposed Adult Use along a straight line extended to the nearest exterior wall of the facility housing the Tavern.

16-4-11.5 Development and Performance Standards

A) Hours of Operation.

1) No Adult Use or Adult Business shall be open earlier than eleven o'clock (11:00) a.m. or later than eleven o'clock (11:00) p.m. No Adult Use or adult business shall be open on any Sunday. It shall be unlawful for any Operator or Employee of an Adult Business to allow such Adult Business to remain open for business, or to permit any Employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 11:00 p.m. and 11:00 a.m. of any day or on any Sunday.

2) All Adult Uses or Adult Businesses shall be open to inspection at all reasonable times by any law enforcement officer, the Administrator, or such other persons as the Administrator may designate in the normal course of his duties.

B) Lighting Requirements. All exterior areas of the Adult Business shall be illuminated at a minimum of 2.0 foot-candles throughout the premises, minimally maintained and evenly distributed at ground level.

C) Signs. All Adult Uses or Adult Business shall comply with the following sign requirements in addition to the other requirements of this Ordinance:

1) No merchandise or pictures of the products or Entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic representation of a performance displaying any portion of the breasts below the top of the areola or any portion of the specified anatomical areas may be visible outside of the Adult Use or Adult Business.

2) Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one-square-foot sign may be placed on the door to state hours of operation and admittance to adults only.

D) Access Provision. The Operator shall not permit any doors on the premises to be locked during business hours and, in addition, the Operator shall ensure that any room or area on the premises shall be readily accessible at all times and shall be open to view in its entirety for inspection by any law enforcement officer.

E) Access to minors.

1) No Employee, owner, Operator, responsible managing Employee, manager or permittee of an Adult Business shall allow any Person below the age of eighteen (18) years upon the premises or within the confines of any Adult Business.

2) X-rated movies. X-rated movies or video tapes shall be restricted to Persons at least eighteen (18) years of age. If an establishment that is not otherwise prohibited from providing access to Persons under 18 years of age sells, rents, or displays videos that have been rated X or rated NC-17 by the motion picture rating industry (MPAA), or which have not been submitted to the MPAA for a rating, and which consist of images which are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas, said videos shall be located in a specific section of the establishment where Persons under the age of eighteen (18) shall be prohibited and shall not be visible from outside the premises or from areas within the premises where Persons under the age of eighteen (18) are allowed.

3) Other Adult Materials. Access to Adult Materials shall be restricted to Persons at least eighteen (18) years of age.

F) Closed Booths. No one shall maintain any Arcade Booth or individual viewing area unless the entire interior of such premises wherein the picture or Entertainment that is viewed is visible upon entering into such premises; and further, that the entire body of any viewing Person is also visible immediately upon entrance to the premises without the assistance of mirrors or other viewing aids. No partially or fully enclosed booths/individual viewing area or partially or fully concealed booths/individual viewing area shall be maintained. No Arcade Booth shall be occupied by more than one Patron at a time. No holes shall be permitted between Arcade Booths or individual viewing areas.

G) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

THIS ADULT BUSINESS IS REGULATED BY THE LEAWOOD DEVELOPMENT ORDINANCE. ENTERTAINERS ARE:

1) Not permitted to engage in any type of sexual conduct;

2) Not permitted to expose their sex organs;

3) Not permitted to demand or collect all or any portion of a fee for Entertainment before its completion.

H) Regulation of Viewing Areas. Every Adult Use or Adult Business shall be physically arranged in such manner that the entire interior portion of the booths, cubicles, rooms or stalls wherein Entertainment is provided is visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes, or any other obstruction whatsoever. All viewing areas within the Adult Business shall be visible from a continuous and accessible main aisle in a public portion of the establishment, and shall not obscured in any manner by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing into the viewing area from the main aisle. A manager shall be stationed in the main aisle, or a video monitor shall be established at a location from which the inside of all of the viewing areas are visible at all times, in order to enforce all rules and regulations. All viewing areas shall be designed or operated to permit occupancy of either one (1) Person only, or more than ten (10) Persons. The Operator shall be responsible for and shall provide that any room or area used for the purpose of adult Entertainment shall be readily accessible at all times and shall be opened to view in its entirety for inspection by the Administrator or a law enforcement officer at all reasonable times. Viewing area shall mean any area in which a Person views performances, pictures, movies, videos, or other presentations.

I) Private Performances. Any area in which a private performance occurs shall:

1) Have a permanently open entranceway not less than two (2) feet wide and not less than six (6) feet high, which entranceway is not capable of being closed or partially closed by any curtain, door, or other partition which would be capable of wholly or partially obscuring any Person situated in the area; and

2) Have a wall-to-wall, floor-to-ceiling partition of solid construction without any holes or openings, which partition may be completely or partially transparent, and which partition separates the Employee from the Person viewing the display.

J) On-Site Manager; Security Measures. No Person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on the operation of an Adult Business unless each and all of the following requirements are met:

1) All Adult Businesses shall have a Person who shall be at least 18 years of age and shall be on the premises to act as manager at all times during which the business is open. The Adult Business shall register any and all individual(s) designated as the on-site manager with the Administrator by the owner to receive all complaints and be responsible for all violations taking place on the premises.

2) The Adult Business shall provide a security system that visually records and monitors all parking lot areas, or in the alternative, uniformed security guards to patrol and monitor the parking lot areas during all business hours. A sign indicating compliance with this

provision shall be posted on the premises. The sign shall not exceed two (2) by three (3) feet and shall at a minimum be one (1) foot by one and a half feet.

K) Clothing. All Employees of Adult Businesses, other than Performers while performing, shall, at a minimum while on or about the licensed premises, wear an opaque covering which covers their Specified Anatomical Areas.

L) Dancing and Performing. In order to reduce the opportunity for prostitution and narcotics transactions, to prevent Patrons and Dancers/Performers from engaging in sexual fondling and caressing, and to reduce the likelihood of drug and sex transactions, the following additional regulations shall apply to the operation of any Adult Cabaret, Adult Dance Studio, Erotic Dance Studio, or Figure Modeling Studio:

1) Separation Distances between Entertainers and Patrons. No Person shall perform live Entertainment for Patrons of an Adult Business except upon a permanently fixed stage or platform which is at least two (2) feet above the level of the floor, separated by a distance of at least ten (10) feet from the nearest area occupied by Patrons and surrounded with a three (3) foot high barrier. No Patron shall be permitted within six (6) feet of the stage while the stage is occupied by a Performer.

2) Contact between Entertainers and Patrons Prohibited. When Patrons are present at the establishment, no Dancer or Performer shall fondle or caress any Patron and no Patron shall fondle or caress any Dancer or Performer. This prohibition does not extend to incidental touching. Patrons shall be advised of the separation and no touching requirements by signs placed on the barrier and, in the event that a Patron disregards this requirement, by Employees of the establishment.

3) Tipping. No Patron shall directly pay or give any gratuity to any Dancer or Performer. No Dancer or Performer shall solicit any pay or gratuity from any Patron.

4) Unlawful Sexual Acts. No Operator, Entertainer, or Employee shall permit to be performed, offer to perform, or perform sexual intercourse or oral or anal copulation with a customer or manual or other contact stimulation of the genitalia of a customer. No Operator, Entertainer, or Employee shall encourage or permit any Person upon the premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other Person. No Operator, Entertainer, or Employee shall be unclothed or in such attire, costume or clothing, so as to expose to view any portion of the sex organs of said Operator, Entertainer, or Employee with the intent to arouse or gratify the sexual desires of the Operator, Entertainer, Employee, or customer.

16-4-11.6 Massage Establishments and Massage Therapy

No person shall operate a Massage Establishment or perform and provide Massage Therapy except as provided for by the provisions of the Code of the City of Leawood regarding Massage. When licensed and authorized as provided by the Code, Massage Establishments and Massage Therapy shall not be considered an adult use.

16-4-11.7 Special Use Permit Required

A) No Adult Business may be established or operate within the City by right. All persons wishing to establish an Adult Business within the City must apply for and receive a Special Use Permit pursuant to this Section. A Special Use Permit may be issued only for one (1) Adult Business or Adult Use located at a fixed and certain place. Any person who desires to operate more than one Adult Business or Adult Use shall have a Special Use Permit for each. No Special Use Permit or interest in a Special Use Permit may be transferred to any other person. All changes in ownership shall require a new permit application and approval. It shall be unlawful for any Entertainer, Employee or Operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any Adult Business or Adult Use which does not hold an unexpired and unrevoked Special Use Permit.

B) Any Person desiring to secure a Special Use Permit shall follow the procedures set forth in this Ordinance. It is the burden of the applicant to supply evidence to justify the grant of a Special Use Permit. A copy of the application shall be distributed promptly to the Police Department, which shall submit a report to the Director of Planning and Development as to compliance with the standards set forth herein within ten (10) working days after filing of the application. If the Director of Planning and Development determines that the application is incomplete, the application shall be returned to the applicant with a written finding as to the manner in which the application is deficient, and the application shall not be processed unless and until a complete application is filed by the applicant. If the application is complete, it shall be processed in accordance with the requirements of this Ordinance. Failure of the Director of Planning to notify the applicant of a finding shall be deemed to constitute a determination by the Director that the application is complete.

C) Once an application has been accepted as complete, and, in any event, within 14 working days, the Planning Director shall place the matter on the agenda of the Planning Commission and shall publish notice as prescribed in this Ordinance. The matter shall then be heard and decided as set forth in the Ordinance, within 60 days of the Planning Commission public hearing, unless extended with the consent of the applicant.

D) Contents of Application. The City hereby finds that the following information is necessary in order to ensure the proper administration of this Chapter, as well as the proper inspection and identification of all persons which control the operation of any Adult Business permitted pursuant to this Ordinance, as approved in *Moody v. Board of County Commissioners*, 237 Kan. 67, 697 P.2d 1310 (1985).

1) The application shall be signed by the owner or lessee. If the application is signed by a lessee, a notarized statement signed by the owner shall accompany the application. Proof of status is required. No application for a Special Use Permit shall be accepted, processed or approved unless the applicant for a Special Use Permit including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding a majority of the stock of a corporate applicant, or any other Person who is interested directly in the ownership or operation of the business has furnished the following information under oath:

a. Name and address, including all aliases.

b. Written proof that the individual is at least eighteen (18) years of age.

c. All residential addresses of the applicant for the past three (3) years.

d. The applicant's height, weight, color of eyes and hair.

e. The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.

f. The Adult Business or similar business license history of the applicant, whether such applicant, in previously operating in this or any other city, county, or state under license, has had such license revoked or suspended, the reason therefore, and the business activity or occupation subject to such action of suspension or revocation.

g. All criminal, city ordinance, or city resolution violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.

h. Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.

i. The address of the Adult Business to be operated by the applicant.

j. The names and addresses of all persons, partnerships, or corporations holding any beneficial interest in the real estate upon which such Adult Business is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.

k. If the premises are leased or being purchased under contract, a copy of such lease or contract.

l. If the applicant is a corporation, the name of the corporation and the date and state of incorporation, and the name and address of the registered agent.

m. A statement by the applicant that he or she is familiar with the provisions of this Ordinance and is in compliance with them.

2) Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this Chapter shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for rejection thereof by the Director of Planning and Development.

16-4-11.8 Permit Application Fee

The City hereby finds and determines that the fee amounts set forth in the City of Leawood fee schedule do not exceed the costs that will be incurred by the City for processing applications for Special Use Permits and conducting inspections necessary to determine whether an application for a Special Use Permit is in compliance with the standards provided. No application for a Special Use Permit shall be issued unless and until the appropriate fee is paid pursuant to the City of Leawood fee schedule, as amended from time to time.

16-4-11.9 Appeals

Any person, official or governmental agency dissatisfied with any order or determination of the Governing Body (the Leawood City Council) may bring an action in the district court of Johnson County to determine the reasonableness of any such order or determination. Such appeal shall be filed within 30 days of the final decision of the Governing Body. The City hereby recognizes the requirement for prompt judicial review of a decision relating to the issuance of a Special Use Permit as set forth in *Freedman v. Maryland*, 380 U.S. 51 (1965). In accordance with said requirements, if the Special Use Permit is denied and an appeal or other legal challenge to said action is filed with the District Court of Johnson County or a federal District Court, the City Attorney shall submit the record or file any responsive pleading not more than ten (10) days after the service of process upon the City notwithstanding any provision of the Kansas Code of Civil Procedure or the Rules of the Kansas Supreme Court which may permit a longer period of time for the filing of the administrative record or a responsive pleading.

16-4-11.10 Permit Expiration

Any Special Use Permit approved pursuant to this Chapter shall become null and void if not exercised within one year from the date of the approval. If an Adult Business ceases to operate for a period of six (6) months, the Special Use Permit shall become null and void. A permit extension shall be granted if prior to the expiration date the permittee demonstrates to the satisfaction of the Administrator that it has a good faith intent to presently commence the proposed use. Such extensions shall not exceed a total of two (2) six (6) month extensions.

16-4-11.11 Permit Approval Criteria

The City shall not approve or conditionally approve an application for a Special Use Permit unless the information submitted by the applicant substantiates the following findings:

A) The Adult Business meets the location requirements and the development and other applicable performance standards of this Ordinance; and

B) The Adult Business is located in a zoning district which lists Adult Businesses as a specially permitted use; and

C) The Adult Business structure does not contain any apartments or other living quarters; and

D) The applicant, and all persons for whom disclosure is required are at least 18 years of age; and

E) That neither the applicant, nor any of the persons for whom disclosure is required, have been found guilty or pleaded *nolo contendere* within the past four (4) years of a misdemeanor or a felony classified by the state as a sex or sex-related offense pursuant to Article 35 of Chapter 21 of the Kansas Statutes Annotated.

16-4-11.12 Display of License or Permit

The Special Use Permit shall at all times be displayed in a conspicuous public place in the Adult Business.

16-4-11.13 Responsibilities of the Operator

The City hereby finds that the following information is necessary in order to ensure the proper administration of this Chapter as well as the proper inspection and identification of all persons which control the operation of any Adult Business permitted pursuant to this Ordinance, as approved in *Moody v. Board of County Commissioners*, 237 Kan. 67, 697 P.2d 1310 (1985).

A) The Operator shall maintain a register of all Employees, showing the name, and aliases used by the Employee, home address, age, birth date, sex, weight, color of hair and eyes, phone numbers, Social Security Number, date of employment and termination, and duties of each Employee and such other information as may be required. The above information for Employee shall be maintained in the register on the premises for a period of one (1) year following termination.

B) The Operator shall make the register of Employees available immediately upon demand of any law enforcement officer at all reasonable times.

C) Every act or omission by any Employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the Operator, if such act or omission occurs either with the authorization, knowledge or approval of the Operator, or as a result of the Operator's negligent failure to supervise the Employee's conduct, and the Operator shall be punished in the same manner as if the Operator committed the act or caused the omission.

D) An Operator shall be responsible for the conduct of all Employees while on the licensed premises and any act or omission of any Employee constituting a violation of the provisions of this provision 16-4-11 shall be deemed the act or omission of the Operator for purposes of determining whether the Operator's Special Use Permit shall be revoked, suspended or renewed.

E) There shall be posted and conspicuously displayed in the common areas of each Adult Entertainment Studio a list of any and all Entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each Entertainment listed.

F) The Operator shall make the list available immediately upon demand of any law enforcement officer at all reasonable times.

G) The owner or Operator shall ensure that the premises comply, at all times, with the standards of this Ordinance.

16-4-11.14 Permit Revocation

A) Any permit issued pursuant to the provisions of this Ordinance may be revoked on the basis of any of the following:

1) That the business or use has been conducted in a manner which violates one or more of the requirements of this Ordinance, or if the Operator or Entertainer or any Employee of the Operator violates any provision of this Ordinance provided, however, that in the case of a first offense by an Operator where the conduct was solely that of an Employee, the penalty shall not exceed a suspension of thirty (30) days if the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

2) Any cost or fee required to be paid is not paid.

3) An Operator employs an Entertainer who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs as an Entertainer without a permit.

4) Any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the Adult Business or Adult Use

5) That the permittee has failed to obtain or maintain all required City, County, and State licenses and permits.

6) That the permit is being used to conduct a use different from that for which it was issued.

7) That the building or structure in which the Adult Business is conducted is hazardous to the health or safety of the Employees or Patrons of the business or of the general public under the standards set forth in the Code of the City of Leawood

8) That the permittee has failed to obtain a business license.

9) That the permittee, if an individual, or any of the officers or general partners, if a corporation or partnership is found guilty or pleaded *nolo contendere* to a misdemeanor or felony classified by the state as a sex or sex-related offense pursuant to the Kansas Statutes Annotated during the period of the adult establishment operation.

10) That the use for which the approval was granted has ceased to exist or has been suspended for six (6) months or more.

11) False or misleading information or data was given on any application or material facts were omitted from any application.

B) An attempt to transfer of a Special Use Permit shall automatically and immediately revoke the Special Use Permit.

C) Except in the case of subsection B hereof, before revoking or suspending any license or permit the City shall provide the Operator or Entertainer at least ten (10) days written notice of the charges, violations or deficiencies and the opportunity for a public hearing before the Governing Body at which time the Operator or Entertainer may present evidence bearing upon the question. The Governing Body shall notice and conduct a public hearing on the proposed permit revocation. Written notice shall be provided within at least ten (10) days prior to the hearing to all parties who have expressed their interest in writing. The Governing Body shall not be bound by the formal rules of evidence at the hearing. The Governing Body s shall render its decision within thirty (30) days of the public hearing.

D) Any Operator or Entertainer whose Special Use Permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a Special Use Permit has been issued shall be used as an Adult Business or Adult Use for two (2) years from the date of revocation of the Special Use Permit.

16-4-11.15 Violations

Any person who violates any provision regarding adult uses shall be subject to the penalty provisions of this Ordinance.

16-4-11.16 Applicability to Other Regulations

The provisions of this Chapter are not intended to provide exclusive regulation of the regulated Adult Uses. Such uses shall comply with any and all applicable regulations imposed in other articles of this Ordinance, other City ordinances and state and federal law.

16-4-11.17 Conduct Constituting a Public Nuisance

The conduct of any business within the City in violation of any of the terms of this Article is hereby found and declared to be a public nuisance, and the City Attorney may, in addition or in lieu of prosecuting a criminal action hereunder, commence an action or proceeding for the abatement, removal and injunction thereof, in the manner provided by law; and shall take other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate or remove such Adult Use establishment and restrain and enjoin any person from conducting, operating or maintaining an Adult Use establishment contrary to the provisions of this Ordinance.

16-4-12 WIRELESS COMMUNICATION TOWERS AND ANTENNAE

16-4-12.1 Statement of Intent.

The City of Leawood has many diverse and unique landscapes that perpetuate the identity of its residential neighborhoods, protection of these valuable resources is paramount. Accordingly, the Governing Body finds that the unregulated placement and design of wireless communication facilities, towers and antennae results in visual clutter that adversely affects community aesthetics and damages the character that Leawood is built around. This ordinance is intended to provide minimum standards that ensure that the wireless communication needs of residents and businesses are met, while at the same time protecting the general safety and welfare of the community.

16-4-12.2 Purpose.

A wireless communication facility, tower or antenna may be sited, constructed, designed or maintained in the City of Leawood provided that it is in conformance with the stated standards, procedures, and other requirements of this Ordinance.

More specifically, these regulations are necessary to:

A) Provide for suitable location of wireless communication facilities, towers and antennae so as to mitigate their effect on residential neighborhoods and land uses;

B) Maintain community aesthetics by minimizing the visual effects of wireless communication facilities, towers and antennae through specific design and siting criteria;

C) Maximize the use of existing towers and alternative tower structures so as to minimize the need for new tower locations;

D) Encourage co-location among wireless service providers on existing and newly constructed sites

in order to reduce the overall number of towers needed;

E) Promote the use of innovative camouflage and disguise techniques for wireless communication facilities, towers, and antennae so as to integrate their appearance with the many architectural and natural themes found throughout the City of Leawood.

16-4-12.3 Special Use Permit Required

A) Special Use Permit Requirement. Unless otherwise provided herein, wireless communication facilities, towers, and antennae located outside any building, shall be allowed only upon approval of a special use permit granted by the Governing Body. A wireless communication facility may be approved by a single special use permit which shall apply to all the components that comprise the wireless communication facility; provided, that all the individual components that comprise the wireless communication facility shall be owned by a single ownership. If the individual components of a wireless communications facility are owned by separate ownerships, then each component shall be approved through separate special use permits. Special use permits for towers and antennae shall be approved by separate special use permits in cases where such towers and/or antennae are not part of an application for a special use permit for a wireless communication facility. A special use permit for an individual tower shall apply to the tower and any associated landscaping and screening structures or materials. A special use permit for an individual antenna shall apply to the antenna and any associated antenna support structure and ground equipment.

A special use permit for any wireless communication facility, tower, and/or antenna shall allow the specified use by the applicant only and shall not run with the land and is not transferable unless otherwise approved by the Governing Body by stipulation in the special use permit approval. Provided, that a special use permit for a wireless communication facility shall only be transferable as approved by the Governing Body by stipulation in the special use permit approval if the wireless communication facility is transferred in its entirety from one single ownership to another single ownership. Provided further, transfer of any individual component of a wireless communication facility that was approved originally by a single special use permit shall be completed only by approval of a new special use permit for such component. Should the Governing Body approve a transfer of ownership of a wireless communication facility, tower and/or antenna by stipulation in the special use permit approval, prior to completing such transfer , written notice of the change in ownership shall be delivered to the Planning Department no less than 30 days prior to the effective date of the transfer of ownership. In addition, prior to the transfer of a special use permit, a bond issued on behalf of the new ownership and a new site plan, both as described in Section 16-4-12.3 of this Ordinance, shall be submitted to the Planning Department for the wireless communication facility, tower and/or antenna being transferred.

A special use permit for wireless communication facilities, towers, and antennae located outside any building shall only be approved after notification of adjacent and abutting property owners within 1000 feet of said property parcel. Written notification shall be conducted by certified return receipt mail to those parcels within 200 feet of said property and via regular mail as a courtesy to parcels beyond the 200-foot mark. “Said property parcel” shall be defined as the perimeter of any parcel recognized by the Johnson County Appraiser’s Office and recorded with a real estate identification number established for the parcel by Johnson County. As determined and evaluated

by the Plan Commission and Governing Body, wireless communication facilities, towers and antennae may occupy a smaller leased area on the property parcel, provided that adequate space is afforded for all facilities, landscaping, berming, and screening, and provided that proper notice is provided from the perimeter of the property parcel and not the smaller leased area.

All wireless communication facilities and public service antennae located on City properties for City use, Distributed Antenna Systems (DAS), and WIFI systems are exempt from the special use permit requirement, but shall follow requirements as listed in this ordinance, except as exempted in Subsection (N) below. All wireless communication facilities, towers, and antennae shall be exempt from the preliminary and final development plan requirements contained in Section 16-4-3.3 of this Ordinance.

The following factors shall be considered prior to issuance of the special use permit:

1) Suitable location in accordance with the zoning districts and comprehensive plan;

2) Design, landscape, and screening of the wireless communication facility, tower, or antenna;

3) Maximum tower height required by the wireless service provider(s), with consideration for co-location possibilities;

4) Co-location among wireless service providers on the proposed tower;

5) Minimum separation distance of the proposed tower from other towers within the City of Leawood;

6) Minimum setbacks of the proposed tower and related facilities from the property line; and

7) Minimum buffer distance between the proposed tower and related facilities from surrounding existing and planned residential areas.

B) Bond. With the exception of wireless communication facilities and public service antennae located on City properties for City use, Distributed Antenna Systems (DAS), and WIFI systems, prior to the issuance of the special use permit for the operation of a wireless communication facility, tower or antenna, the applicant will provide a performance or cash bond in an amount equal to twenty (20%) percent of total construction costs for the facility, tower or antenna. This bond will be secured for discretionary use by the City of Leawood for maintenance and / or removal of the facility, tower or antenna should it become necessary to do so. The bond will be secured for the term of the special use permit plus one year.

C) Pre-existing Wireless Communication Facilities, Towers and Antennae. Pre-existing wireless communication facilities, towers and antennae operating with a valid special use permit, shall be considered legal non-conforming structures and shall not be required to meet the mandates of this Ordinance until the expiration of their applicable special use permit.

Upon application, such pre-existing wireless communication facilities, towers and antennae may receive an extension of expiration of their permit, not to exceed 2 years, with the option of an additional extension not to exceed one year, as recommended by the Planning Commission and approved by the Governing Body, in order to bring the facilities into compliance or remove the facilities. Any approval of such extension shall be subject to the terms and conditions contained in the Special Use Permit authorizing the approval.

(Ord. 2520, 11-21-11)
(Ord. 2654, 03-17-14)

D) Routine maintenance shall be permitted on a non-conforming structure. Any replacement of a pre-existing antenna on a non-conforming structure shall be permitted. Any placement of an additional antenna on a non-conforming structure shall be considered an expansion of the Non-conforming structure, subject to the conditions of the special use permit. Any such replacement antenna or additional antenna placed on a non-conforming structure shall require an appropriate application, and shall meet any and all current applicable design and technical standards and requirements for new antennae. The cumulative effect of any additional antennae and related facilities placed upon a non-conforming structure must comply with the radio frequency radiation emission guidelines established by the FCC.

E) Zoning Location Requirements.

1) Allowable Areas. Wireless communication facilities, towers, and antennae shall be allowed, subject to approval of a special use permit, or approval as required by this ordinance, within the following planned or existing areas and districts;

a. SD-O, Planned Office;

b. SD-NCR, Planned Neighborhood Retail;

c. SD-CR, Planned General Retail;

d. BP, Planned Business Park;

e. REC, Planned Recreation; and

f. AG, Agricultural (when shown as planned for commercial, industrial, or recreational / open space uses).

2) Residential Areas. Newly proposed wireless communication facilities, antennae and towers shall not be permitted within any comprehensive (master) planned or existing residential area to include RP-A5, R-1, RP-1, RP-2, RP-3, RP-4 and MXD zoning districts. Exceptions to this may be provided for the following, upon approval of a special use permit, or approval as required by this ordinance:

a. Church sites, when camouflaged as steeples, bell towers, etc.;

b. Park sites, when camouflaged to be compatible with the natural elements of the park; and

c. Pre-existing nonresidential alternative tower structures when designed to be architecturally integral and compatible with said structure.

d. Distributed Antennae Systems (DAS).

e. WIFI systems.

f. No exception shall be made that will inhibit or infringe upon any historic or scenic views as designated by the Governing Body or any state or federal law or agency.

3) Tower Inventory. In order to construct a new tower within any permitted area, the applicant must provide an inventory of all existing and proposed tower and antennae

locations within a three-mile radius of the proposed site. The applicant must also demonstrate, using technological and written evidence, that these sites are inadequate to fulfill the grid needs of the wireless service provider, or that a "reasonable" co-location lease agreement could not be reached with the owners of said alternative sites. Finally, the applicant must provide evidence that the proposed site is necessary for the provision of wireless service. The applicant shall be responsible for updating the inventory to include all subsequently proposed, approved and/or constructed tower or antenna locations that occur within the three-mile study area during the special use permit process.

4) Grid Information. With the exception of WIFI, and unless otherwise provided herein, at the time of site selection, the applicant shall demonstrate how the proposed wireless communication facility, tower or antenna will impact the overall network of the wireless service provider within the City of Leawood and adjacent cities on both sides of the state line, and shall provide evidence that the proposed site is necessary for the provision of wireless service. The applicant shall be required to update this information as necessary during the approval process.

F) Tower Height.

Evidence shall be supplied at the time of site selection that the proposed tower height is necessary to meet coverage needs. Approved tower height will be based upon need demonstrated by the applicant, as well as potential co-location by other wireless service providers. Any proposed tower, within any allowed area, shall not exceed 150 feet in height (excluding lightning arrestor rods not to exceed 5 feet in height).

G) Tower Setback and Buffer Requirements.

1) Setbacks. Towers and related facilities shall meet the applicable building setback limits of the zoning district in which the tower and facilities are to be sited.

2) Distance From Residential Areas. Any proposed tower and related facilities shall be sited at a distance of at least 500 feet, in all directions, from the base of the tower to the property line of any existing or comprehensive (master) planned residential area. Note: This 500-foot buffer requirement applies only to towers as defined herein and not to other wireless communication facilities or alternative tower structures.

3) Existing lawful nonconforming towers may be replaced without the above setbacks and buffers if:

a. The height of the tower is not increased;

b. The antenna on the tower will use concealment elements including:

i. Mounting: In order to minimize visual impact to the greatest extent practicable, antennas are attached directly to the face of the tower or are mounted symmetrically and extend no more than 7 feet from the face of the tower and in no event extend above the height of the tower; and

ii. Color: Antennas are painted to match the color scheme of the tower;

c. Cabling to the antennas is concealed within the tower;

d. All required landscaping is provided.

H) Design Requirements.

1) Tower Design.

a. Design. All towers will be constructed of a monopole design. Guy and lattice-type towers will not be allowed. Towers that are less than 75 feet in height must be designed so that their antennae are internally placed, thus creating a smooth, non-projecting appearance. Towers that are 75 feet or greater in height must be designed and engineered to accommodate at least two wireless service providers' antennae. Antenna bridges and platforms are not allowed.

b. Color and Finish. Exterior finish of the monopole will provide for a non-segmented, tapered appearance. Towers and related facilities shall be designed, camouflaged, and colored so that their appearance blends with the surrounding natural and built environment.

2) Antenna Design.

a. Design on Towers. All antennae installed on towers shall be internal or shall be panel antennae of "slim-line" design and shall be mounted parallel with the tower. Antenna bridges and platforms are not allowed. Public service omni-directional antennae operated by the City of Leawood are exempt from this requirement.

b. Design on Alternative Tower Structures. All antennae and related facilities installed on an alternative tower structure shall be of materials that are consistent with the surrounding elements so as to blend architecturally with said structure and to camouflage their appearance. Antennae on the rooftop or above a structure shall be screened, constructed and/or colored to match the structure to which they are attached. Antennae exceeding 12 inches in diameter on a roof or building-mounted facility shall not exceed the height of the structure to which they are attached, unless fully enclosed.

c. Color and Finish. Antennae and related facilities shall be of materials and color that are consistent with the tower or alternative tower structure and surrounding elements so as to blend architecturally with said tower or structure. The antennae and related facilities shall be of a neutral color that is identical to, or closely compatible with, the color of the tower or alternative tower structure so as to make the antennae and related facilities as visually unobtrusive as possible. Antennae mounted on the side of 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.

3) Site Plan and Photo Simulations Required. Any application for construction of a new wireless communication facility, tower or antenna must provide a detailed site plan of the proposed project. This properly scaled site plan will include one page (including ground contours) that portrays the layout of the site, as well as proposed and existing structures within 150 feet of the tower base. Access to and from the site, as well as dimensioned proposed and existing drives, must be included on this plan. Detailed exterior elevations (from all views) of the tower, screening wall, and all proposed buildings must also be

submitted. Finally, a landscape plan detailing location, size, number and species of plant materials must be included for review by Planning and Development.

4) Operational Standards. Wireless communication facilities, towers, and antennae shall meet or exceed all minimum structural and operational standards as established by the FCC, FAA, EPA and other applicable federal regulatory agencies. If such standards and regulations are changed, then all wireless communication facilities, towers and antennae shall be brought into compliance with the revised standards and regulations within six (6) months of the effective date of the standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring wireless communication facilities, towers and antennae into compliance with any revised standards and regulations shall constitute grounds for the removal of the facility, tower or antenna at the owner or provider's expense.

5) Radiation Certification. The applicant shall provide an engineer's certification that anticipated levels of electromagnetic radiation to be generated by facilities on the site, including the effective radiated power (ERP) of the antenna, shall be within the guidelines established by the FCC. The cumulative effect of all antennae and related facilities on a site will also comply with the radio frequency radiation emission guidelines established by the FCC. An antenna radiation pattern shall be included for each antenna, along with directional data concerning the pointing of any directive antenna.

6) Electromagnetic Interference Problems. It is the responsibility of the wireless service provider to promptly resolve any electromagnetic interference problems in accordance with any applicable law or FCC regulation.

7) Protective Devices. All wireless communication facilities, towers or antennae shall be equipped with any appropriate anti-climbing device or other similar protective device to prevent unauthorized access.

8) Parking Areas. All parking areas and drives associated with any wireless communication facility, tower or antenna shall comply with applicable provisions for such facilities in each zoning district, except that the City, in the special use permit process, may waive the requirements for curbing and guttering when they are not needed for drainage purposes.

I) Screening, Landscaping, Tree Trimming and Lighting Requirements.

1) Screening Wall. All wireless communication facilities will be screened with a full perimeter wall when deemed necessary in the special use permit process. This wall is to be constructed of concrete block and surfaced with a material (stucco, brick, etc.) designed to match the architecture of surrounding structures. The minimum height of the wall will be 6 feet from ground level.

2) Landscape Materials. Landscaping in the form of pines and other flowering and deciduous trees is required on the outside perimeter of the screening wall. The standard buffer shall consist of a landscaped strip at least 6 feet wide outside the perimeter of the screening wall. Pines are to be a minimum of 6 feet in height, while other trees are to have a minimum 3 inch caliper. The owner or provider shall be responsible for maintenance of all related landscape and screening materials. Existing mature tree growth and natural forms on the site shall be preserved to the maximum extent possible.

3) Lighting. Towers shall not be artificially lighted, unless required by the FAA or applicable authority. If lighting is required, the types and conditions of the lighting shall be addressed in the special use permit.

J) Separation Distances

No newly proposed tower shall be allowed to locate within 1000 feet of an existing tower unless technologically required or visually preferable. This distance shall be measured from the base of the existing tower to the base site location of the proposed tower.

K) Co-location

1) Multiple User Towers. All approved towers 75 feet or greater in height must be designed to accommodate at least two wireless service providers' antennae. Prior to issuance of a building permit, the applicant and owner must provide either of the following: (1) signed, executed lease agreements with other wireless service providers who desire to co-locate on the proposed tower, or (2) a signed statement of intent that guarantees nondiscriminatory pricing for access to the tower by any competing provider, and that the price for access will be based on the current market rate for co-location. This market rate will be established by an independent research consultant hired at the expense of the applicant. Failure to provide co-location opportunities to (or negotiate in good faith with) alternative providers may constitute a finding of violation of this Ordinance, and thus be grounds for revocation of the special use permit, and shall be cause for the withholding of future permits to same owner or provider to install, build, or modify wireless communication facilities, towers or antennae within the City of Leawood.

2) Existing Site Improvement. Alterations or improvements to existing wireless communication sites shall be allowed when these alterations or improvements are implemented to:

a. Accommodate additional wireless service providers, provided that the alterations or improvements meet all applicable requirements of this Ordinance. Unless otherwise provided for by the current special use permit, application for such an alteration or improvement to an existing site will require approval through a new special use permit;

b. Alter an existing facility, tower or antenna in a manner that makes the facility, tower or antennae less obtrusive, such as lessening the tower height, converting the structure to an alternative tower structure, or modifying the antennae to a "slim line" or internal design. Unless otherwise provided for by the current special use permit, application for such an alteration or improvement to an existing site will require approval through a new special use permit

c. Any such alteration or improvement shall meet any and all current applicable design and technical standards and requirements. The cumulative effect of any additional antenna and related facilities must comply with the radio frequency radiation emission guidelines established by the FCC.

3) Additional Antennae. When provided for in the approved capacity limit of a multi-user tower's current special use permit, additional antennae or replacement of current

antennae may be added after a new site plan, as described in Section 16-4-12.3 of this Ordinance, is submitted to the Planning Department for review. Additional antennae that exceed the originally approved capacity limit shall be considered a revised application, and shall require a special use permit to locate. Any additional antennae or replacement of current antennae shall meet any and all current applicable design and technical standards and requirements. The cumulative effect of any additional antennae and related facilities must comply with the radio frequency radiation emission guidelines established by the FCC.

L) Abandoned or Unsafe Wireless Communication Facilities, Towers and Antennae.

Any wireless communication facility, tower or antenna which is occupied by inactive antennae for a period of twelve (12) months shall be considered abandoned and a nuisance, and will be removed at the owner or provider's expense within ninety (90) days. Any wireless communication facility, tower or antenna which is not maintained to a suitable degree of safety and appearance (as determined by the Director of Community Development or Chief Building Inspector) will also be considered a nuisance and will be upgraded or removed at the owner's or provider's expense. The construction bond, secured at the time of building permit, may be used to remedy any nuisance.

In the future should the levels of radio frequency radiation emitted by a wireless communication facility, tower or antenna be determined to be a threat to human health or safety, the condition shall be cured or removed within ninety (90) days at the owner's or provider's expense. This finding must be either mandated by any applicable law, by federal legislative action, or based upon regulatory guidelines established by the FCC.

M) Building Codes and Inspection.

1) Construction and Maintenance Standards. To insure the structural integrity of any wireless communication facility, tower or antenna, the owner of the facility, tower or antenna shall ensure that it is constructed and maintained in compliance with standards contained in applicable local building codes and the applicable standards for wireless communication facilities, towers, and antennae that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a wireless communication facility, tower or antenna fails to comply with such codes and standards and constitutes a danger to persons or property, then upon proper notice, the owner and provider shall have thirty (30) days to bring such facility, tower or antenna into compliance with such standards. If the owner or provider fails to bring such facility, tower or antenna into compliance within the thirty (30) days, the City may order the removal or cause the removal of such facility, tower or antenna at the owner's or provider's expense. Failure of the City to inspect the facility, tower or antenna shall not relieve the owner or provider of their responsibility to comply with any provision under this Ordinance.

2) Inspection Requirement. At least every twenty-four (24) months, the wireless communication facility, tower, or antenna shall be inspected by an expert who is regularly involved in the maintenance, inspection and/or erection of wireless communication facilities, towers, or antennae. At a minimum, this inspection shall be conducted in accordance with the inspection check list provided in the Electronic Industries Association

(EIA) Standard 222, 'Structural Standards for Steel Antenna Towers and Antenna Support Structures.' A copy of such inspection record shall be provided to the City. Said inspection shall be conducted at the owner's or provider's expense.

3) Cables, Wire, and Other Such Facilities. In all areas of the City where the cables, wire, and other such facilities of public utilities are underground, or are required by the City to be placed underground, the owner or provider shall also place its cables, wires, or other such facilities underground. Further, the owner or provider shall abide by all applicable right-of-way or utility easement ordinance or standard and all other local laws and regulations.

4) Disturbance of Right-of-Way. In the case of any disturbance to right-of-way or other public property caused by an owner or provider during the course of constructing or maintaining its wireless communication facility, tower, or antenna, the owner or provider shall, at its own expense, replace and restore all paving, sidewalk, driveway, landscaping, or surface any street or public property disturbed in as good or better condition as before the disturbance in accordance with applicable federal, state, and local laws, rules, regulations, administrative decisions or applicable right-of-way or utility easement ordinance or standard. The duty to restore the right-of-way or other public property shall include the repair of any area identified by the Director of Public Works as being weakened or damaged as a result of a cut or to other invasion of the pavement of a street or other public property.

N) Exclusions.

The following shall be exempt from this Ordinance:

1) Any tower and antenna less than 70 feet in total height that is owned and operated by an amateur radio operator licensed by the FCC;

2) Any device designed for over the air reception of television broadcast signals, multi-channel, multi-point distribution service or direct broadcast satellite service.

3) Any tower and/or antenna or equipment operated on City property for public safety purposes.

O) Penalties.

This ordinance shall be in full force and effect upon its enactment and approval, and any person found to be in violation of any of the provisions of this ordinance shall be subject to a fine of up to $500 for of violation. Each day shall constitute a separate violation.

(Ord. 2412, 9-29-09)
(Ord. 2762, 11-24-15)

16-4-12.3A Modifications and Co-locations

(A) DEFINITIONS. For purposes of this Section 16-4-12.3A, the terms used have the following meanings:

(1) Base Station shall mean a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a

communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower. Base Station includes, without limitation:

(a) Equipment associated with wireless communications services such as private and broadcast services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(b) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration [including Distributed Antenna Systems and small-cell networks].

(c) Any structure other than a tower that, at the time the relevant application is filed with the City under this section, supports or houses equipment described above, that has been reviewed and approved under the applicable zoning process.

The term Base Station does not include any structure that, at the time the relevant application is filed with the City under this section, does not support or house equipment described above.

(2) Collocation shall mean the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

(3) Eligible Facilities Request shall mean any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

(a) Collocation of new transmission equipment;

(b) Removal of transmission equipment; or

(c) Replacement of transmission equipment.

(4) Eligible support structure shall mean any tower or base station provided that it is existing with appropriate permits and zoning at the time the relevant application is filed with the City under this section.

(5) Existing. A constructed tower or base station is existing for purposes of this section if it has been reviewed and approved under the applicable zoning or siting process.

(6) Site shall mean, for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and for other eligible support structures, shall be further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

(7) Substantial Change shall mean a modification changing the physical dimensions of an eligible support structure in such a way to meet any of the following criteria:

(a) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;

(b) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

(c) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

(d) It entails any excavation or deployment outside the current site;

(e) It would defeat the concealment elements of the eligible support structure; or

(f) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs (a)-(d) of this section (7).

(8) Tower shall mean any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

(9) Transmission Equipment means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(B) APPLICATION AND REVIEW

(1) The Community Development Department shall prepare and make available an Eligible Facilities Permit application form limited to the information necessary for the City to consider whether the application is an Eligible Facilities Request. The application shall require the applicant to schedule a meeting with the planning staff to submit the application and shall require the following:

(a) Sealed building plans [wet sealed or embossed];

(b) Sealed certifications [wet sealed or embossed];

(c) Bond. With the exception of wireless communication facilities and public service antennae located on City properties for City use, Distributed Antenna Systems (DAS), and WIFI systems, prior to the issuance of the special use permit for the operation of a wireless communication facility, tower or antenna, the applicant will provide a performance or cash bond in an amount equal to twenty (20%) percent of total construction costs for the facility, tower or antenna. This bond will be secured for discretionary use by the City of Leawood for maintenance and / or removal of the facility, tower or antenna should it become necessary to do so. The bond will be secured for the term of the special use permit plus one year.

(d) Site Plan and Photo Simulations. The applicant must provide a detailed site plan of the proposed project. This properly scaled site plan will include one page (including ground contours) that portrays the layout of the site, as well as proposed and existing structures within 150 feet of the tower base. Access to and from the site, as well as dimensioned proposed and existing drives, must be included on this plan. Detailed exterior elevations (from all views) of the tower, screening wall, and all proposed buildings must also be submitted. Finally, a landscape plan detailing location, size, number and species of plant materials must be included for review by Planning and Development;

(e) Operational Standards. Wireless communication facilities shall meet or exceed all minimum structural and operational standards as established by the FCC, FAA, EPA and other applicable federal regulatory agencies. If such standards and regulations are changed, then all wireless communication facilities, towers and antennae shall be brought into compliance with the revised standards and regulations within six (6) months of the effective date of the standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring wireless communication facilities, towers and antennae into compliance with any revised standards and regulations shall constitute grounds for the removal of the facility, tower or antenna at the owner or provider's expense.

(f) Radiation Certification. The applicant shall provide an engineer's certification that anticipated levels of electromagnetic radiation to be generated by facilities on the site, including the effective radiated power (ERP) of the antenna, shall be within the guidelines established by the FCC. The cumulative effect of all antennae and related facilities on a site will also comply with the radio frequency radiation emission guidelines

established by the FCC. An antenna radiation pattern shall be included for each antenna, along with directional data concerning the pointing of any directive antenna.

(g) Color and Finish. Antennae and related facilities shall be of materials and color that are consistent with the tower or alternative tower structure and surrounding elements so as to blend architecturally with said tower or structure. The antennae and related facilities shall be of a neutral color that is identical to, or closely compatible with, the color of the tower or alternative tower structure so as to make the antennae and related facilities as visually unobtrusive as possible. Antennae mounted on the side of 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.

(h) Parking Areas. All parking areas and drives associated with the application shall comply with applicable provisions for such facilities in each zoning district, except that the City, in the permit process, may waive the requirements for curbing and guttering when they are not needed for drainage purposes.

(2) Upon receipt of an application for an Eligible Facilities Permit, planning staff shall review such application to determine whether it qualifies.

(3) If the application qualifies, then the planning staff shall place the item on the next available Governing Body agenda.

(4) If, at any time within 30 days of the filing of the application, the City determines that the application is not an Eligible Facilities Request or is otherwise incomplete, then the planning staff shall immediately inform the applicant in writing and shall advise the applicant of all missing documents or information and the applicable section of the LDO or Application Instructions. If additional information or documents are provided, the planning staff shall advise the applicant within 10 days of receipt of the information if the application remains incomplete.

(5) In the event the City fails to approve or deny an Eligible Facilities Request within the timeframe for review [including tolling of time if applicable], then the request shall be deemed granted.

16-4-12.4 Distributed Antennae System (DAS)

This section applies to the antenna and pole mounted equipment portions of a DAS. All ground mounted utility boxes associated with DAS shall be regulated per Section 16-1-4, of this ordinance.

A) DAS Administrative Approval. All DAS systems that meet the following requirements may be installed with the prior approval of the Director of Public Works as being in compliance with this Ordinance. DAS that do not meet the standards below shall require approval of a Special Use Permit as required within Section 16-4-12 of this ordinance.

1) **Distributed Antennae Systems (DAS) on City Owned Light Poles**. Distributed Antennae Systems may be located on non-decorative, City Owned Street Light Poles if approved by

separate agreement with the City of Leawood. At a minimum the systems must meet the standards listed below. City owned light poles shall not be considered tower or alternative tower structures for the purposes of this ordinance.

a) All antennae shall be completely enclosed to screen the antennae from view. Such enclosure shall be a maximum of 16 in. in width by 54 in. in height. The enclosure shall be mounted a maximum of 12 in. above the current height of the pole. The height that the enclosure is mounted above the pole shall not be included in the height of the enclosure.

b) A maximum of one enclsoure for the antennae shall be permitted per pole.

c) A maximum of two additional pieces of equipment shall be permitted to be mounted to the pole with the total area of such equipment not to exceed a total of 3.5 cu.ft., and shall not project from the pole more than 16 in.

d) A maximum of 2 ft. of wiring in total for each installation shall be permitted to be exposed. All other wiring shall be fully enclosed, or screened.

e) All equipment mounted on the light pole shall be mounted a minimum of 8 ft. from grade to the bottom of the equipment.

f) All exterior equipment, including exposed wiring, shall be of materials and color that are consistent with the light pole so as to blend architecturally with the pole.

g) All wiring not within or on the pole shall be placed underground per Section 16-1-4 of this ordinance.

2) Distributed Antennae Systems (DAS) on Utility Poles.

a) All antennae shall be completely enclosed to screen the antennae from view. The enclosure containing the antennae shall be a maximum of 16 in. in width by 30 in. in height. The enclosure of the antennae shall be mounted a maximum of 12 in. above the height of the pole.

b) A maximum of one enclosure for the antennae shall be permitted per pole.

c) No equipment other than the antennae, screening, or cables shall be attached to the pole.

d) Utility poles to replace existing utility poles so as to host DAS shall not be greater than 5 ft. taller than the original utility pole that is replaced.

e) All exterior equipment shall be of materials and color that are consistent with the pole so as to blend architecturally with said pole.

f) All wiring not mounted to the pole shall be placed underground per Section 16-1-4 of this ordinance.

B) **Zoning Location Requirements.**

1) Allowable Areas. DAS systems shall be allowed, subject to approval of a DAS Permit as required by this ordinance, within all zoning districts.

(Ord. 2695, 10-28-14)
(Ord. 2741, 07-21-15)

16-4-12.5 WIFI Antennae Systems

WIFI antennae systems outside of a building shall only be installed as follows. All WiFi systems located on City properties for City use are exempt, but shall follow requirements as listed in this ordinance. However, any exterior ground mounted utilities associated with WIFI shall be regulated per Section 16-1-4 of this ordinance.

A) Approval.

2) All WIFI antennae systems, not otherwise approved on a Development Plan, that meet all of the following requirements, may be installed only with the prior approval of the Director of Community Development as being in compliance with this Ordinance.

a. The WIFI antennae are mounted directly to the façade of a building and are a maximum, 1 cu.ft., 1.5 sq.ft. and do not project further than 1 ft. from the façade of the building.

b. The exterior color of the antennae matches, or is complementary to the color of the façade on which it is mounted.

c. All wiring is concealed from view.

3) All WIFI antennae systems that do not meet the specifications listed above shall only be installed with prior recommendation of the Planning Commission and approval by the Governing Body as being in compliance with this Ordinance based on review of a Final Development Plan. The City may impose conditions on approval, including but not limited to, color and screening of equipment where the circumstances are sufficient to warrant the conditions. Any exterior modifications, other than maintenance that does not change the exterior appearance of the antennae, other than reductions in the dimensions of the equipment (including but not limited to increases in size, color, and location), of the WIFI shall require approval of a revised Final Development Plan approved by the City of Leawood Governing Body after recommendation of the Planning Commission.

B) Zoning Location Requirements.

1) Allowable Areas. WIFI systems shall be allowed, subject to approval as required by this ordinance, within the following zoning districts.

a. SD-O, Planned Office;

b. SD-NCR, Planned Neighborhood Retail;

c. SD-CR, Planned General Retail;

d. MXD, Mixed Use Development District;

e. BP, Planned Business Park;

f. REC, Planned Recreation; and

g. AG, Agricultural (when shown as planned for non-residential, commercial, industrial, or recreational / open space uses).

(Ord. 2682, 09-09-14)

ARTICLE 5

APPLICATION AND PROCEDURES

16-5-1 APPLICABILITY 1

16-5-2 PROCEDURE FOR REVIEW OF ALL APPLICATIONS UNDER THIS ARTICLE 3

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16-5-1 APPLICABILITY

16-5-1.1 Types of Applications Covered

Except as provided herein, these procedures herein shall be used to:

A) Supplement, change or generally revise the text of zoning or subdivision regulations in this Ordinance ("text amendments");

B) Change the zoning district classification for property within the City, or approve an ordinance adopting a Preliminary Development Plan or approving changes to a Preliminary Development Plan as provided in Article 3 ("rezoning");

C) Approve special use permits; and

D) For such other approvals as may be designated by the Governing Body.

16-5-1.2 Pre-application Meeting/Citizen Participation Program

A) **Pre-application Meeting with City**. Applicants seeking rezoning, preliminary or revised preliminary development plan approval, preliminary plat approval, or special use permit approval shall first request a pre-application meeting with City Planning staff and comply with the pre-application requirements in this section. Failure to meet any of these pre-application requirements will delay consideration by the Planning Commission.

B) **Discussion of Citizen Participation Program**. At the pre-application meeting, the applicant and the City shall discuss the citizen participation program, Interact (Informing Neighborhoods Through Early Response About Community Transformation). Under the Interact Program, the applicant, prior to the scheduling of a public hearing and in addition to the formal notice required in 16-5-3 for that public hearing, shall send courtesy notification via regular U.S. mail to the owners of record of property within 500 feet of the proposed development (the "Interact Participants") and submit proof of such notice to City Planning staff either upon the filing of an application or within ten (10) days thereafter. The

City shall also notify, if possible, the president(s) of adjacent and/or nearby homes association(s).

C) **CPP Notice**. The notice shall briefly detail the action the applicant seeks from the City and the general nature of applicant's project, including total number of acres and total number of square feet within the development. The notice shall further provide an opportunity for neighbors in the general proximity to the proposed development to meet and confer with the applicant and attempt to resolve issues that may impact them.

D) **Applicant Meeting with CPP Participants**. The applicant shall then hold an informal meeting with the CPP Participants to discuss the application and/or project prior to the public hearing.

E) **Written Summary of the CPP Meeting**. After such meeting, the applicant shall prepare a list of attendees, a written summary of the general content and comments generated at the CPP meeting outlining concerns or issues raised by all parties, with an indication of issues that remain unresolved, and shall file such summary with the City's Planning and Development Department, two weeks prior to the scheduled hearing.

F) **Summary Incorporated into Staff Report**. The CPP summary will provide a basis for City staff consideration and will become part of the written staff report to the Planning Commission and Governing Body.

16-5-1.3 Applications

Applications for amendment, revision or change of the zoning district classification and zoning district map, for Development Plan adoption or amendment, or for a special use permit may be made by any Owner of property or an agent. If such application is made by the Owner's agent, or developer acting as the Owner's agent, the agent shall enter upon the application the name and current mailing address of the Owner and all persons with a legal interest in the proposed approval sought by the application as well as any other information required by the City in the application. Applications shall be on forms supplied by the City accompanied by the requisite fee as described in Article 7. A text amendment may only be initiated by the Governing Body or the Planning Commission.

16-5-1.4 Matters to be Considered When Considering a Rezoning, Special Use or Development Plan

In considering any application for rezoning, preliminary development plan, revised development plan, or special use permit, the Planning Commission and Governing Body shall give consideration in its recommendation, to the following criteria that may be deemed applicable. Consideration may also be given to other factors, including but not limited to traffic and stormwater, that may be relevant to a specific rezoning, development plan or special use application.

A) The character of the neighborhood;

B) The zoning and uses of properties nearby;

C) The suitability of the subject property for the uses to which it has been restricted;

D) The extent to which removal of the restrictions will detrimentally affect nearby property;

E) The relative gain to the public health, safety, and welfare due to the denial of the application as compared to the hardship imposed, if any, as a result of denial of the application;

F) If vacant property, the length of time the subject property has remained vacant as zoned;

G) The recommendations of the permanent staff;

H) Conformance of the requested change to the Comprehensive Plan of the City of Leawood.

16-5-2 PROCEDURE FOR REVIEW OF ALL APPLICATIONS UNDER THIS ARTICLE

Unless otherwise provided by Kansas law or herein, the procedure for the consideration and adoption of an ordinance or approvals subject to this Article shall be as follows:

16-5-2.1 Planning Commission Review

A) The procedure for the consideration and adoption of an ordinance or approvals of rezoning, preliminary plan and/or preliminary plat shall be as follows:

1) **Public Hearing.** After due notice, as may be required by 16-5-3 hereof, the Planning Commission shall hold a public hearing as may be required by this Ordinance or Kansas Statutes, which may be adjourned from time to time. The Planning Commission shall cause an accurate written summary to be made of the proceedings.

2) **Recommendation.** 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 application to the Governing Body, unless the recommendation involves amendment to the subdivision regulations, which shall require an affirmative vote of the entire membership of the Commission. The recommendation together with the written summary of the hearing thereon shall be submitted to the Governing Body.

3) **Failure to Make Recommendation.** If the Planning Commission fails to make a recommendation on a properly completed and submitted application, the Planning Commission shall be deemed to have made a recommendation of disapproval.

B) The procedure for the consideration and adoption of a resolution or approvals of a final plan and/or final plat shall be as follows:

1) **Recommendation.** 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 application to the Governing Body, unless the recommendation involves a modification of any requirement or stipulation previously approved by the Governing Body, which shall require an affirmative vote of 2/3 of the membership of the Commission. The recommendation together with the written summary of the hearing thereon shall be submitted to the Governing Body.

2) **Failure to Make Recommendation.** If the Planning Commission fails to make a recommendation on a properly completed and submitted application, the Planning Commission shall be deemed to have made a recommendation of disapproval.

(Ord. 2108, 06-06-05)

16-5-2.2 Governing Body Review

Following the Planning's Commission's review and after any applicable 14 day protest period, the Planning Commission's recommendation and summary shall be submitted to the Governing Body for action. The Governing Body may continue consideration until a date certain, or may take the matter under advisement for final decision upon a date certain. Upon receipt of the Planning Commission's recommendation, the Governing Body may:

A) Adopt such recommendation by ordinance;

B) Approve the recommendation with conditions or override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or

C) Return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

16-5-2.3 Return to Planning Commission

If the Governing Body returns the recommendation to the Planning Commission, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation.

16-5-2.4 Governing Body Action After Return

Upon the receipt of a Planning Commission recommendation in accordance with 16-5-2.3 above, the Governing Body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by ordinance. 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 report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.

16-5-2.5 Effective When

Any proposed rezoning or text amendment shall become effective upon publication of the respective adopting ordinance.

16-5-2.6 Amendments Affecting Boundaries; Description of Boundaries, Official Map

If the amendment was a rezoning, then the approving ordinance shall describe the boundaries as amended. Or, if a provision is made for the fixing of the same upon an official map which has been incorporated by reference, the amending ordinance shall (1) define the change or the boundary as

amended, (2) order the official map to be changed to reflect such amendment, (3) amend the section of the ordinance or resolution incorporating the same and (4) reincorporate such map as amended.

16-5-3 NOTICE AND PUBLIC HEARING REQUIREMENTS

16-5-3.1 Notice of Public Hearing by Planning Commission

The following notice of Public Hearings shall be provided:

A) **Newspaper Publication**. Notice of public hearings for text amendments, amendments to the subdivision regulations, rezonings, special use permits, preliminary development plan approval, or development plan amendments, shall be published at least once in the official city newspaper city at least 20 days prior to the date of the hearing. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms and shall be published at the expense of the applicant.

B) **Mailed Notice -- Property Within the City Limits**. Additionally, applications proposing a rezoning, a preliminary development plan, amended development plan or special use, require written notice, return receipt requested, to be mailed by the applicant at least 20 days before the hearing, not including the day of the hearing, to all owners of record of real property within the area to be altered, rezoned, planned or specially used and to all owners of record of real property located within at least 200 feet of the area proposed to be altered. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms.

C) **Mailed Notice -- Property Adjacent to or Outside the City Limits**. If the application for rezoning, a preliminary development plan, amended development plan or special use proposes an amendment to property located adjacent to or outside the City's limits, the area of notification shall be extended to at least 1,000 feet in the unincorporated area.

All notices shall include a statement that a complete legal description is available for public inspection at the Planning and Development Department located at 4800 Town Center Drive, Leawood, Kansas.

16-5-3.2 Notice Deemed Received

When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or the Governing Body.

16-5-3.3 Republication of Lesser Change

Proper notice is sufficient to permit the Planning Commission to recommend amendments to zoning regulations, which affect only a portion of the land described in the notice, or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice. The City and its Planning Commission have established a table in Article 2 that designates

what zoning classifications are lesser changes authorized within the published zoning classifications.

16-5-3.4 Rezoning Request, Notice -- Ten or More Lots

A) **Five or more owners of ten or more lots**. Whenever five or more property owners of record owning 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification initiate a rezoning of their property from a less restrictive to a more restrictive zoning classification, such amendment shall require notice by publication in like manner as in subsection 16-5-3.1(A) and hearing, but such rezoning amendment shall not require written notice and shall not be subject to the protest petition provision of this Article.

B) **City rezoning of ten or more lots**. Whenever the City initiates a rezoning from a less restrictive to a more restrictive zoning classification of 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification having five or more owners of record, such amendment shall require notice by publication and hearing in like manner as that required by subsection 16-5-3.1 (A) of this section. In addition, written notice shall be required to be mailed to only owners of record of the properties to be rezoned and only such owners shall be eligible to initiate a protest petition under 16-5-4 of this Article.

16-5-3.5 Additional notice; Posting

A) **Sign Announcing Pending Action**. Each applicant for rezoning, preliminary development plan, revised development plan, or a special use permit shall, not later than 20 days prior to the date of the hearing scheduled before the Planning Commission, place a sign upon the lot, tract or parcel of land for which the application was filed. The sign shall be furnished by the City to the applicant; and the applicant shall firmly affix and attach the sign to a wood or metal backing or frame and place the sign as hereinafter set forth.

B) **Placement of Sign**. The bottom of the sign shall be a minimum of 2 feet above the ground. The sign shall be placed 5 feet behind the street right-of-way line, in a central position on such lot, tract or parcel of land and shall have no visual obstructions from the street. If the lot, tract or parcel of land has more than 1 abutting street 1 sign shall be displayed facing each street frontage.

C) **Maintenance of Sign - Affidavit**. The sign shall be maintained and kept in place by the applicant until the conclusion of the public hearing before the Planning Commission or until withdrawal of the application, at which time the sign may be removed by the applicant; but in any event, the sign shall be removed by the applicant after final action on the application. The applicant shall file an affidavit at the time of the public hearing before the Planning Commission that the sign was placed and maintained through the date of the hearing as required by this Ordinance. No application shall be heard by the Planning Commission or the Governing Body unless such affidavit has been filed.

D) **Defacing or Destroying Sign-Penalty**. It is a public offense and a violation of this Ordinance for any person to remove, deface or destroy any sign provided for by this Ordinance.

16-5-3.6 Public Participation

At any public hearing held by the Planning Commission to consider a proposed rezoning, an opportunity shall be granted to interested parties to be heard.

16-5-4 PROTEST PETITIONS

16-5-4.1 Generally

A protest petition is a petition against a specific rezoning that is filed in the office of the City Clerk within 14 days after the date of the conclusion of the public hearing for such proposed rezoning pursuant to the publication notice, and that has been signed by the owners of record of 20% or more of any real property proposed to be rezoned or by the owners of record of 20% or more of the total real property within the area required to be notified by this Article of the proposed rezoning of a specific property, excluding streets and public ways and property excluded pursuant to 16- 5-4.3.

16-5-4.2 Result of Protest Petition

Whether or not the Planning Commission recommendation approves or disapproves a rezoning, if a proper protest petition against such amendment is timely filed, the ordinance or resolution adopting such rezoning shall not be passed except by at least a ¾ vote of all of the members of the Governing Body.

16-5-4.3 Sufficiency

For the purpose of determining the sufficiency of a protest petition, if the proposed rezoning was requested by the owner of the specific property subject to the rezoning or the owner of the specific property subject to the rezoning does not oppose in writing such rezoning, such property also shall be excluded when calculating the "total real property within the area required to be notified" as that phrase is used in 16-5-4.1.

16-5-5 ADDITIONAL PROCEDURES

16-5-5.1 Proof of Ownership

Upon request the applicant shall furnish proof acceptable to the City that he is the Owner or has an option to purchase or is under binding contract to purchase the land described in the application and has permission of the owner of the property to pursue the application.

16-5-5.2 Approval or Denial of Public Facilities

Except as provided below, any plan for a public improvement, public facility or public utility shall be submitted to the Planning Commission. The Planning Commission shall consider whether the construction is in conformity with the City's Comprehensive Plan. If the Planning Commission fails to make a report within 60 days of submission, the project shall be deemed to have been approved by the Planning Commission. If the Planning Commission finds that any such proposed public improvement, facility or utility does not conform to the Comprehensive Plan, the Planning Commission shall submit, in writing to the Governing Body, the manner in which such proposed improvement, facility or utility does not conform. The Governing Body may override the plan and the report of the Planning Commission, and the plan for the area concerned shall be deemed to have been amended.

Whenever the Planning Commission has reviewed a capital improvement program and found that a specific public improvement, public facility or public utility of a type embraced within the recommendations of the Comprehensive Plan or portion thereof is in conformity with such plan, no further approval by the Planning Commission is necessary under this section.

16-5-5.3 Reapplication after Denial

In the case of denial of an application by the Planning Commission or Governing Body, the applicant must wait a period of 6 months before reapplying for approval of a new development plan or zoning change on the same property, unless approved by the Governing Body upon a showing of changed circumstances.

16-5-5.4 Continuance

Applicants may request the continuance of Planning Commission consideration of an application to a specific date. A maximum of three continuances are allowed. After that time, the Planning Commission shall remove the case from the agenda. Once removed the applicant may re-file a new application at any time.

ARTICLE 6

ADMINISTRATION AND ENFORCEMENT

16-6-1 ENFORCEMENT, VIOLATIONS AND PENALTIES 1

16-6-2 ISSUANCE OF BUILDING PERMITS 3

16-6-3 PENALTIES 3

16-6-4 BOARD OF ZONING APPEALS 4

16-6-5 PLANNING COMMISSION 7

16-6-1 ENFORCEMENT, VIOLATIONS AND PENALTIES

16-6-1.1 Generally

The provisions of this Ordinance shall be administered and enforced by the Director of Planning and Development or by the Designated Official as further defined in this Article.

16-6-1.2 Violations, Enforcement, Notice.

A) **Complaints Regarding Violations.** Whenever a violation of this Ordinance occurs or is alleged to have occurred, any person may file a complaint of such alleged violation with the Designated Official stating fully the facts or grounds upon which the complaint is based. The Designated Official shall promptly record and investigate such complaint and take appropriate action as provided by this Ordinance.

B) **Enforcement Procedure.** Whenever the Designated Official finds that any provisions of this Ordinance are being violated, the Designated Official shall promptly notify in writing the person(s) responsible for such violations, indicating in such notice the nature of the violation and the actions, if any, ordered to correct it. The Designated Official shall in all cases take such actions or issue such orders or directives as are authorized by this Ordinance to insure compliance with or to prevent violations of its provisions.

C) **Actions, Orders and Directives.** The Designated Official shall have the authority to establish priorities for the abatement of zoning violations and implement appropriate procedures or remedies as provided herein to abate violations. The Designated Official shall issue appropriate written orders or directives to any person deemed to be responsible for a violation of this Ordinance, as provided above under Section 16-6-1.2(B). A failure to promptly comply with such lawful orders or directives shall be deemed a violation of this Ordinance, punishable as provided in Section 16-6-3 of this Ordinance. Such orders or directives shall include, but shall not be limited to: orders to discontinue illegal use of land,

buildings, or structures; orders to remove illegal buildings, structures, additions, alterations or structural changes to buildings or structures; orders to discontinue illegal work or construction; or any other appropriate orders to prevent or correct violations of this Ordinance.

D) **Designated Official's Remedies.** The Designated Official shall have the following remedies, without limitations, available for abatement of zoning violations:

1) No Action. After careful consideration of the facts and circumstances, the Designated Official may authorize no action be taken on a complaint of an alleged zoning violation.

2) Informal Contact. The Designated Official shall have the authority to effectuate the abatement of zoning violations through informal meetings or conversations.

3) Agreement to Abate. The Designated Official may enter into an agreement with a violator whereby the violator agrees to abate the violation within a certain time frame based upon certain conditions within the agreement. This time frame shall not exceed a period of 6 months from date of execution of the abatement agreement.

4) Notice and Order. The Designated Official may issue a notice and order to the violator ordering the cessation of illegal condition within a specified period of time based upon the nature of the violation following receipt of notice as outlined in the Notification Procedures (See (E) below).

5) Municipal Court Action. The Designated Official may pursue action in Municipal Court.

6) Revocation of Certificate of Occupancy. The Designated Official may request that the certificate of occupancy for the subject building be revoked.

7) Other Action. The Designated Official may take any other action permitted by law.

E) **Notification Procedures.** Whenever the Designated Official determines to issue a notice as specified in Section 16-6-1.2(D)(4) above, written notice of such violation shall be sent by certified mail, return receipt requested, to the person(s)responsible for such violation. The letter shall direct that 10 days shall be granted for the abatement of said violation following the mailing of the written notice. If after such time, such violation continues or reoccurs, the City may pursue action in Municipal Court. It should be noted that, if a violation occurs, notification is sent, and said violation is abated but occurs again at a later date, the Designated Official is not required to re-notify said violator a second time of the same violation.

F) **Right of Entry.** Whenever necessary to make an inspection to enforce any of the provisions of this Ordinance, or whenever the Designated Official has reasonable cause to believe that there exists in any building or upon any premises any violation, the Designated Official may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Designated Official by this Ordinance, provided that if such building or premises be occupied, the Designated Official shall first present proper

credentials and request entry; and if such building or premises be unoccupied, the Designated Official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Designated Official or his authorized representative shall have recourse to every remedy provided by law to secure entry.

16-6-1.3 Administration of Provisions

The provisions of this Ordinance shall be administered and enforced by the Designated Official(s), defined as follows:

A) As to the provisions concerning the issuance of building permits or occupancy certificates, the Designated Official shall be the Director of Public Works or his/her designee.

B) As to the provisions concerning the enforcement of signage, setbacks, building lines, accessory structures and the maintenance of property in accordance with this Ordinance, the Designated Official shall be the Neighborhood Services Administrator or his/her designee.

C) As to the provisions concerning the planning and zoning process through approval of final plan and zoning, and any other item not otherwise covered above, the Designated Official shall be the Director of Planning or his/her designee.

16-6-2 ISSUANCE OF BUILDING PERMITS

No building or other structure shall be erected, moved, added to, or structurally altered without a building permit issued in accordance with Chapter 4 of the Code of the City of Leawood Kansas, as amended.

16-6-3 PENALTIES

16-6-3.1 Remedies

If any building or structure is erected, constructed, reconstructed, altered, converted or maintained in violation of this Ordinance, or if any building, structure or land is used in violation of this Ordinance, the City, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction or reconstruction, alteration, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. Such regulations shall be enforced by the Designated Official or other officer authorized to issue building permits, who is empowered to cause any building, structure, place or premises, to be inspected and examined and to order in writing the remedying of any condition found to exist in violation of any provision of this Ordinance.

16-6-3.2 Fines, Imprisonment

The owner or general agent of a building or premises where a violation of any provision of the regulations of this Ordinance has been committed or shall exist, or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist, shall be guilty of a misdemeanor punishable by a fine of not less than $10 and not more than $100 for each and every day that such violation continues, or by imprisonment for 10 days for each and every day such violation shall continue, but in no case to exceed 3 months of imprisonment, or by both such fine and imprisonment in the discretion of the Court. However, if the offense be willful, on conviction thereof, the punishment shall be a fine of not less than $100 or more than $500 for each and every day that such violation shall continue or by imprisonment for 10 days for each and every day such violation shall continue, but in no case to exceed 3 months of imprisonment, or by both such fine and imprisonment in the discretion of the Court.

16-6-4 BOARD OF ZONING APPEALS

16-6-4.1 Members

The Board of Zoning Appeals shall consist of 7 members, all of whom shall be residents of the City, and who shall be appointed by the Mayor, with the consent of the City Council. None of the members shall hold any other public office of the City, except that one member may be a member of the Planning Commission.

A) Term. Each member shall serve for a term of 3 years and shall be appointed at the organizational meeting of the Governing Body held the first Monday of May of each year. Appointments shall be so staggered that no more than three members' terms shall expire in 1 year. Vacancies shall be filled by appointment of the Mayor, with the consent of the City Council. The appointment shall be for the balance of the unexpired term.

B) Compensation. Members of the Board of Zoning Appeals shall serve without compensation.

C) Officers. The Board of Zoning Appeals shall annually elect one of its members as Chairman, a vice-chairman and a secretary, who may be an officer or an employee of the City.

D) Rules. The Board shall adopt rules of procedure to regulate the conduct of its business. Such rules shall be submitted by recommendation from the Board of Zoning Appeals to the Governing Body in resolution form for approval

E) Meetings. Meetings of the Board shall be held on the fourth Wednesday of each month and at such other times as the Board may determine to be required or upon call of the chairman. Meetings shall be held at the City Hall unless circumstances make that location impracticable for a particular session, in which case, said meeting shall be held at any convenient place within the City.

F) Records. The Board of Zoning Appeals 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 its office, which shall be in the office of the City Clerk, and shall be a public record. A summary of each meeting shall be provided to the Planning Commission on a monthly basis.

16-6-4.2 Powers and Duties

The Board of Zoning Appeals shall administer the details of appeals from, or other matters referred to it regarding, the application of the Leawood Development Ordinance as hereinafter provided. Specifically, the Board of Zoning Appeals shall hear appeals, determine requests for variances and exceptions and requests for setback modifications all as set forth below.

16-6-4.3 Variances

The Board may, when it shall deem necessary, grant variances to the Leawood Development Ordinance to authorize in specific cases, a variance from the specific terms of the Ordinance which will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the provisions of the Ordinance, in an individual case, would result in unnecessary hardship, and provided that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not allow any use not permitted by the Leawood Development Ordinance in the district within which the particular property is located. A request for a variance may be granted in such cases, upon the Board finding that all of the following conditions have been met:

A) That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district, and is not created by an action or actions of the property owner or applicant.

B) That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owner or residents.

C) That the strict application of the provisions of the Leawood Development Ordinance on which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;

D) That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and,

E) That granting the variance desired will not be opposed to the general spirit and intent of the Leawood Development Ordinance.

16-6-4.4 Exceptions

The Board may, when it shall deem the same necessary, grant exceptions to the provisions of the Leawood Development Ordinance in those instances where the Board is specifically authorized to grant such exceptions and only under the terms of the Leawood Development Ordinance.

In no event shall exceptions to the provisions of the Leawood Development Ordinance be granted where the use or exception contemplated is not specifically listed as an exception in the Leawood Development Ordinance. Further, under no conditions shall the Board of Zoning Appeals have the power to grant an exception when conditions of the exception as established by the Governing Body are not found to be present.

16-6-4.5 Setback Modifications

The Board shall have the power, in specific cases, to modify or vary building or setback lines on streets for which a building or setback line has been adopted by the Governing Body as part of its Comprehensive Plan in order that unwarranted hardship, which constitute complete deprivation of use as distinguished from merely granting a privilege, may be avoided, yet the intended purpose of the regulations shall be strictly observed and the public and public safety protected.

16-6-4.6 Appeals to the Board of Zoning Appeals

A) The Board shall hear and decide appeals by any person, officer of the City, government agency or body affected by any decision of the officer administering the provisions of the Leawood Development Ordinance and shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an officer administering the enforcement of the Leawood Development Ordinance.

B) Appeals to the Board of Zoning Appeals shall be initiated by the applicant within 30 days following the decision. Applicant shall file with the City a notice of appeal setting forth the specific grounds therefor.

C) The officer from whom the appeal is taken when notified by the Board or its agent, shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

D) The Board shall fix a reasonable time for the hearing of an appeal or any other applicable matter.

E) Notice of the time, place, and subject of the hearing shall be sent to adjacent property owners and to applicable homes associations by certified mail, return receipt requested, at least 20 days prior to the date fixed for hearing and published once in the Official City Newspaper at least 20 days prior to the date fixed for hearing, all at the expense of the applicant.

In exercising the foregoing powers, the Board, in conformity with the provisions of this Section, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions and may order issuance of a permit.

16-6-4.7 Appeal From Order of Board

Any person, official, or governmental agency dissatisfied with any order or determination of the Board of Zoning Appeals and having legal basis to do so may bring action in the District Court of Johnson County to determine the reasonableness of any such order or determination.

16-6-5 PLANNING COMMISSION

16-6-5.1 Membership

The City Planning Commission shall consist of 9 members. The members shall be appointed by the Mayor, by and with the consent of the City Council. The members of the Commission shall be appointed for terms of 3 years each. Appointments shall be so staggered that no more than three members' terms shall expire in one year. Vacancies shall be filled by appointment for the unexpired term only. Members of the Commission shall serve without compensation for their service. The Planning Commission shall adopt bylaws for the conduct of its business and all action by the Planning Commission shall be by a majority of its members present and voting unless otherwise specified herein.

16-6-5.2 Meetings; Officers

The members of the Planning Commission shall meet the 4th Tuesday of each month and at such other times as the Commission may determine to be required. The Planning Commission shall elect one of its members as chairperson and one as vice-chairperson who shall serve 1 year and until their respective successors have been elected. A secretary shall also be elected who may or may not be a member of the Planning Commission. Special meetings may be called at any time by the chairperson or in his or her absence by the vice-chairperson. A majority of the membership of the Planning Commission shall constitute a quorum for the transaction of business. The City Planning Commission shall cause a record to be kept of its proceedings.

16-6-5.3 Powers and Duties

The Planning Commission shall have the powers granted and duties delegated to it by this Ordinance and by statute, including the making of recommendations regarding the City's comprehensive plan, zoning ordinance, subdivision regulations and development plans and the approval of plats.

ARTICLE 7

FEE SCHEDULE

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16-7-1 FEE REQUIRED

Any application for the following shall be accompanied by the requisite fee:

A) Variances/Exceptions before the Board of Zoning Appeals; Appeals to the Board of Zoning Appeals;
B) Special use permits;
C) Change in Zoning District Classifications of property;
D) Development Plan applications;
E) Sign permits;
F) Temporary Use Permits;
G) Subdivision applications;
H) Other permits or approvals as may be authorized by this Ordinance.

16-7-2 AMOUNT OF FEE

The amount of each fee shall be as established by resolution of the Governing Body each year in the official fee schedule.

16-7-3 PAYMENT

All fees shall be made payable to the City of Leawood and collected by the Director of Planning and Development at the time of application for deposit with the City Treasurer.

16-7-4 FEE EXEMPTION

No fee is required for applications filed in the public interest by members of the Governing Body, Planning Commission, the Board of Zoning Appeals, City staff or the City Administrator.

ARTICLE 8

SUBDIVISIONS AND LOT SPLITS

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16-8-1 GENERAL PROVISIONS

16-8-1.1 Title

This Article shall be known and may be cited as the Subdivision Regulations of the City of Leawood, Kansas.

16-8-1.2 Applicability; Permits and Approvals

Except as otherwise provided in this Article, no subdivision shall be developed within the jurisdiction of the City until both a preliminary and final subdivision plat have been filed and approved in accordance with provisions of this Article. Approval of a preliminary plat does not constitute acceptance of the subdivision but authorizes preparation and submission of the final plat. In addition to any other remedy or penalty authorized of any structure upon any lot, tract or parcel of land located within the area governed by the subdivision by law, no building, zoning or other development permit or approval shall be issued for the use or construction regulations that has been subdivided, resubdivided or replatted but which has not been approved in the manner provided by this article, except for lawful subdivisions of land prior to the adoption of this Development Ordinance.

16-8-1.3 Purpose

The purpose of this Article is to guide and regulate the subdivision of land within the City of Leawood, Kansas, in order to preserve and protect the public health, safety and welfare. These regulations are designed to ensure the provision of an adequately planned system, to avoid extreme concentration of population and the overcrowding of land, to provide for safe and sanitary

water and sewer systems, to facilitate the provision of well-planned residential neighborhoods with appropriate schools, parks and playgrounds; to provide an orderly system for the design, layout and use of land; to insure the proper legal description and monumentation of subdivided land; to facilitate the re-subdividing of large land parcels; and to secure safety from fire, panic, flood damage and other damages.

16-8-1.4 Criteria

In order to implement the intended purpose of this article, the following specific criteria have been established. The Planning Commission or Governing Body may, in the course of their review, deny a subdivision application if the determination is made that the proposed plat does not:

A) Comply with the Leawood Comprehensive Plan;

B) Harmoniously relate the development of different tracts of land to the existing community and facilitate the future development of adjoining tracts;

C) Promote neighborhood conservation and prevent the development of slums and blight;

D) Provide the best possible design of land parcels including similar lot size and shape of adjacent lots;

E) Provide for adequate vehicular and pedestrian circulation and transportation;

F) Establish adequate and accurate records of land subdivision;

G) Discourage creation of individual lots of less than the average size of adjacent lots;

H) Provide appropriate storm water facilities and for the maintenance thereof;

I) Provide appropriate sanitary sewer systems for disposal of wastewater;

J) Provide appropriate street access with an adequate, safe and all-weather type surface.

16-8-1.5 Plats Required

The following regulations for the subdividing of land within the limits of the jurisdiction of the City of Leawood are adopted under the authority granted by the Statutes of Kansas.

The Owner or Owners of any land within the City of Leawood, Kansas subdividing the same into lots and blocks or tracts or parcels, for the purposes of laying out any subdivision, suburban lots, building lots, tracts or parcels or any owner of any land establishing any street, alley, park or other property intended for public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto, shall have a plat drawn, or shall abide by this Ordinance's requirements for lot splits. Such plat shall accurately describe the subdivision, lots, tracts or parcels of land giving the location and dimensions thereof and the location and dimensions of all streets, alleys, parks or other properties intended to be dedicated to public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto. All plats shall be verified by the owner or owners thereof. All plats shall be submitted to the Planning Commission subject to review and approval by the Governing Body as set forth in this Ordinance.

16-8-1.6 Jurisdiction

This Article shall apply to the following forms of land subdivision:

A) The division of land into two or more tracts, lots, or parcels;

B) The subdivision of land previously subdivided or platted into tracts, lots, or parcels;

C) The dedication or the vacating or reservation of any public or private easement through any tract of land if such is to be accomplished by plat;

D) The dedication or the vacating of any street through any tract of land if such is to be accomplished by plat;

E) The re-dividing or the splitting of previously platted lots, regardless of size, commonly referred to as "Lot Splits" as provided in Section 16-8-4 of this Article.

16-8-1.7 General Procedure

A) Pre-application Conference. A pre-application conference with a member of the Planning and Development staff is required prior to the submission of an application for a preliminary plat. This conference enables the staff to help facilitate the subdivision process by providing the applicant with information and identifying policies, regulations, fees and costs of development that may be encountered on the proposed development.

B) Subdivision Approval. Each plat submitted for preliminary or final approval shall be placed on the agenda of the Planning Commission only after fulfilling the appropriate requirements of these subdivision regulations. Once the Planning Commission has reviewed the plat, they shall then be submitted to the Governing Body for their official consideration and action. In most instances, subdivision review will be carried out simultaneously with the review of development plans. No plat or other subdivision of property and no dedication or vacation of a public street or establishment of a private street shall be developed within the City until it has been endorsed by the Planning Commission or Governing Body and has been filed with the Register of Deeds.

C) Filing Fee. Filing fees for all applications to the Planning Commission shall be established by resolution of the Governing Body.

D) Deed Restrictions. Deed restrictions shall be prepared for all residential subdivisions and submitted with the final plat for review and determination of compliance with the City regulations and stipulations.

E) Filing the Final Plat. Upon approval by the Governing Body of the Final Plat and construction of public improvement or deposit of appropriate bond, the developer shall record the plat with the Johnson County Register of Deeds and return to the City two copies of the recorded plat.

16-8-2 PROCEDURE FOR PLAT PREPARATION AND APPROVAL

16-8-2.1 Applicability of Platting Requirements

All subdivision of land within the City shall be effected only by a plat approved in conformance with this Article, except that Lots Splits may be affected and approved as provided for in Section 16-8-4.

16-8-2.2 Preliminary Plat

A) General. The subdivider shall prepare a preliminary plat for submission to the Planning Commission. Three copies of the preliminary plat shall be submitted to the City not less than 30 days prior to the meeting at which said plat is to be considered.

B) Contents of the Preliminary Plat. The preliminary plat shall be drawn at a scale of 100 feet to 1 inch and shall contain the following information:

Descriptive Data

1) The name and address of the owner of record, the subdivider and the person preparing the plat.
2) The proposed name of the subdivision.
3) The scale, north point, and date to the top or left of the sheet.
4) A key map showing the location of the proposed subdivision referenced to existing streets or proposed streets and to government section lines.

Existing Conditions

5) The location of existing buildings, water bodies, water courses at the point where they adjoin the subdivision.
6) The land contours with vertical intervals not greater than 2 feet with United States Geological Survey datum.
7) All platted or existing streets, property lines and the names of platted subdivisions for a distance of not less than 400 feet.
8) Description on the preliminary plat 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 width, load carrying capacity, and waterway adequacy of any bridges or culverts. The preliminary plat shall also include a statement as to how the surface of any such roads or streets will be improved as part of the subdivision development process in order to comply with the intent and purpose of these regulations.
9) The location of any existing floodplain within 400 feet of the proposed subdivision.

Proposed Conditions

10) The length of the boundaries of the tract, measured to the nearest foot.

11) The general location, width and alignment of existing and proposed streets, sidewalks and any highways and alleys; approximate gradients of proposed streets within the subdivision; and the classification of every street within or adjacent to the subdivision in accordance with the intended use of the street based on the proposed design. The appropriate term, (arterial, collector, or local street) shall be indicated directly on each street.

12) The general pattern and sizes of proposed lots and tracts.

13) The proposed use of land, whether for single family, multifamily, commercial, industrial, parks, school, etc.

14) A written statement relating how liquid wastes are to be handled, whether by sewers and an existing sewer district, a district yet to be formed, private treatment facility, etc.

15) A preliminary storm sewer layout in accordance with the Code of the City of Leawood

16) A drainage vicinity map showing the ridge lines of any tributary areas and the routing of surface water, including existing storm water drainage facilities, which flow into the area to be platted, and those areas within 1/2 mile downstream which will receive runoff from the area to be platted.

17) All areas proposed to be reserved or dedicated for public parks, playgrounds, school sites, open spaces or other public areas.

18) The Public Works Elements required in Section 16-8-2.3 below.

C) Hearing on Preliminary Plat and Publication of Notice. The Commission shall publish notification and hold a public hearing on the preliminary plat. The notice will be published in the City's official newspaper not less than 20 days prior to the hearing date.

D) The Planning Commission Action. The Planning Commission shall determine if the preliminary plat conforms to the provisions of the Leawood Development Ordinance and shall recommend approval or denial of the preliminary plat, and any recommend stipulations or conditions for approval, to the Governing Body. The Governing Body may accept such recommendation or accept such recommendation with additional stipulations or conditions by majority vote or may reject the recommendations and remand the matter to the Planning Commission for further consideration.

16-8-2.3 Public Works Element

The subdivider shall prepare and submit to the Public Works Department at the time of preliminary plat application, the following information:

A) A traffic engineering report may be required by the Planning Commission, City Council or the Director of Planning or the City Engineer, depending upon the circumstances, including generation of unusual traffic, parking, leap frog development or access conditions.

B) A storm water study shall be provided to the City Engineer for all development within the City. All developments shall be in compliance with the City's stormwater ordinance.

16-8-2.4 Final Plat

The Planning Commission shall not approve a final plat until all public works elements have been designed or otherwise stipulated and compliance with these regulations certified by the Director of Public Works.

A) General. Twelve sets of half-size, black or blue line prints shall be submitted to the City not less than 15 days before the Planning Commission meeting at which it is to be considered for final approval.

B) Form. The final plat shall be drawn at a scale of 100 feet to 1 inch from an accurate survey. Sheet size shall be 24 by 36 inches. On the first sheet of every plat there shall be a key map showing the location of the subdivision referenced to government survey lines and major streets.

C) Contents of the Final Plat. The final plat shall show all of the following:

1) The location and description of all section corners and permanent survey monuments in or near the tract. At least one of these shall be referenced in the subdivision.
2) The legal description for the property.
3) The length of all required lines dimensioned in feet and decimals, and the values of all required true bearings and angles with dimensions in degrees, minutes and seconds as required.
4) The boundary lines of land being subdivided, fully dimensioned by lengths and bearings, and the location of boundary lines of adjoining lands, with adjacent plats identified by official names.
5) The lines of all proposed streets fully dimensioned by lengths and bearings of angles. The widths, and names where appropriate, of all proposed streets, and of all adjacent streets and easements which shall be properly located.
6) The lines of all proposed lots fully dimensioned by lengths and bearing or angles.
7) The outline of any property which is offered for dedication to public use, fully dimensioned by lengths and bearings, with the area marked "public".
8) The blocks numbered consecutively throughout the entire subdivision and the lots numbered consecutively throughout each block with areas to be excluded from platting marked "excepted" or "not a part".
9) The location of all building lines, setback lines, and easements for public services or utilities with dimensions showing their location.
10) The location of all easements for drainage with dimensions showing their location.
11) The radii, arcs, points of tangency, points of intersection, and central angles for curvilinear streets and radii for all property returns.
12) The proper acknowledgments of owners and the consent by the mortgagee to plat restrictions.
13) Engineer's or land surveyor's certificate of survey, signed and sealed.

14) A signature block for the chairman of the Planning Commission, Mayor and City Clerk.

15) A title block shall be located on the final plat and shall include:

a. The name of the subdivision.

b. The name of the city, county and state.

c. The location and description of the subdivision referenced to section, range and township.

D) Additional Calculations and Information

1) 1 copy of all lot area, boundary and other calculations performed on the plat shall be submitted to the City Engineer.

2) The reference line or meridian for bearings shown on the plat shall be submitted, and the City Engineer may require adjustment in such line in the interest of consistency and order relation to other plats and surveys in the area.

3) Evidence of compliance with all requirements of the City Engineer or Public Works Department.

4) Ownership and encumbrance report for any portion to be dedicated to the public, with releases of all liens or encumbrances

5) All areas proposed to be reserved or dedicated for public parks, playgrounds, school sites, open spaces or other public areas. The subdivider shall also include a legal document evidencing such dedication, signed by the property owner and containing a legal description of the land proposed to be dedicated and shall incorporate all conditions or stipulations set forth by the Planning Commission and Governing Body in the preliminary plat approval stage.

E) Supplementary Requirements. The compliance with the minimum standards set here shall not assure approval of a subdivision. The Planning Commission and/or the Governing Body may require various design modifications or additions, including but not limited to:

1) Construction of walkways or bicycle paths along streets.

2) Construction of walkways or hike/bike paths or trails on alignments that are not along streets but along rear lot lines, drainageways, etc.

3) Provision of larger lots than the required minimum if transition from a large lot subdivision is needed to preserve property values.

4) Require adjustments and special protective measures in street and lot planning where floodplains exists or where surface runoff is concentrated to the degree that erosion is likely or danger to life or property may exist.

F) Planning Commission Action. The Planning Commission shall act upon the final plat within 60 days after it has been submitted to the Planning Commission secretary. An approval and the date thereof shall be shown on the plat over the signature of the Planning Commission chairperson. Unless stipulated, or additional time is agreed to by the subdivider, if no action is taken by the Planning Commission at the end of the 60 day period, the plat shall be deemed to have been approved. A certificate as to the date of

submission of the plat for final approval and failure of the Planning Commission to act thereon within such time shall be sufficient in lieu of written endorsement of approval.

If the final plat is disapproved, grounds for this refusal shall be stated in writing, a copy of which shall be transmitted to the applicant. If the final plat is approved and does not include dedication of land or is otherwise subject to Governing Body approval, it shall thereafter be recorded.

G) Governing Body Action. The Governing Body shall accept or refuse 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 clerk thereof. 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 refuses such dedication, it shall advise the Planning Commission of the reasons and the final plat shall be returned to the subdivider for resubmission to the Planning Commission with the appropriate changes to indicate the use of the portion of the property originally proposed to be dedicated.

16-8-2.5 Recording of the Plat

After final approval of the plat and the affixing of all required signatures on the original tracing, the subdivider shall file the plat with the Johnson County Register of Deeds. The Developer shall return two copies of the recorded plat to the City after filing the plat with the Register of Deeds.

16-8-2.6 Abandonment of the Final Plat

For the purpose of single family residential developments, development rights in such land shall vest upon recording of a plat of such land. If construction is not commenced on such land within 5 years of recording a plat, the development rights in such shall expire. For all purposes other than single family developments, the right to use such land for a particular purpose shall vest upon the issuance of all permits required for such use by a city or county and construction has begun and substantial amounts of work have been completed under a validly issued permit.

16-8-3 DESIGN REQUIREMENTS

Minimum standards for development are contained in this Article, elsewhere in the Leawood Development Ordinance, the City Building Code, the Leawood Street Construction Standards, the Code of the City of Leawood, and all other applicable law. In addition, the Comprehensive Plan expresses policies designed to achieve an optimum quality of development in the City. In addition to such regulations, the subdivision design requirements are as follows:

16-8-3.1 All Streets

The arrangement, character, extent, width, grade and location of all streets shall conform to all of the elements of the Major Street Plan and shall be designed in accordance with the following provisions:

A) Each subdivision shall provide for the continuance of all major streets and highways in conformance with the Major Street Plan.

B) Whenever a subdivision abuts or contains an existing or proposed major street, the Planning Commission and/or Governing Body may require service streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

C) Collector streets shall be designed to provide direct access from local streets to the major thoroughfare and expressway system.

D) Ingress and egress to residential properties shall be limited to the extent possible to local and collector streets.

E) Local streets shall be laid out so that their use by through traffic will be discouraged.

F) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Commission and/or Governing Body may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land. Such distance shall also be determined with due regard to the requirements of approach grades and future grade separation structures.

G) Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.

H) When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets and appropriate resubdivision, with provision for adequate utility easements and connections for such resubdivision.

I) Residential street jogs with centerline offsets of less than 150 feet, measured from curb return to curb return, shall not be permitted.

J) Streets shall intersect at approximately right angles and no street should intersect any other street at an angle of less than 75 degrees.

K) All proposed streets shall be in accordance with the Leawood Street Construction Standards based on the street classification shown on the Major Street Plan. Where unusual topographic conditions exist in the field, slight modification from these standards may be permitted by the City Engineer. New streets not shown on the Major Street Plan shall be designed to local street standards unless the Planning Commission determines that higher design standards are required to serve anticipated traffic demands. Such determination is subject to review and approval of the Governing Body.

L) Cul de sac turnarounds shall have an outside property line radius of not less than 50 feet and a curb line radius of 40 feet. There shall be provided in the center of the turnaround an unpaved island improved with grass and landscaping that will not interfere with sight distance. Said unpaved area shall have a radius of not less than 12 feet and shall be curbed.

M) The arrangement of streets shall be such as to facilitate the subdividing of adjacent properties. Street stubs shall be platted and paved at intervals in keeping with maximum block length standards, topography and property lines of land adjacent.

N) Street names and numbers shall be assigned by the City of Leawood.

(Ord. 2164, 05-01-06)

16-8-3.2 Private Streets

This section of the ordinance shall deal exclusively with private streets. Any other reference to streets in this section shall be construed to be a reference to public streets.

A) Private streets shall be allowed only within residential developments as authorized herein and as authorized by the Governing Body. (See also, 16-1-6)

B) Plats with private streets shall have the private streets clearly and boldly marked as separate parcels on the drawing portion, as well as in the written portion.

C) All private streets which are platted after the adoption of this Ordinance shall remain as private streets in perpetuity.

D) Any person making application for an occupancy permit for a residence constructed within a subdivision containing a private street shall certify to the City that he/she is aware of the existence of private streets within the development and knows that the residence may be subject to assessments for the maintenance of private streets within the subdivision or development.

E) The City will install a standard "private street sign" at each private street connection to a public street at the developer's expense.

F) Private streets shall be built to public street standards.

G) Lay down curb and gutter (Type D), as approved by the City, shall be constructed along the public street curb line at the intersection of each public and private street, thus forming a ribbon of concrete separating the public and private street.

H) Street lights and/or sidewalks shall be installed by the developer. The continued maintenance shall be the responsibility of the developer and/or homes association.

I) Adequate utility easements shall be provided.

16-8-3.3 Easements

Easements not less than 15 feet wide shall be provided for use by public and private utilities along each rear lot line, and along side lot lines where necessary, in the following manner:

A) A permanent easement not less than 7½ feet wide shall be provided along the rear lot line, or along the side lot line where necessary, of each abutting or adjoining lot.

B) Where the land owned and being subdivided ends at a rear or side lot line and the subdivider is unable to obtain from the adjoining property owners an easement not less than 7½ feet wide, the Planning Commission upon finding that the easement will be available from the adjoining property owners at a future date, may approve the grant of an easement along each rear lot line, or side lot line where necessary, of not less than 10

feet. Such approval or determination is subject to review and action by the Governing Body.

C) Easement areas shall be free of buildings or structures.

D) The Planning Commission, subject to review and action by the Governing Body, may require area easements and easements of greater width for the extension of main storm and sanitary sewers, surface drainageways and other utilities where it is deemed necessary.

16-8-3.4 Storm Drainage

All subdivisions shall be provided with storm water disposal systems in compliance with the code of the City of Leawood.

A) All subdivision plats shall include easements for purposes of access to and protection of underground and surface drainageways.

B) Where drainageways serve a sufficiently large area so that underground pipe is impractical, the City may require the subdivider to either perform channel improvements or dedicate an easement of greater width than the drainageway currently requires in order to allow for overflow and protect against side slope deterioration.

C) The calculated 100 year flood elevation, as computed by a registered engineer, shall be depicted on the preliminary plat and submitted to the City Engineer with the Public Works Elements. This calculation and mapped flood line is shown on the Flood Insurance Rate Maps of the Flood Insurance Agency. If flood prone areas occur within the subdivision, the subdivider shall provide assurance that any building constructed within the area will have its lowest opening a minimum of 2' above the one hundred (100) year flood elevation.

D) Any grading within the 100 year flood plain shall not proceed until review and approval is received from the Kansas Board of Water Resources as set out in K.S.A. 74-2611. In addition, the one hundred year Floodway as depicted on the Flood Insurance Map, Department of Housing and Urban Development, shall be shown on the same plat if applicable to any portion of the subdivision.

E) Alternative methods of handling surface water may be required or permitted by the Planning Commission, subject to review and approval of the Governing Body upon recommendation of the City Engineer.

F) Prior to the issuance of a building permit within a subdivision, the City Engineer shall review the plot plan indicating finished grades for each lot and specifying by proper indications the direction of flow of surface drainage. Facilities for water disposition will also be examined at this time.

16-8-3.5 Dedication or Reservation of Public Areas, Parkland and Open Space

A) In subdividing land, due consideration shall be given by the subdivider to the dedication or reservation of land for public parks, playgrounds, school sites, open spaces and other public areas, which shall be provided in accordance with the requirements and standards

set forth in the Comprehensive Plan, as amended, and in the Ordinances relating thereto. Notwithstanding the above, park impact fees may be due at final plat approval for residential development or at building permit issuance for nonresidential development pursuant to Section 12-407 of the Code of the City of Leawood.

B) All areas proposed to be reserved or dedicated shall be indicated on the preliminary plat in order that it may be determined if, when, in what manner and under what circumstances and conditions such areas will be reserved or dedicated to the City or other appropriate public agency. The City shall require that reserved or dedicated lands be of suitable size, location, dimension, topography and general character, consistent with the Comprehensive Plan and shall have proper and adequate road and/or pedestrian access, as may be appropriate, for the particular purpose for which such land is intended to be used.

C) Reservation or dedication of land may be required by the City as a condition of subdivision approval, or the subdivider may voluntarily offer land to the City for reservation or dedication. The City may impose such conditions as deemed necessary to ensure that the purposes and intent of this section are satisfied.

16-8-3.6 Blocks

A) The lengths, widths and shapes of blocks will be determined in accordance with the following:

1) Provision shall be made for the use of adequate building sites suitable for the special needs of the type of use contemplated.
2) Zoning requirements as to lot sizes and dimensions shall be met.
3) The proposed subdivision must be designed to provide the needs for convenient access, circulation, control and street safety.
4) The subdivision shall be designed to function adequately within the limitations and opportunities provided by the topography of the site.

B) Blocks for residential use shall not be longer than eighteen hundred (1,800) feet along the center line of the block. When a block exceeds six hundred (600) feet in length, the City may require a dedicated and fenced easement containing a paved crosswalk not less than five (5) feet in width to provide pedestrian access across or through the block.

C) Blocks used for residential purposes shall be of sufficient width to allow for two tiers of lots of appropriate depth. Blocks intended for business and industrial use shall be of a width suitable for the intended use, with due allowance for screening and off-street parking and loading facilities.

16-8-3.7 Lots

A) Residential lots shall conform to the following criteria:

1) Lot widths shall be equal to or greater than the minimum required for the zoning district in which located;

2) Lots fronting on a cul-de-sac shall maintain a minimum frontage of 45 feet on the turn around and 100 feet at the building line;
3) Lots shall be of symmetrical shape.
4) Lots of less than symmetrical shape shall only be considered when topography dictates;
5) Lots shall not have a depth greater than three times the width and shall have buildable widths generally facing and directly relating to the street upon which such lots front;
6) Lots shall not be allowed to place or extend a significant buildable area behind another lot fronting on the same or adjoining street.

B) Side lot lines shall be approximately at right angles or radial to street lines.

C) The depth of residential lots shall be not less than one hundred and twenty (120) feet or that specified in the Development Ordinance, whichever is greater.

D) The area of residential lots shall be not less than established in this Ordinance.

E) In subdivisions where commercial and industrial uses are planned, provisions shall be made for adequate street access, off-street parking and loading, varying lot sizes, avoidance of face-to-face relationships with residential lots and shall utilize transitional land use patterns where possible.

16-8-3.8 Building Lines

Building lines along all front and side streets shall be shown on the final plat and shall, as a minimum, comply with yard requirements of the Leawood Development Ordinance.

16-8-4 LOT SPLITS

A previously platted lot may be divided as a lot split by either metes and bounds description or by replatting. If such 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 such 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 codes of the City. No building permit shall be issued for a lot produced by a lot split until the lot split has been reviewed and approved by the Director of Planning, or staff, as being in compliance with this Ordinance. The new lot or lots created must meet all standards of this Development Ordinance and must make provision for any needed street rights-of-way, easements, improvement of public facilities, and zoning regulations.

Any person requesting a lot split shall submit a survey of the proposed resulting lot(s), and all improvements and such information as required by the Director. The Director shall approve or deny the lot split request within 60 days of receiving the request.

If the Director fails to act on or denies the lot split request and such failure or denial results in denial of a building permit, then the party requesting the lot split may appeal such denial directly to the Governing Body, except as otherwise provided by law.

16-8-5 PUBLIC IMPROVEMENTS

16-8-5.1 General Provisions

All subdivisions shall contain the public improvements required for the highest practical level of safety and welfare of the residents of the subdivision. Such improvements must be of high quality, designed for the longest practical life and be capable of low cost maintenance. The subdivider shall, therefore, install at its cost all improvements and they shall comply with the specifications and standards of the City as set forth in this Ordinance or in other City Codes.

Such improvements shall be installed and as-built plans submitted to the Public Works Department prior to proper recording of the final plat by the City. No building permit shall be issued for a building to be placed on a lot that is not fully served by all of these improvements. For purposes of this Ordinance "being fully served" shall mean that the sanitary sewers (except where alternate methods are used), water supply, street pavement, sidewalks/bikeways, storm sewers, street lighting, street markers and monuments shall be installed, duly inspected and found acceptable, accepted by the City Council, and service connections, if appropriate, applied for.

16-8-5.2 Minimum Required Improvements

The following shall be the minimum required improvements in a subdivision.

A) Streets

1) Where a local or collector street abuts a subdivision, the subdivider shall make arrangements to pay at least fifty (50) percent of the cost to develop the street to City standards and shall dedicate one half of the required right of way. Where a designated arterial street abuts the property owner's land, the property owner shall make satisfactory arrangements to pay at least fifty (50) percent of the cost to develop said street to the standards prescribed for a major collector and shall dedicate one half of the right of way needed for an arterial street. When a designated arterial street runs completely through the property owner's land, the owner shall be required to construct said street to the standards prescribed in the City Code of the City of Leawood and dedicate the required right-of-way. In cases, however, where unusual ownership patterns, abnormal street or road conditions, location of the subdivision on unimproved roadways and other circumstances make this procedure unworkable, inequitable or contrary to the public interest, the City may impose additional or alternative conditions for achieving acceptable improvements.

2) Street name markers conforming to city standards shall be installed on all intersections.

B) Storm Drainage Facilities

1) Storm water handling facilities shall be designed and installed throughout the subdivision by the subdivider. All storm water facilities shall be designed by a professional engineer registered in the State of Kansas and the preliminary plans

shall be approved by the City Engineer and so certified to the Planning Commission prior to approval of the final plat.

C) Sidewalks

1) Pedestrian ways shall be separated from roadways used for vehicular traffic. Sidewalks and/or bikeways shall be required and shall be designed to provide all residential building sites with direct access to all neighborhood facilities, including elementary schools, parks, playgrounds, churches, and shopping centers.

2) A sidewalk shall be constructed along one side of all local streets and both sides of all collector and arterial streets and streets in multifamily and commercial areas.

3) Paved bikeways may be substituted for or provided in addition to sidewalks where such a facility would benefit the public or comply with the Hike/Bike Trail Plan of the Comprehensive Plan.

D) Water

1) Water lines shall be installed by the subdivider in keeping with policies and specification of the water district serving the subdivision.

2) Fire hydrants shall be installed as part of the water main construction to the standards of the Leawood Fire Department.

E) Sanitary Sewers

1) Sanitary sewers shall be installed by the subdivider in keeping with local and State standards. Where no system of mains or treatment is available, the City may deny the subdivision or require special engineering documentation supporting an alternative sewage disposal system.

F) Street Lighting

1) Street lighting standards and fixtures shall be provided in accordance with the City requirements.

2) Tree planting and other landscaping shall be regulated to prevent interference with street lighting or safe sight distance at any intersection or driveway.

G) Monuments

1) Monuments in the form of iron pins not less than one-half inch in diameter and 24 inches in length shall be driven to one inch below the final grade at each block corner. Corners of the subdivision shall be marked with steel pin not less than three-fourths inch in diameter and three feet in length, driven to one inch below final grade. The City Engineer may require additional monuments where the public interest will be served.

16-8-5.3 Maintenance Surety

In the event that building permits are desired before all of the improvements are in place, the subdivider may place with the City of Leawood a performance surety and agreement, in the form of a letter of credit, cash or other like security approved at the sole discretion of the Governing Body,

guaranteeing the installation of all improvements, whereupon building permits may be issued. The amount of the surety shall be fixed by the Governing body in an amount not less than 100% of the estimated cost of all improvements as determined by the City Engineer and shall be conditioned upon the actual completion of such work or improvements within a specified period, in accordance with such regulations, which may be enforced by the City by all lawful remedies. In no event shall an occupancy permit be granted until all such improvements are completed to the satisfaction of the Director of Public Works.

Such surety and the issuance of building permits may be in increments as may be deemed practical by the City Engineer but in no case less than one full block length of the street.

The subdivider or the contractors responsible for the construction of public street pavement, curbs and gutters, storm sewers, sidewalks, bikeways, street markers and street lighting shall deposit surety in the form of bond or cash with the City guaranteeing against failure of any of those public works elements for a period of two years following acceptance by the City. The amount of surety shall be determined by the City Engineer and shall be generally equal to the cost of construction. In the case of performance surety being as set out above, that surety may be retained by the City for two years following acceptance of the public works elements in satisfaction of this maintenance bond requirement. Release of maintenance surety shall be by action of the City Council after written report from the City Engineer stating that all the improvements are in satisfactory condition.

16-8-6 EXCEPTIONS AND ADMINISTRATION

16-8-6.1 Rule Exceptions

Whenever the tract to be subdivided is of such an unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in these subdivision regulations would result in substantial hardship or inequity, the City may vary from said requirements of design, but not of procedure or improvements, so that the subdivider may develop the property in a reasonable manner. At the same time, however, there must be a finding of unusual hardship as opposed to the mere granting of privileges so that the public welfare and interest of the City is protected and general intent and spirit of this Ordinance preserved. Such a rule exception shall state the reason for each variation and may be passed by a three-fourths (3/4) vote of the regular membership of the Planning Commission subject to review and action, including approval, denial or conditional approval, by a majority of the membership of the Governing Body.

16-8-6.2 Validity

If any section, clause, paragraph, provision or portion of these regulations shall be held invalid or unconstitutional by any court of competent jurisdiction, such a holding shall not affect any other section, clause, paragraph, provision or portion of these regulations.

16-8-6.3 Conflict with Private Covenants

The standards and procedures set out herein shall be held to be the minimum requirements for the promotion and protection of health, safety, morals or general welfare of the public. These

regulations shall not annul or abrogate any covenant, restriction or private agreement; however when these regulations impose a higher standard than such covenant, restriction or private agreement, then these regulations shall prevail.

ARTICLE 9

DEFINITIONS

In the use of this Ordinance, the following words and terms are defined hereinafter. If there is a conflict with definitions elsewhere in the Development Ordinance, the more specific definition shall govern. Additionally, definitions may be found in other sections of the Ordinance which are tailored specifically for that section.

16-9-1 Abutting – Having a common border with, or being separated from such a common border by a right-of-way.

16-9-2 Accessory Building – A subordinate building, located on the same lot as the main building, or a portion of the main building, the use of which is clearly incidental to and customarily found in connection with the main building or principal use of the land.

16-9-3 Accessory Use – A use that a) is clearly incidental to and customarily found in connection with the principal use; b) is subordinate to and serves a principal building or a principal use; and, c) is located on the same lot as the principal building or use served.

16-9-4 Adult Entertainment Establishments – See Section 16-4-11 of this Ordinance.

16-9-5 Agriculture – The use of land for agricultural purposes, including farming, raising of field crops and fruit orchards, grazing and stabling of livestock, dairy farming, forestry, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities.

16-9-6 Alley – A minor way dedicated for public use, and which is used primarily for vehicular access to the sides or rear of lots.

16-9-7 Alteration – Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure, or an enlargement, increase in height, or the movement from one location or position to another.

16-9-8 Amusement Center – An establishment providing 3 or more coin or token activated machines or devices for use by patrons as games of skill or entertainment.

16-9-9 Animal Care – A use providing animal care, grooming, boarding and/or veterinary services for household pets, with no outside animal runs.

16-9-10 Antenna – Any device used to transmit or receive electromagnetic signals for communication purposes, not to include satellite dishes used solely for home television purposes. For purposes of this Ordinance, all references to antennae shall be applicable to micro-cells and repeaters.

16-9-11 Antenna support structure – Any pole, telescoping mast, tower tripod, or any other structure that supports a device or antenna used in the transmission or receipt of radio frequency energy.

16-9-12 Antenna, Omnidirectional – An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it is designed. (a.k.a. whip antenna)

16-9-13 Antenna, Panel – An antenna that transmits signals in specific directions, and are typically square or rectangular in shape.

16-9-14 Antenna, Micro-cell – A low power mobile radio service communication facility used to provide increased capacity in high call demand areas or to improve coverage in areas of weak coverage.

16-9-15 Apartment House – A building arranged, intended or designed to contain 2 or more dwelling units and which dwelling units are intended to be rented or leased from the owner of the building.

16-9-16 Appliance and Electronics Sales – Establishments that operate from locations that have special provisions for floor displays requiring special electrical capacity to accommodate the proper demonstration of these products. Products sold include household-type appliances, cameras, televisions, stereos, and other electronic goods including computer hardware and software along with other lines of merchandise; establishments primarily selling cameras, camera parts, or camera services, are classified in a separate category**.**

16-9-16(a) Architectural Structures – A structure approved as part of a final development plan that meets all required building/structure setbacks, no used for human occupancy or storage of any kind, which is intended as a prominent, decorative element within a development. An architectural structure may include such elements as identity towers, clock towers, water features, etc.

(Ord. 2625, 05-04-13)

16-9-17 Architecturally Attached – A structure between the primary or principal structure and accessory structure that is permanently, physically attached or joined so as to create a usable member constructed of similar materials to which it will be attached.

16-9-18 Artist Studio/Gallery – Establishments that retail original and limited edition art works, and offer art supplies and services to consumers. Included in this category are establishments displaying works of art for retail sale in art galleries.

16-9-19 As Built Drawing or Plans – Plans prepared by a registered professional engineer showing his embossed seal and signature and certifying that the improvements have been constructed as shown.

16-9-20 Assembly Hall – An exhibition hall facility that accommodates a variety of events and meetings. Trade shows, public shows, conventions, food functions, receptions, dances, banquets, assemblies, and other activities are typically hosted in these structures. Typical uses are mass assembly

structures, including auditoriums, community halls, community centers (without sport/recreational facilities) reception halls, wedding halls, etc.

16-9-21 Assisted Living – Multi-family dwelling units used or designed to be used by older persons, persons with disabilities or other persons needing or desiring assistance with day-to-day living matters, but not including group homes, group housing, hospitals or convalescent care facilities. Typical uses include retirement communities in which housekeeping services, common dining facilities and recreational and social activities are offered to residents.

16-9-22 Athletic Field – An outdoor area used for purposes of athletic events and which usually includes seating areas or structures for persons to observe the event and sometimes include structures to illuminate the field for use after dark. Such uses sometimes include accessory uses such as concession stands, restrooms and surface parking areas. Examples of such uses include fields for baseball, softball, lacrosse, field hockey, football and soccer.

16-9-23 Auto Sales/Service – Establishments including all motor vehicle and parts dealers that typically have showrooms or open lots for selling vehicles and may provide repair and maintenance services as an accessory. Establishments selling medium and heavy-duty trucks are not included in this definition.

16-9-24 Auto Sales/Service, Light Trucks Sales and Service – Establishments that retail new or used larger trucks (not included in Auto Sales/Service category), such as pick-ups, flat-bed and other trucks weighing 1 ton or less. These establishments may also provide repair services and sell replacement parts and accessories as an accessory use.

16-9-25 Auto Service Center – An establishment providing sales of auto parts, repairs, tires and service and other auto-related merchandise, including repair garages, tire centers, oil and lube centers, muffler and brake repair, and other similar automobile-specific work.

16-9-26 Automated Bank Teller – A machine or device for the dispensing and collecting of cash and conducting of other banking activities by the customer without an attendant.

16-9-27 Babysitting – A residential accessory use permitted as a home occupation providing temporary supplemental parental care for non-related children under 12 years of age where such care is provided within a dwelling unit by the permanent resident thereof and that the number of such children shall not exceed 6 children at any one time, to include the resident's own children under the age of 12.

16-9-28 Bakery – An establishment preparing and retailing baked goods not for immediate consumption on the premises.

16-9-29 Bar – See Tavern.

16-9-30 Barber/Beauty Shop – Establishments providing barbering, hair styling, or the cosmetic art services, such as makeup or skin care where some accessory retail sales of hair or cosmetic products may occur.

16-9-31 Base Flood – A flood having a 1 percent chance of being equaled or exceeded in any given year.

16-9-32 Basement – Any floor level below the first story in a building. A building that has only one story (as defined herein), shall be considered a basement if the story is 4 or more feet below the level at which the ground surface meets the foundation of a building for more than 50% of the perimeter of the building, or more than 8 feet below the level at which the ground surface meets the foundation of a building at any point. (See also diagram for "Story, First").

16-9-33 Bed and Breakfast Inn – A house, or portion thereof, where short-term lodging rooms and meals are provided and the operator of the inn lives on the premises.

16-9-34 Bicycle Shop – An establishment that retails such goods as bicycles and bicycle parts, cycling clothing, equipment, accessories and gear.

16-9-35 Big Box Retail – Any retail establishment with a building footprint of at least 60,000 square feet. Typical establishments in this class are warehouse clubs, home improvement centers, superstores or super centers retailing a general line of merchandise or groceries in combination with general merchandise.

16-9-36 Block – A piece or parcel of land entirely surrounded by public highways, streets (other than alleys); railway right-of-way, parks or a combination thereof.

16-9-37 Boat Sales/Service – An establishment that exclusively retails new or used boats, personal watercraft, or new or used outboard motors, boat trailers, and may also provide as an accessory use, repair services, sell replacement parts and accessories for such craft, and offer other related marine equipment supplies.

16-9-38 Books/Stationery Store – An establishment that retails books, newspapers, magazines (and other periodicals), stationery, school and office supplies, novelty merchandise, souvenirs, and greeting cards.

16-9-39 Buffer Area – A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

16-9-40 Buffer Strip – Areas of land, vacant or landscaped with screen plantings, or water used to separate incompatible land uses.

16-9-41 Builder – A person, partnership, firm, association, corporation, or any other entity undertaking the construction of residential, commercial or industrial.

16-9-42 Building – Any structure used or intended for supporting or sheltering any use or occupancy including enclosing persons, animals or chattels.

16-9-43 Building Facade – The exterior of the architectural front of a building lying between the ground level of a pedestrian walkway and the lowest level of the roof line.

16-9-44 Building Height – See Height, Building.

16-9-45 Building Line – A line parallel to a street right-of-way line, which no building, structure, or improvement or portion thereof, may be erected, constructed, or established, except as specifically provided by these regulations.

16-9-46 Building, Attached – A building having any portion of one or more walls in common with adjoining buildings.

16-9-47 Building, Detached – A building having no portion of any wall in common with another building.

16-9-47(a) Multiple-Tenant Building - Any single building designed and constructed for two or more tenants, each with separate public exterior entrances.

(Ord. 2524, 02-28-12)

16-9-47(b) Single-Tenant Building – Any single building designed and constructed for and containing only one tenant.

(Ord. 2524, 02-28-12)

16-9-48 Bulk Regulations – An indication of size and setbacks of buildings and their location with respect to one another including lot area, lot frontage, lot coverage, required front yard, required side yard, required rear yard, and building height.

16-9-49 Business Equipment Rental – Establishments that rent or lease: a) office machinery and equipment, such as computers, office furniture, duplicating machines (i.e., copiers), or facsimile machines; or b) other non-consumer machinery and equipment, such as telecommunications equipment or office furniture.

16-9-50 Business Services – Custodial service, floor waxing service, linen or uniform supply, janitorial services, diaper service, lighting maintenance service, carpet and upholstery cleaning, news syndicates, limousine service, equipment rental/leasing, commercial testing laboratories, auctioneering service, packaging/labeling service, sign service, swimming pool cleaning/maintenance, parking lot maintenance service, snow removal service, , advertising services, photocopying/imaging service, graphic design service or studio, and pest exterminating services.

(Ord. 2729, 05-18-15)

16-9-51 Business/Secretarial School – Establishment used for educational, instructional, or teaching activities related to developing skills for the administration and operation of a business.

16-9-52 Camera/Photo Supply Store – Establishments that primarily retail cameras, photographic equipment, and photographic supplies, and that generally have repair services and film developing as accessory uses.

16-9-53 Campground – An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character.

16-9-54 Canopy – That portion of a building covering an entrance, exit, pedestrian walkway or loading dock.

16-9-55 Car Wash, Full Service – A building or section thereof containing facilities for washing motor vehicles, using production line methods or mechanical devices, not to include Self Service Car Washes.

16-9-56 Catalog Center – A retail sales establishment where walk-in customers may order and pick-up merchandise for personal or household consumption, or for business and institutional uses.

16-9-57 Church, Synagogue or Place of Worship – An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term “church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

16-9-58 City – The City of Leawood, Kansas.

16-9-59 City Council or Governing Body – The City Council or Governing Body of Leawood, Kansas.

16-9-60 City Engineer – The City Engineer of the City, or his/her designee, or such other person acting in that capacity by authority of the City Engineer or Governing Body.

16-9-61 Clothing/Accessory Store – Establishments that retail clothing and clothing accessories merchandise from fixed point-of-sale locations. This use includes establishments primarily engaged in retailing clothing, footwear (shoes), jewelry, sterling and plated silverware, watches and clocks, luggage and leather goods, and sewing supplies.

16-9-62 Club, Private – A building or premise used for social, recreational, dining or philanthropic purposes, the normal use of which is limited to specific members, patrons or otherwise listed and enumerated persons. This includes country clubs or other non-profit or private club facilities for tennis, handball, racquetball, swimming, and similar facilities; Health Clubs are not included.

16-9-63 Cluster Housing – A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

16-9-64 Collector Street – See “Street.”

16-9-65 Co-location – Placement of wireless communication facilities, towers or antennae by more than one wireless service provider on a single tower or alternative tower structure.

16-9-66 Commercial – All development other than recreational, open space, multi-family or other residential housing units.

(Ord. 2730, 05-26-15)

16-9-67 Common Open Space – A parcel or parcels of land (excluding street right-of-way) or an area of water or a combination of land and water, within a development, designed and intended for use or enjoyment of residents and owners of the project. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents and owners of the development.

16-9-68 Communication Tower – Generally, a commercial AM/FM radio, television, microwave and cellular telephone or other transmission tower(s) and accessory equipment and buildings.

16-9-69 Community Service Organization – A nonprofit voluntary association of persons who are bona fide members paying annual dues, which owns or leases a building or premises, or portion thereof, the use of such building or premises being restricted to members and their guests.

16-9-70 Comprehensive Development Plan or Comprehensive Plan – The official adopted Comprehensive Development Plan for the City of Leawood, and amendments relating thereto.

16-9-71 Computer Sales and Service – An establishment that retails computers, computer peripherals, and prepackaged computer software without retailing other consumer-type electronic products or office equipment, office furniture and office supplies. The use may also include repair, support, and training services as accessory uses. This does not include establishments that primarily sell computers and software via mail order or the Internet.

16-9-72 Condominium – An estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a residential building, such as a dwelling unit. A condominium may include, in addition, a separate interest in other portions of such real property. See K.S.A. § 58-3102.

16-9-73 Conservation Easement – An easement granting a right or interest in real property that is appropriate for retaining land or water areas predominately in their natural, scenic, open, or wooded condition; retaining such areas as suitable habitat for fish, plants, or wildlife; or maintaining existing land uses.

16-9-74 Construction Building or Trailer – A building or trailer for temporary storage of materials and/or equipment necessary for construction and used on the site only during construction (must be authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development).

16-9-75 Convalescent Care – An establishment providing bed care and inpatient services for persons needing regular medical attention, but excluding facilities for the care and treatment of mental illness, alcoholism, narcotics addiction, emergency medical services or communicable disease. Typical uses include nursing homes.

16-9-76 Convenience Store – A retail operation serving persons in adjacent areas and limited to the sale of limited grocery items, magazines, newspapers, and other limited items where gasoline sales may or may not be permitted in accordance with the zoning district in which it is located. A convenience store shall, under no circumstances, be construed so as to allow the location of an indoor or outdoor restaurant where the consumption of food products on the premises is encouraged.

16-9-77 Cul-de-sac – A street having one end open to traffic and being permanently terminated in a vehicular turn around.

16-9-78 Cultural Service – A facility providing cultural and educational services to the public. Typical uses include museums, art museums, observatories, planetariums, botanical gardens, arboretums, zoos and aquariums.

16-9-79 Day Care – An establishment that provides care, protection and supervision for individuals on a regular basis away from their primary residence for less than 24 hours per day. The term includes nursery schools and other similar programs regardless of auspices.

16-9-80 Day Care, Commercial – A day care that provides services for 11 or more individuals at any one time, including those under the supervision or custody of the day care provider.

16-9-81 Day Care, General – A day care that provides care, protection and supervision for 7 to 10 individuals at any one time, including those under the supervision or custody of the day care provider.

16-9-82 Day Care, Limited – A day care that provides care, protection and supervision for 6 or fewer individuals at any one time, including those under the supervision or custody of the day care provider.

16-9-83 Deck – A flat floored roofless structure attached to a building, excluding patios.

16-9-84 Dedication – Intentional transfer by the developer with the consent of city council to the public ownership of an interest in land for a public purpose.

16-9-85 Density – The average number of persons, families or dwelling units per units of area.

16-9-86 Department Store – Any retail store offering multiple lines or categories of merchandise with no one merchandise line predominating. Products may include: apparel, furniture, appliances and home furnishings, paint, hardware, toiletries, cosmetics, photographic equipment, jewelry, toys, and sporting goods. Merchandise lines are often arranged in separate departments. This use does not include Big Box Retail establishments.

16-9-87 Design Standards or Design Requirements – All requirements and regulations that relate to design and construction of developments.

16-9-88 Designated Official – The following official(s) are the Designated Official(s) for the indicated areas of concern:

A) As to provisions concerning the issuance of building permits or occupancy certificates, the Designated Official shall be the Director of Public Works or his/her designee.

B) As to provisions concerning the enforcement of signage, setbacks, building lines, accessory structures and the maintenance of property in accordance with this Ordinance, the Designated Official shall be the Neighborhood Services Administrator or his/her designee.

C) As to provisions concerning the planning and zoning process through approval of final plan and zoning, and any other item not otherwise covered above, the Designated Official shall be the Planning and Development Director.

16-9-89 Detached Structure – A structure that is not physically or permanently connected to the primary or principal structure on the lot.

16-9-90 Director or Director of Planning and Development – The Director of Planning and Development of the City, or his/her designee, or such other person acting in that capacity by authority of the Director or Governing Body.

16-9-90(a) Distributed Antenna System, or DAS - is a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure. DAS antenna elevations are generally at or below the clutter level and node installations are compact.

(Ord. 2694, 10-28-2014)

16-9-90(b) Dock - a place (as a wharf or platform), usually wooden pier, used as a landing place or moorage for boats.

(Ord. 2330; 07-21-08)

16-9-91 Drive-In Restaurant – See Restaurant, Carry-Out.

16-9-1(a) Driveway, Residential – A minor private way used by vehicles and pedestrians whose primary purpose is to provide direct access from a vehicular street to a garage or residential home. This definition shall not include paved areas that do not provide direct access to a garage or residence, which are used primarily for the parking of vehicles.

(Ord. 2746, 08-25-15)

16-9-92 Drug Store/Health Care Supplies – Establishments that primarily retail prescription or nonprescription drugs and medicines although they may also retail general merchandise for household use.

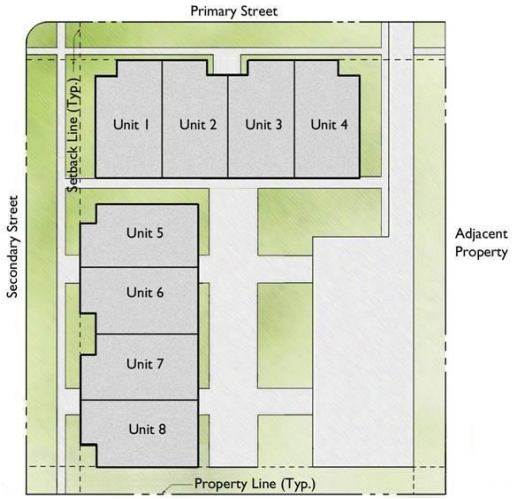
16-9-93 Dry Cleaners/Laundry – Establishments (sometimes referred to as "dry cleaning plants") that use specialized equipment on-site to clean garments, linens and other items through a specialized process to remove stains, as well as providing ironing or pressing services for those items. The use shall also include store-front type or drive thru establishments that accept and deliver garments to the customers but do not provide the actual cleaning services or have the cleaning equipment, on-site.

16-9-94 Duplex – See Dwelling, Two-Family.

16-9-95 Dwelling – Any building or portion thereof containing 1 or more dwelling units, but not including motels, hotels, rooming or boarding houses, institutions, or convalescent or nursing homes.

16-9-96 Dwelling Unit – A building or portion of a building which is exclusively arranged, occupied, or intended to be occupied as living quarters for 1 family; a separate, independent living quarter consisting of one or more connected rooms with permanently installed bathroom and kitchen facilities.

Multiple-Family Dwelling



16-9-97 Dwelling, Multiple-Family – A building designed exclusively to contain 3 or more dwelling units, but not including townhomes.

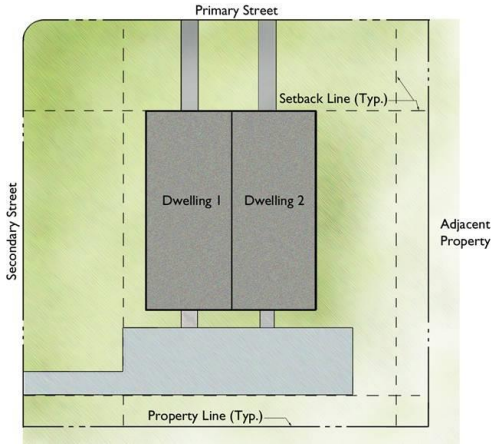
16-9-98 Dwelling, *Single-Family* – A building designed exclusively to contain 1 dwelling unit, the main body of which shall not be less than 20 feet in width. This definition shall include townhomes, each as a separate dwelling unit and classified as single-family attached

dwellings.

16-9-99 Dwelling, Single-Family Attached – Single-Family dwellings sharing a common wall but are situated on separate lots designed to be occupied exclusively by separate families.

16-9-100 Dwelling, Single-Family Detached – A dwelling situated on one lot designed to be occupied exclusively by one family.

Two-Family Dwelling
"Duplex"



16-9-101 Dwelling, Two-Family – A building designed exclusively to contain 2 dwelling units. A two-family dwelling is a duplex.

16-9-102 Eave – The portion of a building wall that is directly at the roof line when no parapet is incorporated into that wall.

16-9-103 Effective Radiated Power (ERP) – The product of the antenna power input and the numerically equal power output gain.

16-9-104 Elderly Housing – See Housing for the Elderly.

16-9-104(a) Electric Vehicle Charging Station – is a public or private parking space that is served by battery charging equipment with purpose of transferring electric energy to a battery, or other energy storage device and electric vehicle.

(Ord. 2717, 02-24-15)

16-9-105 Encroachment – An extension beyond a required or established line. To advance beyond the usual or proper limits established by ordinance or other city codes.

16-9-106 EPA – Environmental Protection Agency.

16-9-107 Estate Sale – A temporary activity conducted by the owner of the lot (or the owner's agent) on a lot or parcel of land used for residential purposes for the specific purpose of selling personal possessions and/or belongs that shall have been acquired or which have accumulated at said premises over the course of time. In no event shall the "estate" include possessions that are not owned by resident or have been transferred to the site specifically for purposes of sale.

16-9-108 FAA – Federal Aviation Administration.

16-9-109 Family – Any number of people occupying a single dwelling unit living together as a single housekeeping unit, related by blood, marriage or formal adoption or in a legal foster family relationship, plus not more than 2 additional people not so related. A family may also include up to but not more than 3 unrelated people living together in one single dwelling unit. Any grouping of unrelated people in excess of 3 shall not be considered a family.

16-9-110 FCC – Federal Communications Commission.

16-9-111 Fence – Any artificially constructed barrier of any material or combination of materials (usually made of posts or stakes joined together by boards, wire, or rails) erected to enclose or screen areas of land.

16-9-112 Financial Services – An establishment that primarily performs central banking functions (such as issuing currency, managing national money supply and international reserves, and acting as fiscal agent for the central government) and accepts deposits (or share deposits) and lends funds from these deposits, and which establishment may include these services to patrons and customers through an accessory, drive-up use. Financial Services shall also include establishments primarily engaged in one (1) or more of the following:

A) Underwriting securities issues or making markets for securities and commodities;

B) Acting as agents (i.e., brokers) between buyers and sellers of securities and commodities;

C) Providing securities and commodity exchange services; and

D) Providing other services, such as managing portfolios of assets; providing investment advice and trust, fiduciary and custody services.

Typical uses include banks, credit unions, savings associations, savings and loan institutions, investment banking, securities and brokerages. Banking services does not include pawnshops, businesses primarily engaged in check cashing or issuing money orders, or title loan establishments or other establishments producing short-term consumer loans secured by personal property, certificates of title to such personal property, estimated tax refunds, or other such collateral, which uses are not permitted uses.

16-9-113 Flag – Any fabric or other flexible material containing distinctive colors, patterns, or symbols, used as an emblem of a government, political subdivision, or other entity.

16-9-114 Flammable or Explosive Materials – Any substance which decomposes through detonation or which is intense burning. In addition, any substance that is considered an “explosive” or a “flammable liquid” under applicable law.

16-9-115 Floor Area Ratio (FAR) – The total square feet of floor area on a zoning lot, divided by the total square feet of lot area of that zoning lot. The FAR is used to impose limits on commercial development intensity. An FAR of 1 allows one square foot of building for each square foot of land use, while an FAR of 4 allows four square feet of building for each square foot of land area.

16-9-116 Floor Area, Contributing Business – That square footage of a business devoted to sales or service but excluding bathrooms, hallways, employee lounges and similar areas.

16-9-117 Flower/Garden Store – Establishments that grow or produce floriculture or ornamental horticulture products (e.g., cut flowers and roses, cut cultivated greens, potted flowering and foliage plants, and flower seeds) or sell nursery and garden products, such as shrubs, plants, seeds, bulbs, and sod, that are predominantly grown elsewhere (these establishments may sell a limited amount of a product they grow themselves).

16-9-118 Frontage – That portion of a lot abutting a street.

16-9-119 Funeral Home – An establishment engaged in preparing the human deceased for burial or cremation and arranging and managing funerals.

16-9-120 Furniture Upholstery/Repair – An establishment devoted to the restoration of the fabric, stuffing, and other materials used in furniture.

16-9-121 Furniture/Home Furnishing – Establishments that sell products, such as household furniture and outdoor furniture, office furniture (except those sold in combination with office supplies and equipment), floor coverings and window treatments.

16-9-122 Garage Sale – A residential accessory use whereby items accumulated during the every day residential use of a dwelling or of samples owned by the seller are sold on the seller's property.

16-9-123 Garage, Private – A building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

16-9-124 Garden, Non-Commercial – A plot of ground where fruit, herbs, flowers, vegetables or other plants are grown and for which the owner or operator derives no compensation on the site.

16-9-125 Gas Station – Building and premises where gasoline, oil and minor auto accessories may be supplied and dispensed at retail. A gas station is not a service station. For other services in addition to the sales of gasoline see Service Station.

16-9-126 Gift/Souvenir Shop – Establishments that retail novelty merchandise, mementoes, keepsakes and miscellaneous articles appropriate as gifts.

16-9-127 Golf Course – A facility providing private or public golf recreation services and support facilities. This definition shall exclude miniature golf courses and golf driving ranges except those that are clearly accessory uses.

16-9-128 Grade – The slope of a road, street, or other public way, specified in percent of vertical to horizontal measurements or, the level at which the ground surface meets the foundation of a building.

16-9-129 Graphic, Industrial Design Services – Establishments that provide specialized design services (excluding architectural, engineering, and computer systems design) such as planning, designing, and administering projects; creating designs and specifications that aid the use, value, and appearance of products; determining the materials, construction, mechanisms, shape, color, and surface finishes of products; and designing visual communication including printed materials, packaging, advertising, signage systems, or corporate identification (logos).

16-9-130 Greenhouse, Commercial – A building constructed primarily of glass or similar material in which temperature and humidity can be controlled for the cultivation of fruit, herbs, flowers, vegetables or other plants.

16-9-131 Greenhouse, Non-Commercial – A building constructed primarily of glass or similar material in which temperature and humidity can be controlled for the cultivation of fruit, herbs, flowers, vegetables or other plants but not for sale on the premises.

16-9-132 Grocery Store/Supermarket – Establishments with less than 60,000 square feet in lot coverage that retail a general line of food, such as canned and frozen foods; fresh fruits and vegetables; and fresh and prepared meats, fish, and poultry. Included are meat and seafood markets, and delicatessen-type establishments.

16-9-133 Group Boarding Home for Adults – A residential dwelling unit for 4 or more persons, 18 years of age or over, which provides room, board and supervision.

16-9-134 Group Boarding Home for Minors – A residential dwelling unit for 4 or more persons under 18 years who for various reasons cannot reside in their natural home and where 24-hour adult care, supervision and consultation exists under license of the Kansas Secretary of Health and Environment.

16-9-135 Group Home – Any dwelling occupied by not more than 10 persons, including 8 or fewer persons with a disability who need not be related by blood or marriage and not to exceed 2 staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of the state.

16-9-136 Hardware Store – An establishment with less than 60,000 square feet of lot coverage that primarily retails materials and supplies for home repairs or projects and may also sell other products, such as lumber, plumbing goods, electrical goods, tools, house wares, hardware, and lawn and garden supplies. These do not include Home Improvement Centers.

16-9-137 Hazardous Materials – Such materials as flammable solids, corrosive liquids, radioactive materials, oxidizing materials, highly toxic materials, poisonous gases, reactive materials, unstable materials, hypergolic materials, and pyrophoric materials, as defined under the Code of the City of Leawood, and any substance or mixture of substances which is an irritant, a strong sensitizer or which generates pressure through exposure to heat, decomposition or other means.

16-9-138 Health Club – A facility where members or nonmembers use equipment or space for the purpose of physical exercise.

16-9-139 Height, Building – The vertical distance to the highest point of the roof for flat, gable, hip, gambrel, or mansard roofs, measured from the curb level if the building is not more than 10 feet from the front lot line or from the grade in all other cases. For purposes of determining the highest point, parapet walls and rooftop HVAC equipment, and associated screening, shall not be included.

16-9-140 Heliport or Helipad – An area, either on the ground or on a building, used as a landing pad for helicopters to pick up or discharge passengers or cargo.

16-9-141 Highway – A thoroughfare controlled by the Kansas Department of Transportation.

16-9-142 Home Accessory Shop and Boutique – Small specialty shop or business that retails merchandise to decorate, furnish or beautify the home.

16-9-143 Home Improvement Center – Big Box Retail establishment that retails hardware, furniture, carpet, plumbing, electrical, lawn care, or other specialized merchandise for home improvement and maintenance and that usually have accessory outdoor sales and storage of garden and landscaping merchandise.

16-9-144 Home Occupation – Any occupation or activity conducted within a dwelling unit that is clearly incidental and secondary to the use of the premises for dwelling purposes. Section 16-4-10 of this Ordinance addresses Home Occupations.

16-9-145 Hospice – A freestanding building serving as a medical and residential facility for terminally ill people, providing inpatient services and support services for families of the residents and patients.

16-9-146 Hospital – An institution where the sick or injured are given medical or surgical care on an inpatient or outpatient basis. Such institution may include the sale of drugs on the premises, ambulance and emergency services, and medical offices for health care practitioners.

16-9-147 Hot Tub – A tub made of ceramic, acrylic, wood, or another substance and filled with hot water, circulated by water jets powered by a pump, in which one or more persons may soak. Also called a "spa" or "whirlpool."

16-9-148 Hotel – Any building containing 6 or more guest rooms designed for occupancy for sleeping purposes by guests on a compensation basis.

16-9-149 Housing for the Elderly, Handicapped and Disabled – A dwelling designed, maintained, and operated for exclusive occupancy by elderly, handicapped and disabled persons who constitute an elderly family as defined by the regulations of the United States Department of Housing and Urban Development and providing that one dwelling unit may be used for a resident manager who shall be exempt from occupancy age limitations.

16-9-150 Impervious Surface – A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes surfaces such as compacted sand, limerock, or clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar structures.

16-9-151 Inoperable Vehicle or Equipment or Parts Thereof – A motor passenger vehicle, truck, bus, aircraft or other motorized equipment or machine which is not then in condition to be operated in a normal or customary manner, or any major parts thereof such as body, chassis, engine, frame or the trailer portion of a tractor-trailer rig.

16-9-152 Intensification of Use – An intensification of a use shall be any change, alteration, extension, expansion or enlargement of a use or use and structure in combination where the off-street parking requirements of this Ordinance would be calculated at a higher ratio and/or would require that additional off-street parking spaces be provided.

16-9-153 Interference – Disturbances in reception caused by intruding signals or electrical current.

16-9-154 Interior Decorating Service – Business or Establishment that provides design or decorating services for interior building space including furnishings and accessory items either by "off site" purchasing or by "on site" retail sales all of which is considered normal or acceptable services necessary to complete such contract service to its clientele. Such business or establishment may include secondary on-site independent retail sales to those associated with interior decorating.

16-9-155 Jewelry Store – See Clothing/Accessory Store

16-9-156 Kennel – Commercial – A facility for the boarding, breeding, grooming, or training of more than three cats or dogs (including cats or dogs owned by the occupants of the property) that are more than 6 months of age. May also include accessory outdoor yards and runs, and the provision of veterinary care.

16-9-156(a) Kennel – General - A facility for the boarding, breeding, grooming, or training of between three to twenty-five cats, or three to twenty-five dogs or any combination thereof (including cats or dogs owned by the occupants of the property), which are more than 6 months of age. The facility shall be totally enclosed in such a way as to produce no objectionable noise or odors from the exterior of the kennel. May include the provision of veterinary care.

16-9-156(b) Kennel – Veterinary - A totally enclosed facility for the provision of medical care and treatment of animals, which may include boarding services that are incidental to the provision of veterinary care, provided that no more than twenty dogs or cats may be boarded at any one time. The facility shall be totally enclosed in such a way as to produce no objectionable noise or odors from the exterior of the facility.
(Ord. 2493, 6-28-11)

16-9-157 Landscaping – The natural or improved ground surface, containing items such as grass, shrubs, flowers, trees, hedges, vines, earth berms, etc.

16-9-158 Laundromat – An establishment providing for the self-service washing, drying and cleaning of clothes or linens.

16-9-159 Library – A publicly-operated establishment housing a collection of books, magazines, audio tapes and videotapes and other material for borrowing and use by the public.

16-9-160 Light Retail – A use consisting of 10,000 sq. ft. or less of floor area that operates as a fixed point-of-sale location designed to attract a high volume of walk-in customers, where manufactured or processed merchandise such as apparel, accessories, small wares, books, toys, clothing, or shoes, is purchased by the owner or operator thereof and displayed and resold to the general public for personal or household consumption. It does not include an establishment where food is processed, prepared or cooked for consumption and sale, or any of the uses pertaining to automotive services or any other such retail use specifically permitted or prohibited.

16-9-161 Loading Space – A paved space (asphalt or concrete) within the main building or on the same lot, providing for the loading or unloading of trucks.

16-9-162 Lot – A parcel of land occupied or intended for occupancy by one main building or group of buildings together with accessory structures, including open spaces and parking spaces and having its principal frontage upon a street.

16-9-163 Lot Coverage – That portion of a lot covered by principal and accessory uses and/or buildings expressed as a percentage of the lot area. Lot coverage shall include the total area of all principal and accessory buildings as measured along the outside wall at ground level or above as viewed from above and includes all projections other than open porches, fire escapes, canopies or the first 3 feet of a roof overhang. Roads, driveways, parking lots and swimming pools shall not be included in the maximum lot coverage requirements. The percent of lot coverage shall be computed as follows:

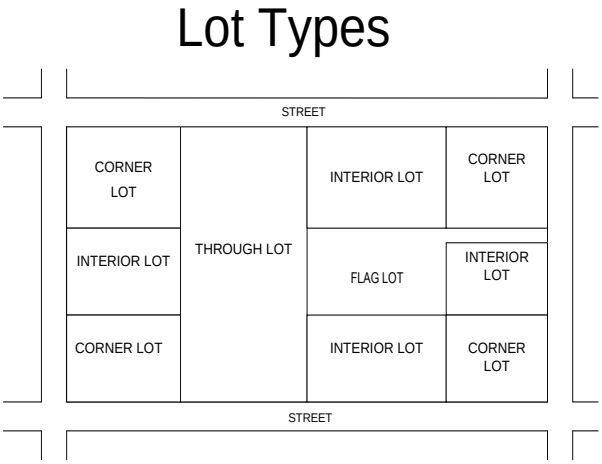
$$\% \text{ of Lot Coverage} = \frac{\text{Total Sq. Feet of Ground Coverage of all Buildings}}{\text{Total Square Feet of Lot Area}}$$

16-9-164 Lot Depth – The average distance from the front property line to the rear property line, measured in the general direction of the side property lines of the lot.

16-9-165 Lot Frontage – All sides of a lot adjacent to a street and measured along the front property line as it abuts the street or along the street right-of-way line on unplatted streets.

16-9-166 Lot of Record – A lot which is part of a platted subdivision, the map of which has been recorded in the Office of the Register of Deeds of Johnson County, Kansas; or a parcel of land, the deed to which was recorded in the Office of the Register of Deeds prior to the adoption of this Ordinance.

16-9-167 Lot Types – See illustration.



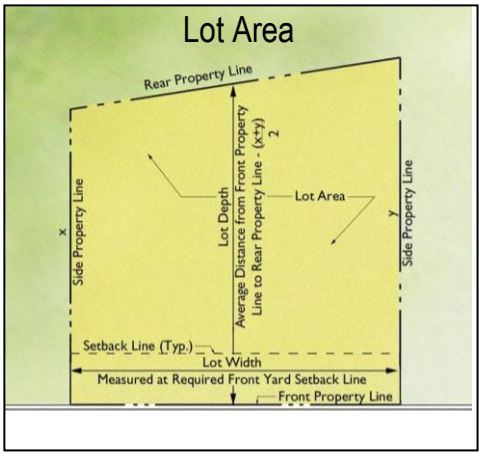
A) *Corner Lot*: A lot located at the intersection of 2 or more streets.

B) *Interior Lot*: A lot other than a corner lot with only 1 frontage on a street.

C) *Irregular Lot*: Any lot that does not have a generally rectangular shape either due to an abnormal lot line or due to the absence of a rear lot line. Pie shaped lots shall be considered irregular lots.

D) *Through Lot*: A lot having a frontage on 2 non-intersecting streets, as distinguished from a corner lot. Such a lot has two front yards and no rear yard. (Also known as a "double-frontage lot")

E) *Flag Lot*: A lot having access to a street by means of a private driveway, access easement, or parcel of land not meeting the requirements of this Ordinance for lot width, but having a width dimension of at least 20 feet at its narrowest point.



16-9-168 Lot Width – The horizontal distance between the side property lines measured at the required front yard setback line. See illustration.

16-9-169 Lot Area – The total area included within the boundaries of the property lines of a lot. See illustration.

16-9-170 Lot, Zoning – A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such setbacks and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

A) A single lot of record;

B) A portion of a lot of record;

C) A combination of two or more lots of record, of lots of record and portions of lots of record, or of portions of lots of record; or

D) A parcel of land described by metes and bounds and recognized by the City of Leawood as a lot of record; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.

16-9-171 Machine Shop – A workshop, that turns, shapes, planes, mills or otherwise reduces or finishes by machine-operated tools.

16-9-172 Maintenance Guarantee – Any security, other than cash, that may be accepted by a municipality for the maintenance of any improvements required by this Ordinance.

16-9-173 Major Street Plan – The official, adopted Major Street Plan for the City of Leawood, Kansas and amendments thereto.

16-9-174 Manufactured Home – A structure as defined in and that is subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. 5401 *et seq*.

16-9-175 Manufacturing, Light – An economic activity involving the mechanical or chemical transformation of materials or substances into new products including the assembly of component parts, the manufacturing of products and the blending of materials such as lubricating oils, plastics, resins, or liquors at a scale and intensity that is compatible with any surrounding residential uses and the intent of the City's BP district. Includes, manufacturing, processing, fabrication, or assembling of any commodity, except junk or salvage.

16-9-175(a) Master Development Plan or Master Plan - The Comprehensive Development Plan or Comprehensive Plan as defined in this Article.

16-9-176 Medical and Hospital Supplies and Equipment – Establishments that wholesale medical and other healthcare materials, equipment and tools to clinics, hospitals, and other facilities that treat, house, or care for patients.

16-9-177 Medical/Dental Lab – Laboratories that provide analytic or diagnostic services, and other services, such as medical imaging, and forensics.

16-9-178 Medical/Dental Service – Establishments that provide therapeutic, preventive, or corrective personal treatment services on an outpatient basis by physicians, dentists, and other practitioners of the medical or healing arts, and the provision of medical testing and analysis services. Typical uses include clinics and offices for doctors of medicine, dentists, orthodontists, chiropractors, osteopaths, and optometrists.

16-9-179 Medical Outpatient Care Facility – Medical care centers or clinics that have several practitioners with different specializations practicing within the same establishment and which perform minor surgery along with the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; and in which no patients are lodged overnight, but which may include a pharmacy. Many such centers also function as HMO medical centers and focus on primary health care.

16-9-180 Minimum Elevation for Building – The finished floor elevation of the lowest part of the floor.

16-9-181 Mortuary – See Funeral Home.

16-9-182 Motel – Motel shall mean Hotel as defined by this Ordinance.

16-9-183 Mother's Day Out Program – A program operating more than 5 consecutive hours or more than 1 day per week and in which any 1 child is enrolled for not more than one session per week.

16-9-184 Motorcycles Sales and Service – Establishments retailing new or used motorcycles, motor scooters, motorbikes, mopeds, and off-road all-terrain vehicles and which may, as an accessory use, offer repair services and replacement parts and accessories.

16-9-185 Motor Freight Terminal – A building or area in which freight brought by motor truck is received, assembled or stored and dispatched for routing by motor truck which may include motor truck storage.

16-9-186 Movie Rentals and Sales – Establishments that rent or retail motion pictures, short films, software, video games, or other multimedia. This excludes establishments renting or retailing adult entertainment as their primary use.

16-9-187 Movie Theater, Indoor – A theater for showing movies or motion pictures. Other terms used to describe these structures include talkies, cinema theaters, and motion pictures. This use category also includes cineplexes – complex structures with multiple movie theaters, each theater capable of providing performances independent of the others in the complex.

16-9-188 Music Store – Establishments that retail musical instruments and related supplies and may also retail sheet music, offer music instruction, rent or repair instruments as accessory uses.

16-9-189 Non-Conforming Use, Building or Yard – A use, building or yard existing legally at the time of the passage of this Ordinance or any amendment thereto which does not, by reason of design, use or dimensions, conform to the regulations of the district in which it is situated.

16-9-190 Nursery School – See Day-Care.

16-9-191 Nursery, Commercial – An area where plants (as trees and shrubs) are grown for transplanting, for use as stocks for budding and grafting, or for sale.

16-9-192 Nursing or Convalescent Home – An establishment providing full-time care for the aged or physically infirm, and not involving surgery, obstetrical services, or other major medical services more commonly provided in hospitals or clinics. Such establishment may involve usual convalescent or chronic care including bedside nursing care, administration of medicines or special diets, application of bandages or dressings, and similar procedures.

16-9-193 Office, General – An establishment providing executive, management, administrative or professional services, but not medical or dental services or the sale of merchandise, except as accessory to a permitted primary use. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting and similar offices.

16-9-194 Office, Medical – A business establishment of one or more physicians, dentists, or other health practitioners providing medical services in a specific area of health care, organized as a single business entity, and lawfully established for medical and dental consultation to persons on an outpatient basis.

16-9-195 Office Supply – An establishment that retails products and materials for business and office use.

16-9-196 Open Space – That part of a lot, exclusive of public right-of-way, consisting of permeable and uncovered surface that contains living material and that is not covered by buildings, structures, parking or loading areas, driveways or any principal or accessory use.

16-9-197 Outdoor Storage – The keeping, in an unprotected, unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 hours.

16-9-198 Packaged Liquor Sales – Establishments that primarily retail packaged alcoholic beverages.

16-9-199 Parapet – That part of any wall entirely above the roof line.

16-9-200 Parking Lot – An area not within a building where motor vehicles may be stored for the purposes of temporary, daily, or overnight off-street parking.

16-9-201 Parking Space, Off-Street – A permanently surfaced area (concrete, asphaltic concrete) enclosed or unenclosed, to store one automobile, to which an automobile has direct access from a permanently surfaced street, alley or other public way.

16-9-202 Parking Structure – A structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed.

16-9-203 Pedestrian Way – A right-of-way, dedicated to public use, to facilitate pedestrian access to adjacent streets and properties.

16-9-204 Personal Services – Dating service, debt counseling to individuals, genealogical investigation service, marriage counseling, shopping service, tax return preparation service, consumer credit reporting agencies, adjustment and collection agencies, court reporting service, stenographic service, word processing service, employment agencies, temporary help supply service, management, consulting and public relations service, detective agencies and protective services, business brokers, messenger service, notary publics, tax collection agencies, telephone solicitation service, clothing/costume rental, alteration service/seamstress, quilting for individuals and reducing salons/weight control clinics.

16-9-205 Pet Shop – Establishments that retail pets and other animals (except for farming purposes) and pet supplies, and that may offer animal services (not including veterinary services), such as grooming and training as accessory uses.

16-9-206 Photographic Studio – Establishments offering commercial and consumer photography services.

16-9-207 Planned District – A district with development characterized by a unified site development plan, which may provide for a mixture or combination of residential, recreation and open space, and commercial uses, in accordance with the provisions of this Ordinance.

16-9-208 Plat – A map, plan or layout showing the subdivision of land and indicating the location and boundaries of individual lots and streets and meeting the terms of this Ordinance.

16-9-209 Pool Cabana – A shelter located near a swimming pool used as a bathhouse accessory to the swimming pool.

16-9-210 Post Office – A facility used for the collection, sorting and distribution of U.S. mail among several zip code areas and having limited retail services for the public, such as the sale of stamps, postcards and postal insurance.

16-9-211 Premises – A lot, together with all improvements thereon.

16-9-212 Preschool – A facility that:

A) Provides learning experiences for children who have not attained the age of eligibility to enter kindergarten as prescribed by Kansas law and who are at least 30 months of age;

B) Conducts sessions not exceeding three hours per session;

C) Does not enroll any child more than 1 session per day; and

D) Does not serve a meal.

The term "preschool" shall include educational preschools, Montessori schools, church-sponsored preschools, and cooperatives.

16-9-213 Principal Permitted Use – A main or predominant use maintained on a lot or premises. In some districts, maintenance of more than one principal permitted use on a lot or premises may be allowed.

16-9-214 Printing and Publication – An establishment that primarily provides for the production of books, magazines, newspapers and other printed matter, and record pressing and publishing, engraving and photoengraving, but excluding businesses involved solely in retail photocopying, reproduction, photo developing or blueprinting services.

16-9-215 Projection – That which juts out such as an extension of a roof from a vertical wall or a deck structure extending outward from a vertical wall but totally supported by that wall. An extension beyond the normal line or surface.

16-9-216 Property Line – The legal boundary of a lot or parcel of land.

16-9-217 Public Improvements – All public facilities constructed or erected to permit and facilitate the use of lots or blocks for a principal residential, business or manufacturing purpose.

16-9-218 Public Uses – All municipal uses and facilities. This use does not include Public Utility Facilities. All public uses are subject to development plan review prior to approval by the City.

16-9-219 Public Utility Facilities – A facility of a public utility serving the area, such as an electric substation, a water or gas pumping or regulating station, or telecommunications switching equipment. Public Utility Facilities shall not include wires, cables, pipes, conduits, poles or other incidental equipment connecting to such facilities and that otherwise comply with the requirements of this Ordinance.

16-9-220 Public Water – Water supplied for domestic purposes by a municipality, district or county and approved by the Kansas State Department of Health.

16-9-221 Radio and TV Studio – An establishment that operates broadcasting studios and facilities for the delivery of radio and television programs of entertainment, news, talk, etc. These establishments produce or purchase programs and generate revenue from the sale of air time to advertisers or from donations, subsidies, or the sale of programs.

16-9-222 Recreation and Entertainment, Indoor – An establishment offering recreation, entertainment or games of skill to the public for a fee or charge and that is wholly enclosed in a building. Typical uses include bowling alleys, indoor theatres, bingo parlors, pool halls, billiard parlors and video game arcades.

16-9-223 Recreation and Entertainment, Outdoor – An establishment offering recreation, entertainment or games of skill to the public for a fee or charge, wherein any portion of the activity takes place in the open. Typical uses include archery ranges, batting cages, golf driving ranges, drive-in theaters and miniature golf courses.

16-9-224 Recreational Vehicle – Any unit designed for recreation, living, or sleeping purposes, permanently equipped with wheels or permanently placed upon a wheel device for the purpose of transporting from place to place. This shall include but is not limited to camping trailers, campers, tent trailers, motor homes, tent campers, buses, snowmobiles, jet skis/wave runners and boats of all sizes.

16-9-225 Recreational Vehicles Sales and Service – An establishment that sells, rents or leases recreational vehicles that typically have showrooms or open lots for selling vehicles and may provide repair and maintenance services as an accessory use.

16-9-226 Repair Service – An establishment primarily engaged in the provision of repair services to individuals and households but excluding "Vehicle Repair" services. Typical uses include appliance repair shops.

16-9-227 Repeater – A low power mobile radio service communication facility that extends coverage of a cell to areas not covered by the originating cell. (See antenna)

16-9-228 Research Services – An establishment engaged in conducting basic and applied research, including production of prototype products when limited to the minimum scale necessary for full investigation of the merits of a product, excluding production of products used primarily or customarily for sale or for use in non-prototype production operations.

16-9-228(a) Research Services – Limited - An establishment engaged in basic and applied research, including the production of prototype products; provided, that per the currently adopted International Building Code and International Fire Code, no Type F (Factory), H (High Hazard), S1 (Moderate Hazard Storage) or S2 (Low Hazard Storage) occupancy shall exist, and that the area dedicated to this use shall be no more than 25% of the total gross floor area of the business, as determined through a final site plan submitted with the Special Use Permit application required per Section 16-2-7 of this Ordinance. All quantities of hazardous materials shall be limited to a maximum of 10% per category of that which is allowed by the International Building Code or International Fire Code for a specified occupancy type. The required Special Use Permit shall be conditional upon an annual review by the fire official. In order to facilitate the review, the applicant shall engage an approved independent expert to submit documentation of the quantities of hazardous materials in the occupancy and the processes in which they are used. This documentation shall be evaluated for compliance with the Fire and Building Codes and the Leawood Development Ordinance prior to extending the Special Use Permit. Furthermore, research shall be limited to the minimum scale necessary for full investigation of the merits of the product, excluding production of products used primarily or customarily for sale or for use in non-prototype production operations.

16-9-229 Residential-Design Manufactured Home – A manufactured home [a structure which is subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. 5403] on a permanent foundation which has (a) minimum dimensions of 22 body feet in width, (b) a pitched roof and (3) siding and roofing materials which are customarily used on site built homes.

16-9-230 Restaurant, Carry-Out – Establishment or portion thereof designed and constructed to have the food consumed away from the restaurant.

16-9-231 Restaurant, Drive-In – Establishment or portion thereof designed and constructed where some or all of the food is consumed on the restaurant premises but outside the restaurant structure, usually within a motor vehicle parked on the restaurant premises.

16-9-232 Restaurant, Drive-Through – Establishment or portion thereof designed and constructed where the food is picked up by the customer from the customer's automobile to be consumed off the

restaurant premises. Such activities, although commonly associated with fast-food restaurants, may also occur at restaurants and food establishments that do not serve fast food.

16-9-233 Restaurant, Sit Down – Any business establishment or portion thereof designed and constructed solely for the consumption of food within the building.

16-9-234 Resubdivision – The further subdivision of a tract of land which has previously been lawfully subdivided and for which a plat of such prior subdivision has been duly recorded.

16-9-235 Retail Sales – The sale of merchandise for direct consumption or use by the purchaser as an ultimate consumer.

16-9-236 Retail Sales and Service – An establishment engaged in the sale or rental of goods and services, excluding uses more specifically defined.

16-9-236a Retail Sales with Limited Manufacturing - An establishment whose primary use is retail sales, however, also includes some light manufacturing of products for on-site retail sales only. A minimum of 51% of the floor area of the establishment shall be devoted to retail sales. No wholesale is permitted. The production of products for on-site retail sales may include the assembly of component parts and the blending of materials at a scale and intensity that is compatible with any surrounding residential, office, or retail uses; provided, that per the currently adopted International Building Code and International Fire Code, no Type H (High Hazard), occupancy shall exist, and that the area dedicated to the production of products shall be no more than 49% of the total gross floor area of the business, as determined through a final site plan submitted with the Special Use Permit application required per Section 16-2-7 of this Ordinance. All quantities of hazardous materials shall be limited to a maximum of 10% per category of that which is allowed by the International Building Code or International Fire Code for a specified occupancy type. The required Special Use Permit shall be conditional upon an annual review by the fire official. In order to facilitate the review, the applicant shall engage an approved independent expert to submit documentation of the quantities of hazardous materials in the occupancy and the processes in which they are used. This documentation shall be evaluated for compliance with the Fire and Building Codes and the Leawood Development Ordinance prior to extending the Special Use Permit.

(Ord. 2670, 06-16-14)

16-9-237 Retaining Wall – A wall where the grade on one side of the wall is greater than the grade on the opposite side and that is designed to support the weight of the soil on the high side of the wall. Paving, rip-rap, or other treatment of a slope to prevent erosion is not a retaining wall.

16-9-238 Retirement Community – See Housing for the Elderly.

16-9-239 Right-of-Way – A portion of land opened, reserved, used or dedicated for a street, sewer, water line, walk, drainage course or other public purpose, and not included within the dimensions or areas of lots or parcels.

16-9-240 Sales Lot/Area, Outdoor – An area utilized as a principal use for the display of merchandise that is for sale. Such lot shall be paved (asphalt or concrete) and shall not be located within the required yard areas for the zoning district in which it is located. Areas utilized as a sales area or lot may not interfere with the required off-street parking and such areas must meet all requirement of the zoning district in which it is located. This definition shall include vehicle sales lots or areas.

16-9-241 Salvage Yard or Junk Yard – An outdoor fenced area used primarily for the collection, storage and/or sale of waste paper, scrap metal, or discarded material or for the collecting, dismantling, storage or salvaging of machinery or vehicles that are not in operating condition and/or for the sale of parts therefrom.

16-9-242 Satellite Dish Antenna – A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

16-9-242a School, College or University - An institution, public or private, other than a trade or vocational school that provides full-time or part-time education beyond high school in a traditional classroom setting.

(Ord. 2667, 05-27-14)

16-9-243 School, Elementary, Middle or High – The use of a site for instructional purposes on an elementary or secondary level.

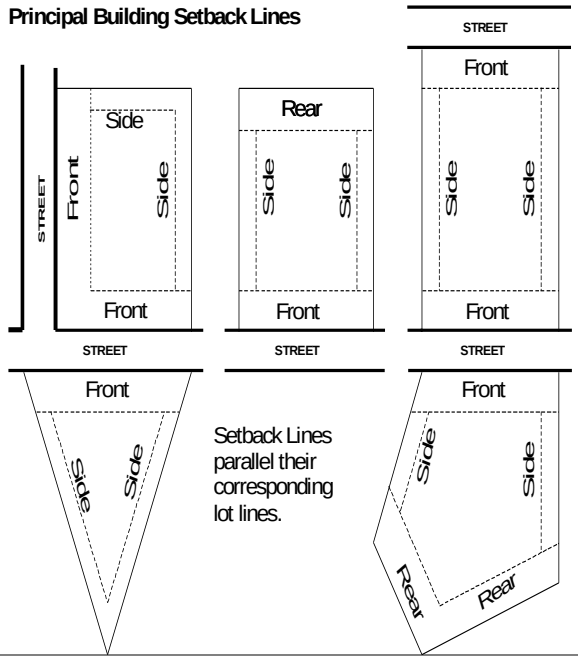
16-9-244 School, Technical or Vocational – An establishment that offers vocational and technical education or training in a variety of technical subjects and trades that are not limited to a traditional classroom and involve any of the following: use of hazardous chemicals/materials, storage of equipment, manufacturing, assembly of physical/chemical components, servicing physical components of machines and equipment, or other similar activities, or occupational pursuits, and not otherwise defined herein. Technical/vocational schools shall include, but not be limited to: auto repair, machine manufacturing and repair, refrigeration repair, and computer repair. Schools for information technology not involving any of the above activities, such as, computer programming shall not be considered a technical or vocational school.

(Ord. 2666, 5-27-14)

16-9-245 Service Stations – An establishment providing minor automotive repair services at retail direct to the motorist consumer. Service station shall not include major automotive repair such as tire recapping, body work, frame straightening, welding, painting or storage of non-operable vehicles.

16-9-246 Setback – The minimum horizontal distance between a property line and the nearest portion of a structure to such property line. The setback is a required open space which is unoccupied and unobstructed by any structure or portion thereof from the natural ground level to the sky, except as otherwise provided in this Ordinance, between the building setback line and the applicable property line.

16-9-247 Setback, Front – An area extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the main building or any projection thereof, other than the projection of the usual steps,



entrance-way and drives, except on corner lots and through lots, which shall have two front setbacks along the portions of the lot with frontage on two streets.

16-9-248 Setback, Rear – An area extending across the rear of the lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projection other than steps, unenclosed balconies, drives and patios, except through lots, corner lots and triangular-shaped lots which shall have no rear setback.

16-9-249 Setback, Side – A yard extending from the front setback line to the rear setback line, and being the minimum horizontal distance between the side lot line and the side of the main building or any projections thereof, except on corner lots, where it is the area extending from the front setback line to the intersection with the other side setback, and through lots where it is the yard extending from the front setback on one street to the front setback on the other street on which the lot has frontage.

16-9-250 Sewing/Fabric Store – Establishments that retail fabric, cloth, sewing equipment and accessories from fixed point-of-sale locations.

16-9-251 Shoe Repair – Establishments that re-sole, restore and mend their customers' footwear for a fee.

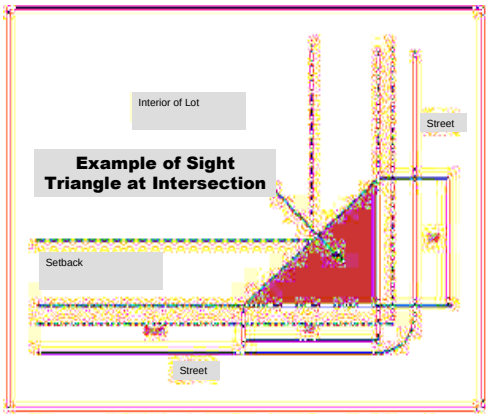
16-9-252 Shoe Store – See Clothing/Accessory Store.

16-9-253 Shopping Center, Neighborhood – A group of commercial establishments with off-street parking on the property that is planned and developed as an architectural unit, with a primary market area of the neighborhood(s) in which it is located.

16-9-254 Shopping Center, Regional – A group of commercial establishments with off-street parking on the property that is planned and developed as an architectural unit, that is a centrally managed facility requiring a highway or arterial location for the most beneficial operation; the market area of which includes the metropolitan area.

16-9-255 Sidewalk Café – An area adjacent to and directly in front of a street-level eating or drinking establishment used for dining, drinking, and pedestrian circulation.

16-9-256 Sight Triangle – Generally, a triangular-shaped portion of land at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede, limit or obstruct the sight distance or vision of motorists entering or leaving the intersection. See Figure in Section 16-4-6.9 for specific dimensions, application and requirements.



16-9-257 Signs –

Address Sign – Any sign that denotes a building's postal address.

Animated Sign – Any sign that uses movement or change of lighting to depict action or to create a special effect or scene.

Awning Sign – Any visual message incorporated into an awning.

Banner – Any sign that is made of cloth, canvas, plastic, or other flexible material.

Builder or Construction Sign – Any sign located upon a lot where a structure is under construction and which contains information identifying the builder of the structure.

Canopy Sign – A sign that is attached to or incorporated into a canopy.

Changeable Copy Sign – A sign that is designed so that characters, letters, or illustrations can be changed or rearranged (either manually or automatically) without altering the face or the surface of the sign.

Directional Sign – An on-premise sign providing directional information for the safe and efficient flow of pedestrian or vehicular traffic. Directional signs shall include signs marking entrances, exits, parking and loading areas, and other operational features, but not including logos, names or other commercial information.

Directory Sign – Any structure summarizing businesses, uses or destinations within a complex and identifying business locations.

Double-faced Sign – A sign with two faces or panels, neither of which is visible at the same time, and are directly back-to-back.

Drive-thru Menu Board – A vehicular scaled sign provided within a drive-thru that lists products and services offered.

(Ord. 2534, 04-24-12)

Drive-thru Order Confirmation Display – An electronic display used within a drive-thru that lists information for the purposes of confirming information regarding orders of products and services.

(Ord. 2534, 04-24-12)

Electronic Display Sign – Any sign on which the copy changes automatically via a lamp-bank, liquid crystal display, television screen, or by any other mechanical, digital, or electronic means.

Exposed Neon Sign – Any sign that incorporates neon lit tubing on its exterior surface, which makes it clearly visible to the naked eye.

Flashing Sign – Any sign that is internally or externally illuminated by flashing, flowing, alternating, or blinking lights.

Freestanding Sign – Any sign supported by structures or supports that are placed on, or anchored in, the ground and that is independent from any building or other structure.

Garage Sale Sign – A sign, placed upon a residential lot, that conveys information about a garage sale.

Government Sign – Any sign erected and maintained by the City, County, State, or Federal government.

Height, Sign – The vertical distance measured from the highest point of the sign to the average ground grade beneath the sign.

Indirectly Illuminated Sign – Any sign that is partially or completely illuminated at any time by a light source that is shielded so as not to be visible at eye level.

Inflatable Sign – Any sign or display designed or constructed with the ability to be mechanically filled with a gas or any other material.

Informational Sign – Any sign (to include but not be limited to political campaign signs) that advertises a political party, personal belief, issue or candidate.

Internally illuminated Sign – Any sign illuminated by diffused light through a translucent material so that the light source is not directly discernible.

Lease/For Rent Sign – Any sign, located on residential, commercial, or agricultural property, which advertises or identifies the parcel as being for lease or rent.

Light Pole Banner – Any banner sign designed to hang from a utility pole that is securely attached with brackets such as the BannerFlex II system or other such equivalent device.

Marquee Sign – Any sign attached flat against or under the canopy of a building, but not on the upper surface of a canopy.

Menu Display – A pedestrian scaled sign displayed at the entrance to a sit down restaurant that lists the products and services offered.

(Ord. 2534, 04-24-12)

Monument Sign – A sign supported directly by the ground which is made of stone, concrete, metal, routed wood planks or beams, brick, or similar materials that is not connected to or joined with any other building or structure.

Non-conforming Sign – A sign that was erected legally, but which does not comply with subsequently enacted sign restrictions and regulations.

Off-site Sign – Any sign advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which the sign is placed.

Painted Wall Sign – A sign that is applied with paint or colored substances directly on the face of a wall.

Permanent Sign – Any wall, canopy, or monument sign, which is constructed of durable materials and is intended to be displayed for an indefinite period of time.

Pole Sign – A sign that is elevated above ground and that exposes the "pole" or other support device or allows view through the space between the sign and the ground.

Portable Sign – Any sign, whether on its own trailer, wheels, or otherwise designed to be movable and not structurally attached to the ground, a building, or any other structure or sign.

Post and Panel Sign – A sign elevated above the ground by using two or more posts that are visible between the ground and the sign panel.

Real Estate/Developer Sign – A sign, located on either residential, commercial, or agricultural property, which advertises or identifies the parcel as being for sale.

Roof Sign – Any sign erected and constructed wholly on the roof of a building, supported by the roof structure.

Rotating Sign – Any sign that revolves, spins, turns, or moves in any fashion.

Temporary Sign – A sign that is intended to be posted for a temporary period of time on public or private property, and is typically constructed from nondurable materials, including paper, cardboard, cloth, plastic and/or wall board and does not constitute a structure subject to the City's Building Code or this Ordinance.

Time and Temperature Device – A device or sign electronically displaying time and/or temperature information.

Wall Sign – Any sign attached flat against the surface of an exterior wall or facade of a building, but not projecting horizontally from the vertical wall surface more than 12 inches, which is supported by the wall and which displays only one sign surface.

Window Sign – Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window within a distance of 3 feet of the window, or upon the window panes or glass.

(Ord. 2449, 06-29-10)
(Ord. 2732, 05-26-15)

16-9-258 Site Plan – A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.

16-9-259 Slim-line antenna – A panel antenna that mounts directly to and parallel with a monopole or alternative tower structure.

16-9-260 Sporting Goods (Sales/Rental) – Specialized clothing, equipment, accessories, and service establishments that retail for sport and recreational activities and that retail such goods as bicycles and bicycle parts, camping equipment, exercise and fitness equipment, athletic uniforms, specialty sports footwear, and similar equipment and accessories. These establishments may also rent such sporting equipment as an accessory use.

16-9-261 Stable, Private – An accessory building in which horses are kept for use by the owner of the property on which the stable is located.

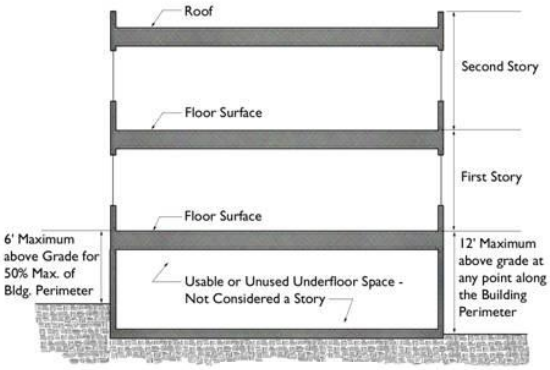
16-9-262 Stable, Public – An accessory building in which horses are kept for commercial use including boarding, hire, and sale.

16-9-263 Stable, Riding – A structure and premises in which horses or ponies, used exclusively for pleasure riding or driving, are housed, boarded, or kept for remuneration, hire, or sale.

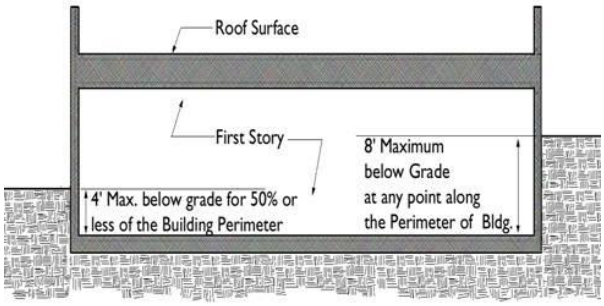
16-9-264 Story – That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

16-9-265 Story, First – The lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than 4 feet below the level at which the ground surface meets the foundation of a building for more than 50 percent of the total perimeter, or more than 8 feet below the level at which the ground surface meets the foundation of a building at any point.

Story/First Story



STORY



FIRST STORY – SINGLE STORY BUILDING

16-9-266 Street – A right-of-way, dedicated to the public use, or a private right-of-way, which provides principal vehicular and pedestrian access to adjacent properties.

> **Arterial Street –** A street serving major traffic movement, designed primarily as a traffic carrier between, around and across the city, which forms part of the through-street network.

Collector Street – A street, designed to serve traffic needs between arterial and local streets and not to provide access to abutting properties.

Local Street – A street or road providing for direct access to adjoining properties and is designed to serve minor traffic needs.

Frontage Street – A street that is generally parallel to and adjacent to a major highway, street or railroad right-of-way, providing access to abutting properties.

Private Street – A street which affords principal access to property abutting thereon, which street is owned, controlled and maintained by persons other than a governmental entity.

16-9-267 Street Construction Standards – The Official adopted Street Construction Standards for the City of Leawood, Kansas and amendments thereto.

16-9-268 Structural Alterations – Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any rebuilding of the roof or the exterior walls. For the purpose of this regulation, the following shall not be considered a structural alteration:

A) Attachment of a new front where structural supports are not changed.

B) Addition of fire escapes where structural supports are not changed.

C) New windows where lintels and support walls are not materially changed.

D) Repair or replacement of non-structural members.

16-9-269 Structure – That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner or anything constructed or erected with a fixed location on the ground, or attached to something with a fixed location on the ground. Structures include but are not limited to buildings, walls, fences, billboards, poster panels, above ground storage tanks, and similar uses. Excluded are sidewalks, pavement and public improvements such as utility poles, street light fixtures, and street signs.

16-9-270 Subdivision – The division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land.

16-9-271 Substantial Repair – A repair shall be deemed substantial when the amount of money needed for repair exceeds fifty percent of the before damage value of the structure.

16-9-272 Tavern – An establishment in which the primary function is the public sale and serving of alcoholic and cereal malt beverages for consumption on the premises, including establishments commonly known as cocktail lounges, bars and night clubs.

16-9-272(a) Tenant, Primary – In the case of a single-tenant building; any tenant occupying 50% or more of the floor area of the building. In the case of a multiple-tenant building, any tenant occupying at least 25,000 square feet of the floor area or 50% or more of the total building floor area, whichever is less.

(Ord. 2524, 02-28-12)

16-9-727(b) Tenant, Sub – Any entity that leases space from or has a business relationship with the primary tenant and has a presence within the tenant space, but does not have its own public entrance separate from the primary tenant.

(Ord. 2524, 02-28-12)

16-9-273 Terrace – A raised earthen embankment with the top leveled. A terrace may be supported by a retaining wall.

16-9-274 Thoroughfare – A major street as designated on the Major Street Plan for the City of Leawood, Kansas.

16-9-275 Tower – A structure designed to support at least one or more antennae. This does not include structures owned and operated by amateur radio personnel licensed by the FCC.

16-9-276 Tower, Alternative (Alternative tower structure) – Manmade trees, clock towers, bell steeples, light poles, buildings and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or facilities.

16-9-277 Tower height – The vertical distance measured from the base of the tower or alternative tower structure at grade to the highest point of the tower or alternative tower structure. If the tower or alternative tower structure is on a sloped grade, then the average grade around the tower shall be used in calculating the tower height.

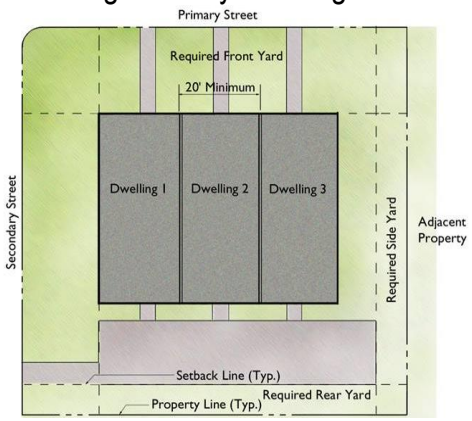
16-9-278 Tower, Lattice – A three or four-sided tower constructed of open steel framing.

16-9-279 Tower, Guyed – A tower that is supported, in whole or in part, by guy wires and ground anchors.

16-9-280 Tower, Monopole – A tower of single-pole design, constructed without support (guy) wires or anchors.

16-9-281 Townhomes – Any series of 2 or more laterally attached single-family dwellings in which each dwelling has separate access, utilities service and in which no dwelling is placed on top of another.

Townhomes
Single-Family Dwelling



16-9-282 Toy/Hobby Shop – An establishment primarily retailing toys, games, and hobby and craft supplies.

16-9-283 Trailer – A vehicle without motor power designed for the carrying of property, trash or debris.

16-9-284 Trailer, Advertising – A trailer, as defined above, but carrying, or having attached thereto, a sign, billboard, or other media for advertising purposes, such advertising being the prime purpose and use of the trailer.

16-9-285 Vehicle – Any implement of conveyance designed or used for the transportation of people or materials on land, water or air, including but not limited to automobiles, trucks, boats, bicycles, motorcycles, snowmobile, airplanes, helicopters, trailers, campers, wagons, etc.

16-9-286 Vending/Game Machine Sales/Service – An establishment that distributes and services game machines or machines from which customers can buy small items such as cigarettes, drinks and sweets.

16-9-287 Warehouse/Distribution – Establishments that provide storage facilities for general merchandise, refrigerated goods, and other warehouse products and that provide various services relating to the distribution of the goods such as labeling, breaking bulk, inventory control and management, light assembly, order entry and fulfillment, packaging, pick and pack, price marking and ticketing, and transportation arrangement.

16-9-288 Wholesale Establishment – A business establishment engaged in selling to retailers or distributors rather than to consumers.

16-9-288a WIFI – A local wireless area network (WLAN) based on the Institute of Electrical and Electronics Engineers 802.11 network standards, to transmit and receive data over distances of a few hundred feet for connecting computers and other electronic devices to each other and to the Internet.

(Ord. 2683, 09-09-2014)

16-9-289 Wireless Communication Facility – Any complex, including tower, antenna, antenna support structure, cabinet, building, screen walls, transmission equipment, power source or other equipment constructed on the ground, and used to assist antennae in the generation or receipt of electromagnetic communication signals, or used for the transmission or receipt of electromagnetic communication signals.

16-9-290 Wireless Service Provider (Provider) – Any provider of cellular or wireless (digital, PCS, and PCN) communication service allowing customers to use mobile telephones to connect, via low power radio transmitter sites either to the public switched network or to other mobile telephones or radios. Such providers shall be licensed by the FCC in a specific geographical area in which the radio frequency spectrum is divided into discrete channels.

16-9-291 Zero Lot Line Dwelling Unit – A development approach in which a freestanding building is sited on one or more lot lines with no yard on the zero lot line side in order to increase the amount of usable open space on the remaining area of the lot. Zero lot line dwellings are designed with no windows facing the zero lot line side and are internally oriented to an enclosed, private courtyard or patio.