

**CITY OF GUTHRIE
KENTUCKY
ZONING ORDINANCE**

**PREPARED BY
COMMUNITY AND DEVELOPMENT SERVICES**

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ARTICLE 1 GENERAL PROVISIONS

1.0 TITLE

This chapter shall be known and may be cited as the "Zoning Code" of the city.

1.1 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Whenever any words and phrases used herein are not defined herein but are defined in the state laws regulating the creation and function of a planning agency, any such definition therein shall be deemed to apply to the words and phrases used herein, except when the context otherwise requires.

"ABANDONMENT." The relinquishment of property, or a cessation of the use of the property, by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.

"ABUT." To physically touch or border upon, or to share a common property line. (See "ADJOINING LOT OR LAND" and "CONTIGUOUS.")

"ACCESS." A way or means of approach to provide physical entrance to a property.

"ACCESSORY USE" or "ACCESSORY STRUCTURE/DEVICE." A use, structure or device on the same lot with, and of a nature customarily incidental and subordinate to, the principal use of a structure. Any type of satellite disk, antenna or device shall be considered an accessory device.

"ACRE." A measure of land area containing 43,560 square feet.

"ADDITION." A structure added to the original structure at some time after the completion of the original.

"AESTHETIC." The perception of artistic elements or elements in the natural or human-made environment which are pleasing to the eye.

"AGRICULTURAL GRAIN TERMINAL." A storage area or structure where grain products are temporarily stored for transferal to trucks, train cars or other forms of transportation.

"AGRICULTURE." The use of land for farming, dairying, pasturage, agriculture, apiculture, horticulture, floriculture, viticulture, animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however, that: (1) The operation of any such accessory use shall be secondary to that of the normal agricultural activities; (2) The above uses shall not include the feeding or sheltering of animals or poultry in penned enclosures within 100 feet of any residential zoning district; and (3) The agriculture use does not include the operation or maintenance of a commercial stockyard or feedlot where large numbers of livestock are fed concentrated feeds, particularly for the purpose of fattening for market.

"AIRPORT." Any location, either on land or water, or structure which is designed or used for the landing and take-off of aircraft, including all necessary buildings and facilities of aircraft operation.

"AISLE." The traveled way by which cars enter and depart parking spaces.

"ALLEY." A service way providing a secondary means of public access to abutting property and not intended for general traffic circulation.

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“ALTERATION.” Any change, addition or modification in construction, or any change in the structural members of a building, such as bearing walls, columns, beams or girders.

“AMENITY.” A natural or human-made feature which enhances or makes more attractive or satisfying a particular property.

“AMUSEMENT AND RECREATION SERVICES.” Establishments engaged in providing amusement or entertainment for a fee or admission charge, and includes such activities as dance halls; studios; theatrical producers; bands, orchestras and other musical entertainment; bowling alleys, and billiard and pool establishments; commercial sports, such as arenas, rings, racetracks, public golf courses and coin-operated devices; amusement parks; membership sports and recreation clubs; amusement and bathing beaches; swimming pools; riding academies; carnival operations; expositions; game parlors; and horse shows.

“AMUSEMENT ARCADE.” A business establishment offering for public use, five or more of any form of game machine, instrument or apparatus operated by coin, slug or similar medium, but not including automatic machines for vending food, soft drinks or similar products.

“AMUSEMENT PARK.” A commercially operated park with various devices for entertainment and booths for the sale of food and drink. Outdoor games and activities may include motorized rides, water slides, miniature golf, batting cages, paint ball and the like.

“AMUSEMENT PARK (INDOOR).” An amusement park in which all related entertainment activities occur within the confines of a building.

“ANNEXATION.” The incorporation of land area into an existing community with a resulting change in the boundaries of that community.

“APARTMENT HOTEL.” A building in which lodging is offered for compensation, in which part of the building may be separated into individual units providing cooking facilities.

“APARTMENT UNIT.” A part of a building consisting of a room or suite of rooms intended, designed or used as a dwelling unit by any individual or single family.

“APPROVED PLAN.” A plan which has been granted final approval by the appropriate approving authority.

“ASSISTED LIVING FACILITIES.” A building or structure that contains three or more apartments with private bath and facilities for an individual’s meal preparation (which may include refrigerator, stove, microwave oven or other appliances) and providing supportive service such as assistance with household chores, cleaning, shopping, meals, laundry, transportation, 24-hour supervision and organized social activities and not constituting a boarding and lodging house or nursing home.

“AUTOMATED TELLER MACHINE (ATM).” An electronic device used by the public for conducting financial transactions such as withdrawing or depositing cash from a bank, savings, credit union, credit card or similar account wherein the customer operates the device independently.

“AUTOMOTIVE, MOBILE HOME, TRAVEL TRAILER, FARM IMPLEMENT, AND CONSTRUCTION MACHINERY SALES.” The sale or rental of new or used motor vehicles, mobile homes, travel trailers, farm implements and construction machinery, but not including major repair work except warranty and incidental repair of same, to be displayed and sold on the premises.

“BASE FLOOD ELEVATION.” The highest elevation, expressed in feet above sea level, of the level of flood waters occurring in the regulatory base flood (100-year flood).

“BASE MAP.” A map having sufficient points of reference, such as state, county or municipal boundary lines, streets, easements and other selected physical features, to allow the plotting of other data.

“BASEMENT.” A space having one-half or more of its floor-to-ceiling height above the average level of the adjoining ground, and with a floor-to-ceiling height of not less than six and one-half feet.

“BLOCK.” A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to the continuity to development.

“BOARD.” The Board of Zoning Adjustment.

“BOARDING HOUSE.” A building, not available to transients, in which meals are regularly provided for compensation for at least three but not more than 30 persons.

“BOTANICAL GARDENS.” A public or private facility for the demonstration and observation of the cultivation of flowers, fruits, vegetables or ornamental plants.

“BUFFER STRIP.” Land area used to visibly separate one use from another, or to shield or block noise, lights or other nuisances.

“BUILDING.” Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

“BUILDING AREA.” The area of a lot remaining after the minimum yard and open space requirements of this chapter have been met.

“BUILDING COVERAGE.” The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

“BUILDING, HEIGHT OF.” The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridges for gable, hip and gambrel roofs.

“BUILDING LINE.” The line established by law beyond which a building shall not extend, except as specifically provided by law.

“BUILDING PERMIT.” Written permission issued by the proper municipal authority for the construction, repair, alteration or addition to a structure, in accordance with Kentucky Building Codes.

“BUILDING, PRINCIPAL.” A building in which is conducted the main or principal use of the lot on which that building is situated.

“BUILDING SETBACK LINE.” The line, established by this chapter, beyond which a building shall not extend unless varied according to procedures in this chapter. Also called a “BUILDING LINE.”

“BUS SHELTERS.” A small, roofed structure, usually having three walls, located near a street and designed primarily for the protection and convenience of bus passengers.

“BUS STATIONS.” A premises for the transient housing or parking of motor driven buses and the loading and unloading of passengers.

“BUSINESS, CONVENIENCE.” Commercial establishments which cater to and can be located in proximity to or within residential districts without creating excessive congestion, noise or other objectionable influences. CONVENIENCE USES include, but need not be limited to, drugstores, beauty salons, barber shops, carry outs, dry cleaning and laundry facilities and small grocery stores, if the aggregate total floor area of such facilities does not exceed 10,000 square feet. Uses in this classification tend to serve the day-to-day needs of the neighborhood.

"BUSINESS, GENERAL." Commercial uses which generally require locations on or near major arterials and/or their intersections, and which tend, in addition to serving day-to-day needs of the neighborhood, to also supply the more durable and permanent needs of the whole community. General business uses include, but need not be limited to, such activities as major supermarkets, stores that sell hardware, apparel, footwear, appliances and furniture, and various department and discount stores. Also included here may be drive-in banks.

"BUSINESS, HIGHWAY." Commercial uses which generally require locations on or near major arterials and/or their intersections, and which tend to serve the motoring public. HIGHWAY BUSINESS USES include, but need not be limited to, such activities as filling stations, automotive sales and service, restaurants and motels and commercial recreation.

"BUSINESS, OFFICE TYPE." Quasi-commercial uses which may often be transitional between retail business and/or manufacturing and residential uses. OFFICE BUSINESS generally accommodates such occupations as administrative, executive, professional, accounting, clerical and drafting. Institutional offices of a charitable, philanthropic, religious or educational nature are included here.

"BUSINESS, SERVICES." Any profit-making activity which renders services primarily to other commercial or industrial enterprises or which services and repairs appliances and machines used in businesses and homes.

"BUSINESS, WHOLESALE." Business establishments that generally sell commodities and materials in large quantities or by the piece to retailers, jobbers, other wholesale establishments or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product, or for use by a business service.

"CARPORT." A roofed structure providing space for the parking or storage of motor vehicles and enclosed on not more than three sides.

"CELLAR." A portion of the building partly underground, but having half or more of its clear height below the average grade of the adjoining ground.

"CEMETERY." Land used or intended to be used for the burial of the human or animal dead and dedicated for cemetery purposes, including crematories, mausoleums and mortuaries if operated in connection with and within the boundaries of the cemetery for which perpetual care and maintenance is provided.

"CENTRAL BUSINESS DISTRICT (CBD)." The major shopping area within a city, usually containing, in addition to retail uses, governmental offices, service uses, professional, cultural, recreational and entertainment establishments and uses, residences, hotels and motels, appropriate industrial activities and transportation facilities.

"CERTIFICATE OF USE AND OCCUPANCY." The certificate issued by the Building Official which permits the use of a building in accordance with the approved plans and specifications, and which certifies compliance with the provisions of this chapter for the use and occupancy of the building with any special stipulations or conditions of the building permit.

"CERTIFICATION." A written statement by the appropriate offices that required constructions, inspections, tests or notices have been performed and comply with applicable requirements.

"CHANGE OF USE." Any use which substantially differs from the previous use of a building or land.

"CHANNEL." A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

“CHARACTERISTICS OF USE.” The use which is characteristic of the principal use of any area of land or a building or structure.

“CHECK CASHING FACILITY.” A business that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders or other commercial paper serving the same purpose. CHECK CASHING FACILITY does not include a state or federally chartered bank, savings association, credit union or industrial loan company. CHECK CASHING FACILITY also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables.

“CHILD CARE CENTER.” (1) “FAMILY DAY CARE CENTER.” A private establishment enrolling one to seven children. (2) “GROUP DAY CARE CENTER.” A private establishment enrolling more than seven and less than 12 children.

“CIRCULATION.” Systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits, and the handling of people and goods by such means as terminals, stations, warehouses and other storage buildings or trans-shipment points.

“CLINIC.” A facility for treatment of human ailments, operated by a group of physicians, dentists, chiropractors or other licensed practitioners for the treatment and examination of outpatients.

“CLUB.” A building or portion thereof or premises owned or operated by a person for a social, literary, political, educational or recreational purpose primarily for the exclusive use of members and their guests, but not including any organization, group or association, the principal activity of which is to render a service usually and ordinarily carried on as a business.

“CLUSTER.” A development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space and preservation of environmentally-sensitive features.

“CODE ENFORCEMENT OFFICER.” The person designated by the local government entity as being responsible for administering this chapter and compliance with all applicable codes, ordinances and laws.

“COHABITATION.” Households which contain two unrelated adults of opposite sexes.

“COLLECTION OFFICE.” The business location of any person or entity engaged in the business of collecting or receiving payment for others on any account, bill or other indebtedness.

“COMMERCIAL ENTERTAINMENT FACILITY.” Any profit-making activity which is generally related to the entertainment field, such as a motion picture theater, carnival, cocktail lounge, nightclub and similar entertainment activities.

“COMMON ELEMENTS.” Land amenities, parts of buildings, central services and utilities, and any other elements and facilities owned and used by all members of the development and designated in the master deed as common elements.

“COMMUNITY CENTER.” Buildings and facilities for a social, educational or recreational purpose generally open to the public, but not primarily for profit or to render a service customarily carried on as a business.

“COMPOSTING FACILITY.” A commercial or public solid waste processing facility where yard or garden waste is transformed into soil or fertilizer by biological decomposition.

“COMPREHENSIVE (DEVELOPMENT) PLAN.” A plan, or any portion thereof, adopted by the Planning Commission and the legislative authority of the city, showing the

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general location and extent of present and proposed physical facilities, including housing, industrial and commercial uses, parks, schools and transportation and other community facilities. The plan may also include development policy or guidelines for future growth and development.

"CONCESSION STAND." A retail sales operation from a location not involving a permanent building for the purpose of housing or conducting sales using a temporary table, stand, cart or similar equipment. CONCESSION STAND SALES may include the sale of confections, snacks or other light meals; provided that, no inside seating, nor drive-in service is provided.

"CONDEMNATION." The exercise by a governmental agency of the right to eminent domain.

"CONDITIONAL USE." A special use permitted within a zoning district other than a principally permitted use, requiring a conditional use permit and approval of the Board of Zoning Adjustment. CONDITIONAL USES permitted in each district are listed in the Official Schedule of District Regulations or special exceptions.

"CONDITIONAL USE PERMIT." A permit issued by the Zoning Inspector upon approval by the Board of Zoning Adjustment, to allow a use other than a principally permitted use to be established within the district.

"CONDOMINIUM." A type of ownership or management in which the building or group of buildings, where the units are owned individually and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

"CONSOLIDATION." The removal of lot lines between contiguous parcels.

"CONTIGUOUS." Next to, abutting or touching, and having a boundary, or portion thereof, which is coterminous.

"CONVERSION." A change in the use of land or a structure.

"COPY SHOP." A retail establishment that provides duplicating services using photocopying, blueprint and offset printing equipment and may include the collating and binding of booklets and reports.

"COST-BENEFIT ANALYSIS." An analytic method whereby the actual and hidden costs of a proposed project are measured against the benefits to be received from the project.

"COURT." Any open space, unobstructed from ground to sky, other than a yard, that is on the same lot with and bounded on two or more sides by the walls of a building.

"CRISIS COUNSELING CENTER." A facility or portion thereof and premises that are used for purposes of temporary emergency shelter, crisis intervention, including counseling and educational services, referral, hotline response and/or similar human social service functions. The facility may include meal preparation, distribution or service for residents of the center as well as nonresidents; merchandise distribution; or shelter, including temporary boarding or lodging. CRISIS COUNSELING CENTERS do not include detoxification facilities, assisted living facilities, substance abuse treatment facilities, institutions, homeless shelters, domestic violence shelters or centers in which medical treatment is provided by licensed practitioners.

"CUL-DE-SAC." The turnaround and the end of a dead-end street.

"CULTURAL FACILITIES." Establishments such as museums, art galleries, botanical and zoological gardens, of an historic, educational or cultural interest which are not operated commercially.

"DEDICATION." Gift or donation of property by the owner to another party.

"DEED." A legal document conveying ownership of real property.

“DEMOLITION (PERMIT).” A permit issued by a municipality before a building or structure or major part thereof is razed.

“DENSITY.” A unit of measurement; the number of dwelling units per acre of land, including public rights-of-way. (1) GROSS DENSITY. The number of dwelling units per acre of the total land to be developed, including public right-of-way. (2) NET DENSITY. The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses, excluding public right-of-way.

“DETENTION (BASIN).” A storage facility for the temporary storage of stormwater runoff.

“DETERIORATION.” The marked diminishing of the physical condition of structures or buildings.

“DETOXIFICATION FACILITY (SUBSTANCE ABUSE TREATMENT FACILITY).” A facility used for the purposes of temporary or long term inpatient treatment of victims of alcohol or drug use or addiction.

“DEVELOPER.” The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests, in the land.

“DEVELOPMENT REGULATION.” Zoning, subdivision, site plan, official map, floodplain regulation or other governmental regulation of the use and development of land.

“DILAPIDATION.” A deterioration of structures or buildings to the point of being unsafe or unfit for human habitation or use.

“DISTRICT.” A part of the city wherein restrictions of this chapter are uniform, as depicted on the Official Zoning Map adopted in conjunction with this chapter.

“DOMESTIC VIOLENCE SHELTER or EMERGENCY AND PROTECTIVE SHELTER.” Housing for adult women or men and their dependent children, if any, who are victims of domestic violence perpetrated by the spouse, domestic partner or significant other of the adult victim. DOMESTIC VIOLENCE SHELTERS may provide counseling and day care for shelter residents.

“DOWN ZONE.” To increase the intensity of use by increasing density or floor area ratio, or otherwise decreasing bulk requirements.

“DRAINAGE.” (1) Surface water runoff; and (2) The removal of surface water or groundwater from land by drains, grading or other means, which include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply and the prevention or alleviation of flooding.

“DRAINAGE SYSTEM.” Pipes, swales, natural features and human-made improvements designed to carry drainage.

“DRIVE-IN RESTAURANT.” A building or portion thereof where food and/or beverages are sold in a form ready for consumption, and where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the building, often in a motor vehicle on the site.

“DUMP.” A land site used primarily for the disposal by dumping, burial, burning or other means, and for whatever purposes, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, and other waste, scrap or discarded material of any kind.

“DWELLING.” A structure or portion thereof which is used exclusively for human habitation.

"DWELLING, ATTACHED." A one-family dwelling attached to two or more one-family dwellings by common vertical walls.

"DWELLING, DETACHED." A dwelling which is not attached to any other dwelling by any means.

"DWELLING, MULTI-FAMILY." A dwelling consisting of three or more dwelling units.

"DWELLING, SINGLE-FAMILY." A dwelling consisting of a single dwelling unit only, separated from other dwelling units by open space.

"DWELLING, TWO-FAMILY." A dwelling consisting of two dwelling units which may be either attached side by side or one above the other, and each unit having a separate or combined entrance or entrances. Includes units sold or rented in the condominium form of ownership or management.

"DWELLING UNIT." A room or group of rooms designed and equipped exclusively for use as living quarters for only one family and its household employees, including provisions for living, sleeping, cooking and eating. The term shall include mobile homes, but shall not include house trailers or recreational vehicles.

"EASEMENT." An authorization or grant of land by a property owner to specific person(s) or the general public to use that land for a specific/expressed purpose(s).

"EASEMENT (DRAINAGE)." An easement required for the installation of stormwater sewers or drainage ditches and/or required for the preservation or maintenance of a natural stream or watercourse or other drainage facility.

"EGRESS." An exit; to depart from a building or lot.

"EMINENT DOMAIN." The authority of a government to take, or to authorize the taking of, private property for public use.

"ENLARGEMENT." To increase the size of an existing structure.

"EROSION." The detachment and movement of soil or rock fragments, or the wearing away of the land surface by water, wind, ice and gravity.

"EXCAVATION." Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land, on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

"EXISTING GRADE OR ELEVATION." The vertical location of the ground surface prior to excavating or filling.

"EXISTING USE." The use of a lot or structure at the time of the enactment of a zoning ordinance.

"EXTENSION." An increase in the amount of existing floor area within an existing building.

"EXTERIOR WALL." Any wall which defines the exterior boundaries of a building or structure.

"FARM." An area used for agricultural operations, including truck gardening, forestry, the operation of a tree or plant nursery, or the production of livestock and poultry.

"FARM STRUCTURE." Any building or structure used for agricultural purposes, but not for commercial retail sale.

"FARM VACATION ENTERPRISES (PROFIT OR NON-PROFIT)." Farms adapted for use as vacation farms, picnicking and sports areas, fishing waters, camping, scenery and nature recreational areas, hunting areas, hunting preserves and watershed projects.

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“FAST-FOOD RESTAURANT.” An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises.

“FENCE.” A structure, including entrance and exit gates, designed and constructed for enclosure or screening.

“FILL.” Sand, gravel, earth or other materials of any composition whatsoever placed or deposited by humans.

“FINAL APPROVAL.” The last official action of the Planning Board or Board of Zoning Adjustment taken on a development plan which has been given preliminary approval, after all conditions and requirements have been met, and the required improvements have been installed or guarantees properly posted for their installation, or approval conditioned upon the posting of the guarantees.

“FLEA MARKET.” A market held in an open area or structure where goods are offered for sale to the general public by individual sellers from open or semi-open facilities or temporary structures.

“FLOATING ZONE.” An unmapped zoning district where all the zone requirements are contained in the ordinance and the zone is fixed on the map only when an application for development meeting the zone requirements is approved.

“FLOOD or FLOODWATER.” An overflow or inundation of normally dry lands from a stream or other body of water; the high stream flow overtopping the banks of a stream; or a high flow as measured by each stage or discharge.

“FLOOD CONTROL.” The prevention of floods, the control, regulation, diversion or confinement of floodwater or flood flow, and the protection therefrom, according to sound and accepted engineering practice, to minimize the extent of floods, and the death, damage and destruction caused thereby; and all things incidental thereto or connected therewith.

“FLOOD HAZARD AREA.” A floodplain, or portion thereof, which has not been adequately protected from floodwater by means of dikes, levees, reservoirs.

“FLOODPLAIN.” The relatively flat area of low land adjoining the channel of a river or stream, which has been or may be covered by flood water. The FLOODPLAIN includes the channel, floodway and floodway fringe.

“FLOODPLAIN, 100-YEAR.” A flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a 100-year period. The 100-YEAR FREQUENCY FLOOD is equivalent to a flood having a probability of occurrence of 1% in any given year (a flood magnitude which has a 1% chance of being equaled or exceeded in any given year).

“FLOODWAY.” The channel of a river or stream and those portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge the floodwater or flood flow of any river or stream.

“FLOODWAY FRINGE.” Those portions of the flood hazard areas lying outside the floodway.

“FLOOR AREA, GROSS.” The sum, in square feet, of the floor areas of all roofed portions of a building, as measured from the interior faces of the exterior walls. It includes the total of all space on all floors of a building. It does not include porches, garages or space in a basement or cellar when the basement or cellar space is used for storage or other such incidental uses. The GROSS FLOOR AREA is generally applied in residential use.

“FLOOR AREA, NET.” The floor area of the specified use, excluding stairs, washrooms, elevator shafts, maintenance shafts and rooms, storage spaces, display windows, fitting rooms and the like, in a nonresidential building. The NET AREA is used in calculating parking requirements.

“FLOOR AREA RATIO.” The floor area of the building divided by the area of the lots on which the building is located.

“FLOOR AREA, USABLE.” Same as “GROSS FLOOR AREA.”

“FOOD PROCESSING.” The preparation, storage or processing of food products. Examples of these activities include bakeries, dairies, canneries and the like.

“FRONTAGE.” That side of a lot abutting on a street; the front lot line.

“GARAGE, PRIVATE.” An accessory building, or an accessory portion of the principal building, used for storing or parking of automobiles, recreational vehicles and/or boats of the occupants of the premises, and wherein not more than one space is rented for parking to a person not a resident on the premises.

“GARAGE, PUBLIC.” A principal or accessory building other than a private or storage garage, used for parking or temporary storage of passenger automobiles, and in which no service shall be provided for remuneration.

“GARAGE, STORAGE.” Any building or premises used for housing only motor-driven vehicles, other than trucks and commercial vehicles.

“GRADE.” The average level of the finished surface of ground adjacent to the exterior walls of the building.

“GRADE, FINISHED.” The final elevation of the ground surface after development.

“GRADE, NATURAL.” The elevation of the ground surface in its natural state before human-made alterations.

“GREEN AREA.” Land shown on a development plan, master plan or official map for preservation, recreation, landscaping or park.

“GREENHOUSE, INDUSTRIAL.” Wholesale business whose principal activity is the growing and selling of plants within an enclosed building.

“GROUP FAMILY HOUSEHOLD.” A group of individuals not related by blood, marriage, adoption or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

“HEALTH SPA.” A place or building where active exercise and related activities are performed utilizing weight control or muscle building equipment or apparatus for the purpose of physical fitness. Also, a place or building that provides massage, exercise and related activities with or without such equipment or apparatus.

“HEIGHT.” The vertical distance of a structure measured from the average elevation of the finished grade within 20 feet of the structure to the highest point of the structure.

“HELIPORT.” An area used or intended to be used for the landing or takeoff of helicopters, and may include any or all other areas of buildings appropriate to accomplish these functions.

“HELIPORT (ACCESSORY USE).” An area used or intended to be used for the landing or takeoff of helicopters, and may include any or all other areas of buildings appropriate to accomplish these functions provided the heliport use is customary and incidental to the operation of a principle use permitted within the district, excluding residential and neighborhood business districts.

“HIGHEST AND BEST USE.” An appraisal concept that determines the use of a particular property likely to produce the greatest net return in the foreseeable future.

“HISTORIC AREA.” A district or zone designated by a local authority, state or federal government, within which the buildings, structures, appurtenances and places are of basic and vital importance because of their association with history, or because of their unique architectural style and scale, including color, proportion, form and architectural detail; or because of their being a part of or related to a square, park or area, the design or general arrangement of which should be preserved and/or developed according to a fixed plan based on cultural, historical or architectural motives or purposes.

“HOME OCCUPATION.” An occupation conducted in a dwelling unit; provided that: (1) No more than one person other than members of the family residing on the premises shall be engaged in the occupation; (2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of floor area of the dwelling units shall be used in the conduct of the home occupation; (3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation other than one sign, not exceeding four square feet in area, non-illuminated, and mounted flat against the wall of the principal building; (4) No traffic shall be generated by the home occupation in greater volume than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of the home occupation shall meet the off-street parking requirements as specified in this chapter, and shall not be located in a required front yard; and (5) No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odor or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

“HOMELESS SHELTERS.” An activity providing personal assistance on a nonprofit basis to individuals of an indigent status. Such assistance must include food and/or shelter and may, in addition, include religious instruction, counseling and other incidental services customarily provided by missions.

“HOTEL or MOTEL.” A building in which lodging, or boarding and lodging, are provided and offered to the public for compensation. As such, in that it is open to the public it is not a rooming house, boarding house, lodging house or dormitory, which are herein separately defined.

“HOUSEHOLD.” A family living together in a single dwelling unit, with common access to and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit.

“HOUSING UNIT.” A room or group of rooms used by one or more individuals living separately from others in the structure, with direct access to the outside or to a public hall and containing separate toilet and kitchen facilities.

“IMPROVED LOT.” A lot containing an improvement.

“IMPROVEMENT.” Any human-made, immovable item which becomes part of, is placed upon or is affixed to real estate.

“INDUSTRIAL PARK.” A large tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics and compatibility.

“INDUSTRY.” Those fields of economic activity including forestry, fishing, hunting and trapping, mining, construction, manufacturing; transportation, communication, electric, gas and sanitary services; and wholesale trade.

“INFRASTRUCTURE.” Facilities and services needed to sustain industry, residential and commercial activities.

“INGRESS.” Access or entry.

“INSTITUTION.” Building(s) and/or land designed to aid individuals in need of mental, therapeutic, rehabilitative counseling or other correctional services.

“INVERSE CONDEMNATION.” The taking of private property as a result of governmental activity without any formal exercise of eminent domain.

“JOINT OWNERSHIP.” The equal estate interest of two or more persons.

“JUNK BUILDINGS, JUNK SHOPS, JUNKYARDS.” Any land, property, structure, building or combination of the same, on which junk is stored or processed. JUNK shall include wrecked automobiles, scrap iron and other metals, paper, rags, rubber tires, bottles and the like.

“KENNEL.” Any premises where three or more animals over four months of age are housed, groomed, bred, boarded, trained or sold, and which may offer provisions for minor medical treatment.

“LAND SURVEYOR.” One who is licensed by the state as a land surveyor, and is qualified to make accurate field measurements and mark, describe and define land boundaries.

“LAND USE.” A description of how land is occupied or utilized.

“LANDSCAPE.” (1) An expanse of natural scenery; and (2) The addition of lawns, trees, plants and other natural and decorative features to land.

“LIGHT INDUSTRY.” Industrial uses which meet the performance standards, bulk controls and other requirements established in this chapter.

“LIMOUSINE AND TAXI SERVICE - LIMOUSINE SERVICE - TAXICAB BUSINESS.” A service that offers transportation in passenger automobiles and vans to persons including those who are handicapped in return for remuneration. The business may include facilities for servicing, repairing and fueling the taxicabs, limousines or vans.

“LOADING SPACE, OFF-STREET.” Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to those vehicles when required off-street parking spaces are filled. REQUIRED OFF-STREET LOADING SPACE is not to be included as off-street parking space in computation of required off-street parking space. All off-street loading spaces shall be located totally outside of any street or alley right-of-way.

“LOCAL AUTHORITY.” Any city or other legally-authorized agency charged with administration and enforcement of land use regulations.

“LOT.” (1) A lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. A 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 lot of record; and/or (c) A combination of complete lots of record, or of complete lots of record and portions of lots of record, or of portions of lots of record. (2) The word LOT includes the words “plot,” “parcel” and “tract.”

“LOT AREA.” The area of any lot shall be determined exclusive of street, highway, alley, road or other rights-of-way.

“LOT, CORNER.” A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street, forming an interior angle of less than 135 degrees.

“LOT COVERAGE.” The ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage.

“LOT FRONTAGE.” The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under the definitions of yard-related terms in this section.

“LOT LINE, FRONT.” Lot line(s) bounding a lot as follows: (1) “CORNER OR THROUGH LOT.” The line separating the lot from either street. (2) “INTERIOR LOT.” The line separating the lot from the street.

“LOT LINE, REAR.” The boundary of a lot which is most distant from and is, or is most nearly, parallel to the front lot line. In the case of a triangular or irregular-shaped lot, an imaginary line between the side lot lines parallel to the front lot line, ten feet long, lying farthest from the front lot line. On a corner lot, the REAR LOT LINE shall be opposite the front lot line of least dimension.

“LOT LINE, SIDE.” Any boundary of a lot which is not a front lot line or rear lot line.

“LOT, MEASUREMENT OF.” A lot shall be measured as follows: (1) “DEPTH.” The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear. (2) “WIDTH.” The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the building setback line.

“LOT OF RECORD.” A lot which is part of a subdivision recorded in the office of the County Clerk, or a lot or a parcel described by metes and bounds, the description of which has been so recorded.

“LOT TYPES.” Terminology used in this chapter with reference to different types of lots is as follows: (1) “CORNER LOT.” A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if tangent projections of the front lot lines drawn perpendicular at the side lot lines meet at an interior angle of less than 135 degrees in front of the lot. (2) “INTERIOR LOT.” A lot with only one frontage on a street. (3) “REVERSED FRONTAGE LOT.” A lot on which frontage is at right angles to the general pattern in the area. A REVERSED FRONTAGE LOT may also be a CORNER LOT. (4) “THROUGH LOT.” A lot other than a corner lot with frontage on more than one street. THROUGH LOTS abutting two streets may be referred to as double frontage lots.

“LOT WIDTH.” The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

“MAINTENANCE AND STORAGE FACILITIES.” Land, buildings and structures devoted primarily to the maintenance and storage of construction equipment and material.

“MANUFACTURING, EXTRACTIVE.” Any mining, quarrying, excavating, processing, storing, separating, cleaning or marketing of any mineral natural resource.

“MANUFACTURING, HEAVY.” Manufacturing, processing, assembling, storing, testing and similar industrial uses which are generally major operations and extensive in

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character; require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation; and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution and water pollution, but not beyond the district boundary.

“MANUFACTURING, LIGHT.” Manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet, and free of objectionable or hazardous elements such as smoke, noise, odor or dust; operating and storing within enclosed structures; and generating little industrial traffic and no nuisances.

“MICROBREWERY.” A facility used for the production and packaging of malt beverages of low alcoholic content for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. The development may include and constitute an accessory use to other uses such as a standard restaurant, bar or live entertainment as otherwise permitted in the zoning district.

“NET AREA OF LOT.” The area of the lot excluding those features or areas which the development ordinance excludes from the calculations.

“NEWSSTAND.” A temporary structure, manned by a vendor that sells newspapers, magazines and other periodicals.

“NONCONFORMING LOT.” A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of this chapter, but which fails by reason of the adoption, revision or amendment to conform to the present requirements of the zoning district.

“NONCONFORMING SIGN.” Any sign lawfully existing on the effective date of an ordinance, or an amendment thereto, which renders the sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

“NONCONFORMING USE.” A building, structure or use of land existing at the time of enactment of this chapter, and which does not conform to the regulations of the district in which it is situated.

“NUISANCE.” An interference with the enjoyment and use of property.

“NURSERY, NURSING HOME.” A home or facility for the care and treatment of babies, children, pensioners or elderly people.

“NURSERY, PLANT MATERIALS.” Land, buildings, structures or combination thereof for the storage, cultivation, transplanting of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening and landscaping.

“OCCUPANCY PERMIT.” A required permit allowing occupancy of a building or structure after it has been determined that the building meets all the requirements of applicable codes and ordinances.

“OCCUPANT.” The individual or individuals in actual possession of a premises.

“OFFICE BUILDING.” A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand.

“OFF-SITE.” Located outside the lot lines of the lot in question, but within the property (of which the lot is a part) that is the subject of a development application, or within a contiguous portion of a street or other right-of-way.

“OFF-STREET PARKING SPACE.” A temporary storage area for a motor vehicle that is directly accessible to an access aisle and which is not located on a dedicated street right-of-way.

“ON-SITE.” Located on the lot that is the subject of an application for development.

“OPEN SPACE.” A public or private outdoor area expressly set aside for the use and benefit of many unrelated people. The area may include, along with the natural environmental features, water areas, swimming pools, tennis courts and other recreational facilities that the Planning Commission deems permissive. Streets, parking areas, structures for habitation and the like shall not be included in open space area calculations.

“ORDINANCE.” Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

“PARKING SPACE, OFF-STREET.” For the purpose of this chapter, an OFF-STREET PARKING SPACE shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room; but shall be located totally off public right-of-way. Includes, but is not limited to, parking spaces, off-street garages, carports and parking pads.

“PARKING STALL.” The area required for parking one automobile, with its attendant maneuvering room. The area required for a parked car is to be ten feet wide and 22 feet long.

“PARTY WALL.” A wall starting from the foundation and extending continuously through all stories to or above the roof, which separates one building from another and is in joint use by each building.

“PEDESTRIAN.” An individual who travels on foot.

“PERFORMANCE BOND or SURETY BOND.” An agreement by a subdivider or developer of the city for the amount of the estimated construction cost, guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the subdivider’s agreement.

“PERFORMANCE STANDARDS.” A set of criteria or limits relating to nuisance elements which a particular use or process may not exceed.

“PERMIT.” Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law, but not allowed without such authorization.

“PERSON.” An individual, firm, association, organization, partnership, trust, company, corporation or any other legal entity.

“PERSONAL SERVICES.” Any enterprise conducted for gain which primarily offers services to the general public such as shoe repair, watch repair, barber shops, beauty parlors and similar activities.

“PHILANTHROPIC ORGANIZATION.” An organization not for profit which engages in charitable actions or efforts to promote the well-being of humankind in general.

“PICNIC AREA.” A lot or use containing two or more picnic tables designed for use by ten or more persons and which may include barbecue stands and a roofed shelter.

“PLANNED UNIT DEVELOPMENT.” An area of land in which a variety of residential, commercial and industrial uses are planned and developed as a whole according to comprehensive and detailed plans with more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under these regulations.

“PLAT.” (1) A map representing a tract of land, showing the boundaries and location of individual properties and streets. (2) A map of a subdivision or site plan.

“PORTABLE STORAGE.” A temporary structure, trailer or pod to be used, or intended to be used, for the private non-commercial, non-industrial storage by an occupant prior to the location to or relocation from a residence. PORTABLE STORAGE UNITS may not be

located within a front yard for more than 72 hours. A PORTABLE STORAGE UNIT located within a rear or side yard may not be located on a lot for more than 90 days and shall not be located closer than five feet from any property line.

“PREMISES.” One or more lots which are in the same ownership and are contiguous or separated only by a road or water body, including all buildings, structures and improvements.

“PRINCIPAL BUILDING.” The building in which the principal use of the lot is conducted.

“PRINCIPAL USE.” The primary use to which the premises are devoted and the main purpose for which the premises exist.

“PROFESSIONAL ACTIVITIES.” The use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects, engineers and similar professions.

“PROHIBITED USE.” The use marked as prohibited for a certain district in the schedule of uses, Appendix A to this chapter; and which is not to be allowed to locate in that district except as specified under nonconformities.

“PUBLIC AREAS.” Public parks, playgrounds, trails, paths and other recreational areas and other public open spaces; scenic and historic sites; schools and other public buildings and structures.

“PUBLIC DOMAIN.” All lands owned by government.

“PUBLIC HEARING.” A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.

“PUBLIC NOTICE.” The advertisement of a public hearing in a paper of general circulation in the area and through other media sources, indicating the time, place and nature of the public hearing.

“PUBLIC RIGHT-OF-WAY.” A general term denoting land, property or interest therein, usually in a strip, acquired for or devoted to a transportation facility.

“PUBLIC SERVICE FACILITY.” The erection, construction, alteration, operation or maintenance of buildings, power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants, and other similar public service structures, by a public utility, by a railroad, whether publicly or privately owned, or by a municipal or other governmental agency; including the furnishing of electrical, gas, rail transport, communications, water and sewerage services.

“PUBLIC USES.” Public parks, schools, administrative and cultural buildings and structures, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities.

“PUBLIC UTILITY.” Any person, firm or corporation duly authorized to furnish electricity, gas, steam, telephone, telegraph, water or sewerage systems to the public under public regulation.

“QUASI-PUBLIC USE.” Churches, Sunday schools, parochial schools, colleges, hospitals and other facilities of an educational, religious, charitable, philanthropic or non-profit nature.

“RECREATION CAMPGROUND.” An area of land on which two or more recreational vehicles, including campers, tents or other similar temporary recreational structures are regularly accommodated with or without charge, including any building, structure or fixture of equipment that is used or intended to be used in connection with providing the accommodations.

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"RECREATIONAL EQUIPMENT, MAJOR." Equipment which must be hauled on a trailer with two or more wheels or which has two or more wheels attached, or which is self-propelled with wheels; including boats, trailers and recreational vehicles.

"RECREATIONAL FACILITIES." Public or private facilities that may be classified as either extensive or intensive depending upon the scope of services offered and the extent of use. (1) Extensive facilities generally require and utilize considerable areas of land, and include, but need not be limited to, hunting, fishing and riding clubs and parks. (2) Intensive facilities generally require less land (used more intensively), and include, but need not be limited to, miniature golf courses, amusement parks, stadiums and bowling alleys.

"RECREATIONAL VEHICLE." A vehicle primarily designed as temporary living quarters for recreation, camping or travel, either with its own motor power, or mounted on or towed by another powered vehicle.

"RECYCLING COLLECTION CENTER." A facility for the drop-off and temporary holding of materials such as paper, cardboard, glass, metal, plastic, batteries and motor oil. Processing of materials is limited to glass breaking and separation. Recycling materials are not sold to a recycling drop-off center. A recycling drop-off center is intended for household or consumer use. Use by commercial or industrial establishments is not included. Unattended drop-off stations for single materials, such as newsprint, are also not included.

"RECYCLING PLANT." A facility that is not a salvage yard and in which recoverable resources, such as newspapers, magazines, books and other paper products, glass, metal cans and other products are recycled, reprocessed and treated to return such products to a condition in which they may again be used for production.

"REHABILITATION." The upgrading of a building previously in a dilapidated or substandard condition, for human habitation or use

"RELIGIOUS USE." A structure or place in which worship, ceremonies, rituals and education pertaining to a particular system of beliefs are held.

"RELOCATE." To move an individual, household, use or building from its original place to another location.

"REPLACEMENT COST." The sum of money which would be required to re-erect a structure identical to the one in question.

"RESEARCH ACTIVITIES." Research, development and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation and engineering. All research, testing and development shall be carried on within entirely enclosed buildings, and no noise, smoke, glare, vibration or odor shall be detected outside of the buildings.

"RESIDENCE." A home, abode or place where an individual is actually living at a specific point in time.

"RESIDENTIAL DENSITY." The number of dwelling units per acre of residential land.

"RESTORATION." The relocation or reconstruction of a building's original architectural features.

"RESTRICTION." A limitation on property which may be created in a property deed, lease, mortgage, through certain zoning or subdivision regulations or as a condition of approval of an application for development.

"RESTRICTIVE COVENANT." A restriction on the use of land usually set forth in the deed.

“RETAIL SERVICES.” Establishments providing services or entertainment, as opposed to products, to the general public; including eating and drinking places, hotels and motels, finance, real estate and insurance, personal services, motion pictures, amusement and recreation services, health, educational and social services, museums and galleries.

“RETAIL TRADE.” Establishments engaged in selling goods or merchandise to the general public for personal or household consumption, and rendering services incidental to the sale of the goods.

“RETAINING WALL.” A structure constructed to hold back or support an earthen bank.

“RETENTION BASIN.” A pond, pool or basin used for the permanent storage of water runoff.

“REZONE.” To change the zoning classification of particular lots or parcels of land.

“RIGHT OF ACCESS.” The legal authority to enter or leave a property.

“RIGHT-OF-WAY.” (1) A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation, and intended to be occupied, or occupied, by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses. (2) Generally, the right of one to pass over the property of another.

“ROADSIDE STAND.” A temporary structure designed or used for the display or sale of agricultural and related products, or novelties and other items of interest, to the motoring public.

“ROOMING HOUSE (BOARDING HOUSE, DORMITORY, LODGING HOUSE).” A dwelling or part thereof, other than a hotel, motel or restaurant, where meals and/or lodging are provided for compensation for three or more unrelated persons, where no cooking or dining facilities are provided in the individual rooms.

“SANITARY SEWAGE.” Any liquid waste containing animal or vegetable matter in suspension or solution, or the water-carried waste resulting from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers or any other source of water-carried waste of human origin or containing putrescible material.

“SANITARY SEWERS.” Pipes that carry only domestic or commercial sewage and into which storm surface and ground waters are not intentionally admitted.

“SCREENING.” A structure erected or vegetation planted for concealing an area from view.

“SEAT.” For purposes of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each 24 lineal inches of benches, pews or space for loose chairs.

“SEPTIC SYSTEM.” An underground system with a septic tank used for the decomposition of domestic wastes.

“SERVICE STATION, AUTOMOBILE.” Any land, building, structure or premises used for the sale at retail of motor vehicle fuels, oils or accessories, or for servicing or lubricating motor vehicles, or for installing or repairing parts and accessories; but not including, the repairing or replacing of motors, bodies or fenders of motor vehicles or painting motor vehicles, public garages and the open storage of rental vehicles or trailers.

“SETBACK LINE.” A line established by this chapter, generally parallel with and measured from the lot line (property line), defining the limits of a yard in which no building, other than accessory building, or structure may be located aboveground, except as may be provided in this chapter.

“SEWERS, CENTRAL OR GROUP.” An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community or region.

“SEWERS, ON-SITE.” A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.

“SIDEWALK.” The portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.

“SIGN.” An identification, description, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land, and which directs attention to a product, place, activity, service, person, institution or business.

“SIGN, ILLUMINATED.” Any sign illuminated by electricity, gas or other artificial light, including reflecting or phosphorescent light.

“SIGN LIGHTING DEVICE.” Any light or group of lights located or arranged so as to cast illumination on a sign.

“SIGN, OFF-PREMISES.” Any sign unrelated to a business or profession conducted, or to a commodity or service sold or offered upon, the premises where the sign is located.

“SIGN, ON-PREMISES.” Any sign related to a business or profession conducted, or a commodity or service sold or offered upon, the premises where the sign is located.

“SIGN, PROJECTING.” Any sign which projects from the exterior of a building.

“SITE PLAN.” The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, marshes and waterways; open spaces, walkways, means of ingress and egress, utility services, landscaping, structures and signs, lighting and screening devices, and any other information that reasonably may be required in order that an informed decision can be made by the approving authority.

“SKATE PARKS.” A public facility that is designed for use by persons riding skateboards, in-line skates or roller skates.

“SPOUSE ABUSE CENTER.” An organization operated by trained professional counselors for the purpose of providing temporary assistance to those family members who have been physically or emotionally harmed or threatened with physical harm.

“STORY.” The part of a building between the surface of a floor and the ceiling immediately above; or, if there is a floor above, the portion of a building between the surface of any floor and the surface of the floor next above. The basement shall be counted as a STORY. A cellar shall not be counted as a STORY.

“STREET.” A general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way. The term STREET also includes the terms “highway”, “parkway”, “road”, “thoroughfare”, “avenue”, “boulevard”, “land”, “court”, “place” and other such terms. The recommended usage is: “highway” or “street” in urban areas; “highway” or “road” in rural areas. (1) “ALLEY.” A street intended to provide access to the rear or side of lots or to buildings in urban areas and not intended for the purpose of through vehicular traffic. (2) “ARTERIAL.” A system of streets and roads which form an integrated network of continuous routes primarily for through traffic. The arterial system is stratified into major and minor categories. (a) “MAJOR.” A street intended to collect and distribute traffic from service areas such as community-commercial areas, primary and secondary educational

plants, hospitals, major recreational areas, churches and offices. (b) "MINOR." A street intended to move traffic from local roads to major arterials. (3) "CUL-DE-SAC." A local street open at one end only and with a special provision for vehicles turning around. (4) "DEAD-END." A local street open at one end only and without a special provision for vehicles turning around. (5) "FRONTAGE." A local street or road auxiliary to and located on the side of an arterial for service to abutting property and adjacent areas and for control of access. (6) "HIGHWAY." A term applied to streets and roads that are under the jurisdiction of the state's Department of Transportation. (7) "LOCAL." A system of streets and roads which primarily provides land access service and access to higher order systems. (8) "LOOP." A local street with both terminal points on the same street of origin. (9) "PARTIAL." A dedicated right-of-way providing only a portion of the required street width, usually along the edge of a subdivision or tract of land. (10) "PERIMETER." Any existing street to which the parcel of land to be subdivided abuts on only one side. (11) "PRIVATE." A local street that is not accepted for public use or maintenance, which provides vehicular and pedestrian access. (12) "PUBLIC." A street under the control of and kept by the public, established by regular governmental proceedings for the purpose, or dedicated by the owner of the land and accepted by the proper authorities, and for the maintenance of which they are responsible.

"STREET VENDING AND CARTING." A portable stand and any related accessory appurtenance such as an awning, canopy or seating, used for the retail sales of goods, including, but not limited to, beverages, food and flowers.

"STRUCTURE." Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Includes, but is not limited to, buildings, walls, fences, signs, radio towers, TV antennas and satellite TV disks.

"SUPPLY YARD." A commercial establishment storing and offering for sale building supplies, steel, coal, heavy equipment, feed and grain and similar goods.

"SWIMMING POOL." A pool, pond, lake or open tank containing at least 18 inches of water at any point and maintained by the owner or manager.

"SWIMMING POOL, COMMUNITY." A swimming pool for the benefit of the general public, operated with a charge for admission; a principal use.

"SWIMMING POOL, PRIVATE." A swimming pool used exclusively without paying an additional charge for admission, by the residents and guests of a single household, a multi-family development, a community, the members and guests of a club, or the patrons of a motel or hotel; an accessory use.

"TATTOO AND BODY PIERCING, TATTOO PARLOR/BODY-PIERCING STUDIO." An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) The act of producing scars on a human being or the act of inserting pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce indelible marks or figures visible through the skin, including the application of permanent makeup; and/or (2) The act of penetrating the skin or body part of a human being to make a hole, mark or scar.

"TEMPORARY CONSTRUCTION WORKER HOUSING." Housing, generally provided in portable or mobile units, for workers engaged in the construction of permitted onsite building(s) and/or other improvement(s). TEMPORARY CONSTRUCTION WORKER HOUSING is limited to no more than 365 days and must be discontinued upon completion of the onsite building(s) and/or improvement(s).

"TEMPORARY USE." A use established for a fixed period of time, with the intent to discontinue the use upon the expiration of the time period.

"TRANSITION ZONE." A zoning district permitting transitional uses.

"TRANSITIONAL AREA." (1) An area in the process of changing from one use to another or changing from one racial or ethnic occupancy to another. (2) An area which acts as a buffer between two land uses of different intensity.

"TRANSPORTATION PLAN." The portion of the comprehensive plan adopted by the city's Planning Commission indicating the general location recommended for arterial, collector and local streets and roads within the appropriate jurisdiction.

"UPZONE." To reduce the intensity of use by decreasing density or lowering the floor area ratio or otherwise increasing bulk requirements.

"USE." The specific purposes for which land or a building is designated arranged, intended, or for which it is or may be occupied or maintained.

"USED or OCCUPIED." Includes the words "intended, arranged or designed to be used or occupied".

"VACANCY." Any unoccupied land, structure or part thereof which is available and suitable for occupancy.

"VARIANCE." A modification of the strict terms of the relevant regulations of this chapter where the modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship.

"VETERINARY ANIMAL HOSPITAL OR CLINIC." A place used for the care, diagnosis and treatment of sick, ailing, infirm or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for treatment, observation and/or recuperation. It may also include boarding that is incidental to the principal activity or use.

"VICINITY MAP." A drawing located on the plat which sets forth, by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the general area, in order to better locate and orient the area in question.

"WALKWAY." A public way, four feet or more in width, for pedestrian use only whether along the side of a street or not.

"YARD." An open space, other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

"YARD, FRONT." A yard across the full width of the lot extending from the front lot line of the principal building to the front of the lot. On corner lots, the FRONT YARD shall face the shortest street dimension of the lot, except that if the lot is square or almost square, then the front yard may face either street.

"YARD, REAR." A yard extending the full width of the lot between a principal building and the rear lot line or lines.

"YARD, SIDE." A yard between the principal building and side lot line and extending from the front yard line to the rear yard line.

"YARD SALE." The occasional sale of over five items of personal property at a residence conducted by one or more families in a neighborhood. YARD SALES do not exceed four consecutive days in length and are not conducted more often than three times per year. YARD SALES include any sale entitled garage sale, lawn sale, attic sale, rummage sale or

any other similar casual sale of personal property. Sales exceeding four consecutive days in length and/or occurring more often than three times per year are classified as perpetual yard sales and are prohibited on residentially used or zoned property.

"ZERO LOT LINE." The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

"ZONING." The division of an area into districts, and the public regulation of the character and intensity of the use of the land and of the buildings and structures which may be located thereon, in accordance with a comprehensive plan.

"ZONING ORDINANCE." A legal tool for accomplishing the objectives of a land use plan. It is an effective regulatory measure designed to encourage high standards of development and to foster the cost efficient use of land.

"ZONING PERMIT." A document issued by the Zoning Inspector, authorizing the use of lots, structures, land and buildings, and the characteristics of the use.

1.2 MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and the general welfare. Wherever the requirements of this chapter are at variance, or in any other way conflict, with the requirements of any other lawfully adopted city, state and federal rules, regulations or ordinances, the most restrictive or that imposing the higher standards, shall govern.

1.3 COMPLAINTS REGARDING VIOLATIONS

Any person may file a written complaint whenever a violation of this chapter occurs or is alleged to have occurred. The complaint shall state fully and accurately the causes and basis thereof, and be filed with and recorded by the Zoning Inspector. The Zoning Inspector shall immediately investigate and take action upon the complaint as provided in this chapter.

ARTICLE 2 BOUNDARIES; ZONING MAP

2.0 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(A) Boundaries indicated as approximately following the center line of thoroughfares or highways, street lines, highway right-of-way lines or alleys shall be construed to follow the center lines.

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines.

(C) Boundaries indicated as approximately following city limits shall be construed as following the city limits.

(D) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(E) Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow the center lines.

(F) Boundaries indicated as approximately following floodplain lines shall be construed to follow the contour lines.

(G) Boundaries indicated as parallel to or extensions of features indicated in divisions (A) through (F) above shall be so controlled. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

(H) Where physical or cultural features existing on the ground are at variance with those shown as the Official Zoning Map, or in other circumstances not covered by divisions (A) through (F) above, the Board of Zoning Adjustment shall interpret the boundaries.

(I) Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the Board of Zoning Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

2.1 OFFICIAL ZONING MAP

(A) The city is hereby divided into zones, or 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 chapter.

(B) The official zoning map shall be identified by certification and bear the seal of the city under the following words: "This is to certify that this is the Official Zoning Map referred to in Article ___ of Ordinance Number ___ of the City of Guthrie, State of Kentucky" together with the date of adoption of this chapter. Certification should be by the signature of the Mayor and attested by the City Clerk.

(C) If, in accordance with the provisions of this chapter and KRS Chapter 100 for cities and other than cities of the first class as changes are made in district boundaries or other matter portrayed on the official zoning map, the changes shall be entered on the official zoning map promptly after the amendment has been approved by the City Council with an entry on the official zoning map as follows: On ---(Date)--- by official action of the City Council, the following changes were made on the official zoning map: _____

_____ which entry shall be signed by the Zoning Inspector or head of the Planning Commission and attested by the City Clerk. No changes of any nature shall be made on the official zoning map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change of any kind by a person or persons shall be considered a violation of this chapter and punishable as provided under Article 15.

(D) Regardless of the existence of purported copies of the official zoning map which from time to time may be published, the official zoning map shall be located in the office of the Zoning Inspector. It shall be the final authority as to the current zoning status of land and water areas in the city.

(E) In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The official zoning map shall be identified by the signature of the Mayor attested by the City Clerk and bearing the seal of the city under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted ----(Date)---- as part of Ordinance Number _____ of the City of Guthrie, Kentucky. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment."

ARTICLE 3 GENERAL DISTRICT REGULATIONS

3.0 OBSTRUCTION TO VISION AT STREET INTERSECTION ON CORNER LOTS;
VISIBILITY

(A) Obstruction to vision at street intersections is prohibited. Additionally, lots adjacent to an intersection shall not obstruct vision of the intersection within the 30-foot sight triangle. The 30-foot sight triangle is defined as a triangle consisting of the edge of street pavements intersecting at a point forming the outer boundaries of the lot and an imaginary line drawn 30 feet from the point of intersection in either direction. No obstruction to vision between a height of two and one-half feet and 12 feet above the imaginary plane defined by those three points of intersection are permitted.

(B) No structure, wall, fence, shrubbery or trees shall be erected, maintained or planted on any lot which will obstruct the view of the driver of a vehicle approaching an intersection, except that shade trees will be permitted where all branches are not less than eight feet above the street level. The minimum sight distances which shall be maintained for intersections are as follows: (Measurements to be taken 15 feet from the point of the intersecting pavements.

<u>STREET</u>	<u>LOW DENSITY</u>	<u>MEDIUM DENSITY</u>	<u>HIGH DENSITY</u>	<u>NON-RESIDENTIAL</u>
Local	200'	200'	200'	250'
Minor Arterial	200'	200'	240'	250'
Major Arterial	275'	275'	300'	300'

(C) No obstruction shall be placed in the right-of-way.

3.1 FENCES AND WALLS

No fence, wall or hedge that obstructs sight shall be erected, altered or placed in any required front yard to exceed a height of three feet above the street grade and no fence, wall or hedge shall be erected, altered or placed in any required side or rear yard to exceed a height of eight feet.

3.2 CORNER BUILDING SITE

In any district, a corner building site having to its rear a building site facing toward the intersection or side street, shall have provided on the intersecting or side street of the corner building site a side yard having a width equal to at least the depth of the front yard required for a structure on the building site to the rear of the corner building site. This regulation shall not be applied to reduce the buildable width of the corner building site to less than 30 feet nor require a side yard of more than 20 feet. No accessory structure on a corner building site having to its rear a building site facing toward the intersecting or side street shall be erected or altered nearer to the

intersecting or side street line than the front building line to be observed by any structure on the building site to the rear of the corner building site.

3.3 ILLUMINATION OF USES

Lighting facilities used to illuminate signs, parking areas or for other purposes shall be so arranged that the source of light does not shine directly into adjacent residential properties and does not interfere with traffic.

3.4 ACCESSORY BUILDINGS

Except as otherwise permitted in these regulations, accessory buildings shall be subject to the following regulations:

(A) Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this chapter applicable to main or principal buildings.

(B) Accessory buildings shall not be erected in any required yard except a rear yard or side yard; providing that, in no instance shall such a building be nearer than five feet to any adjoining side lot line or rear lot line.

(C) An accessory building, not exceeding one story or 14 feet in height, may occupy not more than 25% of any non-required yard; provided that, in no instance shall the accessory building exceed the ground floor of the principal building.

(D) In the case of double frontage lot, accessory buildings shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on the streets in the same block or adjacent blocks.

(E) When an accessory building is to be located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, the building shall not project beyond the front yard line required on the lot in rear of the corner lot.

(F) In any residential zone no garage shall be erected closer to the side lot line than the permitted distance for the dwelling, unless the garage shall be completely to the rear of the dwelling, in which event the garage may be erected five feet from the side and rear lot line. No garage or portion thereof shall extend beyond the front building line of the dwelling. Attached garages of fireproof construction may be erected to extend beyond the front line of the house in those areas which are being developed according to a common plan that includes the construction of attached garages extending beyond the front line of the house, except that such garages shall not encroach in or upon the minimum front yard area as required by these regulations, and provided the cornice, eaves or overhang shall not extend more than six inches into the required side yard area.

(G) Carports constructed in residential zoning district shall comply with the following requirements.

(1) A carport that is placed at the side of an existing residence and which consists of a roof and supporting posts must be five feet from the interior side lot line. The carport may also extend to within ten feet of the side lot line along a public street. The requirements stated in this division refer to the distance between a side property line and the roof line of the carport.

- (2) A carport which is structurally part of a residence (one that is composed of the same building materials as the house of which it is a part and one that has the same roof line as the house of which it is a part) shall not extend into a required side yard. Such a carport is usually constructed at the same time as the residence of which it is a part.
- (3) No carport shall extend into the required front yard of a lot.
- (4) A carport that encroaches into the required side yard of a lot as permitted by this section may not later be converted into living area, a storage room garage or other walled structure without approval of the Board of Zoning Adjustment.

3.5 BUSINESS OR INDUSTRY ON SMALL BUILDING SITE

If a lot located in an industrial district or in a business district contains less than the minimum required building site area for the district and on the effective date of this chapter was lawfully existing and of record and held in separate and different ownership from any lot immediately adjoining and having continuous frontage, the lot may be used as the building site for any use permitted in the district.

3.6 DWELLING IN CENTRAL BUSINESS DISTRICT

(A) Owner-proprietor dwelling units. Any owner-proprietor may provide one dwelling unit for his or her own occupancy in any Central Business District structure; exclusive of all zoning restrictions established elsewhere in this chapter as applicable to dwelling units in the Central Business District. This section is applicable to the building and other codes of the city which must be adhered to for all owner-proprietor dwelling units.

(B) Commercial-residential use mix in same structure. Commercial and residential uses may be provided in the same structure, except for residential uses provided for in division (A) above. Commercial uses may be provided on the same floor level with a residential use, but shall have separate ingress and egress.

3.7 AUTOMOBILE WRECKING AND JUNKYARDS (SALVAGE YARDS)

Because of the nature and character of their operations, automobile wrecking and salvage yards, junkyards and similar uses of land can have a decidedly detrimental effect upon surrounding properties. Salvage and wrecking yards tend to create problems of noise, dust, traffic and health hazards; and may adversely affect property values by their general appearance. The following standards shall be used as a guide in evaluating whether proposed land uses, such as those outlined herein, will have properly minimized their objectionable characteristics.

(A) Licensing. All salvage yards must be licensed. An application to establish a salvage yard in the city shall be filed with the Planning Commission and approved by the Board of Zoning Adjustment. For the purpose of this chapter, junkyards, automobile wrecking yards and similar operations shall be known as "salvage yards".

(B) Location. No salvage yard shall be permitted closer than 500 feet from any established residential district, unless in existence prior to the adoption of this chapter. The storage of three or more unlicensed abandoned vehicles and salvaged vehicles must be in an approved and licensed salvage yard. All abandoned and junked motor vehicles and other similar

large salvage articles that can be seen from any public right-of-way shall be moved to a licensed salvage yard within one year of the effective date of this chapter.

(C) Screening. All outdoor storage in salvage yards shall be conducted entirely within an enclosed fence or wall, except the driveway area. The fence or wall shall be seven feet in height and appropriately screened to prohibit the visibility of the salvage material. Storage outside or above such fence or wall is expressly prohibited. Any fence or wall erected for screening purposes shall comply with Article 10.

(D) Ingress and egress. The maximum number of vehicular access driveways for salvage yards having frontage on a state or federal highway shall be as regulated by the State of Kentucky, Department of Transportation. The maximum number of vehicular access driveways for salvage yards having frontage on a city street shall be regulated by the City Council with recommendations from the Planning Commission.

(E) Off-street parking. Off-street parking shall be as regulated in Article 7.

3.8 CLASSIFICATION OF NEW AND UNLISTED USES

It is recognized that new types of land uses will develop and that different forms of land uses will seek to locate in the city. In order to provide for the changes, a determination of the appropriate zoning classification of any new or unlisted form of land use shall be made as follows:

(A) All questions concerning the classification of new or unlisted uses shall be referred to the Zoning Inspector for an interpretation of this chapter. The referral of the use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, storage and amount and nature thereof, anticipated employment, types of product, transportation requirements, nature and time of occupancy or operation of the premises, the amount of noise, odor, fumes, dust, toxic material and vibrations likely to be generated, and the requirements for public utilities such as sanitary sewers and water.

(B) The Zoning Inspector shall consider the nature and described performance of the proposed use and assign a use classification descriptive of the proposed use from Appendix A (Schedule of Uses) or assign a use as is otherwise specifically provided for in this chapter.

(C) Appeals from determinations of the Zoning Inspector are made to the Board of Zoning Adjustment pursuant to Article 14.

(D) If the Zoning Inspector or the Board of Zoning Adjustment, operating under divisions (B) or (C) of this section, determines the described use does not appear within the code, the Zoning Inspector or the Board of Zoning Adjustment will transmit a copy of the determination to the Planning Commission and City Council. The Planning Commission or City Council may initiate a text amendment to schedule the proposed use.

(E) Barring amendment as provided in division (D) above, proposed uses which do not appear within the code shall not be deemed a permitted use within the City of Guthrie.

ARTICLE 4 DISTRICTS

4.0 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

(A) Statement of purpose. The intent of this District is to provide single-family residential areas with relatively low population densities and to prohibit uses which would destroy the residential character of the neighborhood, that is, commercial and industrial.

(B) Permitted uses. See Appendix A, Schedule of Uses.

(C) Conditional uses. See Appendix A, Schedule of Uses.

(D) Standards.

(1) Building site area. Each lot shall have an area not less than 17,500 square feet.

(2) Building site width. The minimum building site width at the building setback line shall be 75 feet.

(3) Building site coverage. The total lot coverage permitted for all buildings on the site shall not exceed 35%.

(4) Building height limit. The maximum building height shall not exceed two stories or 35 feet in height.

(5) Setback requirements. The minimum requirements for yards shall be as follows:

(a) Front yard shall be one-half the width of the right-of-way of the street the building fronts; the yard shall be a minimum of 25 feet and shall not be required to exceed 40 feet;

(b) Rear yard: 20 feet; and

(c) Side yard: 10 feet.

4.1 R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT

(A) Statement of purpose. The intent of this District is to provide an alternative to the R-1 Single-Family Residential District. This District provides a medium density as compared to the R-1 District yet is intended to preserve the single-family residential character and prevent encroachment from incompatible uses which may diminish property values.

(B) Permitted uses. See Appendix A, Schedule of Uses.

(C) Conditional uses. See Appendix A, Schedule of Uses.

(D) Standards.

(1) Building site area. Each lot shall have an area of not less than 12,500 square feet.

(2) Building site width. The minimum building site width at the building setback line shall be 60 feet.

(3) Building site coverage. The total lot coverage for all buildings on the site shall not exceed 40% of the lot area.

(4) Building height limit. The maximum building height limit shall not exceed two stories or 35 feet in height.

(5) Setback requirements. The minimum requirements for yards shall be as follows:

- (a) Front yard shall be one-half the width of the right-of-way of the street the building fronts; the yard shall be a minimum of 25 feet and shall not be required to exceed 40 feet;
- (b) Rear yard: 20 feet; and
- (c) Side yard: 10 feet.

4.2 R-3 ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT

(A) Statement of purpose. This District is intended to provide for residential areas of medium population density. One- and two-family dwellings are the principal land use for this District. The District also is intended to protect the residential character of the neighborhood by prohibiting commercial activities.

- (B) Permitted uses. See Appendix A, Schedule of Uses.
- (C) Conditional uses. See Appendix A, Schedule of Uses.
- (D) Standards.

(1) Building site area. Each lot shall have an area not less than 7,500 square feet per unit for single-family detached and 10,000 square feet per two-family (duplexes).

(2) Building site width. The minimum building site width at the building setback line shall be 50 feet for single-family detached and 60 feet for two-family (duplexes).

(3) Building site coverage. The total lot coverage permitted for all buildings on the site shall not exceed 45% for single-family detached and 50% for two-family (duplexes).

(4) Building height limit. The maximum building height shall not exceed 35 feet for single-family detached and 35 feet for two-family (duplexes).

(5) Setback requirements. The minimum requirements for yards for both single-family detached and two-family (duplexes) dwelling units are 25 feet for front yard, 20 feet for rear yard, and seven feet for side yard.

4.3 R-4 MULTI-FAMILY RESIDENTIAL DISTRICT

(A) Statement of purpose. The intent of this District is to provide for residential areas of high population density. The specific intent of this District is to ensure that only residential uses as can be properly designed and built will be allowed in this District so as not to overcrowd the land and cause parking or traffic congestions, or to have injurious effects of adjacent properties.

- (B) Permitted uses. See Appendix A, Schedule of Uses.
- (C) Conditional uses. See Appendix A, Schedule of Uses.
- (D) Standards.

- (1) Building site area. Each lot shall have an area not less than the following:
 - (a) Single-family detached: 5,000 square feet per unit;
 - (b) Two-family (duplexes): 8,000 square feet per two units; and
 - (c) Multi-family: 2,170 square feet per three units or more.

(2) Building site width. The minimum site width at the building setback line shall be as follows:

- (a) Single-family detached: 50 feet;

- (b) Two-family (duplexes): 50 feet; and
- (c) Multi-family: 60 feet.
- (3) Building site coverage. The total lot coverage permitted for all buildings on the site shall not exceed the following:
 - (a) Single-family detached: 45%;
 - (b) Two-family (duplexes): 50%; and
 - (c) Multi-family: 55%.
- (4) Building height limit. The maximum building height shall not exceed the following:
 - (a) Single-family detached: 35 feet;
 - (b) Two-family (duplexes): 35 feet; and
 - (c) Multi-family: no height limit.
- (5) Setback requirements. The minimum requirements for yards shall be as follows:
 - (a) Front yard: 25 feet;
 - (b) Rear yard: 15 feet; and
 - (c) Side yard: five feet, plus two feet for each story above the second floor.

4.4 R-5 HIGH DENSITY MULTI-FAMILY RESIDENTIAL DISTRICT

(A) Statement of purpose. This District is intended to provide for residential areas of very high population density. At the same time, this District is intended to provide standards for this type of residential activity to prevent overcrowding, traffic congestions and overloading of public utilities.

- (B) Permitted uses. See Appendix A, Schedule of Uses.
- (C) Conditional uses. See Appendix A, Schedule of Uses.
- (D) Standards.

- (1) Building site area. Each lot shall have an area not less than the following:
 - (a) Single-family detached: 4,000 square feet per unit;
 - (b) Two-family (duplexes): 7,000 square feet per two units; and
 - (c) Multi-family: 1,240 square feet per three units or more.
- (2) Building site width. The minimum building site width at the building setback lines shall be as follows:
 - (a) Single-family detached: 50 feet;
 - (b) Two-family (duplexes): 50 feet; and
 - (c) Multi-family: 60 feet.
- (3) Building site coverage. The total lot coverage permitted for building on the site shall not exceed the following:
 - (a) Single-family detached: 45%;
 - (b) Two-family (duplexes): 50%; and
 - (c) Multi-family: 60%.
- (4) Building height limit. The maximum building height shall not exceed the following:
 - (a) Single-family detached: 35 feet;
 - (b) Two-family (duplexes): 35 feet; and

- (c) Multi-family: no height limit.
- (5) Setback requirements. The minimum requirements for yards shall be as follows:
 - (a) Single-family detached.
 - 1. Front yard: 25 feet;
 - 2. Rear yard: ten feet; and
 - 3. Side yard: five feet.
 - (b) Two-family (duplexes).
 - 1. Front yard: 25 feet;
 - 2. Rear yard: ten feet; and
 - 3. Side yard: five feet.
 - (c) Multi-family.
 - 1. Front yard: one-half the width of the right-of-way of the street the building fronts, the yard shall be a minimum of 25 feet and shall not be required to exceed 40 feet;
 - 2. Rear yard: 20 feet; and
 - 3. Side yard: five feet, plus two feet for each story above the second floor.

4.5 ZLL ZERO LOT LINE DISTRICT

- (A) Statement of purpose. The principal purposes of the zero lot line concept are:
 - (1) The more efficient use of land, as compared with the typical single-family development, making available needed housing at a more affordable cost;
 - (2) The design of dwellings that integrate and relate internal-external living areas resulting in more pleasant and enjoyable living facilities; and
 - (3) By placing the dwelling against one of the property lines, permitting the outdoor space to be grouped and utilized to its maximum benefit.
- (B) Permitted districts.
 - (1) A zero lot line development for single-family attached and single-family detached dwellings are permitted by right in an R-3, R-4 and R-5 residential district, in accordance with the provisions of this section.
 - (2) A zero lot line development for single-family attached or single-family detached dwellings is permitted in an R-1 or R-2 zone upon the issuance of a conditional use permit by the Board of Zoning Adjustment.
- (C) Permitted uses. The following uses are permitted:
 - (1) Single-family detached and attached dwellings;
 - (2) Two-family or duplexes; and
 - (3) Accessory buildings and structures provided no such building or structure shall be designed or used for dwelling purposes.
- (D) Standards.
 - (1) Building site area. Each lot shall have an area not less than 3,500 square feet.
 - (2) Building site width. The minimum building site width at the building setback line shall be 20 feet.

(3) Building site coverage. The total lot coverage permitted for all buildings on the site shall not exceed 50% of the lot area.

(4) Building height limit. The maximum building height shall not exceed two stories or 35 feet in height.

(5) Setback requirements.

(a) Interior side yard. The detached dwelling unit shall be placed on one interior side property line with a zero setback and the dwelling unit setback on the other interior side property line shall be a minimum of ten (10) feet, excluding the connecting elements such as fences, walls and trellises. Patios, pools, garden features and other similar elements shall be permitted within the ten-foot setback area; provided, however, no structure, with the exception of fences or walls, shall be placed within easements required by this section.

(b) Interior side yard. The attached dwelling unit shall be placed on the interior side property line with a zero setback and the dwelling unit setback on the other interior side property line can also be placed on the property line with a zero setback.

(c) Exterior side yard. The dwelling unit shall be placed ten feet from all exterior property lines.

(d) Front setback. All dwelling structures shall be set back a minimum of 25 feet from the front property line.

(e) Rear setback. The required rear setback is ten feet.

(f) Side street setback. The dwelling setback shall be a minimum of 15 feet from the side street property line.

(E) General requirements.

(1) Platting requirements. Each dwelling shall be located on its own individual platted lot. If areas for common use of occupants of the developments are shown on the plat, satisfactory arrangements shall be made for the maintenance of the common open space and facilities as provided in division (E)(8) below. The plat shall indicate the zero lot lines and easements appurtenant thereto.

(2) Openings prohibited on the zero lot line side. The wall of the dwelling located on the lot line shall have no windows, doors, air conditioning units or any other type of openings, provided however, that atriums or courts shall be permitted on the zero lot line side when the court or atrium is enclosed by three walls of the dwelling unit and a solid wall of at least eight feet in height is provided on the zero lot line. The wall shall be constructed of the same material as exterior walls of the unit.

(3) Maintenance and drainage easements. A perpetual four-foot wall-maintenance easement, for detached dwellings, shall be provided on the lot adjacent to the zero lot line property line, which, with the exception of walls or fences, shall be kept clear of structures. This easement shall be shown on the plat and incorporated into each deed transferring title to the property. The wall shall be maintained in its original color and treatment unless otherwise agreed to in writing by the two affected lot owners. Roof overhangs may penetrate the easement on the adjacent lot a maximum of 24 inches, but the roof shall be so designed that water runoff from the dwelling placed on the lot lines is limited to the easement area.

(4) Separation between dwellings on adjacent lots. There shall be a separation between dwellings on adjacent lots of not less than ten feet.

(5) Off-street parking. Each dwelling shall have not less than two off-street parking spaces. Enclosed garages or carports are not required, but if carports or garages are built they must be attached. If carports or garages are to be incorporated in the future the site plan must show the placement of the structures prior to approval by the Zoning Inspector or Planning Commission.

(6) Trees.

(a) Trees, as defined within Article 10, shall be provided on the basis of three trees for each platted lot. In addition, street shade trees shall be provided along the side of the roadway at a minimum spacing of 20 feet on center for private roads.

(b) In case of development with public roads, the trees may be placed on private lots in lieu of the public right-of-way provided that 20-foot spacing and the rowing of trees are maintained. This shall be in addition to the three trees required for each platted lot.

(7) Accessory buildings and structures. Accessory buildings and structures shall be subject to the following requirements:

(a) No such building or structure shall be located within a required front or street-abutting side yard.

(b) No such building or structure shall be located within five feet of a dwelling or another accessory building or structure, nor within two feet of any interior property line.

(c) No such building or structure shall exceed ten feet in height without a conditional use permit.

(8) Common open space and maintenance of facilities. Common open space is not required but may be permitted. If common open space is provided, provisions satisfactory to the City Council shall be made to assure that nonpublic areas and facilities for the common use of occupants of zero lot line development shall be maintained in a satisfactory manner, without expense to the general taxpayers of the city.

(9) Open space. There shall be an open space on each lot of not less than 300 square feet with no dimension less than 15 feet. The open space area shall be exclusive of required front and street-abutting side yards and vehicular driveways and further shall be subject to the following.

(a) The required open space may include side or rear yards.

(b) Pools and paved recreational areas may be developed in the required open space.

(c) The gradient or slope of any required open space shall not exceed 12%. The open space may be provided on a deck.

(d) The open space shall be fully open to the sky.

(e) An accessory building may not occupy any part of the required open space.

(F) Site plan review. A site plan review is required to encourage communication between the applicant and the Planning Commission staff. A site plan review will promote a greater degree of logic, imagination, innovation and variety in the design process. The site plan submittal should follow the guidelines as set forth in Article 12.

4.6 RMH RESIDENTIAL MANUFACTURED (MOBILE) HOUSING DISTRICT

(A) Statement of purpose. These Districts are composed of areas containing manufactured (mobile) housing dwelling sites. Such areas shall be well suited for residential purposes.

(B) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) "ANCHORING SYSTEM." An approved system of straps, cables, turnbuckles, chains, ties or other approved materials used to secure a manufactured or mobile home.

(2) "COMPATIBILITY STANDARDS." (KRS 100.348) Standards that have been enacted by local government under the authority of this section for the purpose of protecting and preserving the monetary value of real property located within the local government's jurisdiction.

(3) "DESIGN, RESIDENTIAL." A qualified manufactured home which has the same siding materials and pitched shingled roofs as used on conventional homes located within the impact areas.

(4) "DESIGN, STANDARD." A bowed metal roof and aluminum siding, the traditional "mobile home" look.

(5) "FOUNDATION SIDING/SKIRTING." A type of wainscoting constructed of fire and weather resistant material such as aluminum, treated pressed wood or other approved materials, enclosing the entire undercarriage of the manufactured or mobile home.

(6) "HUD LABEL." (815 KAR 25:050) The label affixed to a new manufactured home by the manufacturer after it has been approved by a third-party inspector, as required under the HUD Act.

(7) "IMPACT AREA." A radius of 200 yards drawn around the proposed placement of a qualified manufactured home with the proposed placement being the center point.

(8) "MANUFACTURED HOME." (KRS 100.348) A single-family residential dwelling constructed after June 15, 1976, in accordance with the National Manufactured Home Construction and Safety Standards Act, Act of 1974, 42 U.S.C. §§ 5401 et seq., as amended, and designed to be used as a single-family residential dwelling with or without permanent foundation when connected to the required utilities, and which includes plumbing, heating, air conditioning and electrical systems contained therein.

(9) "MANUFACTURED HOME PARK." A parcel of land under single ownership on which two or more manufactured homes are occupied as residences and meeting the requirements of this section.

(10) "MOBILE HOME." (KRS 100.348) A structure manufactured prior to June 15, 1976, that was not required to be constructed in accordance with the National Manufactured Housing Construction in Safety Standards Act, that is transportable in one or more sections, that, in the traveling mode is eight body feet or more in width and 40 body feet or more in length, or when erected on site, 400 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling on a temporary or permanent foundation, when connected with the permanent required utilities, including plumbing, heating, air conditioning and electrical systems.

(11) "MODULAR HOME." (R202, 2002 Kentucky Residential Building Code) An industrialized building system which is designed to be used as a residence and which is not a manufactured or mobile home.

(12) "PERMANENT FOUNDATION." Any structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity. The permanent foundation system shall include a method of transporting loads to the earth and shall provide for a continuous exterior enclosure between the perimeter of the house and the earth. The overall system shall be an engineered system to comply with soil conditions. Applicable standards would include manufacturer's recommendations in compliance with H.U.D. requirements and recognized standards such as A225.1 (ANSI) and Guideline Standards for the Installation of Manufactured Housing (CABO).

(13) "QUALIFIED MANUFACTURED HOME." (KRS 100.348) A manufactured home meeting all of the following criteria:

- (a) Is manufactured on or after July 15, 2002;
- (b) Is affixed to a permanent foundation and is connected to the appropriate facilities and is installed in compliance with KRS 227.570;
- (c) Has a width of at least 20 feet at its smallest width measurement or is two stories in height and oriented on the lot or parcel so its main entrance door faces the street;
- (d) Has a minimum total living area of 900 square feet; and
- (e) Is not located in a manufactured home land-lease community.

(14) "QUALIFIED MANUFACTURED HOME SUBDIVISION." A subdivision designed and intended primarily for the sale of lots for residential occupancy by manufactured homes.

(15) RECREATION VEHICLE (RV). A vehicular portable structure built on a chassis and not exceeding a gross weight of 4,500 pounds when factory-equipped for the road or an overall length of 30 feet and designed to be used as a temporary dwelling, travel, recreational and vacation uses.

(16) "SECTION." A unit of a manufactured home at least ten body feet in width and 30 body feet in length.

(17) "SUPPORT SYSTEM." A pad or combination of footing, piers, caps, plates and shims, which when properly installed, support the manufactured/mobile home.

(C) Classification of manufactured/mobile homes.

(1) Classification standards.

(a) QUALIFIED MANUFACTURED HOME. A "qualified manufactured home" as defined by KRS 100.348 and incorporated herein;

(b) MANUFACTURED HOME Class A. A manufactured home certified as meeting the Mobile Home Construction and Safety Standards of the Department of Housing and Urban Development, Residential Designed Home Placed on a Permanent Foundation;

(c) MANUFACTURED HOME Class B. A manufactured home certified as meeting the Mobile Home Construction and Safety Standards of the Department of Housing and Urban Development, Standard Designed Home Placed on a Temporary or Permanent Foundation; and

(d) MOBILE HOME. A "mobile home" as defined by KRS 219.320 and incorporated herein.

(2) Permitted placement.

(a) The establishment, location and use of a qualified manufactured home as a permanent residence approved individually, by specific materials or by design, shall be permitted in any district permitting a dwelling unit, subject to the requirements applying to residential uses in the district, subject to the compatibility criteria of division (D) below and provided the dwelling shall meet the exterior appearance standards, as set forth in division (E) below. A zoning/building permit shall be required for all applications for such use; approval procedure is set forth in Article 13. Applications for approval shall be submitted to the Planning Commission on the appropriate forms as required to make a determination on the compatibility of the proposed structure.

(b) The establishment, location and use of a manufactured home as a permanent residence approved individually, by specific materials or by design, shall be permitted subject to the requirements of this chapter only in RMH zones. Location of a manufactured home shall require a zoning/building permit once the rezoning request has been approved.

(c) The placement of a mobile home as a residence is prohibited within the City of Guthrie.

(3) Procedure for approval of qualified manufactured homes.

(a) At a minimum, the application shall contain the following information:

1. Name, address and phone number of applicant;
2. Building detail, including but not limited to, structure size, structure height, building area, roof pitch, foundation detail and number of stories;
3. Electrical detail;
4. Legal description of property;
5. Lot detail, including, but not limited to, building setbacks, lot width and existing structures;
6. Easement widths, including but not limited to, all utility and drainage easements;
7. Plan of the proposed site for the qualified manufactured home placement showing streets, property lines, lot dimensions, existing structures, proposed structures, setback distances and all utility and drainage easements;
8. List of subcontractors to be employed on the project including name, address, phone number and license number;
9. Certification signed by the applicant; and
10. Any other materials, which may be deemed necessary to determine conformance with and provide for the information of this chapter.

(b) Immediately after the filing of an application, it shall be transmitted to the Commission, and heard during a regular or special called Planning Commission meeting.

(c) Within 60 days from the receipt of the application, the Planning Commission will make a determination to deny, conditionally approve or approve the proposed placement of the qualified manufactured home.

(D) Compatibility standards for qualified manufactured homes.

(1) In order to determine the percent of compatibility or incompatibility the following calculations apply.

(a) The site of the proposed qualified manufactured home will be the center point and a radius of 200 yards will be drawn encompassing the impact area.

(b) The number of habitable single-family units within the impact area will be counted. The number of existing units, which meet or exhibit the same characteristics of the proposed qualified manufactured homes, will be counted.

(c) In determining compatibility, each characteristic, i.e., size, roof pitch and elevation will be counted separately. The following measurements apply.

1. The size of a proposed qualified manufactured home that has a gross floor area of 200 square feet above or below the average of existing structures within a 200-yard radius of the proposed site is deemed compatible.

2. The roof pitch of a proposed qualified manufactured home that demonstrates a roof pitch at or above the average of existing structures within a 200-yard radius of the proposed site is deemed compatible.

3. The elevation of a proposed qualified manufactured home that measures at or maximum of one vertical foot above the average of existing structures shall be deemed compatible.

4. The number of stories of a proposed qualified manufactured home that conforms with the average number of stories of existing structures shall be deemed compatible.

(d) The number of units for each characteristic will be totaled and divided by the total number of units to determine the applicable percentage.

(2) The criteria used to determine compatibility is as follows:

(a) Number of qualified manufactured homes in area (R-1, R-2, R-3).

1. If the proposed placement is either the first or second existing or permitted manufactured home or qualified manufactured home in the area, the placement is incompatible.

2. If the proposed placement is the third or more existing or permitted manufactured home or qualified manufactured home in the area, the proposed placement is considered compatible and the percent of facade of structure should be considered.

(b) Number of qualified manufactured homes in area (R-4, R-5).

1. If the proposed placement is either the first existing or permitted manufactured home or qualified manufactured home in the area, the placement is incompatible.

2. If the proposed placement is the second or more existing or permitted manufactured home or qualified manufactured home in the area,

the proposed placement is considered compatible and the percent of facade of structure should be considered;

(c) Percent of facade of structure.

1. If there are 0% to 10% of existing structures with facades which meet or exhibit the same facade of the proposed qualified manufactured home, the proposed placement is incompatible.

2. If there are 11% to 50% of existing structures with facades which meet or exhibit the same facade of the proposed qualified manufactured home see item (D)(2)(g) below.

3. If there are 51% to 100% of existing structures with facades which meet or exhibit the same facade of the proposed qualified manufactured home; the proposed placement is compatible and the percent of size of structure should be considered.

(d) Percent of size of structure (taking into account length and width dimensions as well as overall square footage).

1. If there are 0% to 10% of existing structures which are of similar size as the proposed qualified manufactured home, the proposed placement is incompatible.

2. If there are 11% to 50% of existing structures which are of similar size as the proposed qualified manufactured home see division (D)(2)(g) below.

3. If there are 51% to 100%, of existing structures which are of similar size as the proposed qualified manufactured home, the proposed placements is considered compatible and the percent of roof pitch of structure should be considered.

(e) Percent of roof pitch of structure.

1. If there are 0% to 10% of existing structures with roof pitch, which meet or exhibit the same roof pitch of the proposed qualified manufactured home, the proposed placement is incompatible.

2. If there are 11% to 50% of existing structures with roof pitch, which meet or exhibit the same roof pitch of the proposed qualified manufactured home see division (D)(2)(g) below.

3. If there are 51% to 100% of existing structures with roof pitch which meet or exhibit the same roof pitch of the proposed qualified manufactured home, the proposed placement is compatible and the percent of elevation of structure should be considered.

(f) Percent of elevation of structure.

1. If there are 0% to 10% of existing structures with elevation, which meet or exhibit the same elevation of the proposed qualified manufactured home, the proposed placement is incompatible.

2. If there are 11% to 50% of existing structures with elevation, which meet or exhibit the same elevation of the proposed qualified manufactured home see division (D)(2)(g).

3. If there are 51% to 100% of existing structures with elevation which meet or exhibit the same elevation of the proposed

qualified manufactured home, the proposed placement is compatible and the next criteria should be considered.

(g) Where structure falls within the 11% to 50% range of characteristics (c), (d), (e), and (f); the average of percentages must meet or exceed 50% for all four characteristics to be compatible.

(E) Exterior appearance standards. Every manufactured home shall:

(1) Meet all requirements for lot, yard, building and other requirements for the district in which it is located;

(2) Be placed on a permanent foundation;

(3) Utilize a permanent perimeter enclosure in accordance with the approved installation standards and this section;

(4) Be anchored to the ground in accordance with the manufacturer's specifications;

(5) Have all wheels, axles and hitch mechanisms removed;

(6) Have utilities connected, in accordance with the city requirements and manufacturer's specifications;

(7) Have siding material which looks like the type used on site-constructed residences;

(8) Have a pitch roof of not less than four inches of rise for each one foot of horizontal run and have roofing material of a type used on site-constructed residences;

(9) Have a minimum width of the main body as assembled on the site of not less than 20 feet, measured across the narrowest portion and shall fall within the meaning of "qualified manufactured home"; and

(10) The home shall appear to face the public street.

(F) Replacement of nonconforming homes.

(1) A manufactured or mobile home placed and maintained on a tract of land and deemed to be a legal nonconforming use prior to the adoption of this chapter, shall continue to be a legal nonconforming use. If the nonconforming use is discontinued, or abandoned for more than two years, the land thereafter must be used in conformity with all provisions of this chapter.

(2) A manufactured or mobile home deemed a legal nonconforming use may be replaced by a qualified manufactured home, provided the replacement is as follows: a mobile home may be replaced with a qualified manufactured home or a manufactured home; a manufactured home could be replaced with a qualified manufactured home; a qualified manufactured home could be replaced with another qualified manufactured home.

(G) Approval procedure. Manufactured home parks and qualified manufactured home subdivisions shall be located only in a Residential Manufactured (Mobile) Housing District (RMH) and shall be developed according to the general regulations stated and referenced in this section. The procedure to amend the zoning map shall conform to the requirements specified in Article 11.

(H) General regulations. Any proposed placement of a qualified manufactured home shall conform to the following requirements, showing that the development:

(1) Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the character of the vicinity of the

proposed manufactured/mobile home park or subdivision and will not change the essential character of the area;

(2) Will not be detrimental to existing or future residential uses;

(3) Will be served adequately by public facilities and services or that the persons responsible for the establishments of the proposed park or subdivision shall be able to provide adequate services;

(4) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets; and

(5) Will be required to conform to the requirements of the City of Guthrie Subdivision Regulations.

(I) Manufactured home park requirements (RMH-1).

(1) The minimum site shall contain two and one-half acres unless the development is an extension of an existing park. The procedure and design of a manufactured home park shall be the same as those provided for in the Subdivision Regulations. The manufactured/mobile home park shall meet the requirements of the county's Health Department.

(2) Individual qualified manufactured homes located within the manufactured home park shall have a minimum floor area of 900 square feet.

(3) Any qualified manufactured housing or manufactured home shall be allowed placement in a manufactured home park (RMH-1).

(4) Placement of a qualified manufactured home or a manufactured home on a permanent foundation is not required, but all units must be anchored in accordance with the Kentucky Building Code and the manufacturer's specifications.

(5) The removal of the wheels and tongue from a qualified manufactured home or a manufactured home shall be required in a RMH-1 District.

(6) All proposed placements of qualified manufactured homes or manufactured homes, as provided in this section, will be required to access and utilize sanitary sewer.

(J) Qualified manufactured home subdivision requirements (RMH-2).

(1) The size of a qualified manufactured home subdivision shall be as provided for a manufactured home park. The procedure and design of a qualified manufactured home subdivision shall be the same as those provided for in the City of Guthrie Subdivision Regulations.

(2) Only qualified manufactured homes shall be allowed placement in a qualified manufactured home subdivision RMH-2.

(3) All qualified manufactured homes shall conform to the exterior appearance standards as provided in this section.

(K) Standards RMH-1 and RMH-2.

(1) Building site area. The minimum building site area shall be as follows:

(a) Single-family detached: 5,000 square feet; and

(b) Semi-attached two-family: 7,000 square feet.

(2) Building site width. The minimum building site width shall be as follows:

(a) Single-family detached: 50 feet; and

(b) Semi-attached two-family: 60 feet.

(3) Building site coverage. The maximum building site coverage by a building shall be 35%.

- (4) Building height limit. No structure shall exceed 35 feet.
- (5) Setback requirements. The minimum requirements for yards shall be as follows:

- (a) Single-family detached, semi-attached two-family:
 - 1. Front yard: one-half the width of the right-of-way of the street in which the building fronts; the yard shall be a minimum of 25 feet and shall not be required to exceed 40 feet;
 - 2. Side yard: 10 feet; and
 - 3. Rear yard: 20 feet.
- (b) For other permitted uses:
 - 1. Front yard: 40 feet;
 - 2. Side yard: 25 feet; and
 - 3. Rear yard, 25 feet.

4.7 PUD PLANNED UNIT DEVELOPMENT

(A) Statement of purpose. The intent of planned unit development (PUD) is to permit greater flexibility and consequently, more creative and imaginative design for development of residential areas than generally is possible under the conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of housing choices, a higher level of urban amenities and preservation of natural qualities of open space.

(B) Permitted districts.

(1) Residential planned unit developments are allowed by right in the R-3, R-4, and R-5 Districts, in accordance with the provisions of this chapter.

(2) A residential planned unit development is permitted in an R-1 and R-2 residential district upon the issuance of a conditional use permit by the Board of Zoning Adjustment.

(3) Residential/commercial planned unit developments are allowed by right in the B-2 and P-1 Districts, in accordance with the provisions of this chapter.

(C) Permitted uses. The following are permitted uses:

(1) Detached and attached single-family dwellings;

(2) Two-family dwellings or duplexes;

(3) Multi-family dwellings;

(4) Accessory uses and structures provided that no such buildings or structures shall be designed or used for dwelling purposes;

(5) Public uses and buildings including libraries, museums, parks, playgrounds, schools and community buildings, owned and controlled by the city or school district if their location is first approved by the City Council; and

(6) Any proposal which uses have been reviewed and recommended for approval by the Planning Commission.

(D) Standards.

(1) Area size. The minimum size of a PUD shall not be less than one acre.

(2) Building site coverage. The total lot coverage permitted for all buildings on the site shall not exceed 60% of the lot area.

(3) Building height limit. The maximum building height limit of any building shall not exceed 70 feet in height.

(4) Setback requirements. Setback requirements shall be as follows:

(a) Front yard: any building facing a local street, minor or major artery, as defined in the Subdivision Regulations, shall be one-half of the right-of-way or not less than 25 feet and not to exceed 40 feet;

(b) Side yard (from adjoining property line): 20 feet; and

(c) Rear yard (from adjoining property line): 20 feet.

(E) General requirements.

(1) Platting requirements. Each PUD shall be platted. The plat shall contain information as required in the site plan review found in Article 12. The plat shall also conform to the requirements set forth in this section. In the event that conflicts occur, this section shall prevail.

(2) Density. The density for all approved PUD plans shall not exceed the density requirements found in an R-5 High Density Multi-Family Residential District.

(3) Open space. At least 20% of the total gross area shall be devoted to the properly planned, permanent, usable open space. The common open space shall be used for recreational, park or environmental amenity for common enjoyment by occupants of the development, but shall not include public or private streets, driveways or utility easements.

(4) Maintenance of common open space. Planned unit developments shall be approved subject to the submission of a legal instrument or instruments setting forth a plan or manner of permanent care and maintenance of the open spaces, recreational areas and community owned facilities. No such instruments shall be accepted until approval by the City Attorney as to legal form and effect, and the Planning Commission as to suitability for the proposed use of the open space.

(5) Landscaping.

(a) A landscaping plan shall be required at a time of initial submission, showing the spacing, sizes and specific types of landscaping material. (See Article 10).

(b) Existing trees shall be preserved whenever possible. The location of trees should be considered when planning the common open space, location of buildings, underground structures, walks, paved area, playgrounds, parking areas and finished grade levels.

(c) A grading plan which will confine excavation, earth-moving procedures and other changes to the landscape in order to ensure preservation and prevent despoilation of the area to be retained as common open space.

(6) Traffic circulation. Principal vehicular access points shall be designed to permit smooth traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic.

(7) Street construction.

(a) Standards of design and construction for both public and private, within planned residential development shall comply with the standards of design set forth in the Subdivision Regulations.

(b) Streets in a PUD may be dedicated to public use or may be retained under private ownership. However, if the streets are dedicated to the city the streets shall be constructed in accordance with standards required by the city.

(8) Parking.

(a) For each dwelling unit, there shall be off-street parking spaces consisting of not less than 180 square feet each. Variances from this requirement can be obtained from the Board of Zoning Adjustment.

(b) Parking areas shall be arranged so as to prevent through traffic to other parking areas.

(c) Parking areas shall be screened from adjacent structures, roads, and traffic arteries with hedges, dense planting, earth berms, changes in grade or walls.

(d) No more than 15 parking spaces shall be permitted in a continuous row without being interrupted by landscaping.

(e) No more than 60 parking spaces shall be accommodated in any single parking area.

(f) All streets and any off-street loading area shall be paved. All areas shall be marked so as to provide for orderly and safe loading, parking and storage.

(g) Parking for nonresidential purposes shall be provided appropriate to the type of nonresidential use, as set forth in Article 7.

(h) All common parking areas shall be adequately lighted. All such lighting shall be so arranged as to direct the light away from adjoining residences.

(i) All parking areas and off-street loading areas shall be graded and drained so as to dispose of all surface water without erosion, flooding and other inconveniences.

(9) Buffers. Where a PUD abuts another district of lower intensity, a permanent open space at least 25 feet wide shall be provided along the property line and shall be maintained with landscaping. No driveway or off-street parking shall be permitted in this area. (See Article 10)

(10) Nonresidential development.

(a) Nonresidential uses, limited to those specifically recommended for approval by the Planning Commission, are permitted in a planned unit development provided that such uses primarily are for the service and convenience of the residents of the development.

(b) Layout of parking areas, service areas, entrances, exits, yards, courts, landscaping and control of signs, lighting, noise or other potentially adverse influences shall be such as to protect residential character within the PUD District and desirable character in any adjoining residence district.

(c) No building permit for any nonresidential use in a mixed PUD, i.e., residential/commercial or professional shall be issued prior to having at least 50% of the residential dwellings under construction.

(F) Site plan review. A site plan review is required to encourage communication between the applicant and the Planning Commission staff. A site plan review will also promote a greater degree of logic, imagination, innovation and variety in the design process. The site plan submittal should follow the guidelines as set forth in Article 12.

(G) Review procedure.

(1) Approval process. The following requirements must be fulfilled prior to approval of a PUD application.

(a) Pre-application conference. The applicant shall meet with the staff to determine the feasibility of the project.

(b) Application and site plan submittal. The applicant should furnish all information required in this section and comply with all the standards set forth in this section. (See division (G)(3) below)

(c) Site plan review. This is an in-house staff function. (See division (G)(4) below)

(d) Planning Commission action. The Planning Commission will either:

1. Grant approval, which means the developer may proceed with the project;

2. Postpone action, which means action is delayed for reasons which shall be noted by the Commission; or

3. Deny approval, which means denial of approval for the submitted PUD. Before any further action is taken, the developer must review his plan to conform to the Commission's recommendations.

(2) Special use permit.

(a) Upon approval by the Planning Commission, the applicant will be issued a special use permit. The special use permit may contain conditions which the applicant must represent on his or her plat before a building permit is issued by the Zoning Inspector. A special use permit shall be revoked upon change in conditions upon which special use permit was issued.

(b) The special use permit shall be filed with the approved plat at the Todd County Court Clerk's office. Filing is the responsibility of the applicant.

(3) Application for PUD. The application, which can be obtained at Guthrie City Hall, along with a filing fee, amount set by City Council, shall be submitted along with the plat.

(4) Administrative review. Upon a receipt of an application, a filing fee and a plat, the staff shall review the plat for compliance with this chapter. Within 45 days after the filing of the application, the Planning Commission shall take action. After the site plan review by the staff, staff findings and recommendations shall be transmitted to the applicant and Planning Commission.

(5) Failure to begin construction. If no construction has begun or no use established in the planned unit development within two years from the date of approval of the development plan, the special use permit will lapse and have no further effect. Construction is hereby defined to include the placing of construction materials in a permanent position and fastening them in a permanent manner. In its discretion and for good cause, the Planning Commission may extend for one or more additional years the period for the initiation of construction of the establishment of a use.

(6) Amendment or withdrawal of special use permit. Pursuant to the same procedure and subject to the same limitations and requirements by which the special use permit was approved and registered, any special use permit may be amended or withdrawn, either partially or completely, if all the conditions and limitations of the special use permit and all land and structures withdrawn from the special use permit

comply with all regulations established by this chapter and unrelated to the special use permit.

(7) Waivers. An applicant citing the design or other exceptional characteristics of the proposed development may request the Planning Commission to waive certain requirements for special use permit. The Planning Commission may permit submission of an application for review in accordance with procedures set out in this section. In permitting waivers, the Planning Commission must find that the application fully meets the intent of this section and of this chapter.

(8) Appeal.

(a) Any person aggrieved by a decision of the Planning Commission in approving or disapproving an application for planned unit development may, within 15 days from the date of the decision, file a written request with the City Council which shall proceed to review the decision. Any such review shall be conducted pursuant to the same procedure as required for approval in this section.

(b) If the City Council, subsequent to its review, agrees with the Planning Commission's action, it shall do so by municipal order. If the City Council disagrees with the Planning Commission's action, it shall adopt a municipal order directing the Planning Commission to alter its action in accordance with its directions and conditions.

(c) If the Planning Commission fails to comply with the Council's order at its next regularly scheduled meeting, the alterations specified in the municipal order shall become effective upon the adjournment of the meeting.

4.8 B-1 NEIGHBORHOOD BUSINESS DISTRICT

(A) Statement of purpose. The Neighborhood Business District is intended to permit, retain and service uses which are to serve nearby residential areas. Uses which would create hazards, offensive and loud noises, vibration, smoke, glare, heavy truck traffic or late hours are prohibited.

(B) Permitted uses. Any use listed as permissible in Appendix A, Schedule of Uses, is permitted.

(C) Conditional uses. Any use listed as conditional in Appendix A, Schedule of Uses, is permitted.

(D) Standards.

(1) Building site area. Each lot shall have an area not less than 7,000 square feet.

(2) Building site width. The minimum building site width at the building setback line shall be 50 feet.

(3) Building site coverage. The total lot coverage for all buildings on the site shall not exceed 55% of the lot area.

(4) Building height limit. The maximum building height shall not exceed two stories or 35 feet in height.

(5) Setback requirements. The minimum requirements for yards shall be as follows:

(a) Front yard: one-half the width of the right-of-way of the street the building fronts; the yard shall be a minimum of 25 feet and shall not be required to exceed 40 feet;

(b) Rear yard: 15 feet; and

(c) Side yard: ten feet.

(E) General requirements.

(1) There shall be no outdoor storage of merchandise or materials and no outdoor processing in any commercial district unless authorized as a conditional use.

(2) All commercial districts located on lots adjacent to residentially zoned districts shall maintain a minimum setback of 20 feet on the side adjacent to the residential district. The side shall also be adequately buffered as regulated in Article 10.

(3) All sign and outdoor advertising displays are subject to the provisions established in Article 8.

(4) All parking and off-street loading are subject to the provisions established in Article 7.

(5) New dwelling structures which are permitted within commercial districts shall conform to the lot size and density standards as set forth in the R-4 (Multi-Family Residential) District.

4.9 B-2 GENERAL BUSINESS DISTRICT

(A) Statement of purpose. The General Business District is intended to permit a wider range of business and entertainment activities than are normally permitted in the Neighborhood District. The permitted uses would serve not only nearby residential areas, but also areas further away by types of business and services usually found in major shopping centers. These uses would generate larger volumes of vehicular traffic, would need more off-street parking and loading and would require more planning to integrate the districts with adjacent residential areas.

(B) Permitted uses. Any use listed as permissible in Appendix A, Schedule of Uses, is permitted.

(C) Conditional uses. Any use listed as conditional in Appendix A, Schedule of Uses, is permitted as a conditional use.

(D) Standards.

(1) Building site area. There is no minimum required building site area.

(2) Building site width. There is no minimum required building site width.

(3) Building site coverage. The maximum building site coverage by all buildings on the site shall not exceed 55% of the total lot area.

(4) Building height limit. No structure shall exceed 50 feet in height.

(5) Setback requirements. The minimum requirements for yards shall be as follows:

(a) Front yard: 40 feet;

(b) Rear yard: 20 feet; and

(c) Side yard: seven feet.

(E) General requirements. All general requirements that are in effect in the B-1 Neighborhood Business District are applicable.

4.10 B-3 CENTRAL BUSINESS DISTRICT

(A) Statement of purpose. The District, with complementary office and related uses, forms the center for commercial, financial, professional, governmental and cultural activities. These regulations are intended to protect and upgrade the Central Business District for the performance of its primary functions. Pedestrian oriented uses are encouraged.

(B) Permitted uses. See Appendix A, Schedule of Uses.

(C) Conditional uses. See Appendix A, Schedule of Uses.

(D) Standards.

(1) Building site area. There is no minimum required building site area.

(2) Building site width. There is no minimum required building site width.

(3) Building site coverage. There is no limit.

(4) Building height limit. No structure shall exceed 70 feet.

(5) Setback requirements. The minimum requirements for yards shall be as

follows:

(a) Front yard: no front yard requirement;

(b) Rear yard: 25 feet for the back of the building adjoining a residential zone. Otherwise, no rear yard is required; and

(c) Side yard: five feet for a side abutting a residential district which is existing. Otherwise, no side yard is required.

(E) General requirements.

(1) All new buildings and structures shall comply with off-street parking, loading and unloading provisions as required in Article 7. In cases where no structural enlargement occurs, a change of use for an existing structure or building in a B-3 District shall not require compliance with Section 7.0 of Article 7 provided that existing parking is not reduced; however, all structures, both new and existing, are subject to the requirements of Sections 7.1 – 7.3 of Article 7.

(2) New dwelling structures which are permitted in the B-3 Central Business District shall conform to the standards set forth in the R-4 Multi-Family Residential District.

4.11 B-4 ARTERIAL COMMERCIAL DISTRICT

(A) Statement of purpose. The District is intended to provide areas in which the principal use of land is devoted to commercial establishments which cater specifically to motor vehicle oriented trade. It is also intended to provide appropriate space, adequate parking, sufficient depth from the street, controlled access points and orderly and concentrated development.

(B) Permitted uses. See Appendix A, Schedule of Uses.

(C) Conditional uses. See Appendix A, Schedule of Uses.

(D) Standards.

(1) Building site area. There is no minimum required building site area.

(2) Building site width. There is no minimum required building site width.

(3) Building site coverage. The maximum building site coverage by all buildings shall not exceed 55% of the total lot area.

(4) Building height limit. No structure shall exceed 50 feet in height.

(5) Setback requirements. Setback requirements for yards shall be as follows:

- (a) Front yard: 40 feet;
- (b) Rear yard: 20 feet; and
- (c) Side yard: seven feet.

(E) General requirements.

(1) Applicable requirements. All general requirements that are in effect in the B-1 Neighborhood Business District are applicable.

(2) Plans. Plans for building construction, parking area, yards, driveways, entrances and exits shall be approved by the appropriate administrative offices, in consultation with the Planning Commission, and they may require any changes therein deemed necessary or desirable to ensure safety, to minimize traffic difficulty and to safeguard adjacent properties.

(3) Traffic circulation.

(a) Points of vehicular ingress and egress to the site shall be limited to the adjacent major or minor arterial only and site plans shall be reviewed by the Planning Commission for location and design of curb cuts and driveways and for layout of parking lots.

(b) The minimum width of driveways at the property lines shall be 24 feet.

(c) The minimum distance of any driveway to property line shall be seven feet.

(d) The minimum distance between driveways on the site and driveways between adjacent sites shall be 65 feet. In such cases where that distance cannot be met, such as lot width, existing driveways or the like, a variance can be granted based upon sound traffic circulation principals.

(e) The minimum distance a driveway into a site shall be from a street intersection shall be 30 feet measured from the intersection of the street right-of-way to the nearest end of the curb radius.

(4) Parking and landscaping. The entire parking area shall be paved with a permanent surface of concrete, asphaltic cement, cobblestone, brick or grid paving and shall be graded and drained so as to dispose of all surface water without erosion, flooding and other inconveniences. Any unpaved area shall be landscaped with lawn or other acceptable landscaping materials, maintained in a neat and orderly fashion at all times, and as required in Article 10.

(5) Lighting. Exterior lighting proposed for use on the site shall be planned, erected, and maintained so light is confined to the property and will not cast direct light or glare upon adjacent properties or public rights-of-way. The light source shall not be visible from adjacent properties or public rights-of-way.

(6) Buffering.

(a) A permanent landscaped buffer of evergreen plant material or solid wall or fence or other suitable enclosure is required when commercial land abuts a residential district, as required in Article 10.

(b) All open storage of merchandise, material and equipment shall be screened by adequate ornamental fencing or evergreen planting at the side or rear of the lot abutting a residence district on which the open storage or display occurs; provided, however, that, maximum screening shall be eight feet in height.

4.12 I-1 LIGHT INDUSTRIAL DISTRICT

(A) Statement of purpose. The intent of this District is to permit certain industries which are of a light manufacturing character to locate in acceptable areas in the city. So that such uses may be integrated with other land uses, such as commercial and residential areas, limitations are placed upon the degree of noise, smoke, glare, waste and other features of industrial operations which may cause adverse effects. It is further intended that these light industrial uses act as a transition between heavier industrial uses and nonindustrial uses.

(B) Permitted uses. Any use listed as permissible in Appendix A, Schedule of Uses, is permitted.

(C) Conditional uses. Any use listed as conditional in Appendix A, Schedule of Uses, is a conditional use.

(D) Standards.

(1) Building site area. There is no minimum building site area.

(2) Building site width. There is no minimum building site width.

(3) Building site coverage. The maximum building site coverage by all buildings shall be 60% of the total lot area.

(4) Building height limit. No structure shall exceed 60 feet in height.

(5) Setback requirements. Setback requirements for yards shall be as follows:

(a) Front yard: one half the width of the right-of-way of the street the building fronts, the yard shall be a minimum of 25 feet and shall not be required to exceed 40 feet;

(b) Rear yard: ten feet shall be provided unless the District abuts a residential district, then the rear yard shall be 25 feet not including loading and docking facilities; and

(c) Side yard: ten feet on each side shall be provided unless the District abuts a residential district, then the side yard shall be 20 feet, not including loading and docking facilities.

(E) General requirements.

(1) Signs. All signs and outdoor advertising displays are subject to the provisions established in Article 8.

(2) Parking and loading. All parking and loading is subject to the provisions established in Article 7.

(3) Plans. Plans for building construction, parking area, yards, driveways, entrances and exits shall be approved by the appropriate administrative officer, in consultation with the Planning Commission, and they may require changes therein deemed necessary or desirable to ensure safety, to minimize traffic difficulty and to safeguard adjacent properties.

(4) Lighting. Exterior lighting proposed for use on this site shall be planned, erected and maintained so light is confined to the property and will not cast direct light or glare upon adjacent properties or public rights-of-way.

(5) Buffering.

(a) A permanent landscape buffer of evergreen plant material or solid wall or fence or other suitable enclosure is required when industrial land abuts a residential district.

(b) All open storage of merchandise, material and equipment shall be screened by adequate ornamental fencing or evergreen planting at the side and rear of the lot abutting a residence district on which said open space or display occurs; provided, the maximum screening required shall be eight feet in height.

(F) Special provisions for residential structures in I-1 Districts. Notwithstanding the provisions of Appendix A (Schedule of Uses) and Sections 5.5 and 5.7 of Article 5, excluding Section 5.7(D), a single family residential structure, existing as of the passage of these regulations, on any lot containing less than 10,000 square feet, may be considered a use allowed by right in an I-1 District. The construction or reconstruction of a single family residential dwelling and any addition or accessory structures appurtenant to a single-family residence may be permitted subject to conformance with all applicable setbacks and lot coverage requirements. This provision shall not apply to any property which was a vacant lot as of the passage of these regulations, property containing 10,000 square feet or greater, or property which has been converted to nonresidential uses before or after the passage of these regulations. Any applicant requesting a permit under this provision must demonstrate applicability and conformance with this provision.

4.13 I-2 HEAVY INDUSTRIAL DISTRICT

(A) Statement of purpose. This District is composed of land and structures occupied by or suitable for heavy manufacturing and related activities. Located for convenient access to present and future arterial thoroughfares, highways and railway lines, these Districts are usually separated from residential areas by business districts or natural barriers; the District regulations are designed to permit the development of the districts for almost any industrial use.

(B) Permitted use. Any use listed as permissible in Appendix A, Schedule of Uses, is permitted.

(C) Conditional uses. Any use listed as conditional in Appendix A, Schedule of Uses, is conditional.

(D) Standards.

(1) Building site area. There is no minimum building site area.

(2) Building site width. There is no minimum building site width.

(3) Building site coverage. The maximum building site coverage by all buildings shall be 60% of the total area.

(4) Building height limit. No structure shall exceed 60 feet in height.

(5) Setback requirements. The minimum requirements for yards shall be as follows:

(a) Front yard: 40 feet;

(b) Rear yard: ten feet shall be provided unless the District abuts a residential district, then the rear yard shall be 25 feet not including loading and docking facilities; and

(c) Side yard: ten feet each side shall be provided unless the District abuts a residential district, then the side yard shall be 20 feet not including loading and docking facilities.

(E) General requirements. Those requirements listed in the I-1 Light Industrial District shall apply.

4.14 P-1 PROFESSIONAL AND OFFICE DISTRICT

(A) Statement of purpose. The intent of the Professional and Office District is to permit areas containing a mixture of light commercial and professional uses, and a mixture of residential, public and semi-public uses. The regulations are designed to protect and encourage the transitional character of the districts by limiting the permitted uses to those of a commercial and professional service nature and to permit residential dwelling uses as a desirable mix in a transitional district.

(B) Permitted uses. See Schedule of Uses, Appendix A.

(C) Conditional uses. See Schedule of Uses, Appendix A.

(D) Standards.

(1) Building site area. The minimum building site area shall be as follows:

- (a) Single-family detached: 6,000 square feet per unit;
- (b) Two-family (duplex): 8,000 square feet per two units;
- (c) Multi-family: 2,170 square feet per three units or more; and
- (d) For other permitted uses: 8,000 square feet.

(2) Building site width. The minimum lot width at the building setback line shall be as follows:

- (a) Single-family detached: 50 feet;
- (b) Two-family (duplex): 50 feet;
- (c) Multi-family: 60 feet; and
- (d) For other permitted uses: 60 feet.

(3) Building site coverage. The maximum building coverage by all buildings shall not exceed 45%.

(4) Building height limit. No structure shall exceed 35 feet in height.

(5) Setback requirements. The minimum yard requirements shall be as follows:

- (a) Front yard: 25 feet;
- (b) Rear yard: 15 feet; and
- (c) Side yard: five feet.

ARTICLE 5 NONCONFORMING USES

5.0 INTENT

(A) Within the districts established by this chapter or amendments that may later be adopted there exist:

- (1) Nonconforming lots;
- (2) Nonconforming structures;
- (3) Nonconforming uses of land;
- (4) Nonconforming uses of land and structures in combination; and
- (5) Nonconforming characteristics of use.

(B) There are such nonconformities which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments thereto. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses which are prohibited elsewhere in the same district.

5.1 INCOMPATIBILITY WITH PERMITTED USES

Nonconformities are declared by this chapter to be incompatible with permitted uses in the districts in which the use is located. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after the adoption of these regulations, by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which the use is located.

5.2 AVOIDANCE OF UNDUE HARDSHIP

(A) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building or development on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently.

(B) Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, the demolition or removal shall be deemed to be actual construction, provided that the work shall be carried out diligently. Actual construction is hereby defined as work done which is beyond the preparation stage and into that stage where the changes or additions are made permanent.

5.3 SINGLE NONCONFORMING LOTS OF RECORD

(A) In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter notwithstanding limitations imposed by other provisions of this chapter.

(B) Such a lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.

(C) This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that, yard dimensions and requirements, other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which the lot is located.

(D) Variances of requirements listed in Article 3, Article 4, Article 7, Article 8, Article 9 and Article 10, other than lot area or lot width, shall be obtained only through action of the Board of Zoning Adjustment as set forth in Article 14.

5.4 NONCONFORMING LOTS OF RECORD IN COMBINATION

If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with an area or width below the requirements stated in this chapter

5.5 NONCONFORMING USES OF LAND

Where, at the time of adoption of this chapter, lawful uses of land exist which would not be permitted by the regulations imposed by this chapter, the uses may be continued so long as they remain otherwise lawful; provided:

(A) No such nonconforming uses shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter;

(B) No such nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this chapter;

(C) If any such nonconforming uses of land are discontinued or abandoned for more than one year (except when government action impedes access to premises), any subsequent use of the land shall conform to the regulations specified by this chapter for the district in which the land is located; and

(D) No additional structure not conforming to the requirements of this chapter shall be erected in connection with the nonconforming use of land.

5.6 NONCONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built by reason of restrictions on area, lot coverage, height, yards, its location on the lot, bulk or other requirements concerning the structure, the structure may be continued so long as it remains otherwise unlawful, subject to the following provisions:

(A) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(B) Should the nonconforming structure or nonconforming portion of structure be destroyed by any means, by more than 50%, it shall only be reconstructed in conformity with conditions set forth by the Board of Zoning Adjustment.

(C) Should the structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

5.7 NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION

If a lawful use involving individual structures, or of a structure and land in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(B) A nonconforming use may be extended throughout any part of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

(C) If no structural alterations are made, any nonconforming use of a structure or structure and land, may, upon appeal to the Board of Zoning Adjustment, be changed to another nonconforming use provided that the Board of Zoning Adjustment shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Zoning Adjustment may require appropriate conditions and safeguards in accord with other provisions of this chapter.

(D) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

(E) When a nonconforming use of a structure, or structure and land in combination is discontinued or abandoned for more than one year (except when government action impedes access to the premises), the structure or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(F) Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

5.8 REPAIRS AND MAINTENANCE

Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of the official. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful by reason of

physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

5.9 USES UNDER CONDITIONAL USE PROVISIONS ARE NOT NONCONFORMING USES

Any use which is permitted as a conditional use in a district under the terms of this chapter (other than a change through the Board of Zoning Adjustment's action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in the district, but shall without further action be considered a conforming use.

ARTICLE 6 CONDITIONAL USES

6.0 APPROVAL OF CONDITIONAL USE; PROCEDURE AND REQUIREMENTS

Conditional uses shall conform to the procedures and requirements of this subchapter.

6.1 CONSIDERING CERTAIN USES INDIVIDUALLY

It is recognized that an increasing number of new kinds of uses are appearing daily, and that many of these and some other more conventional uses possess characteristics of a unique and special nature relative to location, design, size, method of operation, circulation and public facilities that each specific use must be considered individually. These specific uses as they are conditionally permitted under the provisions of Article 4 or Appendix A, Official Schedule of Uses, shall follow the procedures and requirements set forth.

6.2 CONDITIONAL USE PERMIT; CONTENTS OF APPLICATION

(A) An application for a conditional use permit shall be filed with the Chairperson of the Board of Zoning Adjustment by the owner of property for which the conditional use is proposed.

(B) At a minimum, the application shall contain the following information:

(1) Name, address and phone number of applicant;

(2) Legal authorized signature of land owner;

(3) Legal description of property;

(4) Description of existing use;

(5) Zoning district;

(6) Description of proposed conditional use;

(7) A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading areas, traffic access and traffic circulation, open space, landscaping, refuse and service areas, utilities, signs, yards and such other information as the Board may require to determine if the proposed conditional use meets the intent and requirements of this chapter;

(8) A narrative statement evaluating the effects of such elements as noise, glare, odor, fumes and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the comprehensive plan; and

(9) Such other information as may be required in Section 6.4 of this subchapter.

6.3 GENERAL STANDARDS APPLICABLE TO CONDITIONAL USES

In addition to the specific requirements for conditionally permitted uses as specified in Section 6.4, the Board of Zoning Adjustment shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

- (A) Is in fact a conditional use as established under the provisions of Article 4 and appears on the Schedule of Uses in Appendix A for the zoning district involved;
- (B) Will be harmonious with and in accordance with the general objectives, or with any specific objective of the city's comprehensive plan and this chapter;
- (C) Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;
- (D) Will not be hazardous or disturbing to existing or future neighboring uses;
- (E) May be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
- (F) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- (G) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;
- (H) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares; and
- (I) Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

6.4 SPECIFIC CRITERIA

The following are examples of some specific requirements for conditionally permitted uses as specified in the Schedule of Uses in Appendix A that may be used in restricting such conditional uses:

- (A) Ingress and egress to property and proposed structures thereon with particular references to the safety and convenience of motorists and pedestrians, traffic flow and control and access in case of fire or catastrophe;
- (B) Off-street parking and boarding areas where required with particular attention to items mentioned in division (A) above, the economic effects, noise, glare or odor caused by conditional use on adjoining properties and properties generally in the district;
- (C) Refuse and service areas, with particular reference to items mentioned in divisions (A) and (B) above;
- (D) Utilities, with reference to locations, availability and compatibility;
- (E) Screening and buffering of adjoining properties with reference to type, dimensions and character;
- (F) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effects and compatibility and harmony with properties in the district;
- (G) Required yard and other open space; and
- (H) General compatibility with adjacent properties and other properties in the district.

6.5 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS

(A) In granting any conditional use, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter.

(B) Violations of such conditions and safeguards, when made a part of the terms which the conditional use is granted, shall be deemed a violation of this chapter and punishable under Article 15.

6.6 NOTICE OF PUBLIC HEARING

Upon receipt of the application for a conditional use permit, the Board of Zoning Adjustment shall hold a public hearing, publish notice in a newspaper, and give written notice to all parties in interest according to the procedures specified in Sections 14.9 and 14.10 of Article 14.

6.7 ACTION BY BOARD OF ZONING ADJUSTMENT

Within 30 days after the public hearing required, the Board of Zoning Adjustment shall either approve, approve with supplementary conditions as specified in Section 6.5; or disapprove the application as presented. If the application is approved or approved with modification, the Board shall direct the Zoning Inspector to issue a conditional use permit listing the specific conditions specified by the Board for approval; if the application is disapproved by the Board the applicant may seek relief through the Circuit Court. Appeals from Board decisions shall be made in the manner specified in Article 14.

6.8 EXPIRATION OF CONDITIONAL USE

A conditional use permit shall be deemed to authorize only one particular conditional use and the permit shall automatically expire if, for any reason, the conditional use shall cease (to discontinue) for more than one year.

ARTICLE 7

OFF-STREET PARKING, STORAGE AND LOADING
REQUIREMENTS

7.0 PARKINGS SPACES REQUIRED; STANDARDS

(A) In all districts, there shall be provided at such time any building or structure is erected, enlarged or increased in capacity, off-street parking spaces for automobiles in accordance with the following requirements:

TABLE OF PARKING SPACES REQUIRED

USES	PARKING SPACES REQUIRED
Assisted living facility	One space per apartment unit
Automobile wrecking yards, junk or salvage yards which sell new or used merchandise to the public	One parking space for each two employees, plus one space for each 10,000 square feet of lot area or two spaces for each 1,000 square feet of floor area, whichever is greater
Banks, business or professional offices	One per 300 square feet of usable floor space, plus one per each three employees
Barber or beauty shop	Two per barber or three per beautician
Boarding or rooming house, tourist home	One space for each three boarders not rooming on the premises; one for each two guests provided overnight accommodations
Bowling alleys	Five per alley
Churches	One per four seats; or one per 30 square feet of usable floor area of auditorium, whichever is greater
Commercial recreation uses	One per three patrons based on design capacity of the facility
Commercial or trade schools	One per three students plus two per three employees
Country club	One per five members
Crisis counseling centers	One space per each two employees plus one space per three beds if overnight accommodations are provided
Detoxification facility	One space per employee plus one space per three occupants at design capacity
Dwelling (single- and two-family)	One and one-half per dwelling unit

Dwelling (multiple-family)	One and one-half per one-bedroom dwelling; two per two-bedroom dwelling
Gasoline service station	One parking space for each employee, plus three for each service bay
Governmental office buildings	One per 300 feet of usable floor area, plus one per each three employees. Every governmental vehicle shall be provided with a reserved off-street parking space
Group homes, homeless shelters, domestic violence shelters, orphanages and similar uses	One space per four beds plus one space per employee
Homes for the aged, sanitariums, convalescent or nursing homes	One space for each four patient beds, plus one per staff doctor, plus one space for each three employees
Hospitals	One per three patient beds exclusive of bassinets, plus one for each staff doctor and one for each three employees on the maximum work shift
Hotel	One per two rooms or suite, plus two per three employees
Library	One for each 400 square feet
Limousine and taxi service	One space for each employee and one space per vehicle that provides service
Manufacturing or industrial establishment, public utility service building, research or testing laboratory, creamery, bottling plant, other wholesale warehouse or similar	One per two employees on the maximum work shift plus space to accommodate all trucks and vehicles used in connection therewith
Medical and dental clinics	Three patient parking spaces per staff doctor, plus two spaces per three employees, plus one space per staff doctor
Mortuaries or funeral parlors	Five spaces per parlor or chapel unit, or one per four seats, whichever is greater
Motels and tourist courts	One per guest bedroom
Private clubs, lodge or union hall	One per three members or one for each 100 square feet of non-storage and non-service floor area
Restaurant, café or establishment serving	One per three employees, plus one per 300 square feet of usable floor space, or one per three fixed

beverages or refreshments	seats, whichever is greater
Retail stores, personal service establishments and similar uses	One per 300 square feet of floor area plus one for each two employees
Retail stores such as supermarkets, department stores, furniture and appliance stores, wholesale stores, motor vehicle sales or machinery sales	One space for each 600 square feet of floor area plus one for each two employees
Schools shall be provided with parking spaces under the following schedule:	
<ul style="list-style-type: none"> • Elementary, junior high and the equivalent private or parochial • Senior high or equivalent • Kindergartens, day care centers and the equivalent, private or parochial • Colleges and universities 	<ul style="list-style-type: none"> • Two spaces per three employees plus one space for each five seats in the auditorium, or one space for each classroom, whichever is greater • Two spaces per three teachers and other employees, plus one space per five seats in the auditorium, whichever is greater • Two parking spaces per attendant or teacher, plus one off-street loading space per six children enrolled • One space per every five classroom seats
Stadiums and sports arenas or gymnasiums	One space per five seats
Swimming pools	One space per 30 square feet of water area
Television and radio stations	One space for every two employees plus one space for each vehicle operated by the use
Theater, indoor	One space for every three seats

(B) In applying the standards set forth above, the following shall apply:

(1) Accessory uses are calculated using the formula applicable to the principle use of the property and are considered inclusive of the total required for the principle use of property. In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of various uses computed separately. In cases of mixed or joint uses or in cases as provided in Section 7.0(B)(6) below, parking facilities may be shared if multiple uses cooperatively establish and operate parking facilities if these uses generate parking demands at different times. (For example, if one use operates during the evenings and weekends only and the other use operates during the weekdays only.) The applicant shall have the burden of proof for a reduction in the total number of required