

SECTION 11

GENERAL COMMERCIAL DISTRICT (GC)

Sections:

- 11-1 Application
- 11-2 Use Regulations
- 11-3 Parking Regulations
- 11-4 Height, Area and Yard Regulations

Section 11-1 Application

- 11-1.01 The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the General Commercial District (GC). This commercial district is intended to provide a location for miscellaneous retail, wholesale and businesses serving the consumer public, business and agriculture.

Section 11-2 Use Regulations

- 11-2.01 In a General Commercial District, no building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these zoning regulations, except for the following uses:
1. Any use permitted in the LC Limited Commercial District.
 2. Any store or shop for retail trade or trade or for rendering personal, professional or business services not specifically permitted in the LC Limited Commercial District. Any such store or shop must not produce more noise, odor, dust, vibration, blast or traffic than specifically permitted by these regulations and city policy.
 3. Accessory building and uses customarily incidental to the above uses, provided there shall be no manufacture, processing or compounding of products other than such are customarily incidental and essential to such permitted use. Accessory buildings and uses shall be constructed in a style and manner similar and sympathetic to a principal building or use.

4. If such land placed in this district is adjacent to a district in which a single family home is permitted, no article or material stored or offered for sale in connection with uses permitted above shall be stored or displayed outside the confines of a building unless it is so screened by permanent ornamental walls, fences or planting that is cannot be seen from adjoining streets or lots when viewed by a person standing on ground level.
5. No screening in excess of seven feet in height shall be required.
6. Automobile sales and automobile service stations engaged in the sale of gasoline and oil may permit open display of merchandise commonly sold by automobile service stations, i.e., oil, batteries, tires, wiper blades, etc. No permanent open display will be permitted on sidewalks or public rights-of-way. Such display will be adequately screened from adjacent residential property.

Section 11-3 Parking Regulations

- 11-3.01 One (1) off-street parking space shall be provided for each two hundred fifty (250) square feet.

Section 11-4 Height, Area and Yard Regulations

- 11-4.01 Height: Buildings or structures shall not exceed forty-five (45) feet or three (3) stories in height.
- 11-4.02 Front Yard: The depth of the front yard shall be at least twenty (20) feet on all sides abutting a street.
- 11-4.03 Side Yard: The depth of the side yard shall be at least ten (10) feet.
- 11-4.04 Rear Yard: The depth of the rear yard shall be at least ten (10) feet.
- 11-4.05 Lot Dimensions: The minimum width of a lot shall be fifty (50) feet. The minimum depth of a lot shall be one hundred forty (140) feet.
- 11-4.06 Lot Size: The minimum lot size shall be 7,000 square feet.

SECTION 12

LIGHT INDUSTRIAL DISTRICT (LI)

Sections:

- 12-1 Application
- 12-2 Use Regulations
- 12-3 Performance Standards
- 12-4 Parking Regulations
- 12-5 Height, Area and Yard Regulations

Section 12-1 Application

- 12-1.01 The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Light Industrial District (LI). The Light Industrial District is intended primarily for production, processing and assembly plants that are operated so that they create limited environmental problems in the way of sounds, smoke, vibrations, noise, odor, dust and glare of such operations are completely confined within an enclosed building. The Light Industrial District is also intended for the development of office/warehouse uses. This district is established for light industrial uses which do not require large amounts of land; generate modest amounts of traffic; are consistent with the capacity and availability of public and private services; and do not permit the intermixing of residential uses.

Section 12-2 Use Regulations

- 12-2.01 In the Light Industrial District no building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these regulations, except for the following uses:
1. Manufacturing, processing, fabrication or assembling of commodities including activity requiring railroad siding or frequent pick up and delivery by motor truck except junk or salvage.

2. Warehousing, wholesaling and storage of any commodity not otherwise hazardous or toxic including all types of merchandise requiring railroad siding or frequent pick up and delivery by motor truck, except junk or salvage.
3. Freight, truck and rail terminals.
4. Offices, office/warehouses and laboratories.
5. Agricultural and oil equipment sales, repairs and storage.
6. Agricultural feed, grain and fertilizer mixing, storage and sales; but not including gaseous fertilizers.
7. Bottling works.
8. Building materials; lumberyards; recreation vehicles; boats; and manufactured housing; production, sales, storage and repairs.
9. Carpenter, cabinet, plumbing or sheet metal shops.
10. Clay products manufacturers.
11. Dry cleaning and/or laundry plants.
12. Food production, distribution and storage.
13. Frozen food lockers and storage plants.
14. Light manufacturing operations.
15. Machinery and equipment sales, repairs and storage lots.
16. Metal fabrication, assembly and welding shops.
17. Monument sales.
18. Printing and publishing firms.
19. Sign manufacturing and maintenance.

20. Transportation vehicle storage such as trucks and buses.
21. Upholstery shops.
22. Utility uses as follows: Electric and telephone substations, gas regulator stations, pumping stations, water towers and standpipes and utility service areas and related storage.

Section 12-3 Performance Standards

12-3.01 The following standards shall apply to this district:

1. All operations shall be conducted within a fully enclosed building.
2. The use cannot be noxious or offensive by reason of vibration or noise beyond the confines of any building or emission of dust, fumes, gas, odor or smoke. The use cannot emit significantly toxic material.

Section 12-4 Parking Regulations

- 12-4.01 Each structure used for light manufacturing or industrial purposes shall provide two (2) off-street parking spaces for each one thousand (1,000) square feet of floor area, plus an additional space to be determined by the Planning Commission for storage of trucks or other vehicles used in connection with such industry.
- 12-4.02 Administrative offices associated with another permitted use shall provide two and one-half (2 ½) off-street parking spaces for each one thousand (1,000) square feet of floor area.
- 12-4.03 Offices, office/warehouses and laboratories shall provide four (4) off-street parking spaces for each one thousand (1,000) square feet of floor area.

Section 12-5 Height, Area and Yard Regulations

- 12-5.01 Height: Buildings or structures shall not exceed forty-five (45) feet, exclusive of grain elevators.

- 12-5.02 Front Yard: The depth of the front yard shall be at least twenty-five (25) feet.
- 12-5.03 Side Yard: There shall be a side yard on each side of a building; no side yard shall be less than ten (10) feet.
- 12-5.04 Rear Yard: The depth of the rear yard shall be at least twenty-five (25) feet.
- 12-5.05 Maximum Lot Coverage: 70%
- 12-5.06 Lot Size Requirements:
1. Minimum lot area: 5,000 square feet.
 2. Minimum lot width: 50 feet.
 3. Minimum lot depth: 100 feet.

SECTION 13

HEAVY INDUSTRIAL DISTRICT (HI)

Sections:

- 13-1 Application
- 13-2 Use Regulations
- 13-3 Performance Standards
- 13-4 Parking Regulations
- 13-5 Height, Area and Yard Regulations

Section 13-1 Application

- 13-1.01 The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Heavy Industrial District (HI). This district is established for basic or primary industries which require large amounts of land and/or use the land intensely, generate heavier type traffic, place more demands on public utilities, create some environmental problems and are generally not compatible with residential and/or commercial activity. No residential uses are permitted.

Section 13-2 Use Regulations

- 13-2.01 In the Heavy Industrial District no building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these regulations, except for the following uses:
1. Any permitted use allowed in the Light Industrial District (LI).
 2. Heavy manufacturing operations.
 3. Blacksmith shops and foundries.
 4. Concrete and clay products manufacturers.
 5. Flour and feed milling.

6. Paint and related products manufacturers.

Section 13-3 Performance Standards

13-3.01 The following standards shall apply to this district:

1. All operations shall be conducted within a fully enclosed building.
2. The use cannot be noxious or offensive by reason of vibration or noise beyond the confines of any building or emission of dust, fumes, gas, odor or smoke. The use cannot emit significantly toxic material.

Section 13-4 Parking Regulations

- 13-4.01 Each structure used for heavy manufacturing or industrial purposes shall provide two (2) off-street parking spaces for each one thousand (1,000) square feet of floor area, plus an additional space to be determined by the Planning Commission for storage of trucks or other vehicles used in connection with such industry.
- 13-4.02 Administrative offices associated with another permitted use shall provide two and one-half (2 ½) off-street parking spaces for each one thousand (1,000) square feet of floor area.
- 13-4.03 Offices, office/warehouses and laboratories shall provide four (4) off-street parking spaces for each one thousand (1,000) square feet of floor area.

Section 13-5 Height, Area and Yard Regulations

- 13-5.01 Height: Buildings or structures shall not exceed sixty (60) feet, exclusive of grain elevators.
- 13-5.02 Front Yard: The depth of the front yard shall be at least thirty-five (35) feet abutting all streets.
- 13-5.03 Side Yard: There shall be a side yard on each side of a building; no side yard shall be less than twenty (20) feet.

13-5.04 Rear Yard: The depth of the rear yard shall be at least twenty-five (25) feet.

13-5.05 Maximum Lot Coverage: 60%

13-5.06 Lot Size Requirements:

1. Minimum lot area: 10,000 square feet
2. Minimum lot width: 80 feet
3. Minimum lot depth: 125 feet

SECTION 14

AIRPORT ZONING (AP)

Sections:

- 14-1 Statement of Purpose
- 14-2 Authority and Reasonableness
- 14-3 Conflict
- 14-4 Establishment of Airport Zoning Commission
- 14-5 Procedure for Adoption of or Amendment to Airport Zoning Regulations
- 14-6 Airport Overlay Zoning Districts
- 14-7 Airport Overlay District Heights Limitations
- 14-8 Airport Overlay District Use Restrictions
- 14-9 Non-conforming Uses
- 14-10 Permits
- 14-11 Variances
- 14-12 Obstruction Marking and Lighting
- 14-13 Administration and Enforcement

Section 14-1 Statement of Purpose

- 14-1.01 It is hereby found that an airport hazard endangers the lives and property of users of the Marion Airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment or interest therein. Accordingly, it is hereby declared:
1. That the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the Marion Airport;
 2. That it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented. It is further declared that both the prevention of the creation or establishment of airport hazards and the

elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which the Governing Body may raise and expend public funds and acquire land or property purposes therein, as provided in K.S.A. 3-702.

Section 14-2 Authority and Reasonableness

- 14-2.01 Authority: In order to prevent the creation or establishment of airport hazards, these airport zoning regulations are adopted by the Governing Body under powers conferred by K.S.A. 3-703. Further, these airport zoning regulations are incorporated in and made a part of these city zoning regulations as authorized by K.S.A. 3-704(1).
- 14-2.02 Reasonableness: These airport zoning regulations impose reasonable requirements and restrictions that are necessary to effectuate the purpose of this Section. In determining these regulations and airport zoning district boundaries, the following were considered:
1. The character of the flying operations expected to be conducted at the Marion Airport;
 2. The nature of the terrain within the airport hazard area;
 3. The character of the surrounding neighborhood; and
 4. The uses to which the property to be zoned is put and adaptable.

Section 14-3 Conflict

- 14-3.01 In the event of conflict between any airport zoning regulations in this Section and any other zoning regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement as to airport hazards shall govern and prevail.

Section 14-4 Establishment of Airport Zoning Commission

- 14-4.01 The Marion Planning Commission is hereby appointed as the Marion Airport Zoning Commission, as provided for in K.S.A. 3-705(2).

Section 14-5 Procedure for Adoption of or Amendment to Airport Zoning Regulations

- 14-5.01 Notice and Hearing by the Governing Body: These airport zoning regulations may be adopted, amended, or changed by action of the Governing Body. Prior to such action, said board shall hold at least one public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least twenty (20) days' notice of the hearing shall be published in the official paper, or a paper of general circulation.
- 14-5.02 Recommendation and Hearing by the Planning Commission: Prior to the initial zoning of the airport hazard area, the Governing Body shall, in its authority as the Airport Zoning Commission, recommend the boundaries of the various zoning districts to be established and the regulations to be adopted therefore. The Planning Commission shall make a preliminary report and hold one or more public hearings thereon before submitting its final report. The Governing Body shall not adopt these airport zoning regulations until the final report of the Planning Commission is received. All proposed amendments to this section shall be submitted to the Planning Commission for recommendation and report, and no amendment or change shall be made by the Governing Body without a hearing before the Planning Commission.

Section 14-6 Airport Overlay Zoning Districts

- 14-6.01 Applicability: In order to carry out the provisions of this Section, there are hereby created and established certain airport overlay districts which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Marion Airport.
- 14-6.02 Land to Which This Section Applies: The aforementioned airport overlay districts and the land lying beneath each are shown on the Airspace Plan Airport. The Governing Body hereby designates said airspace plan as the official map to be used in determining those areas that require special airport height regulations and use restrictions.

Said airspace plan is incorporated herein by reference and made a part of these zoning regulations.

14-6.04 Rules for Interpretation of Airport Overlay District Boundaries: The boundaries of the airport overlay districts shall be determined by reviewing the Airspace Plan map incorporated by reference herein. Where interpretation is needed as to the exact location of the boundaries of the airport overlay districts, the Zoning Administrator shall make the necessary interpretation based upon data available. The Zoning Administrator will maintain said official Airspace Plan map. In such cases where the interpretation of airport overlay district boundaries is contested, the Planning Commission shall resolve the dispute. An area located in more than one of the following airport overlay districts shall be considered to be only in the airport overlay district with the ore restrictive height limitation.

14-6.05 Airport Overlay Districts Established and Defined: The various airport overlay districts are hereby established and defined as follows:

1. Airport Approach Zone Overlay District 1 (AP-A1): The inner edge of this approach overlay district (the utility runway visual approach zone) coincides with the width of the primary surface and is 250 feet wide. This approach overlay district expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the runway.
2. Airport Approach Zone Overlay District 2 (AP-A2): The inner edge of this approach overlay district (the utility runway non precision instrument approach zone) coincides with the width of the primary surface and is 500 feet wide. This approach overlay district expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. Airport Transitional Zone Overlay District (AP-T): This overlay district (or transitional zone) includes areas beneath the transitional surfaces.
4. Airport Horizontal Zone Overlay District (AP-H): This overlay district (or the horizontal zone) is established by swinging arcs of five

thousand (5,000) feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The Airport Horizontal Zone Overlay District does not include the approach and transitional districts.

5. Airport Conical Zone Overlay District (AP-C): This overlay district (or the conical zone) is established as the area that commences at the periphery of the Airport Horizontal Zone Overlay District and extends outward there from a horizontal distance of four thousand (4,000) feet.

Section 14-7 Airport Overlay District Height Limitations

14-7.01 Except as otherwise provided in this Section, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any overlay district created by this section to a height in excess of the applicable height limit herein established for such overlay district. Such applicable height limitations are hereby established for each of the overlay districts in question as follows:

1. Airport Approach Zone Overlay District 1 (AP-A1): Slopes twenty (20) feet outward for each one (1) foot upward beginning at the end of, and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Airport Approach Zone Overlay District 2 (AP-A2): Slopes twenty (20) feet outward for each one (1) foot upward beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 5,000 feet along the runway centerline.
3. Airport Transitional Zone Overlay District (AP-T): Slope seven (7) feet outward for each one (1) foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 1,540 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each one (1) foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.

4. Airport Horizontal Zone Overlay District (AP-H): Established at 150 feet above the airport elevation or at a height of 1,540 feet above mean sea level.
5. Airport Conical Zone Overlay District (AP-C): Slopes twenty (20) feet outward for each one (1) foot upward beginning at the periphery of the horizontal overlay district and at 150 feet above the Marion Airport elevation and extending to a height of 350 feet above said airport's elevation.

Section 14-8 Airport Overlay District Use Restrictions

- 14-8.01 Use Restrictions Generally: Notwithstanding any other provisions of this Section, no use may be made of land or water within any airport overlay zone established by said Section in such a manner as to create electrical interference with navigational signals or radio communications between the Marion Airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.
- 14-8.02 Use Restrictions in Airport Approach Zone Overlay Districts: Only nonresidential uses shall be permitted within the Airport Approach Zone Overlay Districts (AP-A1 and AP-A2). Permitted uses shall meet the height limitation standards established in this Section. The following uses are permitted in districts AP-A1 and AP-A2:
1. Agricultural uses
 2. Any use permitted in the Industrial District Overlay of the City of Marion and in full compliance with the F.A.A. guidelines for aviation approach areas.

Section 14-9 Non-conforming Uses

- 14-9.01 All non conforming uses within the airport overlay districts established in this Section shall be subject to the regulations of this

section in addition to the provisions of these zoning regulations dealing with non conforming uses.

14-9.02 Regulations No Retroactive: Nothing in this Section shall require the removal, lowering, or other change or alteration of any structure not conforming to these airport zoning regulations when adopted or amended, or otherwise interfere with the continuance of any non conforming use, except as provided in Section 13-9.03 hereunder: Provided, however, that the Governing Body may require, upon thirty (30) days notice in writing, that any person, firm, association, owning and maintaining any on conforming pole or pole line upon the roads and highways immediately adjoining the airport to remove, lower, change, or alter said non conforming pole or pole line, upon prior payment by the Governing Body to said person, firm, association, or corporation of the reasonable and necessary expense of removing, lowering, changing, or altering such pole or pole lines. Reasonable and necessary expense of removing, lowering, changing, or altering said pole or pole lines shall include, among other items of expense, the actual cost of:

1. Constructing underground conduits and the construction of such wires and equipment in such conduits; and
2. Rerouting wires together with the poles, cross arms and other equipment connected thereto, together with the cost, if any, of new right-of-way made necessary by such rerouting.

14-9.03 Marking and Lighting: Notwithstanding the preceding provision of this section, the owner of any existing non conforming structure or tree is hereby required to permit installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the city.

Section 14-10 Permits

14-10.01 Permits Required: Except as specifically provided hereunder, no material change shall be made in the use of land, no structure shall be

erected or otherwise established, and no tree shall be planted in any airport overlay district hereby created unless a permit therefore shall have been applied for and granted by the Zoning Administrator. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations prescribed in this Section. If such determination is in the affirmative, the permit shall be granted by the Zoning Administrator, except as provided herein. Said permit shall be in addition to any required building permit, if applicable.

14-10.02 Permits Not Required: The following uses do not require permits in the airport zoning districts established in this Section.

1. AP-H and AP-C Overlay Districts: In the area lying within the limits of the Airport Horizontal Zone Overlay District (AP-H) and the Airport Conical Zone Overlay District (AP-C), no permits shall be required for any tree or permitted structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such districts.
2. AP-A1 and AP-A2 Overlay Districts: In areas lying within the limits of the Airport Approach Zone Overlay District 1 (AP-A1) and the Airport Approach Zone Overlay District 2 (AP-A2), but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or permitted structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limits prescribed for such districts.
3. AP-T Overlay District: In the areas lying within the limits of the Airport transitional Zone Overlay District (AP-T) beyond the perimeter of the Airport Horizontal Zone Overlay District (AP-H), no permit shall be required for any tree or permitted structure less than seventy-five (75) feet above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such AP-T District.

4. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this section.

14-10.03 Permits for Non conforming Uses: No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non conforming structure or tree or non conforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made.

14-10.04 Permits for Non conforming Uses Abandoned or Destroyed: Whenever the Zoning Administrator determines that a non conforming use has been abandoned, torn down, or damaged more than fifty (50) percent of its fair market valuation by fire, explosion, act of God, or the public enemy, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from these zoning regulations.

Section 14-11 Variances

14-11.01 Application for Variance: As authorized by K.S.A. 3-707(2), any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or otherwise use his or her property in violation of the airport zoning regulations established in this Section, may apply to the Governing Body for a variance from the zoning regulation in question. Such variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Section. Provided, however, that any variance may be allowed subject to any reasonable conditions that the Governing Body may deem necessary to effectuate the purposes of this Section.

14-11.02 Determination by Federal Aviation Administration: An application for variance to the requirements of this Section shall be accompanied by a determination from the Federal Aviation Administration (FAA)

as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. The Zoning Administrator's determination may supersede the F.A.A. determination.

- 14-11.03 Recommendation of Zoning Administrator: No application for variance to the requirements of this Section shall be considered by the Governing Body unless a copy of the application has been furnished to the Zoning Administrator advice as to the aeronautical effects of the variance. If the Zoning Administrator does not respond to the application for variance within thirty (30) days after receipt of same, the Governing Body may act on its own to grant or deny said application.

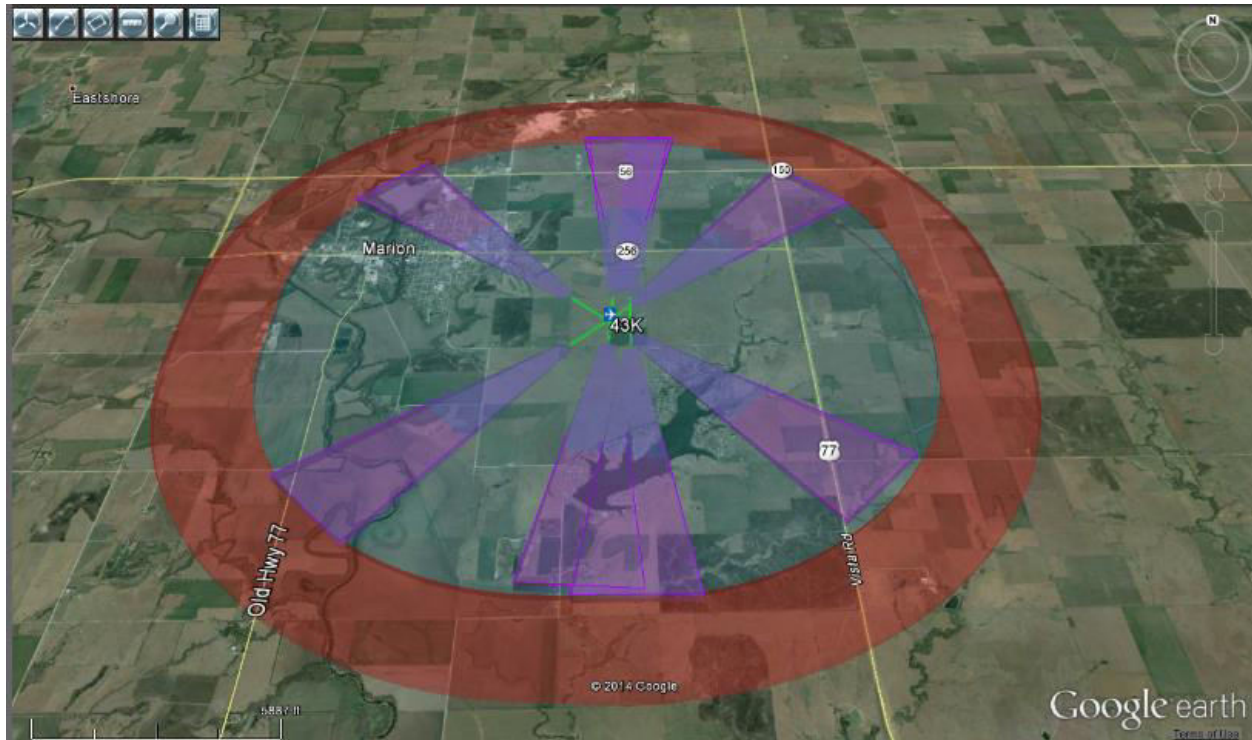
Section 14-12 Obstruction Marking and Lighting

- 14-12.01 Any permit or variance granted under the authority of this Section may, if such action is deemed advisable to effectuate the purpose of this Section and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights that may be necessary. If deemed proper by the Governing Body, this condition may be modified to require the owner to permit the Zoning Administrator, at the expense of Marion, to install, operate, and maintain the necessary markings and lights.

Section 14-13 Administration and Enforcement

- 14-13.01 It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed in this section. Applications for permits and variances shall be made to the Zoning Administrator upon a form furnished for that purpose. Applications required by this section to be submitted to the Zoning Administrator shall be promptly considered and granted or denied. Application for variance by the Governing Body shall be forthwith transmitted by the Zoning Administrator.

Section 14-14 Airspace Map



SECTION 15

CENTRAL BUSINESS DISTRICT OVERLAY DISTRICT (CBD)

Sections:

- 15-1 Application
- 15-2 Use Regulations
- 15-3 Parking Regulations
- 15-4 Height, Area and Yard Regulations

Section 15-1 Application

- 15-1.01 The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Central Business District Overlay District (CBD). This district includes the commercial uses in the central business district which provide the major focus of retail government, business services and entertainment facilities for the entire community.

Section 15-2 Use Regulations

- 15-2.01 In a Central Business District Overlay District, no building or structure shall be hereafter erected or altered unless otherwise provided for in these zoning regulations, except for the following uses:
1. Any use permitted in a district with a “C” in the title (LC or GC).
 2. Residences constructed on a second or higher story of a building in conjunction with commercial uses established on the first floor of such structures.
 3. Accessory buildings and uses customarily incidental to the above uses, provided there shall be no manufacture, processing or compounding of products other than such are customarily incidental and essential to such permitted use. Accessory buildings and uses shall be constructed in a style and manner similar and sympathetic to a principal building or use.

4. If such land placed in this district is adjacent to a district in which a single family home is permitted, no article or material stored or offered for sale in connection with uses permitted above shall be stored or displayed outside the confines of a building unless it is so screened by permanent ornamental walls, fences or planting that it cannot be seen from adjoining streets or lots when viewed by a person standing on ground level, provided. However, no screening in excess of seven feet in height shall be required. However, automobile service stations engaged in the sale of gasoline and oil, where open display may be permitted of merchandise commonly sold by automobile service stations, i.e., oil, batteries, tires, wiper blades, etc. No permanent open display will be permitted on sidewalks or public rights-of-way.

Section 15-3 Parking Regulations

- 15-3.01 No off-street parking spaces need be provided for property located in the Central Business District Overlay.

Section 15-4 Height, Area and Yard Regulations

- 15-4.01 Height: Buildings or structures shall not exceed forty-five (45) feet or three (3) stories in height.
- 15-4.02 Yards: There are no minimum yards in the Central Business District Overlay District.
- 15-4.03 Lot Dimensions: The minimum width of a lot shall be twenty (20) feet. The minimum depth of a lot shall be fifty (50) feet.
- 15-4.04 Maximum Lot Coverage: A building, structure or use may occupy all that portion of the zoning lot not otherwise required for the yard regulations.

SECTION 16

HIGH DENSITY RESIDENTIAL DEVELOPMENT OVERLAY DISTRICT (RH)

Sections:

- 16-1 Application
- 16-2 Use Regulations
- 16-3 Parking Regulations
- 16-4 Height, Area and Yard Regulations

Section 16-1 Application

- 16-1.01 The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the High Density Residential Development Overlay District (RH). The purpose of this district is to provide higher density structures which would be compatible with surrounding land uses. This district provides for (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; (3) by placing the dwelling within reduced yards thus permitting the outdoor space to be grouped and utilized to its maximum benefit.

Section 16-2 Use Regulations

- 16-2.01 In a High Density Residential Development Overlay District no building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these zoning regulations, except for the following uses:
1. Single-family dwellings with permanent foundations. The overlay district will be placed over any district where single-family dwellings are a permitted use. Platting of such dwellings shall be required.

2. Multi-family buildings. This overlay district will be placed over any district where multi-family dwellings are a permitted use.
3. Accessory buildings and uses customarily incidental to the above use, including a private garage, all being located on the same lot.
4. Each dwelling shall be located on its own individual platted lot. If areas for commons use of occupants of the development are shown on the plan, satisfactory arrangements shall be made for the proper and continuous payment of taxes and maintenance of the commons open space and facilities without expense to the general taxpayers of the city. The plan shall indicate easements appurtenant thereto.
5. Additional standards to be utilized in the rezoning approval process include:
 - a. integration of interior and exterior living areas
 - b. avoidance of visual monotony created by excessive block lengths
 - c. landscape and buffers
 - d. location primarily on cul-de-sacs where appropriate
 - e. promotion of non-uniform setbacks where appropriate

Section 16-3 Parking Regulations

- 16-3.01 Two (2) off-street parking spaces shall be provided for each dwelling unit.

Section 16-4 Height Area and Yard Regulations

- 16-4.01 Height: Single family dwellings or other structures shall not exceed thirty-five (35) feet and/or two and one-half (2 ½) stories in height.
- 16-4.02 Front Yard: The depth of the front yard for single-family dwellings shall be at least twenty-five (25) feet. The depth of the front yard for multi-family buildings shall be at least thirty-five (35) feet.

- 16-4.03 Side Yard: For single-family dwellings, there shall be a side yard of at least two and one-half (2 ½) feet on all sides of a dwelling. For single family dwellings, all detached accessory buildings shall provide a minimum side yard of ten (10) feet. For multi-family buildings, there shall be a side yard of at least twenty (20) feet on each side of a building. All detached accessory buildings to a multi-family dwelling shall provide a minimum side yard of twenty (20) feet.
- 16-4.04 Lot Dimensions: For single-family dwellings, the minimum width of a lot shall be thirty (30) feet. The minimum depth of a lot shall be one hundred (100) feet.
- 16-4.05 Lot Area Per Family: Every single-family dwelling established shall provide a minimum lot area of three thousand five hundred (3,500) square feet per family. Every multi-family dwelling shall have a minimum lot area for apartment units of two thousand (2,000) square feet per family.
- 16-4.06 Maximum Lot Coverage For Single-Family Dwellings: The total lot coverage permitted for all single-family dwellings on the site shall not exceed fifty (50) percent of the lot area.

SECTION 17

FLOODPLAIN OVERLAY DISTRICT (FP)

Sections:

- 17-1 Statement of Purpose
- 17-2 Applicability, Enforcement, Interpretation and Conflict
- 17-3 Warning and Disclaimer of Liability
- 17-4 Flood Plain Overlay District
- 17-5 Zoning Permits Required
- 17-6 Development Standards
- 17-7 New Water and Sewer Systems
- 17-8 Non-conforming Uses and Structures
- 17-9 Changes and Amendments
- 17-10 Variances
- 17-11 Flood Plain Regulations Not Effective Until State Approval

Section 17-1 Statement of Purpose

- 17-1.01 The flood plain regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Flood Plain Overlay District (FP). The flood hazard areas of Marion, Kansas are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment if the tax base all of which adversely affect the public health, safety and general welfare.
- 17-1.02 These flood losses are caused by the cumulative effect of obstructions in floodways causing increases in flood heights and velocities and the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages. The purpose of this district is to:
 - 1. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.

2. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
3. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

Section 17-2 Applicability, Enforcement, Interpretation and Conflict

- 17-2.01 Land to Which This Section Applies: This section shall apply to all areas of special flood hazards within the incorporated city limits of Marion.
- 17-2.02 Basis for Establishing Areas of Special Flood Hazard: The Governing Body hereby designates the current “Flood Hazard Boundary Maps Unincorporated Area” of Marion County for lands which are now located within the City boundaries of Marion, dated August 2, 1978, and amendments, as the official maps to be used in determining those areas of special flood hazard in the territory of Marion, Kansas. Said maps are incorporated herein by reference as part of these zoning regulations.
- 17-2.03 Enforcement: The Zoning Administrator hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this section.
- 17-2.04 Rules for Interpretation of District Boundary: The boundary of the Flood Plain Overlay District shall be determined by reviewing the “Flood Hazard Boundary Maps”. Where interpretation is needed as the exact location of the boundaries of the district, the Zoning Administrator shall make the necessary interpretation based upon data available. The Zoning Administrator shall maintain the “Flood Hazard Boundary Maps” and other engineering studies related to flood data. Appeals shall resolve the dispute as provided by law. The owner of the property of which the regulatory flood elevation is in

question shall be given a reasonable opportunity to present his case to the Board of Zoning Appeals and to submit his own technical evidence, if he so desires.

- 17-2.05 Conflict: In the event of conflict between any flood plain zoning regulations in this section and any other zoning regulations applicable to the same area, whether the conflict be with respect to the use of land or any other matter, the more stringent limitation or requirement as to flood hazards shall govern and prevail.

Section 17-3 Warning and Disclaimer of Liability

- 17-3.01 The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of Marion, Kansas or by any officer or employee thereof for any flood damages that result from reliance on these flood plain regulations or any administrative decision lawfully made there under.

Section 17-4 Flood Plain Overlay District

- 17-4.01 The flood plain overlay district shall include only those areas of special flood hazard as designated by the Federal Insurance Administration's "Flood Hazard Boundary Map," for unincorporated Marion County which are now located within the City of Marion dated August 22, 1978, and any revisions thereto. The flood plain overlay district created for this section is FP (Flood Plain Overlay District).

Section 17-5 Building Permits Required

- 17-5.01 No person, firm or corporation shall erect, construct, enlarge or improve any building or structure or make other developments or cause the same to be done within an area of special flood hazard without first obtaining a separate Building Permit for each building or

structure, including new construction, substantial improvements and other developments, including the placement of manufactured homes.

- 17-5.02 To obtain a Building Permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose by the Zoning Administrator. Within Zone A on the official Flood Hazard Boundary Map, every such application shall:
1. Identify and describe the work to be covered by the permit for which application is made.
 2. Describe the land on which the proposed work is to be done by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
 3. Indicate the use or occupancy for which the proposed work is intended.
 4. Be accompanied by plans and specifications for proposed construction.
 5. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
 6. Be accompanied by elevations (in relation to a mean sea level) of the lowest floor (including basement) or in the case of flood proofed nonresidential structures, the elevation to which it has been flood proofed. Documentation or certification of such elevations shall be maintained by the Zoning Administrator.
 7. Give such other information as reasonably may be required by the Zoning Administrator.
- 17-5.03 The Zoning Administrator shall review all Building Permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal, State or local law.

- 17-5.04 The Zoning Administrator, in reviewing all Building Permit applications within special flood hazard areas, shall obtain, review and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from Federal, State or other sources, until such other date is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within areas designated as Zone A on the official Flood Hazard Boundary Map that performance standards presented in Section 17-6 of this section are met.

Section 17-6 Development Standards

- 17-6.01 Residential Construction: New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one (1) foot above the base flood elevation. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Administrator.
- 17-6.02 Nonresidential Construction: New construction or substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be flood proofed so that below such a level is watertight with walls substantially impermeable to the passage of water and with structure components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Administrator.
- 17-6.03 Manufactured Homes and Recreational Vehicles:
1. In addition to the above standards, those presented elsewhere in these zoning regulations, and any applicable state regulations, all manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with State laws, these zoning regulations, local building codes, and Federal Emergency Management Agency (FEMA) guidelines. In the event that over-the-top frame ties to ground anchors

are used, the following specific requirements (or their equivalent) shall be met:

- a. Over-the-top ties be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations; and manufactured homes less than fifty (50) feet long requiring one (1) additional tie per side.
 - b. Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points; and manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side.
 - c. All components of the anchoring system be capable of carrying a force of 4,800 pounds as determined by a registered professional engineer.
 - d. Any additions to manufactured homes be similarly anchored.
2. The Zoning Administrator shall assure that all manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites:
 - a. Outside of a manufactured home park or subdivision,
 - b. In a new manufactured home park or subdivision,
 - c. In an expansion to an existing manufactured home park or subdivision, or
 - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood.
3. Be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above 1 foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 17-6.03(1).

4. The Zoning Administrator shall assure that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of Section 17-6.03(2) be elevated so that either:
 - a. The lowest floor of the manufactured home is at or above 1 foot above the base flood elevation, or
 - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 17-6.03(1).
5. The Zoning Administrator shall require that recreational vehicles placed on sites within the identified flood plain on the community's FIRM either (1) be on the site for fewer than 180 consecutive days, (2) be fully licensed and ready for highway use, or (3) meet the permit requirements and the elevation and anchoring requirements for manufactured homes of these regulations. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

17-6.04 General Standards: In all areas of special flood hazards the following provisions are required:

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

- a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one (1) foot above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
2. The use of construction materials that are resistant to flood damage.
3. The use of construction methods and practices that will minimize flood damage.
4. New structures shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
5. New structures shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
6. All proposed developments are consistent with the need to minimize flood damage and such proposals include regulatory flood elevation data.
7. Adequate drainage is provided so as to reduce exposure to flood hazards.
8. All public utilities and facilities are located so as to minimize or eliminate flood damage.
9. The Governing Body shall insure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained. The City will notify, in riverine situations, adjacent

communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notification to the Federal Emergency Management Agency (FEMA). Moreover, the Jurisdiction will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Flood Disaster Protection Act of 1973.

Section 17-7 New Water and Sewer Systems

- 17-7.01 New and replacement water and sewer systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. Moreover, on-site waste disposal systems shall be designed to avoid impairment or contamination during flooding. A registered professional engineer shall certify that the standards of this section are satisfied. Such certification shall be provided to the Zoning Administrator.

Section 17-8 Non-Conforming Uses and Structures

- 17-8.01 All non-conforming uses and structures within the Flood Plain Overlay District (FP) shall be subject to the following requirements:
1. A structure or use of a structure or premise which was lawful before the passage of these flood plain regulations but which is not in conformity with the provisions of said regulations may be continued subject to the following conditions:
 - a. No such use or substantial improvement of that use shall be expanded, changed, enlarged or altered in anyway which increases its nonconformity.
 - b. If such use is discontinued for six (6) consecutive months or more, any future use of the building premises shall conform to the provisions established in this section.
 2. If any non-conforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of its fair market valuation before the damage occurred unless it is reconstructed in conformity with the provisions

established in this section. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the costs of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Section 17-9 Changes and Amendments

- 17-9.01 These flood plain regulations shall take precedence over conflicting regulations or parts of regulations. The Governing Body may, from time to time, amend this section to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, that such amendments shall be in compliance with the requirements of these zoning regulations and with the requirements of K.S.A. 12-766. These flood plain regulations are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations.

Section 17-10 Variances

- 17-10.01 Variances and Variance Procedures: The Board of Zoning Appeals shall hear and decide all variances from the requirements of this section and shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this section.
- 17-10.02 Variances for Historic Places: Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, without regard to the procedures set forth in the remainder of this section.
- 17-10.03 Additional Conditions for Variances: The Board of Zoning Appeals, in passing upon variance applications in the Flood Plain Overlay District (FP), shall consider all technical evaluations, all relevant factors, standards specified in this section, and the following:
1. The danger that materials may be swept onto other land to the injury of others.

2. The danger to life and property due to flooding or erosion damage.
3. The susceptibility of the proposed facility and its content to flood damage and the effect of such damage on the individual owner.
4. The importance of the services provided by the proposed facility to the community.
5. The necessity to the facility of a waterfront location, where applicable.
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
7. The safety of access to the property in times of flood for ordinary and emergency vehicles.
8. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at this site.
9. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
10. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
11. Variances shall only be issued upon: 1) a showing of good and sufficient cause, and 2) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws, regulations, or ordinances.
12. Upon consideration of the factors listed above and the purposes of this section, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this section.

13. Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest flood elevation.
14. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

Section 17-11 Flood Plain Regulations Not Effective Until State Approval

- 17-11.01 Per the requirements of K.S.A. 12-766, these flood plain regulations shall not be effective until approved by the chief engineer, division of water resources, Kansas State Board of Agriculture.

SECTION 18

ADULT ENTERTAINMENT USE OVERLAY DISTRICT (AE)

Sections:

- 18-1 Application
- 18-2 Use Regulations
- 18-3 Performance Standards
- 18-4 Parking Regulations
- 18-5 Height, Area and Yard Requirements

Section 18-1 Application

- 18-1.01 The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Adult Entertainment Use Overlay District (AE). The regulations in this District shall be supplemental to the regulations of the underlying zoning district. The Adult Entertainment Use Overlay District (AE) is intended to regulate the location of adult entertainment establishments, as defined by these regulations, by specifying those underlying districts in which such uses may be allowed and providing for special requirements to separate these uses from each other and from certain other uses. Nothing in these regulations shall be permitted to permit adult entertainment establishments in areas other than allowed in this district.

The intent of this district is to provide for the confinement of adult entertainment establishments to those commercial and industrial zoning districts in which the impact of these land uses are judged to be least disruptive to the use and enjoyment of adjacent properties. Adult entertainment uses shall not be permitted to locate in such concentration that their operational features may establish the dominant character of any commercial or industrial area.

Section 18-2 Use Regulations

- 18-2.01 In an Adult Entertainment Use Overlay District (AE), no building, land or premises shall be hereafter erected or altered unless otherwise provided for in these regulations, except for the following uses:
1. Adult Entertainment Establishment
 2. Adult Book Store
 3. Adult Motion Picture Theater
 4. Adult Mini-Motion Picture Theater
 5. Any use permitted in a commercial district with a “C” in its description (“LC” or “GC”) or any industrial district (“LI” or “HI”)

Section 18-3 Performance Standards

- 18-3.01 The following standards shall apply to this district.
1. Adult entertainment establishments, adult book stores, adult motion picture theaters and adult mini-motion picture theaters that may be located in a commercial district (“LC” or “GC”) or industrial district (“LI” or “HI”) but not within five hundred (500) feet of any residential district with an “R” in its designation (“ER”, “RL”, “RM”, “RMH”, “RE” or “RH”)
 2. No adult entertainment establishment, adult book store, adult motion picture theater and adult mini-motion picture theater shall be allowed to locate or expand within five hundred (500) feet of any other similar use.
 3. No adult entertainment establishment, adult book store, adult motion picture theater and adult mini-motion picture theater shall be allowed to locate or expand within five hundred (500) feet of any school, religious institution or public park within the City.
 4. The distance between any two adult entertainment establishments, adult book stores, adult motion picture theaters or adult mini-motion

picture theaters shall be measured in a straight line, without regard to intervening structures, from the closest exterior structure wall of each business.

5. The distance between any adult entertainment establishment, adult book store, adult motion picture theater or adult mini-motion picture theater and any religious institution, school, public park or any property zoned for residential use shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the adult entertainment establishment, adult book store, adult motion picture theater or adult mini-motion picture theater to the closest property line of the religious institution, school, public park or the property zoned for residential use.
6. No adult entertainment establishment, adult book store, adult motion picture theater or adult mini-motion picture theater shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to “Specified Sexual Activities” or “Specified Anatomical Areas”, as defined by these regulations, by display decoration, sign, show window or other opening from any exterior source.

Section 18-4 Parking Regulations

- 18-4.01 The off-street parking and loading standards within the Adult Entertainment Use Overlay District (AE) shall be those of the underlying zoning district.

Section 18-5 Height, area and Yard Regulations

- 18-5.01 The height, area and yard regulations within the Adult Entertainment Use Overlay District (AE) shall be those of the underlying zoning district.

SECTION 19

CONDITIONAL USES

Sections:

- 19-1 Application of Conditional Uses
- 19-2 Conditional Uses Enumerated
- 19-3 Continuance of a Conditional Use
- 19-4 Parking Regulations
- 19-5 Height, Area and Yard Regulations

Section 19-1 Application of Conditional Uses

- 19-1.01 Recognizing that certain uses may be desirable when located in the city, but that these uses may be incompatible with other uses permitted in a district, certain Conditional Uses listed herein, when found to be in the interest of the public health, safety, morals, and general welfare of the community, may be permitted by Conditional Use Permit, except as otherwise specified, in any district from which they are not prohibited.
- 19-1.02 Before the location or establishment of, or before any changes in a Conditional Use Permit, the application procedures, conceptual plan requirements, public hearing requirements, and actions as outlined in Section 25 of these regulations shall be followed.
- 19-1.03 If within fourteen (14) days after the date of the conclusion of the Planning Commission public hearing, a petition signed by the owners of twenty (20) percent or more of any property proposed for a Conditional Use Permit, or by the owners of twenty (20) percent of the total area, except public streets and ways located within two hundred (200) feet of the boundaries of the property proposed for a Conditional Use Permit is filed in the office of the City Clerk, the Conditional Use shall not be approved except by two-thirds vote of the entire membership of City Commission. If the proposed

Conditional Use Permit is located on property adjacent to the city limits, the area of notification will extend one thousand (1,000) feet into the unincorporated area from the boundaries of the area proposed for the Conditional Use Permit.

19-1.04 The Planning Commission may, within the specifications herein provided, permit such buildings, structures, or uses where requested. The table of lesser uses permits the Planning Commission to recommend zoning not requested by the property owner. In considering any application for a conditional use permit, the Planning Commission shall give consideration to the health, safety, morals, comfort and general welfare of the inhabitants of the city, including but not limited to the following factors:

- a. The stability and integrity of the various zoning districts;
- b. conservation of property values;
- c. protection against fire and casualties;
- d. observation of general police regulations;
- e. prevention of traffic congestion’
- f. promotion of traffic safety and orderly parking of motor vehicles;
- g. promotion of the safety if individuals and property;
- h. provision for adequate light and air;
- i. prevention of overcrowding and excessive intensity of land uses;
- j. provision for public utilities and schools;
- k. invasion by inappropriate uses;

- l. value, type and character of existing or authorized improvements and land uses;
- m. encouragement of improvements and land uses in keeping with overall planning; and
- n. provision for orderly and proper renewal, development and growth.

In this regard the Planning Commission may impose reasonable conditions on the approval of a Conditional Use Permit. Such conditions may include a provision approving a Conditional Use Permit limited to an individual property owner or owners alone or a provision approving a Conditional Use Permit for a specific period of time.

- 19-1.05 Upon approval of a Conditional Use Permit, the Zoning District Map shall be changed in the manner outlined in Section 25 of these regulations.

Section 19-2 Conditional Uses Enumerated

- 19-2.01 The following conditional uses may be approved by the Planning Commission as provided in this section. Uses not listed or approved or prohibited elsewhere in these regulations or state statutes may be considered and approved by the City Planning Commission using guidelines in Section 19-1.04.
1. Bed and breakfast homes with or without a related tea room.
 2. Campgrounds for motor homes and recreational trailers, accompanied by a Conceptual Plan and provided that no camper shall occupy a campground for a period exceeding 60 consecutive days.
 3. Day-care centers and pre-schools, provided all state and county licensing requirements are met.

4. Commercial feedlots, stockyards and slaughter houses.
5. Contractor's shop and/or yard, including construction equipment and/or materials storage area in the "LI" District and in the "HI" District.
6. Funeral homes and mortuaries.
7. Grain elevators and storage bins, including the sale of related items.
8. Greenhouses, nurseries and/or hydroponic farms, operated as a retail business.
9. Manufactured homes or mobile homes when used as a temporary office or other nonresidential structure on the site of a construction project, provided such structure is removed upon completion or abandonment of the project, or upon the expiration of a period of one (1) year from the time of erection of such temporary structure, whichever is sooner.
10. Quarrying, mining or removal of sand, gravel or stone and the processing of the same, including asphalt and concrete plants, all of which shall be permitted by separate conditional use permits as provided:
 - a. All quarries and mining operations and asphalt and concrete plants shall be screened by a method approved by the Planning Commission when the same are visible from any public road.
 - b. The applicant shall provide a method of dust abatement on all unpaved interior roads.
 - c. Where applicable, a maintenance agreement between the applicant and the city shall be required to maintain the roads that provide the ingress/egress to the operation.

- d. A plan for reclamation of the site shall be prepared and submitted as a part of the application. The plan shall indicate a timetable for the reclamation to the proposed use of the site in a general plan of the proposed use. The reclamation plan submitted shall be binding only to the extent that said plan shows the intent of the applicant for reclamation. The actual reclamation plan may be amended at such time that the applicant is ready to begin such reclamation; however, the amended plan must be approved by the Planning Commission before reclamation work may begin. Said approval shall require a public hearing under the same procedures as the original Conditional Use Permit.
- e. All area quarried or mined shall not endanger the lateral support of abutting or adjoining properties. A setback of one hundred (100) horizontal feet from any road right-of-way and thirty (30) horizontal feet from all other property lines, measured on the surface, must be maintained free of any quarrying or mining activity, either surface or subsurface.
- f. No building, equipment, quarry products or other materials shall be erected or stored within one hundred (100) feet of any property or right-of-way line.
- g. The applicant's operation shall be inspected by the Planning Commission, or its designate, on or before July 1st of every third (3rd) year following approval of the Conditional Use Permit or at any other time that might be warranted for compliance with the above listed requirements and if found to be in violation shall have the permit removed if the noncompliance is not corrected within sixty (60) days of written notice from the Planning Commission, or its designate, itemizing the violations and corrective measures necessary for compliance.
- h. A copy of the annual survey of mining operation, as required to be filed by State law with the State shall also be filed with the

Planning Commission. Said annual survey applies only to underground mining activities, not to open pit quarries.

11. Veterinary and small animal hospitals.
12. Kennels, provided:
 - a. The kennel occupies a minimum lot size of five (5) acres.
 - b. No kennel building or runs shall be located nearer than one hundred-fifty (150) feet to any property line.
 - c. All kennel runs, or open areas shall be screened around such areas or at the property lines to prevent the distraction or excitement of the animals.
 - d. The kennel shall have adequate measures to prevent odor, dust, noise or drainage from becoming objectionable to uses on other properties. No incineration of animal refuse shall be permitted.
 - e. All state licensing and operation requirements are met.
13. Auction facilities.
14. Junk yards or salvage yards, provided:
 - a. The junk yard or salvage yard occupies a minimum lot size of ten (10) acres.
 - b. All such uses shall be located at least three hundred (300) feet from a boundary line.
 - c. All such uses shall be completely surrounded on all sides by a fence or wall at least eight (8) feet high. The fence or wall shall be of uniform height, uniform texture and color, and shall be so maintained as to insure maximum safety to the public, obscure the junk or salvage from normal view of the public, and preserve the general welfare of the neighborhood. The fence or

wall shall be installed in such a manner as to retain all scrap, junk or other materials within the yard. No scrap, junk or other salvaged materials may be piled so as to exceed the height of this enclosing fence or wall.

- d. No materials shall be loaded, unloaded, or otherwise placed either temporarily or permanently outside the fence or wall.
 - e. No hazardous or toxic materials shall be stored or handled in a junkyard or salvage yard unless they are located in such use(s) on a temporary basis not to exceed 90 days until other disposal can be arranged.
- 15. Petroleum and natural gas refining and processing as well as the location of tank batteries and the location of transport truck hookup stations.
 - 16. Anhydrous ammonia, oil, gas, propane, explosives and other products which may be considered as highly explosive, combustible or of a volatile nature for storage in quantity and not used as a part of a normal manufacturing process.
 - 17. Alfalfa dehydrating plants.
 - 18. Cemeteries, crematories and mausoleums.
 - 19. Privately owned seasonal or temporary or permanent park and recreational areas such as clubs for swimming, tennis and racquetball; youth camps; adult and family retreat areas; gun clubs; archery ranges; rodeos; fairgrounds and musical festivals.
 - 20. Public and private sanitary landfills.
 - 21. Hazardous or toxic waste incineration, landfill or other disposal facility.

22. Riding stable and academy providing no structure housing horses shall be located nearer than 500 feet to the boundary of any residential district with “R” in its title.
23. Home occupations subject to the following use standards:
 - a. Said use shall be conducted solely within the confines of the main dwelling and shall not exceed fifty percent (50%) of the floor area.
 - b. Garages or carports, whether attached or detached, shall not be used for home occupations other than for the storage of automobile
 - c. There shall be no entrance or exit way specifically provided in the dwelling or on the premises for the conduct of the home occupation thereon.
 - d. Permitted home occupations shall not include the employment of any persons not residing on the premises in the performance of the occupation.
 - e. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
 - f. The home occupation shall not cause the elimination of required off-street parking.
24. Public utility uses as follows: Electric and telephone substations, gas regulator stations, pumping stations and water tower and standpipes.
25. Nursing homes and retirement centers.
26. Educational, religious and charitable institutions.

27. Taverns in the “LC” District or the “GC” District.
28. Smelting and refining of base metals in the “LI” or “HI” District.
29. Fraternal club, service club, private club and/or tavern.
30. Display of goods in the Light Industrial (LI) district and the Heavy Industrial (HI) district.
31. Wind energy conversion systems, except those used for solely pumping water.
32. Public buildings erected, or land used by any agency or the city, township, county or state government.
33. Public and private sanitary landfills and resources recycling center not involving any hazardous or toxic waste material.
34. Light manufacturing uses which are not specifically permitted by Section 12, but which are in keeping with the intent of Section 12 and are compatible with the uses permitted in Section 12.
35. Heavy manufacturing uses which are not specifically permitted by Section 13, but which are in keeping with the intent of Section 13 and are compatible with the uses permitted in Section 13.
36. Single Family dwellings on a permanent foundation, two family dwellings commonly referred to as duplexes and multi-family dwellings.
37. Retail uses not otherwise permitted in a zoning district.
38. Communications towers and antennas in all zoning if the conform to the following performance standards, in addition to any other standards contained in or referenced in these regulations:

- a. The tower is to be a freestanding monopole design without guy wires and designed for the co-location of three (3) telecommunications antennas. The color of the tower shall be blue, gray, galvanized steel or similar color. Tower and antenna height are not to exceed the height of the utility poles already in the area.
- b. Only basic security lights shall be permitted and shall not result in glare on adjacent properties. A lighting ring chart shall be provided as part of the final site plan submitted for the tower.
- c. The design of the tower and associate facilities shall maximize the use of building materials, textures, screening and landscaping to effectively blend the tower into the surrounding setting and built environment and to have a natural aesthetic impact. Underground installation of the control system and power supply for the tower and antenna is required to keep public safety, ease of travel, and aesthetics of the community and neighborhood. All buildings exteriors shall be masonry; no metal buildings are permitted.
- d. Landscaping is required to screen any equipment from adjacent property. Barbed, razor or similar types of wire are prohibited on the tower site.
- e. The technology in personal communications services is rapidly advancing so that in ten (10) years a tower may perhaps be lowered or removed. Based on this assumption, a Conditional Use Permit shall be for a term not to exceed ten (10) years. The applicant may seek to renew the permit. The permit shall be reviewed every five (5) years.
- f. Access drives to the site must be asphalt or concrete and be at least twelve (12) feet wide.
- g. Any tower that is no longer in use for its original purpose shall be removed at the owner's expense. The owner shall provide a copy to the City of any federal notice requiring the cease of

operations. The owner shall have ninety (90) days in which to remove the tower from the date operations cease. In the case of multiple users of a single tower, this provision shall not become effective until all users cease operations. The equipment on the ground shall not be removed until the tower has been dismantled and removed from the site.

- h. An applicant for a Conditional Use Permit for a tower shall provide technical data to show the demand for the tower at the proposed location and the need to maintain the integrity of the entire communications system.
- i. Only one tower shall be located within one (1) lineal mile radius of the center of the base of the communications tower. However, a tower may be located within the one-mile radius of another tower if a technical study acceptable to the City proves there are no suitable sites available within that distance. Multiple providers are encouraged to jointly use a tower.
- j. Communications providers are encouraged to work to develop a network of towers that all providers share to minimize disruption to the community, to limit the number of towers and to speed up the approval process for tower installations.
- k. No tower shall be situated within three hundred (300) feet of any residential structure.
- l. A tower and antenna structure can be placed on a building in any zoning district provided the structure does not exceed the height of the building by more than twenty-five (25) feet.
- m. New technologies and designs, known as stealth designs, that disguise towers and antenna structures to mitigate intrusion on the built environment and comply with current City development regulations will be considered on a case by case basis.

- n. Towers may be permitted in residential only if they can be incorporated into or disguised as part of an existing building, attached to or be part of utility installation, or attached to a building and provide a neutral aesthetic impact to surrounding neighborhoods.
 - o. No tower shall be situated so that if a tower falls it would strike or cause damage to any power line, or so that any part of the tower exceeds the parameters of the property after the tower has fallen.
39. Vehicle Towing and Storage subject to the following use standards:
- a. A Fence or Wall of not less than ten (10) feet in height and providing no less than 80% visibility blockage shall be placed around all setback boundaries.
 - b. An open space setback of at least ten (10) feet shall be maintained around the fence or wall; said area to remain free from storage and shall be maintained in lawn or landscaping.
 - c. Weeds and grasses shall be controlled upon the property.
 - d. Site specific storm water runoff, spillage and erosion control measures may be required.
 - e. All unmounted tires shall be stored within an enclosed building.
 - f. The number of towed and stored vehicles allowed in fenced or walled storage shall be limited to nine (9).

Section 19-3 Continuance of a Conditional Use

- 19-3.01 A Conditional Use Permit shall be allowed to continue, unless specified otherwise as a condition of its authorization, as long as all conditions placed on it are met; however, if after a public hearing the Planning Commission finds that particular use ceases to exist for a period of six (6) months, or if the use is no longer in compliance with the conditions placed upon such conditional use permit by the Planning Commission and/or the governing body, the property forfeits its Conditional Use Permit and will not be allowed to exist again unless a new application is made, a public hearing held as provided for in these regulations, and a new Conditional Use Permit approved.

Section 19-4 Parking Regulations

- 19-4.01 Parking requirements for Conditional Uses shall be approved by the Planning Commission. The following shall be taken into consideration when reviewing and approving parking requirements.

1. The use of the facility.
2. The square footage of the building.
3. The surrounding land uses and zoning districts.

- 19-4.02 Where appropriate, the parking regulations of the underlying zoning district or the most analogous zoning district shall be followed.

- 19-4.03 Additional parking requirements are contained in Section 23 of these regulations.

Section 19-5 Height, Area and Yard Regulations

- 19-5.01 All conditional Uses shall comply with the height, area, and yard regulations of the zoning district in which they may be located, unless otherwise specified in this section.

SECTION 20

USES PROHIBITED

Sections:

20-1 Designated

Section 20-1 Designated

- 20-1.01 No temporary or outwardly incomplete structure or building, no open excavation for a basement or foundation and no building or structure so damaged as to become unfit for use or habitation shall be permitted, maintained or remain in such condition for a period of more than six (6) months, except by special permission of the City Commission upon recommendation by the Planning Commission.
- 20-1.02 No building material, construction equipment, machinery or refuse shall be stored, maintained or kept in the open upon any lot, tract or parcel within a residential district, other than during actual construction operations upon said premises or related premises. Provided, the Board of Zoning Appeals may grant an exception to said requirement in unusual cases for a limited time.
- 20-1.03 No building or premises now located within the territory of the city nor any building hereafter erected therein, shall be used or occupied for any of the following purposes:
1. Dump or dumping ground.
 2. Sanitary landfill, unless established by Conditional Use Permit.
 3. Acid manufacture.
 4. Cement, lime, gypsum or plaster of Paris manufacture.
 5. Creosote or tar treatment.
 6. Distillation of bones.

7. Explosives manufacture or storage.
8. Fat rendering.
9. Fertilizer manufacture, both as an intended product or as a byproduct of other processes.
10. Garbage, offal or dead animal incineration or reduction.
11. Glue or soap manufacture.
12. Tanning, curing or storage of rawhides or skins.
13. Recycling and production of carbon black from used tires.
14. Holding or storage of toxic waste as designated by EPA

SECTION 21

NON-CONFORMING USES

Sections:

21-1 Application

Section 21-1 Application

- 21-1.01 The provisions of these regulations shall not apply to the existing use of any buildings or land and shall not prevent the restoration of a building damaged not more than fifty percent (50%) of its fair market value by fire, explosion, act of God, or the public enemy, or prevent the continuance of the use of such building or part thereof as such use existed at the time of such damage, but shall apply to any alteration of a building to provide for a change in such use of any building or land after the effective date of these regulations.
- 21-1.02 No such non-conforming use or substantial improvement of that use shall be expanded, changed, enlarged, or altered in any way which increases its nonconformity.
- 21-1.03 Whenever a non-conforming use has been changed to a conforming use, such use shall not thereafter be changed to a non-conforming use.
- 21-1.04 A lawful non-conforming use of a building, structure or land that has been voluntarily discontinued for a period of six (6) consecutive calendar months shall not thereafter be resumed.
- 21-1.05 Ordinary Repair and Maintenance.
1. Normal maintenance and repair or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a non-conforming use.

2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition provided that such restoration will not be in violation of this Section.
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- 21-1.06 Any structure which is devoted to a residential use and which is located in a business or industrial district, may be structurally altered, extended, expanded and enlarged; provided, however, that after any such reconstruction, such structure shall not be used to accommodate a greater number of dwelling units than such structure accommodated prior to any such work unless specifically permitted by the district.
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- 21-1.07 Non-conforming nonresidential structures and uses that existed on the day prior to the effective date of these regulations may apply on a one time basis only to the Planning Commission for a conditional use permit to reconstruct, structurally alter, or enlarge after damage or destruction or structurally alter, enlarge or make extensions to structures or uses including the use of additional land when properly zoned for the use, so long as in the opinion of the Planning Commission under stated conditions that the effect upon adjacent areas is protected to the extent possible and the public interest served.

SECTION 22

SIGN REGULATIONS

Sections:

- 22-1 Purpose
- 22-2 New or Rebuilt Signs; Permits
- 22-3 General Standards
- 22-4 District Regulations
- 22-5 Non-Conforming Signs

Section 22-1 Purpose

- 22-1.01 The purpose of this section is to protect, preserve, and promote the beauty, safety, and general welfare of the city by establishing certain minimum standards and procedures for the erection of signs in various zoning districts.

Section 22-2 New or Rebuilt Signs; Permits

- 22-2.01 Permit Required: Unless otherwise provided in these regulations, no new, permanent or temporary sign shall hereafter be hung, erected, attached or supported on a building or structural support, and no existing sign shall be altered, rebuilt, extended replaced or relocated until a permit has been issued by the Zoning Administrator. All signs legally existing at the time of passage of these regulations may remain in use including those in the status of legal non-conforming sign.
- 22-2.02 Application for Permit: Applicants for sign permits shall submit an application form (furnished by the Zoning Administrator), appropriately filled out. Said application shall include such information as the Zoning Administrator shall require to show full compliance with this and all other applicable laws and regulations of the City.
- 22-2.03 Issuance of Permit: If, in the opinion of the Zoning Administrator, the application meets the requirements of this section, a sign permit shall be issued. If the work authorized by such permit is not started within

one hundred twenty (120) days from the date of its issuance, such permit shall become null and void.

- 22-2.04 Permit Revocation: If the Zoning Administrator or designee shall find that any sign subject to these regulations is unsafe or insecure, is a menace to the public, has been constructed or erected or is being maintained in violation of the provisions of these regulations, written notice shall be given to the person or entity in possession and control of the premises on which the sign is located, specifying the problem. If such person fails to remove or alter the sign so as to comply with the provisions of these regulations within thirty (30) days of such notice, the Zoning Administrator may cause such sign to be removed or altered to comply with these regulations at the expense of the permittee or owner of the property on which said sign is located. If, in the opinion of the Zoning Administrator, a sign is an immediate hazard to the public health, safety, or welfare, the Zoning Administrator may cause the sign to be removed immediately and without notice.

Section 22-3 General Standards

- 22-3.01 Hanging Signs in Certain Locations. It shall be unlawful for any person, business or corporation to string, hang, place or display any advertising signs from wire, strings, chains or ropes, pulls or other structures extending out from any building over any street, alley, sidewalk or public right-of-way on Main Street from Elm Street to Walnut Street, in the City of Marion, Kansas; provided however, that any person, business or corporation currently using a hanging sign may be allowed to use said hanging sign until such time as said hanging sign needs to be replaced. Provided further, that if existing business sells said business the new owner thereof shall not be allowed to advertise with said hanging sign or signs.
- 22-3.02 Mounted Signs in Certain Places. Any person, business or corporation may place face mounted signs, same meaning signs being attached to the building on Main Street from Elm Street to Walnut Street within the city of Marion, Kansas.
- 22-3.03 Building and Electrical Codes Applicable. All signs must conform to the structural design standards of any applicable building code.

Wiring of all electrical signs must conform to any applicable electrical code.

- 22-3.04 Access way or Window. No sign shall block any access way or window required by any applicable building, housing, fire or other codes or regulations.
- 22-3.05 Signs on Trees or Utility Poles. No sign shall be attached to a tree or utility pole whether on public or private property.
- 22-3.06 Traffic Safety.
1. No sign shall be maintained at any location where by reason of its position, size, shape or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with, any traffic control sign, signal or device, or where it may interfere with, mislead or confuse traffic.
- 22-3.07 Portable Signs. Notwithstanding any other provisions of these regulations and, in particular, Section 22, the following provisions apply to the use of portable signs:
1. It shall be unlawful for any person, business or corporation to place, stand or maintain any portable sign on any street, area, sidewalk or public way within the city limits of the City of Marion; provided however, that any person, business or corporation currently using a portable sign may be allowed to use said portable sign until such time as said portable sign needs to be replaced. If the portable sign is damaged, said sign shall either be removed or repaired. Provided further, that if existing business sells said business the new owner thereof shall not be allowed to advertise with said portable sign or signs.

Section 22-4 District Regulations

- 22-4.01 Agriculture District (“A”), Estate Residential District (“ER”), Low Density Residential District (“RL”), Medium Density Residential District (“RM”), Manufactured Home Park Residential District (“RMH”), Elderly Housing Residential District (“RE”), High Density

Residential Overlay District (“RH”), Light Industrial District (“LI”) and Heavy Industrial District (“HI”).

Signs shall be erected and maintained at least ten (10) feet from the street line and shall be of a kind and character not unsightly or unduly conspicuous in the neighborhood in which they are erected. In the event of a complaint on the character or kind of sign being maintained, the decision of the Board of Zoning Appeals shall be final as to compliance of the sign with this provision. No directly or indirectly illuminated signs will be allowed.

22-4.02 Limited Commercial District (“LC”)

The following signs shall be permitted:

1. Signs identifying a business: There shall be permitted one sign not exceeding seventy-five (75) square feet in area per business establishment, which sign shall be located at least twenty-five (25) feet from a lot in a residential district, public park or school. The sign, if illuminated, shall cast no direct light on adjacent residential property. No sign shall create a traffic hazard or confusion with traffic directional signals or signs along any street. No sign shall project over any street or alley right-of-way. The Zoning Administrator shall be informed precisely as to the nature of each sign before its permanent erection for a determination of its conformity with these regulations.

22-4.03 General Commercial (“GC”) District and Central Business District (“CBD”) Overlay District

Advertising and/or business signs, single or double faced, shall be allowed in these districts subject to sign regulations set forth in the Building Code of the City of Marion, Kansas, and in accordance with the following:

1. Billboards: Billboards will not be permitted in these districts.
2. Business signs: The standards contained in Section 22-4.02 shall apply.

Section 22-5 Non-Conforming Signs

22-5.01 Every sign in existence at the time these regulations become effective may continue in existence subject to the following:

1. It shall not be altered structurally or moved unless it is made to comply with the provisions of these regulations. However, the changing of the movable parts of an existing sign that is designed for such changes, or the repainting or reposting of display matter shall not be deemed a structural alteration.
2. The lawful use of a sign existing on the effective date of these regulations, although such sign does not conform to the provisions hereof, may continue; but if such non-conforming use is discontinued for a period of six (6) months, any future use of such sign shall be in conformity with the provisions of these regulations.
1. No sign which has been damaged by fire, wind, explosion, or other act of God to the extent that fifty (50) percent or more of the fair market value of the sign is destroyed shall be restored except in conformity with these regulations. Any sign which has been damaged to an extent less than fifty (50) percent of its fair market value may be restored to its condition which existed as a non-conforming use prior to its damage.

Section 22-6 Promotional Displays

22-6.01 Promotional activities of retail merchants involving the display of merchandise and associated signs may be conducted outside of enclosed buildings with approval of the Zoning Administrator subject to the following conditions:

- a. No portion of the display shall be on publicly owned property unless the applicant shall first have obtained approval for such use from the city.
- b. These provisions shall in no way be deemed to authorize the continuing outdoor display or the sale of used furniture, used appliances, used plumbing, used house wares, used building material or similar display for sale in the Central Business Overlay District and only in other commercial and industrial districts as may be authorized by the Planning Commission as a conditional use, unless permitted by other sections of these regulations.

- c. The Zoning Administrator may approve temporary outdoor displays of products and signs in the Central Business Overlay Zone (CBD) for special events such as local, regional, state, and national events, etc. Displays associated with the grand opening for a new business may also be approved.

The guidelines are:

1. The business must make a request to the Zoning Administrator at least 1 week prior to the requested date for the display.
2. The displays must be described as to size, location, content, and dates for the display.
3. The displays may be outside only when the business is open for business.
4. The displays must be confined within the property lines of the business.
5. Businesses located on corner lots may, with the approval of the Zoning Administrator, use the side streets along their property lines.
6. Space may be shared with other businesses with the approval of the Zoning Administrator.
7. At the discretion of the Zoning Administrator, a site visit may be required.
8. Free standing signs cannot exceed 24" wide and 48" high. Other signs must meet the specifications of Section 22.
9. Electrical cords, conduit, rope, etc. cannot be placed within the walking area of a sidewalk.
10. Displays shall not be placed past the curb into parking spaces or street area.
11. The Zoning Administrator or Public Safety Officers may impose other restrictions or requirements as deemed necessary for the safety of the public.
12. Displays in other zones must follow the guidelines included in each zone and Section 1.

22-6.02 If the Zoning Administrator denies a request, the business may appeal to the City Council.

SECTION 23

ADDITIONAL PARKING REGULATIONS

Sections:

- 23-1 Application
- 23-2 Additional Parking Regulations
- 23-3 Parking Area Standards

Section 23-1 Application

- 23-1.01 These additional parking regulations, as well as the parking regulations of each zoning district, are intended to ensure that all uses of land have a parking space component requiring adequate off-street parking for such use. Such parking spaces shall be located entirely on private property with no portion except the necessary drives extending into any street or other public way. Parking shall be provided in quantities stated in the various zoning district regulations, except that certain occupancies which may have unusual parking needs are listed below. The issuance of building permits shall require compliance with the following standards and the parking requirements of these zoning regulations are a minimum even though a conceptual plan may have been approved previously which included fewer parking spaces due to the unknown or changing status of occupants.

Section 23-2 Additional Parking Requirements

- 23-2.01 Except as otherwise provided in these regulations, when any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by fifty (50) percent or more, or any building or structure hereafter erected is converted for the uses listed below, accessory off-street parking spaces shall be provided as required in this section.
1. Churches, temples, theaters, athletic fields and other seating facilities:
1 parking space per 3 seats.

2. Libraries: 1 parking space per 2 employees, plus 1 parking space per 200 square feet of service floor area.
3. Hotels and motels: 1 parking space per 2 employees, plus 1 parking space per guest room. 23-1
4. Hospitals, sanitariums or homes for convalescent or aged: 1 parking space per 3 beds, plus 1 parking space per staff and visiting doctor.
5. Restaurants and cafeterias: 1 parking space per 2.5 seats; provided, however, that drive-in restaurants shall have a minimum of at least ten parking spaces.
6. Armories and assembly halls: 1 parking space per 3 seats.
7. Mortuaries and funeral homes: 1 parking space per 2 employees, plus 2 parking space per 3 seats.
8. Taverns or clubs serving alcoholic or cereal malt beverages: 1 parking space per employee, plus 1 parking space per each 2 seats of building capacity.
9. Golf courses, miniature golf courses, driving ranges: determined by Planning Commission.
10. Dormitories, fraternities and sororities: 2 parking spaces for each 3 occupants.
11. Automobile, truck, trailer and manufactured home sales and rental lots: 1 parking space for each 3,000 square feet of open sales lot area devoted to the sale, display and rental of vehicles plus 1 parking space for each service bay and employee.
12. Bowling alleys: 4 parking spaces for each lane.
13. Cartage, express, parcel delivery and freight terminal establishments: 1 parking space for each 2 employees plus 1 parking space for each vehicle maintained on the premises.

14. Car wash: 2 holding spaces for each car washing stall plus 1 drying space for each car washing stall.
15. Medical and dental clinics or offices: 1 parking space for each 100 square feet of floor plan.
- 23-2 16. Service stations: 1 parking space for each employee plus 2 spaces for each service bay.
17. Elementary and junior high schools: 1 space for each faculty and staff person plus for places of assembly.
18. Secondary schools: 1 parking space for every 4 persons based on the maximum design capacity for pupils, faculty and staff plus for places of assembly.
19. Laundromats: 1 space for each 2 washing machines.
20. Child care centers and preschools: 1 parking space for each employee.
21. Nursing and convalescent homes and retirement centers: 1 parking space per each 5 beds based on the designed maximum capacity of the building plus 1 parking space for each employee.
22. Swimming pools and clubs: 1 parking space for each 38 square feet of water area.
- 23-2.02 Any use not included in the parking requirements of this section shall be determined by the Planning Commission.

Section 23-3 Parking Area Standards

- 23-3.01 Each parking space stall shall be a minimum of nine (9) feet by eighteen (18) feet plus the necessary space for maneuvering into and out of the space. All lots under 25 spaces shall have 1 van accessible parking space meeting the standards of the Americans with Disabilities Act. All lots over 25 spaces shall have 2 van accessible parking spaces meeting the standards of the Americans with Disabilities Act.

23-3.02 All parking lots shall be constructed, at a minimum, with paved, hard surface, all-weather dust free materials such as masonry, concrete, asphalt, or other acceptable material. The design and materials must meet city specifications and must be included in the application for the building permit. Possible exceptions for using compacted gravel may be granted by the Zoning Administrator as follows:

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- 1 Residences on unpaved streets.
- 2 Large lots with excess areas not needed for parking and not used for vehicle traffic for egress and maneuvering.
- 3 Industrial lots used primarily for parking of truck/trailers and equipment and not used by customers, employees, or visitors.
- 4 Lots used for storage of vehicles waiting for service.
- 5 Lots used for automobile and other vehicle and equipment sales not used by employees.
- 6 If the property entrance is located on a paved street, the driveway must be paved per above specifications.
- 7 Other requests for using gravel must be approved by the Planning and Zoning Commission.

23-3.03 The Planning Commission, in its discretion, may require the landowner to provide fencing or landscaping to be used and maintained as screening for the protection of neighboring uses.

23-3.04 All off-street parking areas and access drives which serve such uses shall be planned and engineered to assure proper drainage of surface water.

23-3.05 The Planning Commission may require plans to be prepared and approved to assure proper design and construction of any off-street parking spaces and access drives if conditions of the site are such that compliance with these requirements may be difficult or may pose a potential problem with adjacent properties.

23-3.06 Any lights used to illuminate the parking area shall be arranged, located or screened to direct light away from any adjoining or abutting residential district.

- 23-3.07 When a determination of the number of off-street parking spaces results in a requirement of a fractional space, the fraction of one-half or less may be disregarded and a fraction in excess of one-half shall be counted as one parking space.
- 23-4 8 Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so furnished is not less than the sum of the separate requirements for each use and a Conditional Use Permit is obtained under Section 19.
- 23-3.09 All parking spaces required to serve structures or uses shall be located on the same zoning lot as the structure or use served unless a Conditional Use Permit is obtained under Section 19.

SECTION 24

PERMITS

Sections:

24-1 Building Permits

24-2 Airport Overlay Zoning District Building Permits

Section 24-1 Building Permits

- 24-1.01 Authority: No building or structure shall be constructed, erected, altered, or remodeled nor shall any such work be commenced upon any lands zoned under these regulations unless the owner, contractor or the duly authorized agent of either shall have first applied for and received from the Zoning Administrator a building permit therefore, as herein provided. For purposes of this section, the terms altered or remodeled shall refer to an increase in the size of a structure and not to the alteration or remodeling limited to the interior.
- 24-1.02 Conformance With Zoning Regulations: No building permit shall be issued for any building or structure unless the same be in conformity in every respect with all the provisions of these regulations unless otherwise set out. No permit for non-residential or multi-family structure shall be issued unless a Conceptual Plan has been submitted. If an application for rezoning is not required, such Conceptual Plan will be submitted using the standards contained in Section 25. For a lot not subject to an approved Conceptual Plan, no permit for a single-family structure or a two-family structure shall be issued unless a plot plan has been submitted.
- 24-1.03 Filing Procedure: Applications for building permits shall be filed with the Zoning Administrator upon forms prescribed, setting forth the legal description of the lot, tract or parcel of land, together with a general description of the building or structure to be constructed, erected or altered thereon, including the size and shape, square foot area, principal material of construction, location of the building or structure upon the lot, tract or parcel and the intended use. The application shall also contain a description of the use of land

surrounding the applicant's property including the location of buildings within two hundred fifty (250) feet of the boundary of the applicant's property. In addition, the applicant shall pay any fees required by the governing body.

24-1.04 A plot plan must be submitted with any application for a building permit for a single-family dwelling or a two-family dwelling. The scale of the plot plan is optional but shall not be smaller than fifty feet to one inch. The application must include two (2) copies of a plot plan which includes:

1. The exact size, shape, dimensions and legal description of the lot to be built upon;
2. The exact size and location on the lot of all existing buildings and structures;
3. The exact size and location of the building or structure proposed to be repaired, altered, erected or moved;
4. The size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities;
5. The exact locations of any easements on the lot;
6. Date and north point;
7. A declaration of the existing and intended use of each existing and proposed building or structure on the lot;
8. The location of water supply, water distribution and sanitary sewer facilities;
9. Any additional information relating to the proposed building or structure needed to determine compliance with these zoning regulations;
10. Prior to issuing a building permit, the Zoning Administrator shall review the Plot Plan. If the property is not developed in accordance

with the Plot Plan, the Zoning Administrator shall revoke all existing building permits. The applicant, in case of a revocation of building permit, may appeal the Zoning Administrator's action to the Board of Zoning Appeals as provided by Section 26 of these regulations.

- 24-1.05 Staff Administrative Evaluations: Upon delivery of the completed application and the required payments, the Zoning Administrator shall evaluate the application. After such evaluation, a building permit may be issued, provided all requirements of these regulations are met.
- 24-1.06 Vested Rights: No building permit lawfully issued prior to the effective date of these regulations, or of any change or amendment hereto, and which permit, by its own terms and provisions, is in full force and effect at said date, shall be invalidated by the passage of these regulations, or any such change or amendment, but shall remain a valid and subsisting permit, subject only to its own terms and provisions and in effect at the time of the issuance of said permit; provided that all such permits shall expire not later than sixty (60) days from the effective date of these regulations, unless actual construction shall have there-to-fore begun and continued pursuant to the terms of said permit.
- 24-1.07 Number of Building Permits: There shall be a separate building permit for each building or structure to be constructed, erected or altered, except accessory buildings and appurtenances which may be included in the building permit for the principal building when construction is simultaneous.
- 24-1.08 Zoning Administrator's Authority: The Zoning Administrator shall be empowered to act within the provisions of these regulations upon all applications for building permits, and the same shall be approved or denied not later than the third business day succeeding the day the complete application is received.
- 24-1.09 Appeals: In the event of refusal to issue a building permit upon application, as herein provided, the applicant shall have the right to a hearing by the Board of Zoning Appeals, as provided by the law. Provided, however, that appeals shall only be permitted after payment of filing fees as outlined below.

- 24-1.10 Filing Fees: Fees for building permits shall be set by ordinance of the governing body.
- 24-1.11 Enforcement: In addition to any other method of enforcement of these regulations, the following enforcement procedures may be invoked:
1. A permit may be revoked and/or a “stop construction” order posted on the building or structure by the Zoning Administrator at any time prior to the completion of a building or structure for which the same was issued, when it shall appear to the Zoning Administrator that the same was procured by false representation, or that any of the provisions of these regulations are being violated. Provided, however, that twenty-four (24) hours written notice of such revocation shall be served upon the owner, his agent or contractor, or upon any person employed upon the building or structure for which such permit was issued, and thereafter no such construction shall proceed.
 2. Upon the failure, refusal or neglect of any owner, his agent, contractor or duly authorized representative to secure such permit as required by these regulations and pay the prescribed fee therefore, as herein provided, the Zoning Administrator shall post a “stop construction” order on any and all buildings or structures involved. Further, no construction shall proceed until and unless said owner, his agent, contractor or fully authorized representative secures such permit as required by these regulations and pays the prescribed fee therefore.
- 24-1.12 Building Permit Validity: For a building permit to remain valid, substantial construction shall be started within six (6) months of issuance of said permit. If within that period of time substantial construction has not been started, then the building permit issued for that construction shall be null and void.

Section 24-2 Airport Overlay Zoning Districts Building Permits

- 24-2.01 Building Permit procedures for developments within the airport overlay zoning districts are outlined in Section 14 of these zoning regulations.

SECTION 25

AMENDMENT PROCEDURES

Sections:

- 25-1 General Authority and Procedure
- 25-2 Fees for Rezoning
- 25-3 Conceptual Plans
- 25-4 Receipt of Rezoning Application
- 25-5 Public Hearing before Planning Commission
- 25-6 Action by Planning Commission and City Commission
- 25-7 Conditional Use Permits
- 25-8 Limitations on Reapplications for Amendments
- 25-9 Limitations on Land Use

Section 25-1 General Authority and Procedure

- 25-1.01 The Governing Body may, from time to time, amend, supplement, or change, by ordinance, the boundaries of the districts or the regulations herein established. The ordinance shall become effective upon publication thereof in the official city paper.
- 25-1.02 A proposal for an amendment or change in zoning may be initiated by the Governing Body, the Planning Commission, and if the proposed amendment is not a general revision of the existing regulations and affects specific property, upon application of the owner of the property affected or a duly authorized agent.
 - 25-1.02(1) In the event of a potential sale of property, a landowner may designate a potential purchaser to the Planning Commission in writing, and thereafter the potential purchaser may make application under this section with the same rights and responsibilities as the actual owner.
- 25-1.03 An application for an amendment or change in zoning initiated by a property owner shall be made to the Planning Commission upon appropriate forms available from the Zoning Administrator. Such application shall be made at least thirty-five (35) days prior to a regularly scheduled Planning Commission meeting, unless the

submission deadlines adopted by the Planning Commission contain different time periods.

- 25-1.04 All proposed amendments to the zoning regulations or zoning changes shall first be submitted to the Planning Commission for recommendation and report, and no amendment or change shall be made without a public hearing before the Planning Commission.

Section 25-2 Fees for Rezoning

- 25-2.01 A fee, in the amount set by the Governing Body, shall accompany an application for rezoning. The amount of such fee shall also reimburse the city for the cost of publication notice, for which the city agrees to take responsibility.
- 25-2.02 No fee shall be required if the zoning change is requested by the Planning Commission or the Governing Body. No fee shall be required if the Planning Commission or Governing Body instigates an amendment to the zoning regulations that will not affect specific property.

Section 25-3 Conceptual Plans

- 25-3.01 For all uses except single-family structures and two-family structures, a conceptual plan must be submitted with any application for rezoning which is filed by any property owner. A conceptual plan must be submitted for any building permit for a nonresidential building or multi-family dwelling unit unless a conceptual plan for the same property has already been filed as a part of rezoning. The scale of the conceptual plan is optional but shall not be smaller than 200 feet to one inch. The application must include two (2) copies, or more if needed, of a conceptual plan which includes:
1. A composite site development plan showing the major details of the proposed development consisting of the following: conceptual drainage plans; approximate location of buildings; structures, and off-street parking areas; off-street loading areas; means of ingress and egress; conceptual landscaping or screening proposals; locations and the conceptual design of signs; open space areas and pedestrian areas.

2. The proposed name of the development and the names of abutting developments and landowners.
3. The names and addresses of the owner and/or registered engineer, architect, surveyor, or landscape architect responsible for the engineering, survey, and design.
4. The location of boundary lines and their relation to established section lines or fractional section lines, township, and range lines.
5. The approximate location and width of existing and proposed streets, roads, lots (approximate dimensions), building lines, utility easements, drainage easements, parks and other open spaces, other similar features, and proposed improvement of perimeter streets.
6. The Planning Commission, in its discretion, may require a survey showing the physical features of the property, including contours at vertical intervals of not more than five (5) feet where the slope is greater than ten (10) percent and not more than two (2) feet where the slope is less than ten (10) percent (ten-foot intervals for non-residential uses). Elevations shall be marked on such contours based on the existing datum plane established by the U.S. Coast and Geodetic Survey. Bench mark elevations used shall be described on the plan.
7. All parcels of land proposed to be dedicated to public use and the conditions of such dedication, if any.
8. Date, north point, and scale.
9. Designation of proposed uses of land within the development, whether for residential, commercial, industrial, or public use, such as parks, churches, etc., including the density of proposed residential use and the character of proposed commercial, industrial, and other use.
10. An attached statement from the appropriate local official and/or the Kansas Department of Health and Environment that the proposed development is to be adequately served by sanitary sewer facilities.

11. An attached statement from the appropriate local official and/or any affected water districts and/or the Kansas Department of Health and Environment that the proposed development is to be served by an adequate water supply and an adequate water distribution system.
12. This plan, when approved by the Planning Commission and the Governing Body as part of a rezoning, shall be binding upon the land. Prior to issuing a building permit for each phase or all of the development, the Zoning Administrator shall review the approved conceptual plan. If the property is not to be developed as indicated by the plan, or any approved amendments thereto, the Zoning Administrator shall refuse to issue any building permits. The applicant, in case of denial of a building permit, may appeal the Zoning Administrator's action to the Board of Zoning Appeals as provided by these regulations.

Section 25-4 Receipt of Rezoning Applications

- 25-4.01 Immediately upon receipt of such rezoning application, the Zoning Administrator shall note thereon the date filing, and make a permanent record thereof.
- 25-4.02 The Zoning Administrator shall have the authority to certify a rezoning application as complete or incomplete. If a rezoning application is certified as complete, then the Zoning Administrator shall place said application on the Planning Commission's agenda for consideration. If a rezoning application is certified as incomplete, then the Zoning Administrator shall return the application to the applicant with a written explanation of his determination. The applicant may reapply and pay another filing fee, or may appeal the Zoning Administrator's determination to the Board of Zoning Appeals as provided for in Section 25 of these zoning regulations.

Section 25-5 Public Hearing before Planning Commission

- 25-5.01 All proposed changes shall first be submitted to the Planning Commission for recommendation and report, and no amendment or charge shall be made without a hearing before the Planning Commission. The Planning Commission shall cause an accurate written summary to be made of the proceedings.

- 25-5.02 Public notice of such hearing shall be published by the Zoning Administrator not less than twenty (20) days prior to the date of said hearing in the official city newspaper. Said notice shall notify the public that such a hearing will take place; fix the time and place for the hearing; describe the nature of the application which will be presented; and state that the public may attend and be heard. When the proposed change is not a general revision of an existing zoning ordinance and will affect specific property, such property shall also be designated by legal description. Proof of publication of such notice shall be filed with the Planning Commission in advance of said hearing by the Zoning Administrator who is responsible for such publications.
- 25-5.03 In addition to the publication notice, if the proposed amendment is not a general revision of an existing zoning ordinance and will affect specific property, the Zoning Administrator shall be responsible for mailing written notice of such proposed change within twenty (20) days to all owners of property which is located within two hundred (200) feet in an incorporated area of the area affected. For the purpose of this section, notice shall extend one thousand (1,000) feet in those areas where the notification area extends in unincorporated areas. Such mailed notice shall be given by certified mail, return receipt requested, and shall be in letter form stating the time and place of the hearing, a general description of the proposal, the legal description of the property subject to the proposed change, and a statement explaining that the public may be heard at the public hearing and that within fourteen (14) days after the conclusion of the public hearing property owners within the area of notification of the property proposed for change shall have the opportunity to submit a protest petition, in conformance with the law, to be filed in the Office of the City Clerk. Newspaper clippings of the publication notice shall not be used for the mailed notice. Further, the mailed notices shall be addressed to the owners of the land and not to mere occupants of the land. Prior to the public hearing, the Zoning Administrator must file with the Secretary of the Planning Commission the returned receipts from the certified mailings and an affidavit stating the names and addresses of the persons within the area of notification to whom notice was mailed. After the Zoning Administrator has complied in

good faith with this section, failure to receive such notice shall not invalidate any subsequent action taken.

- 25-5.04 All such rezoning applications shall be set down for hearing not later than sixty (60) days from the date of filing the same. Any such hearing may, for good cause, at the request of the applicant or in the discretion of the Planning Commission, be continued. At such hearing, the Planning Commission shall consider the appropriate issues contained in a staff report, including but not limited to the following factors:
1. Character of the neighborhood;
 2. The zoning and uses of properties nearby including any changed conditions;
 3. The suitability of the subject property to its present and proposed use;
 4. The extent to which removal of the present zoning will detrimentally affect nearby property;
 5. The length of time the subject property has remained vacant as well as nearby vacant land;
 6. The relative gain to the public health, safety, and welfare by the destruction of the value of the nearby property as compared to the hardship imposed upon the individual landowner;
 7. The recommendations of permanent or professional staff;
 8. Change in district classification being consistent with the purposes of these regulations and the proposed district;
 9. Adequacy of streets and utilities; and
 10. Consistency with the adopted Comprehensive Plan.
- 25-5.05 At the public hearing, an opportunity shall be granted to interested parties to be heard.

25-5.06 Table of Lesser Change: The following Table of Lesser Change is for the use of the Planning Commission in determining when republication of an application for rezoning is required. This Table of Lesser Change designates what zoning classifications are lesser changes authorized within the published zoning classifications. The Table of Lesser Change lists zoning classifications in descending order from the least intense zoning district to the most intense zoning district. The Planning Commission may modify, at its discretion, an application for rezoning to a particular district by recommending a rezoning to a district of lesser intensity, as determined by the Table of Lesser Change.

A	Agriculture District
ER	Estate Residential District
RL	Low-Density Residential District
RM	Medium-Density Residential District
RMH	Mobile Home Parks Residential District
RE	Elderly Housing Residential District
LC	Limited Commercial District
GC	General Commercial District
LI	Light Industrial District
HI	Heavy Industrial District

Section 25-6 Action by Planning Commission and Governing Body

25-6.01 Planning Board Actions: A majority of the members of the Planning Commission shall be required to recommend approval or denial of the amendment to the governing body. If the Planning Commission fails to make a recommendation on a rezoning request, the Planning Commission shall be deemed to have made a recommendation of disapproval.

25-6.02 Governing Body Actions: Before acting upon any recommendation of the Planning Commission concerning a revision, modification, or amendment of these zoning regulations, the Governing Body shall set a time and place for a hearing thereon and notify the applicant, the Planning Commission and such other parties as the governing body shall deem appropriate.

- 25-6.03 Recommendation of Approval or Disapproval: When the Planning Commission submits a “recommendation of approval” OR A “recommendation of disapproval” of such amendment and the reasons therefore, the Governing Body may adopt such recommendations by resolution, override the Planning Commission’s recommendations by a 2/3 majority vote of the membership of the Governing Body, or return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body’s failure to approve or disapprove.
- 25-6.04 If the Governing Body returns the Planning Commission’s recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new and amended recommendation. Upon the receipt of such recommendation, the Governing Body, by a simple majority, may adopt or may revise or amend and adopt such recommendation by resolution, or it may take no further action thereon.
- 25-6.05 If the Planning Commission fails to deliver a recommendation to the Governing Body following the Planning Commission’s next regular meeting after receipt of the Governing Body’s report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.
- 25-6.06 Zoning Amendment to be Reflected on Zoning District Map: If the zoning amendment shall affect the boundaries of any zoning district, the amending ordinance of the City Commission shall define the change or boundary as amended, and shall order the Zoning District Map to be changed to reflect the amendment and shall amend the section of the ordinance incorporating said map and shall reincorporate the map as amended.
- 25-6.07 Protest Petition: Regardless of whether the Planning Commission approves or disapproves a proposed zoning amendment, if within fourteen (14) days after the date of the conclusion of the Planning Commission’s hearing, a petition signed by the owners of twenty (20) percent or more of any property proposed to be rezoned, or by owners of twenty (20) percent or more of the total area required to be notified

by this Section of the proposed rezoning of a specific property, excluding streets and public ways, is filed in the Office of the City Clerk, the amendment shall not be passed except by at least three-fourths (3/4) vote of the members of the Governing Body.

25-6.08 Conditions Attached to Rezoning: The Planning Commission may recommend and the Governing Body may adopt a zoning amendment with conditions attached.

25-6.09 Time of Performance in Rezoning

1. In cases where the Planning Commission and governing body deem that time of development is a critical factor in protecting the public welfare in a rezoning action, a time of performance may be included in the rezoning ordinance. Such time allowed for performance shall be reasonable. Such time shall be not less than five years from the date of publication of the rezoning ordinance for all rezonings into districts in which single-family dwellings are allowed, and not less than two years from the date of publication of the rezoning ordinance for all rezoning into districts in which single-family dwellings are not allowed. Such ordinance shall clearly state what constitutes performance in each case.
2. If, at termination of such stipulated period of time performance as required has not occurred, the Planning Commission may, within reasonable time thereafter, publish notice and conduct a public hearing for purposes of determining whether or not a change in zoning to a more restrictive district would, at that time, be in the public interest. The owner of the property in question shall be notified by registered mail of the proposed hearing not less than 20 days prior to the date of the hearing. Other notification and postings as required in this section shall be performed by the city and all proceedings shall be the same as for other rezoning actions.
3. It shall be the purpose of this hearing to hear the owner and other interested parties and make a determination as to which of the following actions would be recommended to the governing body:
 - a. Extend the time of performance to a specified date

- b. Remove the time of performance section from that rezoning ordinance
 - c. Rezone the land to another specific district.
- 4. After the hearing the Planning Commission shall forward its recommendations to the governing body. The governing body will then act to approve or disapprove the recommended action, consistent with these regulations.

Section 25-7 Conditional Use Permits

- 25-7.01 The application, conceptual plan, notice, public hearing, and action procedures set forth in this section shall be applicable to applications for Conditional Use Permits.
- 25-7.02 Upon approval of a Conditional Use Permit, the Zoning District Map shall be changed in the manner outlined in these regulations.

Section 25-8 Limitation on Reapplication for Amendments

- 25-8.01 Whenever an application has been made under these regulations and the application has been denied by the governing body or withdrawn after it has been advertised for public hearing, such application, or one substantially similar shall not be reconsidered for the same property sooner than one (1) year after the previous denial or from the date the application was withdrawn.
- 25-8.02 The Planning Commission may waive the limitation in this section for good cause if there is a substantial change in the original application. All requests for an exemption from this section shall be submitted to the Planning Commission twenty (20) days prior to a regularly scheduled meeting of the Planning Commission and shall be included on the agenda for that meeting as an agenda item. If the Planning Commission determines that the application constitutes a substantial change from the original application the item will be advertised and public hearing will be held at the next regularly scheduled meeting of the Planning Commission.

Section 25-9 Limitation on Land Use

- 25-9.01 The Planning Commission and the Governing Body may in the process of rezoning land, limit the use of the land to one specific use permitted in the district to which the land is rezoned.

SECTION 26

BOARD OF ZONING APPEALS

Sections:

- 26-1 Organization
- 26-2 Powers
- 26-3 Hearings
- 26-4 Appeals
- 26-5 Exceptions
- 26-6 Variances
- 26-7 Determination of Board of Zoning Appeals

Section 26-1 Organization

- 26-1.01 The Board of Zoning Appeals is created and established in accordance with the provisions of K.S.A. 12-741 et. seq. and amendments thereof.
- 26-1.02 Term: Of the members first appointed, one shall serve for one (1) year, two shall serve for two (2) years, and two shall serve for three (3) years. Thereafter, members shall serve for terms of three (3) years each. Vacancies shall be filled by appointment for the unexpired term.
- 26-1.03 Compensation: All members of the Board of Zoning Appeals shall serve without compensation.
- 26-1.04 Officers: The Board of Zoning Appeals shall annually elect one (1) of its members as chairman, one (1) of its members as vice-chairman, and appoint a secretary who need not be a member of the Board.
- 26-1.05 Rules of Procedure: The Board of Zoning Appeals shall adopt rules in accordance with the provisions of the ordinance creating and establishing such board.
- 26-1.06 Meetings: Meetings of the Board of Zoning Appeals shall be held at the call of the chairman and at such other times as said board may determine. The Board of Zoning Appeals shall keep minutes of its

proceedings, showing evidence presented, findings of fact, decisions of said board, and the vote upon each question.

- 26-1.07 Records: Records of all official actions of the Board of Zoning Appeals shall be kept in the Office of the City Clerk and shall be open to public inspection during reasonable office hours.

Section 26-2 Powers

- 26-2.01 The Board of Zoning Appeals shall have the following powers:
1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of these zoning regulations.
 2. To grant exceptions to these zoning regulations on the basis and in the manner hereinafter provided.
 3. To grant variances to these zoning regulations on the basis and in the manner hereinafter provided.

Section 26-3 Hearings

- 26-3.01 The Board of Zoning Appeals shall hear an appeal or any other matter referred to it within the time period as provided by the rules of the Board.
- 26-3.02 Notice of the time, place and subject of such hearing shall be published once in the official city newspaper at least twenty (20) days prior to the date fixed for hearing.
- 26-3.03 A copy of said notice shall be mailed by the Secretary of the Board of Zoning Appeals to each party in interest.

Section 26-4 Appeals

- 26-4.01 Appeals to the Board of Zoning Appeals may be taken by any person aggrieved, or by any officer of the city or any governmental agency or body affected by any decision of the officer administering the provisions of these zoning regulations.

- 26-4.02 Such appeal shall be taken within the time as provided by the rules of the Board of Zoning Appeals, by filing a notice of appeal specifying the grounds thereof and the payment of the fee required therefore.
- 26-4.03 The officer from whom the appeal is taken, when notified by the Board of Zoning Appeals or its agent, shall forthwith transmit to said board all the papers constituting a record upon which the action appealed from was taken.

Section 26-5 Exceptions

- 26-5.01 The Board of Zoning Appeals may grant exceptions to the provisions of these zoning regulations in those instances where said board is specifically authorized to grant such exceptions and only under the terms of such regulations.
- 26-5.02 In no event shall exceptions to the provisions of these zoning regulations be granted where the use or exception contemplated is not specifically listed as an exception in such regulations. Further, under no conditions shall the Board of Zoning Appeals have the power to grant an exception where conditions of this exception, as established in these zoning regulations by the Governing Body, are not found to be present.

Section 26-6 Variances

- 26-6.01 In specific cases, the Board of Zoning Appeals may grant a variance from the specific terms of these zoning regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the same will, in an individual case, result in unnecessary hardship, and provided that the spirit of these zoning regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance, however, shall not permit any use not permitted by these zoning regulations in such district.
- 26-6.02 A request for a variance may be granted in such case, upon a finding of the Board of Zoning Appeals that all of the following conditions have been met:

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district; and is not created by an action or actions of the property owner or the applicant.
2. That the granting of the variance will not adversely affect the rights of adjacent property owners or residents;
3. That the strict application of the provisions of these zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of these zoning regulations.

26-6.03 Variance from the Airport Zoning Regulations: As specified in Section 14 of these zoning regulations (Airport Zoning Regulations) and as authorized by K.S.A. 3-707(2), the authority to grant variances from the Airport Zoning Regulations herein lies with the Governing Body.

Section 26-7 Determination of Board of Zoning Appeals

- 26-7.01 In exercising the foregoing powers, the Board of Zoning Appeals, in conformity with the provisions of this section may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.
- 26-7.02 Any person, official or governmental agency dissatisfied with any order or determination of the Board of Zoning Appeals may bring an action in the district court to determine the reasonableness of any such order or determination. Such appeal shall be filed within thirty (30) days of the final decision of the board.

SECTION 27

MISCELLANEOUS

Sections:

- 27-1 Interpretation and Conflict
- 27-2 Validity
- 27-3 Repeal of Existing Regulations and Accrued Rights and Liabilities
- 27-4 Penalties for Violations; Actions for Enforcement
- 27-5 Effective Date

Section 27-1 Interpretation and Conflict

- 27-1.01 In interpreting and applying the provisions of these zoning regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by these zoning regulations to interfere with, or abrogate or annul any easements, covenants, or other agreement between parties; provided, however, that where these zoning regulations impose a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other rules, regulations, or by easements, covenants, or agreements, the provision of these zoning regulations shall govern.

Section 27-2 Validity

- 27-2.01 Should any section, clause or provision of these regulations be declared invalid or unconstitutional by any court of competent jurisdiction, the same shall not affect the validity of these regulations as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

Section 27-3 Repeal of Existing Regulations and Accrued Rights and Liabilities

- 27-3.01 The adoption of these regulations repeals the existing zoning regulations of Marion.

- 27-3.02 Despite the repeal of regulations existing at the time of adoption of these regulations and provided in Section 26-3.01 herein, nothing contained in these regulations shall affect any rights accrued or liabilities incurred under said previously existing regulations.

Section 27-4 Penalties for Violations; Actions for Enforcement

- 27-4.01 Any violation of any provision of these zoning regulations shall be deemed to be a misdemeanor and punishable by a fine of not to exceed two hundred dollars (\$200) for each offense, and each day's violation shall constitute a separate offense.
- 27-4.02 The Governing Body or any person, the value or use of whose property is or may be affected by such violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these zoning regulations, and to abate nuisances maintained in violation thereof.
- 27-4.03 Whenever any building or structure is or is proposed to be erected, constructed, altered, converted or maintained or any building, structure or land is or is proposed to be, used in violation of any zoning regulations, the Governing Body, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion maintenance or use to correct or abate such violation or to prevent the occupancy of such building or land.

Section 27-5 Effective Date

- 27-5.01 These zoning regulations shall become and are in full force and effect after publication once in the official city newspaper.

Section 28

Renewable Energy Systems and Facilities Development Standards

Sections:

- 28-1 Accessory Renewable Energy Systems
- 28-2 Commercial Renewable Energy Facilities
- 28-3 Solar Facilities
- 28-4 Wind Facilities

Section 28-1 Accessory Renewable Energy Systems

- 28-1.01 The following planning and zoning standards shall apply to accessory renewable energy systems, defined as those designed to supply a total of not more than 125% of the calculated energy demand for all legally established on-site uses. Accessory renewable energy systems include attached wind systems and those not exceeding forty (40) feet in height relative to the ground level; solar photovoltaic systems; low-temperature geothermal heating systems; geothermal heat pump systems. Accessory systems do not include systems designed or used primarily to supply off-site energy needs.
1. Systems shall be sited behind natural topography or vegetation when feasible.
 2. In the agricultural zoning districts, an accessory renewable energy system shall be sited to minimize any loss of farmlands.
 3. Accessory renewable energy systems shall be sited to maintain natural grades and shall use existing roads for access. Grading and/or construction of new roads shall be allowed only where necessary to provide the system in proximity to the energy use or transmission and distribution system, and that an alternate location on the subject site is less suitable for environmental or visual reasons.
 4. Any batteries used in the energy production process must be situated inside a spill containment apparatus.

5. The operator shall remove components of the facility when it becomes functionally obsolete or is no longer in use, and shall begin restoration and removal of all equipment, structures, footings/foundations, signs, fencing, and access roads within ninety (90) days from the date the facility ceases operation, and complete restoration to original condition prior to erection, within one (1) year.

Section 28-2 Commercial Renewable Energy Facilities

28-2.01 The following siting criteria and development standards apply to all commercial (non-accessory) renewable energy facilities which provide energy for off-site use, unless otherwise exempt, in addition to the applicable special use standards for the specific type of facility:

1. Siting Criteria

- (a) Renewable energy facilities shall be sited to minimize view impacts from public roads and adjacent residential areas, and shall require design review by the Zoning Administrator. Any lighting shall be fully shielded, downward casting and not wash out onto structures, other properties or the night sky. The operator shall maintain the facility, including all required landscaping, in compliance with the approved design plans.
- (b) Renewable energy facilities shall not be located within the approach zone for any public use airport. Renewable energy facilities shall be sited and operated to avoid hazards to air navigation; sites located within a public use airport traffic zone will be required to provide an analysis documenting compliance with this standard. The owner/operator of a facility approved within a public airport's traffic zone shall be required to record an aviation easement and may be required to mark or light the facility for air traffic safety. The operator shall notify the FAA and Kansas Department of Transportation of any structures in an airport traffic zone that are more than 200 feet above the ground elevation or that exceed airport imaginary surfaces as defined in Federal Aviation Regulations Part 77. If located on airport lands, the facility must meet the building setback approved on the Airport Layout Plan.

- (c) Renewable energy facilities shall be sited to avoid or minimize impacts to sensitive biotic habitats including woodlands, wetlands, streams, and habitat connectivity.
- (d) Renewable energy facilities shall be sited to avoid or mitigate impacts to significant cultural and historic resources.
- (e) Where a commercial renewable energy facility is sited within an Agricultural Zone, the primary use of the parcel shall remain in agriculture. The total site area for all compatible uses including renewable energy facilities shall not be greater than 15 percent of the parcel or 5 acres, whichever is less, unless determined by the Planning and Zoning Commission that a larger site area is consistent with the principles of compatibility.
- (f) For renewable energy facilities interconnected to transmission lines, the location of new transmission lines, poles, and utility substations shall be identified on the site plans. If high voltage or private transmission lines are proposed, they shall be considered as part of the use permit process for the renewable energy facility. No building permit for a renewable energy facility shall be issued until 1) evidence has been provided to the city; 2) the Planning Commission has reviewed and made a recommendation regarding the proposed transmission line route; and, 3) the State of Kansas has approved the location of any new utility-owned transmission lines.
- (g) Renewable energy facilities shall be sited to maintain natural grades and use existing roads for access to the extent practical. Construction of new roads shall be avoided as much as possible. Following use of temporary access roads, construction staging areas, or field office sites used during construction, all natural grades shall be restored and re-vegetated. The operator shall maintain an all-weather access road for maintenance and emergency vehicles.

2. Development Standards.

- a. The operator must have storm water and an erosion and sediment control plan approved prior to beginning grading or construction.

The plan must include best management practices for erosion control during and after construction and permanent drainage and erosion control measures to prevent damage to local roads or adjacent areas and to minimize sediment run-off into waterways.

- b. The operator must implement a Fire Prevention Plan for construction and ongoing operations approved by the City Fire chief. The plan shall include, but not be limited to: emergency vehicle access and turn-around at the facility site(s), and addressing.
- c. Renewable energy facilities shall be operated under a manageable noise decibel.
- d. The site area for a renewable energy facility must be fenced to prevent unauthorized access and provide adequate signage. Wildlife friendly fencing shall be used in rural areas. If needed, security lighting shall be motion censored. Access gates and equipment cabinets must be locked at all times.
- e. Temporary signs no smaller than four (4) feet by eight (8) feet describing the project, and providing contact information for the contractor and operator shall be placed during construction and must be removed prior to final inspection and operation. Signs for public or employee safety are required. No more than two signs relating the address and name of the operator/facility may be placed on-site, subject to design review by the Zoning Administrator. Outdoor displays, billboards or advertising signs of any kind either on- or off-site are prohibited unless approved as a part of the use permit.
- f. A decommissioning plan shall be required as part of any use permit for a renewable energy facility and must include the following:
 - i. Removal of all above ground and underground equipment, structures not identified for re-use, fencing and foundations to a depth of three feet below grade. Underground equipment, structures and foundations located at least three

feet below grade that do not constitute a hazard or interfere with the use of the land do not need to be removed.

- ii. Removal of graveled areas and access roads and placement of topsoil. Restoration of the surface grade and placement of topsoil after removal of all structures and equipment including grading, re-vegetation and erosion control plans to return the site to an appropriate end use.
- iii. Re-vegetation of disturbed areas with native seed mixes and plant species suitable to the area.
- iv. The timeframe for completion of removal and restoration activities.
- v. An engineer's cost estimate for all aspects of the restoration plan.
- vi. An agreement signed by the owner and operator that they take full responsibility for decommissioning and reclaiming the site in accordance with the Decommissioning Plan and Use Permit approval upon cessation of use.
- vii. A plan to comply with all state and federal requirements for reuse, recycling or disposal of potentially hazardous waste.
- viii. The facility operator is required to notify the city immediately upon termination or cessation of use or abandonment of the operation. The operator shall remove components of the facility when it becomes functionally obsolete or is no longer in use. The operator shall begin restoration and removal of all equipment, structures, footings/foundations, signs, fencing, and access roads within

ninety (90) days from the date the facility ceases operation, and complete restoration within one (1) year.

- g. A renewable energy facility that ceases to produce energy and/or useful heat on a continuous basis for six (6) months shall be determined abandoned in compliance with the following procedures. Facilities determined by the City to be unsafe and facilities erected in violation of this section shall also be considered abandoned and shall be subject to code enforcement action.
 - i. The determination of abandonment shall be made by the Zoning Administrator. The Zoning Administrator shall have the right to request documentation and/or affidavits from the facility owner/operator regarding the use of the facility, and shall make a determination as to the date of abandonment or the date on which other violation(s) occurred. The Zoning Administrator's decision is appealable
 - ii. Upon a determination of abandonment or other violation(s), the City shall send a notice to the owner and operator, indicating that the responsible party shall remove the facility and all associated structures, and begin restoration of the site to its approximate original condition within ninety (90) days of notice by the City, unless the City determines that the facilities must be removed in a shorter period to protect public safety or an alternative to resolving the violation is agreed upon. All restoration work shall be completed within one (1) year.
 - iii. In the event that the responsible parties have failed to remove and/or restore the facility site or otherwise resolve the violation(s) within the specified time period, and the appeals have been exhausted, the City may remove the facility and restore the site and charge the property owner all costs incurred. The City may thereafter initiate judicial proceedings or take any other steps authorized by law

against the responsible parties to recover costs associated with the removal of structures determined to be a public hazard.

Section 28-3 Solar Facilities

28-3.01 The following special use standards apply to all minor solar energy systems and facilities designed to provide energy for on- and off-site use, that are incidental to the primary use of the property.

1. Solar facilities shall cover less than 15% of the parcel and no more than half an acre.
2. The facility shall meet the minimum yard setbacks for primary structures of the zone.
3. Facilities mounted on a structure may exceed the height limit of the zone by no more than 2 feet. Ground -mounted facilities shall not exceed district height regulations.
4. Ground mounted facilities shall not be located in the following areas:
 - a. over a septic system, identified reserve area, or city easement
 - b. in a floodway as designated by FEMA
 - c. in an approach zone of a public use airport.
 - d. Concentrated reflections or glare shall not be directed at occupied structures, recreation areas, roads, highways or airport flight landing or takeoff areas.
5. The minimum angle of solar panels shall be twenty five (25) degrees or greater in relation to the horizon.
6. The support structure shall be structurally sound enough to withstand substantial wind conditions

- a. If mounted to an existing structure, the support structure of the solar panels shall not exceed the resistance to wind of the structure to which it is attached.

Section 28-4 Wind Facilities

28-4.01 This section establishes standards for the siting and operation of wind energy systems and facilities. This section is intended to protect the scenic and natural resources of the city and the health, safety and welfare of its residents to the extent permitted by law.

28-4.03 The following standards shall apply to wind energy systems and facilities, in addition to the other regulations herein.

1. The system's tower shall be set back a minimum distance equal to the height of the tower from all parcel lines and a minimum distance of ten (10) feet from any other structure on the parcel on which the system is located. On parcels of ten (10) acres or more, the parcel line setback may be reduced if the applicant demonstrates that:

- a.) Because of topography, strict adherence to the setback requirement would result in greater visibility of the system's tower than a reduced setback, and

- b.) The system's tower is set back a minimum distance equal to the height of the tower from any structure on adjoining parcels;

2. The system's tower shall not exceed a maximum height allowed by the base zoning district unless a conditional use permit is obtained;

3. The system's tower shall be set back from and not project above the top of any visually prominent ridgeline;

5. The system's tower shall be located and screened by landforms, natural vegetation or other means to minimize visual impacts on neighboring residences and public roads, public trails and other public areas;

6. The system's tower and supporting structures shall be painted a single, neutral, non-reflective, non-glossy (for example, earth-tones, gray, black) that, to the extent possible, visually blends the system with the surrounding natural and built environments;
7. The system shall comply with all applicable Federal Aviation Administration requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.
8. The system shall be equipped with manual and automatic over speed controls;
9. The system's tower-climbing apparatus and blade tips shall be no closer than fifteen (15) feet from ground level unless the system is enclosed by a six (6)-foot high fence;
10. The system's utility lines shall be underground where economically practical;
11. Where vegetation is removed in the construction of the system or an access road to the system, landscaping shall be planted to minimize visual impacts, avoid erosion and maintain stability of soils;
12. The system shall be operated such that no electro-magnetic interference is caused;
13. No more than one (1) accessory system shall be allowed on a lot unless by written permission from the Zoning Administrator;
14. Decibel levels generated by the system shall not be disruptive, except during short-term events including utility outages and severe wind storms;
15. Brand names or advertising associated with the system or the system's installation shall not be visible from any public place;
16. Signs warning of high voltage electricity shall be posted on stationary portions of the system's tower and any supporting

structures, and at gated entry points to the site at a height of five (5) feet above the ground;

17. Upon abandonment or termination of the system's use, the entire facility, including the system's tower, turbine, supporting structures and all equipment, shall be removed and the site shall be restored to its pre-construction condition or other authorized use;

Section 29

Storage Containers

Sections:

- 29-1 Purpose
- 29-2 Definitions
- 29-3 Storage on Residential Use Properties
- 29-4 Cargo Containers – Permitted Locations
- 29-5 Permit Required - Regulations

Section 29-1 Purpose

- 29-1.01 The purpose of this chapter is to regulate the use of storage containers within the city, which regulations are adopted to protect the public health, safety, welfare, and promote positive aesthetics in the city.

Section 29-2 Definitions

- 29-2.01 Accessory Building: See section 2-1.01
- 29-2.02 Cargo Container: A storage container is an industrial, reusable metal vessel that originally was designed for or used in the packing, shipping, movement or transportation of goods by commercial trucks, trains, and/or ships.
- 29-2.03 For purposes of this chapter, cargo containers, railroad cars, truck vans, converted mobile homes, trailers, recreational vehicles, bus bodies, vehicles, and similar prefabricated items and structures originally built for purposes other than the storage of goods and materials are not accessory buildings.

Section 29-3 Storage on Residential Use Properties

- 29-3.01 Only accessory buildings defined in Section 2-1.01 shall be permitted as accessory storage buildings on any property the primary use of which is residential. Cargo containers, railroad cars, truck vans, converted mobile homes, trailers, recreational vehicles, bus bodies, vehicles, and similar prefabricated items

and structures originally built for purposes other than the storage of goods and materials are not permitted to be used as accessory storage buildings on properties the primary use of which is residential.

- 29-3.02 Notwithstanding the provisions set forth in Section 29-3.01, the temporary placement of transport containers and/or portable site storage containers on properties the primary use of which is residential, for the limited purpose of loading and unloading household contents shall be permitted for a period of time not exceeding 30 days in any one calendar year.
- 29-3.03 Notwithstanding the provisions set forth in Section 29-3.01, licensed and bonded contractors may use transport containers and/or portable site storage containers and/or cargo containers for the temporary location of an office, equipment, and/or materials storage structure during construction which is taking place on the property where they are placed if they are authorized by the Building Inspector.

Section 29-4 Cargo Containers - Permitted Locations

- 29-4.01 Agriculture, Limited Commercial, General Commercial, Light Industrial, Heavy Industrial, and Airport are all permitted location zoning districts.
- 29-4.02 The placement of cargo containers is further limited to properties in the above-identified zones only if the property upon which the cargo container is proposed to be located is not primarily used for residential purposes.

Section 29-5 Permit Required - Regulations

- 29-5.01 A building permit is required prior to placement of a cargo container ensuring effective anchoring/foundation according to the most current edition of the International Building Code. The application shall show the proposed cargo container is accessory to the permitted use of the property and meets the placement criteria for the zone.
- 29-5.02 Regulations

1. Cargo containers shall meet the setback requirements of the underlying zone.
2. Cargo containers shall not be stacked above the height of one single container.
3. Cargo containers shall be kept clean of all graffiti.
4. Cargo containers shall be kept rust free and painted.
5. Cargo containers shall not be used for living quarters.
6. Cargo containers shall be in an approved designated area and on the same property as the principal use and be included in the calculation of overall lot coverage.
7. Cargo containers shall not occupy required off-street parking, loading or landscaping areas.
8. Materials stored within cargo containers are subject to review and approval by the Building Inspector and Zoning Administrator.
9. Limited to one per parcel, unless otherwise approved by the Building Inspector and Zoning Administrator.