



# City of Arkansas City

## PLANNING COMMISSION MEETING

### AGENDA

---

Tuesday, August 08, 2023 at 5:30 PM – 400 W Madison Ave, Arkansas City, KS

---

GoTo Meeting: <https://meet.goto.com/632522781> or call +1 (408) 650-3123 Access Code: 632-522-781

#### Call to Order

#### Roll Call:

Dr. Tyson Blatchford  
 Kyle Lewis

Lloyd Colston  
 Cody Richardson

Brandon Jellings  
 Dotty Smith

Ian Kuhn  
 Tom Wheatley

#### Public Comments

*Persons who wish to address the Planning Commission regarding items not on the agenda. Speakers will be limited to three (3) minutes. Any presentation is for information purposes only. No action will be taken.*

#### Consent Agenda

1. Meeting Minutes, **July 11, 2023 meeting.**
- 

#### Consideration

2. Zoning Regulations Amendments discussion
- 
- 
- 
- 

#### Other Items

---

---

---

---

#### Adjournment

---



# City of Arkansas City

## PLANNING COMMISSION MEETING

### MINUTES

Tuesday, July 11, 2023 at 5:30 PM – 400 W Madison Ave, Arkansas City, KS

Regular scheduled meeting was held on Tuesday, July 11, 2023. Ian Kuhn called the meeting to order at 5:31 PM.

#### Roll Call:

Dr. Tyson Blatchford  
 Kyle Lewis

Lloyd Colston  
 Cody Richardson

Brandon Jellings  
 Dotty Smith

Ian Kuhn  
 Tom Wheatley

#### Public Comments

There were no public comments.

#### Consent Agenda

1. Meeting Minutes, June 13, 2023 meeting.

Lloyd Colston made the motion to approve the meeting minutes and Tom Wheatley made the second motion.

Motion was carried.

#### Consideration

2. Zoning Regulations Amendments discussion: Josh proposed to the board to split this up into two meetings.

Discussion this evening would include the first eighteen chapters. The article changes are minor but there is

substance to some of the article changes. Josh went on to discuss the articles with the board. The board

decided to stop the meeting after seventeen chapters and discuss the rest of the chapters at the next meeting.

#### Other Items: None

**Adjournment:** Cody Richardson made the motion to adjourn the meeting at 6:53 PM and Brandon Jellings made the second. Voice vote carried the motion.



# Planning Commission Agenda Item

**Meeting Date:** 8/8/23  
**From:** Josh White, Principal Planner  
**Item:** Zoning Regulations Amendments discussion

**Purpose:** Zoning Regulations Amendments discussion

**Background:**

The recently completed Comprehensive Plan directs staff to amend the Subdivision and Zoning Regulations. Staff has begun the process of proposing amendments to the regulations both in response to the Comprehensive Plan directives and to modify some items based on practice and trends as well. This discussion is likely to take place over several meetings so as not to have too many items to discuss at one meeting.

The proposed amendments and summary of the changes is included in this packet. Last month we discussed the proposed changes to the Zoning Regulations through Article 17. This month we'll pick up with zoning regulations Article 18-30 as well as the proposed changes to the Zoning Map.

Staff recommends that all proposed amendments to both sets of regulations should hold a public hearing conducted at the same meeting sometime later this summer or fall to help streamline the process. This could change based on direction from the Planning Commission. A public hearing could likely be held in September or possibly October based on the discussion and other public hearings that are a part of any of these meetings. That timeline would mean that the regulations could realistically go into effect before the end of the year.

**Action:**

Discuss the proposed amendments

**Attachments:**

**Proposed amendments for Articles 18-30, Summary of changes**

## Proposed Changes to Zoning Regulations 2023

### Article 1: Title and Purpose

No Changes

### Article 2: Rules, Interpretations and Definitions

#### Section 2-301: Changes to Definitions

**Fence.** A free-standing structure intended to provide privacy, protection or confinement or to redirect a person's direction of travel. ~~A fence may be constructed of but not limited to: wire, chain links, wood, stone or any standard building materials. A fence is not a structure unless it exceeds 80% visual blockage.~~

**Permanent wall foundation.** An exterior wall designed to resist frost action ~~to a depth of thirty (30) inches below grade.~~ The wall must be continuous around the perimeter of the structure but may have such openings as required by any adopted Building Code of the City of Arkansas City. The wall must be designed as a footing and foundation wall and constructed in accordance with any applicable City-adopted building code.

~~**Short term rental.** A dwelling unit, portion of a dwelling unit, or sleeping unit, which is within a single family dwelling, and which is rented or leased for transient or temporary occupancy, for no more than 30 consecutive days per renter.~~

~~**Sight distances.** The area within which no sign, fence, wall, planting or other obstruction to vision shall be constructed, placed or maintained.~~

- ~~a. No such obstruction above three feet (3') above the established street grade shall occur within the area of a corner lot between the lines of the intersecting streets and a straight line connecting them at points twenty feet (20') distant from the intersection of the lot lines.~~
- ~~b. No wall or fence more than four feet (4') in height may project into or enclose any required front yard. Walls or fences of up to seven feet (7') in height may project into or enclose other required yards.~~
- ~~e. An area comprising a triangle with legs of five feet (5') measured from the curbline shall be free from any visual obstruction at all points where alleys intersect with public streets.~~

### Article 3: Districts and Boundaries

**3-101.** In order to classify, regulate and restrict the locations of trades, industries, and the location of buildings designed for specified uses; to regulate and limit the height and bulk of buildings; to regulate and limit the intensity of the use of lots; to regulate and determine the area of yards and other open spaces surrounding buildings; and to regulate and restrict the density of population, the City is hereby divided into ~~sixteen (16)~~ districts and ~~five (5)~~ overlay districts which are designated as follows:

**Commented [JW1]:** Fences are better defined in Section 20-9 including acceptable fencing materials. The last sentence here is problematic. It does not match practice and would exclude chain-link fences from permitting.

**Commented [JW2]:** Additional information from the International Residential Code

**Commented [JW3]:** The comprehensive plan mentioned we needed some regulations for these uses. This new definition is necessary. Table 6-1 in Article 6 will be updated to include this new use.

**Commented [JW4]:** This is redundant with Section 20-4 Corner Visibility. To avoid conflicts between the two, it is best to remove this definition.

**Commented [JW5]:** Rather than having to keep changing these numbers, let's just remove them and change only the districts below.

- |  |  |
|--|--|
| <b>A:</b> ..... Agricultural District                  | <b>I-1:</b> .....Light Industrial District               |
| <b>R-1:</b> ..... Low Density Residential District     | <b>I-2:</b> .....Heavy Industrial District               |
| <b>R-2:</b> ..... Medium Density Residential District  | <b>P:</b> .....Public Use District                       |
| <b>R-3:</b> ..... High Density Residential District    | <b>MU:</b> .....Mixed Use District                       |
| <del><b>CS:</b> ..... Countryside District</del>       | <b>FP:</b> .....Floodplain Management District           |
| <b>C-1:</b> ..... Office and Service Business District | <b>C-O:</b> .....College Overlay District                |
| <b>C-2:</b> ..... Restricted Commercial District       | <b>PUD-O:</b> .Planned Unit Development Overlay District |
| <b>C-3:</b> ..... General Commercial District          | <b>HO-O:</b> ....Housing Opportunity Overlay District    |
| <b>C-4:</b> ..... Central Business District            | <b>HC-O:</b> ...Historic Conservation Overlay District   |
| <b>MHS:</b> .. Manufactured Home Subdivision           | <b>EH-O:</b> ...Elderly Housing Overlay District         |
| <b>MP:</b> ..... Manufactured Home Park District       |  |

**Commented [JW6]:** Remove this district in response to the Comprehensive Plan Section 8-5.

Article 4:Intent of Districts

**SECTION 4-5 “CS” COUNTRYSIDE DISTRICT [RESERVED FOR FUTURE USE]**

~~4-501. The intent of the CS District is to provide area to accommodate a rural residential lifestyle, with limited future residential development which will provide adequate open space even after full development. The district is intended for one family detached dwellings and limited related residential and agricultural uses.~~

**Commented [JW7]:** Remove per Comprehensive Plan Sec 8-5

Also edit the Section header to match this change.

Article 5:Agricultural District (A)

No Changes

Article 6:Residential Zoned Districts (R-1:R-3)

**TABLE 6-1  
Residential Zoned Districts  
Permitted and Conditional Uses**

**P** = Indicates Permitted Uses      **C** = Conditional Uses

USE		R-1	R-2	R-3
1.	Any public building or land use by any department of the City, county, state or federal government.	C	C	C
2.	Bed and breakfast inns.			P (1) / C
3.	Churches and similar places of worship	C	P	P
4.	Community recreation building owned and operated by a public agency.		P	P
5.	Day care facilities: adult day care homes, childcare centers, day care homes, family day care homes, group day care homes and preschools.	P (3)	P (3)	P (3) / C (1)
6.	Dormitories for students of colleges and theological institutions.	C (3)	C (3)	C (3)

7.	Dwellings:	P	P	P			
	a. Single family (including Modular home and Residential design manufactured home).				C	P	P
	b. Two family. c. Three or more families.				C	C	P
8.	Fraternal organizations, lodges.	C	C	C			
9.	Golf courses.	P (5)	P (5)	P (5)			
10.	Group boarding homes for minors.			P (2) / C (4)			
11.	Group homes.	P (4)	P (4)	P (4)			
12.	Hospitals and related medical facilities including, but not limited to, medical, dental and health clinics.	C	C	C			
13.	Large group homes.		C (3)	P (2) / C (4)			
14.	Lodging houses.		C	P (1) / C			
15.	Nonprofit institutions of an educational, philanthropic or eleemosynary nature.			C			
16.	Nursing homes, rest homes, convalescent homes and similar facilities.		C	C			
17.	Rehabilitation houses.		C	C (5)			
18.	Safe houses.	P	P	P			
19.	Schools:						
	a. Public and private elementary schools	P	P	P			
	b. Public and private secondary schools	C	P	P			
	c. Post-secondary educational institutions	C	C	P			
<del>20.</del>	<del>Short term rentals (including Airbnb, VRBO, HomeAway, etc.).</del>	<del>C</del>	<del>C</del>	<del>P</del>			
21.	Telephone exchanges, electric substations and similar public utilities.			C			

**Commented [JW8]:** Its not all that helpful to have this added. It was originally added for clarification but looking at definitions and other sections of the regulations and we find that it is unnecessary.

**Commented [JW9]:** Added new use to accommodate short terms rentals as noted in Section 8-5 of the Comprehensive Plan. This provides greater control on where these can be placed. Conditions in R-2 may be on the length of stay, number of guests, owner occupied requirement, etc. Could make it Conditional in R-1 as well but then those conditions should really be included in the regulations.

**TABLE 6-1  
Residential Zoned Districts**

**Permitted Uses Footnotes:**

- (1) When having nine (9) or fewer sleeping rooms.
- (2) When having twenty (20) or fewer residents, including staff.
- (3) When having twelve (12) or fewer children or twelve (12) or fewer adults for whom care is provided.
- (4) When having eight (8) or fewer residents plus no more than two (2) staff.
- (5) Excluding miniature golf and pitch and putt courses and commercially operated golf driving ranges.

**Conditional Uses Footnotes:**

- (1) For facilities having thirteen (13) or more children or thirteen (13) or more adults for whom care is provided.
- (2) For facilities having more than ten (10) residents, including staff.
- (3) When having more than ten (10) residents, including staff.

- (4) When having more than twenty (20) residents, including staff.
- (5) If property contains at least 500 sq. ft. of ground lot area per occupant.

**TABLE 6-2  
MINIMUM LOT AREAS, PER DWELLING UNIT**

Use		R-1	R-2	R-3
1.	Single-family dwelling	6,000	5,600	5,600
2.	Two-family dwelling	4,000	3,000	3,000
3.	Three and four family dwelling	NA	2,000	2,000
4.	Five or more family dwelling	NA	2,000	1,500

Additional requirements:

Maximum lot coverage by principal buildings shall not exceed fifty percent (50%). The combined floor area of all accessory buildings constructed in accordance with these regulations shall not exceed twenty-five percent (25%). ~~Tiny Houses meeting the requirements of Section 20-11, shall not be required to meet these minimums. Where a lot has less area than required in Table 6-2 and was in existence as a separate legal lot prior to the effective date of these regulations, the provisions in Article 21 for nonconforming lots will govern.~~

**Commented [JW10]:** Added to note that in this situations the developer should refer to Section 20-11.

**Commented [JW11]:** This language is confusing. Regardless of status of the lot a new structure will not be allowed on a lot that is below the minimum lot size in this table except tiny houses above. Article 21 should always be the source of information in these cases as well.

**Article 7: Countryside District (CS)**

Article 7 is deleted in its entirety in response to the Comprehensive Plan Section 8-5 which called for the removal of the Countryside District. The Article is reserved for future use, so it doesn't cause the renumbering of the remaining Articles. In the future, a new district could replace this one.

**Article 8: Public Use District (P)**

No Changes

**Article 9: Commercial Zoned Districts (C-1:C-4)**

**TABLE 9-1**  
P = Indicates Permitted Uses C = Indicates Conditional Uses

USE	C-1	C-2	C-3	C-4
1. Ambulance service.			P	P
2. Amusement places, indoor.			P	P
3. Animal hospitals.			P <sup>(1)</sup>	P <sup>(1)</sup>
4. Any public building or land use by any department of the City, county, state or federal government	C	CP	CP	P
5. Artists, authors, composers, studios and galleries	P	P	P	P
6. Auditoriums, exhibition halls, fairgrounds, stadiums and similar uses.			P	P
7. Automobile and truck wash services.		P	P	C
8. Churches, similar places of worship.	P	P	P	P <sup>(2)</sup>
9. Convenience stores.		P <sup>(3)</sup>	P	P
10. Day care facilities: childcare centers, day care homes, family day care homes, group day care homes and preschools.	P	P	P	P
11. Dry cleaners-laundries, including self-service.			P	P
12. Dwellings: When dwelling unit(s) located on other than ground floor of commercial structure.	P	P	P	P
13. Electric-telephone substations and similar public utility uses.		P	P	P
14. Food catering service, lockers-storage.			P	P
15. Fraternal-civic-social organizations.	P	P	P	P

**Commented [JW12]:** This is a similar use to #13. It doesn't make sense that this use is more restricted in C-2 & C-3

**Commented [JW13]:** Better matches practice and is a compatible use in C-2.

**Commented [JW14]:** This footnote does not apply.

16.	Funeral, crematory and mortuary services		P	P	P
17.	Furniture repair, upholstery			P	P
18.	Garden supplies – nurseries, greenhouses.			P	P
19.	Golf driving ranges.			C	C
20.	Health and exercise spas, gymnasiums.	P	P	P	P
21.	Hospitals, clinics, laboratories.	P	P	P	P
22.	Hotels and motels.		C	P	P
23.	Industrial laundry and linen supply services.			C	C
24.	Kennels-boarding and breeding.			C	C
25.	Miniature golf, outdoor.		P	P	C
26.	Mini-storage, self-storage.		C(2)	C(2)	C(2)
27.	Manufactured home sales.			P	P
28.	Monument engraving and sales.			P	P
29.	Motor vehicle repair and body shops, provided all work shall be performed and all materials shall be stored within an enclosed building.		C	CP	CP
30.	Nursing homes, rest homes, convalescent homes and similar facilities.	P	P	P	P
31.	Offices: professional-business-educational-industrial-religious-philanthropic-public.	P	P	P	P
32.	Package liquor store.		C(4)	CP(4)	CP(4)
33.	Printing, including newspaper publishing.			P	P
34.	Private clubs.			P(4)	P(4)
35.	Race track and courses – vehicle and animal.			C	C
<b>USE</b>		<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>
36.	Radio and television broadcasting studios (without transmission towers).	P	P	P	P
37.	Radio or television broadcasting studios (with transmission towers).		P	P	P
38.	Radio, television or telephone transmitting station or towers, subject to further regulations set out in Article 23.		C	C	C
39.	Recreation centers.			P	P
40.	Recreational vehicles – trailers, equipment sales.			P	P
41.	Restaurants.	C	P	P	P
42.	Retail sales and rental of goods and merchandise including, but not limited to: antiques; apparel; appliances; bakeries; bicycles; books and stationery; building materials; carpet and other floor coverings; cigarettes; clocks; farm machinery and supplies; florists; food and groceries; furniture; hardware; heating, plumbing, and air conditioning equipment; jewelry; musical instruments; motor vehicles, parts and supplies; pet shops; pharmacies; photographic supplies and cameras; office equipment and supplies; and service stations.	P/ C(5)	P	P	P
43.	Retail sales of services including, but not limited to: banks, barber and beauty shops; building contractors, including air-conditioning, heating, plumbing and electrical; cleaning and repair; interior decorating; lawn care and landscaping; locksmith; message service; outdoor advertising; pet grooming; photocopying and blueprinting; and stenographic, duplicating and mailing services.	P	P	P	P

**Commented [JW15]:** Footnote reference added to further explain the requirements of placing mini-storage.

**Commented [JW16]:** Made less restrictive to match existing conditions. A condition is already imposed by the use description. Further conditions are still likely needed for C-2 though.

**Commented [JW17]:** This better matches existing conditions. Adding the restriction of (4) eliminates the need for conditional use permits for C-3 and C-4. (4) provides a condition for C-2 but others may be needed.



44.	Schools:				
	a. Public and private elementary schools	C	C	C	C
	b. Public and private secondary schools	C	C	C	C
	c. Postsecondary educational institutions	P	P	P	P
	d. Business and training/vocational schools	C	C	P	P
45.	Storage or warehousing, except for products of a highly explosive, combustible or volatile nature.			C	C
46.	Taverns, bars and drinking establishments.			P <sup>(4)</sup>	C <sup>(4)</sup>
47.	Theaters, indoor.		P	P	P
48.	Theaters, outdoor.			C	C
49.	Travel trailer parks.			C <sup>(6)</sup>	
50.	Wholesale establishment.			C	C

**Permitted and conditional uses footnotes:**

- (1) Providing all services, runs and pens are within an enclosed building.
- (2) ~~Parsonages and similar uses when located in the C-4 District must comply with the same floor area regulations as set out in Item 12 (Dwellings) of Table 9-1. Subject to requirements set out in Section 9-602.~~
- (3) Including the self-service dispensing of gasoline and related petroleum products, providing there is no motor vehicle repair or service.
- (4) Provided not located within 200 feet of: a church, a school or a hospital.
- (5) If display and/or sales area exceeds 2,000 sq. ft., regardless of number of stories.
- (6) Subject to requirements set out in Section 9-11.

**Commented [JW18]:** The footnote related to parsonages does not apply in our regulations. The new footnote for mini-storage/self-storage was put in its place.

**TABLE 9-2**

District	Front Yard	Side Yard	Rear Yard(1)
C-1	25 ft.	5 ft. – 1 or 2 stories 8ft. – 3 stories	25 ft.
C-2	25 ft.	10 ft. where property adjoins any residential-zoned district. In all other cases – 0.	10 ft. where property adjoins any residential-zoned district.
C-3	10 ft.	10 ft. where property adjoins any residential-zoned district. In all other cases – 0.	10 ft. where property adjoins any residential-zoned district.
<del>C-4</del>	<del>0</del>	<del>0</del>	<del>0</del>

(1) There shall be a thirty (30) foot rear yard for structures of three (3) stories or more in all zones.

**Commented [JW19]:** Due to footnote, this table for C-4 conflicts with Sec 10-402. Since C-4 has its own Article anyway, just remove.

**Section 9-601:**

- e. Rooftop equipment shall be screened from view from the ground near the building with vertical extensions of the building walls or with parapets or other architectural design features of the same materials used on the wall of the building. Where the topography permits, it is desirable to screen such equipment from adjacent property, but it is not the intent of this requirement to increase the height of the screening significantly above that of the equipment to screen it from view from tall buildings or from higher ground. Raised exterior walls or screen walls should be designed to enclose groups of equipment.
- f. The form and proportion of building should be consistent or compatible with the scale, form and proportion of existing development in the immediate area.

**Commented [JW20]:** Adapted from the former Subdivision Regulations Section 13-701 paragraph a.

- g. The rhythm of structural mass to voids, such as windows and glass doors, of a front facade should relate favorably to the rhythms established in adjacent buildings.
- h. Overly long horizontal facades (walls) should be articulated with variations in the building plane and parapet height, materials and colors, entrance canopies, landscaping and other design or site plan features. Parking lots along the facade can also relieve horizontally through the use of landscaped fingers and island containing trees and shrubs.
- i. Architectural design should create visual interest through the use of different textures, complementary colors, shadow lines and contrasting shapes. The use of walls in a single color, with little detailing or completely bland, is discouraged.
- j. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest.
- k. Careful consideration of durable materials, proportions, and shapes, emphasizing the importance of roofs as integral and embracing elements of the over-all design, is encouraged.
- l. Use of masonry materials (face brick, stucco, stone) is encouraged. The use of aluminum siding, metal ribbed panels, and extensive mirrored glass surfaces is discouraged. Evaluation of building materials shall be based on the quality of its design and relationship and compatibility to building materials in the immediate neighborhood. Corrugated metal facades should be complemented with abundant use of masonry, whether brick, stone, stucco or split-face block, especially along perimeter streets. Architectural metal panels may be an acceptable substitute for masonry. Appropriate landscaping can be used to complement and enhance a building's design, color and material.
- m. Architectural treatments (e.g., building material, colors, facade design, roof lines, screening) shall be consistent and compatible on all sides. Treatment that is uniform on all sides will be deemed to meet the requirements of this principle. Adjacent land uses, visibility from public streets, use of screening devices (walls, fences, berms, landscaping) are criteria to be considered when varying this treatment.

**Commented [JW21]:** Adapted from the former Subdivision Regulations Section 13-701 paragraphs c-j

#### Section 9-602: New section

**9-602.** Mini-storage facilities shall be developed in accordance with the following minimum standards:

- a. Off street parking shall be provided as follows:
  - 1. Parking shall be provided by parking/driving lanes adjacent to the buildings. These lanes shall be at least twenty feet (20') wide for one-way access lanes and at least twenty-five feet (25') wide for two-way access lanes.
  - 2. One parking space for every one hundred fifty (150) storage cubicles shall be located adjacent to the leasing office. A minimum of three (3) such spaces shall be required.
  - 3. Required parking spaces may not be rented as or used for vehicle storage, unless identified on the site plan or development plan.
- b. There shall be landscaped screening and fencing around the perimeter of the project. The fencing shall be a minimum of six feet (6') in height. When a development borders an arterial street, or adjoining residential or commercial development, the fence shall be constructed of decorative material approved by the Zoning Administrator along those sides. Chain link fencing may be used on sides that adjoin other industrial property of similar or greater intensity, as approved by the Zoning Administrator.

**Commented [JW22]:** Adapted from the former Subdivision Regulations Section 13-702

- c. The buildings shall be architecturally compatible with the existing neighborhood. To that end, newly constructed mini-storage units either shall (a) install a screen to shield door openings from residentially zoned property and public right-of-way, or (b) face door openings away from any residentially zoned property or public right-of-way.

Table 9-1 will also have a footnote that directs the reader to Section 9-602 for Mini Storage or Mini Warehouses

Article 10:Central Business District (C-4)

**10-301.** ~~Other than for dwelling uses, as set out in Section 22-5 of these regulations, n~~ No off-street parking spaces shall be required of uses located in the C-4 District.

**Commented [JW23]:** The first part of this sentence conflicts with Section 22-201 and could be seen as a deterrent to developing housing in the district. There appears to be adequate public parking in the C-4 district as well as street parking on Summit Street.

Articles 11-14:MHS, EH-O, MP and HO-O Districts

No Changes

Article 15:Industrial Districts (I-1 and I-2)

**TABLE 15-1**

**Industrial Zoned Districts Permitted and Conditional Uses**

P = Indicates Permitted Uses      C = Indicates Conditional Uses

USE		I-1	I-2
1.	Agricultural.	P	P
2.	Airplane hangars.	P	<del>P</del>
3.	Animal hospitals, veterinarian clinics, and kennels.	P	P
4.	Automobile and truck wrecking or salvage yards, junk yards and scrap processing yards.		C
5.	Bottling works.	P	P
6.	Building material sales including lumber yards (except for ready-mix concrete and similar uses which emit dust, odor and smoke.)	P	<del>P</del>
7.	Car and truck wash establishments	P	<del>P</del>
8.	Carpenter, cabinet, plumbing or sheet metal shops.	P	P
9.	Contractor's office and equipment storage yard.	P	P
10.	Dry cleaning and/or laundry plants.	P	P
11.	Farm implement sales and services.	P	<del>P</del>
12.	Feed and seed stores, grain elevators.	C	P
USE		I-1	I-2
13.	Frozen food lockers.	P	P
14.	Greenhouses and nurseries, retail and wholesale.	P	P
15.	Light manufacturing, processing or fabrication operations, providing that such use is not noxious or offensive by reason of vibration or noise beyond the confines of the building or emission of dust, fumes, gas, odor, smoke or other particulate matter.	P	<del>P</del>
16.	Machine shops, tool and die shops, and similar establishments	P	P
17.	Machinery sales and storage lots, including motor vehicles.	P	<del>P</del>

**Commented [JW24]:** It is unclear why there are any cases in which I-2 would be more strict than I-1. These have all been adjusted.

18.	Manufacturing, processing or fabrication establishments which are not noxious or offensive by reason of vibration, noise, dust fumes, gas, odor.		P
19.	Manufactured home production, storage and sales of units produced on-site.		P
20.	Motor vehicle repair or body shop.	P	P
21.	Offices and service yards for the Kansas Department of Transportation.	P	P
22.	Other uses which may be noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise or vibration.		C
23.	Public utility and public service uses including: municipal power plants; substations; lift stations; railroads; telephone exchanges, microwave towers, radio towers, television towers, telephone transmission buildings; electric power plants; and public utility storage yards.	P	P
24.	Self-storage (mini-storage).	P <sup>(1)</sup>	P <sup>(1)</sup>
25.	Service stations.	P	P
26.	Stockyards and slaughterhouses.		C
27.	Storage of bulk oil, gas, explosives and similar materials.		C
28.	Storage yards providing the storage yard is completely enclosed with a six foot fence or wall.		P
29.	Telecommunication towers.	C	C
30.	Truck and rail terminals.	P	P
31.	Warehouses or storage houses.	P	P
32.	Welding shops.	C	P

**Permitted and conditional uses footnotes:**

- (1) Subject to the requirements set out in Section 15-302.

**Commented [JW25]:** This footnote is added to #24 to direct the developer to additional regulations in 15-302 regarding Self-storage (mini-storage).

**Section 15-302: New Section**

**15-302. Self-storage (Mini-storage) facilities shall be developed in accordance with the following minimum standards:**

- a. Off street parking shall be provided as follows:
  - 4. Parking shall be provided by parking/driving lanes adjacent to the buildings. These lanes shall be at least twenty feet (20') wide for one-way access lanes and at least twenty-five feet (25') wide for two-way access lanes.
  - 5. One parking space for every one hundred fifty (150) storage cubicles shall be located adjacent to the leasing office. A minimum of three (3) such spaces shall be required.
  - 6. Required parking spaces may not be rented as or used for vehicle storage, unless identified on the site plan or development plan.
- b. There shall be landscaped screening and fencing around the perimeter of the project. The fencing shall be a minimum of six feet (6') in height. When a development borders an arterial street, adjoining residential or commercial development, the fence shall be constructed of decorative material approved by the Zoning Administrator along those sides. Chain link fencing may be used on sides that adjoin other industrial property of similar or greater intensity, as approved by the Zoning Administrator.
- c. The buildings shall be architecturally compatible with the existing neighborhood. To that end, newly constructed self-storage (mini-storage) units either shall (a) install a screen to shield door openings from residentially zoned property and public right-of-way, or (b) face door openings away from any residentially zoned property or public right-of-way.

**Commented [JW26]:** Adapted from the former Subdivision Regulations Section 13-702

Table 15-1 will also have a footnote that directs the reader to Section 15-302 for Mini-storage or mini-warehouses.

### Articles 16-17:PUD-O and C-O Districts

No Changes

### Article 18:Mixed Use District (MU)

#### 18-602.

- a. Front yard.
  - 1. Front yards on arterial and collector streets and unplatted tracts on local streets shall conform with the provisions of Article 20.
  - 2. There shall be a front yard having a depth of not less than ~~thirty (30)~~ **fifteen (15)** feet or the established building line as defined in Article 20.
  - 3. No accessory building shall project beyond the front building setback line of any lot.

**18-604. Rear yard.** Except as otherwise required in Article 20, there shall be a rear yard having a depth of not less than ~~thirty (30)~~ **fifteen (15)** feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller.

#### Section 18-605: paragraphs c & h

- c. ~~Parking lots – Parking lots shall not dominate the frontage of pedestrian-oriented and image streets or conflict with pedestrian crossings. No parking space shall be closer to the primary frontage street than the building.~~
- h. ~~Transition yards and landscaping screening – Where a commercial lot use abuts a residential use, a landscaped yard consisting of, but not limited to, trees, vegetation, wood privacy fencing, landscaped earthen berm, or other plantings shall be provided for as a visual buffer that creates spatial separation. Front yard setback areas shall be landscaped. Landscaping plans shall be submitted to the Zoning Administrator for approval. On through lots, the rear yard that is immediately across the street from a residential district shall also require screening.~~

**Commented [JW27]:** 30 feet seems to contradict 18-605a which encourages setbacks to be minimized. 30 feet also encourages parking in the front which seems to contradict 18-605h. 30 feet is also greater than required in the R-2 and R-3 districts. 15 feet is the same setback that is required in the R-3 district (C-3 is only 10) and fits better. On the N Summit Mixed Use corridor many of the houses are closer to 15 or 20 feet setbacks.

**Commented [JW28]:** Same comment as for the front yard above.

**Commented [JW29]:** The requirement for no parking in the front actually creates a new issue along the Summit Street Mixed Use corridor. The other language is acceptable. Parking should be screened per h below as much as possible.

**Commented [JW30]:** These edits are for a bit of clarification but also the last new sentence was added to help deal with problems associated with the mixed use district along the N Summit corridor as it immediately borders a residential area but is separated by a street.

### Article 19:Wind Energy Conversion Systems

**19-101.** The regulations set forth in this Article, or set forth elsewhere in these regulations when referred to in this Article, are the regulations governing the placement and operation of domestic Wind Energy Conversion Systems (WECS). The intent of this Article is to allow domestic WECS as accessory uses in the Agricultural (~~Article 5A~~), **Low Density Residential District (R-1)** ~~Countryside (Article 7)~~, Public Use (~~Article 12P~~), Light Industrial (~~Article 15 I-1~~), and Heavy Industrial (~~Article 15 I-2~~), Zoning Districts, subject to compliance with the relevant provisions for such use set forth in this Article.

**19-301.** ~~As an Accessory Use in the Agricultural District. In the "A" Agricultural District domestic WECS are allowed as an accessory use.~~

**Commented [JW31]:** Remove Countryside since that district is being removed. Add R-1 which would be the most similar district.

**Commented [JW32]:** This language is unnecessary as it is already spelled out in 19-101.

- a. **Domestic wind energy conversion systems.** The following conditions and restrictions shall apply to domestic wind energy conversion systems:
  - 1. **Spacing.** No system may be located within 300 feet of another domestic system.
  - 2. **Setbacks.** Every system shall meet the following minimum setbacks:

- (a) A setback from the nearest property line a distance equal to twice the height of the system, including the rotor blades.
- (b) A setback from the nearest public road right-of-way a distance equal to the height of the system, including the rotor blades, plus an additional 50 feet.

~~3. **Blade height.** The lowest point of the rotor blades shall be at least 50 feet above ground level at the base of the tower.~~

4. **3. Tower height.** A maximum of 100 feet.

5. ~~4. **Security.** All WECS must be secured to protect against trespass or unauthorized use of the property, tower or similar structures.~~

**Commented [JW33]:** While the premise behind minimum blade height is understood, this also forces all WECS to be more than 50 feet in height regardless of the height needed. I also did not see this in other cities' regulations.

**Commented [JW34]:** This is similar to the verbiage for Telecommunications Towers.

Remove Sections 19-302 & 19-303. The regulations are the same for all areas allowed and having them separated out makes little sense and just requires additional unnecessary reading to find out the regulations.

**Article 20:Supplemental District Regulations**

**Section 20-401: New paragraph e.**

Alley Intersections: A sight triangle is the triangular area formed by the intersection of the alley and the public street bound by two lines extending from the point of intersection along the edge of the traveled way for a distance of 5 feet.

**Commented [JW35]:** This was taken from the sight distances definition in Section 2-3. The definition in that section is removed.

**Section 20-701: New Item under paragraph b.**

14. **Accessory Dwelling Units (ADU):**

- ~~(a) An ADU is a dwelling unit that is accessory to a principal single-family dwelling unit on the same lot. This includes a building or part of a building that provides complete independent living facilities for one (1) or more people, including a kitchen, living room, bathroom, and bedroom, either attached to a principal dwelling or a detached building on the same lot.~~
- ~~(b) ADUs are permitted as accessory to single-family dwelling units in the R-2 and R-3 districts. ADUs are a conditional use in the R-1 district.~~
- ~~(c) An ADU may be constructed as a new building, adapted from an existing accessory structure on the same lot or adapted from a portion of the principal dwelling unit.~~
- ~~(d) Only one ADU is allowed on a lot.~~
- ~~(e) Standards:~~
  - ~~1. Attached ADUs must meet applicable district setbacks. Detached ADUs must conform to the yard regulations for accessory buildings in Section 20-8.~~
  - ~~2. The principal dwelling unit or the ADU must be occupied by an owner of record of the property.~~
  - ~~3. The architectural style of the ADU must conform to the architectural style and materials of the principal dwelling unit.~~
  - ~~4. The ADU must not exceed a gross floor area of eight hundred (800) square feet or more than fifty (50) percent of the principal structure's floor area, whichever is less.~~
  - ~~5. The ADU may not exceed the height of the principal dwelling unit.~~
  - ~~6. The ADU must meet current building code requirements.~~

**Commented [JW36]:** This is an all new accessory use. In an ongoing effort to provide additional housing options, this is a nationwide movement. Ark City currently has a number of so-called ADUs mostly within the R-3 district. If any of those do not meet these regulations, they would be allowed to continue as a nonconforming use per Section 21-4.

7. The ADU must obtain a separate address for emergency response.

**20-703 Licensed Amateur Communications**

**Commented [JW37]:** This section is new. It was discussed at the June 13, 2023 meeting.

The provisions of this section apply only to antennas and antenna support structures used in FCC Licensed Amateur Radio Service Communications. The provisions of this section shall control in the event of a conflict with the Height and Yard Regulations of the District Regulations in which the antenna support structure shall be placed. If said communications facilities do not comply with the following regulations, then a Conditional Use Permit as defined in Article 23 Telecommunications Towers shall be required unless such communications facilities are otherwise in compliance with and/or otherwise allowed under applicable district development standards.

**a. Definitions**

For the purposes of this section and notwithstanding any conflicting definitions under any other section of this Code:

**Amateur Radio Antenna.** means “antenna(s)” used for the purpose of receiving and/or transmitting licensed Amateur Radio Communications.

**Amateur Radio Antenna Support Structure.** means a structure, such as a mast, tower or pole, that is placed, erected or constructed to support one or more antennas for the purposes of engaging in licensed Amateur Radio Communications. Buildings and associated roof mounted equipment alone shall not be considered as antenna support structure.

**Licensed Amateur Radio Communications.** means any form of communication and/or testing, whether transmitted or received, that is licensed by the Federal Communication Commission under and pursuant to 47 C.F.R. Part 97, including all Operator and Station Licenses, under which communication/or testing is conducted by, or under the authority of, a licensed Amateur Radio Operator and Station holding a current valid Amateur Radio License.

**Detached Antenna Support Structure.** as applicable to Amateur Radio Antenna Support Structures shall mean those structures which are not physically attached to, or in any way supported by, a house or any other permitted structure on the subject property.

**Attached Antenna Support Structure.** as applicable to Amateur Radio Antenna Support Structures shall mean those structures which are physically attached to, or in any way supported by, a house or any other permitted structure on the subject property.

**b. Maximum Number of Detached Antenna Support Structures in Residential Districts**

No more than one detached guyed or freestanding antenna support structures shall be permitted as a matter of right in a residential district. Upon a reasonable showing of substantial need consistent with licensed Amateur Radio Communication, the Zoning Administrator shall have the right to administratively approve one or more additional detached antenna support structures on the condition that said additional structure(s) shall not create a risk of collapse on adjoining property not under the control of the Licensed Amateur Radio Operator requesting such additional structure(s).

**c. Maximum Number of Attached Antenna Support Structures in Residential Districts**

No more than one attached antenna support structures, whether guyed or unguyed, shall be permitted as a matter of right on a house or any other permitted structure on the subject property. Upon a reasonable showing of substantial need consistent with licensed Amateur Radio Communications, the Zoning Administrator shall have the right to administratively approve one or more additional attached antenna support structures on the subject property.

**d. Height Limitations applicable to Amateur Radio Communications Antenna Support Structures**

The maximum height for any Amateur Radio Communications antenna support structure in any district, whether attached or detached, shall be sixty (60) feet. Upon a reasonable showing of substantial need consistent with licensed Amateur Radio Communications, the Zoning Administrator shall have the right to administratively approve a maximum height of one hundred (100) feet. Any antenna support structure that exceeds one hundred (100) feet in height above the ground shall be allowed only with the approval of a Conditional Use Permit.

**e. Antenna and Antenna Support Structure Standards**

**1. Number and Size**

The number and/or size of antennas placed upon a properly erected antenna support structure used for licensed amateur radio communications shall not exceed the wind load requirements/limits for the supporting structure as specified by the manufacturer(s) of the antenna(s) and of the supporting structure, or in the absence of such specification, the wind load requirements contained in the current version of the City building codes if available, or under nationally recognized standards for wind loading determination.

**2. Setbacks**

Front Yards: Antenna support structures (including guy wires, foundations, anchor, and other components of the structure) shall not be permitted in required front yards. The Zoning Administrator may administratively approve the location of guy wires in a required front yard if it is demonstrated that there are limiting physical characteristics of the subject property that necessitate the location of guy wires in the front yard.

Side and Rear Yards: Guy wires shall be permitted in required side and rear yards. Minimum setbacks for antenna support structures (including guy wires, foundations, anchor, and other components of the structure) shall be the same as those required for accessory buildings in the applicable residential district and as for all buildings in nonresidential districts, except that side yard encroachments equal to that allowed for fireplaces or other allowed side yard encroachments under single family district regulations shall be permitted.

**3. Lights**

No lights shall be mounted on antenna support structures unless otherwise required by applicable State and/or Federal Regulations governing said structure. Any such lighting shall be as specified in said regulations.

**4. Construction Standards**

Antenna Support Structures shall be installed, maintained and/or modified in accordance with the support structures manufacturer's plans and specifications, or in accordance with engineering plans and specifications which meet or exceed the TIA-222 Standard for said structure prepared by and under the seal of a registered professional engineer of the State of Kansas. All installations and maintenance thereon

**Commented [JW38]:** For those structures built by the operator and not a manufacturer, they must meet the TIA-222 standard.



shall otherwise be performed in accordance with the usual and customary standards of care in the industry applicable to such installations in the State of Kansas.

#### 5. Insurance

The applicant must include a statement from their insurance company that lists the tower on the address of construction as a covered item on the applicant's property or otherwise show proof of coverage.

#### 6. Maintenance

All Antennas and antenna support structures shall be kept in good condition and properly maintained in accordance with manufacturers recommendations, the standards of the industry and any applicable Federal Amateur Radio License regulations. Antennas and Antenna support structures that have, due to damage, lack of repair, or other circumstances, become unstable, in danger of failure to support, or which no longer meet the applicable standards of installation and maintenance shall be removed or brought into repair within 90 days following notice given by an authorized representative to the City. Notwithstanding said 90-day repair deadline, said authorized representative shall have the power to order such immediate remedial action as necessary, including removal of any offending antenna and/or antenna support structure if it is deemed to constitute an imminent threat to public safety or property.

#### 7. Amateur Radio License Requirements

No person, corporation, partnership, or other legal entity shall have any rights under, nor be subject to the provisions of this section except the person or entity to whom a current, valid Amateur Radio License has been issued by the F.C.C under the provisions of 47 C.F.R. Part 97.

#### 8. Discontinuance of Amateur Radio Operations

Within 180 days of the date that Amateur Radio Operations have been discontinued at the subject property on which an antenna and/or antenna support structure is located the owner of said property shall remove, or cause to be removed, all such antennas and structures on the property excepting only if said antennas and/or structures are otherwise and independently authorized to be on the subject property under other provisions of these regulations or other applicable law unrelated to this section.

*Discontinuance:* Discontinuance of Amateur Radio Operations means voluntary termination of operation or termination of the legal right to operate an Amateur Radio Station, including but not limited to the following: F.C.C. revocation, suspension and or termination of Amateur Radio operator and/or station license; death of the license holder or termination of any legal entity holding said license; voluntary cessation of operation by the license holder; termination of ownership, lease, license or legal interest in the subject property by the license holder under which licensed Amateur Radio Operations were conducted on the subject property.

Commented [JW39]: Keep this italicized in final form

~~20-901. Except as otherwise specifically provided elsewhere in these regulations or other codes and regulations of the City the following restrictions shall apply to the construction of all fences or improvements, replacements or extensions of existing fences. No fence shall be constructed within the City unless it is constructed in conformance with the following requirements:~~

a. ~~No fence shall be constructed at a location where it would constitute a traffic hazard.~~ A fence or wall may project into or enclose any required front, side or rear yard subject to access requirements of any established easement and in accordance with the following:

**Commented [JW40]:** This wording was moved to the section regarding corner visibility. The new section includes the reference to the former b. about dedicated easement.

~~b. A property owner may install a fence within a dedicated easement at his or her own risk of having to remove or repair such fence due to the lawful activities of persons or entities under the easement.~~

**Commented [JW41]:** The easement is briefly noted in a. above

1. The maximum height of fences or walls erected in a residential district shall be no more than six (6) feet in height for any side or rear yards measured from the adjacent grade.

**Commented [JW42]:** This was previously 8 feet but an 8 feet fence triggers additional structural requirements. 7 feet may work but the standard size is 6.

2. Any fence that extends beyond the front wall of any principal structure shall not be more than four (4) feet in height.

**Commented [JW43]:** Some cities say 3 instead of 4. 4 feet is the current restriction. The language is also simplified. The previous language taking about requiring the height to be equal to the required depth of the front yard was confusing, this language would make fences more uniform in front yards at 4 feet.

3.e. ~~For corner lots in a residential district, a solid fence six (6) feet in height may be constructed in the side street front yard subject to the following: rules shall apply: All sides adjacent to a street shall be considered front yards, with the one on the non address side having the lesser setback requirement. The primary front yard shall meet the applicable district setback.~~

a. The fence shall not extend nearer to the front street lot line than the front wall of the principal building

**Commented [JW44]:** This is new wording, that is similar to 2 above. It should help with corner visibility and reduce traffic hazards. It also is clearer than the previous language or at least that is the intent.

b. The fence shall not extend into any sight triangle as defined in these regulations.

**Commented [JW45]:** This also covers the former a. about traffic hazards.

c. The zoning administrator shall establish which yard is the side street front yard.

4. ~~d. For institutional uses in residential districts, such as schools, parks, hospitals and cemeteries, a fence may be constructed in the front yard setback provided it complies with subsections b, d and e of this section, and has at a maximum eight (8) foot height provided it does not constitute a traffic hazard.~~

**Commented [JW46]:** This statement had to be removed due to section renumbering/organization

5. ~~e. A fence may be erected in a commercial district or industrial district to not more than eight (8) foot maximum height, except no fence shall have a height greater than six (6) feet in a required front yard, except where these Regulations provide otherwise.~~

~~f. A fence may be erected in a residential district to not more than eight (8) foot maximum height, provided a fence not more than four (4) feet in height may project into or enclose any required front yard to a depth from the street line equal to the required depth of the front yard.~~

**Commented [JW47]:** This was moved up to a.1. above

6. Except as otherwise set forth in these regulations, permitted materials for fences or walls on all properties shall include:

- a. new lumber and new wood boards (picket style);
- b. chain link;
- c. wrought iron and decorative aluminum;
- d. vinyl (picket or panel style);
- e. brick and masonry (including proper footing in accordance with the building codes);
- f. stone, rock and concrete block (including proper footing in accordance with the building codes);
- g. stucco (including proper footing in accordance with the building codes);
- h. any generally accepted fencing materials commonly used in the fencing industry as approved by the Zoning Administrator.

7. Prohibited materials shall include but not be limited to:

- a. sheet metal.
- b. metal building siding and roofing materials.
- c. corrugated metal or fiberglass.
- d. chicken wire.
- e. plywood.
- f. scrap wood.
- g. scrap metal.
- h. canvas, nylon or other non-rigid material or fabric.
- i. cast-off, secondhand or other materials not originally intended to be used for constructing or maintaining a fence (including pallets); and
- j. stock fences (including cattle or hog panels) except in the Agricultural (A) District.
- k. ~~g. Barbed wire fences are prohibited inside the City limits, except:~~

- 1. When property exclusively used for agricultural purposes is annexed into the City and the barbed wire fencing does not pose a risk to pedestrians. Risk to pedestrians shall be presumed when any barbed wire fencing is located within 10 feet of any pedestrian sidewalk, street or public thoroughfare.
- 2. On top of perimeter fencing of storage areas in industrial and commercial district zones, provided that barbed wire atop such fences shall be at least 6 feet above the ground with a maximum fence height of 8 feet;

- l. ~~h. Electric charged fences are prohibited inside the City limits, except:~~
  - 1. An electric fence not exceeding 24 volts and completely contained within a landowner's fenced property shall be permitted if the landowner first obtains approval from City Code Enforcement;
  - 2. Electronic detector loops for animal containment systems shall not be classified as an electric charged fence;

- m. ~~i. Concertina wire or looped barbed-wire fences are prohibited inside the City limits.~~

8. The zoning administrator may require a photograph or sketch of the proposed fence.

b. The finished surface of all fences shall face outward from the property. However, in the case of two or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.

**Commented [JW48]:** 6 and 7 were added to better define what is acceptable and not acceptable for fencing materials. This is new as the current regulations did not define this.

**Commented [JW49]:** Moved up to the prohibited section

**Commented [JW50]:** Simply moved from its previous section, wording is the same.

**Commented [JW51]:** Simply moved from its previous section, wording is essentially the same.

**Commented [JW52]:** Simply moved from its previous section, wording is the same except for the removed redundancy.

**Commented [JW53]:** New language that is especially helpful for interpreting 6h above. Notice the intentional use of the word "may" as this will not always be required.

**Commented [JW54]:** This is new language and is OPTIONAL. I wanted to add it because there is often issues with this. Generally speaking, whoever is constructing the fence should have the finished side facing outward but it can get interesting if the fence is on a shared property line.

- c. Any existing fence which was in conformity with the provisions of any previous ordinance and which was in place as of the date of adoption of these regulations may remain without change, notwithstanding same may be in conflict with one or more provisions of these regulations. However, any replacement or change consisting of more than 50 percent of said existing fence or addition of a new fence shall meet the requirements of these regulations.

**Commented [JW55]:** This is new language. This section could help us with non-conforming fences.

## **SECTION 20-11 BUILDING SETBACKS TINY HOUSES**

**20-1101.** For purposes of determining the applicability of building setback lines established in these regulations whenever any two or more provisions in these regulations establish building setback lines that are applicable to a given building or structure, the regulation establishing the more restrictive standard shall be the regulation which controls.

**Commented [JW56]:** Building Setbacks was moved to 20-13 with edits noted.

**20-1102.** Where allowed, gasoline or other fuel dispensing pumps, excluding canopies, shall not be located less than twelve (12) feet from any right of way line or easement.

**20-1103.** Canopies covering gas or other fuel pumps shall be located so that no part of the structure is less than ten (10) feet from the property line. Such structures shall meet all other setback requirements in these regulations.

**20-1101.** It is the intent of this section to allow housing meeting certain qualifications to be located upon existing undersized lots and thereby accommodate in-fill development in residential neighborhoods which might not otherwise occur. Such accommodation not only promotes beneficial economic use of undeveloped lots but also promotes residential neighborhood stability and protection of property values while simultaneously providing wider housing stock choices for citizens.

**Commented [JW57]:** Having this section immediately following a similar type of use as 20-10 improves its visibility and clarity. This is an entirely new section in response to a number of requests for tiny homes within the City. This section will also help with the housing shortage identified in the Comprehensive Plan. When houses on substandard sized lots are demolished, the lots are unbuildable without a variance. This provides an option for redevelopment of these lots and also provides an affordable housing option. Section 8.5 of the Comprehensive Plan also suggests adding these regulations. This content was largely adapted from Winfield's regulations with some modifications to Section 20-1103 regarding where such homes would be permitted. This version is slightly more permissive than Winfield's.

### **20-1102. Definitions**

- a. Tiny Houses are residential dwelling units which comply with the requirements of this section, and which are of such dimensions as to be able to be located upon lots with square footage less than that required by Table 6-2 and still comply with the height and yard requirements of Article 6.
- b. Tiny Houses on Wheels are Tiny Houses that have had their suspension/axle components removed and chassis permanently attached to an approved foundation and must be manufactured no more than five (5) years prior to placement.
- c. Both Tiny Houses and Tiny Houses on Wheels must be complete dwelling units containing a kitchen, sanitary and sleeping facilities within the unit, for the exclusive use of a single family maintaining a household.

### **20-1103. Where Permitted.**

- a. Tiny Houses or Tiny Houses on Wheels are a permitted use in the R-2 and R-3 zoning districts and may be placed on either conforming or legal nonconforming lots.
- b. Tiny Houses or Tiny Houses on Wheels are a conditional use in the R-1 zoning district on either conforming lots or legal nonconforming lots that have 3,000 or more square feet.

**20-1104. Requirements.** All Tiny Houses and Tiny Houses on Wheels must meet the following requirements in order to be either a permitted or conditional use:

- a. Permanently attached on a City-approved foundation.
- b. Comply with the height and yard requirements of Article 6.
- c. Comply with the City-adopted building code.

d. Minimum structure size:

170 sq. ft. for one occupant

100 sq. ft. for each additional occupant

8.5-foot width

**20-1201.** Home occupations as defined in Article 2 of these regulations shall be permitted in the A District, and the ~~CS~~, MHS, R-1, ~~R-2~~ and ~~R-23~~ residential districts, subject to the following:

**SECTION 20-13 BUILDING SETBACKS**

~~**20-1301.** For purposes of determining the applicability of building setback lines established in these regulations whenever any two or more provisions in these regulations establish building setback lines that are applicable to a given building or structure, the regulation establishing the more restrictive standard shall be the regulation which controls.~~

~~**20-1302.** Where allowed, gasoline or other fuel dispensing pumps, excluding canopies, shall not be located less than twelve (12) feet from any right of way line or easement.~~

~~**20-1303.** Canopies covering gas or other fuel pumps shall be located so that no part of the structure is less than ten (10) feet from the property line. Such structures shall meet all other setback requirements in these regulations.~~

**Commented [JW58]:** Remove reference to the CS-Countryside District and add R-3 District

**Commented [JW59]:** Add R-3 district.

**Commented [JW60]:** This section was moved for clarity sake in its entirety from Section 20-11.

**Commented [JW61]:** This language is already present in 9-601.

**Commented [JW62]:** Canopies should meet applicable yard regulations for the district in which they are located.

**Article 21:Nonconformities**

No Changes

**Article 22:Off-Street Parking, Loading and Unloading Requirements**

**22-305. Surfacing.** All off-street parking facilities, loading areas, ~~vehicular storage areas and drives and access to and from such areas~~ shall be surfaced and maintained with four (4) inches of asphalt, or concrete to create a permanent all-weather, dust-free surface. Such paving must be completed prior to occupancy of the facility that the paving is intended to serve, unless temporary occupancy approval is received from the Zoning Administrator. An exception to the surfacing requirements may be granted by the Zoning Administrator in instances where the off-street areas take access from a graveled public street.

**Commented [JW63]:** This better matches practice and allows some additional flexibility in parking design. There are some situations in which paved surfacing is unnecessary. In general, required parking spaces should be paved but certain circumstances make gravel surfaces acceptable. Paving everything also can cause additional run-off concerns.

Gravel areas in existence prior to the effective date of these regulations may be maintained with six (6) inches of gravel, including base, as an alternative to these surfacing requirements.

The Zoning Administrator may, upon receiving a specific written request from an owner of a property, authorize temporary occupancy for a time period not to exceed twelve (12) months prior to accomplishing the required paving or a portion thereof.

In reviewing a request for temporary occupancy prior to accomplishing required paving, the Zoning Administrator shall consider the following criteria:

- a. Season of the year.
- b. Affect on the adjoining property.
- c. Surfacing of the connecting street.
- d. Surfacing of existing adjoining parking facilities.

Should the owner receive approval of the Zoning Administrator for a delay in paving, the owner shall, prior to occupancy, present written verification to the Zoning Administrator that guarantees all paving shall be complete prior to the deadline given by the Zoning Administrator.

**22-308. Parking facilities in residential districts.** Any parking facilities for eight (8) or more vehicles (1) when in residential zoning districts and (2) which are adjacent to a residential or manufactured home-zoned district, shall have a screened fence or wall to prevent the passage of vehicular lights and to prevent the blowing of debris. Such fence or wall shall be at least six (6) feet in height and have a visual density of not less than seventy percent (70%). Whenever a fence shall be required along a required front yard, such fence shall not be more than forty-eight (48) inches in height.

**22-501.** Off-street parking spaces shall be provided as follows:

**Commented [JW64]:** This aligns better with Section 20-9 Fences.

**Commented [JW65]:** Staff compared the minimum parking requirements for Andover, Derby, Olathe, Salina and Wichita and modified this chart based on an average of these cities. Winfield was also consulted but theirs is nearly identical to ours.

RESIDENTIAL USES:		MINIMUM OFF-STREET PARKING SPACES:
1.	Single-family	2 spaces per unit <del>for residences on lots 50' or less in width and 3 spaces for residences on lots greater than 50' in width.</del> See Section 22-301.
	Two-family	2 spaces per unit <del>for residences on lots 50' or less in width and 3 spaces for residences on lots greater than 50' in width.</del> See Section 22-301.
	Multiple-family: Efficiency One or more bedroom	1 space per unit. <del>2 spaces per unit.</del>
2.	Dormitories	1 space for each 2 persons based on maximum design capacity.
3.	Lodging houses, rental sleeping rooms in a dwelling unit	1 space for each 2 tenants
4.	Nursing home, rest home, similar facilities	1 space for each 3 beds based on maximum design.
5.	Manufactured home park or subdivision	2 spaces per unit.
6.	Bed and breakfast inns	1 space per rental unit.
NONRESIDENTIAL USES:		MINIMUM OFF-STREET PARKING SPACES:
1.	Automobile, truck, recreation vehicle, mobile home sales and rental lots	1 space per 3,000 square feet of display area, plus 1 space per employee.
2.	Automobile or truck wash	3 holding spaces for each stall, plus 1 drying space per stall.
3.	Banks, business or professional offices	<del>1 space for each 200 square feet up to 1,000 square feet, plus 1 space for each 400</del> <u>300</u> square feet. <del>thereafter.</del>
4.	Bowling alleys	<del>5</del> <u>4</u> spaces for each lane or alley <u>plus seventy-five (75) percent of spaces required for accessory uses such as restaurants or game rooms.</u>
5.	Community college or high school	1 space for each 3 employees, plus 1 additional space for each <del>45</del> students enrolled.
6.	Day care or nursery schools	1 space for each 15 students enrolled.

NONRESIDENTIAL USES:		MINIMUM OFF-STREET PARKING SPACES:
7.	Elementary, junior high schools, and equivalent	2 spaces per classroom.
8.	*Funeral homes and mortuaries	1 space for each 4 seats based on maximum design capacity <del>as determined by the fire marshal. plus 1 space per employee.</del> <u>as determined by the fire marshal.</u>
9.	Furniture and appliance stores	1 space per 400 square feet of floor area
10.	Hospitals	1 space for each 3 beds plus 1 space for each 2 employees on a maximum shift.
11.	Laundromats	<del>1 space for every 2 washing machines.</del> <u>1 space per 300 square ft.</u>
12.	Manufacturing, processing, assembly plants	1 space for each 1.5 workers on a maximum shift.
13.	Medical and dental clinics	<del>5 spaces for each doctor or dentist.</del> <u>1 space per 400 square feet</u>
14.	Motel and hotels	<del>1.2 spaces</del> <u>1 space</u> per rental unit plus <del>1 space for each 2 employees per working shift.</del> <u>seventy-five (75) percent of spaces otherwise required for accessory restaurants, assembly rooms and related facilities.</u>
15.	Motor vehicle repair or body shop	1 space <del>for each 2</del> <u>per</u> employees, plus <del>1</del> <u>2</u> spaces per service bay.
16.	Restaurants <del>with fixed seating, provided that drive-up restaurants shall provide a minimum of 10 spaces.</del> <u>1 space per employee on maximum shift.</u>	<del>3 spaces for each 5 seats</del> <u>1 space per 2.5 seats</u> based on maximum occupancy as determined by the Fire Marshal.
17.	Retail stores and shops	1 space per <del>175</del> <u>300</u> square feet of retail area.
18.	Service stations	1 space for each employee, plus 2 spaces per service bay.
19.	Taverns, private clubs	1 space for each 3 persons based on maximum design capacity as determined by the Fire Marshal.
20.	*Theaters, auditoriums, churches and other places of assembly having fixed seating	1 space for each 4 seats.
21.	*Theaters, auditoriums, churches and other assembly places without fixed seating	1 space for each 4 persons based on maximum capacity as determined by the Fire Marshal.
22.	Trade, commercial schools	1 space for each 3 students and employees.
23.	Warehouse, storage, wholesale establishments	1 space for each 2 employees.
24.	All other uses not specified above	1 space per each <del>200</del> <u>300</u> square feet of gross floor area or 1 space for each 4 persons based on maximum occupancy as determined by the Fire Marshal, whichever is the lesser <u>or as otherwise determined by the Zoning Administrator based on</u>

the most similar use. A parking analyses may be required if no similar use can be found.

\* NOTE: Where a use has different rooms of assembly with different maximum occupancies the parking space requirement will be based upon the capacity of the main place of assemblage, as determined by the Zoning Administrator.

Section 22-601: Paragraph e

**Screening.** A fence (such as solid-wall masonry, wood, louvered wood, metal or other similar materials) at least six (6) feet high and having a density of not less than seventy (70) percent per square feet, shall be erected along any property line adjacent to or adjoining any dwelling district to eliminate the passage of light from vehicles and to prevent the blowing of debris. Whenever a fence shall be required along a front yard, such fence shall not be higher than forty-eight (48) inches. ~~and such fence shall be located within one foot of the front yard setback line. Fences along said yards shall not extend nearer to the street than the front yard setback line.~~

**Commented [JW66]:** Confusing and somewhat conflicting statement. Fences should follow the regulations in Section 20-9.

Articles 23-26: Telecommunication Towers, HC-O District, Administration and Amendment Procedures

No changes

Article 27:Signs

Section 27-301: Paragraph i. and j.

- i. ~~Temporary signs used during the 45-day period prior to any election and the two-day period following any such election a public voting cycle will follow the State of Kansas statute in accordance with K.S.A 25-2711.~~
- 1. ~~Signs in AG, C S & I districts placed on non-residential property shall not exceed (6) six feet in height, (32) thirty-two square feet. In all other districts, Signs placed on residential property shall not exceed four (4) six (6) sq. feet in area, and two (2) feet in height.~~
- 2. Signs shall not be: placed, erected or maintained on or in public buildings or structures, including libraries, recreational centers, parking structures, city hall, or on or in public parks, lawns, vehicles, trees, fences, or fire hydrants, ~~or rights of way.~~
- 3. Signs shall not be placed, erected or maintained so as to pose a visibility hazard to pedestrian or motor vehicle traffic along streets, sidewalks, or at street corners.
- j. Temporary Signs: A sign that either (1) is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign at such a time the event is complete the sign will be removed, or (2) is intended to remain on the location where it is erected or placed for a period of not more than 15 days. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.
  - 1. Signs shall not be placed, erected or maintained so as to pose a visibility hazard to pedestrian or motor vehicle traffic along streets, sidewalks, or at street corners.
  - 2. Signs shall not be lighted.
  - 3. Signs ~~in AG, C S & I districts shall not exceed (6) six feet in height,~~ placed on non-residential property shall not exceed (32) thirty-two square feet in area. ~~In all other districts, temporary signs~~ Signs placed on residential property shall not exceed ~~four (4)~~ six (6) sq. feet in area, ~~and two (2) feet in height.~~

**Commented [JW67]:** Rewritten to add the language from KSA 25-2711 rather than simply guiding the reader to a non-listed statute.

**Commented [JW68]:** This section has been difficult to enforce and provided no means for the larger signs to be placed in commercial districts. The non-residential/residential status will still protect residential areas by limiting the size of the signs. This does propose a small increase in size for residential. Height is not really an issue with this sort of sign. Regulations from Andover, Concordia, Derby and Winfield were consulted.

**Commented [JW69]:** K.S.A 25-2711 allows signs to be placed on the unpaved right-of-way as long as they do not impede sight lines or sight distance for safety reasons. This does not include the right-of-way immediately adjacent to anything on the list in paragraph 2 however.



Section 27-7: All contents should be removed since the CS district is being eliminated. The section number will be reserved for future use.

**27-901.** In the P District the following regulations apply:

a. Any number or combinations of signs are permitted in b. below, provided that the cumulative square footage of signs shall not exceed ~~400~~ 200 sq. ft.

b. Sign permitted in the P District, and maximum square footage:

Wall	Maximum 15% of façade
Pole/pylon	Maximum <del>50</del> <u>75</u> sq ft/face Height <del>40</del> <u>15</u> feet
Monument	Maximum <del>50</del> <u>75</u> sq ft/face Height 10 feet

**Commented [JW70]:** In line with the maximum for C-1 district but not as high as the C-2 or C-3. This limit also needs to increase with increases in b.

**Commented [JW71]:** These limits were increased in response to BZA-2021-208. It is still a little lower than C-2 and C-3. Had these limits been in place at the time of that case, no variance would have been required.

**27-1201.** The following signs shall be allowed in the Light Industrial District (I-1):

a. One (1) wall sign per façade. The sign area shall not exceed ten percent (10%) of the wall upon which it is located.

b. One (1) freestanding sign per 300 feet of street frontage shall be permitted for each industrial establishment. Such sign shall not exceed ~~ten (10)~~ fifteen (15) feet in height above the average grade, and the sign face shall not exceed fifty (50) square feet in area per face.

**Commented [JW72]:** This was a little too strict, this height matches the C-2 district. Also added the ability to have additional signs for larger properties.

**27-1202.** The following signs shall be allowed in the Heavy Industrial District (I-2):

a. One (1) wall sign per façade. The sign area not to exceed fifteen percent (15%) of the wall upon which it is located.

b. One (1) freestanding sign per 300 feet of street frontage shall be permitted for each industrial establishment. Such sign shall not exceed ~~ten (10)~~ twenty-five (25) feet in height above the average grade, and the sign face shall not exceed one hundred (100) square feet in area per face.

**Commented [JW73]:** New height matches the C-3 district. Also added the ability to have additional signs for larger properties with a lot of street frontage.

### Article 28:Floodplain Management

No Changes

### Article 29:Site Plan Review

This article is entirely new content to the Zoning Regulations. The text was largely adopted from Article 13 Site Plan Review of the Subdivision Regulations. Some of the content from that Article was removed and placed in Articles 9 & 15. Where that happens in those articles, it will be noted. These changes are occurring in accordance with Section 8-5 of the 2022 Comprehensive Plan.

Also since this is entirely new content staff has chosen not to use the red underline for the draft so that it is not overwhelming to the reader. The reader should treat all of this content as if it was red underlined with the exception of the title at the top.

### Article 30:Enforcement, Violation and Penalty

No Changes

### Zoning Map

In response to the 2022 Comprehensive Plan, some areas of the zoning map need to be adjusted. Additional areas could also be changed at the direction of the Planning Commission

SW Mixed Use-previously there was a Mixed Use District with some other districts interspersed in it in the southwest portion of the City, primarily between Tyler, Lincoln, 1<sup>st</sup> and 6<sup>th</sup>. The proposed map would change any district in this area that is currently a Mixed Use District (MU) to a Medium Density Residential District (R-2). All other zoning districts in this area would remain unchanged.

Former railroad right of way along future Hike-Bike Trail-There is a city owned area along what will eventually become the Hike-Bike Trail along the Mill Canal from the 300 block of W Madison to the intersection of 1<sup>st</sup> & Jackson Ave. Because this was formerly railroad right of way, it was unzoned. This change would designate this property as a Public Use District (P).

W Radio Lane between 6<sup>th</sup> (from the alley behind this block) & 8<sup>th</sup> Streets changed from Mixed use (MU) to Medium Density Residential District (R-2). This matches the new Future Land Use map.

One other potential area that could be rezoned: E Kansas Ave near the future truck stop could be changed to General Commercial District (C-3). As of now, staff has chosen not to make this change.

## Article 18: Mixed Use District (MU)

---

### Sections:

- 18-1 Intent**
- 18-2 Permitted Uses**
- 18-3 Conditional Uses**
- 18-4 Home Occupations**
- 18-5 Accessory Uses**
- 18-6 Height and Yard Regulations; Design Standards**
- 18-7 Sign Regulations**
- 18-8 Parking Regulations**
- 18-9 Minimum Lot Size**

### SECTION 18-1 INTENT

**18-101.** It is the intent of the MU District to encourage a compatible mixed use environment, utilizing the character of a particular area. This district facilitates compatible mixed use activity within a residential neighborhood. The district includes a balance of compatible residential, office, civic, and neighborhood commercial retail/service uses of low to moderate intensity that complement and support neighborhood residential areas and pedestrian usage with quality urban design. The objectives of the district include:

- a. Retention and attraction of businesses, workplaces and residences through adaptive reuse and rehabilitation of existing buildings; and
- b. Redeveloping vacant and under-utilized properties through appropriately scaled in-fill development; and
- c. High quality development and urban design standards that maintain a sense of history, human scale, and pedestrian-orientation.

**18-102. Applicability of Mixed Use Districts.** The MU District shall only be permitted on an area that merits special design considerations, involving a variety of property owners and uses within a developed urban environment. The MU District shall be sufficiently cohesive and substantial to achieve objectives identified in the City's comprehensive plan.

### SECTION 18-2 PERMITTED USES

**18-201.** In the MU 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:

- a. Any use permitted in the R-2 or R-3 zoning districts.
- b. Any use permitted in the C-1 or C-2 zoning districts.

### SECTION 18-3 CONDITIONAL USES

**18-301.** In the MU District the following uses are allowed upon the issuance of a Conditional Use Permit in accordance with the provisions of Article 26 of these regulations:

- a. Any use allowed as a conditional use in the R-2 or R-3 zoning districts.
- b. Any use allowed as a conditional use in the C-1 or C-2 zoning districts.

### SECTION 18-4 HOME OCCUPATIONS

**18-401.** Regulations relating to home occupations in the MU District shall be the same as those for the R-2 zoning district, as set out in Article 20.

### SECTION 18-5 ACCESSORY USES

**18-501.** Regulations relating to accessory uses in the MU District are set out in Article 20.

**SECTION 18-6 HEIGHT AND YARD REGULATIONS; DESIGN STANDARDS**

**18-601.** No building in the MU District shall exceed thirty-five (35) feet in height, except as otherwise provided in Article 20.

**18-602.**

- a. Front yard.
  - 1. Front yards on arterial and collector streets and unplatted tracts on local streets shall conform with the provisions of Article 20.
  - 2. There shall be a front yard having a depth of not less than ~~thirty (30)~~ fifteen (15) feet or the established building line as defined in Article 20.
  - 3. No accessory building shall project beyond the front building setback line of any lot.

**Commented [JW1]:** 30 feet seems to contradict 18-605a which encourages setbacks to be minimized. 30 feet also encourages parking in the front which seems to contradict 18-605h. 30 feet is also greater than required in the R-2 and R-3 districts. 15 feet is the same setback that is required in the R-3 district (C-3 is only 10) and fits better. On the N Summit Mixed Use corridor many of the houses are closer to 15 or 20 feet setbacks.

**18-603. Side yard.** Except as otherwise provided in Article 20, there shall be a side yard of not less than eight (8) feet on each side of a building.

**18-604. Rear yard.** Except as otherwise required in Article 20, there shall be a rear yard having a depth of not less than ~~thirty (30)~~ fifteen (15) feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller.

**Commented [JW2]:** Same comment as for the front yard above.

**18-605. Design Standards.** All new development, including permitted commercial, office, institutional, residential uses, or combination thereof, or change of uses with exterior modifications shall be consistent with the following applicable design standards:

- a. *Setbacks, massing, and form* – Minimize building setbacks within neighborhood or downtown district settings so as to reflect and align with existing setbacks of buildings on the block or facing block. Massing and form of building shall also be compatible with buildings on block, facing block, or neighborhood.
- b. *Building types* – Permitted building types shall include a rear yard building that occupies the front of its lot at full width, a side yard building that occupies one side of the lot at full depth, or a courtyard building that occupies all or most of the edges of its lot while internally defining one or more private spaces.
- c. *Parking lots* – Parking lots shall not dominate the frontage of pedestrian-oriented and image streets or conflict with pedestrian crossings. ~~No parking space shall be closer to the primary frontage street than the building.~~
- d. *Facades* – Blank walls in excess of 50 feet shall be avoided. Buildings with multiple storefronts should be unified in character and compatible with any upper floors.
- e. *Outdoor activity* – Buildings should accommodate outdoor activity with balconies, arcades, terraces, decks and courtyards for patrons’, residents’, or workers’ interaction to the extent reasonably feasible.
- f. *Outdoor cafes* – Restaurants should be encouraged to operate outdoor cafes on sidewalks, within buildings setbacks or courtyard provided that pedestrian circulation and access to store entrances is not impaired, the space is well-kept, and street furniture/coverings are compatible with architectural character of the building/block.
- g. *Pedestrian circulation* – Adequate pedestrian circulation must be maintained at all times. Pedestrian linkages between parking lots, alleys, parks, and the street or building fronts shall be provided for within the public right-of-way or by dedicated easement.
- h. *Transition yards and landscaping screening* – Where a commercial ~~lot~~ use abuts a residential use, a landscaped yard consisting of, but not limited to, trees, vegetation, wood privacy fencing, landscaped earthen berm, or other plantings shall be provided for as a visual buffer that creates spatial separation. Front yard setback areas shall be landscaped. ~~Landscaping plans shall be submitted to the Zoning Administrator for approval.~~ On through lots, the rear yard that is immediately across the street from a residential district shall also require screening.
- i. *Open storage* – Any open storage visible from the street, adjacent to residential uses shall be screened to substantially reduce visual impact by fencing, landscaping, or other appropriate means.
- j. The Zoning Administrator may waive any of the above-listed design standards if he or she determines it to be unnecessary to the scope and nature of the proposed development.

**Commented [JW3]:** The requirement for no parking in the front actually creates a new issue along the Summit Street Mixed Use corridor. The other language is acceptable. Parking should be screened per h below as much as possible.

**Commented [JW4]:** These edits are for a bit of clarification but also the last new sentence was added to help deal with problems associated with the mixed use district along the N Summit corridor as it immediately borders a residential area but is separated by a street.

**SECTION 18-7 SIGN REGULATIONS**

**18-701.** Sign regulations for the MU District are set out in Article 27.

**SECTION 18-8 PARKING REGULATIONS**

**18-801.** Parking regulations for the MU District are as follows:

- a. Residential dwellings: One space per dwelling unit.
- b. Private clubs, drinking establishments, and restaurants with 50 percent of gross income in food sales: One space per four occupants permitted.
- c. Private clubs, drinking establishments, and restaurants with 50 percent of gross income in alcohol or cereal malt beverage sales: One space per three occupants permitted.
- d. Retail and office uses: One space per 300 square feet of floor area.
- e. All other uses not specified shall be consistent with parking requirements as set out in Article 22.
- f. Minimum off-street parking requirements for uses within the MU District may be exempted by the Zoning Administrator for any change of use or expansion of an existing building provided adequate off-street or on-street parking can be demonstrated, and such exemption does not impose an unreasonable hardship on a residential neighborhood.
- g. A maximum number of off-street parking spaces for a particular use may be imposed by the Zoning Administrator to conserve open space, or to prevent unnecessary demolition of buildings and damage to the historic integrity of a district.

**SECTION 18-9 MINIMUM DISTRICT SIZE**

**18-901.** No area shall be zoned as MU District, unless it comprises an entire city block or three (3) acres, whichever is the lesser.

## Article 19: Wind Energy Conversion Systems

### Sections:

- 19-1 Intent
- 19-2 Definitions
- 19-3 Domestic Wind Energy Conversion Systems

### SECTION 19-1 INTENT

**19-101.** The regulations set forth in this Article, or set forth elsewhere in these regulations when referred to in this Article, are the regulations governing the placement and operation of domestic Wind Energy Conversion Systems (WECS). The intent of this Article is to allow domestic WECS as accessory uses in the Agricultural (~~Article 5A~~), Low Density Residential District (R-1) ~~Countryside (Article 7)~~, Public Use (~~Article 12P~~), Light Industrial (~~Article 15 I-1~~), and Heavy Industrial (~~Article 15 I-2~~), Zoning Districts, subject to compliance with the relevant provisions for such use set forth in this Article.

**Commented [JW1]:** Remove Countryside since that district is being removed. Add R-1 which would be the most similar district.

### SECTION 19-2 DEFINITIONS

#### 19-201.

- a. **Wind Energy Conversion System:** The combination of mechanical and structural elements used to produce electricity by converting the kinetic energy of wind to electrical energy. Wind Energy Conversion Systems (WECS) consist of the turbine apparatus and any other buildings, support structures and other related improvements necessary for the generation of electric power from wind.
- b. **Domestic Wind Energy Conversion System:** A Wind Energy Conversion System consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 25 kW, which is less than 120 feet in height above grade and which is intended to primarily reduce on-site consumption of utility power and not primarily for commercial power production.
- c. **Wind Energy Conversion System Height:** The distance measured from the ground level at the base of the tower structure to the highest point on the Wind Energy Conversion System, including the rotor blades.

### SECTION 19-3 DOMESTIC WIND ENERGY CONVERSION SYSTEMS

**19-301.** ~~As an Accessory Use in the Agricultural District. In the "A" Agricultural District domestic WECS are allowed as an accessory use.~~

**Commented [JW2]:** This language is unnecessary as it is already spelled out in 19-101.

- a. **Domestic wind energy conversion systems.** The following conditions and restrictions shall apply to domestic wind energy conversion systems:
  - 1. **Spacing.** No system may be located within 300 feet of another domestic system.
  - 2. **Setbacks.** Every system shall meet the following minimum setbacks:
    - (a) A setback from the nearest property line a distance equal to twice the height of the system, including the rotor blades.
    - (b) A setback from the nearest public road right-of-way a distance equal to the height of the system, including the rotor blades, plus an additional 50 feet.
  - 3. ~~**Blade height.** The lowest point of the rotor blades shall be at least 50 feet above ground level at the base of the tower.~~
  - 4. **3. Tower height.** A maximum of 100 feet.

**Commented [JW3]:** While the premise behind minimum blade height is understood, this also forces all WECS to be more than 50 feet in height regardless of the height needed. I also did not see this in other cities' regulations.

- 5. ~~4. Security. All WECS must be secured to protect against trespass or unauthorized use of the property, tower or similar structures.~~

Commented [JW4]: This is similar to the verbiage for Telecommunications Towers.

~~19-302. As an Accessory Use in the Countryside and Public Use Districts. In the "CS" District and the "P" District domestic WECS are allowed as an accessory use.~~

a. ~~Domestic wind energy conversion systems in the "CS" Countryside and "P" Public Use Districts. The following conditions and restrictions shall apply to domestic wind energy conversion systems:~~

- 1. ~~Spacing. No system may be located within 300 feet of another domestic system.~~
- 2. ~~Setbacks. Every system shall meet the following minimum setbacks:~~
  - (a) ~~A setback from the nearest property line a distance equal to twice the height of the system, including the rotor blades.~~
  - (b) ~~A setback from the nearest public road right of way a distance equal to the height of the system, including the rotor blades, plus an additional 50 feet.~~
- 3. ~~Blade height. The lowest point of the rotor blades shall be at least 50 feet above ground level at the base of the tower.~~
- 4. ~~Tower height. A maximum of 100 feet.~~

~~19-303. As an Accessory Use in the Light Industrial and Heavy Industrial Districts. In the "I-1" and "I-2" zoning districts domestic WECS are allowed as an accessory use.~~

a. ~~Domestic wind energy conversion systems in the "I-1" and "I-2" Industrial districts. The following conditions and restrictions shall apply to domestic wind energy conversion systems:~~

- 1. ~~Spacing. No system may be located within 300 feet of another domestic system.~~
- 2. ~~Setbacks. Every system shall meet the following minimum setbacks:~~
  - (a) ~~A setback from the nearest property line a distance equal to the height of the system, including the rotor blades.~~
  - (b) ~~A setback from the nearing public road right of way a distance equal to the height of the system, including the rotor blades, plus an additional 50 feet.~~
- 3. ~~Blade height. The lowest point of the rotor blades shall be at least 50 feet above ground level at the base of the tower.~~

Commented [JW5]: The regulations are the same for all areas allowed. There is no reason to have all of these extra sections.

## Article 20: Supplemental District Regulations

---

### Sections:

- 20-1 General
- 20-2 Height and Yard Regulations
- 20-3 Number of Structures on a Lot
- 20-4 Corner Visibility
- 20-5 Screening for Commercial and Industrial-Zoned Property
- 20-6 Temporary Uses
- 20-7 Accessory Uses
- 20-8 Accessory Uses; Additional Requirements in Residential Districts
- 20-9 Fences
- 20-10 Residential - Design Manufactured Housing Standards
- 20-11 ~~Building Setbacks~~ Tiny Houses
- 20-12 Home Occupations
- 20-13 Building Setbacks

### SECTION 20-1 GENERAL

**20-101.** The regulations set forth in this article qualify or supplement, as the case may be, the district regulations appearing elsewhere in these regulations.

### SECTION 20-2 HEIGHT AND YARD REGULATIONS

#### 20-201

- a. Height. Chimneys, cooling towers, elevator headhouses, fire towers, monuments, stacks, water towers, or necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy, are not subject to the height limitations contained in the district regulations.
- b. Yard.
  1. *Front yards.* The front yards established by the district regulations are to be measured from the street right-of-way fronting a property, and shall be adjusted in the following cases:
    - (a) Where an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
    - (b) On through lots, the required front yard shall be provided on each street.
    - (c) Where a lot is located at the intersection of two (2) or more streets and there is a yard required on the side street, there shall be a yard of fifteen (15) feet on the side street. The yard on the side street shall not be greater than that of any other buildings on the side street within the same block, but the depth of the yard shall not be less than eight (8) feet on the side street.
    - (d) Open, unenclosed porches, platforms, or paved terraces, not covered by a roof or canopy and which do not extend above the level of the first floor of the building, may extend or project into the front and side yard not more than six (6) feet.
    - (e) Where twenty-five (25) percent or more of the street frontage or where twenty-five (25) percent or more of the street frontage within four hundred (400) feet of a property is improved with buildings that have a front yard that is six (6) feet greater



or less than the required front yard in the district, no building shall project beyond the average front yard so established.

2. *Structural projections.* Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings or structures, and except for:
  - (a) Eave projections, sills, cornices and other ornamental features may project a maximum of twelve (12) inches into a required yard or setback.
  - (b) Open fire escapes, balconies opening onto a fire escape, chimneys and fireplaces may project no more than three and one-half (3.5) feet into a required side yard and five (5) feet into a required rear yard.
3. Additional setback requirements are set out at Section ~~20-41~~ 13.

**Commented [JW1]:** Changed because the sections were moved around.

### SECTION 20-3 NUMBER OF STRUCTURES ON A LOT

**20-301.** Where a lot is used for other than a single family residence, more than one principal use or structure may be located on such lot, provided that such buildings conform to all requirements for the district in which they are located, and all such buildings shall remain in single ownership unless such buildings and lots are certified as a condominium.

### SECTION 20-4 CORNER VISIBILITY

**20-401. Removal of Traffic Hazards.** In all areas on public or private property at any corner formed by intersecting public streets, no traffic hazard shall be allowed by installing, setting out or maintaining or allowing the installation, setting out or maintenance of any sign, fence, hedge, shrubbery, natural growth or other obstruction to view, or the parking of any vehicle within that triangle formed as hereby described, such areas to be described as sight triangles:

- a. Uncontrolled Intersections – Local Street to Local Street: A sight triangle is the triangular area formed by the intersection of two streets bound by two lines extending from the point of intersection along the edge of traveled way for a distance of 50 feet.
- b. Uncontrolled Intersections – Local to Collector/Arterial: A sight triangle is the triangular area formed by the intersection of two streets bound by two lines extending from the point of intersection along the edge of traveled way for a distance of 50 feet on the local street and 60 feet on the collector or arterial street.
- c. Controlled Intersections – Partial Traffic Signalization/Signage: A sight triangle is the triangular area formed by the intersection of two streets bound by two lines extending from the point of intersection along the edge of traveled way for a distance of 25 feet on the street with the stop sign and 60 feet on the street with no traffic signage.
- d. Controlled Intersections – Full Traffic Signalization or 4 Way Stop Signs: A sight triangle is the triangular area formed by the intersection of two streets bound by two lines extending from the point of intersection along the edge of traveled way for a distance of 25 feet.
- e. Alley Intersections: A sight triangle is the triangular area formed by the intersection of the alley and the public street bound by two lines extending from the point of intersection along the edge of the traveled way for a distance of 5 feet.

**Commented [JW2]:** This was taken from the sight distances definition in Section 2-3. The definition in that section is removed.

**20-402. Exceptions.** The provisions of sight triangle shall not apply to those shrubs or bushes located within a designated sight triangle, the maximum height of which is less than three (3) feet measured from the established street level. For trees located within a sight triangle, a minimum height clearance for limbs and relative growth shall be trimmed for clearance of eight (8) feet from the established street level. Utility poles and equipment required for traffic control shall be exempt from this section's restrictions.

## SECTION 20-5 SCREENING FOR COMMERCIAL AND INDUSTRIAL-ZONED PROPERTY

**20-501.** Commercial or industrial development adjacent to a residential zone shall be screened in accordance with the approved site plan.

## SECTION 20-6 TEMPORARY USES

### 20-601.

- a. Only the following temporary uses may be permitted.
1. Carnivals and circuses, located in a commercial or industrial zone or on public property, when located at least two hundred (200) feet from the boundary of a residential zone and for a time period not exceeding two (2) consecutive weeks.
  2. Contractor's office and equipment sheds on the site of a construction project only during the construction period.
  3. Model homes or development sales offices located within the subdivision or development area to which they apply, with such use to continue only until sale or lease of all units in the development.
  4. Outdoor temporary sales on private property and not incorporated or in partnership with the existing business located on this property in a commercial or industrial zone, including commercial sales, swap meets or similar activities providing they do not operate for more than ten (10) consecutive days and there are no more than four (4) such sales on any one property in any calendar year.
  5. One travel trailer or manufactured home to be used as a temporary office for any allowed use in an industrial or commercial zoning district, provided that such trailer or home shall not be used for more than a one year period starting the day the home is set upon the property.
- b. Persons seeking approval for a temporary use authorized by items 1,2 and 4 in subsection a. of this section shall make application to the Zoning Administrator at least ten (10) days in advance of the time desired for usage. The Zoning Administrator may issue a certificate of temporary use upon the payment of the temporary use permit fee imposed by the fee ordinance and upon finding:
1. The temporary use will not impair the normal, safe and effective operation of any permanent use on the same or adjoining site.
  2. The temporary use will not impact the public health, safety, or convenience and will not create traffic hazards or congestion or otherwise interrupt or interfere with the normal conduct of use and activities in the vicinity.

## SECTION 20-7 ACCESSORY USES

**20-701.** Accessory uses are permitted in any zoning district in connection with any permitted principal use, consistent with the provisions of this section and section 20-8.

- a. **Definitions.** An accessory use is a structure or use which:
1. Is subordinate to and serves a principal building and principal use.
  2. Is subordinate in area, extent or purpose to the principal building or buildings served.
  3. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served.
  4. Is located on the same tract as the principal building or principal use served.

- b. **Permitted accessory uses.** Any structure or use that complies with the terms of subsection a. of this article may be allowed as an accessory use or structure. Accessory structures and uses include, but are not limited to, the following:
1. Private garages and carports, whether detached or attached.
  2. A structure for storage incidental to a permitted use.
  3. A children's playhouse.
  4. A private swimming pool and bathhouse.
  5. A guest house or rooms for guests in an accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units or permanent occupancy as house-keeping units.
  6. Statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, hedges and radio and television antennas.
  7. Storm shelters.
  8. Retail sales of products manufactured, processed or fabricated on site.
  9. Storage of recreational equipment, such as boats, boat trailers, camping trailers and motor homes, provided no such equipment is occupied for dwelling purposes.
  10. Restaurants, drug stores, gift shops, club and lounges and newsstands when located in a permitted hotel, motel or office building.
  11. Offices for permitted business and industrial uses when the office is located on the same site as the business or industry to which it is an accessory.
  12. The storage of retail merchandise when located within the same building as the principal retail business.
  13. Accessory, open, and uncovered swimming pools and home barbecue grills may occupy a required rear yard; provided they are not located closer than five (5) feet to the rear lot line nor closer than three (3) feet to a side lot line.

14. Accessory Dwelling Units (ADU):

- (a) An ADU is a dwelling unit that is accessory to a principal single-family dwelling unit on the same lot. This includes a building or part of a building that provides complete independent living facilities for one (1) or more people, including a kitchen, living room, bathroom, and bedroom, either attached to a principal dwelling or a detached building on the same lot.
- (b) ADUs are permitted as accessory to single-family dwelling units in the R-2 and R-3 districts. ADUs are a conditional use in the R-1 district.
- (c) An ADU may be constructed as a new building, adapted from an existing accessory structure on the same lot or adapted from a portion of the principal dwelling unit.
- (d) Only one ADU is allowed on a lot.
- (e) Standards:
  1. Attached ADUs must meet applicable district setbacks. Detached ADUs must conform to the yard regulations for accessory buildings in Section 20-8.
  2. The principal dwelling unit or the ADU must be occupied by an owner of record of the property.

**Commented [JW3]:** This is an all new accessory use. In an ongoing effort to provide additional housing options, this is a nationwide movement. Ark City currently has a number of so-called ADUs mostly within the R-3 district. If any of those do not meet these regulations, they would be allowed to continue as a nonconforming use per Section 21-4.

3. The architectural style of the ADU must conform to the architectural style and materials of the principal dwelling unit.
4. The ADU must not exceed a gross floor area of eight hundred (800) square feet or more than fifty (50) percent of the principal structure's floor area, whichever is less.
5. The ADU may not exceed the height of the principal dwelling unit.
6. The ADU must meet current building code requirements.
7. The ADU must obtain a separate address for emergency response.

c. **Prohibited accessory uses.** None of the following shall be permitted as an accessory use:

1. Outdoor storage, except as specifically permitted in the district regulations.
2. Storage of containers typically transported by tractor-trailer rigs, in a residential district, except where completely enclosed within a structure.

**20-702.** Existing accessory buildings or structures which do not meet the minimum setbacks may be repaired, maintained or enlarged, providing those actions do not further decrease the existing setbacks.

**20-703 Licensed Amateur Communications**

The provisions of this section apply only to antennas and antenna support structures used in FCC Licensed Amateur Radio Service Communications. The provisions of this section shall control in the event of a conflict with the Height and Yard Regulations of the District Regulations in which the antenna support structure shall be placed. If said communications facilities do not comply with the following regulations, then a Conditional Use Permit as defined in Article 23 Telecommunications Towers shall be required unless such communications facilities are otherwise in compliance with and/or otherwise allowed under applicable district development standards.

**a. Definitions**

For the purposes of this section and notwithstanding any conflicting definitions under any other section of this Code:

**Amateur Radio Antenna.** means “antenna(s)” used for the purpose of receiving and/or transmitting licensed Amateur Radio Communications.

**Amateur Radio Antenna Support Structure.** means a structure, such as a mast, tower or pole, that is placed, erected or constructed to support one or more antennas for the purposes of engaging in licensed Amateur Radio Communications. Buildings and associated roof mounted equipment alone shall not be considered as antenna support structure.

**Licensed Amateur Radio Communications.** means any form of communication and/or testing, whether transmitted or received, that is licensed by the Federal Communication Commission under and pursuant to 47 C.F.R. Part 97, including all Operator and Station Licenses, under which communication/or testing is conducted by, or under the authority of, a licensed Amateur Radio Operator and Station holding a current valid Amateur Radio License.

**Detached Antenna Support Structure.** as applicable to Amateur Radio Antenna Support Structures shall mean those structures which are not physically attached to, or in any way supported by, a house or any other permitted structure on the subject property.

**Commented [JW4]:** This section is new. It was discussed at the June 13, 2023 meeting.

**Attached Antenna Support Structure.** as applicable to Amateur Radio Antenna Support Structures shall mean those structures which are physically attached to, or in any way supported by, a house or any other permitted structure on the subject property.

**b. Maximum Number of Detached Antenna Support Structures in Residential Districts**

No more than one detached guyed or freestanding antenna support structures shall be permitted as a matter of right in a residential district. Upon a reasonable showing of substantial need consistent with licensed Amateur Radio Communication, the Zoning Administrator shall have the right to administratively approve one or more additional detached antenna support structures on the condition that said additional structure(s) shall not create a risk of collapse on adjoining property not under the control of the Licensed Amateur Radio Operator requesting such additional structure(s).

**c. Maximum Number of Attached Antenna Support Structures in Residential Districts**

No more than one attached antenna support structures, whether guyed or unguyed, shall be permitted as a matter of right on a house or any other permitted structure on the subject property. Upon a reasonable showing of substantial need consistent with licensed Amateur Radio Communications, the Zoning Administrator shall have the right to administratively approve one or more additional attached antenna support structures on the subject property.

**d. Height Limitations applicable to Amateur Radio Communications Antenna Support Structures**

The maximum height for any Amateur Radio Communications antenna support structure in any district, whether attached or detached, shall be sixty (60) feet. Upon a reasonable showing of substantial need consistent with licensed Amateur Radio Communications, the Zoning Administrator shall have the right to administratively approve a maximum height of one hundred (100) feet. Any antenna support structure that exceeds one hundred (100) feet in height above the ground shall be allowed only with the approval of a Conditional Use Permit.

**e. Antenna and Antenna Support Structure Standards**

1. Number and Size

The number and/or size of antennas placed upon a properly erected antenna support structure used for licensed amateur radio communications shall not exceed the wind load requirements/limits for the supporting structure as specified by the manufacturer(s) of the antenna(s) and of the supporting structure, or in the absence of such specification, the wind load requirements contained in the current version of the City building codes if available, or under nationally recognized standards for wind loading determination.

2. Setbacks

Front Yards: Antenna support structures (including guy wires, foundations, anchor, and other components of the structure) shall not be permitted in required front yards. The Zoning Administrator may administratively approve the location of guy wires in a required front yard if it is demonstrated that there are limiting physical characteristics of the subject property that necessitate the location of guy wires in the front yard.

Side and Rear Yards: Guy wires shall be permitted in required side and rear yards. Minimum setbacks for antenna support structures (including guy wires, foundations, anchor, and other components of the structure) shall be the same as those required for accessory buildings in the applicable residential district and as for all buildings in nonresidential districts, except that side yard encroachments equal to that allowed for fireplaces or other allowed side yard encroachments under single family district regulations shall be permitted.

### 3. Lights

No lights shall be mounted on antenna support structures unless otherwise required by applicable State and/or Federal Regulations governing said structure. Any such lighting shall be as specified in said regulations.

### 4. Construction Standards

Antenna Support Structures shall be installed, maintained and/or modified in accordance with the support structures manufacturer's plans and specifications, or in accordance with engineering plans and specifications which meet or exceed the TIA-222 Standard for said structure prepared by and under the seal of a registered professional engineer of the State of Kansas. All installations and maintenance thereon shall otherwise be performed in accordance with the usual and customary standards of care in the industry applicable to such installations in the State of Kansas.

**Commented [JW5]:** For those structures built by the operator and not a manufacturer, they must meet the TIA-222 standard.

### 5. Insurance

The applicant must include a statement from their insurance company that lists the tower on the address of construction as a covered item on the applicant's property or otherwise show proof of coverage.

### 6. Maintenance

All Antennas and antenna support structures shall be kept in good condition and properly maintained in accordance with manufacturers recommendations, the standards of the industry and any applicable Federal Amateur Radio License regulations. Antennas and Antenna support structures that have, due to damage, lack of repair, or other circumstances, become unstable, in danger of failure to support, or which no longer meet the applicable standards of installation and maintenance shall be removed or brought into repair within 90 days following notice given by an authorized representative to the City. Notwithstanding said 90-day repair deadline, said authorized representative shall have the power to order such immediate remedial action as necessary, including removal of any offending antenna and/or antenna support structure if it is deemed to constitute an imminent threat to public safety or property.

### 7. Amateur Radio License Requirements

No person, corporation, partnership, or other legal entity shall have any rights under, nor be subject to the provisions of this section except the person or entity to whom a current, valid Amateur Radio License has been issued by the F.C.C under the provisions of 47 C.F.R. Part 97.

### 8. Discontinuance of Amateur Radio Operations

Within 180 days of the date that Amateur Radio Operations have been discontinued at the subject property on which an antenna and/or antenna support structure is located the owner of said property shall remove, or cause to be removed, all such antennas and structures on the property excepting only if said antennas and/or structures are otherwise and independently authorized to be on the subject property under other provisions of these regulations or other applicable law unrelated to this section.

*Discontinuance:* Discontinuance of Amateur Radio Operations means voluntary termination of operation or termination of the legal right to operate an Amateur Radio Station, including but not limited to the following: F.C.C. revocation, suspension and or termination of Amateur Radio operator and/or station license; death of the license holder or termination of any legal entity holding said license; voluntary cessation of operation by the license holder; termination of ownership, lease, license or legal interest in the subject property by the license holder under which licensed Amateur Radio Operations were conducted on the subject property.

Commented [JW6]: Keep this italicized in final form

**SECTION 20-8 ACCESSORY USES; ADDITIONAL REQUIREMENTS IN RESIDENTIAL DISTRICTS**

**20-801.**

- a. Detached accessory buildings shall not occupy a required yard other than a required rear yard if not located within five (5) feet of a rear property line or within three (3) feet of a side property line.
- b. Detached accessory buildings shall not be located within ten (10) feet of the primary structure and shall be located behind the front building line of the primary structure.

**20-802.**

- a. Accessory buildings in a zoning district having residences as a permitted use shall not collectively occupy more than 40% of the required yard spaces in the rear half of the lot.
- b. No single accessory building in a zoning district having residences as a permitted use shall occupy more than 30% of the required yard spaces in the rear half of the lot.
- c. No accessory building on a corner lot shall be located closer to the street side yard than the front yard abutting the street.

**20-803.** Garages shall not be constructed upon lots in residential-zoned districts upon which no principal dwelling is located.

**20-804.** Accessory buildings may be constructed with used materials, except the exterior shall be of new materials. Accessory buildings shall be of conventional wood or metal construction. Metal shipping containers, truck boxes, trailers, etc. are prohibited from use as detached accessory buildings on property located in residential (R) zoning districts.

**SECTION 20-9 FENCES**

~~20-901. Except as otherwise specifically provided elsewhere in these regulations or other codes and regulations of the City the following restrictions shall apply to the construction of all fences or improvements, replacements or extensions of existing fences. No fence shall be constructed within the City unless it is constructed in conformance with the following requirements:~~

- a. ~~No fence shall be constructed at a location where it would constitute a traffic hazard.~~ A fence or wall may project into or enclose any required front, side or rear yard subject to access requirements of any established easement and in accordance with the following:

Commented [JW7]: This wording was moved to the section regarding corner visibility. The new section includes the reference to the former b. about dedicated easement.

b. ~~A property owner may install a fence within a dedicated easement at his or her own risk of having to remove or repair such fence due to the lawful activities of persons or entities under the easement.~~

**Commented [JW8]:** The easement is briefly noted in a. above

1. ~~The maximum height of fences or walls erected in a residential district shall be no more than six (6) feet in height for any side or rear yards measured from the adjacent grade.~~

**Commented [JW9]:** This was previously 8 feet but an 8 foot fence triggers additional structural requirements. 7 feet may work but the standard size is 6.

2. ~~Any fence that extends beyond the front wall of any principal structure shall not be more than four (4) feet in height.~~

**Commented [JW10]:** Some cities say 3 instead of 4. 4 feet is the current restriction. The language is also simplified. The previous language taking about requiring the height to be equal to the required depth of the front yard was confusing, this language would make fences more uniform in front yards at 4 feet.

3.e. ~~For corner lots in a residential district, a solid fence six (6) feet in height may be constructed in the side street front yard subject to the following: rules shall apply: All sides adjacent to a street shall be considered front yards, with the one on the non address side having the lesser setback requirement. The primary front yard shall meet the applicable district setback.~~

a. ~~The fence shall not extend nearer to the front street lot line than the front wall of the principal building.~~

**Commented [JW11]:** This is new wording, that is similar to 2 above. It should help with corner visibility and reduce traffic hazards. It also is clearer than the previous language or at least that is the intent.

b. ~~The fence shall not extend into any sight triangle as defined in these regulations.~~

**Commented [JW12]:** This also covers the former a. about traffic hazards.

c. ~~The zoning administrator shall establish which yard is the side street front yard.~~

4. ~~For institutional uses in residential districts, such as schools, parks, hospitals and cemeteries, a fence may be constructed in the front yard setback provided it complies with subsections b, d and e of this section, and has at a maximum eight (8) foot height provided it does not constitute a traffic hazard.~~

**Commented [JW13]:** This statement had to be removed due to section renumbering/organization

5. ~~A fence may be erected in a commercial district or industrial district to not more than eight (8) foot maximum height, except no fence shall have a height greater than six (6) feet in a required front yard, except where these Regulations provide otherwise.~~

f. ~~A fence may be erected in a residential district to not more than eight (8) foot maximum height, provided a fence not more than four (4) feet in height may project into or enclose any required front yard to a depth from the street line equal to the required depth of the front yard.~~

**Commented [JW14]:** This was moved up to a.1. above

6. ~~Except as otherwise set forth in these regulations, permitted materials for fences or walls on all properties shall include:~~

a. ~~new lumber and new wood boards (picket style);~~

b. ~~chain link;~~

c. ~~wrought iron and decorative aluminum;~~

d. ~~vinyl (picket or panel style);~~

e. ~~brick and masonry (including proper footing in accordance with the building codes);~~

f. ~~stone, rock and concrete block (including proper footing in accordance with the building codes);~~



- g. stucco (including proper footing in accordance with the building codes);
- h. any generally accepted fencing materials commonly used in the fencing industry as approved by the Zoning Administrator.

7. Prohibited materials shall include but not be limited to:

- a. sheet metal.
- b. metal building siding and roofing materials.
- c. corrugated metal or fiberglass.
- d. chicken wire.
- e. plywood.
- f. scrap wood.
- g. scrap metal.
- h. canvas, nylon or other non-rigid material or fabric.
- i. cast-off, secondhand or other materials not originally intended to be used for constructing or maintaining a fence (including pallets); and
- j. stock fences (including cattle or hog panels) except in the Agricultural (A) District.
- k. ~~g.~~ Barbed wire fences are prohibited inside the City limits, except:

1. When property exclusively used for agricultural purposes is annexed into the City and the barbed wire fencing does not pose a risk to pedestrians. Risk to pedestrians shall be presumed when any barbed wire fencing is located within 10 feet of any pedestrian sidewalk, street or public thoroughfare.
2. On top of perimeter fencing of storage areas in industrial and commercial district zones, provided that barbed wire atop such fences shall be at least 6 feet above the ground with a maximum fence height of 8 feet;

- l. ~~h.~~ Electric charged fences are prohibited inside the City limits, except:
  1. An electric fence not exceeding 24 volts and completely contained within a landowner's fenced property shall be permitted if the landowner first obtains approval from City Code Enforcement;
  2. Electronic detector loops for animal containment systems shall not be classified as an electric charged fence;

- m. ~~i.~~ Concertina wire or looped barbed-wire fences are prohibited inside the City limits.

**Commented [JW15]:** 6 and 7 were added to better define what is acceptable and not acceptable for fencing materials. This is new as the current regulations did not define this.

**Commented [JW16]:** Moved up to the prohibited section

**Commented [JW17]:** Simply moved from its previous section, wording is the same.

**Commented [JW18]:** Simply moved from its previous section, wording is essentially the same.

**Commented [JW19]:** Simply moved from its previous section, wording is the same except for the removed redundancy.

8. The zoning administrator may require a photograph or sketch of the proposed fence.

**Commented [JW20]:** New language that is especially helpful for interpreting 6h above. Notice the intentional use of the word "may" as this will not always be required.

b. The finished surface of all fences shall face outward from the property. However, in the case of two or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.

**Commented [JW21]:** This is new language and is OPTIONAL. I wanted to add it because there is often issues with this. Generally speaking, whoever is constructing the fence should have the finished side facing outward but it can get interesting if the fence is on a shared property line.

c. Any existing fence which was in conformity with the provisions of any previous ordinance and which was in place as of the date of adoption of these regulations may remain without change, notwithstanding same may be in conflict with one or more provisions of these regulations. However, any replacement or change consisting of more than 50 percent of said existing fence or addition of a new fence shall meet the requirements of these regulations.

**Commented [JW22]:** This is new language. This section could help us with non-conforming fences.

**SECTION 20-10 RESIDENTIAL-DESIGN MANUFACTURED HOUSING STANDARDS**

**20-1001.**

a. In order to be classified as a Residential-Design Manufactured Home a structure must be manufactured to the standards embodied in the National Manufactured Home Construction and Safety Standards generally known as the HUD Code established in 1976 pursuant to 42 U.S.C. Sec. 5403. Such structures shall provide all of the accommodations necessary to be a dwelling unit and shall be connected to all utilities in conformance with applicable City regulations. Such a structure shall be on a permanent-type, enclosed perimeter foundation which has minimum dimensions of 22 body feet in width excluding bay windows, garages, porches, patios, pop-outs and roof overhangs; a pitched roof; siding and roofing materials which are customarily used on site-built homes; and which complies with the following architectural or aesthetic standards so as to ensure their compatibility with site-built housing:

1. The roof must be predominantly double-pitched and must be covered with material that is customarily used on site-built dwellings, including but not limited to approved wood, asphalt composition shingles, clay or concrete tile, slate or fiberglass, but excluding corrugated aluminum or corrugated fiberglass roof. The roof shall have a minimum eave projection and roof overhang on at least two sides of ten (10) inches which may include a gutter.
2. Exterior siding shall be of a nonreflective material customarily used on site-built dwellings such as wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials, but excluding smooth ribbed or corrugated metal or plastic panels. Siding material shall extend below the top of the exterior of the foundation or curtain wall or the joint between siding and enclosure wall shall be flashed in accordance with any applicable City-adopted building codes.
3. The home shall be installed in accordance with the recommended installation procedure of the manufacturer and any applicable building code adopted by the City.
4. The running gear, tongue, axles and wheels shall be removed from the unit at the time of installation. Either a basement or a continuous, permanent masonry foundation or curtain wall, unpierced except for required ventilation and access which may include walk-out basements and garages, shall be installed under the perimeter of the home.

5. At the main entrance door there shall be a landing that is a minimum of twenty-five (25) square feet which is constructed to meet the requirements of any applicable City-adopted building codes.
  6. On level sites, the main floor shall be no greater than twenty four (24) inches above the finished grade at the foundation. On sloping or irregular sites, the main floor at the side closest to grade level shall not be greater than twenty-four (24) inches above the finished grade at the foundation.
  7. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the City-adopted building codes and attached permanently to the primary structure and anchored permanently to the ground.
  8. Any attached addition to such a home shall comply with all construction requirements of the City-adopted building codes, unless designed and constructed by a manufactured home factory.
- b. For purposes of these regulations, the term "manufactured home", when used by itself, shall not include a "residential-design manufactured home".

#### **SECTION 20-11 BUILDING SETBACKS TINY HOUSES**

~~20-1101. For purposes of determining the applicability of building setback lines established in these regulations whenever any two or more provisions in these regulations establish building setback lines that are applicable to a given building or structure, the regulation establishing the more restrictive standard shall be the regulation which controls.~~

~~20-1102. Where allowed, gasoline or other fuel dispensing pumps, excluding canopies, shall not be located less than twelve (12) feet from any right-of-way line or easement.~~

~~20-1103. Canopies covering gas or other fuel pumps shall be located so that no part of the structure is less than ten (10) feet from the property line. Such structures shall meet all other setback requirements in these regulations.~~

20-1101. It is the intent of this section to allow housing meeting certain qualifications to be located upon existing undersized lots and thereby accommodate in-fill development in residential neighborhoods which might not otherwise occur. Such accommodation not only promotes beneficial economic use of undeveloped lots but also promotes residential neighborhood stability and protection of property values while simultaneously providing wider housing stock choices for citizens.

#### **20-1102. Definitions**

- a. Tiny Houses are residential dwelling units which comply with the requirements of this section, and which are of such dimensions as to be able to be located upon lots with square footage less than that required by Table 6-2 and still comply with the height and yard requirements of Article 6.
- b. Tiny Houses on Wheels are Tiny Houses that have had their suspension/axle components removed and chassis permanently attached to an approved foundation and must be manufactured no more than five (5) years prior to placement.
- c. Both Tiny Houses and Tiny Houses on Wheels must be complete dwelling units containing a kitchen, sanitary and sleeping facilities within the unit, for the exclusive use of a single family maintaining a household.

#### **20-1103. Where Permitted.**

Proposed Amendments: Additions ~~Deletions~~

Article Twenty

20-12

**Commented [JW23]:** Building Setbacks was moved to 20-13 with edits noted.

**Commented [JW24]:** Having this section immediately following a similar type of use as 20-10 improves its visibility and clarity. This is an entirely new section in response to a number of requests for tiny homes within the City. This section will also help with the housing shortage identified in the Comprehensive Plan. When houses on substandard sized lots are demolished, the lots are unbuildable without a variance. This provides an option for redevelopment of these lots and also provides an affordable housing option. Section 8.5 of the Comprehensive Plan also suggests adding these regulations. This content was largely adapted from Winfield's regulations with some modifications to Section 20-1103 regarding where such homes would be permitted. This version is slightly more permissive than Winfield's.

- a. Tiny Houses or Tiny Houses on Wheels are a permitted use in the R-2 and R-3 zoning districts and may be placed on either conforming or legal nonconforming lots.
- b. Tiny Houses or Tiny Houses on Wheels are a conditional use in the R-1 zoning district on either conforming lots or legal nonconforming lots that have 3,000 or more square feet.

**20-1104. Requirements.** All Tiny Houses and Tiny Houses on Wheels must meet the following requirements in order to be either a permitted or conditional use:

- a. Permanently attached on a City-approved foundation.
- b. Comply with the height and yard requirements of Article 6.
- c. Comply with the City-adopted building code.
- d. Minimum structure size:
  - 170 sq. ft. for one occupant
  - 100 sq. ft. for each additional occupant
  - 8.5-foot width

## SECTION 20-12 HOME OCCUPATIONS

**20-1201.** Home occupations as defined in Article 2 of these regulations shall be permitted in the A District, and the ~~CS~~, MHS, R-1, R-2 and ~~R-23~~ residential districts, subject to the following:

- a. **Restrictions and Limitations; All Home Occupations.** The following shall apply to any home occupation in existence at the time of, or commenced after, the effective date of these Regulations:
  1. No exterior alterations or other construction shall be made to the dwelling which changes the character or appearance from its primary residential use.
  2. No equipment or material shall be used which creates any noise, vibration, smoke or odors perceptible at the boundary lines of the property, which would be in excess of that ordinarily created by a single-family residential dwelling.
  3. No merchandise shall be displayed or sold on the premises to members of the general public, except craft or articles made by the person operating the home occupation. In no instance shall there be any outside display of such articles in connection with the home occupation. "Members of the general public" shall not include persons who have prior individualized invitation.
  4. The area of an accessory structure devoted to home occupations shall be limited to nine hundred (900) square feet.
- b. **Restrictions and Limitations; New Home Occupations.** The following shall apply to any home occupation commenced after the effective date of these Regulations:
  1. No more than one employee or volunteer shall engage in such home occupation in addition to the person occupying the dwelling unit as his or her place of residence.
  2. There shall be no outdoor storage of materials or equipment used in the home occupation.

**Commented [JW25]:** Remove reference to the CS-Countryside District and add R-3 district.

**20-1202. Power of Zoning Administrator.** The Zoning Administrator is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of Section 20-12, including the power to:

- a. Investigate any home occupation or alleged home occupation, to determine whether or not such is in compliance with these regulations.
- b. Enter upon premises for the purpose of making examinations: provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.

**20-1203.** Permitted home occupations are primarily of a service nature similar to, but not limited to, the following:

- a. Artists, sculptors and writers.
- b. Custom dressmaking, tailoring or sewing of fabrics.
- c. Giving of lessons of any type, provided instruction does not exceed five (5) pupils at a time. Such limitation shall not apply to recitals or other performances.
- d. Professional offices for architects, engineers, computer software engineers, planners, lawyers, accountants, bookkeepers, realtors, insurance agents, brokers, sales representatives, contractors, and similar occupations.
- e. Fabrication and/or assembly of handicraft or hobby articles.
- f. Occupations where business is conducted primarily or exclusively over the Internet.
- g. Photographic studios.
- h. Beauty or barber shops having one chair, stand or station.
- i. Multi-level marketing and home party product sales, including but not limited to, Avon, Mary Kay Cosmetics and Tupperware.
- j. Sales of farm or garden produce, bulbs, plantings or cut flowers when grown on the same premises as the residence.

**20-1204.** Except where allowed as a permitted or conditional use, home occupations shall not in any event include the following:

- a. Antiques, either retail or wholesale.
- b. Animal care other than grooming.
- c. Funeral homes or services.
- d. Retail sale or rental of any goods or products, other than where the commercial exchange constituting such sales or rental is accomplished by means of catalog orders, whether in written or electronic form.
- e. Automotive sales, repair or service of any type.
- f. Appliance repairs (other than for small electronic devices including computers and hand-held household appliances).
- g. Small-engine repairs.

**SECTION 20-13 BUILDING SETBACKS**

~~20-1301. For purposes of determining the applicability of building setback lines established in these regulations whenever any two or more provisions in these regulations establish building setback lines that are applicable to a given building or structure, the regulation establishing the more restrictive standard shall be the regulation which controls.~~

**Commented [JW26]:** This section was moved for clarity sake in its entirety from Section 20-11.

~~20-1302. Where allowed, gasoline or other fuel dispensing pumps, excluding canopies, shall not be located less than twelve (12) feet from any right of way line or easement.~~

**Commented [JW27]:** This language is already present in 9-601.

~~20-1303. Canopies covering gas or other fuel pumps shall be located so that no part of the structure is less than ten (10) feet from the property line. Such structures shall meet all other setback requirements in these regulations.~~

**Commented [JW28]:** Canopies should meet applicable yard regulations for the district in which they are located.

## Article 22: Off Street Parking, Loading and Unloading Regulations

---

### Section:

- 22-1 Purpose
- 22-2 General Provisions
- 22-3 Layout and Design Requirements
- 22-4 Permit Required
- 22-5 Required Parking Spaces
- 22-6 Exceptions Granted by Board of Zoning Appeals
- 22-7 Loading and Unloading Space Requirements
- 22-8 Districts Requiring Loading and Unloading Space

### SECTION 22-1 PURPOSE

**22-101.** These regulations require off-street parking proportional to the need created by each use in order to ensure functionally adequate, aesthetically pleasing, and secure off-street parking facilities. Regulations and standards are intended to ensure usefulness of parking and loading facilities, to protect public safety, and where appropriate, to limit potential adverse impacts on adjacent property.

### SECTION 22-2 GENERAL PROVISIONS

**22-201. Applicability.** Off-street parking facilities, as required in this Article, shall be provided for any new building and for any new use established, additions to existing use, or any change in manner of use which results in increased capacity. Additional parking need only be provided for the addition, enlargement, or change and not the entire building or use. No off-street parking facilities shall be required in the C-4 Central Business District.

**22-202. Maintenance.** All existing and required parking facilities shall be maintained and shall not be reduced so long as the use requiring such parking remains.

**22-203. Utilization.** Required off-street parking facilities shall be located on the same site as the use for which such facilities are required, except as authorized by Section 22-6. Such facilities shall be used exclusively for temporary parking of motor vehicles and shall not be utilized for sale or storage of merchandise, or for storage or repair of vehicles, equipment or trailers.

**22-204. Residential districts.** Parking facilities which make provisions for more than three (3) vehicles shall not be located within the required front yard for the district.

**22-205. Computation.** Where the determination of number of off-street parking spaces required results in a fractional part of a space, a fraction of one-half or more shall be counted as a full space and a fraction of less than one-half shall be disregarded. Where requirements are established on the basis of seats or person capacity, the provisions of the City-adopted building code applicable at the time shall be used to calculate maximum design capacity.

**22-206. Zoning Administrator.** The Zoning Administrator is authorized to approve minor variations from the location, size and number of parking spaces otherwise required under this Article when, in his or her discretion, such variation does not violate the purpose of these regulations and does not harm public health, safety or welfare. The Zoning Administrator is specifically authorized to allow some required parking spaces on commercial properties to be used, for a fixed number of days, for temporary sales purposes, including but not limited to lawn and garden and other seasonal materials.

## SECTION 22-3 LAYOUT AND DESIGN REQUIREMENTS

**22-301. Area size.** Each required parking space shall consist of a rectangular area of not less than nine (9) feet in width, by nineteen (19) feet in length. All required spaces shall be clearly marked and defined except for spaces for single-family and two-family dwellings, where parking spaces may be those portions of a driveway that are not within the city right-of-way.

**22-302. Access.** Except in R-1 and R-2 districts, each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. Streets and alleys shall be used only for access to and from parking facilities and shall not be used for maneuvering of vehicles. Any alley used for access to other than a single-family residence shall be paved according to City-adopted specifications.

**22-303. Design standards.** Minimum parking facility design standards shall comply with City-adopted specifications and the most current version of the U.S. Department of Justice ADA Standards for Accessible Design.

**22-304. Driveways.** Driveway location and spacing shall comply with the Corridor Management Policy Manual of the Kansas Department of Transportation. Site plans for commercial properties shall include a traffic impact analysis and an internal traffic circulation plan making full use of shared entrances.

**22-305. Surfacing.** All off-street parking facilities, loading areas, ~~vehicular storage areas and drives and access to and from such areas~~ shall be surfaced and maintained with four (4) inches of asphalt, or concrete to create a permanent all-weather, dust-free surface. Such paving must be completed prior to occupancy of the facility that the paving is intended to serve, unless temporary occupancy approval is received from the Zoning Administrator. An exception to the surfacing requirements may be granted by the Zoning Administrator in instances where the off-street areas take access from a graveled public street.

Gravel areas in existence prior to the effective date of these regulations may be maintained with six (6) inches of gravel, including base, as an alternative to these surfacing requirements.

The Zoning Administrator may, upon receiving a specific written request from an owner of a property, authorize temporary occupancy for a time period not to exceed twelve (12) months prior to accomplishing the required paving or a portion thereof.

In reviewing a request for temporary occupancy prior to accomplishing required paving, the Zoning Administrator shall consider the following criteria:

- a. Season of the year.
- b. Affect on the adjoining property.
- c. Surfacing of the connecting street.
- d. Surfacing of existing adjoining parking facilities.

Should the owner receive approval of the Zoning Administrator for a delay in paving, the owner shall, prior to occupancy, present written verification to the Zoning Administrator that guarantees all paving shall be complete prior to the deadline given by the Zoning Administrator.

**22-306. Lighting.** Any lighting provided to illuminate any parking facility shall be designed and installed in such a manner as to reflect away from any residential use upon adjoining properties.

**22-307. Drainage.** All parking facilities shall be graded and/or designed with storm drainage facilities so as to channel surface water away from adjoining properties and to an approved storm drainage system.

**Commented [JW1]:** This better matches practice and allows some additional flexibility in parking design. There are some situations in which paved surfacing is unnecessary. In general, required parking spaces should be paved but certain circumstances make gravel surfaces acceptable.



**22-308. Parking facilities in residential districts.** Any parking facilities for eight (8) or more vehicles (1) when in residential zoning districts and (2) which are adjacent to a residential or manufactured home-zoned district, shall have a screened fence or wall to prevent the passage of vehicular lights and to prevent the blowing of debris. Such fence or wall shall be at least six (6) feet in height and have a visual density of not less than seventy percent (70%). Whenever a fence shall be required along a required front yard, such fence shall not be more than forty-eight (48) inches in height.

**Commented [JW2]:** This aligns better with Section 20-9 Fences.

**SECTION 22-4 PERMIT REQUIRED**

**22-401.** Plans showing the layout, landscaping and design of all off-street parking, loading, or other vehicular use areas shall be submitted to, and approved by the Zoning Administrator prior to beginning construction. A permit shall be obtained prior to starting work on any parking area designed to accommodate four or more vehicles.

**SECTION 22-5 REQUIRED PARKING SPACES**

**22-501.** Off-street parking spaces shall be provided as follows:

**Commented [JW3]:** Staff compared the minimum parking requirements for Andover, Derby, Olathe, Salina and Wichita and modified this chart based on an average of these cities. Winfield was also consulted but theirs is nearly identical to ours.

RESIDENTIAL USES:		MINIMUM OFF-STREET PARKING SPACES:
1.	Single-family	2 spaces per unit <del>for residences on lots 50' or less in width and 3 spaces for residences on lots greater than 50' in width.</del> See Section 22-301.
	Two-family	2 spaces per unit <del>for residences on lots 50' or less in width and 3 spaces for residences on lots greater than 50' in width.</del> See Section 22-301.
	Multiple-family: Efficiency One or more bedroom	1 space per unit. <del>2 spaces per unit.</del>
2.	Dormitories	1 space for each 2 persons based on maximum design capacity.
3.	Lodging houses, rental sleeping rooms in a dwelling unit	1 space for each 2 tenants
4.	Nursing home, rest home, similar facilities	1 space for each 3 beds based on maximum design.
5.	Manufactured home park or subdivision	2 spaces per unit.
6.	Bed and breakfast inns	1 space per rental unit.
NONRESIDENTIAL USES:		MINIMUM OFF-STREET PARKING SPACES:
1.	Automobile, truck, recreation vehicle, mobile home sales and rental lots	1 space per 3,000 square feet of display area, plus 1 space per employee.
2.	Automobile or truck wash	3 holding spaces for each stall, plus 1 drying space per stall.
3.	Banks, business or professional offices	<del>1 space for each 200 square feet up to 1,000 square feet, plus 1 space for each 400</del> <u>300</u> square feet. <del>thereafter.</del>
4.	Bowling alleys	<del>5</del> <u>4</u> spaces for each lane or alley <u>plus seventy-five (75) percent of spaces required for accessory uses such as restaurants or game rooms.</u>

5.	Community college or high school	1 space for each 3 employees, plus 1 additional space for each 45 students enrolled.
6.	Day care or nursery schools	1 space for each 15 students enrolled.
<b>NONRESIDENTIAL USES:</b>		<b>MINIMUM OFF-STREET PARKING SPACES:</b>
7.	Elementary, junior high schools, and equivalent	2 spaces per classroom.
8.	*Funeral homes and mortuaries	1 space for each 4 seats based on maximum design capacity <u>as determined by the fire marshal</u> , <del>plus 1 space per employee.</del>
9.	Furniture and appliance stores	1 space per 400 square feet of floor area
10.	Hospitals	1 space for each 3 beds plus 1 space for each 2 employees on a maximum shift.
11.	Laundromats	<del>1 space for every 2 washing machines.</del> <u>1 space per 300 square ft.</u>
12.	Manufacturing, processing, assembly plants	1 space for each 1.5 workers on a maximum shift.
13.	Medical and dental clinics	<del>5 spaces for each doctor or dentist.</del> <u>1 space per 400 square feet</u>
14.	Motel and hotels	<del>1-2 spaces</del> <u>1 space</u> per rental unit plus <del>1 space for each 2 employees per working shift.</del> <u>seventy-five (75) percent of spaces otherwise required for accessory restaurants, assembly rooms and related facilities.</u>
15.	Motor vehicle repair or body shop	1 space <del>for each 2</del> <u>per</u> employees, plus <del>1</del> <u>2</u> spaces per service bay.
16.	Restaurants <del>with fixed seating</del> , provided that drive-up restaurants shall provide a minimum of <del>10 spaces</del> <u>1 space per employee on maximum shift.</u>	<del>3 spaces for each 5 seats</del> <u>1 space per 2.5 seats</u> based on maximum occupancy as determined by the Fire Marshal.
17.	Retail stores and shops	1 space per <del>175</del> <u>300</u> square feet of retail area.
18.	Service stations	1 space for each employee, plus 2 spaces per service bay.
19.	Taverns, private clubs	1 space for each 3 persons based on maximum design capacity as determined by the Fire Marshal.
20.	*Theaters, auditoriums, churches and other places of assembly having fixed seating	1 space for each 4 seats.
21.	*Theaters, auditoriums, churches and other assembly places without fixed seating	1 space for each 4 persons based on maximum capacity as determined by the Fire Marshal.
22.	Trade, commercial schools	1 space for each 3 students and employees.
23.	Warehouse, storage, wholesale establishments	1 space for each 2 employees.

24.	All other uses not specified above	1 space per each <del>200</del> 300 square feet of gross floor area or 1 space for each 4 persons based on maximum occupancy as determined by the Fire Marshal, whichever is the lesser <u>or as otherwise determined by the Zoning Administrator based on the most similar use. A parking analyses may be required if no similar use can be found.</u>
-----	------------------------------------	---

\* NOTE: Where a use has different rooms of assembly with different maximum occupancies the parking space requirement will be based upon the capacity of the main place of assemblage, as determined by the Zoning Administrator.

**SECTION 22-6 EXCEPTIONS GRANTED BY BOARD OF ZONING APPEALS OR BY ADMINISTRATIVE EXCEPTIONS**

**22-601.** Districts permitted. In order to provide off-street parking areas, the Zoning Administrator or the Board of Zoning Appeals may, after public notice and hearing, grant as an exception, the establishment of parking areas in any zoning district under the following provisions:

- a. **Location.** Parking provided under this section must be within three hundred (300) feet (along lines of public access) from the boundary of the use for which the parking is provided. Access to such parking facilities from the use must be adequately lighted to provide for safety of the public. The Zoning Administrator may approve such off-premises parking, subject to appeal to the Board of Zoning Appeals.
- b. **Use.** The parking area shall be used for passenger vehicles only, and in no case shall it be used for sales, repair work, storage, dismantling or servicing of vehicles, equipment, materials or supplies. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.
- c. **Improvements.** Parking areas and driveways on private property providing ingress and egress to parking areas shall be surfaced with concrete or asphalt to the specifications of the City Engineer and shall be maintained in good condition and free of all weeds, dust, trash, and other debris.
- d. **Guards.** Parking areas shall have adequate guards to prevent extension or the overhanging of vehicles beyond property lines or parking spaces; and parking areas shall have adequate markings for channelization and movement of vehicles.
- e. **Screening.** A fence (such as solid-wall masonry, wood, louvered wood, metal or other similar materials) at least six (6) feet high and having a density of not less than seventy (70) percent per square feet, shall be erected along any property line adjacent to or adjoining any dwelling district to eliminate the passage of light from vehicles and to prevent the blowing of debris. Whenever a fence shall be required along a front yard, such fence shall not be higher than forty-eight (48) inches. ~~and such fence shall be located within one foot of the front yard setback line. Fences along said yards shall not extend nearer to the street than the front yard setback line.~~

**Commented [JW4]:** Confusing and somewhat conflicting statement. Fences should follow the regulations in Section 20-9.

**22-602. Alternate surface.** The Board of Zoning Appeals, after due public notice and hearing, may grant a variance to the surfacing materials required in this article.

**22-603. Exception revocable.** The Zoning Administrator shall be responsible for the enforcement of the conditions and requirements made by the Board of Zoning Appeals in the approval of any off-street parking exceptions. The Zoning Administrator, upon discovery of any violation of this regulation or the conditions and requirements established by the Board, shall notify the Board through its secretary as to such violations. The Board of Zoning Appeals is hereby authorized to revoke the exception after public hearing for any of the following reasons:

- a. Abandonment of the area for use for parking purposes for six (6) continuous months (180 calendar days).

- b. Failure to comply with the requirements contained in this section, or other requirements imposed by the Board.

**SECTION 22-7 LOADING AND UNLOADING SPACE REQUIREMENTS**

**22-701.** On-premise loading and unloading spaces shall be provided off-street and in the side or rear for such uses involving receipt or distribution of materials or merchandise by motor vehicle or rail. All loading and unloading operations shall be located to avoid undue interference with traffic and public use of streets, alleys and walkways. Such space shall include a minimum of twelve (12) feet by twenty-five (25) feet for loading and unloading operations and shall have a minimum height clearance of fourteen (14) feet. The number of spaces shall be provided as follows:

<i>Number of Spaces</i>	<i>Gross Floor Area in Square Feet</i>
1.....	3,000 to 20,000
2.....	20,001 to 40,000
3.....	40,001 to 60,000
4.....	60,001 to 80,000
5.....	80,001 to 100,000
6.....	100,001 to 150,000

One additional space shall be provided for each fifty thousand (50,000) square feet above one hundred fifty thousand (150,000) square feet.

**SECTION 22-8 DISTRICTS REQUIRING LOADING AND UNLOADING SPACE**

**22-801.** Loading and unloading spaces shall be provided in the following zoning districts:

- a. "C-1" Office and Service Business.
- b. "C-2" Restricted Commercial.
- c. "C-3" General Commercial.
- d. "I-1" Light Industrial.
- e. "I-2" Heavy Industrial.

## Article 27: Signs

### Sections:

- 27-1 General Provisions
- 27-2 Definitions
- 27-3 Signs Excluded from Regulations
- 27-4 Signs Prohibited
- 27-5 General Sign Regulations
- 27-6 Residential District (R) Sign Regulations
- 27-7 ~~Countryside District (CS) Sign Regulations~~ [RESERVED FOR FUTURE USE]
- 27-8 Agricultural District (A) Sign Regulations
- 27-9 Public Use District (P) Sign Regulations
- 27-10 Commercial District Sign Regulations
- 27-11 Mixed Use District (MU) Sign Regulations
- 27-12 Industrial District Regulations
- 27-13 Billboards/Off-Premises Signs
- 27-14 Maintenance of Signs
- 27-15 Unlawful Cutting of Trees or Shrubs
- 27-16 Sign Variances
- 27-17 Design Review
- 27-18 Appendix

### SECTION 27-1 General Provisions

**27-101. Statement of purpose:** This article provides standards relating to signs located within the city of Arkansas City, and governs the number, size, type, location and physical aspects of signs. It is determined that the regulation of Signs is necessary to promote safety, to preserve and enhance the aesthetic and environmental values of the community, to provide for effective communication between people within the context of their environment and to protect the rights of free speech and expression.

**27-102. Substitution of Messages:** Subject to the land owner’s consent, a non-commercial message of any type may be substituted for any duly permitted or allowed commercial message or any duly permitted or allowed noncommercial message, provided that the Sign is legal without consideration of message content. This substitution of message may be made without any additional approval or permitting. This provision does not create a right to increase the total amount of signage on a parcel or land use, nor does it affect the requirement that the structural device or mounting device be properly permitted.

**27-103. Responsibility of Compliance:** The responsibility for compliance with the Article rests jointly and severally upon the Sign owner, the Sign Operator, all parties holding the present right of possession and control of the property whereon a Sign is located, mounted or installed including the legal owner of the lot or parcel.

**27-104 Severability:** Should any of the clauses, sentences, paragraphs, words, sections or parts of this Article be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Article. All provisions of this Article are declared to be severable.

**27-105 Maintenance:** All Signs together with all their supports, braces, guys and anchors, shall be kept in good repair and in a proper state of preservation.

**27-106 Non-Conformance:** Every sign lawfully in existence on the adoption of this Article shall not be altered or moved unless it is brought into greater conformance to comply with the provisions of this Article, except as otherwise provided herein. For the purposes of these regulations, sign structure painting, message or face changes are not considered alterations.

## SECTION 27-2 DEFINITIONS

**27-201.** Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this Section shall have the meaning indicated when used in this Article.

**Animated Sign.** A sign which has any visible moving part, flashing or osculating lights, visible mechanical movement of any description, or other apparent visible movement achieved by any means that move, change, flash, osculate or visibly alters in appearance in a manner that is not permitted by these regulations.

**Attention-Attracting Device.** Any device intended to attract the attention of the public to an establishment, location, product or service, except signs as permitted by this Article. This includes spinners, pinwheels, pennant strings, and other devices or displays that respond to naturally occurring external motivation. See Temporary Sign.

**Awning Sign.** A building mounted sign that provides additional functionality as a shelter.

**Billboard.** An off-premises sign.

**Canopy:** A freestanding permanent roof-like structure not attached to or requiring support from an adjacent structure.

**Canopy Sign:** Any permanent sign attached to or constructed on or/underneath a canopy.

**Changeable Copy Sign:** A sign or portion thereof on which the copy or symbols change either automatically through electrical or electronic means, or manually through placement of letters or symbols on a panel mounted in or on a track system.

**Display Time.** The amount of time a message and/or graphic is displayed on an Electronic Message Center.

**Dissolve.** A mode of message transition on an Electronic Message Center accomplished by varying the light intensity or pattern, in which the first message gradually appears to dissipate and lose legibility with the gradual appearance and legibility of the second message.

**Dynamic Frame Effect.** An Electronic Message Center frame effect in which the illusion of motion and/or animation is used in a single frame. For example, falling leaves in the background of a single frame, floating balloons in the background of a single frame, waving flag used in a single frame. – see frame effect.

**Electronic Message Center.** A variable message sign capable of displaying words, symbols, figures or images that can be electronically changed by remote or automatic means.

**Fade.** A mode of message transition on an Electronic Message Center accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

**Footcandle:** A unit of measurement of the amount of light falling upon a surface (illuminance). One foot candle is equal to one lumen per square foot. Can be measured by means of an illuminance meter.

**Frame.** A complete, static display screen on an Electronic Message Center.

**Frame Effect.** A visual effect on an Electronic Message Center applied to a single frame. See also Dynamic Frame Effect.

**Freestanding Sign.** A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign. A sign that stands without supporting elements, such as “sandwich sign,” is also a free-standing sign. If the message is removed from a structure that was originally designed and used as a freestanding sign, this structure shall still be considered a sign.

**Grade.** The level of the site at the property line located at the closest distance to the sign.

**Illegal Sign.** Any sign placed without proper approval or permits as required by this code at the time of sign placement. Illegal sign shall also mean any sign placed contrary to the terms or time limits of any permit.

**Illuminance:** A measure of the amount of light intercepting an object at a given distance from a light source and is measured in foot candles or its metric equivalent, lux. Illuminance can be measured with a foot candle meter.

**Institutional Uses.** Refers to organizations such as, but not limited to, churches, schools, community centers, or other public/semi-public facilities.

**Internally Illuminated Signs.** Signs where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that (1) are filled with neon or some other gas that glows when an electric current passes through it, and (2) are intended to form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the sign that contain the message, shall also be considered internally illuminated signs.

**Marquee.** A permanent roof-like shelter extending from part or all of a building face and constructed of some durable material which may or may not project over a public right of way.

**Marquee Sign.** Any sign painted on or attached to or supported by a marquee.

**Monument Sign.** A freestanding sign having a solid appearance and a low profile, normally consisting of a face and base. Said sign may be constructed with stone, concrete, metal, routed wood planks or beams, brick or other materials consistent with the building the sign is representing.

**Off-Premises Sign.** A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided at a location other than the premises on which the sign is located. A sign that draws attention to a cause or advocates or proclaims a political, religious or other noncommercial message shall also be an off-premises sign unless such sign is excluded from regulation under Section 27-3.

**On-Premises Sign.** A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided on the premises where the sign is located.

**Pole or Pylon Cover:** An enclosure for concealing and/or for decorating poles or other structural supports of a freestanding sign.

**Pole Sign:** A freestanding sign with visible support structure.

**Projecting Sign.** A sign other than a Wall sign that is attached to or projects more than eighteen (18) inches from a building face or wall. This includes marquees and signs on canopies and awnings.

**Pylon Sign:** A freestanding sign with visible support structure or with the support structure enclosed with a pole cover.

**Roof Sign.** A sign erected, constructed or maintained partially or wholly upon or over the roof of a building, a building canopy, or a freestanding canopy.

**Scroll.** A mode of message transition on an Electronic Message Center in which the message appears to move vertically across the display surface.

**Sign.** Any device that (1) is sufficiently visible to persons not located on the lot where such device is located to accomplish either of the objectives of part (2) of this definition, and (2) is designed to attract the attention of such persons or to communicate information to them.

**Temporary Sign.** A sign which is not permanently affixed to the ground, a building or other structure. As an example, temporary signs include banners, pennants, feather signs, inflatables, and other attention attracting devices. See Attention Attracting Device.

**Transition.** A visual effect used on an Electronic Message Center to change from one message to another.

**Travel.** A mode of message transition on an Electronic Message Center in which the message appears to move horizontally across the display surface.

**Vehicular Sign.** Any sign which is attached to or placed upon a parked motor vehicle and placed in a position or location for the sole purpose of displaying the same to the public.

**Wall Sign.** A sign that is attached to a building face or wall and projects not more than eighteen (18) inches from the building face or wall. Also includes signs affixed to architectural projections, such as awnings or canopies, provided the sign remains parallel to the face of the building or wall.

**SECTION 27-3 SIGNS EXCLUDED FROM REGULATIONS**

**27-301.** The following signs are exempt from regulation under this Article except for those regulations set out in Section 27-5.

- a. Signs not exceeding four (4) square feet in area that are customarily associated with residential use and that are not of a commercial nature.
- b. Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.
- c. Flags, pennants, or insignias of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
- d. Signs directing and guiding traffic on private property that do not exceed four (4) square feet in area and (4) feet high, located within (6) six feet of the curb cut, and not to exceed two per entrance.
- e. Signs internal to the site on properties where a drive-thru window is present and/or, not visible or aimed at the public right of way shall not be limited in size/quantity by these regulations unless otherwise prohibited.
- f. Interior signs shall also be exempt from these regulations.
- g. Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs.
- h. Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.

i. ~~Temporary signs used during the 45-day period prior to any election and the two-day period following any such election a public voting cycle will follow the State of Kansas statute in accordance with K.S.A 25-2711.~~

- 1. ~~Signs in AG, C-S & I districts placed on non-residential property shall not exceed (6) six feet in height, (32) thirty-two square feet. In all other districts Signs placed on residential property shall not exceed four (4) six (6) sq. feet in area, and two (2) feet in height.~~

**Commented [JW1]:** Rewritten to add the language from KSA 25-2711 rather than simply guiding the reader to a non-listed statute.

**Commented [JW2]:** This section has been difficult to enforce and provided no means for the larger signs to be placed in commercial districts. The non-residential/residential status will still protect residential areas by limiting the size of the signs. This does propose a small increase in size for residential. Height is not really an issue with this sort of sign. Regulations from Andover, Concordia, Derby and Winfield were consulted.



2. Signs shall not be placed, erected or maintained on or in public buildings or structures, including libraries, recreational centers, parking structures, city hall, or on or in public parks, lawns, vehicles, trees, fences, ~~or fire hydrants, or rights of way.~~
  3. Signs shall not be placed, erected or maintained so as to pose a visibility hazard to pedestrian or motor vehicle traffic along streets, sidewalks, or at street corners.
- j. Temporary Signs: A sign that either (1) is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign at such a time the event is complete the sign will be removed, or (2) is intended to remain on the location where it is erected or placed for a period of not more than 15 days. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.
1. Signs shall not be placed, erected or maintained so as to pose a visibility hazard to pedestrian or motor vehicle traffic along streets, sidewalks, or at street corners.
  2. Signs shall not be lighted.
  3. Signs ~~in AG, C S & I districts shall not exceed (6) six feet in height,~~ placed on non-residential property shall not exceed (32) thirty-two square feet in area. ~~In all other districts, temporary signs~~ Signs placed on residential property shall not exceed ~~four (4)~~ six (6) sq. feet in area, ~~and two (2) feet in height.~~

**Commented [JW3]:** K.S.A 25-2711 allows signs to be placed on the unpaved right-of-way as long as they do not impede sight lines or sight distance for safety reasons. This does not include the right-of-way immediately adjacent to anything on the list in paragraph 2 however.

#### SECTION 27-4. SIGNS PROHIBITED

**27-401.** It shall be a violation of these regulations to erect, install, place or maintain the following signs:

- a. Any sign or advertising structure which constitutes a traffic hazard or a detriment to traffic safety by reason of its size, location, movement, content, coloring, or method of illumination, or by obstructing the vision of drivers, or signs that obstruct or detract from the visibility of traffic control devices or emergency vehicles. Any sign which by glare or method of illumination constitutes a hazard to traffic is prohibited.
- b. Any sign or advertising structure with words, scenes or graphics which are obscene, indecent and prurient, within the meaning of K.S.A. 21-4301, as amended.
- c. Any sign or advertising structure (other than those erected by a governmental agency or required to be erected by a governmental agency for a public purpose) erected, installed or placed on the right-of-way of any street, road or public way, or signs overhanging or encroaching upon the right-of-way of any street, road or public way, except as specifically permitted by these Regulations.
- d. Any sign or advertising structure erected on City property or other governmental property other than signs erected by the governmental entity itself.
- e. Any sign or advertising structure which is erected, installed or maintained that obstructs any fire escape, required exit, window or door opening intended as a means of ingress or egress.
- f. No sign shall be attached to a tree or to a publicly- or privately-owned utility pole on either public or private property.

#### SECTION 27-5 GENERAL SIGN REGULATIONS

**27-501.** The following general sign requirements shall apply to all signs in all zoning districts:

- a. No signs shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device. Signs must comply with the requirements of Section 20-4 regarding corner visibility.

- b. Except where otherwise specifically prohibited, lighting is permitted on signs, provided, however, reflectors shall be provided with proper lenses, concentrating the illumination on the area of the sign to prevent glare upon the street or adjacent property.
- c. No sign shall be wholly or partially illuminated so as to interfere with the vision of pedestrian or vehicular traffic.
- d. Electronic Message Centers are permitted in zoning districts as set out in this Article. The following restrictions shall apply to electronic message centers:
  - 1. Electronic message centers may be a portion of the sign or comprise the entire area allowed by the sign type per zoning district. One (1) per zoning lot is permitted and can be double faced.
  - 2. The Electronic Message Center must have automatic dimmer control to maintain a maximum of 0.3 footcandles over ambient light as measured at the appropriate distance based on the EMC's size.
  - 3. The Electronic Message Center's programmed display must follow the requirements for the zoning district in which it is placed. Full animation and full video are prohibited except where allowed by issuance of a conditional use permit. Full animation is defined by movement, or the illusion of movement, that occurs in sequence of several frames without a hold time between frames. Full video is considered to be a live stream, or video clip displayed on the unit in a continuous fashion without a hold in between frames. Dynamic frame effect is an alternative that can be used instead of full animation or full video.
  - 4. Electronic message centers, if located in a residential district or within two hundred (200) feet of a residentially zoned district, may only be operated between the hours of 6 a.m. and 10 p.m.
  - 5. A certificate of compliance must be signed and on file with the Zoning Administrator. Any electronic message center found to be operating outside of the regulations will be deemed a zoning violation and shall be remedied according the provisions of Article 30 of these regulations.

#### **SECTION 27-6 RESIDENTIAL DISTRICT (R-1:R-3, MHS & MP) SIGN REGULATIONS**

**27-601.** The following signs are allowed in Residential Districts (including R-1:R-3, MHS and MP Districts):

- a. One (1) temporary non-illuminated sign per residence or building under construction, not more than thirty-two (32) square feet in area per face and not more than eight (8) feet in height, provided that said sign shall be removed within ten (10) days of project completion.
- b. For Institutional uses permitted in residential districts:
  - 1. Wall Signs: up to 30 sq. ft. (1) one per building frontage.
  - 2. Monument sign, which shall not exceed thirty (30) square feet in area per face nor exceed eight (8) feet in height, per street frontage.
  - 3. Electronic message centers are permitted with the following guidelines:
    - Size: Thirty (30) sq. feet in area.
    - Hold Time: Three (3) second hold time,
    - Transition: immediate transition between frames. Scrolling, and travel transitions, as well as, animation are prohibited. See Section 27-5 for other requirements.

- c. For Home Occupations permitted in residential districts: (1) One non-illuminated wall mounted or freestanding sign per lot, not to exceed (6) six sq. feet in area and (5) five feet in height.
- d. One (1) monument sign is permitted at the entrance to each platted subdivision provided the sign shall not exceed fifty (50) square feet in area per face nor exceed eight (8) feet in height.
- e. In the R-3 District, any permitted nonresidential use and/or multi-tenant buildings and similar uses are allowed; one (1) illuminated, wall sign not to exceed thirty (30) sq. feet in area, per facade. No sign shall extend above the roof line and One (1) freestanding sign not to exceed 30 sq. feet in area, and (8) eight feet in height per street frontage.
  - r. Except as permitted in b. above, electronic message centers are prohibited.

**SECTION 27-7 COUNTRYSIDE DISTRICT (CS) SIGN REGULATIONS [RESERVED FOR FUTURE USE]**

**27-701.** The following signs are allowed in the Countryside District (CS):

- a. ~~One (1) non illuminated sign per residence or building under construction, not more than thirty two (32) square feet in area per face and not more than eight (8) feet in height, provided that said sign is removed within ten (10) days of project completion.~~
- b. ~~For Institutional uses permitted in C-S districts:~~
  - 1. ~~Wall Signs: up to forty (40) sq. ft. One (1) per building frontage.~~
  - 2. ~~Monument sign, which shall not exceed forty (40) square feet in area per face nor exceed ten (10) feet in height, one (1) per street frontage.~~
  - 3. ~~Electronic message centers are permitted with the following guidelines: Size: Forty (40) sq. feet in area.  
Hold Time: Three (3) seconds  
Transition: immediate transition between frames.  
Scrolling, and travel transitions, as well as, animation are prohibited. See Section 27-5 for other requirements.~~
- c. ~~One (1) monument sign is permitted at the entrance to each platted subdivision provided the sign shall not exceed fifty (50) square feet in area per face nor exceed ten (10) feet in height.~~
- d. ~~For Home Occupations permitted in C-S districts:~~
  - ~~One (1) non illuminated wall mounted or freestanding sign per lot, not to exceed six (6) sq. feet in area a five (5) feet in height.~~
- e. ~~Except as permitted in b. above, electronic message centers are prohibited.~~

**Commented [JW4]:** Since the CS district is being eliminated, these regulations also should be eliminated.

**SECTION 27-8 AGRICULTURAL DISTRICT (A) SIGN REGULATIONS**

**27-801.** The following signs are allowed in the Agricultural District (A):

- a. One (1) non-illuminated sign per residence or building under construction, not more than thirty-two (32) square feet in area per face and not more than eight (8) feet in height provided that said sign is removed within ten (10) days of project completion.
- b. For Institutional uses permitted in Agricultural districts:
  - 1. Wall Signs: up to 40 sq. ft. (1) one per building frontage.
  - 2. Monument sign, which shall not exceed forty (40) square feet in area per face nor exceed eight (8) feet in height, per street frontage.
  - 3. Electronic message centers are permitted with the following guidelines:  
Size: Forty (40) sq. feet in area.

Hold: Three (3) second hold time, immediate transition between frames. Scrolling, and travel transitions, as well as, animation are prohibited. See Section 27-5 for other requirements.

- c. For Home Occupations permitted in Agricultural districts: One (1) non illuminated wall mounted or freestanding sign per lot, not to exceed six (6) sq. feet in area and five (5) feet in height.
- d. Except as permitted in b. above, electronic message centers are prohibited.

**SECTION 27-9 PUBLIC USE DISTRICT (P) SIGN REGULATIONS**

**27-901.** In the P District the following regulations apply:

a. Any number or combinations of signs are permitted in b. below, provided that the cumulative square footage of signs shall not exceed ~~400~~ 200 sq. ft.

b. Sign permitted in the P District, and maximum square footage:

Wall	Maximum 15% of façade
Pole/pylon	Maximum <del>50</del> 75 sq ft/face Height <del>40</del> 15 feet
Monument	Maximum <del>50</del> 75 sq ft/face Height 10 feet

c. One Electronic Message center is permitted per zoning parcel, as all or as a portion of the allowable sign area, provided it meets the requirements in Section 27-5.

**Commented [JW5]:** In line with the maximum for C-1 district but not as high as the C-2 or C-3. This limit also needs to increase with increases in b.

**Commented [JW6]:** These limits were increased in response to BZA-2021-208. It is still a little lower than C-2 and C-3. Had these limits been in place at the time of that case, no variance would have been required.

**SECTION 27-10 COMMERCIAL DISTRICT (C-1:C-4) SIGN REGULATIONS**

**27-1001.** In the C-1 District the following regulations apply:

a. Any number or combination of signs are permitted in b. below, provided that the cumulative square footage of signs shall not exceed 200 sq. ft.

b. Signs permitted in the C-1 District, and maximum square footage:

Wall	maximum 15% of façade
Monument	maximum 48 sq. ft./face Height: 10 feet
Projecting	maximum 48 sq. ft/face

c. Roof signs are not permitted in the C-1 District.

d. For institutional uses in C-1, Electronic message centers are permitted with the following guidelines:  
Size: Forty (40) sq. feet in area.

Hold: Three (3) second hold time, immediate transition between frames. Scrolling, and travel transitions, as well as, animation are prohibited. See Section 27-5 for other requirements.

**27-1002.** In the C-2 District the following regulations apply:

a. Any number or combination of signs are permitted in b. below, provided that the cumulative square footage of signs shall not exceed 250 sq. ft. To encourage creative design an additional 50 sq. ft could be added to the aggregate total of allowed sq. footage by using creative design and architectural elements. This would be approved by a design review to ensure criteria is met, and aesthetic character is achieved. See appendix for what creative design elements could be.

b. Signs permitted in the C-2 District, and maximum square footage:

Wall	maximum 15% of façade
Monument sign	maximum 100 sq. ft./face Height: 10'
Pole/Pylon	maximum 100 sq. ft / face Height 15'
Projecting	maximum 100 sq. ft/face

- c. Roof signs are not permitted in the C-2 District.
- d. Signs located within 50 feet of a residential district must be affixed to or be a part of the building.
- e. One (1) Electronic message center is permitted per zoning parcel, as all or as a portion of the allowable sign area, provided it meets the requirements in section 27-5.

**27-1003.** In the C-3 District the following sign regulations apply:

- a. Any number or combination of signs are permitted in b. below, provided that the cumulative square footage of signs shall not exceed 300 sq. ft.  
To encourage creative design an additional 200 sq. ft could be added to the aggregate total of allowed sq. footage by using creative design and architectural elements. This would be approved by a design review to ensure criteria are met, and aesthetic character is achieved. See Section 27-18 to see what creative design elements could be.
- b. Signs permitted in the C-3 District, and maximum square footage:
 

Wall	maximum 20% of façade
Pole/Pylon	maximum 100 sq.ft./face Height: 25 feet
Monument	maximum 100 sq. ft./face Height: 10 feet
Projecting	maximum 100 sq. ft/face
Roof	no maximum*

\*On-premise roof signs shall not exceed 1/2 the height of the building supporting the roof sign.

- c. One (1) Electronic message center is permitted per zoning parcel, as all or as a portion of the allowable sign area, provided it meets the requirements in Section 27-5.
- d. Off-premises billboards are allowed in the C-3 District upon the issuance of a conditional use permit, as provided in Section 27-13. This signage does not apply towards the maximum square footages in a. above.

**27-1004.** In the C-4 District the following sign regulations apply:

- a. Signs affixed to canopies or marquees which are constructed and maintained in accordance with the adopted building codes are permitted.
- b. Signs permitted in the C-4 District, and maximum square footage:
 

Wall	maximum 15% of façade*
Pole/Pylon	maximum 200 sq.ft./face Height: 25 feet
Monument	maximum 200 sq. ft./face Height: 10 feet
Projecting	maximum 200 sq. ft/face

\*An additional 5% could be added to the total of allowed square footage by using creative design and architectural elements. This would be approved by a design review to ensure criteria are met, and aesthetic character is achieved. See appendix for what creative design elements could be.

- c. One (1) Electronic message center is permitted per zoning parcel, as all or as a portion of the allowable sign area provided it meets the requirements of Section 27-5 and subsection d below.
- d. Signs located within the Historic Conservation Overlay (HC-O) District and/or listed on any Local, State or National Register of Historic Places must also meet those regulations.

**SECTION 27-11 MIXED USE DISTRICT SIGN REGULATIONS**

**27-1101.** Sign regulations for the Mixed Use (MU) District shall be those of the most restricted zoning district which allows the use, either as a permitted or conditional use, of the subject property.

**SECTION 27-12 INDUSTRIAL DISTRICT SIGN REGULATIONS**

**27-1201.** The following signs shall be allowed in the Light Industrial District (I-1):

- a. One (1) wall sign per façade. The sign area shall not exceed ten percent (10%) of the wall upon which it is located.
- b. One (1) freestanding sign per 300 feet of street frontage shall be permitted for each industrial establishment. Such sign shall not exceed ~~ten (10)~~ fifteen (15) feet in height above the average grade, and the sign face shall not exceed fifty (50) square feet in area per face.

**Commented [JW7]:** This was a little too strict, this height matches the C-2 district. Also added the ability to have additional signs for larger properties.

**27-1202.** The following signs shall be allowed in the Heavy Industrial District (I-2):

- a. One (1) wall sign per façade. The sign area not to exceed fifteen percent (15%) of the wall upon which it is located.
- b. One (1) freestanding sign per 300 feet of street frontage shall be permitted for each industrial establishment. Such sign shall not exceed ~~ten (10)~~ twenty-five (25) feet in height above the average grade, and the sign face shall not exceed one hundred (100) square feet in area per face.

**Commented [JW8]:** New height matches the C-3 district. Also added the ability to have additional signs for larger properties with a lot of street frontage.

**SECTION 27-13 BILLBOARDS/OFF-PREMISES SIGNS**

**27-1301.** Off-premises billboard signs are allowed in the C-3, I-1 and I-2 Districts upon the issuance of a conditional use permit, and subject to the requirements of this section.

**27-1302.** Location:

- a. Billboard signs shall not be located within 300 feet of any structure occupied as a residential or other non-commercial or non-industrial use.
- b. Billboard signs shall not be located within fifty (50) feet of any state or federal highway, as measured from the edge of the right-of-way.
- c. Billboard signs shall not be attached to the roof or wall of any building.

**27-1303.** Maximum Height: The top edge of any billboard sign shall not exceed fifty (50) feet above average grade.

**27-1304.** Maximum Sign Area:

- a. The maximum sign area of any billboard sign shall not exceed a total of 750 square feet.
- b. For purposes of this subsection, each face of a billboard sign, whether back-to-back, V-shaped, or some other configuration, shall be considered a separate sign.

**27-1305.** Lighting: Billboard signs may be indirectly illuminated, but shall not cast glare upon any adjacent highway so as to pose a hazard to vehicular traffic.

**27-1306.** Minimum Spacing Requirements: No billboard sign hereafter erected shall be less than 300 feet from any other existing billboard sign on the same side of the street. Such minimum spacing distance shall be measured along the center line of the frontage street or highway from a point opposite any edge of a billboard sign and perpendicular to the center line of each street or highway.

**SECTION 27-14 MAINTENANCE OF SIGNS**

**27-1401.**

- a. All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. With respect to freestanding signs, components (supporting

structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.

- b. If a sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign's message shall be considered obsolete. The obsolete message must be replaced within 30 days after the last day the message was viable. If necessary, to avoid being considered abandoned, the obsolete message can be replaced with a blank face and the structure must be properly maintained.
- c. If after 30 days of becoming obsolete the sign and structure have not been properly maintained, the entire sign will be considered abandoned. The owner of the sign, or the owner of the property where the sign is located, or other person having control over such sign will have 180 days to remove the entire sign and all of its structural components.

#### **SECTION 27-15 UNLAWFUL CUTTING OF TREES OR SHRUBS**

**27-1501.** No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation located within the right-of-way of any public street or road, unless the work is done pursuant to written authorization of the Zoning Administrator.

#### **SECTION 27-16 SIGN VARIANCE**

**27-1601.** Procedures for requesting a variance to the sign regulations can be found in Article 25 of these regulations.

#### **SECTION 27-17 DESIGN REVIEW:**

##### **27-1701. Administrative Design Review:**

An optional design review process, one that is voluntarily entered into by applicants, rather than a mandatory one. This option allows the applicant to choose between designing a sign strictly according to numerical standards or going through a design review process that allows for larger signs, more flexibility, or both. For example, the numerical standard for a projecting sign might consist of a maximum allowable area of "x" square feet. This would probably produce a simple, rectangular sign, maximizing the copy area. Under an optional design review process, the sign area could be increased by a certain percentage or sq. footage. The sign could include a unique, eye-catching logo that would add liveliness to the streetscape. Such a method rewards both businesses and sign producers for creative efforts. – A Framework for On-Premise Sign Regulations March 2009 Alan C. Weinstein, Inc. D.B. Hart, Inc.

To use this method, submit a site plan indicating all existing signage, as well as, indicating placement of the proposed signage. A scaled drawing of proposed signage must be submitted for administrative review. To ensure proposed signage aesthetically compliments the surrounding structure's architectural elements and is appropriate in scale.

**SECTION 27-18 APPENDIX**

**27-1801. Sign Types.**

The following section uses some local signs as an example of sign types permitted within the sign regulations and similar sign types using creative elements that could possibly be used in design review. The use of these images is for example purposes only and not intended to convey a preference for a sign design or a business shown.

**Typical On-Premise Sign Types**



Awning Sign



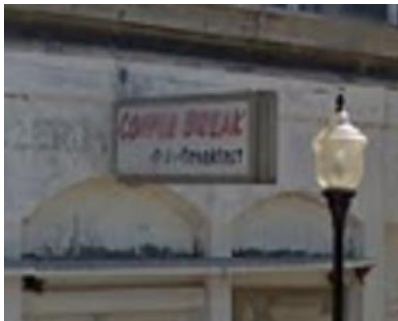
Canopy sign



Pole Sign



Pylon with creative elements



Projecting sign



Projecting sign with creative elements





Wall Sign



Wall sign with creative elements



Monument



Monument with creative elements



Marquee



Marquee with creative elements

**27-1802. Sign Area measurement:**

- a. For a wall sign which is framed, outlined, painted or otherwise prepared and intended to provide a background for a sign display, the area and dimensions shall include the entire portion within such background or frame.
- b. For a wall sign comprised of individual letters, figures or elements on a wall or similar surface of the building or structure, the area and dimensions of the sign shall encompass a regular geometric shape (rectangle, circle, trapezoid, triangle, etc.), or a combination of regular geometric shapes, which form, or approximate, the perimeter of all elements in the display, the frame, and any applied background that is not part of the architecture of the building. When separate elements are organized to form a single sign, but are separated by open space, the sign area and dimensions shall be calculated by determining the geometric form, or combination of forms, which comprises all of the display areas, including the space between different elements. Minor appendages to a particular regular shape, as determined by the Zoning Administrator, shall not be included in the total area of a sign.



- c. For a freestanding sign, the sign area shall include the frame, if any, but shall not include:
  - 1. A pole or other structural support unless such pole or structural support is internally illuminated or otherwise so designed to constitute a display device, or a part of a display device.



- 2. Architectural features that are either part of the building or part of a freestanding structure, and not an integral part of the sign, and which may consist of landscaping, building or structural forms complementing the site in general.



**Article 29: Reserved for Future Use Site Plan Review**

**Sections:**

- 29-1 Intent**
- 29-2 Applicability**
- 29-3 Authority**
- 29-4 Filing Fee**
- 29-5 Submission Requirements**
- 29-6 Standard of Review**

**SECTION 29-1 INTENT**

**29-101.**

- a. The very nature of land development creates potential for traffic congestion, overcrowding, adverse visual environmental impacts, and health problems. Also, the City strives to achieve the goal of promoting growth in Arkansas City, while stabilizing the established residential patterns of the area. The City seeks to ensure that any location that accommodates intense urban use be subject to Site Plan Review by the zoning administrator in accordance with this Article. Site Plan Review helps ensure that the meaning and intent of these subdivision regulations are fully complied with and so property owners and developers understand City requirements under these regulations before projects begin.
- b. Site Plan Review regulates the development of structures and sites in a manner that considers the following:
  - 1. The balancing of landowners’ rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances, including, for example, noise, smoke, fumes, dust, odor, glare and stormwater runoff;
  - 2. The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;
  - 3. The adequacy of waste disposal methods and protection from pollution of surface or groundwater;
  - 4. The protection of historic and natural environmental features of the site under review, and those of adjacent areas; and
  - 5. The stability of the built environment, particularly residential neighborhoods, by promoting urban development that is compatible with clearly identified natural resources.

**SECTION 29-2 APPLICABILITY**

**29-201.**

- a. The Zoning Administrator shall require that all applications for building permits for residential, commercial and industrial developments, other than applications for accessory buildings, be subject to site plan review in accordance with these regulations, and for redevelopments which enlarge the size of the original structure by more than fifty percent (50%) in the case of a renovation or alteration. The Zoning Administrator may require a site plan review in accordance with the regulations for any development requiring a building permit upon a determination that such development may impact parking, storm water, traffic or create other impacts upon public health, safety or welfare. The Zoning Administrator may require a site plan review regardless of whether a development involves the subdivision of land. Developments shall be encouraged to implement the objectives of the adopted City of Arkansas City Comprehensive Plan to foster compatibility among land uses in the City.

**Commented [JW1]:** This article is entirely new content to the Zoning Regulations. The text was largely adopted from Article 13 Site Plan Review of the Subdivision Regulations. Some of the content from that Article was removed and placed in Articles 9 & 15. Where that happens in those articles, it will be noted. These changes are occurring in accordance with Section 8-5 of the 2022 Comprehensive Plan.

Also since this is entirely new content staff has chosen not to use the red underline so that it is not overwhelming to the reader. The reader should treat all of this content as if it was red underlined with the exception of the title at the top.

- b. All site plan applications for non-residential development shall be reviewed by the Technical Advisory Committee as established by Section 2-6 of the Subdivision Regulations. A meeting shall be held between the applicant and the committee to discuss the site plan review requirements and other site or application issues specific to the proposed development. The applicant should submit preliminary plans for initial review and comment at this time. Staff will conduct the final site plan review after this meeting and the applicant shall then submit final plans in accordance with Section 29-5 of these regulations.

### **SECTION 29-3 AUTHORITY**

**29-301.** Building permits shall not be issued for any use of land or proposed construction for which site plan review is applicable unless site plan review approval has been granted.

### **SECTION 29-4 FILING FEE**

**29-401.** A filing fee shall be paid as part of the plan review fee at or prior to the time of building permit application in an amount established by the City Commission in the Comprehensive Fee Schedule.

### **SECTION 29-5 SUBMISSION REQUIREMENTS**

#### **29-501.**

- a. The site plan shall include the following data, details, and supporting plans which are found relevant to the proposal. The applicant shall make notations explaining the reasons for any omissions.
- b. Site plans shall be prepared by a registered professional engineer, architect, land surveyor or landscape architect at the largest scale possible, but no less than a scale of one (1) inch equals 20 feet, on standard 24" x 36" sheets. The number of copies of the site plan to be submitted for review shall comply with the City's schedule of copies. Items required for submission include:
1. Name of the project, address, boundaries, date, north arrow and scale of the plan.
  2. Name and address of the owner of record, developer, and seal of the engineer, architect or landscape architect.
  3. All existing lot lines, easements and rights-of-way. Include area in acres or square feet, abutting land uses and structures.
  4. The location and use of all existing and proposed structures within the development. Include all dimensions of height and floor area, show all exterior entrances and all anticipated future additions and alterations, side views of structure, building elevations of structure, and proposed building materials. For developments in the Historic District and/or C-4 Central Business District, indicate design details to make new construction compatible with existing structures and conformance to the adopted Comprehensive Plan and Zoning Regulations.
  5. The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs and fences. Location, type and screening details for all waste disposal containers shall also be drawn.
  6. The Zoning Administrator may require location, height, intensity and bulb type for all external lighting fixtures. The direction of illumination and methods proposed to eliminate glare onto adjoining properties must also be shown.
  7. The location, height, size, materials, and design of all proposed signage.
  8. The location, size and common name of all existing plant materials to be retained on the site, including a description of the methods by which such materials could be preserved; mature sizes of plant material drawn to scale and identified by common name or appropriate key; location of all trees, twelve-inch (12") caliper or larger measured at four and one-half feet (4 ½') above ground level that are proposed for removal.

9. The location of all present and proposed utility systems including:
  - (a) sanitary sewage system;
  - (b) water supply system;
  - (c) telephone, telecommunication, cable and electrical systems; and
  - (d) storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes and drainage swells.
10. Construction and post-construction best management practices (BMPs) may be required as part of the plan to prevent stormwater pollution. This must include run-off calculations and must be approved by the city engineer following a determination that the plan is in conformance with the City's adopted Stormwater ordinance. A Storm Water Pollution Prevention Plan (SWPPP) must be submitted to the State if more than 1 acre is disturbed.
11. Existing and proposed topography shown at not more than two-foot contour intervals. All elevations shall refer to the United States Geodetic Survey (USGS) datum. If any portion of the parcel is within the 100-year flood plain, the area shall be shown with base flood elevations and the developer shall present plans for meeting Federal Emergency Management Agency (FEMA) requirements.
12. Zoning district boundaries adjacent to the site's perimeter shall be drawn and identified on the plan.
13. Access Management plan in accordance with the AASHTO "A Policy on Geometric Design of Highways and Streets". Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within 100 feet of the site shall be shown.  
The Zoning Administrator may require a traffic study for developments in heavy traffic areas, to include:
  - (a) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
  - (b) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and
  - (c) The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities, existing and proposed daily and peak hour traffic levels, as well as road capacity levels.
  - (d) Other information as requested by the Zoning Administrator.
14. For new nonresidential construction or alterations to any existing nonresidential structure, a table containing the following information must be included:
  - (a) Area of structure to be used for a particular use, such as retail operation, office, storage, etc.;
  - (b) Estimated maximum number of employees;
  - (c) Maximum seating capacity, where applicable;
  - (d) Number of parking spaces existing and required for the intended use; and
  - (e) A landscape plan for paved parking may be required.
15. Dumpster Enclosure and Improvements:

- (a) Exterior refuse shall be kept in an enclosed area large enough to contain one week's production of refuse and shall be contained in a refuse bin equipped with a lid.
- (b) The enclosure shall be a minimum of 12 feet wide to allow access for the truck picking up the refuse bin. The depth of the enclosure should be the depth of the refuse bin being used plus an additional four (4) feet to allow for the mechanical dumping of the refuse bin. The enclosure shall have a minimum height of five (5) feet.
- (c) The floor of the enclosure shall be reinforced concrete with a minimum thickness of four inches (4") with #4 reinforcing rods at twenty-four inches (24") each direction.
- (d) There shall be a 12' x 12' concrete pad in front of the enclosure. This pad should be a minimum depth of eight inches (8") and have #4 reinforcing rods every twenty-four inches (24") in each direction and have a test strength of 4,000 psi.
- (e) The enclosure should be shielded on three sides by a wall or decorative fence and positioned in such a manner to shield the refuse bins from sight of any public thoroughfare or adjoining property to the extent possible. When decorative fence is used the corner post should be made of steel pipe with a four-inch (4") diameter and filled with concrete.
- (f) The number and location of refuse bins shall be located on site plans prior to approval.

#### **SECTION 29-6 STANDARD OF REVIEW**

**29-601.** The recommendations of the Zoning Administrator shall be based on the following standards:

- a. The extent to which the proposal conforms to this Article and these regulations.
- b. The extent to which the development would be compatible with the surrounding area.
- c. The extent to which the proposal conforms to the provisions of the City's comprehensive plan.
- d. The extent to which the proposal conforms to the standard specifications used in the City.
- e. The extent to which the location of streets, paths, walkways, and driveways are located to enhance safety and minimize any adverse traffic impact on the surrounding area.

