

City of Bel Aire

Zoning Ordinance 2004

Adopted 12-7-2004 Ordinance #418





Table of Contents

Chapter 1	General Provisions	Pages 1 - 5
1.01	Short Title	
1.02	Authority and Jurisdiction	
1.03	Relationship to Other Provisions of the Municipal Ordinances	
1.04	Relationship to Comprehensive Plan and Other Policies	
1.05	Relationship to Design Guidelines	
1.06	Relationship to Private Restrictions	
1.07	Adequate Public Facilities and Services	
1.08	Violations of Prior Regulations	
1.09	Violations	
1.10	Enforcement and Civil Remedies for Violations	
1.11	Violation Enforcement Procedures	
1.12	Severability	
Chapter 2	Rules of Interpretation and Definitions	Pages 6 - 22
2.01	Rules of Interpretation	
2.02-2.183	Definitions	
Chapter 3	Administration	Page 23
3.01	City Administrator as Administrative Official	
3.02	City Administrator as Enforcement Official	
3.03	Planning Commission	
Chapter 4	Permits and Certificates of Occupancy	Pages 24 - 26
4.01	Land Use Permits	
4.02	Building Permits	
4.03	Land Use Permits and Building Permits	
4.04	Permits -- Conformance of Construction	
4.05	Completion of Applications	
4.06	Action on Permit Applications	
4.07	Revocation of Permits	
4.08	Certificates of Occupancy	
Chapter 5	Applications and Procedures	Pages 27 - 46
5.00	Who May Apply; Application Fees	
5.01	Pre-Application Process	
5.02	Resubmitting Applications for Plats, Rezoning and Special Use Permits	
5.03	Applications -- Proof of Ownership and/or Authorization of Agent	
5.04	Rezoning and Special Use Permit Applications -- Submission Requirements	
5.05	Submission of Technical Studies	
5.06	When Applications Deemed Complete	
5.07	Application and Submission Deadlines	
5.08	Publication Notices	

5.09	Notices to Surrounding Property Owners	
5.10	Posting of Signs for Rezoning and Special Use Permits	
5.11	Public Hearings	
5.12	Continuances	
5.13	Consideration of Zoning Text Amendments, Rezoning and Special Use Permits	
5.14	Protest Petition Procedures	
5.15	Criteria for Considering Applications	
5.16	Interpretation of Design Guidelines	
5.17	Rezoning for Lesser Change	
5.18	Consideration of Planned Unit Development Plans	
5.19	Planned Unit Development Plans -- Contents and Submission Requirements	
5.20	Final Site Development Plans -- Contents and Submission Requirements	
5.21	Recording of Site Development Plans	
5.22	Abandonment of Final Site Development Plan	
5.23	Preliminary Plats -- Contents and Submission Requirements	
5.24	Consideration of Preliminary Plats	
5.25	Final Plats -- Contents and Submission Requirements	
5.26	Consideration of Final Plats	
5.27	Applications for Lot Splits	
5.28	Consideration of Lot Splits	
5.29	Applications for Vacation of Streets or Reservations	
5.30	Consideration of Vacations	
5.31	Appeals to the Planning Commission and Governing Body	
5.32	Appeals to the Board of Zoning Appeals (BZA)	
5.33	Consideration of Variances	
5.34	Conditional Approvals	
5.35	Written Findings	
5.36	Final Decision Where Ordinance Required	
5.37	Appeals of Final Decisions	
5.38	Filing Fees	
Chapter 6	Zoning Districts	Pages 47 - 49
6.00	Districts Designated	
6.01	Official Zoning Map	
6.02	Boundaries of Districts	
6.03	Zoning of Annexed Land	
6.04	Conformance to Comprehensive Plan	
6.05	General Requirements	
6.06	Performance Standards; Measurement	
Chapter 7	AG Agricultural Districts	Pages 50 - 51
7.00	Statement of Intent	
7.01	Permitted Uses	
7.02	Height and Area Regulations for AG Developments	
7.03	Development and Performance Standards for AG Developments	
7.04	Other Uses and Regulations	
Chapter 8	RR Rural Residential District	Pages 52 - 53
8.00	Statement of Intent	
8.01	Permitted Uses	
8.02	Height and Area Regulations for RR Developments	
8.03	Development and Performance Standards for AG Developments	
8.04	Other Uses and Regulations	

Chapter 9	R-1 Estate Residential District	Pages 54 - 55
9.00	Statement of Intent	
9.01	Permitted Uses	
9.02	Height and Area Regulations for R-1 Developments	
9.03	Other Uses and Regulations	
Chapter 10	R-2 Single Family Residential District (Low Density)	Pages 56 - 57
10.00	Statement of Intent	
10.01	Permitted Uses	
10.02	Height and Area Regulations for R-2 Developments	
10.03	Other Uses and Regulations	
Chapter 11	R-3 Single Family Residential District (Medium Density)	Page 58
11.00	Statement of Intent	
11.01	Permitted Uses	
11.02	Height and Area Regulations for R-3 Developments	
11.03	Other Uses and Regulations	
Chapter 12	R-4 Multi Family Residential District	Pages 59 - 60
12.00	Statement of Intent	
12.01	Permitted Uses	
12.02	Height and Area Regulations for R-4 Developments	
12.03	Other Uses and Regulations	
Chapter 13	R-5 Garden and Patio Homes, Townhouses and Condominiums	Page 61
13.00	Statement of Intent	
13.01	Permitted Uses	
13.02	Height and Area Regulations for R-5 Developments	
13.03	Other Uses and Regulations	
Chapter 14	R-6 Multi-Family District	Pages 62 - 63
14.00	Statement of Intent	
14.01	Permitted Uses	
14.02	Height and Area Regulations for R-6 Developments	
14.03	Other Uses and Regulations	
Chapter 15	Manufactured Home Park	Page 64
	Note: This section reserved and will be included in the future.	
Chapter 16	Group Homes	Pages 65 - 67
16.00	Statement of Intent	
16.01	Permitted Uses	
16.02	Height and Area Regulations for GH – Group Homes	
16.03	Other Uses and Regulations	
Chapter 17	C-1 – Neighborhood Commercial Office/Retail District	Pages 68 - 69
17.00	Statement of Intent	
17.01	Permitted Uses	
17.02	Height and Area Regulations for C-1 Developments	
17.03	Development and Performance Standards for C-1 Developments	
17.04	Other Uses and Regulations	

Chapter 18	C-2 – Planned Commercial	Page 70
18.00	Statement of Intent	
18.01	Permitted Uses	
18.02	Development and Performance Standards for C-2 Developments	
18.03	Other Uses and Regulations	
Chapter 19	M-1 Planned Industrial District	Page 71
19.00	Statement of Intent	
19.01	Permitted Uses	
19.02	Development and Performance Standards for M-1 Developments	
19.03	Other Uses and Regulations	
Chapter 20	Flood Plain Zoning	Pages 72 - 81
20.01	Statement of Intent	
20.02	Findings of Fact	
20.03	Methods Used to Analyze Flood Hazards	
20.04	General Provisions	
20.05	Building or Land Use Permit	
20.06	Establishment of Zoning Districts	
20.07	Standards for the Floodway Overlay District and the Floodway Fringe Overlay District	
20.08	Floodway Overlay District	
20.09	Floodway Fringe Overlay District	
20.10	Certification of Flood Proofing	
20.12	Variances and Variance Procedures	
20.13	Penalties for Violation	
20.14	Definitions	
Chapter 21	Special Uses	Pages 82 - 90
21.01	Statement of Intent	
21.02	Special Uses Designated	
21.03	Temporary Sales and Events	
21.04	Special Uses Not Permitted	
21.05	Criteria for Considering Special Uses	
21.06	Time Limits for Special Uses	
21.07	Development and Performance Standards	
21.08	Revocation of Special Use Permits	
21.09	Designation of Permittee	
Chapter 22	Accessory Uses and Structures	Pages 91 - 97
22.01	Statement of Intent	
22.02	Agricultural District	
22.03	Residential Districts	
22.04	Commercial and Industrial Districts	
22.05	Accessory Uses Permitted by Interpretation	
22.06	Hotels and Motels	
22.07	Hospitals	
22.08	Public Utility Buildings	
22.09	Construction Sites	
22.10	Parking and loading areas	
22.11	No temporary or incomplete building	
22.12	No accessory use or structure exceptions	
22.13	Structural exceptions	

Chapter 23	Parking and Loading	Pages 98 - 105
23.01	Parking Required for All Structures	
23.02	Access to Parking Areas	
23.03	Dimensions and Design of Parking Areas	
23.04	Parking Spaces for Disabled People	
23.05	Setbacks	
23.06	Parking Lot Lighting	
23.07	Landscaping and Screening	
23.08	Deferred Construction of Parking Spaces	
23.09	Parking Areas for Single and Two-Family Dwellings	
23.10	Off-Street Parking Schedule	
23.11	Off-Street Loading Schedule	
23.12	Drive-in and Drive-through Stacking Distance Requirements	
Chapter 24	Landscaping and Screening	Pages 106 - 117
24.01	Statement of Intent	
24.02	General Requirements	
24.03	Landscaping Plan Required	
24.04	Preferred Trees and Shrubs	
24.05	Street Trees	
24.06	Residential Perimeter Landscaping	
24.07	Non-residential Perimeter Landscaping	
24.08	Design Planting and Criteria	
24.09	Interior Landscaping Requirements Within Parking and Vehicular Use Areas	
24.10	Building Facade/Foundation Landscaping Requirements	
24.11	Time Landscaping Required	
24.12	Selection, Installation and Maintenance	
24.13	Screening Requirements	
24.14	Tree Preservation	
Chapter 25	Nonconforming Situations and Vested Rights	Pages 118 - 123
25.01	Statement of Intent	
25.02	Definitions	
25.03	Continuation of Nonconforming Situations and Completion of Nonconforming Projects	
25.04	Nonconforming Lots	
25.05	Extension or Enlargement of Nonconforming Situations	
25.06	Repair, Maintenance and Alterations	
25.07	Change of Nonconforming Use	
25.08	Nonconforming Structures	
25.09	Nonconforming Use	
25.10	Nonconforming Site Improvements	
25.11	Abandonment and Discontinuance of Nonconforming Situations	
25.12	Non-conforming Signs	
25.13	Appeals	
25.14	Administrative Exception	
Chapter 26	Height & Area Regulations & Exceptions	Pages 124 - 125
26.01	Statement of Intent	
26.02	Height and Yard Requirements – Public or Semi-Public Buildings	
26.03	Yard Exceptions – Platted Setback Lines	
26.04	Yard Exceptions – Residential Districts; Front Yards	
26.05	Yard Exceptions – Required Yards	
26.06	Yard Exceptions – Sight Distance on Corner Lots	
26.07	Yard Exceptions – Front Yards in Commercial and Industrial Districts	

Chapter 27 Signs

Pages 126 - 139

- 27.01 Statement of Intent
- 27.02 Definitions
- 27.03 Administration
- 27.04 General Standards
- 27.05 Signs Permitted in All Districts
- 27.06 Signs Permitted in Residential Districts
- 27.07 Signs Permitted in Commercial Districts
- 27.08 Signs Permitted in Industrial Districts
- 27.09 Special Permit Uses
- 27.10 Temporary Signs
- 27.11 Prohibited Signs and Devices
- 27.12 Sign Maintenance Requirements
- 27.13 Abandoned Signs
- 27.14 Nonconforming Signs
- 27.15 Enforcement
- 27.16 Declaration of Nuisance

Design Manuals

Appendix

- General Guidelines
- Residential Design Guidelines
- Commercial Design Guidelines
- Industrial Design Guidelines
- Residential Neighborhood Design Manual
- Traditional Neighborhood Design Manual

City of Bel Aire, Kansas Zoning Ordinance

CHAPTER 1

GENERAL PROVISIONS

Sections:

- 1.01 Short Title
- 1.02 Authority and Jurisdiction
- 1.03 Relationship to Other Provisions of the Municipal Ordinances
- 1.04 Relationship to Comprehensive Plan and Other Policies
- 1.05 Relationship to Design Guidelines
- 1.06 Relationship to Private Restrictions
- 1.07 Adequate Public Facilities and Services
- 1.08 Violations of Prior Regulations
- 1.09 Violations
- 1.10 Enforcement and Civil Remedies for Violations
- 1.11 Violation Enforcement Procedures
- 1.12 Severability

1.01 Short Title

This ordinance shall be known and may be cited as the Bel Aire Zoning Ordinance.

1.02 Authority and Jurisdiction

The Bel Aire zoning ordinance is adopted pursuant to the authority contained in Article 7 of Chapter 12 of the Kansas Statutes Annotated (KSA 12-741 et seq.), and amendments thereto, and Article 12, Section 5 of the Kansas Constitution. The ordinance shall be effective throughout the corporate limits of the City. Provided, however, that nothing herein shall be construed to preclude the City from engaging in extraterritorial planning activities pursuant to KSA 12-743, and amendments thereto.

1.03 Relationship to Other Provisions of the Municipal Ordinances

A. The use of buildings and land within the City shall be subject to all other applicable provisions of Bel Aire municipal ordinances, as well as this ordinance, whether or not such other provisions of municipal ordinances are specifically cross-referenced in this ordinance.

B. In interpreting and applying the provisions of this ordinance, they shall be construed to be the minimum requirements necessary for the promotion of public health, safety or the general welfare of the citizens of Bel Aire.

1.04 Relationship to Comprehensive Plan and Other Policies

It is the intention of the City that this ordinance implements the goals, objectives and policies adopted for the City, as reflected in the Comprehensive Plan and other planning policies and documents. While the City reaffirms its commitment that this ordinance and any amendment thereto are in conformity with adopted planning policies, the City hereby expresses its intent that neither this ordinance nor any amendment thereto may be challenged merely on the basis of an alleged nonconformity with the Comprehensive Plan or other planning policy.

1.05 Relationship to Design Guidelines

The provisions of this ordinance may be supplemented from time to time by design guidelines adopted by the City Council by policy, resolution or ordinance. Design guidelines shall be considered as an aid in the interpretation or implementation of the provisions of this ordinance. Design guidelines shall be considered as policy (except those parts derived from this ordinance) and may be modified when deemed appropriate in order to accomplish higher quality development design. In the event of a conflict between a design guideline and any provision of this ordinance, the provision of this ordinance shall regulate.

Related Information: Design Guidelines; Residential Neighborhood Design Manual; Traditional Neighborhood Design Manual

1.06 Relationship to Private Restrictions

The provisions of this ordinance are not intended to abrogate any deed restriction, covenant, easement or any other private agreement or restriction on the use of land. Provided, that where the provisions of this ordinance are more restrictive or impose higher standards than any such private restriction, the requirements of this ordinance shall regulate. Where the provisions of any private restriction are more restrictive or impose higher standards than the provisions of this ordinance, such private restrictions shall control if properly enforced by a person having the legal right to enforce such restrictions. Although private restrictions are supported by the City, such restrictions shall not be enforced by the City.

1.07 Adequate Public Facilities and Services

A. In order to prevent the premature development of land which might pose a threat to the health, safety or general welfare of the community at large, it shall be the policy of the City that no application for special use permit, preliminary or final development plan or preliminary or final plat shall be approved unless public facilities and services are available, or will be provided as a condition of the application, which are adequate to serve the development.

B. For purposes of this section, the determination of the adequacy of public facilities and services shall be made in accordance with the following criteria.

1. The road network serving the site shall be capable of handling the increased traffic generated by the development. At a minimum, if the property does not abut a collector street or arterial containing a paved surface conforming to the standards established in the City then traffic from the site must be able to travel to a collector or arterial conforming to such standards on a continuous system of temporary paved roadways consisting of hot mix asphalted concrete pavement or overlay, or Portland cement concrete, with a pavement depth of three (3) inches and a minimum width of twenty-four (24) feet. The Governing Body has the discretion to require the creation of a benefit district for the improvement of nearby arterial streets to ensure that the road network is capable of handling present and future traffic caused by development in the area. A traffic impact study may be required.

2. The development must be served by a public sanitary sewer system. Sewer lines and sewage treatment plant capacity must be certified by the City Engineer as being capable of handling the waste flows from the development.

3. The development must have access to a public water supply. Water lines must be certified by the City as being capable of serving the development.

4. The development must have an adequate drainage system. The utilization of on-site or on-stream detention and or retention and natural drainage ways are required. Storm drainage shall be carried by enclosed systems or open channels, as certified by the City.

5. Fire protection services shall be available to the development with fire flows from water lines adequate to serve the development.

C. Where adequate public facilities and services are not in place or scheduled to be constructed within one (1) year of the consideration of the application, the City may make approval of the application subject to adequate facilities being provided as described in subsection D. In determining whether such conditional approval is appropriate, the governing body shall consider the following factors:

1. The nature, extent and estimated cost of the required facilities or services.

2. The proposed method of providing the adequate facilities.

3. The extent to which other property owners would be required to share in the cost of the improvements.

4. Any public amenities to be provided by the development, such as the donation or dedication of land or improvements for public facilities or services including, but not limited to, water, sewer, storm sewer and streets.

D. An applicant may propose to provide adequate facilities as described in subsection B above, by either providing the facilities or services at their own expense or by agreeing with the City to fund all or a part of the cost of such improvements. The intent of the effect of either method shall be to offset fairly and equitably the timing of the costs of the improvements or any higher net public costs resulting from the impact of the development. In any computations of additional net public costs, the differences between otherwise anticipated public costs and development impact costs, and otherwise anticipated public revenue and development impact revenues shall be considered, among other factors. The governing body may require expert determination and analysis of public costs and revenues and the development's impact thereon.

1.08 Violations of Prior Regulations

All violations of prior zoning regulations of the City, or any Sedgwick County or township regulations that have accrued in the corporate area of the City as of the effective date of this ordinance shall continue to be violations and shall not be considered to be legal nonconforming situations under this ordinance. The City shall have the same authority to secure civil remedies for violations of such regulations to the same extent that it may secure civil remedies for violations of this ordinance.

1.09 Violations

Any of the following shall be considered a violation of any permit, approval, certificate or other form of authorization and shall be subject to the enforcement remedies provided by this section and by Kansas state law:

A. Development or use without, or inconsistent with, permit or approval: To erect, construct, reconstruct, remodel, alter, maintain, move or use any building, structure or sign or to use, alter or maintain any land without, or in any way inconsistent with, all of the required permits, approvals, certificates and other forms of authorization required by this ordinance in order to conduct or engage in such activity.

B. Development or use inconsistent with ordinance: To erect, construct, reconstruct, remodel, alter, maintain, move or use any building, structure or sign or to use, alter or maintain any land in violation of any zoning, subdivision or general regulation of this ordinance or any amendment thereof.

C. Development or use inconsistent with conditions: To violate, by act or omission, any term, condition or qualification placed by the City upon a required permit, certificate, rezoning, plan approval or other form of authorization granted by the City to allow the use, development or other activity upon land or improvements thereon. This includes occupying any building or structure which requires an Certificate of Occupancy for which there is not a valid Certificate of Occupancy.

D. Making lot or yard nonconforming: To reduce or diminish any lot area so that the yards or open spaces shall be smaller than prescribed by these requirements or the final plat or plan.

E. Increasing use intensity: To increase the intensity and/or density of use of any land or structure, except in accordance with the procedural and substantive requirements of this ordinance.

F. Removing, defacing, obscuring notice: To remove, deface or obscure any sign required by this ordinance or otherwise interfere with any notice required by this ordinance.

1.10 Enforcement and Civil Remedies for Violations

The City shall have the following remedies and enforcement powers:

A. Withhold permits or approvals: The City may deny or withhold all permits, certificates, plan or plat approvals or other forms of authorization on any building, structure or land, or improvements thereon, upon which there is an uncorrected violation of any provision of this ordinance or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the City. The City may, instead of withholding or denying an authorization, grant such authorization subject to the condition that the violation be corrected. The provisions of this subsection shall apply regardless of whether the current owner or applicant is responsible for the violation in question.

B. Revoke permits:

1. A permit may be revoked by the official issuing the permit or his/her designee at any time prior to the completion of the use, building, structure or sign for which the same was issued, when it appears to such official that one (1) or more of the following conditions are present:

- a. There is departure from the plans, specifications or conditions as required under the terms of the permit.
- b. That the permit was procured by false representation.
- c. That the permit was issued by mistake.
- d. Or that any of the provisions of this ordinance are being violated.

2. Written notice of such revocation shall be served upon the owner, the owner's agent or contractor, or upon any person employed in the building or structure for which such permit was issued or shall be posted in a prominent location on the property. Where notice of revocation has been served or posted, no further construction or use of the property shall proceed.

3. Any revocation of a permit may be appealed in writing to the City Administrator within five (5) days.

C. Stop work: With or without revoking permits, the City may stop work on any development, building, or structure on any land on which there is an uncorrected violation of a provision of this ordinance or a violation of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the City.

D. Revoke plan or other approvals: Where a violation of this ordinance involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the City shall, upon notice to the applicant, revoke the plan or approval or condition and adhere its continuance on strict compliance, the provision of security or such other conditions as the City may reasonably impose.

E. Civil remedies: The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this ordinance and to abate nuisances maintained in violation thereof. In the event that any building or structure is proposed to be erected, constructed, altered, converted, occupied, or maintained in violation of this ordinance or any building, structure or land is proposed to be used in violation of this ordinance, the City Attorney, or other appropriate authority of the City, may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, occupation, or use, or to correct or abate such violation or to prevent the occupancy of such building, structure or land.

F. Penalties: The violation of any provision of this ordinance is hereby declared to be a public offense, subject to the jurisdiction of the municipal court of the City of Bel Aire, Kansas. Any person, firm, association, partnership or corporation convicted thereof shall be punished by either a fine not to exceed five hundred (\$500) dollars for each offense or imprisonment for not more than six (6) months, or both. Each day's violation of this ordinance shall constitute a separate offense.

G. Cumulative: These remedies shall be cumulative.

H. Other remedies: In addition to the enforcement powers and remedies specified in this title, the City may exercise any and all enforcement powers and remedies granted to it by Kansas state law, as it may be amended from time to time.

1.11 Violation Enforcement Procedures

A. Notice: In the case of violations not involving continuing construction or development or any emergency situation, the City shall give written notice of the nature of the violation to the owner, occupant or agent of the property at the last known address. The contents of the notice shall give a description of the nature of the violation that would reasonably allow the property owner or other responsible person, representative or tenant to determine the nature of the violation to allow for self-abatement. Said person shall correct the violation before further enforcement action. The notice shall be personally served or sent by certified mail, return receipt requested. Failure to sign for the certified mail or failure to pick up said notice from the post office shall not be deemed a lack of notice under this ordinance where delivery was attempted and a record of this attempt was provided as required by procedures for restricted mail.

B. Immediate enforcement: If an authorized building official, public officer or the City makes a reasonable determination that an emergency situation exists in violation of this ordinance, the City may immediately use the enforcement powers and remedies available to it pursuant to this code, including, but not limited to, permit revocation, stop work, withdrawal of a Certificate of Occupancy, and/or filing a complaint, seeking criminal penalties in Municipal Court and no other notification procedures are required as a prerequisite to such action.

1.12 Severability

It is hereby declared to be the intention of the City that the sections, subsections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any such section, subsection, paragraph, sentence, clause or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, subsections, paragraphs, sentences, clauses or phrases of this ordinance since the same would have been enacted without the incorporation into this ordinance of such unconstitutional or invalid section, subsection, paragraph, sentence, clause or phrase.

**CHAPTER 2
RULES OF INTERPRETATION AND DEFINITIONS**

Sections:

2.01 Rules of Interpretation

2.02 - 2.182 Definitions

2.01 Rules of Interpretation

For purposes of interpreting this ordinance, the following definitions of word use shall apply:

A. Words used in the present tense include the future tense, words used in the singular include the plural, words used in the plural include the singular, words importing the masculine gender include the feminine and neuter, the words "shall" and "must" are mandatory, the words "may" and "should" are permissive, the word "building" includes the word "structure," and the term "used for" includes "designed for," or "intended for," or "maintained for," and "occupied for."

B. Unless specifically provided, in computing any period of time prescribed or allowed by this ordinance, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included, unless it is Saturday, Sunday or a legal holiday, in which event the period runs unless specifically provided. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. A half-holiday shall be considered as other days and not as a holiday. "Legal holiday" includes any day designated as a holiday by the Congress of the United States or by the Kansas legislature. Whenever a notice, petition or other document is required to be filed within a specified time period, the notice, petition or document must be filed with the appropriate city official or in the appropriate city office not later than 5:00 PM on the last day of the period as computed.

C. Where this ordinance permits or requires an act on the part of an "owner" or "landowner," and a particular lot or tract of land is owned by several persons, whether in joint tenancy, tenancy in common, partnership, joint venture or other form of joint ownership, the act shall be taken on behalf of, and with the express consent of, all such persons.

2.02 Definitions

A. Where a word or term is not defined in this chapter, but is defined elsewhere in this ordinance or in any other municipal ordinance, resolution or policy, such definition shall be applicable unless the context indicates that a standard dictionary definition is more appropriate.

1. Where a word or term is defined in this chapter and also defined elsewhere in this ordinance, the definition contained in this chapter shall be generally applicable except in the chapter or section to which the other definition applies.

B. Where a word or term is neither defined in this chapter, the definition found in the most current edition of *A Glossary of Zoning, Development, and Planning Terms* dated December 1999, by the Planning Advisory Service, American Planning Association, shall be applicable unless the context indicates that a standard dictionary definition is more appropriate.

2.03 "Abutting or adjoining" - means joined contiguous to, having common district boundaries or lot lines or being immediately adjacent

2.04 "Access" - means of vehicle, bicycle, or pedestrian approach, entry to, or exit from property.

2.05 "Accessory Structure" - means a subordinate building having a use customarily incidental to and located on the lot occupied by the main building. A building housing an accessory use is considered to be an integral part of the main building when it has any part of a wall in common with the main building, or is under an extension of the main roof and designed as an integral part of the main building.

2.06 "Accessory use" - means a use of a building or land which serves an incidental function to and is customarily associated with, and located on the same lot or premises as, the main use of the premises.

2.07 "Adjacent" – means lying near or close to; sometimes, contiguous; or neighboring.

2.08 "Adult business establishment" - means any establishment having as a material portion of its business the offering of entertainment, services, stocks in trade or materials, scenes or other representations predominately distinguished by or characterized by emphasis on depiction or description of an erotic nature, including but not limited to depiction or descriptions of "specified sexual activities" or "specified anatomical areas". The definition of "adult business establishment" also includes but is not limited to any and all of the following specific adult businesses: Adult arcade, adult encounter parlor and adult entertainment cabaret.

2.09 "Agricultural purposes" - means land, including necessary buildings and structures, shall be considered used for agriculture if the zoning lot contains not less than forty (40) acres of land area, and if the principal use is the raising or keeping of livestock and/or the growing of crops in the open.

2.10 "Agricultural use" - refers to the use of land where such land is devoted to the production of plants, animals or horticultural products, including but not limited to: forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; or nursery, floral, ornamental and greenhouse products. Agricultural use shall not include use of land for recreational purposes, suburban residential acreages, rural home sites or farm home sites and yard plots whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition.

2.11 "Airport-heliport" - means an area of land or water that is used or designed, set aside, used or intended for use, for the landing and take off of aircraft, rotocraft, etc, of any type, and any appurtenant areas designated, set aside, used or intended for use, for airport buildings or other airport facilities, right-of-ways, or approach zones, together with all airport buildings and facilities located thereon.

2.12 "Alley" - means a minor way, dedicated for public use, which is used primarily for secondary means of access to the sides or rear of lots.

2.13 "Alteration" - means any addition, removal, extension or change in location of any exterior wall of the main building or accessory building.

2.14 "Amendment" - means any addition, deletion, or revision of the text of the *Zoning Ordinance*, or any addition, deletion, or revision of the Official Zoning Map or the Municipal Code adopted by the Governing Body after public hearings.

2.15 "Amenity" - means the characteristics of a development that increase its desirability to a community or its marketability to the public. Amenities may include such things as recreational facilities (e.g. a swimming pool, sports courts, play equipment for children, ball fields, walking trails, etc.), clubhouses, picnic tables, and natural landscape preserves.

2.16 "Attached Residential Structures" - means a group of up to four interconnected residential structures with each structure sided on an individual lot.

2.17 "Amusement device" - means any machine, game, table or device which is designed, intended or used as entertainment, and may be operated by the public upon the insertion of a coin or token. Amusement device shall include, but not be limited to, devices commonly known as pinball machines, pool tables, video games, electronic games, kiddie rides, mini-theaters, projection devices and video screens, and all games or operations similar thereto, whether or not registering a score. Not included

within the definition of amusement device are such devices as food, televisions, phonographs, soft drink and cigarette vending machines.

2.18 "Apartment building" - means a building arranged, intended or designed for residence by more than two (2) families.

2.19 "Arcade" - means any establishment housing four (4) or more video games, pinball games, air hockey or similar coin-operated amusement apparatus.

2.20 "Architectural features" - means physical additions to a structure that allow the creation of different styles including, but not limited to, porches, balconies, dormers, bay windows, shutters, belvederes, chimneys, colonnades, towers, cupolas, cornices, eaves, soldier courses, lintels, and decorative ornaments.

2.21 "Attached" - means having a wall, roof or other structural member with building materials and architectural design in common with or in contact with another building.

2.22 "Awning" - means a roof-like cover, often of fabric, metal, or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a window, walk, door, or the like.

2.23 "Berm" - means a man-made mound of earth used to shield, buffer, or screen properties from adjoining uses, highways, or noise, or to control the direction of surface water flow.

2.24 "Block" - means a tract or parcel of land entirely surrounded by public highways or streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, drainage-ways, municipal boundary lines, township lines or county lines.

2.25 "Blockface" - means the properties abutting on one side of a street situated between intersecting public highways or streets, or by a combination of such street and public parks, cemeteries, railroad rights-of-way, public park, exterior boundary of a subdivision or any other physical barrier to the continuity of development.

2.26 "Boat" - means a vehicle for traveling in or on water. The definition of boat includes the trailer, if the boat is mounted on a trailer.

2.27 "Buffer" - means an area of land separating two distinct land uses that acts to soften or mitigate the effects of one land use on the other.

2.28 "Building" - means any structure with a permanent roof, separated on all sides from adjacent open space by walls, built for the shelter or enclosure of persons, animals, chattels or property of any kind.

2.29 "Building Coverage" - means a percentage figure referring to that portion of a lot covered with principal and accessory buildings including balconies, eaves, porches, decks, fireplaces, window-wells and other like protrusions.

2.30 "Building elevation" - means a flat, scale drawing of the front, rear, or side of a building.

2.31 "Building front" - means the side of a building with the main entrance door.

2.32 "Building official" - means the duly appointed building official of the city or his or her designee.

2.33 "Camper" - means a separate vehicle designed for temporary recreational human habitation and which can be attached or detached from another vehicle.

2.34 "Campground" - means an area of land available for the overnight or temporary parking of recreation vehicles which is in compliance with the zoning and other ordinances of the city.

2.35 "Capital Improvement Program (CIP)" - means a proposed schedule of future projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project.

2.36 "Certificate of Occupancy" - means a document issued by the City of Bel Aire allowing for the occupancy or use of a building, and certifying that the structure or use has been constructed or will be used in compliance with all the applicable codes and ordinances of the City of Bel Aire.

2.37 "City" - means the City of Bel Aire, Kansas.

2.38 "Club or lodge" - means a Class A or Class B Club. Class "A" club means a premises which is owned or leased by a corporation, partnership, business trust or association, and which is operated thereby as a bona fide nonprofit, social, fraternal or war veterans' club as determined by the Director of Alcoholic Beverage Control of the Kansas Department of Revenue, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates and their families and guests accompanying them. Class "B" club means a premises operated for profit by a corporation, partnership or individual to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

2.39 "Commercial districts" - means districts C-1, C-2

2.40 "Commercial vehicle" - means a vehicle with or without its own motive power; with a chassis rated at one (1) ton or more; used primarily for the carrying of equipment, livestock, minerals, liquids or other commodity. Commercial vehicles include hauling and advertising trailers.

2.41 "Compatible" - means any properties, uses, designs or services capable of existing together without conflict or adverse effects while considering the *Comprehensive Plan*, corridor studies, design manuals, design guidelines, and other applicable studies, plans, and policies as approved by the Planning Commission and the Governing Body.

2.42 "Complex" - means a group of three (3) or more freestanding buildings, or buildings constructed in such a way as to give an appearance of being interrelated because of architectural similarity and/or interconnected drives and parking areas; or a building divided into three (3) or more separate offices, businesses or apartments provided that the building is not part of a large complex. A complex shall be limited to apartment complexes, office or business complexes, shopping centers and industrial parks.

2.43 "Comprehensive Plan" - means the City of Bel Aire Comprehensive Plan as adopted pursuant to KSA 12-747 et seq. A comprehensive plan is defined to be: *the materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material that identify standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the municipality.*

2.44 "Concept Plan" - means a plan showing design of streets, driveway entrances, limit of no access lines, major/minor drainage area, proposed uses (residential, commercial, industrial, or comparable uses), open areas, parks, tree preservation, and other significant features of the tract.

2.45 "Cul-de-sac" - means a street with only one (1) outlet and having an appropriate terminus for the safe and convenient reversal of traffic movements.

2.46 "Curb level" - means the mean level of the curb in front of the lot or, in the case of a corner lot, along the abutting streets, where the mean curb level is the highest.

2.47 "Customary passenger Vehicle" - means a vehicle with its own motive power; not exceeding twenty (20) feet in overall length, eight (8) feet in width or seven (7) feet in overall height; and primarily designed to carry persons. Small pickup trucks and vans, meeting the aforesaid dimensions, shall be considered as customary passenger vehicle.

2.48 "Child-care" - means regulations for licensing various day-care homes and group day-care homes for children in accordance with requirements of K.S.A. 65-501 through 65-516, K.A.R. 28- 4-123 through 28-4-132 and amendments thereto.

2.49 "Day-care" - means the provision of supervision, training, food, lodging or medical services to persons for less than twenty-four (24) hours a day, including the following:

A. "Adult day-care" means a facility for adults having some or all of the characteristics of homes for the elderly, whether operated for profit or not, which through its operation provides one (1) or more personal services for four (4) or more persons not related by blood or marriage to the owner or operator, for a period less than twenty-four (24) hours. Personal services are in addition to housing and food service, and include but are not limited to: personal assistance with bathing, dressing, housekeeping, supervision, eating, supervision of self-administered medication, and assistance in securing health care from appropriate sources.

B. "Child-care center" means a facility in which day-care and educational activities are provided for thirteen (13) or more children, six (6) weeks to sixteen (16) years of age for more than three (3) hours but less than twenty-four (24) hours per day, including daytime, evening and nighttime care. A facility may operate as a childcare center with fewer than thirteen (13) children.

C. "Family day-care home" means a place maintained for the purpose of providing children with day-care away from such children's homes, for less than twenty-four (24) hours a day, provided that not more than four (4) children cared for at such place and not more than three (3) of the children cared for at such place are less than eighteen (18) months of age.

D. "Group day-care home" means a home in which care is provided for a maximum of twelve (12) children under sixteen (16) years of age, with a limited number of children under kindergarten age in accordance with K.S.A. 28-4-114 (f)(1), and any amendments thereto.

E. "Mother's Day Out program" means a day-care program operating more than two (2) consecutive hours or more than one (1) day per week and in which any one (1) child is enrolled for not more than one (1) session per week.

F. "Preschool" means a day-care facility:

1. Which provides learning experiences for children who have not attained the age of eligibility to enter kindergarten prescribed in KSA 72-1107(c), and any amendments thereto and who are thirty (30) months of age or older;
2. Which conducts sessions not exceeding three (3) hours per session;
3. Which does not enroll any child in more than one (1) session per day; and
4. Which does not serve a meal.

The term "preschool" shall include all educational preschools, nursery schools, church-sponsored preschools, and cooperatives. A "preschool" may have fewer than thirteen (13) children.

2.50 "Dedication" - means the conveyance by a property owner or developer of private land for public use.

2.51 "Deed" - means a written instrument whereby title to property is conveyed.

2.52 "Deed restriction" - means a private restriction on the use of land, attached in the deed to a property.

2.53 "Density" - means the number of dwelling units permitted per net acre of land.

2.54 "Detached" - means that a building does not have a wall, roof or other structural member in common with or in contact with another building.

2.55 "Detention basin" - means a structure or facility, natural or artificial, which stores storm water on a temporary basis and releases it at a controlled rate.

2.56 "Developer" - means a person, firm or corporation undertaking the subdividing of land or the development of land, and shall include the person, firm or corporation who is responsible for installing the public improvements on the land.

2.57 "Development" - means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

2.58 "Display area or lot" - means an off-street paved area designated for the advertisement or display of customary passenger cars, motor vehicles, recreational vehicles, boats, tractors and other motorized machinery except large construction equipment.

2.59 "Drinking establishment" - means a premises which may be open to the general public, where alcoholic liquor by the individual drink is served.

2.60 "Drive-in service" - means the service of food or other goods, services or entertainment where patrons remain in their motor vehicles which are parked in spaces provided on the premises for that purpose.

2.61 "Drive-through service" - means service where patrons are served through a window or other device while remaining in their motor vehicles and where products served to patrons are normally not consumed on the premises.

2.62 "Dwelling" - means a building or portion thereof designed exclusively for residential occupancy, including single-family, two-family and multifamily dwellings, but not including hotels or motels.

2.63 "Dwelling, apartment building" - means a building arranged, intended or designed for residence by three (3) or more families living independently of each other.

2.64 "Dwelling, condominium" - means a multi-unit dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities.

2.65 "Dwelling, fourplex" - means a building arranged, intended or designed for four (4) dwelling units.

2.66 "Dwelling, multifamily" - means a building, or portion thereof, arranged, intended or designed for three (3) or more dwelling units, and commonly referred to as a triplex, fourplex, townhouse, condominium or apartment building.

2.67 "Dwelling, residential design manufactured home" - means a manufactured home on permanent foundation which has: (a) minimum dimension of twenty-two (22) body feet in width; (b) a pitched roof not less than 4/12; and (c) siding and roofing materials which are customarily used on site-built homes.

2.68 "Dwelling, row house" - see Dwelling, townhouse.

2.69 "Dwelling, single-family" - means a building arranged, intended or designed for one (1) dwelling unit.

2.70 "Dwelling, two-family" - means a building arranged, intended or designed for two (2) dwelling units, commonly referred to as a duplex.

2.71 "Dwelling, townhouse" - means a single-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

2.72 "Dwelling, triplex" - means a building arranged, intended or designed for three (3) dwelling units.

2.73 "Dwelling unit" - means an enclosure containing sleeping, kitchen and bathroom facilities designed for and used or held ready for use as a permanent residence by one (1) family.

2.74 "Easement" - means a permanent or temporary grant of right by a landowner to the public, a corporation or other persons, of the use of a portion of a lot or tract of land for specified purposes where title to said portion of the lot or tract of land remains with the landowner.

2.75 "Elevation" - means the horizontal alignment of a surface, as it exists or as it is made by cut and/or fill.

2.76 "Emergency vehicle" - means any authorized emergency vehicle in accordance with K.S.A. 8-1404 and any amendments thereto.

2.77 "Façade" or "face" - means the exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

2.78 "Family" - means one (1) or more persons who are related by blood or marriage, living together and occupying a single housekeeping unit with single kitchen facilities; or a group of not more than four (4) unrelated adult persons, living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities.

2.79 "Fence" - means a freestanding structure intended to provide privacy, protection or confinement or to redirect a person's direction of travel.

2.80 "Floodplain, floodway and floodway fringe" - See Chapter 20 - Floodplain Zoning.

2.81 "Floor area" - (For determining floor area ratio and size of establishment) means the sum of the gross horizontal area of the several floors of the building measured from the exterior face of the exterior walls, or from the center line of walls separating two (2) buildings. The "floor area" of a building shall include interior balconies, mezzanines, and enclosed porches, penthouses for mechanical equipment, basement floor area but not cellar floor with a headroom of seven (7) feet or less, or attic space having headroom of seven (7) feet or less; however, any space devoted to off-street parking or loading shall not be included in "floor area."

The "floor area" of structures devoted to bulk storage of materials including, but not limited to, grain elevators and petroleum storage tanks, shall be determined on the basis of height in feet; i.e., ten (10) feet in height shall equal one (1) floor.

2.82 "Floor area ratio (FAR)" - means the floor area of the building or buildings on a zoning lot divided by the area of such zoning lot, or, in the case of planned developments, by the net site area. The "floor area ratio" requirements - as set forth under each zoning district - shall determine the maximum floor area allowable for the building or buildings (total floor area of both principal and accessory buildings) in direct ratio to the gross area of the zoning lot.

2.83 "Frontage" - means the length of all property fronting on a public street right-of-way.

2.84 "Future Land Use Plan" - means the map portion of the Comprehensive Plan which is the graphic representation of the city's land use goals, objectives and policies.

2.85 "Garage" - means an accessory structure or portion of a main building primarily used for storage of motor vehicles.

2.86 "Governing Body" - means the elected officials including the Mayor and City Council of the City of Bel Aire, Kansas.

2.87 "Grade" - means a reference plane representing the average finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest point(s) within the area between the building and the lot line or, when the lot line is more than six (6) feet from the building, between the building and a point located six (6) feet from the building.

2.88 "Ground cover" - means landscape materials, or living low-growing plants other than turf grass, installed in such a manner so as to form a continuous cover over the ground surface.

2.89 "Gross land area" - means all land contained within the boundaries of a particular lot or tract of legally described property, including all existing and proposed public and private streets and one-half of any abutting street rights-of-way, excluding state and federal highway rights-of-way.

2.90 "Group boarding home for adults" - means a residential dwelling unit for five (5) or more persons, eighteen (18) years of age or older, and a group home as defined by K.S.A 12-736, and amendments thereto.

2.91 "Group boarding home for minors" - means a residential facility for six (6) or more persons under eighteen (18) years of age who for various reasons cannot reside in their natural home and where twenty-four (24) hour adult care, supervision and consultation exists under license of the Kansas Secretary of Health and Environment, except where it is a group home as defined by KSA 12-736.

2.92 "Height of a building or structure" - means the vertical distance from the average ground level abutting a building or structure to the highest point of a building or highest point of any permanent part of a structure other than a building. Height, where not regulated in feet, shall be regulated by stories, and a story shall be equal to twelve (12) feet for purposes of measuring structures.

2.93 "Highway" - means a thoroughfare controlled and/or maintained by the Kansas Department of Transportation (KDOT).

2.94 "Home occupation" - means an accessory use by the occupant(s) of a dwelling unit in which goods are produced or traded, or services are rendered, as an economic enterprise. Such use shall be clearly incidental or subordinate to the residential use of a dwelling.

2.95 "Hotel" - means a building in which lodging or boarding and lodging are provided for primarily transient persons and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. A hotel may include restaurants, taverns, club rooms, public banquet halls, ballrooms, and meeting rooms.

2.96 "Industrial districts" - means districts M-1

2.97 "Improvements" - means any structure, grading, street surfacing, curbs and gutters, sidewalks, bike-ways, cross-walks, water mains, sanitary sewers, storm sewers, drainage ditches, culverts, bridges, trees and other additions or deletions from the natural state of land which increase its utility or habitability.

2.98 "Inoperable equipment or parts" - means any equipment or machine which is not in condition to be operated in a normal or customary manner. This is to include all manner of equipment or machines, or any major parts thereof such as body, chassis, engine, frame, wheels, tires or trailer portion of a tractor-trailer rig.

2.99 "Junk" - shall include, but not limited to: older scrap copper; brass; rope; rags; batteries; paper; trash; rubber; debris; waste; junked, dismantled, scrapped or wrecked motor vehicle or parts thereof; iron; steel; or other old or scrap ferrous or nonferrous material or similar materials.

2.100 "Junkyard" - shall mean an establishment or part thereof, which is maintained, operated, or used for storing, keeping, repairing, buying or selling junk, including any parts of vehicles, equipment, or machines or discarded or similar materials, or for the maintenance or operation of a salvage yard.

2.101 "Kennel" - means a commercial operation that: 1) provides food, shelter and care for more than four (4) animals of six (6) months of age or older for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian); or 2) regularly engages in the breeding of animals for sale.

2.102 "Landowner" - means the legal or beneficial owner or owners of a lot or tract. The holder of a contract to purchase or other person having an enforceable proprietary interest in a lot or tract shall be deemed a landowner.

2.103 "Landscape material" - means such living materials as trees, shrubs, ground cover, vines, turf grasses, and non-living materials such as rocks, pebbles, sand, bark, brick pavers, earthen mounds (excluding pavement), and other items of a decorative or embellishment nature such as fountains, pools, walls, fencing, sculpture, etc.

2.104 "Landscaped open space" - means that part of the net land area which is free of streets, structures, or parking areas and provided to improve the drainage, microclimate and aesthetics of the site. Such areas are usually landscaped and appropriately located to achieve maximum effect and appeal. Typically, such space includes lawn areas, shrubs and trees, walkways, paved terraces, sitting areas and outdoor recreational areas. Unpaved land areas within private or public street rights-of-way are not counted as landscaped open space unless they are in excess of minimum right-of-way standards.

2.105 "Landscaping" - means bringing the soil surface to a smooth finished grade and installing sufficient trees, shrubs, ground cover and grass to soften building lines, provide shade and generally produce a pleasing visual effect of the premises.

2.106 "Loading area" or "loading dock" - means an off-street space on the same lot with a building or group of buildings for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

2.107 "Lot" - means a parcel of land occupied, or to be occupied, by one (1) main building or unit group of buildings, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required under these regulations, and having its principal frontage upon a public street. A lot as used in this ordinance may consist of one (1) platted tract or a part thereof pursuant to a formal lot split.

A. "Platted lot" means a portion of a subdivision intended as a unit for transfer of ownership or for development.

B. "Corner lot" means a lot abutting upon two (2) or more streets at their intersection. A corner lot shall be deemed to have two (2) front yards, each facing a street or public right-of-way.

C. "Double-frontage lot" means a lot abutting upon two (2) or more streets, at least two (2) of which do not intersect.

- D. "Interior lot" means a lot whose side lot lines do not abut upon any street.
- E. "Through lot" means an interior, double-frontage lot.

2.108 "Lot coverage" - means a percentage figure of intensity of land use that represents the portion of a site that is impervious (i.e. does not absorb water). This portion includes, but is not limited to, all areas covered by buildings, parked structures, driveways, roads, sidewalks, and any area of concrete asphalt or other impervious surfaces.

2.109 "Lot depth" - means the mean horizontal distance from the front lot line to the rear lot line.

2.110 "Lot line" - means the boundary line of a lot.

A. "Front lot line" means that lot line abutting a street or private drive. In the case of a corner lot where there are two (2) lot lines abutting intersecting streets, the front lot line shall normally be the one with the shortest length.

B. "Side lot line" means any lot line which intersects the front lot line.

C. "Rear lot line" means any lot line which is not a front lot line or a side lot line.

2.111 "Lot width" - means the horizontal distance between the side lot lines, measured at the front setback line or the front platted building line, whichever is greater.

2.112 "Main building" or "main structure" - means the primary building or structure on a lot or a building or the structure that houses a principal use.

2.113 "Major street map" - means the current official map adopted by the Governing Body pursuant to KSA 12-705c as amended by KSA 12-765.

2.114 "Manufactured home" - means a structure which is subject to the federal manufactured home construction and safety standards established pursuant to (US Code) 42 USC Section 5403 – Construction & Safety Standards.

2.115 "Manufactured home park" - means a tract of land meeting the requirements of this ordinance containing suitable drives, utilities and other supporting elements, and devoted to the sole purpose of accommodating mobile homes or manufactured homes on a permanent or a semi-permanent basis.

2.116 "Manufactured home space" - means that area of land within a manufactured home park set aside for use as a site for one (1) manufactured home, including the open spaces around said home.

2.117 "Mixed use" - means a tract of land, building or structure developed for two (2) or more different uses including but not limited to, residential, office, manufacturing, retail, or public.

2.118 "Motor home" - means a vehicle used, or so constructed as to permit being used, as a conveyance upon the public streets and highways and constructed in such a manner as will permit occupancy thereof for human habitation, dwelling or sleeping places for one or more persons, provided further that this definition shall refer to and include all portable contrivances used or intended to be used generally for living and sleeping quarters and which is capable of being moved by its own power, towed or transported by another vehicle.

2.119 "Motel or motor hotel" - means a building or group of buildings containing one (1) undivided tract or parcel of land with a group of individual private units, each provided with separate sleeping room or rooms, having bath, lavatory and toilet facilities, designed and to be used primarily for transient guests traveling by a motor vehicle.

2.120 "Motor vehicle" - means a self-powered motorized vehicle for use on streets or highways, including customary passenger vehicles, recreational vehicles and trucks. Does not include trailers.

2.120a "Motor vehicle, dismantled" - shall mean that a number of useful parts, including but not limited to tires, batteries, doors, hoods, or windows have been stripped from the motor vehicle as to render the motor vehicle unsafe to operate.

2.120b "Motor vehicle, inoperable" - shall mean a motor vehicle which cannot be driven away in a safe condition and shall not include wrecked, scrapped, ruined or dismantled vehicles.

2.120c "Motor vehicle, ruined" - shall mean a motor vehicle which is substantially damaged to the extent that it is valueless or useless as an operable motor vehicle.

2.120d "Motor vehicle, scrapped" - shall mean that it has no value as an operable motor vehicle or parts thereof and most of the motor vehicle and parts thereof to be useful only as materials for reprocessing, re-melting, remanufacturing, or disposal for salvage or scrap material.

2.120e "Motor vehicle, wrecked" - shall mean those motor vehicles which have more than twenty-five (25) percent of the vehicle in damaged condition externally as to render it unsafe to operate.

2.121 "Natural features" - means the physical characteristics of properties that are not man-made (e.g. soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, floodplains, aquatic life, and wildlife).

2.122 "Neighborhood" - means a sub-area of the City in which the residents share a common identity focused around public facilities and social institutions or other common features, and generally within walking distance of their homes.

2.123 "Net acre" - means an acre within the perimeter of a development tract after excluding all dedicated arterial street rights-of-way.

2.124 "Net site area" - means the land area of a lot, tract or property, excluding all areas dedicated to the city, such as open space, park and greenways, and public street and alley rights-of-way, as are required by this ordinance. Easements which remain under private ownership are calculated as part of the net site area.

2.125 "Nonconforming use" - means a nonconforming situation that occurs when property is used for a purpose or in any manner made unlawful by the use regulations or development and performance standards applicable to the zoning district in which the property is located. The term also refers to the activity that constitutes the use made of the property.

2.126 "Nursing facility" - means a building, or a group of buildings, licensed by the State, where for compensation pursuant to the previous arrangement, care is offered or provided for three (3) or more persons suffering from illness, other than a contagious disease, or sociopath or psychopathic behavior, which is not of sufficient severity to require hospital attention, or for three (3) or more persons requiring further institutional care after being discharged from a hospital, clinic or similar institutions..

2.127 "Official Street Map" - means the current official map adopted by the governing body pursuant to KSA 12-705c as amended by KSA 12-765.

2.128 "Official Zoning Map" - means the zoning map adopted by the city pursuant to KSA 12-753.

2.129 "Open space" - means any parcel or area of land or water set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space may include common, active and landscaped areas, as well as, areas of natural preservation.

2.129a "Open space, active" - means that part of the net site area of a development that may be improved or set aside, dedicated, designated or reserved for recreational use such as swimming pools, play equipment for children, ball fields, picnic tables, sports courts, etc.

2.129b "Open space, common" - means that part of the net site area of a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents of a development.

2.129c "Open space, landscaped" - means that part of the net site area which is free of streets, structures, or parking areas and provided to improve the drainage, microclimate and aesthetics of the site. Such areas are usually landscaped and appropriately located to achieve maximum effect and appeal. Typically, such space includes lawn areas, shrubs and trees, walkways, paved terraces, sitting areas and outdoor recreational areas. Unpaved land areas within private or public street rights-of-way are not counted as landscaped open space unless they are in excess of minimum right-of-way standards.

2.130 "Ordinance" - means the Zoning Ordinance.

2.131 "Other motorized machinery and equipment" - means a vehicle or equipment not generally used on streets or highways and designed for use during construction, landscaping, farming and similar activities. Examples include tractors, combines, backhoes, graders, cranes, etc.

2.132 "Overlay district" - means a district which acts in conjunction with the underlying zoning district or districts.

2.133 "Parking area or lot" - means any portion of a parcel of land used for parking or storage of operable motor vehicles on a temporary (less than twenty-four [24] hour) basis which is connected with a street or alley by a paved driveway which affords ingress and egress for motor vehicles.

2.134 "Parking space" - means an enclosed or unenclosed paved area permanently reserved for the temporary (less than twenty-four [24] hour) storage of motor vehicles and connected with a street or alley by a paved driveway which affords ingress and egress for motor vehicles.

2.135 "Permit, building" - means a permit issued by the building official which authorizes the construction, reconstruction, alteration, enlargement, conversion, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

2.136 "Permit, special use" - means a specific approval for a use that has been determined to be more intense or to have a potentially greater impact than a permitted or conditional use within the same zoning district.

2.137 "Planned zoning district" - means the zoning of a lot or tract to permit that development as specifically depicted on plans approved in the process of zoning that lot or tract.

2.138 "Plat" - means a map depicting the division or subdivision of land into lots, blocks, parcels, tracts or other portions thereof.

A. "Plat, Final" means a drawing of a permanent nature showing the precise location and dimension of such features as streets, lots, easements and other elements pertinent to transfer of ownership and prepared for permanent record.

B. "Plat, Preliminary" means a drawing showing the proposed general patterns of streets, lots and land uses within a tract to be subdivided.

2.139 "Recreational vehicle" - means a vehicular-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The entities are: camping trailer, fifth-wheel trailer, motor home, travel

trailer, and truck camper. It does not include pickup hoods, shells or canopies designed, created or modified for occupational usage.

(a) "Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.

(b) "Fifth - wheel trailer" means a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as not to require special highway movement permit(s), of gross trailer area not to exceed four hundred (400) square feet in the set up mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

(c) "Motor home" means a vehicular unit designed to provide temporary living quarters for recreational, camping or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

(d) "Travel trailer" means a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as not to require special highway movement permits when towed by a motorized vehicle, and of gross trailer area less than three hundred twenty (320) square feet.

(e) "Truck camper" means a portable unit constructed to provide temporary living quarters for recreational, camping or travel use, consisting of a roof, floor and sides, designed with a minimum extension of thirty-six (36) inches extending over the cab of a pickup truck, and designed to be loaded onto and unloaded from the bed of a pickup truck.

2.140 "Recycling collection point" - means an accessory use or structure that serves as a drop-off point for recyclable materials. The temporary storage of such items would be permitted, but no processing would be allowed.

2.141 "Redevelopment" - means the redesign or rehabilitation of existing properties.

2.142 "Regulatory flood elevation" - means elevation indicated in the Flood Insurance Study as the elevation of the one hundred (100) year flood.

2.143 "Residential districts" - refers to zoning districts RR, R-1, R-2, R-3, R-4.

2.144 "Restaurant" - means a building wherein food is prepared and served in ready-to-eat form to the public for human consumption. "Restaurant" includes cafe, cafeteria, grill, pizza parlor, diner, snack shop, hamburger shop, steak house, etc.

2.145 "Re-subdivision" - means a change in a map of an approved or recorded subdivision plat, if such change affects any street layout on such map or area reserved for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption date of this ordinance.

2.146 "Retention basin" - means a reservoir designed to retain storm water runoff on a relatively permanent basis with the primary release of water being through evaporation, infiltration into the ground or controlled overflow.

2.147 "Rezoning" - means an application for amendment of the zoning district classification applicable to one (1) or more specific lots or tracts.

2.148 "Right-of-way" or "rights-of-way" - means the total width of any land reserved or dedicated as a street, alley, sidewalk, or for other public or private use.

2.149 "Rule exception" - means the allowing of a subdivision to deviate from one (1) or more specific standards and requirements of these rules and regulations.

2.150 "Runoff" - means the surface water discharge and rate of discharge of a given watershed after a full rain or snow that does not enter the soil but runs off the surface of the land.

2.151 "Salvage yard" - means any establishment or part thereof, which is maintained, used or operated for storing, keeping, buying, repairing, or selling any wrecked, scrapped, ruined, and/or dismantled motor vehicles or parts thereof.

2.152 "Screening" - means a method of visually shielding or obscuring one abutting or nearby structure or use from another by the use of berms, densely planted vegetation, fencing, or walls.

2.153 "Sedimentation" - means the process by which soil or other surface material is accumulated or deposited by wind, water, or gravity.

2.154 "Setback line" - means a line, parallel to the respective lot line and internal to the lot, which defines the required building setback as specified in the district regulations.

A. "Front setback line" shall be parallel to the front lot line and shall extend from side lot line to side lot line.

B. "Rear setback line" shall be parallel to all rear lot lines and shall extend from side lot line to side lot line.

C. "Side setback lines" are parallel to any side lot line and extend from the front setback line to the rear setback line.

2.155 "Setback" or "building setback" or "yard setback" - means that area between a lot line and the respective setback line which shall remain unobstructed by buildings or structures from the ground to the sky, except as may be specifically permitted by other provisions of the *Zoning Ordinance*.

2.156 "Shopping center" - means a group of commercial establishments planned, developed, owned or managed as a unit, related in size (gross floor area) and type of shops to the trade area that the unit serves, and with off-street parking provided on the property.

2.157 "Sight Distance" - means a triangular shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving an intersection.

2.158 "Sign" - means any framed, bracketed, free-formed, or engraved surface which is fabricated to create words, numerals, figures, devices, designs, trademarks or logos, which is mounted on or affixed to a building or the ground, and which is sufficiently visible to persons not located on the lot where such device is located to attract the attention of such persons or to communicate information to them. "Sign" includes sign supports.

2.159 "Site" - means the existing lot of record proposed for land development, including subdivision.

2.160 "Site development plan" - means a detailed drawing (to scale) showing the proposed development of a specified parcel of land, including the location and design of buildings, easements, utility layouts, parking arrangements, public access, street patterns, drainage controls, existing vegetation and natural features, landscaping, lighting and other similar features.

2.161 "Stable" - means a structure or premises for the keeping of horses, ponies, donkeys or mules.

2.162 "Storage" or "stored" - shall mean the keeping of items, equipment, vehicles, trailers or materials for a period of time longer than would be involved in the normal day-to-day use or consumption of the same.

2.163 "Storage area or lot" - means any off-street area designated and used for the placement, keeping, holding and storage of inoperable vehicles, vehicles awaiting repair, and parts thereof; building

materials, supplies and equipment; trailers; heavy construction equipment and other motorized vehicles and equipment, but not for junkyard or salvage yard purposes.

2.164 "Story" - means that part of a building included between the surface of one (1) floor and the surface of the floor above or, if there is no floor above, that part of the building which is between the surface of the floor and the ceiling next above. A top story attic is a half-story when the main line of the eaves is not above the middle of the interior height of such story. The first story is a half-story when between fifty (50) and seventy-five (75) percent of the area of its exterior walls are exposed to outside light and air entirely above grade in which exterior walls contain windows or doors permitting the entrance of daylight and outside air. When less than fifty (50) percent of the area of the walls of the first story is exposed to outside light and air entirely above grade, that story shall be classed as a basement and in the case of multifamily dwellings may not be occupied as a residence by other than a caretaker or manager.

2.165 "Street" - means a right-of-way or easement affording vehicular access to abutting properties designated as a street, avenue, highway, road, boulevard, lane or throughway. The following are street types:

A. "Collector Street" means a street which provides traffic circulation within residential areas. Land access is a secondary function of the collector. The collector distributes trips from the arterials to the local street network.

B. "Local Street" means a street which provides direct traffic access to abutting land in residential areas.

C. "Major Arterial" means a street or highway that provides for rapid and efficient movement of large volumes of through traffic between sections of the city and across the urbanized area. It is not primarily intended to provide land access service.

D. "Minor Arterial" means a street which provides for the through traffic movement between areas and across the city. A minor arterial accommodates trips of moderate length at a somewhat lower level of service and lower operating speeds than the major arterial.

E. "Private street" means an easement which affords principal access to property abutting thereon, which easement is owned, controlled and maintained by persons other than the public.

F. "Public street" means a right-of-way which affords the principal means of vehicular access to property abutting thereon which right-of-way has been dedicated to the public for such use.

G. "Service Street" means a street which provides traffic circulation within commercial and industrial developments and complexes from the arterial street system.

2.166 "Street line" - means the dividing line between the street right-of-way and the abutting property commonly known as the property line.

2.167 "Structural alteration" - means any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

2.168 "Structure" - means anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground.

2.169 "Subdivider" - means a person, firm or corporation undertaking the subdividing of land.

2.170 "Subdivision" - except for "lot-split" as defined below, means the division of a lot, tract or parcel of land into two (2) or more lots, plots, sites or other division of less than five (5) acres, including a re-subdivision of land and vacation of streets, lots or alleys. The creation of a street, alley or other public

way by dedication shall be deemed a subdivision. "Lot-split" means the division of a platted lot into two (2) or more lots or portions thereof.

2.171 "Temporary structure" - means a structure that is to be removed within a designated time period, activity, or use for which the temporary structure was erected has ended.

2.172 "Tract" - means a single unit of real property under one (1) ownership, which may be platted or unplatted.

2.173 "Trailer" - means a vehicle equipped with wheels and normally towed over the road behind a motor vehicle.

A. "Advertising trailer" means a trailer carrying, or having attached thereto a sign, billboard or other media for advertising purposes, such advertising being the prime purpose and use of the trailer.

2.174 "Use" - means the purpose or activity for which the land, or building thereon, is designed, arranged or intended, or for which it is occupied or maintained.

2.174a "Use, permitted" - means a use permitted by right without the need for special administrative review and approval.

2.174b "Use, principal" - means the main use of land or buildings as distinguished from a subordinate or accessory use. The principal use may be either a permitted or a special use.

2.174c "Use, special" - means a use either public or private, which, because of its characteristics, cannot be classified as a permitted use in a particular district or districts without prior review and recommendation by the Planning Commission and approval by the Governing Body. Special uses may be conditional approved.

2.174d "Use, temporary" - means any use designed, built, erected or occupied for short and/or intermittent periods of time and shall include tents, lunch wagons, dining cars, trailers and other roofed structures on wheels or other supports used for business, storage, industrial, institutional, assembly, educational or recreational purposes. Such temporary use requires a permit from the City.

2.175 "Variance" - means a variation from a specific requirement in this ordinance applicable to a specific piece of property as provided in Section 5.33 – Chapter 5 Applications and Procedures hereto.

2.176 "Waiver" - means a process for alleviating a specific requirement in this ordinance.

2.177 "Watercourse" - means a channel in which a flow of water occurs, either continuously or intermittently, and in the latter, with some degree of regularity. Such flow must be in a definite direction and cover a prescribed area. Watercourses may be either natural or artificial, and both may occur either on the surface or underground.

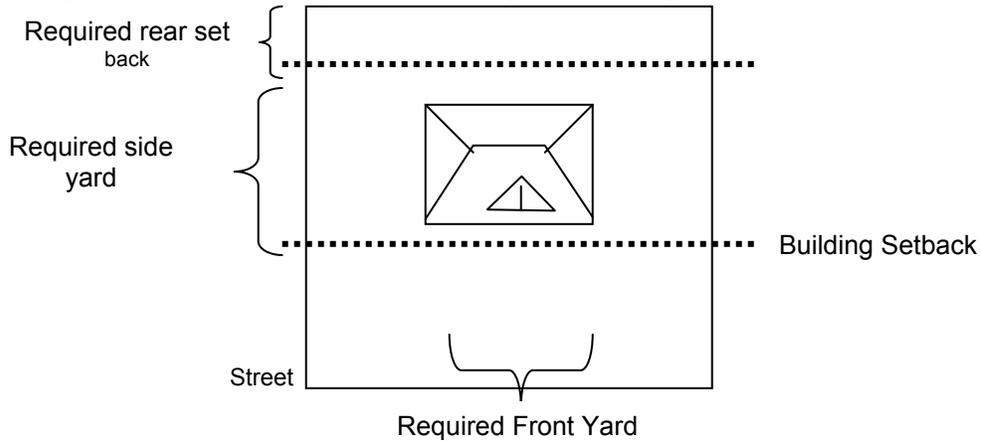
2.178 "Watershed" - means a land area, also known as a drainage area, which collects precipitation and contributes runoff to a receiving body of water or point along a watercourse.

2.179 "Yard" - means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward.

A. "Front yard" means a yard across the full width of the lot extending from the front line of the main building to the front lot line, adjacent to a street.

B. "Rear yard" means the yard between the rear lot line and the rear line of the main building and the side lot lines. See diagram below.

C. "Side yard" means a yard between the main building and the adjacent side line of the lot, and extending entirely from a front yard to the rear yard. See diagram below.



D. "Required yard" means that portion of any yard constituting the minimum area required in any zoning district, but excluding that portion of the yard in excess of the minimum required area.

2.180 "Zoning" - means the division of the City by legislative regulations into areas, or zones, which specify allowable uses for real property and size and density restrictions for buildings within these areas.

2.181 "Zoning Certificate" - means a certificate issued by the City, certifying that any proposed use, building, or structure to be located on a lot is in accordance with all of the regulations of this ordinance.

2.182 "Zoning district" - means a section or sections of the City for which the regulations governing the use of buildings and lands are uniform for each class or use permitted therein.

**CHAPTER 3
ADMINISTRATION**

Sections:

3.01 City Administrator as Administrative Official

3.02 City Administrator as Enforcement Official

3.03 Planning Commission

3.01 City Administrator as Administrative Official

Except where otherwise specifically provided in this ordinance, the City Administrator or his/her designee shall be the administrative official charged with interpreting the provisions of this ordinance.

3.02 City Administrator as Enforcement Official

Except where otherwise specifically provided in this ordinance, the City Administrator or his/her designee shall be charged with enforcing the provisions of this ordinance.

3.03 Planning Commission

A. Authority for Continuation: The planning commission is continued in accordance with the authority of KSA 12-744 and amendments thereto.

B. Membership, Terms and Vacancies:

1. The Planning Commission shall have seven (7) members, of which two (2) members shall reside outside of the City, but within 3 miles of the planning area of the city as defined in the Comprehensive Plan for the City. The remaining members shall be residents of the City of Bel Aire.

2. The members of the Planning Commission shall be appointed by the Mayor with the consent of the Governing Body, and shall serve until their successors are appointed and qualified in the manner herein provided. Members shall be appointed for terms of three (3) years and shall serve without compensation for their service. Of the members of the commission first selected, two (2) shall serve for a term of one year, two (2) shall serve for a term of two years and three (3) for three year terms. Thereafter, the members of the commission shall be selected in the same manner as the member they are succeeding, and the term of office of each shall be for three (3) years.

3. Vacancies on the Planning Commission shall be filled by appointment of the Mayor with the consent of the Governing Body for the remainder of the unexpired term of the Planning Commissioner whose position has been vacated.

C. Officers: The Planning Commission shall elect one (1) of its members as chairperson who shall serve one (1) year and until their successors have been selected. A City staff member shall serve as the secretary of the Planning Commission.

D. Meetings: The members of the Planning Commission shall meet as determined necessary to perform its duties. Meetings may be called at any time by the chairperson or the City Administrator, with twenty-four hours (24) written notice to the membership. A majority of the commission shall constitute a quorum for the transaction of business. City staff shall keep minutes of the Planning Commission's proceedings and official actions, including its examinations and findings and shall file the same with the City Clerk.

E. Powers and Duties: The powers and duties of the Planning Commission shall be those authorized by Article 7 of Chapter 12 of the Kansas Statutes Annotated (KSA 12-741 et seq.), and amendments thereto, and as defined by policy direction of the governing body.

**CHAPTER 4
PERMITS AND CERTIFICATES OF OCCUPANCY**

Sections:

- 4.01 Land Use Permits**
- 4.02 Building Permits**
- 4.03 Land Use Permits and Building Permits**
- 4.04 Permits -- Conformance of Construction**
- 4.05 Completion of Applications**
- 4.06 Action on Permit Applications**
- 4.07 Revocation of Permits**
- 4.08 Certificates of Occupancy**

4.01 Land Use Permits

A. A land use permit shall be obtained from the City prior to commencement of any of the following:

1. Any clearing, grading, excavation or any activity precedent to development of open, vacant or unimproved land for any use other than agricultural use. For the purpose of this subsection, clearing, grading and excavation shall mean any changing of the grade or sub-grade of a tract of land by cutting, scraping, grading, trenching, digging, filling-in, stripping of vegetation in accordance with Chapter 24, Landscaping and Screening, or otherwise reshaping the natural contour of the ground. The following shall not be construed as clearing, grading or excavation:

a. Any cutting, grading, trenching, digging or backfilling of any foundation of a building approved for construction.

b. Top dressing in an area of existing residential, commercial or industrial development, which top dressing does not change the drainage patterns and had previously been permitted for development by the City.

c. The clearing of underbrush, deadwood or weeds (grubbing) that does not affect existing trees or land contours.

2. Dredging, filling, grading or excavation of land within the floodway overlay or the floodway fringe overlay districts. For the purpose of this subsection, work within a floodway overlay or the floodway fringe overlay district shall be in compliance with the Chapter 20, Floodplain Zoning.

3. Expansion and/or construction of a parking lot or construction of a parking lot or driveway.

B. The contents of the land use permit application shall include but not be limited to the following information:

1. Contours of existing grades at intervals not more than five (5) feet. Intervals less than five (5) feet may be required dependent on the character of the topography.

2. Elevation and location of the nearest benchmark.

3. Easement and right-of-way information including drainage easements required for off-site drainage-ways.

4. Methods of controlling erosion and sedimentation.
 5. Final grading contours drawn at sufficient intervals of not more than five (5) feet to depict major drainage patterns.
 6. One-hundred (100) year floodplain line with elevations.
 7. Names and addresses and telephone numbers of land owners project manager and engineer or land surveyor preparing the plan.
 8. Location and size of all trees with a caliper of three (3) inches or greater (measured at four and one-half [4½] feet above the ground).
- C. The City Administrator may waive the requirement of a land use permit depending on the extent of the work to be completed and site area.

4.02 Building Permits

A building permit shall be obtained from the City prior to commencement of construction or expansion of any building use or structure. A necessary final plat or lot split shall be recorded with the Register of Deeds of Sedgwick County following approval by the Bel Aire Governing Body prior to the issuance of any such building permit.

4.03 Land Use Permits and Building Permits

A. Applications:

1. Applications for land use or building permits shall be filed upon forms prescribed by the City, setting forth the legal description of the lot, tract or parcel of land, together with a general description of any building or structure proposed to be constructed, erected or structurally altered thereon, including the approximate height, bulk and shape, gross and net square footages, the principal materials of construction, location of the building or structure upon the lot, tract or parcel, the intended use of the land or building, and such other information as may be required by the City.
2. Applications for building permits shall be submitted to the City.
3. An application for a land use permit shall be submitted for signature approval to the City Administrator or his/her designee following review and recommendation by the City Engineer.

B. Number of permits: When construction of groups of buildings and accessory buildings for a principal building is to be simultaneous, and when all the buildings are to be constructed on land zoned for one (1) classification and use, the City may issue one (1) permit for such groups of buildings, or may require a separate permit for each building or structure to be constructed.

C. Minimum rights-of-way required:

1. When a land use or building permit is requested on a lot or tract abutting a public street, the City shall determine that adequate right-of-way exists on that portion of the public street abutting the property. The minimum right-of-way, measured from the centerline of the street to the property line of the lot or tract, shall be determined based upon the classification of the abutting street. Classification of the abutting street shall be determined by reference to the Comprehensive Plan or the Master Street Plan; if the classification is not designated on any of such documents, the City shall determine the street classification.

2. No land use permit or building permit shall be issued for any lot or tract where the abutting right-of-way does not clearly comply with the right-of-way requirements until title for the additional required right-of-way has been conveyed to the City by plat or deed and accepted by the Governing Body.

3. Any requirement for dedication of right-of-way pursuant to this section may be waived by the Governing Body where the permit being requested does not result in a change or expansion of use of the property or an increase in the square footage of any building.

4.04 Permits - Conformance of Construction

No permit shall be issued for any building, structure or use of land unless the same shall be in conformance in every respect with all provisions of this ordinance and any other applicable provisions of City ordinances and plans approved by the Governing Body. No development on any tract shall begin until approval of zoning, site development plan, final plat, or applicable permit has been granted by the City, unless specifically exempted by the applicable ordinance.

4.05 Completion of Applications

The City shall determine if an application filed for any building, structure or use of land is complete. Only completed applications shall be considered for processing by the City.

4.06 Action on Permit Applications

Action on permit applications shall take place not later than thirty (30) days after the date the completed application is filed. In the event of refusal to issue a permit upon an application based upon noncompliance with the provisions of this ordinance, the applicant shall have the right to appeal within five (5) working days to the City Administrator. The appeal will be processed within five (5) days.

4.07 Revocation of Permits

A permit may be revoked by the Official issuing the permit or his/her designee pursuant to the procedure contained in Section 1.10 B Chapter 1 – General Provisions.

4.08 Certificates of Occupancy

A. No new or existing building or structure shall be occupied or no change in the character or use of land or of a building shall occur, without a valid certificate of occupancy issued by the City with a signature by the City Administrator, or his/her designee certifying that such building or use is in compliance with all regulations of this ordinance, city codes and ordinances, including structure location and foundation & pad elevations contained in the PUD documents or on the face of the final plat.

B. A Certificate of Occupancy may be withdrawn if such building or use is found in noncompliance with the regulations of this ordinance, city codes and ordinances.

Withdrawal of a Certificate of Occupancy may be appealed in writing to the City Administrator within five (5) days.

**CHAPTER 5
APPLICATIONS AND PROCEDURES**

Sections:

- 5.00 Who May Apply; Application Fees**
- 5.01 Pre-Application Process**
- 5.02 Resubmitting Applications for Plats, Rezoning and Special Use Permits**
- 5.03 Applications -- Proof of Ownership and/or Authorization of Agent**
- 5.04 Rezoning and Special Use Permit Applications – Submission Requirements**
- 5.05 Submission of Technical Studies**
- 5.06 When Applications Deemed Complete**
- 5.07 Application and Submission Deadlines**
- 5.08 Publication Notices**
- 5.09 Notices to Surrounding Property Owners**
- 5.10 Posting of Signs for Rezoning and Special Use Permits**
- 5.11 Public Hearings**
- 5.12 Continuances**
- 5.13 Consideration of Zoning Text Amendments, Rezoning and Special Use Permits**
- 5.14 Protest Petition Procedures**
- 5.15 Criteria for Considering Applications**
- 5.16 Interpretation of Design Guidelines**
- 5.17 Rezoning for Lesser Change**
- 5.18 Consideration of Planned Unit Development Plans**
- 5.19 Planned Unit Development Plans -- Contents and Submission Requirements**
- 5.20 Final Site Development Plans -- Contents and Submission Requirements**
- 5.21 Recording of Site Development Plans**
- 5.22 Abandonment of Final Site Development Plan**
- 5.23 Preliminary Plats -- Contents and Submission Requirements**
- 5.24 Consideration of Preliminary Plats**
- 5.25 Final Plats -- Contents and Submission Requirements**
- 5.26 Consideration of Final Plats**
- 5.27 Applications for Lot Splits**
- 5.28 Consideration of Lot Splits**
- 5.29 Applications for Vacation of Streets or Reservations**
- 5.30 Consideration of Vacations**
- 5.31 Appeals to the Planning Commission and Governing Body**
- 5.32 Appeals to the Board of Zoning Appeals (BZA)**
- 5.33 Consideration of Variances**
- 5.34 Conditional Approvals**
- 5.35 Written Findings**
- 5.36 Final Decision Where Ordinance Required**
- 5.37 Appeals of Final Decisions**
- 5.38 Filing Fees**

5.00 Who May Apply; Application Fees

A. Prior to filing an application provided for in this chapter, a pre-application meeting shall be required between the applicant and City staff, unless such requirement is otherwise waived by the City Administrator.

B. Application for a zoning text amendment may only be filed by the Governing Body or Planning Commission.

- C. An application for rezoning to a conventional zoning district or for a revised preliminary site development plan for a planned zoning district may be filed by the Governing Body, the Planning Commission or the landowner or the landowner's agent.
- D. An application for an appeal to the Board of Zoning Appeals may be filed by any person aggrieved, or by any officer of the City, or any governmental agency or body affected by any decision of an official administering the provisions of this ordinance.
- E. All other applications provided for in this chapter may only be filed by the landowner or the landowner's agent.
- F. Fees for all applications provided for in this chapter shall be established by the Governing Body by resolution.
- G. All applications shall be made on forms prepared by the City and available from the City Clerk.

5.01 Pre-Application Process

For all applications that involve a public hearing, the applicant is required to meet with the City Administrator or his/her designee prior to formal submission of an application. This conference shall include the following: discussion of technical studies, plans and other information deemed relevant to the specific application request; discussion of the anticipated level of citizen interest; and identification of citizen notification and meeting requirements.

5.02 Resubmitting Applications for Plats, Rezoning and Special Use Permits

When a proposed application for rezoning, special use permit, or plat has been withdrawn by the applicant or denied by the Planning Commission or the Governing Body, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial. However, an application for a different zoning classification or special use permit request can be submitted at any time. In addition, a new plat application showing major modifications and/or revisions to the withdrawn or denied plat application may be submitted at any time.

5.03 Applications - Proof of Ownership and/or Authorization of Agent

- A. Where an application has been filed by a landowner, an affidavit of ownership shall be submitted to the City.
- B. Where an application has been filed by an agent of a landowner, an affidavit of the landowner establishing the agent's authorization to act on behalf of the landowner shall be submitted to the City.
- C. The affidavits required by this section shall be on forms prescribed by the City or in such form as is acceptable to the City, and shall be submitted at the time of filing the application.

5.04 Rezoning and Special Use Permit Applications – Submission Requirements

The following items shall be submitted in support of any application for rezoning or special use permit:

- A. Legal description of the property.
- B. Names, addresses and phone numbers of owner, applicant and agent.
- C. A statement of the reasons why rezoning or special use permit is being requested.
- D. The minutes of the meeting(s) between the applicant and the property owners and home associations within the notification area, if determined to be required during the pre-application meeting.
- E. In the case of an application for special use permit or rezoning to a planned zoning district, a site development plan.

- F. In the case of an application for rezoning to a conventional zoning district, a site development concept plan.
- G. In the case of an application for rezoning to a planned mixed-use zoning district, a site development plan and a land use allocation map.
- H. All studies as may reasonably be required by the City that supports the rezoning or special use permit.
- I. Assurances of adequate public facilities as required in Chapter 1, General Provisions.

5.05 Submission of Technical Studies

A. The City staff may require applicants for rezoning, special use permits, preliminary site development plans, land use allocation maps or preliminary plats to submit such technical studies as may be necessary to enable the Planning Commission and/or Governing Body to evaluate the application. Examples of technical studies that may be required shall include, but not limited to, traffic studies, engineering studies, geologic or hydrologic studies, environmental impact assessments, noise studies, market studies, economic impact reports or architectural surveys. The costs of all studies shall be borne by the applicant.

B. Upon the submission of any technical or related studies and/or upon any further determination by City staff, certain easements and related improvements such as streets, drainage, watercourses, creek erosion control, utilities, tree preservation, open areas, or recreational amenities may be required as a condition for approval of the rezoning, site development plan, preliminary plat or final plat. Performance and maintenance bonds for said improvements shall be approved by City staff prior to the issuance of a building permit, and said improvements shall be completed prior to the issuance of a certificate of occupancy.

C. Notwithstanding the fact that the City staff, did not require submission of any such technical study in support of the application, either the Planning Commission or the Governing Body may require the submission of such study prior to taking action on the application. In such case, the persons or firms selected to perform the studies shall be subject to the approval of the entity requesting that the study be performed. Any decision of the Planning Commission or the Governing Body to require that a study be performed or to disapprove the person or firm selected by the applicant to perform the study shall be final.

5.06 When Applications Deemed Complete

No application shall be deemed complete until all items required to be submitted in support of the application have been submitted subject to the provisions of this chapter.

5.07 Application and Submission Deadlines

The City may provide for submission deadlines for materials required in support of any application provided for in this chapter. Compliance with such deadlines shall generally be required in order to have the application placed on an agenda to be heard by the Planning Commission or the Governing Body.

5.08 Publication Notices

Unless otherwise specifically provided for in this chapter, all publication notices for public hearings required by this chapter shall be published in one (1) issue of the official City newspaper so that twenty (20) days shall elapse between the date of the publication and the date of the public hearing. The publication notice shall fix the time and place for the public hearing. Where the hearing is for consideration of changes in the text of this ordinance, or a general revision of the boundaries of zoning districts, the notice shall contain a statement regarding the proposed changes in the ordinance or in the boundaries of the zone or district. If the hearing is on an application which concerns specific property, the property shall be designated by legal description and/or general street location sufficient to identify the property under consideration, and the notice shall contain a general statement regarding the purpose of the application.

5.09 Notices to Surrounding Property Owners

Unless otherwise specifically provided in this chapter, whenever notice to surrounding property owners is required for consideration of an application, such notice shall be given as follows: the applicant shall mail all notices at least twenty (20) days prior to the hearing to all owners of record of lands located within at least two hundred (200) feet of the area proposed to be altered for regulations of a City. If the property proposed for rezoning is located adjacent to the City limits, the area of notification shall be extended to one thousand (1,000) feet into the unincorporated area. Such mailed notice shall be given by certified mail, return receipt requested, and shall be in letter form stating the time and place of the hearing, a general description of the proposal, the legal description and general street location of the property subject to the proposed change, and a statement explaining that the public may be heard at the public hearing. In cases of applications for which protest petitions may be submitted, the notice shall also contain a statement explaining that property owners within two hundred (200) feet (within the City limits) or one thousand (1,000) feet (within the unincorporated area) of the property proposed for change shall have the opportunity to submit a protest petition, in conformance with this ordinance, to be filed with the office of the City Clerk within fourteen (14) days after the date of the conclusion of the public hearing. Newspaper clippings of the publication notices shall not be used for the mailed notice. Mailed notices shall be addressed to the owners of the property and not to mere occupants thereof. When the notice has been properly addressed and mailed, failure to receive mailed notice shall not invalidate any action taken on the application. Prior to the public hearing, the applicant shall file with the City, the returned receipts from the certified mailings and an affidavit stating the names and addresses of the persons to whom notice was sent; failure to submit the affidavit prior to the hearing may result in a continuance of the hearing.

5.10 Posting of Signs for Rezoning and Special Use Permits

In the case of rezoning and special use permits, the City shall place a sign on the property informing the general public that a public hearing will be held at a specific time and place concerning proposed changes in use. The sign shall be furnished by the City to the applicant, and the applicant shall maintain the sign for at least the twenty (20) days immediately preceding the date of the public hearing. The applicant shall file an affidavit with the City Administrator or his/her designee at the time of the public hearing verifying that the sign has been maintained and posted as required by this ordinance and applicable resolutions.

5.11 Public Hearings

Where the consideration of an application requires a public hearing, the following provisions shall apply:

- A. The purpose of a public hearing is to allow the applicant and all other interested parties a reasonable and fair opportunity to be heard, to present evidence relevant to the application and to rebut evidence presented by others.
- B. An accurate written summary of the proceedings shall be made for all public hearings.
- C. The Governing Body, Planning Commission and Board of Zoning Appeals may adopt rules of procedure for public hearings by resolution or bylaws.
- D. If an item which is subject to a public hearing is continued or otherwise carried over to a subsequent date and the public hearing has been opened, then the public hearing shall not be deemed concluded until the date on which the hearing is formally closed. No additional notices shall be required if the public hearing is continued.

5.12 Continuances

A. Any applicant or authorized agent shall have the right to one (1) continuance of a public hearing before the Planning Commission or Board of Zoning Appeals, provided that a written request therefore is filed with the City, at least two (2) business days prior to the date of the scheduled hearing. The applicant shall make every attempt to notify all persons previously notified of the continuance either by mail or telephone. In any event, the applicant shall cause written notice to be sent ten (10) days prior to the date

of the rescheduled public hearing to surrounding property owners in the same manner as required for notice of the original hearing.

B. The Planning Commission, Board of Zoning Appeals, or the Governing Body may grant a continuance of an application. If the Planning Commission or Board of Zoning Appeals continues a public hearing on its own motion, or at the request of the applicant, it may direct the applicant to re-notify property owners within two hundred (200) feet of the subject property, if such notification was required in the first instance.

C. All motions to grant a continuance shall state the date on which the matter is to be heard. A majority vote of those members of the Planning Commission or Board of Zoning Appeals present at the meeting shall be required to grant a continuance.

5.13 Consideration of Zoning Text Amendments, Rezoning and Special Use Permits

A. Public hearing required: Consideration of zoning text amendments, rezoning and special use permits shall require a public hearing before the Planning Commission following a publication notice.

B. Action by Planning Commission: A vote either for or against a zoning text amendment, rezoning or special use permit by a majority of all of the Planning Commissioners present and voting shall constitute a recommendation of the Planning Commission. A tie vote, or the failure to obtain a majority vote of the Planning Commission on any motion, shall be deemed to be a recommendation of disapproval. The Planning Commission's recommendation to approve or disapprove shall be submitted to the Governing Body for action, accompanied by an accurate written summary of the hearing proceedings. A recommendation to approve a zoning text amendment shall be submitted in the form of an ordinance.

C. Governing Body action upon Planning Commission recommendation of a zoning text amendment, rezoning or special use permit: The Governing Body may either (1) approve such recommendations by the adoption of the same by ordinance or resolution; (2) override the Planning Commission's recommendation by a majority vote of the membership of the Governing Body; or (3) may return the same to the Planning Commission for further consideration, together with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

D. Applications returned to Planning Commission: Upon receipt of an application returned by the Governing Body, the Planning Commission may resubmit its original recommendation giving the reasons therefor or submit a new or amended recommendation. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after the receipt of the Governing Body's report, the Governing Body may consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.

E. Reconsideration by Governing Body: Upon receipt of the Planning Commission's recommendation after reconsideration, the Governing Body may take such action as it deems appropriate, including approval, disapproval or amendment of the application and adoption as amended.

5.14 Protest Petition Procedures

A. A protest against any rezoning or a special use permit application shall be filed in the City Clerk's office not later than the end of the business day (5:00 PM) on the fourteenth (14th) day following the date of the conclusion of the Planning Commission's public hearing held pursuant to the publication notice. For the purposes of calculating the fourteen (14) day period, weekends and holidays shall be counted. Provided, however, if the last day is a non-business day for City offices, then the filing deadline shall be at 5:00 PM on the next regular business day.

B. In order to be considered a "valid" protest, a protest petition must be timely filed and duly signed and verified by the owners of record of twenty (20) percent of the total area required to be notified, excepting public streets and ways, located within or without the corporate limits of the City.

C. Verification of the genuineness and correctness of the signatures on the protest petition, either individually or collectively, shall be made by the City.

D. Once a valid protest petition has been filed with the City, it may not be withdrawn unless every person that signed the original petition signs a verified affidavit which states and fully explains the rights being waived by the withdrawal of the protest petition. Such affidavits of withdrawal must be filed with the City Clerk on or before the last regular business day preceding the Governing Body meeting for which the protest applies.

E. Adoption where protest filed: Where a valid protest petition has been filed, an ordinance approving the rezoning or a resolution approving a special use permit application may be passed by the affirmative vote of at least the majority of the members of the Governing Body.

5.15 Criteria for Considering Applications

In considering any application for rezoning or a special use permit, the Planning Commission and the Governing Body may give consideration to the criteria stated below; to the extent they are pertinent to the particular application. In addition, the Planning Commission and Governing Body may consider other factors which may be relevant to a particular application:

A. The conformance of the proposed use to the Comprehensive Plan and other adopted planning documents and policies.

B. The character of the neighborhood including, but not limited to: land use, zoning, density (residential), architectural style, building materials, height, structural mass, siting, open space and floor-to-area ratio (commercial and industrial).

C. The zoning and uses of nearby properties and the extent to which the proposed use would be in harmony with such zoning and uses.

D. The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations.

E. The length of time the property has remained vacant as zoned.

F. The extent to which approval of the application would detrimentally affect nearby properties.

G. The extent to which the proposed use would substantially harm the value of nearby properties.

H. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property.

I. The extent to which the proposed use would create excessive air pollution, water pollution, noise pollution or other environmental harm.

J. The economic impact of the proposed use on the community.

K. The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.

L. The recommendation of professional staff.

Related Information: Design Guidelines; Residential Neighborhood Design Manual; Traditional Neighborhood Design Manual

5.16 Interpretation of Design Guidelines

Any person proposing a development which will be subject to design guidelines may request an interpretation of any such guideline or its application to the particular project. All requests for such an interpretation shall be made to the City and may be submitted prior to or subsequent to the filing of a development application. Any such request shall be made on a form provided by the City and shall be accompanied by such other information as may reasonably be required by the City. A decision on any such request shall be made within five (5) business days following submission of the request or any other information required by the City. The interpretation of the City may be appealed to the Planning Commission. Any determination by the Planning Commission on the appeal of the City's interpretation may be appealed to the City Council, whose determination shall be final.

Related Information: Design Guidelines; Residential Neighborhood Design Manual; Traditional Neighborhood Design Manual

5.17 Rezoning for Lesser Change

The Planning Commission may recommend, and the Governing Body may adopt, a change in zoning which is a lesser change than the one requested, provided that the more restrictive district is in the same residential, commercial or industrial grouping as the district for which the change was requested. The adoption of a lesser district shall only be approved with the consent of the applicant. In no case may a change to a residential district be approved if the application is for a commercial or industrial district, and in no case may a commercial district be approved if the application is for an industrial district.

5.18 Consideration of Planned Unit Development Plans (PUD)

A. After the effective date of this ordinance, no property which has a zoning district classification which requires approval of a PUD may be developed or redeveloped without a preliminary PUD first having been submitted to and approved by the Governing Body.

B. The Governing Body shall review the preliminary PUD to determine if it demonstrates a satisfactory quality of design in the individual buildings and in its site, the appropriateness of the building or buildings to the intended use and the aesthetic appropriateness of the development to its surroundings. In this regard, the Governing Body may seek the advice of the Planning Commission and others. Satisfactory design quality and harmony will involve among other things:

1. The site is capable of accommodating the building(s), parking areas and drives with appropriate open space.
2. The plan is consistent with good land planning, good site engineering design principles and good landscape architectural principles.
3. An appropriate use of quality materials. The harmony and proportion of the overall design.
4. The architectural style which should be appropriate for the project in question and compatible with the overall character of the neighborhood.
5. The site of the structure on the property, as compared to the site of other structures in the immediate neighborhood.
6. The bulk, height and color of the proposed structure as compared to the bulk, height and color of other structures in the immediate neighborhood.
7. Landscaping shall be required on the site and shall be in keeping with the character or design of the site. Existing trees shall be preserved wherever possible.

8. Ingress, egress, internal traffic circulation, off-street parking facilities and pedestrian ways shall be so designed as to promote safety and convenience and shall conform to approved City standards.

9. The plan represents an overall development pattern that is consistent with the Comprehensive Plan, the Official Street Map and other adopted planning documents and policies.

C. Final Site Development Plans:

1. Following approval of the preliminary PUD plan, by the Governing Body, construction may proceed when the property is properly platted pursuant to a final PUD plan. The final PUD plan may be executed by the City Administrator without further consideration by the Governing Body if it complies with the PUD Plans Contents and Submission Requirements contained herein and the requirements pursuant to the preliminary PUD plan approval and generally includes the information needed for the platting process and the issuance of a building permit.

2. If, in the judgment of the City Administrator, the concept of development as depicted on the final PUD plan significantly deviates from the concept of the preliminary PUD plan, the City shall inform the applicant, within seven (7) days that the final PUD plan will have to be considered by the Governing Body.

3. The following changes are not considered significant changes to the preliminary PUD plan and may be approved by the City Administrator:

- a. An increase in floor area or number of dwelling units not exceeding five (5) percent.
- b. Substitution of landscape materials provided that the new materials are the same general size and type.
- c. Minor changes to elevation, building materials, parking lot design, screening fences or walls, building location, etc., that would improve the site or are needed because of circumstances not foreseen at the time the preliminary site development plan was approved by the City.

4. The Governing Body may designate a development area as appropriate for administrative PUD plan approval by the City Administrator. Such areas may be those existing developments with an established site plan and architectural character, or new developments with an approved preliminary development plan including typical building elevations, materials and colors; a general landscape plan; and an approved landscape buffer where applicable. Administrative PUD plan submission requirements shall also be in conformance with PUD Plans, Contents, and Submission Requirements. Applications not in conformance with such plans and the approved preliminary development plan shall not be approved administratively and shall be forwarded to the Governing Body for consideration upon submission of a complete application.

Related Information: Design Guidelines; Residential Neighborhood Design Manual; Traditional Neighborhood Design Manual

5.19 Planned Unit Development (PUD) Plans -- Contents and Submission Requirements

All PUD plans are to be drawn to a standard engineer's scale. The actual scale used will depend on the development and shall be subject to the approval of the City. Twenty (20) copies of the PUD plan shall be submitted in support of the application. In addition, one (1) copy of the proposed site plan and one (1) copy of the proposed building elevations, reduced onto eight and one-half (8½) inch by eleven (11) inch bond paper shall be submitted with the application. Plans placed on a CD in a format approved by the City is required. The PUD plan shall contain the following information:

A. Existing uses, activities and influences on the site and adjacent properties, within two hundred (200) feet:

1. All public streets and easements which are of record. Sufficient dimensions and information to indicate existing and proposed rights-of-way, pavement width and type, number of lanes, medians and median breaks, sidewalks, existing and proposed driveways.
 2. Any buildings which exist or are proposed. One (1) and two (2) family residential buildings may be shown in approximate location and general size and shape. Indicate the status of structures on the site (i.e., vacant, to be removed; good condition, interior remodel only; new, as is; etc.). Indicate the style, type and construction materials of buildings on adjoining properties (i.e., two-story, brown brick ranch residence; 20 foot tall tinted concrete panel industrial building; etc.)
 3. Existing and proposed finished grades or contours at two (2) foot intervals. Identify any land areas within the one hundred (100) year floodplain: Existing streams, drainage channels and other bodies of water and all existing and proposed slopes in excess of six (6) percent.
 4. The location, size, cross-section and calculation of any drainage structures, such as culverts, paved or earthen ditches or storm water sewers and inlets.
 5. Location, massing and pattern of existing vegetation. Indicate proposed on-site preservation, methods and procedures.
 6. Existing zoning and land use of site and surrounding properties.
- B. Proposed development of the site including:
1. Proposed location of buildings and other structures, parking areas, driveways, walks, noise generation sources and site view (refrigeration units, mechanical equipment, loading docks, etc.) screening, drainage control, landscaping and proposed utility connection layouts for water and sewer. Sufficient dimensions to indicate setbacks, relationship between buildings, property lines, intersections, easements, parking areas and other elements of the plan. If applicable, indicate focal points, site amenities, views within and vistas from the site which are to be emphasized.
 2. Building elevations depicting the architectural style, size, exterior construction materials and colors of the proposed buildings. Where several building types are proposed, such as, one and two unit dwellings, apartments and commercial buildings, a separate sketch shall be prepared for each type. If an architectural theme is planned, elaborate on the intent and extent of the scheme and provide details, focal points, etc., (i.e., material justification, period lighting, and pavement patterns). Elevations shall be drawn to a standard architectural scale and dimensions provided to determine relationship between various elements, building height, proportion, adequate screening of mechanical equipment, etc.
 3. A schedule shall be included indicating total floor area, dwelling units, land area, parking spaces, land use intensity and all other quantities relative to the submitted plan that are required to determine compliance with this ordinance.
 4. General extent and character of all proposed landscaping noting common and botanical names and planting size. Site plans submitted for a plan review, special use permit or final plat shall submit a complete landscaping plan pursuant to requirements of the City.
 5. Proposed utility connection layouts.
- C. Other relevant information including:
1. Name, address and phone number of the landowner, engineers, architect and others participating in the project.

2. The boundary lines of the area included in the site plan, including bearings, dimensions and reference to a benchmark location, section corner, quarter corner or point on a recorded plat.
 3. North arrow and scale (standard engineer for site development plan and standard architectural for building elevations/details).
 4. A small key map indicating the location of the property within the City.
 5. Name and address of the architect, landscape architect, Planner, engineer, surveyor, or other person involved in the preparation of the plan.
 6. Date of preparation of the plan.
- D. All studies as may reasonably be required by the City.

5.20 Final Planned Unit Development (PUD) Plans, Contents, and Submission Required

All final PUD plans are to be drawn at the same scale as the preliminary PUD plan. Twenty (20) copies of the final PUD plan shall be submitted in support of the application. In addition, one (1) copy of the development plan and one (1) copy of all building elevations, reduced onto eight and one-half (8½) inch by eleven (11) inch bond paper and plans on a CD in a format approved by the City shall be submitted with the application. The final site development plan shall contain the following information:

- A. Information required to be submitted with the preliminary PUD plan.
- B. All information relevant to proposed development including:
1. All existing and proposed adjacent public street rights-of-way with centerline location and surface type, condition and width. Location, size and radii of all existing and proposed median breaks and turning lanes. All existing and proposed drive locations, widths, curb cuts and radii.
 2. Location of all required building and parking setbacks.
 3. Location, dimensions, number of stories, and gross floor area in square feet of all proposed buildings.
 4. Final drainage design. Limits, location, size and material to be used in all proposed drainage basins and retaining walls.
 5. Building elevations including the following:
 - a. Elevations of all sides of proposed buildings including notation indicating building materials to be used on exteriors and roofs.
 - b. Size, location, color and materials of all signs to be attached to building exteriors.
 - c. Location, size and materials to be used in all screening of rooftop mechanical equipment.
 6. Landscaping and screening plans as required by the City.
 7. Location, height, candle power and type of outside lighting fixtures for buildings and parking lots.
 8. Location, size, type of material and message of all proposed monument or detached signs.

- C. The following shall be submitted in support of the application for final PUD plan approval:
1. Deeds of dedication for all rights-of-way or easements required as a result of preliminary PUD plan approval.
 2. A copy of all covenants and restrictions applicable to the development, if required by the terms of the preliminary PUD plan.
 3. Evidence of the establishment of the agency for the ownership and maintenance of any common open space and all assurances of the financial and administrative ability of such agency required pursuant to approval of the preliminary PUD plan, if required by the terms of the approved preliminary PUD plan.
 4. Evidence of satisfaction of any stipulations of the preliminary PUD plan approval which were conditions precedent to consideration of the final PUD plan.
 5. Evidence of platting consistence with the PUD.

5.21 Recording of Planned Unit Development Plans

A. Within thirty (30) days following approval of a final PUD plan, there shall be filed with the Register of Deeds of Sedgwick County a statement that a plan for the area has been approved. The statement shall contain the following information:

1. A legal description of the property.
2. A statement that copies of the plan are on file with the City .
3. A statement as to the nature of the plan, the proposed density or intensity of land uses and other pertinent information sufficient to notify any prospective purchasers or users of land of the existence of such a plan.
4. A statement that the final PUD plan shall become binding upon all successors and assigns unless amended and approved by the City.

B. Within forty-five (45) days following approval of the final PUD plan, the landowner shall furnish a copy of the proof of filing. The statement shall be recorded in accordance with the forms and procedures established by the City and shall contain the following information:

1. A legal description of the property.
2. A statement that the restrictions on development and the responsibility for continuing maintenance and compliance with the final PUD plan shall be binding upon all successors and assigns unless the plan is amended and approved by the City.

5.22 Abandonment of Final Planned Unit Development Plan

In the event that a plan or a section thereof is given final approval and thereafter the landowner abandons said plan or the section thereof, then the landowner shall so notify the City in writing, or in the event the landowner fails to commence the planned development within two (2) years after final approval has been granted, then in either event such final approval shall terminate and shall be deemed null and void. Whenever a final plan or section thereof has been abandoned as provided in this section, no development shall take place on the property until a new final site development plan has been approved and filed with the City.

5.23 Preliminary Plats - Contents and Submission Requirements

Preliminary plats shall be drawn to a scale of one (1) inch to one hundred (100) feet; however, plats of areas in excess of one hundred (100) acres may be drawn to a scale of one (1) inch to two hundred (200) feet. Fifteen (15) copies, one digital file per City requirements and one (1) copy reduced onto eight and

one-half (8½) by eleven (11) inch bond paper, one CD in an approved format by the City of the preliminary plat shall be submitted in support of the application. The plat shall contain the following information:

- A. Data used in the preparation of the plat including:
 - 1. North arrow, scale and date of preparation.
 - 2. Legal description.
 - 3. The boundary lines of the tract with approximate dimensions.
 - 4. Vicinity map, drawn to a scale of one (1) inch equals two thousand (2,000) feet, showing the location of the proposed subdivision in relation to the section of land in which it is situated.
 - 5. Location, elevation and description of the benchmark controlling the vertical survey.
 - 6. A statement clearly identifying the document as a preliminary plat.
 - 7. Name and address of landowner, architect, landscape architect, planner, engineer, surveyor or other person involved in the preparation of the plat.
- B. Existing uses, activities and influences on the site and adjacent properties, within four hundred (400) feet:
 - 1. The names of all adjacent subdivisions or, in the case of unplatted land, the names of the landowners of adjacent property.
 - 2. The location, width and names of all existing public or private streets and sidewalks within or adjacent to the tract, together with easements, railroad rights-of-way, and other important features such as section lines and corners, municipal boundary lines and monuments.
 - 3. All platted or existing streets and property lines.
 - 4. Contour lines or spot elevations based on US Geological Survey (USGS) data having the following intervals: two (2) foot contour intervals for ground slopes less than ten (10) percent; five (5) foot contour intervals for ground slopes exceeding ten (10) percent; and spot elevations where the ground is too flat for contours. The date and source of the topographic survey shall be indicated.
 - 5. Description of any existing streets or roads which abut, touch upon or extend through the subdivision. The description shall include types and widths of existing surfaces, rights-of-way widths, and dimensions of any bridges or culverts.
 - 6. Location of the one hundred (100) year floodplain and all watercourses.
 - 7. Natural features such as rock outcroppings, marshes, lakes, wooded areas and isolated preservable trees.
 - 8. Zoning classifications for the tract and adjacent tracts.
 - 9. Any proposed additions or deletions impacting the floodplain, watercourses, and/or drainage.
- C. Proposed subdivision of the tract including:
 - 1. The proposed name of the subdivision, which shall not duplicate or closely resemble the name of any subdivision within Sedgwick County.
 - 2. Approximate gradients of proposed streets within the plat.

3. Easements showing width and purpose.
 4. The proposed use of land, whether for single-family, multifamily, commercial, industrial, parks, schools or other uses.
 5. Lots showing approximate dimensions, minimum lot sizes and proposed lot and block numbers.
 6. Location and type of utilities to be installed.
 7. Proposed utility layouts for water, sewer, storm sewer, gas, electrical, cable and telephone. Under certain circumstances the proposed utility layout for multifamily residential, commercial or industrial subdivisions, may be deferred until site or preliminary development plan submittal.
 8. Proposed building setback lines.
- D. The following items shall be submitted in support of an application for preliminary plat approval:
1. All studies as may reasonably be required by the City.
 2. Assurances of adequate public facilities.
 3. For residential and commercial subdivisions, a master fence/screening plan.

5.24 Consideration of Preliminary Plats

- A. The Planning Commission shall consider the following criteria and submit their recommendation to the Governing Body:
1. The proposed preliminary plat conforms to the requirements of the Subdivision Code, applicable zoning district regulations and any other applicable provisions of the codes and ordinances of the City.
 2. The subdivision represents an overall development pattern that is consistent with the Comprehensive Plan, Official Street Map and City studies.
 3. The plat contains a sound, well-conceived parcel and land subdivision layout which is consistent with good land planning and site engineering design principles.
 4. The spacing and design of proposed curb cuts and intersection locations is consistent with good traffic engineering design and public safety considerations.
 5. All submission requirements have been satisfied.
- B. The decision of the Planning Commission to approve or deny the proposed preliminary plat shall be sent to the Governing Body for final action.
- C. The approval of a preliminary plat shall be effective for a period of one (1) year. Where a final plat for the subdivision is not submitted for approval within the one (1) year period of time, the preliminary plat shall be deemed null and void and the developer shall be required to resubmit a new preliminary plat for approval subject to the then effective regulations.
- D. When a preliminary plat containing a gross land area in excess of twenty (20) acres is submitted for approval, the applicant may indicate the anticipated development or phasing pattern for final platting. The applicant may receive an extension of the one (1) year time limit for submission of the final plat so long as each phase is constructed in accordance with the original phasing plan and subsequent final plats comply with all applicable regulations at the time of final platting.

Related Information: Design Guidelines; Residential Neighborhood Design Manual; Traditional Neighborhood Design Manual

5.25 Final Plats -- Contents and Submission Requirements

A. After a preliminary plat has been approved by the Planning Commission and Governing Body or a preliminary PUD has been approved by the Governing Body a final plat for record may be prepared and submitted to the Planning Commission and Governing Body for approval. The final plat may contain all or a portion of the area contained in the preliminary plat or the preliminary PUD, if one exists.

B. Page sizes for final plats shall be as required by the Sedgwick County Register of Deeds office. When more than one (1) sheet is used for any plat, each sheet shall be numbered consecutively and each sheet shall contain a notation showing the whole number of sheets in the plat and its relation to other sheets (e.g., sheet 1 of 3 sheets).

C. Final plats shall be prepared with the accuracy required for traverse data. The following sheets or drawings shall be submitted with the final plat:

1. Traverse data for the plat, including the coordinate of the boundary of the subdivision with the error of closure. The error of closure for a perimeter distance having a length of ten thousand (10,000) feet or more shall not be more than one (1) in twenty thousand (20,000). For perimeter distances less than ten thousand (10,000) feet in length, the error of closure shall be not more than one (1) in ten thousand (10,000).

2. The computation of all distances, angles and courses that are shown on the final plat unless measured in the field.

3. All stakes, monuments or other evidence found on the ground in use to determine the boundaries of the plat.

D. Final plats shall be drawn to a scale of one (1) inch to one hundred (100) feet, or at such other scale acceptable to the City Administrator. Fifteen (15) copies, one (1) digital file, and one (1) copy reduced onto eight and one-half (8½) inch by eleven (11) inch bond paper of the final plat shall be submitted in support of the application. The final plat shall contain the following information:

1. North arrow, scale, date of preparation, legend and controlling physical features such as watercourses, highways and railroads.

2. Legal description.

3. The name of the subdivision, which shall not duplicate or closely resemble the name of any subdivision within Sedgwick County.

4. A vicinity map, drawn to a scale of one (1) inch to two thousand (2,000) feet, showing the location of the proposed subdivision in relation to the section of land in which it is situated.

5. Reference ties to government corners or previous surveys or plats as follows:

- a. Distance and direction to the monuments used to locate the land described in the certificate of survey.

- b. The location of all other monuments required to be installed by the provisions of these regulations.

- c. A reference to the quarter section in which the plat is located.

6. Tract boundary, block boundary, street and other right-of-way lines with distances and angles and/or bearings. Where these lines follow a curve, the central angle, the radius, points of curvature, length of curve and length of intermediate tangents shall be shown.

7. Lot lines with dimensions. Side lot lines shall be at right angles or radial to street lines unless otherwise shown. Rear lot lines shall be parallel to block or tract lines unless otherwise indicated. Points of deflection of rear lot lines shall be indicated by angles and distances.
8. All easements shall be denoted by fine dashed lines, clearly identified, and if already on record, the recorded reference of such easements by book and page number shall be indicated. If an easement is not definitely located of record, a statement of such easement shall be included. The width of the easement, with sufficient ties to locate it definitely with respect to the subdivision, must be shown. If the easement is being dedicated through the plat map, it shall be properly referenced in the owner's certificate of dedication and identification.
9. Calculation sheets containing the length and radii of all curved street and lot lines, bearings, length of all straight streets and lot lines, and the area in square feet of each lot.
10. Block numbers or letters continuing consecutively without omission or duplication throughout the subdivision. Such identification shall be solid, of sufficient size and thickness to stand out, and so placed as to not obliterate any figure.
11. Lot numbers beginning with the number one (1), and numbered consecutively in each block.
12. Land parcels to be dedicated for any purpose, public or private, as distinguished from lots or tracts intended for sale.
13. Building setback lines.
14. "Limits of no access" shall be designated as a solid line in the right-of-way of arterial streets or highways. "Limits of no access" or "LNA" shall appear above this line. Access points shall be designated as a break in this line and a label of "access" or "ACC." Access points shall conform with the design standards of this ordinance.
15. The name of each street shown on the subdivision plat. Street names shall conform to the existing street naming system.
16. Location and elevation of permanent benchmark, if required.
17. Location and elevations of the one hundred (100) year flood plain for all lots thereby affected shall be shown and shall include calculations.
18. Tracts or easements designating location of fencing and screening for all districts including mixed-use districts subdivisions adjacent to thoroughfares consistent with the approved fence/screening plan.
19. The following certificates, which may be combined where appropriate:
 - a. A certificate of execution signed and acknowledged by all parties having any record, title or interest in the land subdivided, and consenting to the preparation and recording of the plat.
 - b. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final plat and intended for any public use except those parcels which are intended for the exclusive use of the lot owners of the subdivision, their licensees, visitors or tenants.

c. A certificate granting utility easements as follows: "An easement or license to enter upon, locate, construct and maintain or authorize the location, construction or maintenance and use of conduits, water, gas, electrical, sewer pipes, poles, wires, drainage facilities, ducts and cables, and similar utility facilities, upon, over and under these areas outlined and designated on this plat as "Utility Easement" or "U/E," is hereby granted to the City of Bel Aire, Kansas, and other governmental entities as may be authorized by state law to use such easement for said purposes."

d. A certificate that all prior existing easement rights to any person, utility or corporation have been absolved on the parcels to be dedicated to public use.

e. A certificate signed by the licensed professional engineer or surveyor responsible for the survey and final plat. The engineer or surveyor shall not sign the plat until all monuments, irons or benchmarks have been set as required by this ordinance. Said signature shall be accompanied by the engineer's or surveyor's seal and shall state the month and year such survey was made.

f. The typewritten or printed names of all persons required by this subsection shall appear below the signature of that person. Signature blocks for certification of Planning Commission and Governing Body approval of the plat and Governing Body acceptance of dedication. The typewritten or printed names of all such City officials shall appear below the signature of that person when executed.

20. Final plat with corner elevations, top of foundation (Top) elevations & Pad elevations (top of garage door) required.

E. The following items shall be submitted in support of the application for final plat approval:

1. A title report by an abstracting or title insurance company, or an attorney's opinion of title, showing the name(s) of the landowner(s) and all other persons who have an interest in or an encumbrance on the platted land. The consent of all such persons shall be shown on the plat.

2. Evidence showing that all taxes and special assessments due and payable have been paid in full. In the case of taxes which have been protested as provided by law, monies or other sufficient escrows guaranteeing the payment of such taxes in the event the protest is not upheld shall be placed on deposit with such officials or governing bodies to meet this requirement.

3. A copy of any covenants or deed restrictions applicable to the subdivision. Such restrictions may appear on the face of the plat or may be submitted separately.

4. Documentation assuring permanent responsibility for the maintenance of the fence/screening tracts or easements.

5. Assurances of adequate public facilities, which may be contained in the documents of a PUD, if one exists.

F. After the final plat is filed of record with the Sedgwick County Register of Deeds, a final digital plat shall be submitted to the City.

5.26 Consideration of Final Plats

A. Final plats shall be approved by the Planning Commission and Governing Body if it determines that:

1. The final plat substantially conforms to the approved preliminary plat or the approved preliminary PUD, if one exists.

2. All submission requirements have been satisfied.

B. Following approval of the final plat by the Planning Commission, the final plat shall be submitted to the Governing Body for approval and review of land proposed to be dedicated for public purposes. The Governing Body shall approve or disapprove the plat and/or the dedication of land for public purposes within thirty (30) days after the first meeting of the Governing Body following the date of the submission of the plat to the City Clerk. The Governing Body may defer action for an additional thirty (30) days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. No additional filing fees shall be assessed during that period. If the Governing Body defers or disapproves any plat or dedication, it shall advise the Planning Commission of the reasons therefor. No plat shall be filed with the register of deeds unless such plat bears the endorsement that the plat and land dedicated to public purposes has been approved by the Governing Body.

C. Final plats shall be recorded with the Register of Deeds of Sedgwick County within five days following Governing Body approval of land dedicated to public purposes. Final plats which are not recorded within said time period shall be deemed null and void.

5.27 Applications for Lot Splits

Applications for lot splits shall be submitted by the landowner to the City. The application shall be accompanied by twenty (20) copies of a drawing to scale depicting the lots, structures and existing utility easements located on any part of the lot being split, together with the precise nature, location, dimensions and legal descriptions of the new lots to be created. In addition, prior to being submitted to the City, applications for lot splits shall be signed by the various public or private utilities and the City to establish the existence of adequate public easements and facilities to serve the resulting lots.

5.28 Consideration of Lot Splits

A. The City shall approve applications for lot splits if it is determined that the lot has not been previously split, that the new lots so created conform to the requirements of this ordinance, and that adequate street rights-of-way and easements exist to serve the properties. No lot split shall be approved if any of the following conditions exist:

1. A vacation of streets, alleys, utility easements or other public reservations is required or proposed;
2. The split will result in a lot without access to a street;
3. Such action will result in a lot being split into more than two (2) tracts.

B. For those lot splits which result in significant increases in service requirements (e.g., utilities, schools or traffic controls), or which will interfere with maintaining existing service levels (e.g., additional curb cuts or repaving), or which propose private easements for access or utilities, review of the lot split by the Governing Body may be required. Such determination shall be made by the City Administrator or his/her designee.

C. The City Administrator may make such additional requirements as are deemed necessary to carry out the intent and purpose of existing land development regulations and Governing Body policies where such requirements are reasonably related to the development of the properties. Such requirements may include, but are not limited to, installation of public facilities, dedication of right-of-way and easements and submission of covenants for the protection of other landowners in the original subdivision.

D. All applications for lot splits shall be acted upon by the City Administrator within thirty (30) days after receipt of a complete application. If the application is approved, the City Administrator shall sign and furnish a certificate of approval to be affixed to the lot split survey, and a certified copy shall be filed with the register of deeds of Sedgwick County, and the City Clerk. Denial of an application for a lot split by the City Administrator may be appealed to the Governing Body. All decisions of the Governing Body shall be final.

5.29 Applications for Vacation of Streets, Reservation, Easements

Where an application for the vacation of any street, alley, utility easement or other public reservation by ordinance is not made by the owners of lands adjoining on both sides of the street, alley or public reservation to be vacated, the application shall be accompanied by affidavits of all such owners not joining in the application indicating their consent to the vacation. Copies of the application shall be filed with the City Clerk. The application shall be accompanied by a legal description and survey or such other drawing acceptable to the City depicting the street, alley or public reservation sought to be vacated and the properties and property ownerships surrounding said street, alley or public reservation. In addition, the applicant shall obtain letters from representatives of any affected utility companies stating that the street, alley, utility easement or other public reservation will not be needed by the service provider. All such letters shall be submitted to the City prior to scheduling a public hearing regarding the proposed vacation.

5.30 Consideration of Vacations

A. Applications to vacate a street, alley, utility easement or other public reservation by ordinance may only be considered at a public hearing before the Governing Body following notice to surrounding property owners and publication. Decisions of the Governing Body are final.

5.31 Appeals to the Governing Body

A. Unless specified elsewhere in this ordinance, appeals of the City staff's decision relating to development design issues shall be considered by the Governing Body. Design issues include the application of adopted policies, design guidelines, and design manuals, as well as the application of site design and building design stipulations of approved PUD plans. Decisions of the Governing Body are final.

B. An application for appeal of a decision of the City staff relating to development design issues, which shall constitute a notice of appeal, shall be filed with the City Administrator within thirty (30) days of the date of the decision by the City staff which is being appealed.

C. The City Administrator or his/her designee shall prepare and transmit to Governing Body a complete record of all proceedings related to the appeal of development design issues.

5.32 Appeals to the Board of Zoning Appeals

A. Unless specified elsewhere in this ordinance, appeals of the building official or any other officer's interpretation of the provisions and standards of this ordinance shall be considered by the Board of Zoning Appeals unless otherwise required by the Governing Body. Such provisions and standards include but are not limited to such items as definitions, permitted uses, height and area regulations, development and performance standards, parking and loading, signage, landscaping and screening, storage, accessory uses, nonconforming situation and vested rights, subdivision regulations, etc.

B. An application for appeal from a decision of the City, the building official or any other officer administering the provisions of this ordinance, which shall constitute a notice of appeal, shall be filed with the City Administrator within thirty (30) days of the date of the decision by the officer administering this ordinance which is being appealed. A copy of the notice of appeal shall be served on the person whose decision is being appealed.

C. The officer whose decision is being appealed shall prepare and transmit to the Board of Zoning Appeals a complete record of all proceedings related to the appeal of the provisions of this ordinance.

5.33 Consideration of Variances

A. The Board of Zoning Appeals may grant a variance from the specific terms of this ordinance which would not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship for the applicant, and provided that the spirit of this ordinance shall be observed, the public safety and welfare secured

and substantial justice done for the applicant. Provided, however, that the board shall not have jurisdiction to grant a variance for property zoned under a planned development district classification.

B. An application for a variance may only be granted upon a finding by the Board of Zoning Appeals that all of the following conditions have been met:

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

C. Variances shall only be considered after a public hearing has been held, following publication notice and notice to surrounding property owners. A copy of the publication notice shall also be mailed to the applicant, Planning Commission and Governing Body. Proof of mailing and return receipts shall be filed under oath by the applicant with the City prior to the hearing.

5.34 Conditional Approvals

In approving any application, the Board of Zoning Appeals may stipulate that the approval is subject to compliance with certain specified conditions including, but not limited to, limitations on permitted uses, time of performance requirements, limitation on hours of operation, participation in transportation systems management programs, participation in improvement districts or other programs for financing public facilities, etc. Decisions by the Board of Zoning Appeals are final, but may be appealed under State law to the District Court.

5.35 Written Findings

Unless otherwise specifically provided in this ordinance, written findings are not required for a final decision on any application. Provided, however, that any decision may be expressly made subject to the subsequent adoption of written findings and in such cases the decision shall not be considered final until such findings are adopted. Provided further that where an appeal of any quasi-judicial decision has been filed in the District Court of Sedgwick County pursuant of KSA 12-760 or KSA 60-2101(d) in cases where written findings have not been adopted, written findings shall be adopted by the Board of Zoning Appeals within forty-five (45) days of service of the appeal on the City and thereafter shall be certified to the district court as part of the administrative record. The forty-five (45) day time period for adoption and certification of findings may be extended with the permission of the district court.

5.36 Final Decision Where Ordinance Required

In the case of approval of a zoning text amendment, rezoning, special use permit or other application where adoption of an ordinance is required, the decision approving the application shall not be deemed to be final until the ordinance has been published in an official City newspaper. Except as otherwise provided herein, in all other cases, the decision shall be deemed final as of the date that the Board of Zoning Appeals votes to approve or deny the application.

5.37 Appeals of Final Decisions

Except where this ordinance provides for an appeal to another quasi-judicial or administrative body, any person, official or agency aggrieved by a final decision on an application provided for in this ordinance

desiring to appeal said decision shall file the appeal in the district court of Sedgwick County with thirty (30) days of the making of the decision.

5.38 Filing Fees

Filing fees for all applications shall be established by resolution of the Governing Body.

CHAPTER 6 ZONING DISTRICTS

Sections:

- 6.00 Districts Designated**
- 6.01 Official Zoning Map**
- 6.02 Boundaries of Districts**
- 6.03 Zoning of Annexed Land**
- 6.04 Conformance to Comprehensive Plan**
- 6.05 General Requirements**
- 6.06 Performance Standards; Measurement**

6.00 Districts Designated

For the purpose of regulating and restricting the use of land and the erection, construction, reconstruction, altering, moving or use of buildings and structures, the corporate area of the City is divided into zoning districts enacted pursuant to KSA 12-753 et seq. and a floodplain overlay zone enacted pursuant to KSA-12754 and KSA-12766 et seq.

A. For the purpose and intent of this ordinance, the City of Bel Aire is hereby divided into the following zoning districts:

Agricultural and Residential Districts

- AG - Agricultural
- RR - Rural Residential
- R-1 - Estate Residential
- R-2 - Single Family (min. 14,250 sq ft)
- R-3 - Single Family (min. 11,050 sq ft)
- R-4 - Single Family (min. 8,400 sq ft)
- R-5 - Garden and Patio Homes, Townhouses and Condominiums
- R-6 - Multi-Family District
- MHP - Manufactured Home Park
- RDMH-Residential Design Manufactured Home
- GH - Group Homes

Commercial and Business District

- C-1 - Neighbor Commercial, Office and Retail
- C-2 - Planned Commercial Office and Retail

Industrial District

- M-1 - Planned Industrial District

B. The floodplain overlay zones are designated in, and subject to the provisions of, Floodplain Zoning. In addition to the regulations set forth in Floodplain Zoning, all property lying within the boundaries of the floodplain overlay districts shall also be subject to the regulations applicable to the underlying zoning district.

6.01 Official Zoning Map

The location and boundaries of the districts established by this ordinance are as shown on a map officially designated as the Zoning District Map, which map, together with everything shown thereon and all amendments hereto, is hereby incorporated by reference as amended. Said official zoning map is kept in the office of the City Clerk.

6.02 Boundaries of Districts

The following rules shall apply to the boundaries of the various districts as shown on the Zoning District Map:

A. District boundary lines are either the centerlines of railroads, highways, streets, alleys, waterways or easements, or the boundary lines of sections, quarter sections, division of sections, tracts or lots, or such lines extended, unless otherwise indicated.

B. In areas not subdivided into lots and blocks, wherever a district is indicated as a strip adjacent to and paralleling a street or highway, the depth of such strips shall be in accordance with dimensions shown on the maps measured at right angles from the centerline of the street, highway or railroad right-of-way, and the length of the frontage shall be in accordance with dimensions shown on the maps from section, quarter-section, or division lines or center lines of streets, highways, or railroad rights-of-way unless otherwise indicated.

C. Where a district boundary line divides a lot as defined herein, the regulations for either portion of the lot may, in the owner's discretion, extend to the entire lot, but not more than twenty-five (25) feet beyond the boundary line of the district.

D. Questions concerning the exact locations of zoning district boundary lines shall be interpreted by the City Administrator or his/her designee.

6.03 Zoning of Annexed Land

All land which is hereafter annexed into the City shall be zoned AG-Agricultural unless previous agreement has designated a different zoning district.

6.04 Conformance to Comprehensive Plan

In the consideration of any application for a zoning amendment or a special use request, the Planning Commission and the Governing Body shall determine whether the proposal conforms to the adopted Comprehensive Plan and any other recognized plans, studies or policies normally utilized by the City in making land use decisions.

6.05 General Requirements

A. Except as otherwise specifically provided, no building or structure shall be erected, constructed, reconstructed, moved or altered, nor shall any building, structure or land be used or any occupancy permit granted for any purpose other than is permitted by the regulations of this ordinance applicable to the zoning district in which such building, structure or land is situated.

B. Except as otherwise specifically provided, no building or structure shall be erected, constructed, reconstructed, moved or altered to exceed the height or area limits established by the regulations of this ordinance applicable to the zoning district in which such building or structure is situated.

C. Except as otherwise specifically provided, no lot area shall be reduced or diminished so that the yards or other open spaces shall be smaller than prescribed, nor shall the density be increased in any manner, except in conformity with the area regulations of this ordinance applicable to the zoning district in which the lot or property is situated.

Related Information: Design Guidelines; Residential Neighborhood Design Manual; Traditional Neighborhood Design Manual

6.06 Performance Standards; Measurement

In some districts, performance standards capable of quantitative measurement are established. Except to the extent modified in the specific zoning district regulations, the following general provisions shall apply to measure compliance with such performance standards.

A. Noise: A decibel is a measure of a unit of sound pressure. Since sound waves having the same decibel level "sound" louder or softer to the human ear depending upon the frequency of the sound wave in cycles-per-second (i.e., whether the pitch of the sound is high or low), an A-

weighted filter constructed in accordance with the specifications of the American National Standards Institute, which automatically takes account of the varying effect on the human ear of different pitches, shall be used on any sound level meter used to take required measurements. Accordingly, all measurements are expressed in dB(A) to reflect the use of this A-weighted filter. Impact noises are sounds that occur intermittently rather than continuously. Impact noises shall be measured using the fast response of the sound level meter. Unless specifically indicated to the contrary in the zoning district regulations, noise resulting from temporary construction activity that occurs between 7:00 AM and 7:00 PM shall be exempt from the indicated performance standard.

B. Smoke and Particulate Matter:

1. For the purpose of determining the density of equivalent capacity of smoke, the Ringlemann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines, shall be used. The Ringlemann number indicated as the performance standard in certain zoning districts refers to the number of the area of the Ringlemann Chart that coincides most nearly with the visual density of equivalent opacity of the emission of smoke observed.

2. Particulate matter emissions, in excess of the threshold limit values caused by the wind from open storage areas, yards, roads, etc., within lot lines shall be kept to a minimum by appropriate landscaping, paving, oiling, wetting and other means, or shall be eliminated.

C. Vibration: Vibrations are measured in particle velocity and are to be measured at the property line or other designated location. The instrument used to measure vibrations shall be a three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions. The vibration maximums indicated as the performance standard in certain zoning districts may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

$$PV = 6.28 F \times D$$

Where:

PV = particle velocity, inches-per second

F = vibration frequency, cycles-per second

D = single amplitude displacement of the vibration, inches

The maximum particle velocity shall be in the maximum vector sum of three mutually perpendicular components recorded simultaneously. Unless specifically indicated to the contrary in the zoning district regulations, vibration resulting from temporary construction activity that occurs between 7:00 AM and 7:00 PM shall be exempt from the indicated performance standard.

D. Glare: Illumination levels shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination.

**CHAPTER 7
AG - AGRICULTURAL DISTRICT**

Sections:

- 7.00 Statement of Intent**
- 7.01 Permitted Uses**
- 7.02 Height and Area Regulations for AG Developments**
- 7.03 Development and Performance Standards for AG Developments**
- 7.04 Other Uses and Regulations**

7.00 Statement of Intent

The zoning of property as AG, Agricultural District, is intended to maintain and enhance agricultural operations and preserve agricultural lands utilized for crop production or the raising of livestock. In addition, the Agricultural District may serve as a "holding zone" for land where future urban expansion is possible, but not yet appropriate due to the unavailability of urban level facilities and services. Property zoned AG for "holding zone" purposes may be used for certain commercial and industrial special uses where those uses would be of limited duration or compatible with the uses shown on the Future Land Use Plan of the *Comprehensive Plan*.

7.01 Permitted Uses

No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, moved or altered except for one (1) or more of the uses set forth herein, or similar uses, subject to all applicable development and performance standards.

Permitted uses: The following uses shall be permitted by right in the Agricultural District:

1. Agricultural production – crops
2. Agricultural production - livestock and animal specialties
3. Agricultural services
4. Single-family residences with a minimum of 1,800 square feet living space.

7.02 Height and Area Regulations for AG Developments

The maximum height of buildings and structures, the minimum dimension of lots, setbacks for parking/paving and yards, and the minimum lot area per dwelling unit permitted on any lot shall be as follows, except as otherwise provided in Chapter 26 Height and Area Regulations and Exceptions and Chapter 28 Subdivision and Lot Splits:

- A. Minimum lot area per dwelling unit – twenty (20) net acres.
- B. Maximum height:
 1. Residences -- two and one-half (2½) stories, not exceeding thirty-five (35) feet from finished grade.
 2. Agricultural structures -- fifty (50) feet from finished grade.
 3. Non-agricultural structures and uses -- seventy-five (75) feet, provided such structure is set back from all property lines a distance equal to or greater than its height.
- C. Minimum front, side and rear yards -- fifty (50) feet.
- D. Minimum lot width -- six hundred (600) feet.
- E. Minimum setbacks for parking/paving (nonagricultural uses):
 1. Thirty (30) feet from street right-of-way.

2. Thirty (30) feet from property lines other than street right-of-way.

Related Information: Design Guidelines

7.03 Development and Performance Standards for AG Developments

- A. Parking and Loading – See Chapter 23
- B. Sign – Chapter 27
- C. Landscaping and Screening – See Chapter 24
- D. There shall be no restrictions as to operation of agricultural vehicles and machinery, or the sale or marketing of products raised on the premises.
- E. All buildings, structures or yards used for the raising, feeding, housing or sale of livestock or poultry shall be located at least (100) one-hundred feet from residentially zoned land.
- F. There shall be no disposal of garbage, rubbish or offal, other than regular removal thereof, within (300) three-hundred feet of residentially zoned land.
- G. Where a lot or tract had less than the twenty (20) acre minimum lot area required herein in separate ownership on January 1, 2004, this ordinance shall not prohibit the erection or alteration of a single-family dwelling.
- H. Where development utilizing septic tanks is proposed, applicant shall submit a septic tank suitability study in accordance with the requirements in Chapter 1, General Provisions, at the time of filing the application for agricultural zoning.
- I. Noise levels in accordance with Chapter 6, Zoning Districts.

Related Information: Design Guidelines

7.04 Other Uses and Regulations

Other uses and regulations regarding this district please refer to:
Special Uses – Chapter 21, Accessory Uses & Structures – Chapter 22, Parking & Loading – Chapter 23, Landscaping & Screening – Chapter 24, and Nonconforming Situations- Chapter 25.

**CHAPTER 8
RR - RURAL RESIDENTIAL DISTRICT**

Sections:

8.00 Statement of Intent

8.01 Permitted Uses

8.02 Height and Area Regulations for RR Developments

8.03 Development and Performance Standards for RR Developments

8.04 Other Uses and Regulations

8.00 Statement of Intent

The zoning of property as RR, Rural Residential District, is intended to provide for development of single-family detached dwellings at a density which does not exceed one (1) dwelling unit per five (5) acres. In addition, other uses which are compatible with the large-lot/low-density residential character of this district would be permitted under certain conditions. Property zoned RR should include only those tracts which abut or are in close proximity to existing large-lot single-family development where a neighborhood character of single-family dwellings on large lots has been established.

8.01 Permitted Uses

No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, moved or altered except for one (1) or more of the uses set forth herein, or similar uses, subject to all applicable development and performance standards.

The following uses shall be permitted in the Rural Residential district, subject to the performance standards in Section Development and Performance Standards below.

1. Single-family residences with a minimum of 2,400 square feet living space.

8.02 Height and Area Regulations for RR Developments

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for parking/paving and yards, and the minimum lot area per dwelling units permitted on any lot shall be as follows, except as otherwise provided in Height and Area Exceptions and Subdivision and Lot Splits:

- A. Minimum lot area per dwelling unit – five (5) net acres
- B. Maximum height:
 1. Residences -- two and one-half (2½) stories, not exceeding thirty-five (35) feet from finished grade
 2. Non-residential structures and uses - seventy-five (75) feet, provided such structure is set back from all property lines a distance equal to or greater than its height
- C. Minimum front yard -- fifty (50) feet from street right-of-way
- D. Minimum side yard:
 1. Total side yards shall be twenty (20) percent of the width of the lot; no side yard may be less than twenty (20) feet.
 2. Corner lots -- thirty (30) feet from street right-of-way.
- E. Minimum rear yard -- seventy-five (75) feet

- F. Minimum lot width -- two hundred (200) feet
- G. Minimum parking/paving setbacks for nonresidential uses
 - 1. Fifty (50) feet from street right-of-way
 - 2. Twenty (20) feet from property lines other than street right-of-way
- H. Maximum lot coverage – thirty-five (35%) percent

Related Information: Design Guidelines; Residential Neighborhood Design Manual

8.03 Development and Performance Standards for RR Developments

- A. Parking and Loading – See Chapter 23
- B. Sign – Chapter 27
- C. Landscaping and Screening – See Chapter 24 and Subdivision and Lot Splits – Chapter 28
- D. Where development utilizing septic tanks is proposed, applicant shall submit a septic tank suitability study to the City at the time of filing the application for Rural Residential zoning.
- E. No noise levels shall be generated that exceed the levels permitted in Chapter 6, Zoning Districts.

Related Information: Design Guidelines; Residential Neighborhood Design Manual

8.04 Other Uses and Regulations

Other uses and regulations regarding this district please refer to: Special Uses – Chapter 21, Accessory Uses & Structures – Chapter 22, Parking & Loading – Chapter 23, Landscaping & Screening – Chapter 24, and Nonconforming Situations- Chapter 25.

CHAPTER 9
R-1 - ESTATE RESIDENTIAL DISTRICT

Sections:

9.00 Statement of Intent

9.01 Permitted Uses

9.02 Height and Area Regulations for R-1 Developments

9.03 Other Uses and Regulations

9.00 Statement of Intent

The zoning of property as R-1, Estate Residential District, one (1) unit per acre, is intended to provide for development of standard low-density residential developments, in areas where adequate public facilities and services exist, and residential development is appropriate given the surrounding land uses and neighborhood.

9.01 Permitted Uses

No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, moved or altered except for one (1) or more of the uses set forth herein, or similar uses subject to all applicable development and performance standards.

The following use shall be permitted:

Single-family residences with a minimum of 2,400 square feet of living space.

9.02 Height and Area Regulations for R-1 Developments

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for parking/paving and yards, and the minimum lot area per dwelling unit permitted on any lot shall be as follows, except as provided in Height and Area Exceptions and Subdivision and Lot Splits:

- A. Minimum lot area per dwelling unit – one (1) acre
- B. Maximum height:
 - 1. Residences -- two and one-half (2½) stories, not exceeding thirty-five (35) feet from finished grade
 - 2. Nonresidential structures and uses -- seventy-five (75) feet, provided such structure is set back from all property lines a distance equal to or greater than its height
- C. Minimum front yard -- thirty (30) feet from street right-of-way
- D. Minimum side yard:
 - 1. Total side yards shall be twenty (20) percent of the width of the lot; no side yard may be less than ten (10) feet from property lines
 - 2. Corner lots – thirty (30) feet from street right-of-way
- E. Minimum rear yard - Thirty-five (35) feet from property line
- F. Minimum lot width - one hundred (100) feet
- G. Minimum lot depth - average of two hundred (200) feet
- H. Maximum lot coverage - thirty (30) percent

Related Information: Design Guidelines; Residential Neighborhood Design Manual

9.03 Other Uses and Regulations

Other uses and regulations regarding this district please refer to Special Uses – Chapter 21, Accessory Uses & Structures – Chapter 22, Parking & Loading – Chapter 23, Landscaping & Screening – Chapter 24, and Nonconforming Situations – Chapter 25.

**CHAPTER 10
R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT**

Sections:

10.00 Statement of Intent

10.01 Permitted Uses

10.02 Height and Area Regulations for R-2 Developments

10.03 Other Uses and Regulations

10.00 Statement of Intent

The zoning of property as R-1, Single-Family Residential District, is intended to provide for development of standard low-density residential developments, with no district bonus densities, in areas where adequate public facilities and services exist, and residential development is appropriate given the surrounding land uses and neighborhood.

10.01 Permitted Uses

No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, moved or altered except for one (1) or more of the uses set forth herein, or similar uses, subject to all applicable development and performance standards.

A. Permitted uses: The following use shall be permitted:

Single-family residences with a minimum 2,000 square feet of living space.

10.02 Height and Area Regulations for R-2 Developments

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for parking/paving and yards, and the minimum lot area per dwelling unit permitted on any lot shall be as follows, except as provided in Height and Area Exceptions and Subdivision and Lot Splits:

- A. Minimum lot area per dwelling unit – Fourteen thousand two hundred fifty (14,250) sq. ft
- B. Maximum height:
 - Residences -- two and one-half (2½) stories, not exceeding thirty-five (35) feet from finished grade
- C. Minimum front yard – twenty-five (25) feet from street right-of-way
- D. Minimum side yards:
 - 1. Total side yards shall be twenty (20) percent of the width of the lot; no side yard may be less than ten (10) feet from the property lines
 - 2. Corner lots – twenty-five (25) feet from street right-of-way
- E. Minimum rear yard:
 - Thirty-five (35) feet from property line
- F. Minimum lot width – ninety-five (95) feet; side-load garage requires minimum lot width of one-hundred fifteen (115) feet
- G. Minimum lot depth -- average of one hundred fifty (150) feet

Related Information: Design Guidelines; Residential Neighborhood Design Manual

10.03 Other Uses and Regulations

Other uses and regulations regarding this district please refer to Special Uses – Chapter 21, Accessory Uses & Structures – Chapter 22, Parking & Loading – Chapter 23, Landscaping & Screening – Chapter 24, Nonconforming Situation – Chapter 25.

CHAPTER 11
R-3 - SINGLE FAMILY RESIDENTIAL DISTRICT

Sections:

- 11.00 Statement of Intent**
- 11.01 Permitted Uses**
- 11.02 Height and Area Regulations for R-3 Developments**
- 11.03 Other Uses and Regulations**

11.00 Statement of Intent

The zoning of property as R-3 Single Family is intended to provide for residential development with a minimum of 11,050 sq ft lots in areas where adequate public facilities and services exist, and residential development is appropriate given the surrounding land uses and neighborhood.

11.01 Permitted Uses

No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, moved or altered except for one (1) or more of the uses set forth herein, or similar uses, subject to all applicable development and performance standards.

The following use shall be permitted:

Single family with 1,800 square feet minimum of living space

11.02 Height and Area Regulations for R-3 Developments

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for parking/paving and yards, and the minimum site area per dwelling unit permitted on any lot shall be as follows, except as provided in Height and Area Exceptions and Subdivision and Lot Splits:

- A. Minimum lot area per dwelling unit – Eleven thousand fifty (11,050) sq ft. lot
- B. Maximum height:
 - Residences – two (2) stories, not exceeding thirty-five (35) feet from finished grade
- C. Minimum front yard – twenty-five (25) feet from street right-of-way
- D. Minimum side yard:
 - 1. Total side yards shall be twenty (20) percent of lot width. No side yard shall be less than ten (10) feet from property line
 - 2. Corner Lots – twenty-five (25) feet from street right-of-way
- E. Minimum rear yard:
 - Twenty-five (25) feet from property line
- F. Minimum lot width – Eighty-five (85) feet; Side-load garage requires minimum lot width of One hundred-fifteen (115) feet
- G. Minimum lot depth – One Hundred-thirty (130) feet

Related Information: Design Guidelines; Residential Neighborhood Design Manual

11.03 Other Uses and Regulations

Other uses and regulations regarding this district please refer to Special Uses – Chapter 21, Accessory Uses & Structures- Chapter 22, Parking & Loading – Chapter 23, Landscaping & Screening – Chapter 24, and Nonconforming Situation – Chapter 25.

CHAPTER 12
R-4 - SINGLE FAMILY RESIDENTIAL DISTRICT

Sections:

- 12.00 Statement of Intent**
- 12.01 Permitted Uses**
- 12.02 Height and Area Regulations for R-4 Developments**
- 12.03 Other Uses and Regulations**

12.00 Statement of Intent

The zoning of property as R-4 Single Family is intended to provide for residential development with a minimum of 8,400 sq ft lots in areas where adequate public facilities and services exist, and residential development is appropriate given the surrounding land uses and neighborhood.

12.01 Permitted Uses

No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, moved or altered except for one (1) or more of the uses set forth herein, or similar uses, subject to all applicable development and performance standards.

The following uses shall be permitted:

1. Single family with 1,600 square feet minimum of living space.
2. Single family with 1,200 square feet minimum living space on lots platted prior to January 1, 2003 which have a minimum lot area per dwelling unit of 7,500 square feet.
3. Two-family residences (duplexes) with not less than 1,200 square feet per unit

12.02 Height and Area Regulations for R-4 Developments

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for parking/paving and yards, and the minimum site area per dwelling unit permitted on any lot shall be as follows, except as provided in Height and Area Exceptions and Subdivision and Lot Splits:

- A. Minimum lot area per dwelling unit – Eight thousand four hundred (8,400) square feet, this district shall also include lots platted prior to January 1, 2003 which have a minimum lot area prior dwelling unit of 7,500 square feet
- B. Maximum height:
 - Residences – two (2) stories, not exceeding thirty-five (35) feet from finished grade
- C. Minimum front yard – twenty-five (25) feet from street right-of-way
- D. Minimum side yard:
 1. Total side yards shall be twenty (20) percent of lot width. No side yard shall be less than ten (10) feet from property line
 2. Corner Lots – twenty-five (25) feet from street right-of-way
- E. Minimum rear yard:
 - Twenty-five (25) feet from property line
- F. Minimum lot width – Seventy (70) feet
- G. Minimum lot depth – One hundred twenty (120) feet

Related Information: Design Guidelines; Residential Neighborhood Design Manual

12.03 Other Uses and Regulations

Other uses and regulations regarding this district please refer to Special Uses – Chapter 21, Accessory Uses & Structures – Chapter 22, Parking & Loading – Chapter 23, Landscaping & Screening – Chapter 24, and Nonconforming Situation – Chapter 25.

CHAPTER 13
R-5 – Garden and Patio Homes, Townhouses and Condominiums

Sections:

- 13.00 Statement of Intent**
- 13.01 Permitted Uses**
- 13.02 Height and Area Regulations for R-5 Developments**
- 13.03 Other Uses and Regulations**

13.00 Statement of Intent

The zoning of property as R-5 Multi-Family district is intended to provide for the development of well designed Garden homes, Townhouses, and condos with emphasis on open space and access to light and air. The R-5 District allows for development up to six (6) dwelling units per acre.

13.01 Permitted Uses

- A. Townhouse – A one family townhouse dwelling unit, with a private entrance which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light and ventilations.
- B. Garden and Patio Home – A detached or common walled single family patio house unit situated on a reduced size lot that orients outdoor activities within designated rear or side yard patio areas.
- C. Condominium – A multiple dwelling condominium development containing individually owned dwelling units and jointly owned and shared areas and facilities, pursuant to the condominium laws of the State of Kansas.

13.02 Height and Area Regulations for R-5 Developments

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for parking/paving and yards, and the minimum site area per dwelling unit permitted on any lot shall be as follows, except as provided in Height and Area Exceptions:

- A. Maximum density per acre – 6 dwelling units
- B. Maximum height:
 - Residences – two (2) stories, not exceeding thirty-five (35) feet from finished grade
- C. Minimum dwelling unit – 1,200 square feet

13.03 Other Uses and Regulations

Other uses and regulations regarding this district please refer to Special Uses – Chapter 21, Accessory Uses & Structures – Chapter 22, Parking & Loading – Chapter 23, Landscaping & Screening – Chapter 24, and Nonconforming Situation – Chapter 25.

CHAPTER 14
R-6 Multi-Family District

Sections:

14.00 Statement of Intent

14.01 Permitted Uses

14.02 Height and Area Regulations for R-6 Developments

14.03 Other Uses and Regulations

14.00 Statement of Intent

The zoning of property as R-6 Multi-Family District, is intended to provide for development of well-designed garden apartment complexes with emphasis on open space and access to light and air. The R-6 district allows development of up to twelve (12) dwelling units per net acre. Apartment projects in the R-6 district will all be low-rise developments with commonly maintained landscaped open space.

14.01 Permitted Uses

No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, moved or altered except for one (1) or more of the uses set forth herein, or similar uses, subject to all applicable development and performance standards.

- A. Permitted Uses: The following uses shall be permitted:
1. Multifamily (attached) dwellings with not less than 800 square feet minimum of living space.
 2. Leasing office for the apartment complex.
 3. Non-residential uses which are proposed for the benefit of or as an amenity to a particular subdivision and not for the use by the general public, i.e., neighborhood pools, clubhouses, etc., subject to approval by the City.

14.02 Height and Area Regulations for R-6 Developments

The maximum height of buildings and structures, the minimum dimension of lots, setbacks for parking/paving and yards, and the minimum site area per dwelling unit permitted on any lot shall be as follows, except as provided in Height and Area Exceptions and Subdivision and Lot Splits.

- A. Minimum district size – one (1) net acre;
- B. Minimum lot area per dwelling unit – three-thousand-six-hundred-thirty feet (3,630)
- C. Maximum height:
1. Residences – three (3) stories, not exceeding forty (40) feet from finished grade.
 2. Nonresidential structures and uses – seventy-five (75) feet, provided such structure is set back from all property lines a distance equal to or greater than its height.
- D. Minimum front yard – thirty (30) feet from street right-a-way
- E. Minimum side yards:
1. Fifteen (15) feet from property lines.
 2. Seventy-five (75) feet from property lines adjoining land zoned C-2 through M-2 inclusive.

3. Corner lots – thirty (30) feet from street right-of-way
- F. Minimum rear yard:
1. Thirty-five (35) feet from property line.
 2. Seventy-five (75) feet from property lines adjoining land zoned C-2 through M-3, inclusive.
- G. Minimum distance between buildings – forty-five (45) feet
- H. Minimum parking/paving setbacks shall be the same as required front, side and rear yards

Related Information: Design Guidelines; Residential Neighborhood Design Manual

14.03 Other Uses and Regulations

Other uses and regulations regarding this district please refer to Special Uses – Chapter 21, Accessory Uses & Structures – Chapter 22, Parking & Loading – Chapter 23, Landscaping & Screening – Chapter 24, and Nonconforming Situations – Chapter 25.

CHAPTER 15
MHP - Manufactured Home Park

Note: This section reserved and will be included in the future.

CHAPTER 16
GH - Group Homes

Sections:

16.00 Statement of Intent

16.01 Permitted Uses

16.02 Height and Area Regulations for GH – Group Homes

16.03 Other Uses and Regulations

16.00 Statement of Intent

Referenced K.S.A. 12-736 Group Homes, exclusion of, prohibited; conditions; definitions. (a) It is hereby declared to be a policy of the state of Kansas that persons with a disability shall not be excluded from the benefits of single family residential surroundings by any municipal zoning ordinance, resolution or regulation.

A. For the purpose of this act:

a. Group Home means any dwelling occupied by not more than 10 persons, including eight or fewer persons with a disability who need not be related by blood or marriage and not to exceed two staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of this state;

b. "Municipality" means any township, city or county located in Kansas;

c. "Disability" means, with respect to a person:

1. A physical or mental impairment which substantially limits one or more of such person's major life activities;

2. A record of having such an impairment; or

3. Being regarded as having such an impairment. Such term does not include current, illegal use of or addiction to a controlled substance, as defined in section 102 of the controlled substance act (21 U.S.C. 802)

d. "Licensed provider" means a person or agency who provides mental health services and is licensed by:

1. The department of social and rehabilitation services pursuant to K.S.A. 75-3007b or 65-425 et seq., and amendments thereto; or

2. The behavioral sciences regulatory board pursuant to K.S.A. 75-5346 et seq. or 74-5301 et seq., and amendments thereto; or

3. The State Board of Healing Arts pursuant to K.S.A. 65-2801 et. Seq., and amendments thereto.

4. No mentally ill person shall be eligible for placement in a group home unless such person has been evaluated by a licensed provider and such provider determines that the mentally ill person is not dangerous to others and is suitable for group-home placement. A group home shall not be a licensed provider for the purposes of evaluating or approving for placement a mentally ill person in a group home.

5. No person shall be eligible for placement in a group home if such person is:

a. Assigned to a community corrections program or a diversion program;

- b. On parole from a correctional institution or on probation for a felony offense; or
- c. In a state mental institution following a finding of mental disease or defect excluding criminal responsibility, pursuant to K.S.A 22-3220 and 22-3221.
- d. No person shall be placed in a group home under this act unless such dwelling is licensed as a group home by the department of social and rehabilitation services or the department of health and environment
- e. No municipality shall prohibit the location of a group home in any zone or area where single family dwellings are permitted. Any zoning ordinance, resolution or regulation which prohibits the location of a group home in such zone or area or which subjects group homes to regulations not applicable to other single family dwellings in the same zone or area is invalid. Notwithstanding the provisions of this act, group homes shall be subject to all other regulations applicable to other property and buildings located in the zone or area that are imposed by any municipality through zoning ordinance, resolution or regulation, its building regulatory codes, subdivision regulations or other nondiscriminatory regulations.
- f. No person or entity shall contract or enter into a contract, restrictive covenant, equitable servitude or such similar restriction, which would restrict group homes or their location in a manner inconsistent with the provisions of subsection (5).

16.01 Permitted Uses

No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, moved or altered except for one (1) or more of the uses set forth herein, or similar uses, subject to all applicable development and performance standards.

The following use shall be permitted:

Single-family residences with a minimum 2,000 square feet of living space (100-120 sq ft per person of private space – example: bedroom)

16.02 Height and Area Regulations for GH – Group Homes

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for parking/paving and yards, and the minimum lot area per dwelling unit permitted on any lot shall be as follows, except as provided in Height and Area Exceptions and Subdivision and Lot Splits:

- A. Minimum lot area per dwelling unit – ten thousand eight hundred and ninety (10,890) square feet
- B. Maximum height:
 - 1. Residences -- two and one-half (2½) stories, not exceeding thirty-five (35) feet from finished grade
- C. Minimum front yard – twenty-five (25) feet from street right-of-way
- D. Minimum side yards:
 - 1. Total side yards shall be twenty (20) percent of the width of the lot; no side yard may be less than ten (10) feet from property lines.
 - 2. Corner lots – twenty-five (25) feet from street right-of-way

- E. Minimum rear yard:
Twenty-five (25) feet from property line
- F. Minimum lot width – ninety (90) feet
- G. Minimum lot depth -- average of one hundred twenty (120) feet

Related Information: Design Guidelines; Residential Neighborhood Design Manual

16.03 Other Uses and Regulations

Other uses and regulations regarding this district please refer to Special Uses – Chapter 21, Accessory Uses & Structures – Chapter 22, Parking & Loading – Chapter 23, Landscaping & Screening – Chapter 24, and Nonconforming Situation – Chapter 25.

CHAPTER 17
C-1 - NEIGHBORHOOD COMMERCIAL OFFICE & RETAIL

Sections:

- 17.00 Statement of Intent**
- 17.01 Permitted Uses**
- 17.02 Height and Area Regulations for C-1 Developments**
- 17.03 Development and Performance Standards for C-1 Developments**
- 17.04 Other Uses and Regulations**

17.00 Statement of Intent

The zoning of property as C-1, Neighborhood Commercial Office and Retail District, is intended to provide for development of small scale retail business uses within the City. This district permits limited retail activities which are conducted wholly indoors. The Neighborhood Commercial Office & Retail District, is intended specifically for development of limited commercial centers in areas which are sensitive because of adjoining land uses, or natural features.

17.01 Permitted Uses

Single building with single or multiply tenants with office and light commercial uses. No advertising banners, flags, lights and similar attention devices shall be permitted without a Temporary Advertising Permit (TAP) from the City. See Chapter 27 – Signs.

17.02 Height and Area Regulations for C-1 Developments

The maximum height of buildings and structures, the minimum district size, the maximum district size, setbacks for buildings and parking/paving, maximum floor area ratio and minimum landscape open space ratio shall be as follows:

- A. District size:
 - 1. Minimum district size -- one (1) net acre.
 - 2. Maximum district size -- three (3) net acres
- B. Maximum height -- two (2) stories, not exceeding thirty (30) feet from finished grade
- C. Minimum setbacks:
 - 1. Buildings:
 - a. Forty (40) feet from street right-of-way
 - b. Twenty (20) feet from property lines adjoining land zoned AG through R-6, inclusive. Buildings over twenty (20) feet in height shall set back an additional one (1) foot for every two (2) feet in height.
 - c. Ten (10) feet from property lines, unless attached to adjacent structure approved by City. Non-attached side shall be twenty (20) feet
 - 2. Parking/paving:
 - a. Fifteen (15) feet from street right-of-way
 - b. Twenty (20) feet from property lines
 - 3. The City may allow a ten (10) foot setback for buildings less than thirty (30) feet in height or parking when the proposed development is part of a multi-structure complex.
- D. Minimum landscaped open space ratio -- twenty (20) percent of net site area.

17.03 Development and Performance Standards for C-1 Developments

- A. Parking and Loading -- see Chapter 23
- B. Signage -- see Chapter 27
- C. Landscaping and Screening -- see Chapter 24. Additional landscaping or other buffering treatments shall be provided where adjacent to property zoned AG through R-6, inclusive.
- D. No merchandise shall be stored or displayed outside a building, and no equipment or vehicles other than passenger vehicles shall be stored outside a building. A business may have no more than two (2) delivery vehicles, provided that the delivery vehicles shall be customary passenger automobiles or small pickup trucks or vans.
- E. Noise levels in accordance with Chapter 6 – Zoning Districts
- F. Delivery services shall not be permitted.
- G. Unless a waiver is approved by the City for a solar design or improved site design, buildings should be oriented so that fronts of buildings face the street frontage of the property.
- H. Sale of merchandise from a vehicle or temporary structure is prohibited, except as provided for by temporary sales and events permit.

Related Information: Design Guidelines; Commercial Design Guidelines

17.04 Other Uses and Regulations

Other uses and regulations regarding this district please refer to Special Uses – Chapter 21, Accessory Uses & Structures – Chapter 22, Parking & Loading – Chapter 23, Landscaping & Screening – Chapter 24, and Nonconforming Situation – Chapter 25.

CHAPTER 18
C-2 - PLANNED COMMERCIAL OFFICE & RETAIL DISTRICT

Sections:

18.00 Statement of Intent

18.01 Permitted Uses

18.02 Development and Performance Standards for C-2 Developments

18.03 Other Uses and Regulations

18.00 Statement of Intent

The zoning of property as C-2, Planned Commercial Office & Retail District is intended to provide for development of a variety of general commercial uses. Limited outside storage and display of merchandise is permitted in these districts as an accessory to the principal use.

18.01 Permitted Uses

Commercial office and retail uses pursuant to a Planned Unit Development. (PUD) No advertising banners, flags, lights and similar attention devices shall be permitted without a Temporary Advertising Permit (TAP) from the City. See Chapter 27 – Signs.

18.02 Development and Performance Standards for C-2 Developments

Planned unit development will be in conformance with Chapter 5 – Applications and Procedures and the Design Guidelines.

Related Information: Design Guidelines; Commercial Design Guidelines

18.03 Other Uses and Regulations

Other uses and regulations regarding this district please refer to Special Uses- Chapter 21, Accessory Uses & Structures – Chapter 22, Landscaping & Screening – Chapter 24, and Nonconforming Situation – Chapter 25.

**CHAPTER 19
M-1 PLANNED INDUSTRIAL DISTRICT**

Sections:

19.00 Statement of Intent

19.01 Permitted Uses

19.02 Development and Performance Standards for M-1 Developments

19.03 Other Uses and Regulations

19.00 Statement of Intent

The zoning of a Planned Industrial District is intended to provide for the development of a wide variety of industrial uses, including warehousing, manufacture and assembly. Where activities shall occur inside a building; however, limited outside storage is permitted.

19.01 Permitted Uses

A Planned Industrial District is pursuant to a Planned Unit Development (PUD).

19.02 Development and Performance Standards for M-1 Developments

Planned unit development will be in conformance with Chapter 5 – Applications and Procedures and the Design Guidelines and Industrial Guidelines.

Related Information: Design Guidelines; Industrial Design Guidelines

19.03 Other Uses and Regulations

Other uses and regulations regarding this district please refer to Special Uses – Chapter 21, Accessory Uses & Structures – Chapter 22, Landscaping & Screening – Chapter 24, and Nonconforming Situation – Chapter 25.

CHAPTER 20 FLOODPLAIN ZONING

Sections:

- 20.01 Statement of Intent
- 20.02 Findings of Fact
- 20.03 Methods Used to Analyze Flood Hazards
- 20.04 General Provisions
- 20.05 Building or Land Use Permit
- 20.06 Establishment of Zoning Districts
- 20.07 Standards for the Floodway Overlay District and the Floodway Fringe Overlay District
- 20.08 Floodway Overlay District
- 20.09 Floodway Fringe Overlay District
- 20.10 Elevation Certificate
- 20.11 Certification of Flood Proofing
- 20.12 Variances and Variance Procedures
- 20.13 Penalties for Violation
- 20.14 Definitions

20.01 Statement of Intent

It is the purpose of this chapter to:

- A. Control floodplain uses such as fill, dumping, storage of materials, structures, buildings and any other works which acting alone or in combination with other existing or future uses will cause damaging flood heights and water velocities by obstructing flows and reducing channel storage;
- B. Require that uses vulnerable to floods including public facilities which serve such uses be provided with flood protection at the time of initial construction;
- C. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazards;
- D. Assure that eligibility is maintained for property owners in the City of Bel Aire to purchase flood insurance in the federal flood insurance program.

20.02 Findings of Fact

- A. The flood hazard areas of the City of Bel Aire are subject to inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are caused by:
 - 1. The cumulative effect of obstruction in floodways, causing increases in flood heights and velocities;
 - 2. The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise protected from flood damages.

20.03 Methods Used to Analyze Flood Hazards

This chapter uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps:

- A. Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the dept of inundation. The regulatory flood selected for this chapter is representative of large floods known to have occurred in this region and which are reasonable characteristic of what can be expected to occur on the particular streams subject to this chapter. It is in the

general order of a flood which could be expected to occur on the average once every one hundred (100) years or has a one (1) percent chance of occurrence in any one (1) year, as delineated on the most recently adopted by the Governing Body Flood Insurance Rate Map (FIRM) and illustrative materials. www.fema.gov.

- B. Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and over bank areas to convey the regulatory flood;
- C. Computation of floodway required to convey this flood without increasing flood heights more than one (1) foot at any point;
- D. Delineation of the floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height;
- E. Delineation of the floodway fringe, that area outside the floodway encroachment lines but which is still subject to inundation by the regulatory flood.
- F. The current Flood Insurance Study and the FIRM adopted by the Governing Body and incorporated by reference in this chapter.

20.04 General Provisions

A. **LAND TO WHICH THIS CHAPTER APPLIES.** This chapter shall apply to all lands within the jurisdiction of the City of Bel Aire identified in the Flood Insurance Study, the FIRM, as adopted, and other undesignated areas having a one hundred (100) year floodplain as determined by engineering studies and within the floodway and floodway fringe overlaying zoning districts. In all areas covered by this chapter, no development shall be permitted except upon a permit granted by the City Administrator.

B. **THE ENFORCEMENT OFFICER.** The City Administrator of the City of Bel Aire or his/her designee is designated as the enforcement officer.

C. **RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.** The boundaries of the floodway and floodway fringe overlay districts shall be determined by reviewing the Flood Insurance Study, the FIRM, or other available data. Where interpretation is needed as to the exact location of the boundaries of the districts, the City Administrator shall make the necessary interpretation based upon data available. The City Administrator shall maintain the FIRM, Flood Insurance Study and other engineering studies relating to flood data. In such cases where the interpretation is contested, the Federal Emergency Management Agency (FEMA) will resolve the dispute. The owner of the property of which the regulatory flood elevation is in question shall be given a reasonable opportunity to present his/her case to the board and to submit his/her own technical evidence, if he/she so desires.

D. **COMPLIANCE.** No new structure or existing land shall hereafter be used and no new structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

E. **ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

F. **INTERPRETATION.** The provisions of this chapter shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

G. **WARNING AND DISCLAIMER OF LIABILITY.** The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that land uses permitted within such zoning districts will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that may result from reliance on this chapter or any administrative decision lawfully made thereunder.

20.05 Building or Land Use Permit

A. **PERMIT REQUIRED.** No person, firm or corporation shall initiate any development or cause the same to be done without first obtaining a building or land use permit in accordance with the definition of development as contained herein.

B. **APPLICATION FOR BUILDING OR LAND USE PERMIT.** To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. Every application shall:

1. Identify and describe the work to be covered by the permit for which application is made;
2. Describe the land on which the proposed work is to be done by legal description and street address;
3. Indicate the use or occupancy for which the proposed work is intended;
4. Be accompanied by plans and specifications for proposed construction;
5. Be signed by the permittee or his/her authorized agent who may be required to submit evidence to indicate such authority;
6. Within designated flood prone areas, be accompanied by elevations of the lowest floor including basement or, in the case of flood proofed non-residential structures, the elevation to which it will be flood proofed. Documentation or certification of such elevations will be maintained by the City;
7. Give such additional information as may be required by the City such as:
 - a. A plan prepared by a registered engineer in the state of Kansas which includes typical valley cross sections and profiles showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be affected by the proposed development, and elevation of the fully developed one hundred (100) year flood.
 - b. Plan; surface view, showing elevations or contours of ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities, and other data that will assist the City Administrator to make a determination of flooding.
 - c. The City Administrator shall review all building and land use permit applications to determine if the site of the proposed development meets the provisions of this chapter and that all necessary permits have been received as required by federal or state law.

20.06 Establishment of Zoning Districts

The floodplain areas within the jurisdiction of this chapter are hereby divided into the two (2) following districts:

- A. A floodway overlay district (FW); and
- B. A floodway fringe overlay district (FF) which are identified on the Flood Insurance Study, the FIRM, and other data.

Within these districts all uses not meeting the standards of this chapter and those of the underlying zoning district shall be prohibited.

20.07 Standards for the Floodway Overlay District and the Floodway Fringe Overlay District

A. COMPLIANCE REQUIRED. No permit shall be granted for new construction, substantial improvements and other improvements within the one hundred (100) year floodplain unless the conditions of this section are satisfied.

B. UNDESIGNATED AREAS. All areas identified as unnumbered "A" zones on the FIRM are subject to inundation of the one hundred (100) year flood; however, the water surface elevation was not provided. The unnumbered "A" zones shall be subject to all development provisions of this ordinance. If Flood Insurance Study data is not available the community shall utilize any base flood elevation or floodway data currently available from federal, state or other sources.

C. STANDARDS. New construction, substantial improvements and other developments shall be designed or anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, and shall comply with the following:

1. New or replacement water supply systems and/or sanitary sewage systems shall be designed to eliminate or minimize infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and on-site waste disposal systems shall be located so as to avoid impairment of them or contamination from them beyond applicable environmental control limits during flooding.
2. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
3. All utility and sanitary facilities shall be flood proofed up to the regulatory flood-protection elevation so that any space below the regulatory food protection elevation is watertight, with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
4. Provided, that until a floodway has been designated, no development, including landfill, may be permitted with zones A1-0 and AE on the City's FIRM unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonable anticipated uses, will not increase the water surface elevation of the one hundred (100) year flood more than one (1) foot on the average cross section of the reach in which the development or landfill is located as shown on the flood boundary and floodway map incorporated by reference,

5. Any grading changes within the area estimated to be inundated by the one hundred (100) year flood, or alterations, modification or relocations of a watercourse within the jurisdiction of the Division of Water Resources, State Board of Agriculture rules and regulations, as authorized by KSA 24-126, and any subsequent revisions thereof, shall insure that the water carrying capacity is maintained. The plans for such changes, modification, alterations or relocations shall be submitted to and approved by the Division of Water Resources, State Board of Agriculture, concurrent with City approval. In addition, the City shall notify, in reverie situations, adjacent communities prior to the local office of the administrator of the Federal Insurance Administration (FIA).

6. Subdivision proposals and other proposed new development, including manufactured home parks or subdivision, are required to assure that (a) all such proposals are consistent with the need to minimize flood damage; (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage; (c) adequate drainage is provided so as to reduce exposure to flood hazards; and (d) proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the regulatory food elevation.

20.08 Floodway Overlay District

A. PERMITTED USES. Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent they are not prohibited by any other ordinance. All encroachments, including fill, new construction, substantial improvements and other developments must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge. No use shall increase the flood levels of the regulatory flood elevation. The following are recommended uses for the Floodway District:

1. Agricultural uses such as general farming, pastures, nurseries, forestry.
2. Residential uses such as lawns, gardens and yard areas.
3. Non-residential uses such as loading areas, parking, and landing strips.
4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

B. PROHIBITED USES. All inhabitable structures, manufactured (mobile) homes, manufactured (mobile) home parks, manufactured (mobile) home subdivision, manufactured (mobile) home sales and display areas, and recreation vehicle storage or sales areas shall be prohibited.

20.09 Floodway Fringe Overlay District

A. PERMITTED USES. Any uses allowed in the Floodway District above as well as uses allowed in the underlying zoning district, in accordance with standards established in this section.

B. PROHIBITED USES. Manufactured (mobile) homes, manufactured (mobile) home parks, manufactured (mobile) home subdivision, manufactured (mobile) home sales and display areas, and recreation vehicle storage or sales areas shall be prohibited.

C. STANDARDS FOR THE FLOODWAY FRINGE OVERLAY DISTRICT. The following additional requirements shall apply to development within the floodway fringe overlay district:

1. Residential Construction. New construction or substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above a point of one (1) foot above the one hundred (100) year flood elevation.
2. Non-residential Construction. New construction or substantial improvements to non-residential structures shall have the lowest floor, including basement, elevated to or above a point one (1) foot above the one hundred (100) year flood elevation or, together with attendant utility and sanitary facilities, to be flood proofed up to that level.
3. All new construction and substantial improvements that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

20.10 Elevation Certificate

An elevation certificate shall be submitted for all construction adjacent to any floodplain. The elevation certificate shall meet the requirements of FEMA.

20.11 Certification of Flood Proofing

- A. For the flood proofing of non-residential structures, applicants shall provide certification by a Kansas licensed professional engineer or architect that the flood proofing plans are adequate to be watertight with walls impermeable to the passage of water and can withstand the hydrostatic and hydrodynamic forces associated with the one hundred (100) year flood.
- B. In addition, the applicant shall provide information identifying the specific elevation in relation to mean sea level to which such structures are flood proofed.
- C. This information shall be submitted to the City Administrator at the time a permit is requested and shall be maintained by that official.

20.12 Variances and Variance Procedures

The City Administrator shall hear and decide appeals and requests for variances from the requirements of this chapter.

ADDITIONAL CONDITIONS FOR VARIANCES. The City, in passing upon variance applications, shall consider all technical evaluations, all relevant factors, standards specified in the sections of this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger of life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community
5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 7. The compatibility of the proposed use with existing and anticipated development;
 8. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
 9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges;
 12. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 13. Variances shall only be issued upon:
 - a. A showing of good sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances;
 14. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result;
 15. Upon consideration of the factors listed above and the purpose of this chapter, the City Administrator may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter.
- B. REPORTING OF VARIANCES.
1. Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation;
 2. The City Administrator shall maintain the records of all appeal actions and report all variances to the FIA at the time the biennial report is submitted.

20.13 Penalties for Violation

Penalties shall be as established in the General Provisions chapter of the Zoning Ordinance.

20.14 Definitions

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

- A. “Actuarial or Risk Premium Rate” are those rates established by the administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the Act and the accepted actuarial principals. “Risk premium rates” include provisions for operating costs and allowances.
- B. “Appeal” means a request for a review of the City Administrator’s interpretation of any provision of this chapter or a request for a variance.
- C. “Area of shallow flooding” means a designated AO or AH zone on a community’s FIRM with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- D. “Area of special flood hazard” is the land in the floodplain within a community subject to one (1) percent or greater chance of flooding in any given year.
- E. “Base flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.
- F. “Channel” means a natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. “Channel flow” thus is that water which is flowing within the limits of a defined channel.
- G. “Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging.
- H. “Existing construction” means (for the purposes of determining rates) structures for which the “start construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRM’s effective before that date. “Existing construction” may also be referred to as “existing structures”.
- I. “Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:
- a. The overflow of inland or tidal waters.
 - b. The usual and rapid accumulation of runoff of surface waters from any source.
- J. “Flood elevation determination” means a determination of the water surface elevations of the one hundred (100) year flood; that is, the level of flooding that has a one (1) percent chance of occurrence in any given year.
- K. “Flood Insurance Rate Map (FIRM)” means an official map of a community, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.
- L. “Flood Insurance Study (FIS)” is the official report provided by the Federal Emergency Management Agency (FEMA). The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.
- M. “Floodway” or “Regulatory Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
- N. “Floodway fringe” is that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every one hundred (100) years (i.e., that has a one (1) percent chance of flood occurrence in any one (1) year).

- O. "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plan, flood control works and floodplain management regulations.
- P. "Flood protection system" means those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard". Such a system typically includes levees or dikes. These specialized modifying works are those constructed in conformance with sound federal engineering standards.
- Q. "Flood proofing" means any combination of structural and nonstructural additions, changes or adjustments to structures, including utility and sanitary facilities which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
- R. "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.
- S. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- T. "Historic Structure" means any structure that is:
- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior), or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - c. Individually listed on the state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior, or
 - ii. Directly by the Secretary of the Interior in states without approved programs.
- U. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- V. "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, or other similar vehicles. "Manufactured homes park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

W. “New construction” means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

X. “Start of construction” (for other than new construction or substantial improvements under the coastal Barrier Resources Act (Pub. L. 97-348) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

Z. “Regulatory floor elevation” means an elevation one (1) foot higher than the water surface elevation of the regulatory flood.

AA. “Structure” means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

BB. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

CC. “Substantial improvement” means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

DD. “Variances” is a grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

**CHAPTER 21
SPECIAL USES**

Sections:

- 21.01 Statement of Intent**
- 21.02 Special Uses Designated**
- 21.03 Temporary Sales and Events**
- 21.04 Special Uses Not Permitted**
- 21.05 Criteria for Considering Special Uses**
- 21.06 Time Limits for Special Uses**
- 21.07 Development and Performance Standards**
- 21.08 Revocation of Special Use Permits**
- 21.09 Designation of Permittee**

21.01 Statement of Intent

Certain uses of land, buildings or structures may not be appropriate under all circumstances in any given zoning district, but may be appropriate where adequate precautions can be taken to assure compatibility with surrounding uses, public need, and the City as a whole.

21.02 Special Uses Designated

No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, moved or altered, except for one or more of the special uses set forth herein, subject to approval of a special use permit by the Governing Body and all applicable development, performance and special standards. Issuance of a special use permit is restricted to the zoning district and land where such permit is applied.

	Use Zoning Categories	
A. Adult day-care.		R6 and C1
B. Air transportation facilities (including helicopter pads).		C-2, M-1
C. Amusement and recreation services.		C-2, M-1
D. Assembly halls, convention centers and conference facilities.		C-2
E. Attached residential structures		all residential
F. Automobile parking lots structures (freestanding).		C-2
G. Billboards.		M-1
H. Boat dealers		C-2, M-1
I. Bus, taxi, train or light rail depots, stations or dispatch facilities. (Public Transportation)		C-2, M-1
J. Car washes.		C-2
K. Cemeteries, funeral services, mortuaries and crematories.		C-2

L.	Chemicals and allied products - Manufacturing	M-1
M.	Child-care centers	C-1, C-2
N.	Colleges, universities, professional schools and junior colleges (Public or private).	C-2
O.	Communication services, not elsewhere classified.	C-2
P.	Correctional institutions or facilities (public or private).	M-1
Q.	Courier services.	C-1, C-2
R.	Drive-in motion picture theaters.	C-2
S.	Eating places, including drive-through service.	C-1, C-2
T.	Electric, gas and sanitary services, transfer stations, or other installations.	M-1
U.	Farmers markets.	C-1, C-2
V.	Feedlots and stockyards.	AG
W.	Flag poles over sixty (60) feet in height.	M-1, C-2
X.	Gas extraction.	AG
Y.	Government facilities, other than offices.	All districts
Z.	Government offices.	All districts
AA.	Group day-care homes	All residential
BB.	Hospitals, Medical.	C-2, M-1
CC.	Hotels, motels, rooming houses, camps and other lodging places.	C-2
DD.	Indoor tennis, racquetball, soccer and other athletic facilities.	C-2
EE.	Manufactured home dealers.	M-1
FF.	Membership (service) organizations.	C-1, C-2
GG.	Motor vehicles, all types, sales Leasing, rental and repairs	C-2

HH.	Museums and art galleries.	C-1, C-2
II.	Nursing and personal care facilities.	C-1, C-2, M-1
JJ.	Radio, television or microwave towers exceeding sixty (60) feet in height, unless located on or within a structure and entirely screened from view	C-2, M-1
KK.	Religious organizations	All residential & commercial
MM.	Residential care facilities	All districts
NN.	Retail nurseries, lawn and garden supply stores, with outdoor storage and display not within a confined area	AG, C-2
OO.	Specialty outpatient facilities, not elsewhere classified.	C-2, M-1
PP.	Storage lots for recreational vehicles, trailers, boats, storage space, etc.	M-1
QQ.	U.S. Post Offices.	All districts
RR.	Veterinary clinics, animal hospitals and dog kennels with outside runs.	AG, C-2, M-1

The above list is not all inclusive.

21.03 Temporary Sales and Events

A. The City may, upon application, issue a temporary sales and events permit for the use of a specified parcel of privately owned land for the following temporary short term uses.

1. Christmas tree sales.
2. Seasonal sale of farm produce.
3. Carnivals, circuses, fairs.
4. Commercial tent sales or sidewalk sales (by tenants only).
5. Exhibits for high technology products (by tenants only).
6. Temporary offices for construction projects.
7. Fireworks 4th of July Sales

B. Such temporary sales and events permit may be issued without publication or posted notice by the City following review and approval by the City Administrator.

1. That the applicant submit an application containing:
 - a. A description of the land proposed to be used.

- b. A site plan showing setbacks, property lines and adjoining structures and the proposed location of the temporary sales/events.
 - c. A description of the proposed use.
 - d. Hours of operation.
 - e. Estimates of accumulated automobiles and persons per hour.
 - f. Proposed sanitary facilities.
 - g. Proposed parking facilities.
2. That such proposed use shall be only located on property zoned AG, C-1, C-2, M-1.
 3. That temporary structures erected must be set back from the street right-of-way not less than forty (40) feet.
 4. That such proposed use will not be operated after 10:00 p.m. and before 8:00 a.m unless a special permit is obtained from the city.
 5. That such proposed use will not be located closer than five hundred (500) feet from property zoned for residential use.
 6. That the location of any proposed driveway entrance will not create a traffic hazard.
 7. That the proposed site contains adequate parking. Adequate parking shall be determined on the basis of one parking space per four estimated people attending per hour.
 8. That the proposed site contains adequate sanitation facilities. Adequate sanitation facilities shall be determined on the basis of one (1) temporary restroom facility per one hundred (100) estimated people in attendance per hour; provided however, that no sanitation facilities shall be required for Christmas tree sales lots or seasonal sale of farm produce.
 9. That the term of the permit shall be as follows:
 - a. Carnivals, circuses and fairs; religious tent meetings; commercial, fireworks tent sales or sidewalk sales; exhibits for high technology products --not to exceed three (3) days.
 - b. Christmas tree sales -- not to exceed sixty (60) days.
 - c. Seasonal sale of farm produce -- not to exceed five (5) months.
 - d. Seasonal sale of landscape plantings – not to exceed four (4) months.
 - e. Temporary offices for construction projects – not to exceed thirty (30) days beyond the completion of the construction project.
 10. That a fee to be determined by the City Administrator shall be charged each applicant for temporary sales and events permit.

21.04 Special Uses Not Permitted

It shall be presumed that a special use permit shall be required for any use listed herein unless that use is also specifically listed as a "permitted use" or as a "conditional use".

21.05 Criteria for Considering Special Uses

In considering any application for special use permit, the governing body shall make findings based upon the criteria stated herein but shall not be precluded from consideration of other factors which may be relevant to a particular application.

21.06 Time Limits for Special Uses

Special uses shall commence within one (1) year from the date of approval, unless extended by action of the governing body. Those special uses which are granted with a time limit shall not be authorized nonconforming status when such time limit expires.

A. Commencement of a special use occurs upon the initial issuance of a building permit, or land clearing permit, or upon the initiation of significant action to satisfy requirements for improvements contained in the special use report, or other regulatory documents relating to said special use. Additionally, construction shall occur within one (1) year from the date of approval.

B. Only one (1) time extension shall be permitted and shall not exceed six (6) months. The extension shall be requested by the owner prior to the expiration of the special use. Said request is to be made to the City.

C. The City shall review the proposed time extension to determine if any modifications have been made to the special use site, and if changes have occurred to the City's Zoning Ordinance or other development regulations which would affect the original approval.

D. If the City finds that no substantial modifications are proposed, the time extension may be deemed approved subject to conditions.

E. If the City finds that substantial modifications are proposed, the time extension shall be forwarded to the governing body for final action.

21.07 Development and Performance Standards

A. Child group day-care home

1. Employees other than immediate family members residing on the premises may be employed if the governing body finds that neighboring properties will not be adversely impacted. In no case shall the number of employees exceed the adult to child ratios in accordance with State of Kansas, Department of Health and Environment regulations on child-care centers.

2. The initial special use permit may be granted for a period of up to twelve (12) months, with multiple renewals granted for periods of up to five (5) years thereafter.

3. If the governing body finds that neighboring properties have been adversely affected, they may, as part of the renewal of a special use permit, require that the number of children and/or employees be reduced to the extent that adjoining properties will not be adversely impacted.

4. Not more than twelve (12) children, including the operator's own children, shall receive care during a calendar day.

5. The owner or operator shall occupy the structure as his or her private residence.

6. Child group day-care homes shall be operated in accordance with State of Kansas, Department of Health and Environment regulations on child group day-care homes.
- B. Adult day-care, child-care centers, Mother's Day Out programs and preschools: Such day-care centers shall be operated in accordance with State of Kansas, Department of Health and Environment, regulations.
- C. Billboards.
1. Billboards may be located on property zoned M-1 provided all other conditions of this chapter are met.
 2. No billboard shall be located within four hundred (400) feet of the property line of any residentially zoned property, park, playground, school, hospital or church. Such measurements shall be made as a four hundred (400) foot radial distance three hundred sixty (360) degrees around the location of the proposed billboard.
 3. All billboards shall maintain a minimum spacing of one thousand two hundred (1,200) feet from existing billboards along highway or adjacent frontage road rights-of-way. The one thousand two hundred (1,200) foot spacing dimension shall be measured along the side of the roadway where the sign is proposed regardless of the direction from which the sign may be viewed. All billboards existing within the City at the time of the adoption of ordinance shall be used as the beginning point for such one thousand two hundred (1,200) foot minimum spacing measurements.
 4. No billboard within the City shall exceed six hundred seventy-two (672) square feet per face with a maximum of two (2) faces permitted.
 5. No billboard shall exceed thirty (30) feet in height above the grade from which it is viewed. In cases where the grade at the location of the proposed billboard is higher than the right-of-way grade adjacent to which it is located, the City may require the overall height of the billboard to be lowered.
 6. All new or replacement billboard structures shall be supported by a monopole provided that the frame may be either center supported or flag supported. If the maximum two (2) faces are angular to one another, or are separated by a distance in excess of one (1) foot, all structural supports shall be fully screened from public view. The opaque screen shall be constructed of a similar material as the primary structure, shall be built to the same height as the permitted faces, shall be painted a neutral color to match the primary structure, and shall not be used as an advertising surface.
 7. All billboards shall be indirectly illuminated (base-lighted or back-lighted) or non-illuminated and comply with all building codes of the City. The light source of any illuminated billboard shall be shielded from view. All electrical connections shall be in accordance with the issue of the National Electrical Code, as adopted by the governing body of the City.
 8. All billboards erected in the City shall be issued a building permit in accordance with the applicable building code and fees as adopted the the Governing Body of the City. Upon inspection of the billboard the owner's name shall be affixed to the structure so as to be visible from the highway.
 9. No billboard, or the associated grounds on which a billboard is located, shall have flashing, intermittent, revolving or moving lights or any other device which is determined to be attention attracting.

10. The billboard shall be kept in good repair, including the pole, other structural elements, the sign face, and the sign copy. Any "flagging" or peeling of the copy shall be repaired immediately.

11. No billboard shall be permitted to be mounted, attached or affixed to a building rooftop or the walls of any building.

12. All billboards shall maintain the required building setback equal to that required of any structure built within the zoning district in which the billboard is located.

13. The property around any billboard and its supports shall be maintained as required in all zones. The permittee shall maintain any landscaping approved as part of a special use permit.

14. Special use permits for billboards shall be granted for a period of no more than three (3) years. In the event that a permit for a billboard is not renewed, or becomes nonconforming, it shall be removed no less than sixty (60) days from the date of expiration. Existing billboards not in compliance may continue use until:

a. Land use changes

b. Contract expires after publication of this zoning ordinance

15. Special use permits for billboards may be renewed even though the zoning classification of the property upon which the sign has been placed has been changed from classifications M-1 to commercial zoning classification if:

a. The use of the property upon which the sign has been located has not changed since the date of granting the first special use permit; or

b. The property has remained vacant since the issuance of the first special use permit; or

c. When development begins on the rezoned property, the billboard shall be removed within three (3) months of the start of construction of buildings.

D. Residential real estate sales offices: Real estate sales offices, which are not otherwise a permitted use in a residential subdivision or project, may be operated under a special use permit for the purpose of selling properties located within the subdivision or project under such conditions as may be imposed at the time of approval of the permit. No such permit shall be issued for a period exceeding two (2) years. The precise location of any such real estate sales office within the subdivision or project shall be indicated on the application for the permit.

E. Customary passenger motor vehicles, all types, sales, leasing and rental (generally items with the following or similar SIC Codes: 551, 552, 7514, 7515). It is the intent of this category to address the intensity, impact and aesthetic appearance of such uses and ensure compliance with all applicable requirements and regulations.

1. Any change in use of a property with a nonconforming situation to a use in this category (generally items with the following or similar SIC Codes: 551, 552, 7514, 7515) shall be subject to all applicable requirements and regulations of the zoning district. Any reductions to lot area or dimensions applicable to that zoning district shall be subject to Consideration of Variances.

2. Such uses shall be located in areas currently developed with similar uses and SIC classification.

3. The display area shall not be placed within a required parking/paving setback area and shall not reduce the capacity of a required parking lot.

F. Trailers, trucks, recreational vehicles, motorcycles and other motor vehicles, all types, sales, leasing and rental (generally items with the following or similar SIC Codes: 556, 557, 559, 7513, 7519).

1. Such uses shall be located in areas currently developed with similar uses and SIC classification.

2. The display area shall not be placed within a required parking/paving setback area and shall not reduce the capacity of a parking lot below that required by Parking and Loading.

G. At the time of approval of any special use permit, the Governing Body may impose restrictions upon height or bulk of buildings or structures, or impose requirements relative to yard and lot area, parking, open space or landscaping, or other requirements determined to be reasonably necessary for the protection of the public health, safety and welfare of the neighborhood and the community. Further, the Governing Body may require that the applicant submit a final development plan for approval by the staff, planning commission or Governing Body prior to the issuance of any building or land use permit. Except where a longer or shorter time has been stated for a specific special use, the Governing Body shall grant a permit, or extension thereof, for such period as is warranted under the circumstances.

H. No sales from commercial vehicles or other temporary structure are permitted except as provided for by a temporary sales and events permit.

21.08 Revocation of Special Use Permits

A. Basis for revocation: Any special use permit granted under the authority of this chapter is subject to revocation for any or all of the following reasons:

1. Noncompliance with any applicable requirement set forth herein.
2. Noncompliance with any special conditions imposed at the time of approval of the special use permit.
3. Violation of any provisions of City ordinances pertaining to the use of the land, construction or uses of buildings or structures or activities conducted on the premises by the owner or agents of the owner.
4. Where conditions in the neighborhood or surrounding property have changed to the extent that approval of the permit would be clearly unwarranted if being applied for at the time of revocation.

B. Procedure for revocation:

1. Revocation proceedings may be initiated by a majority vote of the Governing Body.
2. An appeal of any decision of the governing body to revoke a special use permit may be filed in the District Court of Sedgwick County, Kansas, pursuant to KSA. 12-760, or amendments thereto. Any appeal taken shall not suspend the order of revocation during the pendency of the appeal, unless so ordered by the District Court.

21.09 Designation of Permittee

The person making application for a special use permit shall be designated the permittee for purposes of this chapter. The use authorized by the permit; however, relates to the land and not

the permittee, and permits may therefore be transferred. Any person desiring to operate a special use on property by transfer of the special use permit granted the permittee shall make application with the City to be substituted as permittee. The applicant shall furnish such information as may be reasonably required to satisfy the City that the applicant is the owner of the property subject to the special use permit, or is otherwise authorized by the owner of the property to conduct such use on the property, and is otherwise qualified to be designated as permittee. No person may use property for a special use without being designated as permittee; unauthorized use of the property shall be grounds for revocation of the special use permit.

CHAPTER 22 ACCESSORY USES AND STRUCTURES

Sections:

- 22.01 Statement of Intent
- 22.02 Agricultural District
- 22.03 Residential Districts
- 22.04 Commercial and industrial Districts
- 22.05 Accessory Uses Permitted by Interpretation
- 22.06 Hotels and Motels
- 22.07 Hospitals
- 22.08 Public Utility Buildings
- 22.09 Construction Sites
- 22.10 Parking and loading areas:
- 22.11 No temporary or incomplete building
- 22.12 No Accessory se or structure exceptions
- 22.13 Structural exceptions:

22.01 Statement of Intent

It is the intent of this chapter to regard certain uses and structures as being subordinate to the permitted use of the premises. A use or structure will be considered an accessory when it is associated in conjunction with the permitted use and is incidental and integrally related to the permitted use.

22.02 Agricultural District

Accessory uses and structures in the agricultural district shall include:

- A. All uses and/or structures as listed in Section 22.03 Residential Districts below.
- B. Irrigation equipment.
- C. Storage areas for equipment and materials for any agricultural operation.
- D. Sheds, garages, barns, silos and other outbuildings.
- E. Wells, ponds or lakes.

22.03 Residential Districts

Accessory uses and structures in residential districts shall include:

- A. Child-care centers, preschools and Mother's Day Out programs, in accordance with the following and all other applicable City and state regulations.

Child-care centers, preschools and Mother's Day Out programs as defined in this ordinance may be permitted as accessory uses in religious, educational and community buildings, subject to a general site plan being submitted to and approved by the City. Such plans shall satisfy the following criteria:

1. No parking shall be permitted on any adjacent dedicated public right-of-way.
2. The location and layout of the drop-off and pick-up site shall be such that traffic will not be impeded on any dedicated public right-of-way.
3. Outdoor play areas are adequately screened from adjacent properties.
4. In accordance with requirements of KSA 65-501 through 65-516, KAR 28-4-123 through 28-4-132, and amendments thereto.

Related Information: Design Manual – General Guidelines; Residential Neighborhood Design Guidelines

B. Decks, patios, retaining walls, terraces, fences, and walls with a permit. No accessory use or structure except flag poles, fences and retaining walls, as permitted, shall be located in any front yard.

C. Fences or walls,

Fences, walls or hedges may be constructed or planted to a maximum height of six (6) feet in residential districts and eight (8) feet in commercial and industrial districts, as measured above the average grade level on the property line, and are subject to the following restrictions and design criteria:

1. In residential districts, fences or walls shall be limited, or similar, to one of the following types of construction: brick or stone walls or pillars, chain-link, wood stockade, split rail, wood rail, wrought iron, spaced picket fence, imitation vinyl or other similar decorative material as approved by the City.
2. In residential districts, fences, walls or hedges in front or corner side yards (beyond the front of the house or structure), shall not exceed four (4) feet in height, shall be at least fifty (50) percent open, and shall not include chain-link or any other metal or wire type fencing.
3. Residential properties along arterials may have fences, walls or hedges only when approved as part of the master fence/screening plan.
4. In commercial and industrial districts, fences and/or walls shall not be placed in the setback area from street rights-of-way or within the perimeter landscape area as provided in Chapter 24, Landscape and Screening.
5. All fences and walls shall be constructed with a finished surface facing outward from the property (e.g. in the case of a wooden fence, a "finished surface" means a surface of the fence where the pickets or slats are fully exposed to view). The posts and support beams shall be on the inside of the finished surface.
6. Retaining wall construction is subject to approval by the City.
7. Barbed wire and electric fencing (above ground) is prohibited in the City except in AG - Agricultural District.
8. No fence, wall or hedge shall be constructed, planted, reconstructed or replaced in a manner which obstructs the intersection sight distance and plan approved by the City.

Related Information: Design Manual – General Guidelines; Residential Neighborhood Design Guidelines

D. Flag poles, under thirty (30) feet in height.

E. Garages, carports and sheds with permits - Detached garages, carports and sheds may be constructed on any lot, provided that any such garage, carport or shed meets the following requirements:

1. Shall be located a minimum of ten (10) feet from the principal building.
2. Shall not be located within a required front or side yard.
3. Shall not be located within thirty (30) feet of a reversed corner lot property line.
4. Shall not be located within twenty-five (25) feet of a corner lot property line.
5. Shall not be located within ten (10) feet of a rear property line.
6. No garage, carport or shed shall encroach on a drainage or utility easement.
7. Maximum height of fifteen (15) feet as measured from the ridgeline.
8. Maximum thirty (30) percent coverage within a required rear yard either as single or

cumulative structures.

Related Information: Design Manual – General Guidelines; Residential Neighborhood Design Guidelines

F. Gardens.

G. Gazebo or trellises with a permit.

H. Hobby activities.

A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation so long as the activity is not in conflict with any City ordinance. Articles produced or constructed on the premises shall not be sold on the premises unless the activity complies with the requirements for a home occupation. Home automotive repair shall be limited to tenant's and/or occupant's vehicles only.

I. Home occupations:

Home occupations are permitted as an accessory use to a residence within the R-1, RP-1, R-2, RP-2, and TN districts as well as single-family or two-family dwellings in R-3, RP-3, R-4, RP-4, R-5, RP-5, and NC subject to the following provisions:

1. Purpose and intent. It is the purpose and intent of these requirements to:
 - a. Maintain neighborhood integrity and preserve the residential character of neighborhoods by encouraging compatible land uses.
 - b. Provide residents of the City with an option to utilize their residences as places to enhance or fulfill personal economic goals as long as the choice of home occupations does not infringe on the residential rights of neighbors.
 - c. Establish criteria for operating home occupations in dwelling units within residential districts.
 - d. Assure that public and private services such as streets, sewers, water and utility systems are not burdened by home occupations to the extent that usage significantly exceeds that which is normally associated with a residence.
2. Uses Permitted:
 - a. Accountant
 - b. Architect
 - c. Author
 - d. Artist
 - e. Clergyman
 - f. Computer programmer, analyst or billing agent
 - g. Contractor
 - h. Cosmetologist
 - i. Counselor
 - j. Engineer
 - k. Family day-care home in accordance with requirements of KSA 65-501 through 65-516, KAR 28-4-123 through 28-4-132 and amendments thereto.
 - l. Federally licensed firearms dealer
 - m. Lawyer
 - n. Photographer
 - o. Planner
 - p. Real estate broker
 - q. Salesman
 - r. Seamstress-dressmaker-tailor
 - s. Secretary-typist-bookkeeper

- t. Tax return preparation
- u. Teaching, tutoring, or instruction, provided no more than three (3) students are taught at one time, not more than twelve (12) students per day

3. Area of use. Home occupations shall be entirely contained within the interior of a residence and shall not be located in garages or accessory structures on the site. Equipment or materials used in a home occupation may not be stored outside the residence. No visible evidence of the business shall be apparent from the street or the surrounding area. Family day-care homes will be allowed to have an outside play area which shall be screened.

4. Employees. The home occupation shall be restricted to family members residing on the premises with no assistance from other individuals or groups.

5. Sales, repairs and leasing.

a. The commercial exchange of tangible goods or other items constituting a sale between the proprietor of a home occupation and members of the general public shall not be permitted on the premises of a home occupation. "Members of the general public" shall not include persons in the home by prior individualized invitation. Except, not more than three (3) garage sales shall be permitted during any one (1) calendar year on any one (1) premise.

b. The repair of items as a home occupation may occur only when the delivery and pickup of the items is conducted off the premises by the proprietor of the home occupation. No trips shall be generated to or from the home occupation by customers with items which have been or are to be repaired.

6. Traffic and parking. If the delivery of goods to or parking for a home occupation occurs in a manner or frequency which causes disturbance to the normal traffic flow for the neighborhood, the occupation shall be considered a business best operated in a commercial district rather than as a home occupation, and will no longer be permitted as an accessory use.

7. Changes to exterior. The appearance of a dwelling as a residence shall not be altered to the extent that attention is drawn to the structure as a business operation.

8. Nuisance controls. A home occupation shall not create noise, dust or dirt, heat, smoke, odors, vibration or glare or bright lighting which would be in excess of that created by a single residential dwelling. The production, dumping or storage of combustible or toxic substances shall not be permitted on site. Additionally, a home occupation shall not create interference with, or fluctuations of, radio or television transmission or reception. Additionally, home occupations shall be subject to any provisions and requirements of the City of Bel Aire ordinance and regulations.

9. Signage. No signage or other forms of advertising pertaining to the home occupation may be placed or painted onto the exterior of the residence or in the yard of a residence, except as permitted by Chapter 27, Signs.

10. Other regulations. Home occupations shall comply with all other local, state or federal regulations pertinent to the activity pursued, and the imposition of requirements under this chapter shall not be construed as an exemption from such regulations.

J. Keeping of animals, not for sale

Domestic animals may be kept, and farm animals such as but not limited to horses, ponies, cows, hogs and chickens may be kept, except that on a lot or tract of less than three (3) acres in size, a special use permit shall be required. Horses, ponies and cows shall be permitted a maximum density of one (1) animal per acre. Dogs, cats, birds and other customary domestic pets may be kept on property without a special use permit, limited to four (4) animals per household.

K. Play equipment.

L. Recreation areas and buildings.

M. Recreational Vehicles

Recreational Vehicles (including but not restricted to camping and hauling vehicles and boats, or vehicles with off-camper shells). It is permissible to park or store not more than two (2) recreational vehicles on a single-family or duplex lot, provided that the following criteria are met:

1. The recreational vehicle shall be parked in a garage.
2. Recreational vehicles may be parked in the driveway for up to twenty-four hours (48) to load and twenty-four hours (48) to unload as related to a trip.

N. Satellite dish antennas

1. Wall and Roof-mounted.

- a. The maximum height (measured from the highest point) of any wall or roof-mounted satellite dish antenna shall not extend above the peak of the roof surface. The antenna shall not be located on the front side of the structure and must be screened from any street.

O. Signs are subject to the requirements of Chapter 27

P. Solar collectors with a permit

Solar collectors are permitted provided that the following performance standards are met:

1. Roof-mounted solar collectors, whenever possible, should be designed into the building. When solar collectors are mounted on building roofs which are visible from any dedicated public right-of-way, they shall not extend above the peak of the roof plane, and no portion of any such solar collector shall extend more than twenty-four (24) inches perpendicular to the point on the roof where it is mounted.
2. Roof-mounted solar collectors located on the rear side of building roofs shall not extend above the peak of the roof plane on which they are mounted, and no portion of any such solar collector shall extend more than four (4) feet perpendicular to the point on the roof where it is mounted.
3. Ground-mounted solar collectors shall not exceed eight (8) feet in total height at the highest point, and shall be located within the rear yard at least twelve (12) feet inside the property lines.
4. All service lines associated with serving a ground-mounted solar collector shall be placed underground.

Q. Swimming pools with permits.

R. Tennis courts with permits.

S. Television and radio antennas. Permits required if over 30' in height from the ground.

T. No temporary or incomplete building, and no automotive equipment, trailer, recreational vehicle, garage or other use or building accessory to a family dwelling shall be erected, maintained or used for residential purposes.

U. Pool/pool areas, terraces and patios: A pool/pool area, terrace or patio shall be considered in the determination of yard sizes or lot coverage. Such area shall not project into an easement or into any yard to a point closer than ten (10) feet from a property line.

All accessory structures shall comply with the explicable zoning bulk regulations and all prescribed setbacks and easements rights of record.

Related Information: Design Manual – General Guidelines; Residential Neighborhood Design Guidelines

22.04 Commercial and Industrial Districts

Accessory uses and structures in all Commercial and Industrial districts shall be pursuant to a Planned Unit Development.

The following are accessory uses and structures in all commercial and industrial districts:

- A. Automotive repair and maintenance shops, maximum of two (2) bays in conjunction with gasoline service stations.
- B. Car washes (single-bay, automatic) in conjunction with gasoline service stations.
- C. Dwelling units for security, management or maintenance personnel.
- D. Fences or walls
- E. Flag poles, under sixty (60) feet in height.
- F. Food service and vending machines for tenants.
- G. Gate houses.
- H. Parking and loading areas.
- I. Private parking garages.
- J. Recreational areas and facilities.
- K. Satellite dish antennas.
- L. Signs.
- M. Solar collectors.
- N. Storage lots for vehicles awaiting repair, with screening requirements.

22.05 Accessory Uses Permitted by Interpretation

Uses other than those listed above may be determined to be accessory uses in any district based upon an interpretation by the City .

22.06 Hotels and Motels

The following uses are accessory uses within a hotel or motel provided the use is located within the main building and designed to serve primarily the occupants and patrons of the hotel or motel:

- A. Banquet rooms
- B. Barber shops and hair salons
- C. Clubs
- D. Drinking establishments
- E. Florists
- F. Gift shops
- G. Newsstands
- H. Restaurants
- I. Sales of notions
- J. Vending machines
- K. Meeting Rooms
- L. Exercise Rooms
- M. Spas

22.07 Hospitals

The following uses are accessory uses within a hospital where located within the main building and designed to serve hospital personnel, visitors or patients:

The following are accessory uses in the business park and office districts where located in buildings exceeding eighty thousand (80,000) square feet of gross building area:

- A. Florist
- B. Food service and vending machines
- C. Gift Shops
- D. Laundry, cleaning and garment services – pickup and delivery
- E. Nursing and personal care facilities
- F. Pharmacies.
- G. Residential quarters for staff and employees

22.08 Public Utility Buildings

Outside storage of materials and equipment is an accessory use of buildings used by public utilities provided all storage is screened as viewed from off the premises. For purposes of this section, the phrase "screened from public view" means not visible from the subject property from, adjoining properties or any street right-of-way at any distance.

22.09 Construction Sites

Temporary offices for construction may be used on the site of a construction project, provided such temporary offices are removed upon completion of the project. In residential districts, any temporary offices may only be located in a model home and must cease upon the issuance of a certificate of occupancy for the last residential dwelling unit for the subdivision or project or, in the case of a subdivision or project for which approval has been given for phased development, for the last dwelling unit for that phase. Temporary construction trailers may be used for temporary construction offices, but only until a model home is completed. These trailers shall only be used by the contractor and subcontractors, and shall not be used as a real estate sales trailer. All trailers shall be removed once the model home is completed and ready for use.

22.10 Parking and loading areas:

Parking and loading areas are subject to the requirements of Chapter 23.

Related Information: Design Manual sections; Guidelines for Pedestrian Circulation within Nonresidential Developments; Guidelines for Internal Parking Lot Landscaping; Guidelines for Parking Lot and Building Mounted Lighting

22.11 No temporary or incomplete building

No temporary or incomplete building, and no automotive equipment, trailer, recreational vehicle, garage or other use or building accessory to a family dwelling shall be erected, maintained or used for residential purposes.

22.12 No Accessory use or structure exceptions

No accessory use or structure except flag poles, fences and retaining walls, as permitted, shall be located in any front yard.

22.13 Structural exceptions

Structural exceptions are permitted provided that the following performance standards are met:

1. Porches: A porch, open on at least one (1) side and having a roof, shall be considered a part of the building for the determination of lot coverage and zoning setbacks.
2. Pool/pool areas, terraces and patios: A pool/pool area, terrace or patio shall not be considered in the determination of yard sizes or lot coverage, provided that such area is unroofed and without walls or parapets or other forms of enclosure. Such area shall not project into any yard to a point closer than five (5) feet from a property line.

**CHAPTER
23
PARKING AND LOADING**

Section:

- 23.01 Parking Required for All Structures**
- 23.02 Access to Parking Areas**
- 23.03 Dimensions and Design of Parking Areas**
- 23.04 Parking Spaces for Disabled People**
- 23.05 Setbacks**
- 23.06 Parking Lot Lighting**
- 23.07 Landscaping and Screening**
- 23.08 Deferred Construction of Parking Spaces**
- 23.09 Parking Areas for Single and Two-Family Dwellings**
- 23.10 Off-Street Parking Schedule**
- 23.11 Off-Street Loading Schedule**
- 23.12 Drive-in and Drive-through Stacking Distance Requirements**

23.01 Parking Required for All Structures

For all buildings or structures hereafter erected, constructed, reconstructed, moved or altered, off-street parking in the form of garages or areas made available exclusively for parking shall be provided. Thus, parking spaces shall be located entirely on the same property as the main use, with no portion other than the necessary drives extending into any street or other public way. The issuance of building permits or certificates of occupancy shall require compliance with the parking standards approved in the platting process and or the planned unit development if one exists.

All parking areas and drives shall be ready for use upon occupancy of a building and shall be surfaced with a permanent, bituminous or concrete paving meeting the standards of the City prior to the issuance of a certificate of occupancy. All parking lots, drives, and single-family dwellings, shall have curbs and drainage facilities approved by the City. No residential driveway approach shall exceed 30 (thirty) feet in width as measured along the outside sidewalk line and expand no larger than the width of the garage. Approach aprons and curbs shall be Portland cement concrete.

23.02 Access to Parking Areas

Ingress and egress to all multifamily residential or commercial parking areas shall not exceed thirty-five (35) feet in width, or be less than twenty-five (25) feet for two (2) way approaches. Industrial driveway approaches shall not exceed sixty-five (65) feet in width. All residential, commercial and industrial driveway approaches shall be in accordance with Chapter 28, Subdivision and Lot Splits.

23.03 Dimensions and Design of Parking Areas

A. Standard parking stall dimensions shall be nine (9) feet by twenty (20) feet, exclusive of access drives on aisles. Where the end of the parking space abuts an interior parking lot curbed area at least six (6) feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two (2) feet. Such overhang shall be measured from the face of the curb.

B. Minimum dimensions for a parallel parking space shall be eight (8) feet by twenty-two (22) feet.

C. Minimum parking dimensions for other configurations shall be determined by the City.

D. Large parking lots shall be divided into smaller parking lots of fifty (50) cars with landscape strips, peninsulas, or grade separations to reduce the visual impact of large expanses of paving, to direct vehicular traffic through the parking lot, and to provide a location for pedestrian walks.

E. Landscape aisles should be placed on both sides of entrance drives to create pleasing tree-lined entrances, to direct vehicles into and out of the site, and to provide adequate space for vehicular stacking at exits onto perimeter roadways.

F. Parking lots shall be designed to separate pedestrians from vehicles and include protected pedestrian walkways within parking areas which lead to store entrances, except for those sites with unique conditions or terrain.

G. Sidewalks and walkways shall be provided to connect sidewalks along adjacent roadways and trails in the City's greenway system with buildings within a development. Walkways shall be designed and buffered in a manner that encourages their use.

H. Parking stalls for customer parking, employee parking, and parking spaces for disabled persons shall be designated on all site development plans and any other plans submitted for approval by the City. In addition, businesses with vehicles for sale, lease, rental, display, etc. shall designate on said plans the location(s) of display areas allocated for such vehicles. Said vehicles and display areas shall not be located within a required parking/paving setback area, shall not reduce the capacity of a parking lot below that required by Chapter 23, Parking and Loading, and shall not hinder the movement of vehicles in drive aisles. All parking stalls shall be striped, maintained, and specifically used for the related purpose as identified on the plans. Areas designated for parking shall not be used for display of vehicles for sale, lease, rental, etc.

Related Information: Design Guidelines

23.04 Parking Spaces for Handicapp People

For those buildings where such parking is required, parking areas servicing each building entrance shall have the number of level parking spaces for person(s) with disabilities set forth in the following "Accessible Parking Spaces Table."

Accessible Parking Spaces Table

Total Parking Area (Spaces)	Required Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of Total
1,001 and over	20 plus 1 for each 100 over 1,000

Such parking spaces shall be in accordance with *Federal Register, Volume 56, No. 144, 4.0, Accessible Elements and Spaces: Scope and Technical Requirements*. In addition, in accordance with *Federal Register, Volume 56, No. 144*, all designated parking for handicapp people shall be clearly marked by vertically mounted signs bearing the international symbol of access. One (1) in every eight (8) accessible spaces, but not less than one (1), shall be served by an access aisle ninety-six (96) inches wide minimum, and shall be designated "van accessible." Parking for disabled people shall be designated adjacent to entrances of a building.

23.05 Setbacks

A. Parking areas and other paved areas such as drive-through aisles in conventional zoning districts shall be set back as follows:

1. In Districts AG, RR, R-1, R-2,R-3, R-4, R-5, and R-6 and for single-family and two-family dwellings in any other district, no parking area shall be located within five (5) feet of a lot line, excluding nonresidential uses.
2. For multifamily dwellings, no parking area shall be located within thirty (30) feet of a street right-of-way or in a required yard area.
3. No parking area for a nonresidential use in any residential district shall be located within thirty (30) feet of any street right-of-way or in a required yard area.
4. In commercial and industrial districts, no parking area shall be located within the applicable parking and paving setback requirements within that zoning district.
5. Parking in any zoning district shall be permitted only in designated parking spaces.

B. Parking area setbacks within the planned zoning districts shall be approved by the City in conjunction with the plan review, and shall not occupy any portion of the required yard areas.

Related Information: Design Guideline Manual

23.06 Parking Lot Lighting

Illumination of parking areas shall be required for multi-family, commercial and industrial; parking areas and all parking areas with more than twenty (20) parking spaces. The illumination may be provided through the use of light fixtures on a pole. The illumination may not be provided by building mounted light fixtures. Any building mounted fixtures shall be for aesthetic and security purposes only. No fixtures that shine outward and create a glare from street right-of-way or residential properties shall be permitted. Lighting used to illuminate parking areas shall be arranged, located or screened to direct light away from any adjoining or abutting residential district or any street right-of-way. Light poles and fixtures shall meet the following criteria:

1. The style of light poles and fixtures should reflect the architectural character of the area.
2. Maintain parking lot poles/fixtures of the same style, height, color and intensity of lighting throughout the development area. Varying styles of fixtures may be permitted if it is demonstrated that the styles contribute to an overall theme for the area.
3. The maximum pole height in commercial shopping centers and office parks shall be thirty-five (35) feet or twenty-five (25) feet when located adjacent to residential development. The maximum pole height for individual businesses shall be twenty-five (25) feet.
4. Light fixtures shall be nonadjustable, horizontally mounted fixtures, or fixtures with less than ninety (90) degree luminary cutoff. Fixtures that project light or glare toward street right-of-way or adjoining properties shall not be permitted.

B. Illumination for parking areas shall be provided as follows:

1. Average Maintained Foot-candles: The maximum average maintained foot-candles for all parking lots shall be three (3), unless otherwise approved by the City. For purposes of this ordinance the average maintained foot-candles shall be calculated at eight-tenths (0.8) of initial foot-candles.
2. Minimum Foot-candles and Uniformity Ratio: The minimum amount of maintained illuminations for open parking shall be as provided in the following table:

Uses	Foot Candles	Uniformity Ratio
Low Activity	0.5	4.1
Medium activity	1.0	3.1
High activity	2.0	3.1

a. For purposes of interpreting the table in sub-paragraph B-1, the following rules shall apply: high activity uses shall include major league athletic events, major cultural or civic events, major regional shopping centers and similar uses; medium activity uses include fast food facilities, area shopping centers (fifteen [15] acres or more), hospitals, residential complex parking and similar uses; low activity uses include local merchant parking (less than fifteen [15] acre sites), industrial employee parking, educational parking and similar uses.

b. The light fixtures shall be arranged in order to provide uniform illumination throughout the parking lot as indicated by the uniformity ratio in sub-paragraph B-1 of average illumination to minimum illumination.

3. The maximum maintained vertical foot-candle at an adjacent residential property line shall be one-half (0.5) foot-candle measured five (5) feet above grade.

4. The required illumination within a nonresidential development shall be measured at grade.

C. Plan Submission Requirements:

A point-by-point photometric plan shall be required when deemed necessary by the City. The calculation shall be measured at grade for lighting levels within the parking lot. A cut sheet of the proposed fixtures, including the candlepower calculation, shall be submitted upon request by the City.

Related Information: Guidelines for Parking Lot and Building Mounted Lighting

23.07 Landscaping and Screening

The interior of parking areas shall be landscaped in accordance with the provisions set forth in Chapter 24, Landscaping and Screening. In specific cases, the City may require that any wall, fence or screen planting around a parking area shall be set back from a street if such setback will prevent adverse effects upon the appropriate use of adjacent property or will prevent a traffic hazard.

Related Information: Guidelines for Internal Parking Lot Landscaping

23.08 Deferred Construction of Parking Spaces

A portion of the parking area required for office or industrial development may remain unimproved until such time as the City deems that it must be improved to adequately serve the parking demand. Such delayed construction of parking may be permitted only after the City is satisfied that the initial occupancy of the premises will be adequately served by the lesser number of spaces and only after approval of a final development plan clearly indicating the location, pattern and circulation to and from the deferred parking spaces. The land area so delineated for future parking shall be brought to finished grade and landscaped, and shall not be used for building, storage, loading or other purposes.

23.09 Parking Areas for Single and Two-Family Dwellings

A. No driveway serving single or two-family dwelling shall be located within five (5) feet of an adjoining lot line except for a driveway serving two (2) properties. A single residential driveway serving two (2) properties must be approved by the City.

B. Parking shall be restricted to customary passenger vehicles, and emergency vehicles of not more than a size of factory designated, one (1) ton, single axle, dual wheels which are unloaded and immediately available for emergency response by an operator who is on duty or on call. However, emergency vehicles shall not be parked upon a driveway for more than twelve (12) hours during any twenty-four (24) hour period.

C. All passenger cars shall be parked on paved driveways or parking areas relating to the garage or carport and on the streets except where specifically prohibited. In areas where there are no garages or carports, passenger cars and motor vehicles may be parked on paved driveways constructed perpendicular to the street. No parking shall be allowed in that portion of the street right-of-way not used for traffic movement, i.e., between the curb and the sidewalk, and between the curb and the front lot line.

D. In Districts R-2, R-3, R-5 and R-6 guest parking in excess of minimum parking requirements may be permitted. In no case shall the required parking be located within the guest parking area. Guest parking shall be built to meet all minimum standards of the City. Upon acceptance of guest parking by the City, the area will be maintained in the same manner as all other public streets. In no case shall boats, campers, recreational vehicles, trucks or inoperable vehicles be parked or stored in any guest parking. Any such guest-parking shall be provided with landscaped areas.

E. No person shall stop, stand or park a commercial vehicle on any street, alley, or lot within any residential district, except when necessarily loading or unloading property or when in the performance of a service to or upon property in the block where the vehicle is parked. The provisions of this section may not be defeated by a mere location change of a vehicle within the residential district. Residential district refers to any place or area where the property is zoned for residential occupancy including single-family, two-family and multifamily dwellings.

Related Information: Design Guidelines; Residential Neighborhood Design Manual

23.10 Off-Street Parking Schedule

A. Parking requirements shall be as indicated in the following table:

Land Uses	Key
Single-family dwellings	H
Two-family dwellings	H
Multifamily dwellings	I
Garden & Patio, Townhouse, Condos	H
Commercial buildings not specifically listed below	M
Industrial buildings not specifically listed below	J
Office buildings	K
Restaurants and cafeterias	B & E
Churches, armories, assembly halls, theaters, athletic fields and other seating facilities	E
Libraries	B & J
Hotels, motor hotels, motels, apartment hotels, dormitories and similar boarding facilities	B & C
Hospitals, nursing or convalescent homes, or congregate care facilities	F & G
Mortuaries	B &/ E
Taverns or clubs serving alcoholic or cereal malt beverages	B & E
Dance halls and discotheques	A & D
Elementary and junior high schools	G

High schools	G & N
Colleges, universities, professional schools and junior colleges (public or private)	G & P
Shopping Centers	L's
Convenience grocery stores	M
Mini-storage warehouse complexes	B & O (minimum of three [3] total)
Assembly halls without fixed seats	Q
Gymnasiums	Q
Miniature golf courses	Q

Key	
A	one (1) space for each employee.
B	one (1) space for each two (2) employees on the largest shift.
C	one (1) space for each guest room or each two (2) guest beds.
D	one (1) space for each two (2) seats or building capacity calculated by building standards.
E	one (1) space for each four (4) seats or building capacity calculated by building standards.
F	one (1) space for each four (4) beds.
G	one (1) space for each staff member (including visiting doctors).
H	four (4) spaces two(2) enclosed
I	one and one-half (1.5) spaces for each studio or efficiency apartment; one and three-quarter (1.75) spaces for each one (1) or two (2) bedroom apartment; and two (2) spaces for each apartment having more than two (2) bedrooms.
J	two and one-half (2.5) spaces for each one thousand (1,000) square feet of gross floor area, or portion thereof for buildings less than twenty-five thousand (25,000) square feet of floor area. For buildings over twenty-five thousand one (25,001) square feet two and one-half (2.5) spaces per one thousand (1,000) square feet of floor area devoted to office uses plus one (1) space for each one thousand (1,000) square feet of other floor area.
K	three and eight-tenths (3.8) spaces for each one thousand (1,000) square feet of gross leasable floor area, or portion thereof
L-1	five (5) spaces per one thousand (1,000) square feet of gross area for centers over six hundred thousand and one (600,001) square feet.
L-2	four and one-half (4.5) spaces per one thousand (1,000) square feet of gross area for centers having over four hundred thousand and one (400,001) square feet to six hundred thousand (600,000) square feet.
L-3	four (4) spaces per one thousand (1,000) square feet of gross area for centers having twenty-five thousand (25,000) to four hundred thousand (400,000) square feet.
M	four (4) spaces per one thousand (1,000) square feet of gross area.
N	one (1) space per four (4) students.
O	two (2) spaces.
P	one (1) space per two (2) students.
Q	as determined by the City

B. Any other use not included in the parking requirements above shall be assigned a parking requirement by the City.

C. Where convention centers, conference centers, assembly halls, ballrooms or other similar facilities are built in conjunction with a hotel, office park or shopping center, the City may permit up to a thirty-five (35) percent parking space reduction for each of the uses listed above when built in conjunction with the uses listed above, due to overlapping usage of a portion of the parking spaces. Request for such shared parking must be received as part of a preliminary development plan. The

request shall outline the justification in reducing the number of parking spaces. In addition, a change in use to a use other than listed above, shall conform to City parking standards.

23.11 Off-Street Loading Schedule

A. For purposes of this section there shall be considered to be two (2) sizes of off-street loading spaces. Each large space shall have an overhead clearance of at least fifteen (15) feet, shall be at least twelve (12) feet wide and shall be at least fifty (50) feet long, exclusive of access or maneuvering area, platform and other appurtenances. Each small space shall have an overhead clearance of at least twelve (12) feet, shall be at least twelve (12) feet wide and shall be at least thirty (30) feet long, exclusive of access or maneuvering area, platform and other appurtenances.

B. Off-street loading facilities shall be located on the same building site on which the structure for which they are provided is located. Access, maneuvering area, ramps and other appurtenances shall be furnished off the street right-of-way and so arranged that vehicles are not permitted to back from the property into the street. The number of required loading spaces which are adequate to serve the uses or categories of uses proposed, shall be in accordance with the following:

Parking Category	Gross Floor Area in Square Feet	Required Number
Institutional Uses		
Schools,	10,000 to 100,000	1
Health/Medical, Recreational, Civic, Social, Religious	For each additional 200,000 or fraction thereof.	1 - Additional
Business Uses		
Retail	5,000 to 25,000	1
	25,001 to 200,000	1
	For each additional 200,000	1 - Additional
Retail Services	5,000 to 10,000	1
	10,000 to 100,000	1
	For each additional 100,000 or fraction thereof.	1 - Additional
Service/Trade	10,000 to 200,000	1
	For each additional 200,000 or fraction thereof.	1
Service/Miscellaneous	5,000 to 25,000	1
	25,001 to 200,000	1
	200,001 to 400,000	1
	For each additional 100,000 over 400,000 or fraction thereof.	1
Industrial Uses		
	5,000 to 10,000	1
	10,001 to 40,000	1
	40,001 to 100,000	1
	For each additional 100,000 or fraction thereof.	1 - Additional

C. Off-street loading facilities shall be constructed, maintained and operated in accordance with City standards and shall be surfaced with concrete, asphalt concrete or asphalt maintained in good condition, free of weeds, dust, trash and debris.

D. Where access and drives to off-street loading facilities occur in conjunction with off-street parking facilities that provide parking at street level for more than six hundred (600) cars, provisions shall be made to maintain separate circulation routes within such facilities.

E. Any off-street loading facility shall not be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

F. For the purpose of determining the amount of off-street loading, or if the number of berths to be provided by such use is not readily determinable, the number of loading areas shall be fixed by the City.

Related Information: Guidelines for Loading Dock and Service Area Screening

23.12 Drive-in and Drive-through Stacking Distance Requirements

A. Drive-in and drive-through restaurant facilities shall provide a minimum stacking distance of one hundred sixty (160) feet, of which eighty (80) feet shall be provided to the menu board, exclusive of any aisle or parking space. Minimum pavement lane width shall be twelve (12) feet. All other drive-in and drive-through facilities shall conform to the requirements below. The following requirements shall be followed in determining minimum stacking length:

TYPE OF OPERATION	MINIMUM NO. OF VEHICLES
Financial Institution w/drive-up teller	4 veh/window or kiosk
Financial Institution w/drive-up ATM	2 veh/window or kiosk
Car wash - self service, automatic	4 veh/bay at entrance, 1 veh/bay at exit
Photo processing	2 veh/window
Dry cleaning	2 veh/window
Gas stations	2 veh/pump
Gated parking lot entrance	1 veh/gate
Gated unit or overhead door	1 veh/door

B. These minimum vehicle stacking requirements shall remain in force, unless the developer or applicant can present a traffic study from a professional traffic engineer which provides verifiable evidence to allow the reduction of these minimum stacking lengths. Deviations from these stacking lengths must be approved by the City.

**CHAPTER 24
LANDSCAPING AND SCREENING**

Section:

- 24.01 Statement of Intent**
- 24.02 General Requirements**
- 24.03 Landscaping Plan Required**
- 24.04 Preferred Trees and Shrubs**
- 24.05 Street Trees**
- 24.06 Residential Perimeter Landscaping**
- 24.07 Non-residential Perimeter Landscaping**
- 24.08 Design Planting and Criteria**
- 24.09 Interior Landscaping Requirements Within Parking and Vehicular Use Areas**
- 24.10 Building Facade/Foundation Landscaping Requirements**
- 24.11 Time Landscaping Required**
- 24.12 Selection, Installation and Maintenance**
- 24.13 Screening Requirements**
- 24.14 Tree Preservation**

24.01 Statement of Intent

The intent of this chapter is to foster aesthetically pleasing buildings, projects and developments which will protect and preserve the appearance, character, health, safety and welfare of the community. Specifically, these regulations are intended to increase the compatibility of adjacent uses requiring a buffer or screen between uses, to minimize the harmful impact of noise, dust, debris, motor vehicle headlight glare, or other artificial light intrusions, and other objectionable activities or impacts conducted or created by an adjoining or nearby use.

24.02 General Requirements

All previous land areas shall be brought to finished grade and planted in sod, native grasses, or other appropriate ground covers. In addition to the minimum number of trees required to be planted and maintained by this chapter, an appropriate number or amount of shrubs, ground cover and/or sod areas shall be included within each project, which shall be determined by the design criteria for the project relating to visual safety, species and landscape function.

24.03 Landscaping Plan Required

All plans submitted in support of a building, project, plan review, special use or final plat shall include a landscaping plan. All landscaping plans shall include the following information:

- A. North arrow and scale.
- B. Topographic information and final grading adequate to identify and properly specify planting for areas needing slope protection.
- C. The location and contours, at one (1) foot intervals, of all proposed berms.
- D. The location and dimensions of all existing and proposed structures, parking lots and drives, sidewalks, refuse disposal areas, fences, above or underground utilities and storm drainage systems, freestanding electrical equipment, recreational facilities, and other freestanding structural features as determined necessary by the City.
- E. The location, size, spread (at the time of planting), type and quantity of all proposed landscaping materials, along with common and botanical names of all plant species. The size, grading and condition shall be specified according to American Association of Nurserymen standards.
- F. Mature sizes of plant materials shall be drawn to scale.
- G. Location of hose connections and other watering sources.

H. All screening required by this chapter.

24.04 Preferred Landscape Trees and Shrubs

The City of Bel Aire, Kansas, maintains a list of recommended trees, shrubs and grasses for planting in public areas. This list (at the end of this chapter) shall be available to residents of the City upon request to aid in the selection of trees for private properties. The list of recommended trees, shrubs, and grasses are those listed in the publication, "Preferred Tree Species for South Central Kansas" by the Kansas Urban Forestry Council, and may be updated periodically. Other species may be acceptable upon approval by the City.

24.05 Street Trees

When planting trees, residents must keep in mind the clay soil in the Bel Aire area and the knowledge that this soil will retain moisture for longer periods of time than normal soils. Most of the trees recommended in this document prefer dry soils and in some cases will not tolerate wet soils. The clay soil of Bel Aire combined with irrigation systems may pose a real challenge for trees to survive. The table below describes the soil tolerance of the species listed. Homeowners should be educated that if trees are planted with turf, the watering requirements may differ. Please refer to the following table, which describes soil tolerances and other comments of the recommended trees for Bel Aire.

A. Street trees shall be required in all residential and nonresidential districts along all local and collector streets. Street trees shall be provided as follows:

1. Street trees shall be required along street right-of-way of public or private street frontage, excluding arterial and minor arterial streets where perimeter landscaping is required by other sections of this ordinance. Street trees shall be spaced as uniformly as possible, with an average spacing of forty (40) linear feet between trees in all districts, but not less than one (1) tree per lot in residential districts. On a corner lot a minimum of two (2) street trees shall be required. Street trees may count toward the required number of trees within the interior of the lot only in residential districts for single-family and two-family dwellings. Exceptions to the location and spacing of trees may be allowed to accommodate for the location of utilities, street lights, driveways, storm drain structures, sidewalks, and traffic clearance zones. A formal street tree-planting scheme shall not be required if a master landscape plan is approved for a development area.
2. There must be a minimum of six (6) feet of space between the right-of-way or sidewalk and the back of curb for the trees to be planted in this area.
3. Adequate clearance between street trees and other infrastructures shall be coordinated in such a manner to allow for the location of street trees within the right-of-way, wherever practical, and shall promote the longevity of the street trees to avoid premature loss of the trees. The street tree plan shall coordinate the locations of street trees to allow access to utilities with minimal disruption to the street trees and their supporting root systems while avoiding increased service costs to the utilities. Street trees shall observe all sight-distance requirements as determined by the City.
4. Street tree species and typical spacing requirements shall be provided with all preliminary plats and PUD plans.
5. The City Administrator, or designee, shall determine when street trees are planted, which will generally be the first appropriate planting season after the danger of construction related damage is past.
6. The developer shall be responsible for planting street trees at the completion of each phase of development. Prior to beginning the final phase the developer shall submit a bond or another financial guarantee approved by the City that street trees will be planted in all phases yet to be completed.

Tree (Genus Name)	Common Name	Mature Height	Mature Width	Good Fall Color	Drought Tolerant	Tolerates Wet Soil
MAPLE (Acer)	Freeman (Acer x freemanii)	50'-60'	40'-50'	Y	Y	S
	* Cultivars: Jeffersred (Autumn Blaze) * May have shallow root system					
	Red (Acer rubrum)	40'-60'	35'-50'	Y	N	Y
	* Cultivars: Autumn Flame, October Glory, Red Sunset					
	Sugar (Acer saccharum)	40'-60'	30'-50'	Y	S	N
* Caddo (Seedling) * Cultivars: Commemoration, Legacy * All three are resistant to leaf tatter and more heat tolerant						
PEAR (Pyrus)	Callery Ornamental (Pyrus calleryana)	30'-40'	15'-20'	Y	Y	N
	* Cultivars: Aristocrat, Autumn Blaza, Capital, Chanticleer (cv. Cleveland Select), Redspire * The Capital cultivar has only a 7'-8' spread * DO NOT plant Bradford pears as they are susceptible to ice, snow breakage					
ASH (Fraxinus)	White Ash (Fraxinus Americana)	45'-60'+	25'-50'	Y	N	N
	* Cultivars: Autumn Applause, Autumn Purple, Rosehill * Autumn Purple tolerates wetter soils * Young ash trees are prone to wood borers					
	Green Ash (Fraxinus pennsylvanica)	40'-60'	30'-45'	Y	Y	Y
	* Cultivars: Marshall seedless, Cimmaron, Urbanite, Patmore * Young ash trees are prone to wood borers when young					
HACKBERRY (Celtis)	Common Hackberry (Celtis occidentalis)	40'-60'	40'-50'	S	Y	Y
	* Cultivars: Prairie Pride					
	Sugar Hackberry (Celtis laevigata)	40'-60'	40'-50'	S	S	S
* Cultivars: All Seasons						
LINDEN (Tillia)	Littleleaf Linden (Tilia cordata)	35'-45'	25'-40'	S	N	N
	* Cultivars: Greenspire * Greenspire is pyramidal					
	American Linden (Tilia Americana)	50'-60'+	35'-40'	S	N	S
	* Cultivars: Redmond * Redmond is pyramidal					
HONEYLOCUST (Glenditsia triacanthos)	Thornless Honeylocust Gleditsia triacanthos var. inermis)	40'-60'	30'-50'	S	Y	S
	* Cultivars: Shademaster, Skyline, Maraine * Honeylocusts are susceptible to many pests * Avoid 'Sunburst' cultivar					
KENTUCKY COFFEETREE (Gymnocladus dioica)	Kentucky Coffeetree (Gymnocladus dioica)	50'-60'	30'-45'	S	Y	S

Tree (Genus Name)	Common Name	Mature Height	Mature Width	Good Fall Color	Drought Tolerant	Tolerates Wet Soil
OAK (Quercus)	Bur Oak (<i>Quercus macrocarpa</i>)	60'-80'	50'-70'	N	Y	S
	Chinkapin Oak (<i>Quercus muehlenbergii</i>)	35'-40'+	40'-45'	S	Y	N
	Northern Red Oak (<i>Quercus rubra</i>)	60'-75'	40'-60'	Y	N	N
	Sawtooth Oak (<i>Quercus acutissima</i>)	40'-50'	30'-45'	S	Y	S
	Shingle Oak (<i>Quercus imbricaria</i>)	50'-60'	40'-60'	S	Y	S
	Shumard Oak (<i>Quercus shumardii</i>)	60'-80'	40'-60'	Y	Y	S
	Swamp White Oak (<i>Quercus bicolor</i>)	50'-70'+	20'-50'	Y	S	Y
BALD CYPRESS (Taxodium distichum)	Bald Cypress (<i>Taxodium distichum</i>)	50'-70'+	20'-50'	Y	S	Y
	* Trees usually survive drought once established but defoliate as a defense mechanism					
AMERICAN SYCAMORE (Platanus occidentalis)	American Sycamore (<i>Platanus occidentalis</i>)	70'+	60'-70'	S	S	S
	* Prefers deep, moist soil * Known for its striking mottled, peeling bark					
LONDON PLANETREE (Platanus x acerifolia)	London Planetree (<i>Platanus x acerifolia</i>)	60'-80'	50'-65'	N	S	Y
	* Cultivars: Bloodgood (best resistance to anthracnose)					
GINGKO (Ginkgo biloba)	Ginkgo (<i>Ginkgo biloba</i>)	50'-60'+	25'-40'	Y	Y	N
	* Cultivars: (use only male cultivars): Autumn Gold, Princeton Sentry (narrow pyramidal form) * Slow-growing					
ELM (Ulmus)	Lacebark Elm (<i>Ulmus parvifolia</i>)	40'-60'	35'-50'	S	Y	S
	* Cultivars: Athena, Allee * Known for its ornamental bark					
GOLDENRAIN TREE (Koelreuteria paniculata)	Goldenrain Tree (<i>Koelreuteria paniculata</i>)	30'-40'	30'-40'	S	Y	N
MULBERRY (Morus)	White Mulberry (<i>Morus alba</i>)	30'-40'	30'-40'	N	Y	S
	* Use fruitless varieties only					
CHINESE PISTACHE (Pistacia chinensis)	Chinese Pistache (<i>Pistacia chinensis</i>)	30'-35'	30'-40'	Y	Y	N
* Use cold-hardy strains if possible						

STREET TREE TIPS: Choose a tree that is right for your soil and location. A simple soil test will determine the types of plants good for your site. Before planting any tree you should take into account "permanent fixtures" including structures, sidewalks, driveways, walks and easements. Avoid planting tall growing trees

under utility wires. Avoid planting thirsty rooted trees too close to sewer or drainage lines. Avoid planting fruit bearing trees over public ways.

CODES: N – No, S- Somewhat, Y-Yes

Information in the above chart has been prepared by the Bel Aire Tree Board and was compiled from information obtained in the documents titled; “Street Trees for Kansas” by the Kansas State & Extension Forestry, Kansas State University, September 1992; and, “Preferred Tree Species for South Central Kansas” by the Kansas Urban Forestry Council, March 1992; revised; December 1992; April 1999. Complete copies of either document are available at Bel Aire City Hall. Other species may be acceptable upon submission of horticultural criteria supporting the quality of growth in the Bel Aire environment on approval of the City.

B. Prohibited Street Trees: Ailanthus, White and Silver Birch, Box Elder, Catalpa, Cottonwood, Siberian Elm, “Fruit” trees, Silver Maple, Mimosa, Pin Oak, Russian Olive, Poplar, Weeping trees, Willows, Shrubs, all Evergreens.

C. Street Tree Specifications: All street trees shall meet the City’s technical specifications for material quality, minimum size, etc. Trees shall be guaranteed for a period of not less than one (1) year.

D. Street trees on the right-of-way shall be the maintenance responsibility of the adjoining property owner.

Related Information: Guidelines for Street Plantings

24.06 Residential Perimeter Landscaping

A. In residential districts, large deciduous shade or evergreen trees shall be required within the interior of each lot at a ratio of three (3) trees for every single-family dwelling, four (4) trees for every two-family dwelling and one (1) tree for every dwelling unit for multifamily buildings. For single-family and two-family dwellings, at least one (1) required interior lot tree may be a street tree in compliance with Section 24.06 above. Multifamily developments are required to have street trees in addition to the required interior lot trees. Perimeter and buffer landscaping trees shall not count toward the required number of trees within the interior of any lots.

B. When perimeter landscape buffers are required in accordance with adopted buffer design guidelines for a residential use where adjacent to a non-residential use, the landscape planting requirements shall be determined on a case-by-case basis. Such landscaping shall provide a solid visual screen.

Related Information: Guidelines for Buffers Between Conventional Residential and Nonresidential Uses; Guidelines for Street Plantings

24.07 Non-residential Perimeter Landscaping

A. Within the front and corner side yards where a street right-of-way separates a non-residential use from property zoned or designated on the Comprehensive Plan Map for residential use, a continuous fifteen (15) foot landscape area shall be provided with landscaping, clustered or spaced linearly and need not be placed evenly, at a rate of one (1) deciduous shade or coniferous/evergreen tree for every thirty (30) feet of linear street frontage, and screening (berms/shrubs) across one hundred (100) percent of the street frontage to a minimum height of three (3) feet as measured from the grade of the parking lot or adjacent street curb, whichever is of the higher elevation. In addition, one (1) ornamental tree shall be planted for every three (3) required deciduous shade or evergreen trees.

B. Where a street right-of-way separates a non-residential use from property zoned or designated on the Comprehensive Plan Map for non-residential use, a continuous fifteen (15) foot landscape area shall be provided with landscaping at a rate of one (1) deciduous shade or coniferous/evergreen tree for every fifty (50) feet of linear street frontage, and screening (berms/shrubs) across one hundred (100) percent of all

parking and vehicular areas to a minimum height of three (3) feet as measured from the grade of the parking and vehicular use areas. In addition, one (1) ornamental tree shall be planted for every three (3) required deciduous shade or evergreen trees.

C. Within the rear and interior side yards of properties zoned commercial, a wall landscaping/berming or a fence which incorporates a landscaping treatment shall be provided at a minimum height of eight (8) feet along that portion abutting property zoned or designated on the Comprehensive Plan Map for residential use. Such screening shall be installed within a continuous twenty (20) foot landscape area. In addition, trees shall be provided at a rate of one (1) deciduous shade or coniferous/evergreen tree for every thirty (30) feet of linear property along those property lines. Also, one (1) ornamental tree shall be planted for every three (3) required deciduous shade or evergreen trees.

D. Within the rear and interior side yards of properties zoned commercial through industrial, inclusive, a landscaping/berming or a berming/masonry wall combination which incorporates a landscape treatment shall be provided at a minimum height of eight (8) to eleven (11) feet along that portion abutting property zoned or designated on the Comprehensive Plan Map for residential use. In addition, trees shall be provided at a rate in accordance with adopted buffer design guidelines. The minimum rate shall be one (1) shade or coniferous/evergreen tree for every thirty (30) feet of linear property along the property line and one (1) ornamental tree for each three (3) required shade or evergreen trees. Such screening and landscaping shall be installed within a minimum continuous twenty (20) to thirty (30) foot wide landscape area. Such landscape areas, landscape plantings and screening walls/berms may be required to be increased in accordance with adopted buffer design guidelines, or by action of the City Administrator or governing body. Such requirements may also be modified based on the amount of buffering provided by adjacent residential properties.

E. Where abutting property is zoned or designated on the Comprehensive Plan Map for non-residential use, a continuous ten (10) foot landscape area shall be provided with landscaping at a rate of one (1) deciduous shade or coniferous/evergreen tree for every twenty-five (25) feet of linear property, and screening (berms/shrubs) across fifty (50) percent of all parking and vehicular use areas to a minimum height of three (3) feet as measured from the grade of the parking and vehicular use areas. In addition, one (1) ornamental tree shall be planted for every three (3) required deciduous shade or evergreen trees.

F. The required perimeter landscape area shall be located outside of the fenced area of the development between the fence and the street, unless this requirement is otherwise modified by the City with site development plan approval.

Related Information: Guidelines for Buffers Between Conventional Residential and Nonresidential Uses; Guidelines for Street Plantings; Guidelines for Internal Parking Lot Landscaping

24.08 Design Planting and Criteria

Minimum planting requirements shall be as follows:

A. A variety of different species (including both deciduous and coniferous/evergreen species) shall be incorporated into the site design to provide visual interest, as well as disease and pest resistance. A minimum of one-third of the plantings shall be evergreen/coniferous species.

B. Deciduous shade trees – two and one-half (2 ½) to three (3) inch caliper as measured twelve (12) inches above ground.

C. Coniferous/evergreen trees – six (6) to eight (8) feet in height.

D. Ornamental trees – one (1) to one and one-half (1 ½) inch caliper as measured twelve (12) inches above ground. Multi-trunk clusters (three (3) or more trunks) the smallest trunk shall be three-quarter (3/4) inch.

- E. Deciduous and Coniferous/Evergreen Shrubs – Three (3) to five (5) gallon container depending upon species and spacing. Spacing from three (3) to five (5) feet apart depending upon species.
- F. Plant materials shall be placed intermittently against long expanses of building walls, fences and other barriers to create a softening effect.
- G. Ground cover plants shall be planted in a number as appropriate by species to provide fifty (50) percent surface coverage.
- H. Seeding or sodding shall be provided for total coverage within the first growing season.
- I. Sod shall be used where necessary to provide coverage and soil stabilization.
- J. Landscaping and planting areas shall be reasonable dispensed throughout the parking lot.
- K. Detention/retention basins and ponds shall be landscaped with seed/sod and maintained in accordance with City codes. Landscaping should include shade and ornamental trees, evergreens, shrubbery, hedges and/or other live planting materials.
- L. Indigenous and drought resistant plant materials should be used wherever possible. If such plant materials are not used, then an irrigation system shall be installed to provide water during a three (3) year establishment period.
- M. Earthen berms and existing topography should, whenever practical, be incorporated into the landscape treatment of a site.
- N. Required landscape plantings shall be coordinated with the location of utilities, driveways and traffic clearance zones.

Related Information: Guidelines for Buffers Between Conventional Residential and Nonresidential Uses; Guidelines for Street Plantings; Guidelines for Internal Parking Lot Landscaping

24.09 Interior Landscaping Requirements Within Parking and Vehicular Use Areas

Except for those developments as listed herein, all residential and non-residential developments shall include the following interior landscaping standards within their parking and vehicular use areas:

- A. Landscaping and planting areas shall be reasonable dispersed throughout the parking lot.
- B. The interior dimensions of any planting area or landscape island shall be a minimum of one hundred sixty-five (165) square feet in area. Landscape islands shall be a minimum of nine (9) feet in width, as measured from back of curb to back of curb, and shall be constructed at a ratio of one (1) per each twenty (20) parking spaces. Each area shall be protected by vertical curbs or similar structures, and be designed and grouped into a parking and vehicular use area to create defined aisles and entrances for on-site traffic circulation.
- C. A minimum of one (1) shade tree shall be provided for every parking and vehicular use landscape island.
- D. Landscape strips between parallel parking rows shall be a minimum of ten (10) feet in width. When incorporating pedestrian walkways, such strips shall be a minimum of twenty (20) feet in width to accommodate vehicular overhangs, walk, lights, posts and other appurtenances. Landscape aisles and strips shall include medium to large deciduous trees at a minimum of one (1) tree every thirty (30) linear feet, in addition to other parking lot landscape requirements.
- E. Primary landscape materials shall be trees which provide shade or are capable of providing shade at maturity. Ornamental trees, evergreen trees, shrubbery, hedges and other planting materials may be

used to compliment the landscaping, but shall not be the sole means of landscaping. Effective use of earth berms and existing topography is also encouraged as a component of the landscaping plan.

F. No tree, shrub, hedge or berm shall be placed which the City determines is an obstruction to visibility, or extends into a sight-distance-triangle as set forth herein.

Related Information: Guidelines for Internal Parking Lot Landscaping

24.10 Building Facade/Foundation Landscaping Requirements

Except for those developments as listed in Section 24.03, nonresidential developments shall include the following building facade and foundation landscaping standards, unless modifications to these standards are otherwise approved by the City as part of site development plan approval:

A. Landscaping and planting areas shall be placed to provide a buffer between the parking lot or drives and building walls or pedestrian circulation. Landscape areas may be placed adjacent to the building wall or adjacent to the curb to coordinate with building overhangs and canopies, if any. A variety of shrubs, ornamental trees and/or shade trees are encouraged. Any trees used should accommodate pedestrian circulation.

B. Along any building facade or foundation that fronts upon a public right-of-way or a parking lot provided for the building, landscape areas shall be provided equivalent to a minimum of twenty-five (25) percent of each building facade or foundation. The landscape area may be a continuous area or comprised of several areas. Building facades along service areas are excluded, unless the service area fronts upon a public right-of-way or common access drive.

C. Each landscape area shall be planted with shrubs capable of reaching three (3) feet in height above the adjacent parking area or drive, covering a minimum of seventy-five (75) percent of the length of the landscape area. A mixture of evergreen and deciduous shrubs shall be used to maintain seasonal interest. Ornamental trees (where appropriate), or shade trees should be included in the landscape design to further buffer the building facade from the drives and parking lot areas. In areas where pedestrian circulation is anticipated, trees with a branching habit conducive to walking under shall be used. For example, Pin Oaks are not acceptable due to their descending branching habit. Appropriate plant species should be installed so that mature tree limbs can be maintained at a minimum eight (8) foot clearance from ground level and so that shrubs do not exceed two and one-half (2½) feet in height for areas where it is important to maintain visibility for security and safety purposes.

D. Planting areas shall have a minimum width of either six (6) feet or the equivalent of twenty (20) percent of the building facade height as measured from the ground elevation to the top of the wall or parapet, whichever is greater.

E. Building façade and foundation landscape areas shall be irrigated. Bubbler irrigation systems are encouraged in order to reduce water consumption and overspray onto pedestrian areas.

F. Landscape areas may be placed adjacent to the building wall or adjacent to the curb, with walkways, overhangs or canopies between the landscape area and building wall. Landscape areas shall generally not be placed under overhangs and canopies.

G. Berms may be incorporated in the landscape areas if positive drainage from the building is provided.

24.11 Time Landscaping Required

All required landscaping materials shall be in place prior to the time of issuance of a final Certificate of Occupancy. In periods of adverse weather conditions or construction, a temporary Certificate of Occupancy may be issued, subject to the posting of a cash escrow or irrevocable letter of credit in an amount equal to one and one-half (1 ½) times the estimated cost of the landscaping, with said estimated cost to be certified by a landscaping provider. A contract letter or bill of sale from a landscape company or garden center for

the required landscape materials would be accepted in lieu of credit escrow or irrevocable letter of credit. The cash escrow or irrevocable letter of credit may be forfeited if the landscaping is not completed within the next growing season after the issuance of the temporary Certificate of Occupancy. Forfeiture of any cash escrow or irrevocable letter of credit shall not relieve the owner of the responsibility to complete the required landscaping.

24.12 Selection, Installation and Maintenance

A. Landscape design and species shall be used to create visual continuity throughout the development. Landscape coordination shall occur among all phases of the development area. Trees, shrubs and other landscaping materials depicted on the approved development plans shall be considered to be characteristics of use (site improvements) in the same manner as parking, building materials and other details. The developer, its successor and/or subsequent owners and their agents, shall be responsible for maintenance of landscaping on the property on a continuing basis for the life of the development. Plant materials which exhibit evidence of insect pests, disease and/or damage shall be appropriately treated, and dead plants promptly removed and replaced within the next planting season after installation. All landscaping will be subject to periodic inspection by the City's code enforcement and planning departments. Should landscaping not be installed, maintained and replaced as needed to comply with the approved plan, the owner and its agent or agents shall be considered in violation of the terms of the Certificate of Occupancy.

B. All landscape materials shall be installed in accordance with the current planting procedures established by the most recent addition of The American Standard of Nursery Stock, as published by the American Association of Nurserymen.

C. Selection of planting materials shall correspond with the preferred trees and shrubs specie list as outlined herein. Substitutions shall be approved by the City, in accordance with species normally grown in south eastern Kansas.

24.13 Screening Requirements

Landscaping plans for all multi-family residential, commercial, industrial and non-residential developments shall include a detailed drawing of enclosure and screening methods as provided hereinafter.

A. Unattractive elements such as trash, service and loading areas are to be located out of public view from streets, adjacent residential properties, and other highly visible areas such as parking lots, access drives, etc.

B. Refuse enclosures shall be screened from public view on all sides with a six (6) to eight (8) foot screen of either masonry and/or landscaping treatment or other compatible building material compatible with the building architecture or landscaping materials.

C. Exterior ground-mounted or building-mounted equipment including, but not limited to, mechanical equipment, utilities' meter banks and coolers shall be screened from public view with landscaping or with an architectural treatment compatible with the building architecture.

D. All rooftop equipment shall be screened from public view with an architectural treatment which is compatible with the building architecture and integral to the overall appearance of the building. The methods of screening of rooftop equipment include, but are not limited to, encasement or partition screens. Equipment screens shall be required at a height that is as high or higher than the equipment being screened. After submittal of justification and careful analysis (i.e., site line visibility study), the City may grant exceptions to the screening requirements of one of the following exception criteria is valid:

1. A building is located at a high elevation in relation to surrounding properties and it is demonstrated that rooftop equipment will not be visible.

2. A building is located in the middle of an industrial park and rooftop equipment is not visible from arterial roadways, residential properties, nor will it have a negative impact upon any sensitive areas or scenic view or vistas.

3. A building is sited in a manner where the location and setback of rooftop equipment from the building edge in relation to the elevation and visibility of surrounding properties is such that the equipment will not be visible from any distance and additional screening measures are not required.

E. All buildings or additions in nonresidential districts shall provide an opaque screening fence or wall not less than eight (8) feet in height within all rear and side yards abutting property zoned for residential purposes. Such screening shall be placed so the required perimeter landscape area is located between the property line and the fence or wall. Such screening shall not be placed on property lines or within the landscape area of the development and shall not extend in front of the building line of adjacent dwellings. Such screening shall not be required where similar screening exists on the abutting residential property or where a screened storage lot is provided.

F. In industrial and commercial districts, storage of materials, products or equipment outside of a fully-enclosed building shall be one hundred (100) percent screened from public view.

G. Outdoor display confinement areas shall be enclosed with materials compatible to the building architecture such as decorative fencing (i.e., wrought iron), a building wall or other similar enclosure. Limited visibility into the display confinement area may be permitted depending upon the location of the area and the visibility of the area from nearby roadways. The display merchandise may not extend above or be stacked higher than the confinement area enclosure.

H. For purposes of this section, the phrase "screened from public view" means not visible from the subject property from adjoining properties or any "street right-of-way at any distance.

Related Information: Guidelines for Buffers Between Conventional Residential and Nonresidential Uses; Guidelines for Internal Parking Lot Landscape

24.14 Tree Preservation

A. Tree Preservation: Site plans and plats shall be designed to preserve existing trees and vegetation to the greatest extent possible and shall seek to incorporate existing stands of trees as well as individual trees. Sensitivity to site grading, storm drainage, building location and orientation and parking lot configuration shall be demonstrated by the developer to ensure tree and vegetation preservation. The intent of these regulations is to recognize the need to alter the landscape during site development activities, while setting out standards necessary to ensure tree preservation to the greatest extent possible.

B. Tree Survey: The City may require applicants to submit a tree survey indicating the size and common name of trees within the application area. Unless otherwise specified, the survey shall identify by common name and indicate by caliper size each tree twelve (12) inches or greater, as measured four and one-half (4½) feet above the ground. The tree survey shall be prepared on a topographic survey of the site to establish the tree elevation at the trunk and the drip line for individual trees and at the edge of the drip line for wooded areas. The City may grant an exception for trees or wooded areas that will not be removed or will not be adversely affected by site development operations.

C. Tree Preserved – Plat or Plan Review Determination: The developer shall prepare and present a tree preservation concept plan and statement at the time he/she attends a pre-application conference with the City or submit this information with application for a plat or plan review. The concept plan shall clearly indicate the general location and massing of wooded areas, areas with dense shrubbery, and isolated individual mature trees and designate which areas or trees are to be preserved and which are to be removed. The City shall have the authority to review and evaluate the above and advise the applicant to proceed forward or seek alternative site design to improve preservation of existing trees.

D. Location of Improvements: When determining the location of improvements within a subdivision, and the location of structures on lots, the developer should make every reasonable effort to save existing

vegetation including healthy mature trees having a minimum caliper size of four (4) inches or greater, as measured four and one-half (4 ½) feet above ground level, and all shrubbery as deemed appropriate by the City.

E. Protection of Existing Trees:

1. Existing trees and their root zones that are to be saved shall be protected from all construction activities, including earthwork operations, movement and storage of equipment and vehicles and placement of construction materials and debris. Erosion protection measures may be required to prevent siltation of the tree preservation areas during construction. Protection zones may be established by the City to ensure trees and their root zones are adequately protected and are not damaged during site development operations.

2. Every effort shall be made to locate utility easements away from tree preservation areas. However, utility easements may be located adjacent to tree preservation areas as long as adequate clearance and protection is provided for the tree preservation area during the installation of the utilities adjacent to the tree preservation easement. When utilities or infrastructure systems must cross tree preservation areas, every effort shall be made to minimize tree removal in such areas. If the removal of trees within these areas is determined to be excessive, the City Planner may require the developer to replace such trees.

3. To ensure protection of tree preservation areas, protection zones shall be delineated on the site development plans. During the construction process, such protection zones shall be identified on the property using standard orange barricade fencing or comparable fencing material approved by the City. Such fencing shall be four (4) feet in height and supported by metal channel posts spaced at a minimum of ten (10) feet on center. Such fencing shall be placed around all trees or wooded areas to be protected and shall remain erect and secure throughout all construction phases.

F. Tree Removal: Requires permit and plan.

Exceptions: A credit may be granted for all existing hardwood and evergreen trees indicated to be preserved. Trees that measure from two and one-half (2½) to eight (8) inches in caliper, as measured four and one-half (4½) feet above ground level, may be credited on a one- (1) for-one (1) basis. Trees that measure greater than eight (8) inches in caliper may be credited on a two- (2) for-one (1) basis. Credited trees may only be located in that portion of the development project where new tree plantings would otherwise be required. Tree credits shall not be granted if one of the following conditions exists:

1. Trees posing imminent danger to the public health, welfare or safety of the residents of the City of Bel Aire. In such instances, verbal authorization to remove such trees may be given by the City.

2. Trees that are diseased, injured, in danger of falling, or too close to existing or proposed structures.

3. Trees interfering with existing utility service, or creating unsafe vision clearance.

G. Penalty: Any tree or trees removed from within an approved tree preservation area shall be replaced with similar species or other hardwood species. Replacement trees shall meet the minimum requirements for trees as defined in Section 24.08 Design Planting and Criteria at the rate of one (1) inch caliper of replacement tree for every one (1) inch caliper of tree removed. In the event the required number of replacement trees is not practical to be planted within the portion of the tree preservation area, other locations within the development shall be determined by the City. If no other locations are determined viable, a cash escrow shall be paid equivalent to one and one-half (1½) times the monetary value of the tree or topsoil removed or destroyed up to a maximum of ten thousand (\$10,000) dollars per occurrence. Monetary value is to be determined by referring to current tables and formulas produced by the Council of Tree and Landscape Appraisers. The developer or owner shall incur the cost for the appraisal to be

completed by a certified arborist using the International Society of Arboriculture Manual of Plant Appraisal. The amount shall be reviewed by the City Arborist and approved by the City. The Tree Preservation Escrow Account shall be used to install new trees on City-owned and publicly accessible property or rights-of-way.

H. Removal of Trees Within Existing Tree Preservation Areas: Property owners may not remove trees meeting the minimum requirements for tree preservation without written approval from the City. Property owners removing trees without written approval may be subject to penalty as defined in Section G above.



Street Trees for Kansas

Proper selection of trees to plant along streetsides and in paved areas is basic to a successful tree program in your community. There is no "ideal" or "perfect" tree. However, after carefully reviewing landscape needs, planting site requirements, exposure, soil, and characteristics of various trees, you will discover a number of tree varieties or cultivars that will serve well. The objective should be to select trees that will perform well and satisfy the landscape needs with a minimum of problems.

Be sure to consider the following in making your tree selections:

- the landscape purposes the tree is to serve
- the above-ground space available for canopy growth
- the below-ground space available for root growth
- presence of overhead utilities
- soil characteristics, fertility, pH and drainage
- site exposure
- pollution characteristics
- tree form or shape
- ultimate tree size
- color-flowers, foliage, bark
- texture compatibility with surrounding plants
- rooting characteristics
- timing for transplanting success
- resistance to diseases and insects
- natural canopy character, high or low
- growth rate and life expectancy

The trees recommended in this publication have proven themselves through research and observation. They are among the best, in the author's opinion, for planting in Kansas cities and towns. The listing is not intended to be all-inclusive. New varieties and cultivars are being introduced annually. Many of these will prove to be well adapted to Kansas

conditions. Additional species, as well, may be added to the listing in the future.

If you desire assistance in tree selection or placement, contact your County Extension Office, your District Forester, or State and Extension Forestry, 2610 Claflin Rd., Manhattan, Kansas 66502-2798. Telephone: (913) 537-7050.



Suggested Tree List for Kansas Streetside and Paved Area Plantings

SMALL: Less than 30 feet tall

Species	Adaptability	Growth rate	Mature form, texture	Size	Iron chlorosis tolerance	Exposure or site	Use below overhead lines?	Remarks
Crabapple, Flowering' (white flowers)								
'Zumi'	All	Medium	Medium texture, vase-shaped, high	15-18 ft. ht. 12 foot spread	Good	Full sun, good soil and drainage.	Yes	Use in curbside plantings, in paved areas and under overhead lines. Very disease resistant. Persistent showy fruit. Excellent cultivar.
'Snowdrift'	All	Medium	Medium texture, broad-oval to round form, prune up for clearance	20 ft. ht. 15-18 foot spread	Good	Full sun, good soil and drainage.	Yes	As above; very small fruit-a favorite of birds.
'Spring Snow'	All	Medium	Medium texture, upright-oval form, prune up for clearance	20-25 ft. ht. 10-12 foot spread	Good	Full sun, good soil and drainage.	Yes	An excellent fruitless cultivar.
'Red Jewell'	All	Medium	Medium texture, vase-shape to round, high canopy	15 ft. ht. 10-12 foot spread	Good	Full sun, good soil and drainage.	Yes	Same as 'Zumi' -a clean tree, persistent fruit.
'Donald Wyman'	All	Medium	Medium texture, upright-oval form, formal and compact	15 ft. ht. 8-10 foot spread	Good	Full sun, good soil and drainage.	Yes	Very "controlled" form-persistent red fruit.
Crabapple, Flowering' (Red-pink flowers)								
'Royal Ruby'	All	Medium	Narrow-upright prune up for clearance	15 ft. ht. 8 foot spread	Good	Full sun, good soil and drainage.	Yes	Nearly fruitless-excellent cultivar for streetside use.
'Red Baron'	All	Medium	Narrow-upright, prune up for clearance	15 ft. ht. 8 foot spread	Good	Full sun, good soil and drainage.	Yes	Very persistent fruit.
'Centurian'	All	Medium	Narrow-upright, prune up for clearance	15 ft. ht. 8 foot spread	Good	Full sun, good soil and drainage.	Yes	Very persistent fruit.
Hawthorn, Cockspur var. Inermis	All	Slow-Medium	Medium texture, oval spreading, prune up for clearance	20-25 ft. ht. 10-12 foot spread	Good	Full sun, good drainage.	Yes	Thornless variety, very hardy. Should be used more-streetside and paved areas.

Hawthorne, 'Lavalle'	All	Slow-Medium	Medium texture, upright-oval, horizontal branching, prune up for clearance	20 ft. ht. 10-12 foot spread	Good	Full sun, good drainage.	Yes	Use thornless cultivar same as above.
Redbud, Eastern	All	Slow	Coarse texture, broad-oval spreading form, prune up for clearance	20-25 ft. ht. 15-25 foot spread	Good	Full sun to partial shade. Well-drained soil.	Yes	Required a lot of horizontal space. Leaf rollers may be a problem.
Japanese Tree, Lilac	NE, SE, SC	Slow-Medium	Coarse texture, oval to round, prune up for clearance	20-25 ft. ht. 15-20 foot spread	Unknown	Full sun.	Yes	Good streetside tree with "lilac" flowers-should be used more. Borers, powdery mildew may be problems.
Pear, 'Korean'	All	Slow-Medium	Medium texture, broadly pyramidal, smaller than 'Bradford'	20-25 ft. ht. 16-20 foot spread	Fair	Full sun, exposed.	Yes	A good "small" flowering pear.

'Note: These are some of the best flowering crabapples available for streetside and paved area plantings. They are very disease-resistant with superior flowering characteristics and "controlled" forms that fit well in limited spaces. These trees are excellent for use under insulated electric conductors and other overhead lines. These cultivars are clean enough to use freely in urban settings.

MEDIUM: 30 to 70 feet tall

Species	Adaptability	Growth rate	Mature form, texture	Size	Iron chlorosis tolerance	Exposure or site	Use below overhead lines?	Remarks
Goldenrain	All	Slow-Medium	Fine-Medium texture broad-oval to irregular high canopy	30-45 ft. ht. 20 foot spread	Good	Full sun, tolerates dry site.	Yes, with pruning	Interesting tree year-round-blooms in summer, good fall color.
Pear, 'Aristocrat'	All	Medium	Medium-coarse texture, upright oval to pyramidal, prune for clearance	30-40 ft. ht. 20 foot spread	Fair	Full sun, exposed.	Yes, with pruning.	More spreading form and more open than 'Bradford.'
Pear, 'Chanticleer'	All	Medium	Medium-coarse texture, pyramidal, prune for clearance	30-35 ft. ht. 15-20 foot spread	Fair	Full sun, exposed.	Yes, with pruning	Similar to 'Bradford.'
Pear, 'Select'	All	Medium	Medium-coarse texture, pyramidal, formal, prune for clearance	30-35 ft. ht. 16-20 foot spread	Fair	Full sun.	Yes, with pruning	A stately, formal ornamental pear-very dense.
Pear 'Capital'	All	Medium	Medium-coarse texture, very upright and narrow	25 ft. ht. 7-8 foot spread	Fair	Full sun.	Yes, with pruning	A fastigate form for sites with space restrictions.
Ash, 'Autumn Purple'	NE, SE, NC, SC	Medium	Medium texture, upright oval to rounded, high canopy	50 ft. ht. 30 foot spread	Good	Exposed-likes moist sites with well-drained deep soil but tolerates wet soils.	No	Beautiful "beech-like" fall color, excellent urban tree. A seedless white ash cultivar.

Ash, Rose Hill	NE, SE, NC, SC	Medium	Medium texture, upright oval to rounded, high canopy	50 ft. ht. 30 foot spread	Good	Exposed-likes moist sites with well-drained deep soil but tolerates wet soils.	No	Similar to 'Autumn Purple'
Ash, 'Marshalls Seedless'	All	Medium	Medium texture, broad upright oval to round	50 ft. ht. 40 foot spread	Good	Exposed-likes moist sites with well-drained deep soil but tolerates wet soils.	No	A good green ash cultivar. Borers a problem when trees are stressed.
Hackberry	All	Medium	Medium texture, round to vase shape	60 ft. ht. 50 foot spread	Good	Exposed-tolerant of a variety of soil conditions.	No	A good tree in cities where it grows well-similar to American Elm in form and size. Nipple gall may be a problem.
Maple, Norway	NE, SE, NC, SC	Medium	Coarse texture, round to broad-oval, high canopy	60 ft. ht. 50 foot spread	Fair	Prefers moist, deep soil, some protection from hot winds.	No	Somewhat shallow rooting, otherwise excellent urban tree.
Maple, Norway 'Crimson Sentry'	NE, SE, NC, SC	Medium	Coarse texture, upright oval and narrow, prune for clearance	35 ft. ht. 10-12 foot spread	Fair	Prefers moist, deep soil, some protection from hot winds.	No	Good maple for restricted spaces.
Maple, Norway 'Cleveland'	NE, SE, NC, SC	Medium	Coarse texture, upright oval and narrow, form, prune for clearance	50 ft. ht. 20 foot spread	Fair	Prefers moist, deep soil, some protection from hot winds.	No	Good maple for restricted spaces.
Maple, Norway 'Columnare'	NE, SE, NC, SC	Medium	Coarse texture, upright oval narrow form, prune for clearance	40 ft. ht. 15-18 foot spread	Fair	Prefers moist, deep soil, some protection from hot winds.	No	Good maple for restricted spaces.
Maple, Sugar	NE, SE, NC, SC	Slow-Medium	Coarse texture, rounded, high canopy	40 ft. ht. 40 foot spread	Fair to poor	Moist, well-drained sites preferred.	No	Excellent orange-yellow fall color. Leaf scorch, sun scald may be problems.
Maple, Sugar 'Green Mountain'	NE, SE, NC, SC	Slow-Medium	Coarse texture, upright oval form, high canopy	40 ft. ht. 20 foot spread	Fair to poor	Will tolerate drier sites than the species.	No	Heat tolerant, resistant to leaf scorch, yellow fall color.
Maple, Red 'Red Sunset'	NE, SE, NC, SC	Medium	Medium texture, upright oval form, high canopy	50 ft. ht. 25 foot spread	Poor	Tolerant of a wide variety of soils-prefers moist lowlands.	No	Similar to silver maple but stronger wooded, better fall color.
Maple, Red 'October Glory'	NE, SE, NC, SC	Medium	Medium texture, upright oval form, high canopy	50 ft. ht. 25 foot spread	Poor	Tolerant of a wide variety of soils-prefers moist lowlands.	No	Similar to silver maple but stronger wooded, better fall color.
Linden, 'Little Leaf'	All	Medium	Medium to coarse texture, pyramidal to upright oval form	50 ft. ht. 25 foot spread	Fair	Exposed-moist, well-drained, fertile soil.	No	Pollution-tolerant, excellent for paved areas, streetside and malls.

MEDIUM: 30 to 70 feet tall, continued

Species	Adaptability	Growth rate	Mature form, texture	Size	Iron chlorosis tolerance	Exposure or site	Use below overhead lines?	Remarks
Linden, 'Chancellor'	All	Medium	Medium texture, fastigiate to pyramidal form, prune for clearance	30-40 ft. ht. 15-20 foot spread	Fair	Exposed-moist, well-drained, fertile soil preferred.	No	Pollution-tolerant, excellent for paved areas, streetside and malls. Does well in difficult sites if soil is good.
Linden, 'Greenspire'	All	Medium	Medium texture, fastigiate to pyramidal form, prune for clearance	30-40 ft. ht. 15-20 foot spread	Fair	Exposed-moist, well-drained, fertile soil preferred	No	Pollution-tolerant, excellent for paved areas, streetside and malls. Does well in difficult sites if soil is good.
Oak, English	NE, SE, NC, SC	Slow-Medium	Medium texture, oval to vase shape, high canopy	40 ft. ht. 25-30 foot spread	Good	Exposed-good, well-drained soil.	No	A good oak-adds variety. Mildew may be a problem.
Oak, English 'Fastigiata'	NE, SE, NC, SC	Slow-Medium	Medium texture, very columnar, fastigiate form, low canopy	40-50 ft. ht. 10-15 foot spread	Good	Exposed-good well-drained soil.	No	Use in restricted spaces or for accent. Mildew may be a problem.
Oak, Northern Red	NE, SE, NC, SC	Medium	Coarse texture, oval to rounded form, high canopy	50-60 ft. ht. 40-50 foot spread	Good	Exposed-good well-drained soil.	No	Excellent oak-better than Pin Oak for most of Kansas. Can become a large tree on ideal sites.
Oak, Bur	All	Medium on good sites	Coarse texture, rounded to vase shape, high canopy	50-70 ft. ht. 50-60 foot spread	Good	Tolerant of a wide variety of sites and soils.	No	The best oak for western Kansas. Very long-lived-should be used more throughout the state.
Honeylocust, 'Shademaster,' 'Maraine,' 'Skyline'	All	Rapid	Fine texture, rounded to vase, shape, high canopy	50-60 ft. ht. 40-50 foot spread	Good	Very tolerant but performs best where adequate moisture is available.	Yes, with pruning	Somewhat plagued by insect and disease problems (pod gall, mimosa webworm, cankers) yet on good sites is still a good tree. Avoid 'Sunburst' locust.
Kentucky Coffee Tree	All	Medium	Fine texture, summer; coarse, winter. Irregular, vase shape, high canopy	50-60 ft. ht. 40 foot spread	Good	Tolerant but prefers deep, rich, moist soil.	No	Has a poor juvenile form but soon outgrows it. Should be used more-a pest-free tree.

Sweetgum, Americum	NE, SE	Medium	Medium texture, pyramidal to rounded form, high canopy	50-60 ft. ht. 40 foot spread	Fair
Baldcypress	NE, SE, NC, SC	Medium	Fine texture, pyramidal form, prune for clearance	40-50 ft. ht. 25 foot spread	Fair

LARGE: 70 feet tall or more

Species	Adaptability	Growth rate	Mature form, texture	Size	Iron chlorosis tolerance	Exposure or site	Use below overhead lines?	Remarks
Sycamore, American	NE, SE, NC, SC	Rapid	Coarse texture, broad oval to round form, high canopy	70-100+ ft. ht. 60-70 foot spread	Fair	Prefers deep, fertile soil.	No	Use only where there is adequate space for this very large tree. Athrac- nose may be a problem.
London Planetree	NE, SE, NC, SC	Rapid	Coarse texture, broad oval to round form, high canopy	60-80 ft. ht. 60-70 foot spread	Fair	Prefers deep, fertile soil.	No	Use only where there is adequate space for this very large tree.
Cottonwood, Eastern	All	Rapid	Medium texture, broad-oval to vase shape, high canopy	70-100+ ft. ht. 70-90 foot spread	Good	Prefers deep, moist soil.	No	Do not plant 'Siouxland'-use only male native trees. Borers, canker may be problems.

James J. Nighswonger
Urban and Community Forestry
Program Leader



Printed on recycled paper.



**KANSAS
STATE
UNIVERSITY**

COOPERATIVE EXTENSION SERVICE, MANHATTAN, KANSAS

L-803 Revised

September 1992

Issued in furtherance of Cooperative Extension Work, acts of May 8 and June 30, 1914, as amended. Kansas State University, County Extension Councils, and United States Department of Agriculture Cooperating, Richard D. Wootton, Associate Director. All educational programs and materials available without discrimination on the basis of race, color, national origin, sex, age, or handicap. JH9-92-5M

File Code: Forestry 1-2

Growing trees successfully depends on the selection of the right trees for the intended site. It is important to match the growing conditions and space available on the site with the needs and projected size of each tree to be planted. Check local regulations for tree selections and planting locations in public areas. The following four charts show the tolerances of individual trees to various environmental conditions as well as the major landscape attributes of each tree. Not all recommended trees for planting in south central Kansas are included. The trees listed here are those species preferred for planting in the south central part of the state by the South Central Kansas Urban Forestry Council. For more details on how to benefit from the charts, see the key at the top of the next page.

KEY TO USING THIS INFORMATION

TREES SPECIES: Names of the tree species are listed in the center of four different charts. Three list deciduous trees according to average mature height [a plus (+) indicates they may grow slightly larger]. The fourth chart lists evergreen trees. Improvements of the species in varieties (var.), cultivars (cultivated varieties) (cv.) and trade names (TN) are listed when available. They often possess improved plant characteristics like better fall color; a unique form, more attractive flowers, fruit or bark; greater heat tolerance; or increased pest resistance.

ENVIRONMENTAL TOLERANCES: The left side of each chart indicates whether the tree species is tolerant to various environmental conditions including full sun, light shade, alkaline soil, drought and wet soil. Each chart also shows how resistant each tree is to insect and disease pests. Two asterisks (**) listed under the appropriate column indicate the tree is strongly tolerant of the characteristic indicated. One asterisk (*) signifies that the tree shows some tolerance. A blank space () in a column indicates the tree is not tolerant; do not plant, or plant only if the tree's limitations are carefully managed. Specific information on the 'alkaline soil' and 'pests' categories follows:

ALKALINE SOIL:(**) = tree may tolerate soils with a pH up to 8.0 or more; (*) = tree generally will tolerate an alkaline soil up to a pH of 7.5; () = tree may not tolerate alkaline soils; do not plant in alkaline soils to avoid the problem of iron or manganese chlorosis.

PESTS: (**) = tree is usually free of insect and disease problems; (*) = tree encounters insect or disease pests on an infrequent basis and often is not permanently damaged; () = the tree may exhibit minor insect and disease problems on a frequent basis which may affect the aesthetics of the tree AND/OR the tree may suffer from pests which may permanently damage or kill the tree OR insects may commonly be a nuisance. No tree is 100 percent immune to all pests. Trees in this category are still preferred species for planting.

LANDSCAPE ATTRIBUTES: The right side of each chart includes the average mature height and spread of each tree. The size is sometimes highly variable due to the size and shape of different cultivars planted and different growing sites. The landscape attributes of flowers, fruit, autumn color and ornamental bark are also listed.

DESIRABLE FLOWERS: (**) = the flowers are showy, adding definite ornamental interest to the landscape; (*) = the flowers are not particularly showy, but may possess other desirable characteristics such as fragrance; () = the flowers are generally considered insignificant.

SHOWY OR USEFUL FRUIT: (**) = fruits are generally aesthetically pleasing; (*) = fruits or nuts are not considered unusually showy, but may provide other interest or benefits such as attracting wildlife.

AUTUMN FOLIAGE COLOR: (**) = the autumn leaf color is usually quite good (may vary with individual trees and cultivars, however); (*) = the fall color may provide some interest in some seasons; () = autumn foliage color is generally not an asset of this particular tree.

ORNAMENTAL BARK: (**) = the bark or twigs are considered to be exceptionally ornamental; (*) = the bark or twigs (on at least some cultivars) lend interest to the landscape (good color, texture, etc.); () = the bark or twigs are not generally considered unusually ornamental.

CHAPTER 25 NONCONFORMING SITUATIONS

Sections:

- 25.01 Statement of Intent
- 25.02 Definitions
- 25.03 Continuation of Nonconforming Situations and Completion of Nonconforming Projects
- 25.04 Nonconforming Lots
- 25.05 Extension or Enlargement of Nonconforming Situations
- 25.06 Repair, Maintenance and Alterations
- 25.07 Change of Nonconforming Use
- 25.08 Nonconforming Structures
- 25.09 Nonconforming Use
- 25.10 Nonconforming Site Improvements
- 25.11 Abandonment and Discontinuance of Nonconforming Situations
- 25.12 Nonconforming Signs
- 25.13 Appeals
- 25.14 Administrative Exception

25.01 Statement of Intent

The intent of this chapter is to provide for the regulation of nonconforming buildings, structures, lots and components of uses, and to specify those circumstances and conditions under which those nonconforming buildings, structures, lots and components of uses shall be permitted to continue. It is also necessary and consistent that those nonconforming buildings, structures, lots and components of use, which adversely affect the orderly development and value of other property in the district not be permitted to continue unless restricted. Furthermore, this chapter does not authorize nonconforming status to those special uses whose time limits have expired.

25.02 Definitions

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 chapter.

A. "Cost." The total cost of alteration or repair shall mean the fair market value of the materials, services and labor necessary to accomplish such renovation, repair or restoration. No person may seek to avoid the intent of this chapter by doing such work incrementally.

B. "Dimensional Nonconformity." A nonconforming situation that occurs when the height, size or minimum floor area of a structure, or the relationship between an existing building or buildings and the other buildings or lot lines, does not conform to the regulations applicable to the zoning district in which the property is located.

C. "Effective Date of This Ordinance." Whenever this chapter refers to the effective date of this ordinance, the reference shall be deemed to include the effective date of any amendments to this ordinance if the amendment, rather than this ordinance (as originally adopted), creates a nonconforming situation.

D. "Nonconforming Lot." A platted lot existing on the effective date of this ordinance that does not meet the minimum width, depth and area requirement of the zoning district in which the lot is located and is not subject to a prior variance or exception.

E. "Nonconforming Structure." A situation that occurs when, on the effective date of this ordinance, an existing structure or improvement, i.e. parking and landscaping, or the use of an existing structure or improvement no longer conforms to one (1) or more of the regulations applicable to the zoning district in which the structure or improvement is located.

F. "Nonconforming Project." Any structure, development or undertaking that is incomplete on the effective date of this ordinance, and would be inconsistent with one (1) or more of the regulations applicable to the zoning district in which it is located if completed as proposed or planned.

G. "Nonconforming Sign." A sign that, on the effective date of this ordinance, does not conform to one (1) or more of the regulations set forth in Chapter 27.

H. "Nonconforming Use." A situation that occurs when property is used legally for a purpose and then, in any manner, prohibited or made unlawful by the use regulations applicable to the zoning district in which the property is located. The term also refers to the activity that constitutes the use made of the property.

I. "Nonconforming Site Improvement." A situation that occurs when, on the effective date of this ordinance, an existing site improvement on a lot, including but not limited to parking areas, storm drainage facilities, sidewalks and landscaping, no longer conforms to one (1) or more of the regulations of this ordinance applicable to the property.

J. "Nonconforming Situation." A situation that occurs when, on the effective date of this ordinance, an existing lot, structure or improvement, i.e. parking and landscaping, or the use of an existing lot, structure or improvement no longer conforms to one (1) or more of the regulations applicable to the zoning district in which the lot, structure or improvement is located.

K. "Structural Value." The present-day cost of replacing the structure or improvement.

25.03 Continuation of Nonconforming Situations and Completion of Nonconforming Projects

A. Unless otherwise specifically provided in this chapter and subject to the restrictions and qualifications set forth in this Chapter, Sections 25.03 through Section 25.12, nonconforming situations that were otherwise lawful on the effective date of this ordinance may be continued.

B. Nonconforming projects may be completed only in accordance with the provisions of Section 25.12 of this chapter.

C. The burden shall be on the landowner or developer to establish entitlement to continuation of nonconforming situations or completion of nonconforming projects.

25.04 Nonconforming Lots

A. This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. A substantial structure shall include any structure in excess of eight hundred (800) square feet in floor area which was constructed for a principal use permitted in the zoning district at the time of construction. A change in use of a developed nonconforming lot may be accomplished only in accordance with Section 25.07 of this chapter.

B. Where a nonconforming lot does not conform to the lot area or dimensions applicable to that zoning district, said lot may be used for any permitted use in that specific zoning district provided all other requirements and regulations are met.

C. When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements cannot be complied with, then the property owner may apply for an administrative exception as provided for in Section 25.14 of this Chapter.

D. Subject to the following sentence, if, on the date this ordinance becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one (1) or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor

his or her successors in interest may take advantage of the provisions of this section. This subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within five hundred (500) feet of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the neighborhood that has previously been developed.

E. The subdivision of any land, lot or parcel which creates a lot area or dimension which does not meet the minimum standards is hereby prohibited.

25.05 Extension or Enlargement of Nonconforming Situations

A. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

1. An increase in the total amount of space or building area devoted to a nonconforming use; or
2. Greater nonconformity with respect to dimensional restrictions such as building setback requirements, height limitations or density requirements, or other requirements such as parking requirements.

B. Subject to subsection D, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this ordinance, was designed or arranged to accommodate such use. However, except as otherwise provided in Section 25.12, a nonconforming use may not be extended to additional buildings or to land outside the original building.

C. Except as otherwise provided in Section 25.12, a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming; provided, however, a use that involves the removal of natural materials from the land may be expanded to other portions of the lot where the use was established at the time it became nonconforming if ninety (90) percent or more of the earth products had already been removed on the effective date of this ordinance, and where the development and performance standards otherwise applicable to such a use were complied with.

D. The volume, intensity or frequency of use of property where a nonconforming situation exists may be one-time increased up to ten (10) percent and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this section occur.

E. Notwithstanding subsection A, any structure used as a single-family dwelling and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of the existing nonconformities with respect to such matters as setback and parking requirements. This paragraph is subject to the limitations stated in Section 25.07

25.06 Repair, Maintenance and Alterations

A. Repairs, alterations and maintenance of structures and property where nonconforming situations exist may be made provided said repairs, alterations and maintenance conform to the regulations of the district in which said building or structure is located. Repairs and alterations estimated to cost more than fifty (50) percent of the structural value of the structure to be renovated, may not be done. Such structure shall be removed.

B. If a structure located on a lot where a nonconforming situation exists is damaged by fire, explosion, act of God, or the public enemy to an extent that the costs of repair or restoration would not exceed fifty (50) percent of its structural value, then the damaged structure may be repaired or restored only in accordance with a nonconforming situation permit issued by the Planning Commission pursuant to this section.

C. Any repairs or alterations of a structure pursuant to this section which would require the issuance of a nonconforming situation permit, the applicant shall submit information that the cost of the proposed repairs or alterations would not exceed fifty (50) percent of the structural value of the structure.

25.07 Change of Nonconforming Use

A. A change in use of property (where a nonconforming situation exists) may not be made except in accordance with subsection B & C. However, this requirement shall not apply if only a sign permit is needed.

B. If the change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this title can be complied with, permission from the City to make the change must be obtained. Once conformity with this title is achieved, the property may not revert to its nonconforming status.

C. If the change in use is to a principal use that is permissible in the district where the property is located, however the site or development requirements cannot reasonably be complied with, then the change is permissible only if an administrative exception is granted pursuant to Section 25.14 of this Chapter.

25.08 Nonconforming Structures

A. Repairs, alterations and maintenance of structures where nonconforming situations exist may be made provided said repairs, alterations and maintenance conform to the regulations of the district in which said structure is located. Repairs and alterations estimated to cost more than fifty (50) percent of the structural value of the structure to be renovated, may not be done. Such structure shall be removed.

B. If a structure located on a lot where a nonconforming situation exists is damaged by fire, explosion, act of God, or the public enemy to an extent that the costs of repair or restoration would not exceed fifty (50) percent of its structural value, the damaged structure may be repaired or restored in accordance with its nonconforming status.

C. Any repairs or alterations of a non conforming structure pursuant to this section which would require the issuance of a building permit

25.09 Nonconforming Use

A nonconforming use may be allowed to exist as long as the structure supporting the nonconforming use remains and there is not a lapse of more than (9) nine months of the nonconforming use. Once conformity is achieved, the property may not revert to its nonconforming status.

25.10 Nonconforming Site Improvements

A. On lots with nonconforming site improvements, no additions to, or repairs or alterations of any structure or site improvement may be made without first either bringing the nonconforming site improvements into complete conformity with the regulations applicable to the zoning district or obtaining a nonconforming situation permit. Provided that this section shall not apply to minor repairs and renovations (less than ten [10] percent of the structural value of a structure or site improvements), or repairs or alterations to a structure pursuant to Section 25.06.

B. When an addition to, or repairs or alterations to, any structure or site improvement is proposed on a lot with a nonconforming site improvement, the property owner may request an administrative exception pursuant to Section 25.14 of this Chapter.

25.11 Abandonment and Discontinuance of Nonconforming Situations

A. When a nonconforming use is discontinued for a consecutive period of one hundred eighty (180) days, or discontinued for any period of time without a present intention of resuming that activity, then the property may thereafter be used only in conformity with all of the regulations applicable to the preexisting use.

B. If the principal activity on property where a nonconforming situation other than a nonconforming use exists is discontinued for a consecutive period of one hundred eighty (180) days, or discontinued for any period of time without a present intention of resuming that activity, then the property may thereafter be used only in conformity with all of the regulations applicable to the preexisting use unless the entity with authority to issue a nonconforming situation permit for the intended use issues a permit to allow the property to be used for this purpose without correcting the nonconforming situations. Such permit may be issued if the permit-issuing authority finds that eliminating a particular nonconformity is not reasonably possible (i.e., cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained, or without moving a substantial structure that is on a permanent foundation). The permit shall specify which nonconformities need not be corrected.

C. All of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one (1) apartment in a nonconforming apartment building for one hundred eighty (180) days shall not result in a loss of the right to rent the apartment or space thereafter so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.

D. When a structure or operation made nonconforming by this ordinance is vacant or discontinued on the effective date of this ordinance, the one hundred eighty (180) day period for purposes of this section begins to run on the effective date of this ordinance.

25.12 Nonconforming Signs

A. Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of this ordinance may be continued.

B. No nonconforming sign may be altered in such a manner as to aggravate the nonconforming condition, nor may illumination be added to any nonconforming sign.

C. A nonconforming sign may be altered to bring the sign into complete conformity with this ordinance.

D. Subject to the other provisions of this section, nonconforming signs may be maintained.

E. If a nonconforming 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 shall be deemed abandoned and shall be removed within thirty (30) days after such abandonment by the sign owner, owner of the property where the sign is located, or other person having control over such sign.

F. If a nonconforming billboard remains blank for a continuous period of one hundred eighty (180) days, that billboard shall be deemed abandoned and shall, within thirty (30) days after such abandonment, be altered to comply with this article or be removed by the sign owner or owner of

the property where the sign is located, or other person having control over such sign. For purposes of this section, a sign is "blank" if:

1. It advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted; or
2. The advertising message it displays becomes illegible in whole or substantial part; or
3. The advertising copy paid for by a person other than the sign owner or promoting an interest other than the rental of the sign has been removed.

25.13 Appeals

Requests for waivers or variances of nonconforming situations and vested rights shall be considered in accordance with the following procedures:

A. Board of Zoning Appeals decision on an application for a variance may be appealed to district court in accordance with state statutes.

B. Planning Commission decision on an application for a waiver on a planned zoning district may be appealed to the Governing Body by the applicant within thirty (30) days of the decision by the Planning Commission. Otherwise, all decisions of the Planning Commission shall be deemed final.

The Planning Commission and/or Governing Body may require special conditions in the approval of an application for a waiver on a planned zoning district to uphold the intent of the zoning ordinance.

25.14 Administrative Exception

If, in the concurrent opinion of the Zoning Administrator and the City Administrator, the strict application of one or more provisions of the zoning regulations will create a manifest injustice to a property owner and variance or exception relief is not otherwise herein provided, the Zoning Administrator and the City Administrator may jointly issue an administrative exception from said provisions. The administrative exception shall be in writing, dated and signed by both the Zoning Administrator and the City Administrator and filed with the zoning variance case decisions. The Zoning Administrator and the City Administrator may establish conditions for the administrative exception to remain in force.

An administrative exception is solely an equitable remedy, within the complete and absolute discretion of the Zoning Administrator and the City Administrator, and therefore is not subject to administrative, legislative or judicial review.

The fee to request an administrative exception is the same fee amount as the application fee for a zoning variance.

**CHAPTER 26
HEIGHT AND AREA REGULATIONS AND EXCEPTIONS**

Sections:

- 26.01 Statement of Intent**
- 26.02 Height and Yard Requirements – Public or Semi-Public Buildings**
- 26.03 Yard Exceptions – Platted Setback Lines**
- 26.04 Yard Exceptions – Residential Districts; Front Yards**
- 26.05 Yard Exceptions – Required Yards**
- 26.06 Yard Exceptions – Sight Distance on Corner Lots**
- 26.07 Yard Exceptions – Front Yards in Commercial and Industrial Districts**

26.01 Statement of Intent

The regulations and requirements relating to the height of buildings and structures and the area of lots and yards shall be subject to the following exceptions and additional regulations set forth in this chapter.

26.02 Height and Yard Requirements – Public or Semi-Public Buildings

Public or semi-public buildings, permitted by special use permits, such as hospitals, churches and schools, either public or private, may be erected to a height not exceeding seventy-five (75) feet. Such structures shall be setback from all property lines a distance equal to or greater than its height.

26.03 Yard Exceptions – Platted Setback Lines

Where a setback line for a front yard, side yard or rear yard is established on any plat approved by the City, which platted setback is more restrictive than the yard requirements set forth in this title, such setbacks shall control. Building permits shall not be issued for any building or structure outside of such platted setback.

26.04 Yard Exceptions – Residential Districts; Front Yards

In residential districts where lots comprising forty (40) percent or more of the frontage on the same side of a street between two (2) intersecting streets (excluding reverse corner lots) are developed with buildings having front yards with a variation of not more than ten (10) feet in depth, the average of such front yards shall establish the minimum front yard depth for the entire block; provided, however, that where a recorded plat has been filed showing a setback line which otherwise complies with the requirements of this title, but which is less than the established setback for the block as provided herein, such setback line shall control.

26.05 Yard Exceptions – Required Yards

Every part of a required yard shall be open from its lowest point to the sky unobstructed.

26.06 Yard Exceptions – Sight Distance on Corner Lots

All corner lots shall provide sight distance triangles, measured along the edge of the pavement. The intersection sight distance should be sufficient to permit a vehicle on the minor leg of the intersection to cross the traveled way without requiring the approaching through traffic to slow down. To allow this, an area free of visual obstruction is required at every corner of an intersection. This area is known as the sight triangle.

All corner lots within the City limits shall, at a minimum, have a sight triangle from a point twenty-five (25) feet along the minor roadway, as measured from the edge of the curb line of the intersecting major roadway, to a point consistent with the table below along the major roadway. Such an area shall be and remain free of visual obstructions higher than two (2) feet above the roadway surface.

REQUIRED SIGHT DISTANCES ON THE MAJOR ROADWAY
(Measured in feet from the edge of the Minor Roadway curb line)

Major Road Type	Clear Distance Required
Arterial	215
Collector	170
Residential	130

Such area shall be and remain free of shrubbery, fences or other obstructions to vision more than two (2) feet in height measured above the edge of the street pavement at a point nearest the obstruction.

26.07 Yard Exceptions – Front Yards in Commercial and Industrial Districts

Where buildings or structures located in the same block on the same side of a street have provided front yards of greater or lesser depth than required by the district regulations, the City may require a similar setback for new buildings or structures constructed hereafter.

**CHAPTER 27
SIGNS**

Sections:

- 27.01 Statement of Intent**
- 27.02 Definitions**
- 27.03 Administration**
- 27.04 General Standards**
- 27.05 Signs Permitted in All Districts**
- 27.06 Signs Permitted in Residential Districts**
- 27.07 Signs Permitted in Commercial Districts**
- 27.08 Signs Permitted in Industrial Districts**
- 27.09 Special Permit Uses**
- 27.10 Temporary Signs**
- 27.11 Prohibited Signs and Devices**
- 27.12 Sign Maintenance Requirements**
- 27.13 Abandoned Signs**
- 27.14 Nonconforming Signs**
- 27.15 Enforcement**
- 27.16 Declaration of Nuisance**

27.01 Statement of Intent

The intent of this chapter is to regulate and control all exterior signs placed for observation in order to preserve, protect and promote the public health, safety, and general welfare of the residents of the City of Bel Aire. Further, it is intended to: encourage the reasonable, orderly and effective display of signs; enhance the physical appearance of the City; reduce visual clutter; prevent blighting influences; protect property values; provide minimum standards to safeguard life, health, and property by regulating and controlling the size, height, design, quality of materials, construction, location, electrification and maintenance of all signs and sign structures; and authorize the use of signs which are compatible with their surroundings.

27.02 Definitions

- A. "A" Frame Sign: A freestanding sign which is ordinarily in the shape of an "A" or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure.
- B. Address Sign: A sign indicating only the common street address and/or the occupant of a dwelling or structure. For the purposes of this definition, a nameplate shall be construed to be an address sign.
- C. Abandoned Sign: A sign which no longer advertises or identifies a business, lessor, owner, product, activity, message or location that is available to the public.
- D. 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 ordinance.
- E. Awning Sign: (Illuminated and/or non-illuminated.) A sign which is mounted, painted or printed on, or attached to an awning, or canopy. For the purposes of this definition, a canopy sign and a marquee sign shall be construed to be an awning sign.
- F. Billboard: A freestanding outdoor advertising structure which advertises a product or service, or relays a message to the public, meeting size limitations as set out by this ordinance.
- G. Canopy:
 - 1. Building canopy: A roof-like structure attached to a building covering the entrance, exit, walkway or loading dock, not including the building roof line extension. For the purposes of this ordinance, when the pitch of a building canopy is 1:4 or less (twenty-five [25] degrees or less from vertical), the face of the canopy shall be considered part of the wall.

2. Freestanding canopy: A self-supported, detached roof-like structure normally covering gas islands.
- H. Community Information Signs: A sign, located within a Master Planned Community, that serves to direct people to a residential subdivision, public building, or community facility such as, but not limited to, a recreational area, nature trail, golf course, lake marina, information area, etc.
- I. Complex: A group of freestanding buildings, or buildings constructed in such a way as to give an appearance of being interrelated because of architectural similarity and/or interconnected drives and parking areas; or a building divided into three (3) or more separate offices, businesses or apartments provided that the building is not part of a large complex. A complex shall be limited to apartment, office or business complexes, shopping centers and/or industrial parks.
- J. Construction Signs: A sign erected on the premises on which development is taking place during the period of such development. Such sign may indicate the names of architects, engineers, landscape architects, contractors or similar individuals, and the owners, financial supporters, sponsors or similar individuals or firms having a role or interest with respect to the structure or project.
- K. Copy Area: (See Sign Face.) The entire face of a sign including the advertising surface and any framing, trim or molding, but not including the supporting structure.
- L. Directional Sign: A sign which serves solely to designate any area or activity such as "exit," "one-way," "drive-in," "auto service," etc.
- M. Directly Illuminated Sign: A sign where the source of illumination is located on the sign face. The source of illumination may include, but not be limited to neon tubes, incandescent bulbs, and fluorescent tubes.
- N. Erected: This term shall mean attached, altered, built, constructed, reconstructed, and shall include the painting of wall signs, but does not include copy changes on any legal conforming sign.
- O. Fuel Rate Sign: A sign which identifies gasoline and/or petroleum product rates or prices in words, numbers, figures or any combination thereof.
- P. Garage Sale Sign: A temporary sign advertising a sale of personal items in a residential yard or structure.
- Q. Governmental Sign: A sign for the control of traffic and other regulatory purposes, street signs, construction signs, danger signs, railroad crossing signs, and signs of public service companies indicating danger and aids to service or safety which are erected by or on the order of any public officer in the performance of his public duty.
- R. Identification Sign: A monument sign identifying a complex.
- S. Incidental Sign: A sign which indicates to the public, goods, facilities or services available on the premises. For the purposes of this definition, credit card signs, signs indicating hours of operation, "help wanted" signs, and similar signs shall be construed to be incidental signs.
- T. Indirectly Illuminated Sign: A sign which is illuminated by a shielded light source.
- U. Internally Illuminated Sign: A sign illuminated by an internal light source diffused through a translucent material.

- V. Master Planned Community: A mixed-use development consisting of six hundred forty (640) or more contiguous acres under one (1) ownership, for which a comprehensive master plan has been approved by the city planning commission.
- W. 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 similar materials.
- X. Nameplate Sign: A single-faced, non-illuminated wall sign which displays only the name and occupation of the person or persons occupying space in the building. Nameplate signs may be part of a wall sign.
- Y. Off-site development sign: A temporary freestanding, non-illuminated sign used to direct people to a single-family or duplex subdivision.
- Z. On-site developmental sign: A temporary freestanding, non-illuminated sign identifying a building or construction site and the architects, engineers, financial institutions, contractors, suppliers and Realtors involved. An on-site development sign includes a "coming soon" sign.
- AA. Parapet or parapet wall: That portion of a building wall that rises above the roofline.
- BB. Person: An individual, corporation, association, firm or partnership.
- CC. Political Signs: A sign supporting a candidate for public office or measures on an election ballot.
- DD. Portable Signs: A sign which is not permanently affixed to the ground, building or other structure, which may be mounted on wheels, and can easily be transported from place to place.
- EE. Projecting Sign: A sign extending from the face of the building to which it is attached, not including wall signs. Also known as blade signs.
- FF. Public Notices and Signs: Official notices or signs for a public purpose as required by any law, statute or ordinance or as permitted by the Governing Body.
- GG. Real Estate Sign: A on-site or off-site sign which advertises the sale, rental or lease of property, or special program signs, such as, open house, energy conservation, warranty, builder, etc.
- HH. Roof: The primary cover of a building used to shed weather, including all supporting materials.
- II. 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.
- JJ. Sign - Advertising – A sign that has as its purpose to promote, advertise or sell a product or service obtainable on the premises upon which the sign is located, and not to identify the premises.
- KK. Sign Face: That area within a line including the outer extremities of all letters, figures, characters and logos; or within a line including the outer extremities of the framework or background.
- LL. Sign Alteration: The replacement, enlargement, rewording, reduction, reshaping, or repainting using different colors, of a sign to serve an establishment or business.
- MM. Sign Maintenance: The normal care and minor repair that is necessary to retain a safe, attractive sign and supporting structures. Repainting with the same colors, or repairing copy or logo shall be considered maintenance if the name, product, service, place, activity, person, etc., depicted remains the same.

- NN. Sign Structure: The base, supports, uprights, braces, framework and face of a sign.
- OO. Snipe Sign: A sign constructed of any kind of material that is attached to a utility pole, tree, fence or similar object located or situated on public or private property.
- PP. Subdivision Entry Marker: A sign used to identify a platted subdivision of twenty (20) or more single-family or duplex lots. Each neighborhood shall be permitted monument type neighborhood entry markers as approved by the City.
- QQ. Temporary Sign: A sign constructed of cloth, canvas, cardboard, plywood or other similar material, which is readily moveable, and is not permanently attached to the ground or any structure thereof, and which is intended to be displayed for a short period of time.
- RR. Time and/or Temperature Sign: A sign displaying time and/or temperature information with no additional advertising or comments other than the name of the company which owns the sign.
- SS. Under Canopy Sign: A sign that is placed under the canopy at right angles to the wall of the building. Its sole purpose is for communicating to pedestrian traffic the name of the tenant.
- TT. 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.
- UU. Wall: A vertical structure which is solid and encloses a building, and supports the roof.
- VV. Wall Sign: A sign that is parallel to, and attached to, the surface of a wall, including illuminated awning signs. If a sign is placed on a canopy that has a roof slope of 1:4 or less (twenty-five [25] degrees or less from vertical), the face of the sign may be perpendicular to the ground.

27.03 Administration

A. Sign Permit Required:

1. It shall be unlawful for any person to erect, or alter any sign as defined in this ordinance without first obtaining a sign permit. This requirement shall not be construed to require a permit for sign maintenance as defined in Section 27.02-Definitions above, altering changeable copy on theater signs, billboards or similar signs, or signs exempted from a permit as described elsewhere in this ordinance.
2. Applications: Sign permits shall be made on a form provided and shall be accompanied by two (2) sets of plans drawn to scale indicating the sign size, location, method of illumination, colors, materials of the sign and structure, and method of attachment. In addition, the applicant shall submit other information relating to the placement, construction, design, etc., of the sign as may be required.
3. Issuance: The city shall issue a permit for the erection, alteration, or relocation of a sign within the city when an application has been properly made and the sign complies with all appropriate laws and ordinances.
4. Sign Permit Number: All signs hereafter installed shall have permanently affixed thereto a label, clearly visible at all times, indication the number of the sign permit issued.
5. Revocation and Denial: The city may, in writing, suspend or revoke a permit issued under the provisions of this section whenever the permit is issued on the basis of a misstatement of material fact or fraud. When a sign permit is denied by the city, the city shall give written notice of the denial to the applicant, together with a brief written statement of the reasons for the denial.
6. Sign Permit Appeals:

- a. Failure of the city to grant permit within forty-five (45) days.
- b. Appeal may be made to the City Administrator upon denial of a sign permit.

7. Effect of Permit Issuance: No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.

B. Permit Fees: Each applicant, before being granted a permit, shall pay a permit fee pursuant to city resolution.

1. If it has been determined that any sign or other advertising structure regulated herein is unsafe, or has been constructed, erected or is being maintained in violation of the provisions of this ordinance, written notice shall be given to the sign owner. The owner shall immediately remove or repair the sign to bring it into compliance and/or make it safe. If the owner fails to remove or repair the sign so as to comply within five (5) days after the notice, the City may cause the sign to be removed or repaired to make it safe, at the expense of the permittee or owner.

2. The City shall mail a statement of the costs for removal or repair of the unsafe or unlawful sign to either the last known address of the owner of record of the property, the person in charge of such property, or the sign permittee. If said costs are not paid within ten (10) days from the time of mailing of the notice, the City shall levy a special assessment for the cost against the subject lot or parcel of land. The City shall certify the assessment to the Sedgwick County Clerk for collection and payment to the City in the same manner as other assessments and taxes are collected and paid to the City.

D. Access and Right of Entry:

1. The City retains the right to make an inspection of any sign for the purpose of determining compliance with this ordinance. Inspections shall be done at a reasonable time.

2. If the building, premises or establishment to be inspected is occupied, the City shall first present proper credentials and demand entry. If such building or premises is unoccupied, he/she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the City shall have recourse as provided by law to secure entry.

3. If after demand, entry or access is refused, the City may acquire such access by application to a court of competent jurisdiction.

27.04 General Standards

A. Routine Maintenance: All signs shall be of sound structural quality, be maintained in good repair, and have a clean and neat appearance. The land adjacent shall be kept free from weeds and trash. If signs are not being maintained as described, said sign may be ordered to be removed.

B. Placement on Easement or Right-of-way: No Private sign shall be placed on a public easement or public right-of-way.

C. Illuminated Signs: Illuminated signs shall be internally, or indirectly-illuminated. Neon tubes, incandescent bulbs, fluorescent tubes, and other sources of direct illumination that would be exposed to the human eye shall not be permitted.

D. Compliance with Building Code: All signs shall comply with the appropriate detailed provisions of the City Building Code relating to design, structural members and connections. Signs shall also comply with the provisions of the National Electrical Code and the additional construction standards hereinafter set forth in this section.

E. Measurements of Signs:

1. In determining the copy area of a sign, the entire face of the sign, including the advertising surface and any framing, trim or molding, shall be included. Should the sign structure or supports become part of the sign due to the design of the structure or supports in relation to the sign, said structure or supports shall be included in the determination of copy area.

2. In the instance where a sign is composed of letters only, with no connection by the advertising structure between the letters, the copy area shall be determined by measuring the distance from the outside edges of the outside letters and from the top of the largest letter to the bottom of the lowest letter. Should one (1) letter be unequally large or small in comparison to the other letters composing the sign, the unequal letter shall be squared off, the remaining letters shall be measured from the outside edges, and the two (2) added for a total copy area determination.

3. Unless determined by the zoning district regulations, the allowable copy area of a sign shall be based on one (1) side of the sign. Double-faced copy area is allowed provided that both sides of the sign are parallel to one another and that the applicable zoning district regulations are not conflicting.

F. Monument Signs:

1. Monument signs must be built on a solid base and shall be low in profile.

2. Monument signs may be single or double-faced.

3. Monument signs may be non-illuminated, indirectly illuminated or internally illuminated.

4. The sign face and base shall not exceed six (6) feet in overall height above the natural or average grade.

5. The sign base area shall not exceed the actual sign face area by more than ten (10) percent.

6. No advertising or promotional information is permitted on a monument sign. Exceptions: motels are permitted reader boards as a part of their permitted sign; a retail establishment dispensing gasoline may place gasoline prices on their permitted monument sign.

G. Wall Signs:

1. Wall signs may be non-illuminated, internally illuminated or indirectly illuminated.

2. When a wall sign is placed on a canopy and is perpendicular to the ground, all supports, braces and brackets shall not be visible.

3. Wall signs shall not extend above the top of the wall, parapet or canopy.

4. Wall signs shall only indicate the name of the establishment housed therein, except that public and private schools (grades kindergarten through 12) may use their wall sign as a reader board.

27.05 Signs Permitted in All Districts

The following signs shall be permitted in all districts and shall not require a sign permit, unless otherwise noted. The signs must be in conformance with all other regulations and ordinances of the City.

A. Changeable Copy: Permits shall not be required for replacing or altering changeable copy on theater signs, billboards, or other similar signs.

- B. Sign Maintenance: Sign maintenance as defined in Section 27.13 of this chapter.
- C. Garage Sale Signs: All garage sale signs shall be removed no later than one (1) day after the end of the garage sale. Garage sale signs include sample and yard sale signs. Such signs shall not exceed four (4) square feet per sign, with two (2) faces per sign permitted.
- D. Governmental Signs and Public Notices.
- E. On-Site Development Signs:
1. The sign must be on the site of the development, and shall not exceed eight (8) feet in height or thirty-two (32) square feet in area per face. The sign may have two (2) faces. A maximum of two (2) on-site development signs may be permitted for a development.
- F. Off-Site Development Signs: Two (2) such signs may be permitted, after approval by the City. Off-site development signs shall not be closer than one thousand (1,000) feet to another off-site development sign or closer than five hundred (500) feet to the property line of property zoned residential. Size and height for off-site development signs shall be the same as for on-site development signs.
- Off-site development signs shall not be approved for a period in excess of one (1) year, additional years may be applied for if necessary. A sign permit is required.
- G. Nameplate Sign: Such signs shall not exceed four (4) square feet in area.
- H. Political Sign: Political signs shall not exceed four (4) feet in height and eight (8) square feet per face with two (2) faces permitted. Political signs shall not be:
1. placed, erected or maintained on or in public buildings and structures, including libraries, recreational centers, parking structures, city hall, or on or in public parks, lawns, vehicles, trees, shrubs, fences, walks, parking meters, traffic signs or fire hydrants;
 2. placed, erected or maintained on public property or public right-of-way;
 3. placed, erected or maintained so as to pose a visibility hazard to pedestrian or motor vehicle traffic along streets, sidewalks or at street corners;
 4. lighted;
 5. placed, erected or maintained earlier than the last day of the filing period for the election in which the candidate seeks office; or
 6. maintained more than two (2) days after the election; provided; however, that in the event of a subsequent run-off election, the signs of the run-off candidates may be maintained until the (10th) tenth day after the run-off election.

In the event such signs are not removed, the city is authorized to remove said signs and to charge the candidate or campaign on whose behalf the signs were erected using the procedure set forth in Section 27.03 - Administration of this chapter.

- I. Real Estate Sign:
1. Single-Family and Two-Family Districts: Such signs shall not exceed four (4) square feet per face, with two (2) faces per sign permitted. The maximum height of the sign shall not exceed four (4) feet. A maximum of one (1) sign per lot shall be permitted.
 2. Multi-family, Commercial and Industrial Districts: Such signs shall not exceed sixteen (16) square feet in area per face with two (2) faces permitted. The sign shall not exceed eight (8) feet in height. A maximum of two (2) signs shall be permitted for each project. In addition, one (1) real

estate sign, not exceeding four (4) square feet per face, with a maximum of two (2) faces permitted, and a maximum height of six (6) feet shall be permitted. A sign annual application and permit is required.

3. Undeveloped Land for Sale Signs: In lieu of the signs permitted in paragraphs 1 and 2 above, undeveloped and unplatted land over ten (10) acres in size shall be permitted two (2) "For Sale" signs not to exceed thirty-two (32) square feet in area per face, with two (2) faces permitted. The signs shall not exceed eight (8) feet in height. A sign annual application and permit is required.

J. Directional Sign: Such sign shall not exceed four (4) square feet per face with two (2) faces permitted. The sign shall not exceed four (4) feet in height if freestanding.

K. Civic Organization Signs: After approval by the Planning Commission a non-illuminated sign displaying the logos of civic organizations operating in the city may be permitted on major arterials, highways or expressways at the city limits. The signs shall not exceed sixteen (16) square feet per face, with one (1) face permitted. The maximum height shall not exceed eight (8) feet.

L. Address Numbers: All primary structures shall have an address number visible from the adjacent street. Address numbers shall not exceed two (2) square feet in total area.

M. Community Information Signs:

1. A signage plan that includes directional signs, governmental signs, identification signs, subdivision entry markers, monument signs, etc. The Community Information Signs shall be harmonious in color, sizing and location. The purpose of such signs will be to facilitate the movement of vehicular and pedestrian traffic within a development. The number of signs shall be kept to the minimum necessary to accomplish this purpose.

2. Each sign shall not exceed ten (10) square feet per face with two (2) faces permitted. The sign shall not exceed four (4) feet in height. The minimum setback from any property line shall be four (4) foot. The design of the sign may incorporate a base of materials consistent with the overall signage plan. The sign base area shall not exceed the actual face area by more than ten (10) percent.

3. No advertising or promotional information is permitted on a Community Information Sign; however, a logo may be permitted. Such sign may be non-illuminated, indirectly illuminated, or internally illuminated.

4. Such sign shall be maintained by the sign owner according to the provisions of this ordinance.

5. A sign application and permit is required.

6. A sign plan must be approved by the City.

27.06 Signs Permitted in Residential Districts

The following signs shall be permitted:

A. Subdivision Entry Markers: Each subdivision shall be permitted monument type subdivision entry markers as approved by the City .

B. Monument Signs: Every building constructed for a permitted non-residential use shall be permitted one (1) monument sign not to exceed ten (10) feet.

C. Identification Signs: One (1) identification (monument) sign per multifamily complex. If the complex fronts on two (2) streets, one (1) identification sign shall be allowed on each street frontage.

27.07 Signs Permitted in Commercial Districts

The following signs shall be permitted:

A. Wall Signs: Each business or establishment shall be permitted not more than one (1) wall identification sign. The area of the wall sign shall not exceed ten (10) percent of the area of the wall upon which it is mounted.

B. Monument Signs:

1. One (1) monument identification sign shall be permitted for each freestanding building housing one (1) tenant.

2. In complexes, or single business sites, on property more than five (5) acres in size and with more than one (1) street frontage, or one thousand (1,000) feet of street frontage, a second identification (monument) sign shall be permitted on each street frontage.

C. Free standing Identification Signs:

1. Is a pylon that is freestanding two-faced sign permanently fixed to the ground by supports not to exceed forty-five (45) square feet per face.

D. Under Canopy Signs: In complexes with three (3) or more tenants, under canopy signs shall be permitted in addition to the signage described above. One (1) such sign will be permitted for each business. Under canopy signs shall not be larger than two (2) square feet in area.

E. Wall and Under Canopy Signs: In complexes with three (3) or more tenants, wall and under canopy signs shall be similar in color, materials and lighting. Such signs shall be incorporated into the design of the complex.

F. Time and Temperature Sign: In addition to permitted monument signs, a time and/or temperature sign may be permitted for a complex or a business in a freestanding building. There shall not be any advertising except the name of the complex or business that owns the sign. Size, height and setback requirements shall be the same as for monument signs.

G. Menu-boards:

1. Each drive-up, drive-through, or drive-in restaurant shall be permitted signage in addition to that described above. The additional signage shall be limited to one (1) freestanding or wall-mounted menu board per lane. The menu board shall not exceed six (6) feet in height or thirty-two (32) square feet in total surface area. Total surface area means all of the area included in the face of the menu board, the trim, the base and other appurtenances. Menu boards may be non-illuminated, or illuminated. Menu boards shall be located along the sides or rear of the building. Whenever a menu board is visible from a public street, additional landscaping and/or fencing shall be used in order to screen the menu board from view from the public street.

2. In lieu of one (1) freestanding or wall menu board, a restaurant may have a menu board located at each order station. The menu boards at each order station shall not exceed four (4) square feet in surface area per face.

H. Services Offered Board: Each automatic car wash (conveyor type, longer than fifty [50] feet) shall be permitted signage in addition to that described above. Such additional signage shall be limited to one (1) freestanding or wall-mounted "services offered" board. The "services offered" board shall not exceed five (5) feet in height or twenty (20) square feet of surface area per face. The board may have two (2) faces. "Services offered" boards shall be non-illuminated, or indirectly-illuminated. "Services offered" boards shall be located along the front, side or rear of the building; provided that if the board is located in front of the building, sufficient fencing or landscaping shall be provided to screen the board from view from public streets, alleys or other public property.

I. Freestanding Canopy Signs: Signs may be placed on freestanding canopies provided they meet the requirements for wall signs for buildings. Only the fascia of the canopy upon which the sign is placed shall be used for determining the size of the sign.

J. Gasoline Price Signs: A retail establishment dispensing gasoline shall be permitted up to two (2) double-faced signs which are used for the purpose of advertising the price of gasoline sold and/or the nature of services offered on the premises. The sign(s) may be non-illuminated, internally illuminated or indirectly illuminated. The signs shall not exceed eighteen (18) square feet per face, with two (2) faces permitted. The maximum height of the signs, if not located on canopy supports, shall not exceed ten (10) feet. The sign(s) shall not be placed closer to the public right-of-way than the closest gasoline pump island.

- K. Theater Signs: A movie theater may have an attraction panel based on the following criteria:
1. For each screen in the movie theater or drive-in movie theater, one (1) module, not to exceed eighteen (18) square feet, may be placed on the sign. A module is that portion of the sign, including trim, used to display the title of one (1) movie. One (1) additional module may be used to display the name of the theater.
 2. The total surface area of a sign face shall not exceed one hundred sixty- two (162) square feet per face. A maximum of two (2) faces is permitted.
 3. Setback: A minimum of thirty (30) feet from a street right-of-way is required.
 4. Height: The maximum height of the sign shall not exceed fifteen (15) feet from average grade level.
 5. Movie theater signs may have changeable copy.

27.08 Signs Permitted in Industrial Districts

The following signs shall be permitted:

- A. Wall Signs: Each industrial establishment or building shall be permitted not more than three (3) wall signs. The signs shall be limited to one (1) per wall and shall not exceed ten (10) percent of the total area of the wall upon which it is placed or two hundred (200) square feet, whichever is less.
- B. Monument Signs: Same as permitted in Section 27.06 above
- C. Gasoline Price Signs: Same as permitted in Section 27.07 above
- D. Freestanding Canopy Signs: Same as permitted in Section 27.07 above
- E. Billboard Signs: Billboard signs may be permitted in Industrial districts after approval of a special use permit. Billboards shall comply with the criteria as outlined in Chapter 21, Special Uses.

27.09 Special Permit Uses

Sign regulations for special permit uses are as follows:

- A. For those special permit uses that are located in agricultural and residential districts, signs shall be permitted under the provisions of Sections 27.06 above, or as set forth by Chapter 21, Special Uses.
- B. For those special permit uses that are located in commercial districts, signs shall be permitted under the provisions of Sections 27.07 above and 27.08, or as set forth by Chapter 21, Special Uses.
- C. For those special permit uses that are located in industrial districts, signs shall be permitted under the provisions of Section 27.08 above, or as set forth by Chapter 21, Special Uses.
- D. Signs permitted in conjunction with special use permits: In the case of special use permit uses, all wall and detached signs shall be approved by the City, except where private sign criteria have been

previously approved for the development. In reviewing and approving such signs, the City shall take into consideration (1) the use of the facility, (2) the height of the building, (3) the surrounding land uses and zoning districts, (4) the relationship of the site to interstate highways, where applicable, and (5) the topography of the site. Where appropriate, the sign regulations of the underlying zoning district or the most analogous zoning district may be followed.

E. Private sign criteria: All hotels, motor hotels, shopping centers, business parks, office parks or industrial parks shall be required to prepare a set of sign criteria governing all exterior signs in the development. Such criteria shall be binding upon all subsequent purchasers or lessees within the development. The size, colors, materials, styles of lettering, appearance of logos, types of illumination and location of signs shall be set out in such criteria. In all respects, the criteria shall be within the regulations set out in this code and shall be for the purpose of assuring harmony and visual quality throughout the development. Final development plans (in the case of a planned zoning district) or building permits (in the case of a conventional zoning district) shall not be approved until the City has approved the sign criteria. No sign permit shall be issued for a sign that does not conform to the criteria. For purposes of this section, the terms "shopping centers, business parks, office parks or industrial parks" shall mean a project of one (1) or more buildings that has been planned as an integrated unit or cluster on property under unified control or ownership at the time that zoning was approved by the city. The sale, subdivision or other partition of the site after zoning approval does not exempt the project, or portions thereof, from complying with these regulations relative to the number of detached signs, harmony and visual quality of signs to be installed.

27.11 Temporary Signs

In addition to the permanent signs permitted elsewhere in this ordinance, upon proper application and application fee, temporary signs shall be permitted in the following instances:

A. Grand Opening Signs and Quitting Business Signs: Grand opening signs and quitting business signs shall be permitted subject to the following limitations:

1. One (1) sign per street frontage or building.
2. The maximum size shall be no larger than that permitted for permanent wall signs.
3. Signs shall be permitted to be displayed a maximum of one (1), thirty (30) day period per year.
4. Pennants, banners or flags shall be permitted.
5. Inflatable devices shall not be permitted.
6. Searchlights shall not be permitted.

B. Special Sale Signs: Special sale signs shall be permitted subject to the following limitations:

1. One (1) sign per street frontage or building.
2. The maximum size shall be no larger than that permitted for permanent wall signs.
3. Pennants, banners or flags shall be permitted.
4. Inflatable devices shall not be permitted.
5. Searchlights shall not be permitted.
6. Such signs shall be permitted only for one (1), fifteen (15) day period every six (6) months.

C. Special Real Estate Signs: Special real estate events shall be allowed the use of pennants or flags under the following conditions:

1. In conjunction with area-wide tour events.
2. The opening of a new subdivision or the new phase of an existing subdivision. In this instance, pennants and flags shall only be permitted for one (1), fifteen (15) day period every six (6) months.
3. One (1) other special event similar to (a) above and limited to one (1), fifteen (15) day period per year such as open house or model house.
4. No fee is required for these signs.

D. Temporary Special Events: Temporary special events, such as sidewalk sales, civic club events, school activities, etc., shall be permitted to have temporary signs, banners, flags or pennants, after a sign permit is obtained, in accordance with Section 27.03 above. No fee is required for these signs.

27.12 Prohibited Signs and Devices

It shall be a violation of these zoning regulations to erect, install, place or maintain the following signs:

A. Any signs or advertising structures which are not specifically permitted under the sign subsection in the schedule of district regulations or otherwise specifically permitted under these zoning regulations.

B. 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. The use of flashing lights or revolving lights is prohibited in any sign as constituting a hazard to traffic. Any sign which by glare or method of illumination constitutes a hazard to traffic is prohibited. Exterior neon lighting, illuminated banding or other types of lighting that creates a glow is prohibited unless it is approved by the City as part of an overall theme for the development area.

C. Any sign or advertising structure which is obscene, indecent and/or prurient.

D. 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 infringing upon the right-of-way of any street, road or public way, except as specifically permitted by these regulations.

E. Any sign or advertising structure erected on City of Bel Aire property or other governmental property other than signs erected by said governmental entity.

F. 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.

G. Any advertising sign or structure which is erected, installed or maintained upon the rear of a building.

H. "A" Frame Sign.

I. Attention-attracting devices.

J. Abandoned signs.

K. Off-site advertising signs (except billboards or off-site development signs).

- L. Portable sign, excluding real estate signs.
- M. Roof signs.
- N. Snipe signs, except warning signs posted by public utility companies.
- O. Temporary signs, except as permitted by Section 27.11 above.
- P. Vehicular signs, except that company or corporation name or logo painted on a motor vehicle or semi-trailer normally in motion during use shall not be considered a vehicular sign when moved at least one (1) time during a twenty-four (24) hour period.
- Q. Any sign not specifically, or by reasonable implication, permitted herein.
- R. Painted wall signs which are painted directly on the wall of a building or surface, except that signs painted on a window in a commercial building (as part of the permitted wall sign) shall be permitted.
- S. Directly illuminated signs, except to the extent specifically authorized in this chapter.

27.13 Sign Maintenance Requirements

A. Any sign or advertising structure erected or installed under the provisions of this section shall be maintained in a safe, functional and sound structural condition at all times. General maintenance of said sign shall include the replacement of nonfunctional, broken, or defective parts, painting, cleaning and upkeep of the premises immediately surrounding the sign or advertising structure, and any other action required for the maintenance of said sign or advertising structure. All signs and supporting structures shall be kept painted or treated in some manner to prevent rust, decay or deterioration.

Should any sign, which is placed in a public easement, be damaged due to maintenance of utilities in that easement by the city or others, the cost for repairs or replacement of said sign shall be borne by the sign owner.

27.14 Abandoned Signs

A. Except as may be otherwise provided for in this ordinance, any sign which is located on a building, structure, or real property which becomes vacant and unoccupied for a period of three (3) months, or any sign which pertains to a time, event, or purpose which no longer applies for a period of one (1) month, shall be deemed to have been abandoned. An abandoned sign is prohibited and shall be removed by the owner of the sign or the owner of the premises. When a wall sign is removed, the wall of the building or structure shall be restored to its normal appearance. Removal of a monument sign shall include the face and base. Any sign structure that is in conformance with this chapter may remain as long as it is maintained and does not become unsafe or unsightly.

B. If after the three (3) month time period has elapsed and the sign has not been removed, the City shall notify, in writing, the property owner of record that the sign shall be removed within thirty (30) days after the date of the notice. If the sign has not been removed within thirty (30) days after the date of the notice, the City may have the sign removed and the associated costs assessed to the property.

C. The City shall mail a statement of such cost for the removal of said sign to the last known address of the owner of record of the property, or person in charge of such property. If such costs are not paid within ten (10) days from the mailing of such notice, the governing body of the City shall proceed to pass an ordinance levying a special assessment for such cost against the lot or piece of land. The City shall certify such assessment to the Sedgwick County Clerk for collection and payment to the City in the same manner as other assessments and taxes are collected and paid to the City.

27.15 Nonconforming Signs

Nonconforming signs are declared by this zoning ordinance to be incompatible to, and inconsistent with, land development and other permitted signs set forth within any particular zoning district. It is the intent of this section to allow those nonconforming signs to continue until they are removed under the terms of this ordinance, but not to encourage their survival.

A. Alterations of Nonconforming Signs: No nonconforming sign or advertising structure shall be expanded, relocated or restored unless said sign or advertising structure is brought into conformance with the provisions of this section or any other applicable city code requirement.

B. Replacement, Restoration or Reconstruction: In the event that any existing nonconforming sign, as provided for in this section, is damaged by any means, including, but not limited to, fire, flood, wind, explosion, act of God, or act of a public enemy, to an extent of fifty (50) percent or more of the replacement, restoration or reconstruction value of the sign, or fifty (50) percent of the square footage of the sign copy area, said sign shall not be replaced, restored or reconstructed unless it is brought into full compliance with the provisions of this zoning ordinance. Any nonconforming sign which remains damaged or disrepair, regardless of the percentage of construction (or damage) value or area of square footage which is damaged, for a period of three (3) months following the date of damage without the issuance of a valid sign permit, shall not be replaced, restored or reconstructed unless it is brought into full compliance with all applicable codes and ordinances.

C. Repairs and Maintenance: Routine repairs and maintenance of nonconforming signs necessary to maintain health and safety may be permitted. Said repairs and maintenance shall include such activities as painting and the replacement of a damaged or deteriorated sign face. The cost of said repairs and maintenance shall not exceed fifty (50) percent of the value of the sign which is to be repaired or maintained. Said value shall be that which is current at the time of the repair or maintenance. Prior to said repair and maintenance taking place, the City shall be consulted to determine if a sign permit is necessary. If such determination is made, then all applicable work performed shall be accomplished through the issuance of a valid sign permit as required by this ordinance.

D. Termination of Nonconforming Signs: Upon the discontinuance of a use to which any nonconforming sign or advertising structure is accessory to, the tenant or property owner shall remove all nonconforming signs, supports and structures upon the building or property upon which said use was located.

27.16 Enforcement

It shall be the duty of the City to enforce all provisions of this ordinance. It shall be unlawful for any person to interfere with any City Official in the performance of the duties assigned under this ordinance.

27.17 Declaration of Nuisance

The Governing Body hereby determines that the public peace, safety, health and welfare requires that all signs and sign structures hereafter constructed or erected shall conform and comply with such requirements forthwith. All signs which shall hereafter be constructed or erected in violation of the provisions of this ordinance shall be declared public nuisance, and shall be removed and abated in the manner provided by law.