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90-01-01. Authority

A. These regulations, Sections 90-01-01 through 90-22-16 are adopted, in accordance with the grant of authority to the City of Muskogee, by the Charter of the City of Muskogee. These powers are exercised there under pursuant to the Oklahoma Constitution, and not under state law, except in matters of statewide concern or when a contrary intention is clear; these regulations are a part of the general plan for the City and shall be known as the Zoning Regulations and may be cited as such.

B. All rights, claims, actions, orders, contracts, policies, procedures and legal or administrative proceedings pre-existing shall continue in full force and effect except as modified pursuant to these Zoning Regulations.


90-01-02. Purpose and Nature of Zoning

A. The purpose of the requirements contained herein is to promote the public health, safety, peace, morals, comfort, convenience, prosperity, order and general welfare of the citizens of the City, to lessen danger and congestion of public transportation and travel, to secure safety from fire and other dangers, to avoid undue concentration and overcrowding of land; to provide for public requirements and prevent undue encroachment thereon; and to aid in securing the intent of the general plan.

B. These regulations classify and regulate the use of land, buildings and structures within the City as hereinafter set forth. These regulations divide the City into districts and regulate therein the use and design of the land and the use, design and size of buildings as to height and number of stories, the coverage of the land by buildings, the size of yards and open spaces, density of population and location of buildings.

90-01-03. Location and interpretation of district boundaries

A. The location and boundaries of the districts as herein established are shown upon the official zoning map, as may be amended from time to time.

B. Where uncertainty exists with respect to the boundaries of any districts mentioned in this code as shown on the zoning map, the following shall apply:

1. Where district boundaries are indicated to approximately follow the centerline of streets or highways, or street or highway right-of-way lines, such centerlines or right-of-way lines shall be construed to be such boundaries;

2. Where district boundaries are indicated to approximately follow the lot lines, such lot lines shall be construed to be such boundaries;

3. Where district boundaries are so indicated that they are approximately parallel to the centerline of a street or highway, or street or highway right-of-way line, such district boundary shall be construed to be parallel thereto and at such distance there from as indicated on the zoning map. If no specific distance is shown, such distance shall be determined by the use of the scale as shown on the zoning map on file in the Planning Department.

4. In unsubdivided property, the district boundaries not indicated by a specific distance shall be determined by the use of the scale as shown on the zoning map; and

5. In such cases where a district boundary line divides a property into two parts, each part shall be construed as a separately zoned district without regard to the property line, and no use permitted by one district shall be allowed in the other solely by the fact that the property encompasses two districts.


90-01-04. Vacation of public right-of-way or easements

Whenever any street, alley, easement or other public way is vacated by official action of the City Council, the district classification of the property to which the portion of the vacated land reverts shall become the classification of the vacated land. (Prior Code, app. A, § 16-54; Code 1993, § 23-205; Ord. No. 3267-A, 4-6-1993)

90-01-05. Use limits on lots

Every building hereafter erected or structurally altered shall be located on a lot as defined herein and in no case shall there be more than one main building on one lot with A, R-1, R-2, R-3, C-1 Districts.

90-01-06. Recorded Lots

When a lot of record, recorded prior to the passage of these Zoning Regulations in the office of the County Clerk of Muskogee County, has less area than herein required, may be used for a single-family dwelling site, provided all other requirements of the district in which the lot is located are met.


90-01-07. Fees

The official zoning fee for zoning petitions shall be set by the council by resolution and set forth in Appendix “A”. The official zoning fee will be posted at all times in the Planning Department.

ARTICLE 02. BOARD OF ADJUSTMENT

90-02-01. CREATED

There is hereby created within and for the City a Board of Adjustment with the powers and duties as provided herein.


State Law References: Planning and zoning, 11 O.S. § 44-101 et seq.

90-02-02. MEMBERSHIP

A. The Board of Adjustment shall consist of five members appointed by the City Council. Appointments shall be for a term of three years.

B. A member of such Board of Adjustment, once qualified, can thereafter be removed during his or her term of office only for cause upon written charges alleging that the member has violated any of the duties imposed on such member by the Charter or any state law affecting public officials and after a public hearing held before the City Council. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Members of the Board of Adjustment shall serve without compensation.

C. The Board of Adjustment shall elect its own chairperson and shall adopt rules or procedures consistent with principals of due process and the provisions of these regulations. The chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public and minutes shall be kept of all proceedings showing the vote of each member.
D. The Board of Adjustment may, with the approval of the board and council, appoint such employees as may be necessary and may incur necessary expenses within the limits of the appropriations authorized by the City Council.


90-02-03. Appeals to board

A. The City shall provide for appeals from any action or decision of an administrative officer acting pursuant to any zoning regulation to the Board of Adjustment in the following manner:

1. Appeals from the action of any administrative officer to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer;

2. An appeal shall be filed within ten business days of the decision by filing with the officer from which the appeal is taken and by filing with the secretary of the Board of Adjustment a notice of appeal specifying the grounds therefore. Application shall be made in accordance with Section 90-02-08. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment certified copies of all the papers constituting the record of the matter, together with a copy of the ruling, order or if no written order is prepared, a written memorial of the same from which the appeal is taken.

3. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. In such case the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown; and

4. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal which shall, absent extenuating circumstances, be the next regular scheduled meeting after the appeal is filed, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

90-02-04. Powers and duties

A. The Board of Adjustment shall have the power to:

1. Hear and decide appeals where it is alleged that there is error of law in any order, requirement, decision or determination made by an administrative official in the enforcement of Zoning Regulations;

2. Hear and decide special exceptions to the Zoning Regulations to allow a use which is not permitted by right in a particular district because of potential adverse effect, but which, if controlled in the particular instance as to its relationship to the neighborhood and to the general welfare, may be permitted by the Board of Adjustment, where specifically authorized by the Zoning Regulations, and in accordance with the substantive and procedural standards of the Zoning Regulations; and

3. Authorize in specific cases a variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by the Zoning Regulations when such cases are shown not to be contrary to the public interest if, owing to special conditions, a literal enforcement of the provisions of the regulations will result in unnecessary hardship and so that the spirit of the regulations shall be observed and substantial justice done; provided, however, the board shall have no power to authorize a variance as to use.

B. Exceptions or variances may be allowed by the Board of Adjustment only after notice and hearing as provided in this article. The record of the meeting at which the variance or special exception was granted shall show that each element of a variance or special exception was established at the public hearing on the questions, otherwise the variance or special exception shall be voidable on appeal to the district court.

1. In exercising the powers specified in subsection (a) of this section, the Board of Adjustment may, in conformity with the provisions of this article, reverse or affirm wholly or partly or may modify the order, requirement, decision or determination from which appealed and may make such order, requirement, decision or determination as ought to be made.

2. The concurring vote of at least three members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination being appealed from, to decide in favor of the applicant, or to decide any ordinance and special exception or variance.

90-02-05. Special exceptions

The Board of Adjustment may make special exceptions to specific uses allowed within each zoning category according to the Zoning Regulations in appropriate cases and subject to appropriate conditions and safeguards in harmony with its general purpose and intent and only in accordance with general or specific provisions contained in the Zoning Regulations.

(Code 1993, § 23-104.1; Ord. No. 3266-A, 3-22-1993; Ord. No. 3267-A, 4-6-1993)

90-02-06. Variances

A variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by the Zoning Regulations may be granted, in whole, in part, or upon reasonable conditions as provided in this article, only upon a finding by the Board of Adjustment that:

A. The application of the Zoning Regulations to the particular piece of property would create an unnecessary hardship;

B. Such conditions are peculiar to the particular piece of property involved;

C. Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the regulations or the comprehensive plan; and

D. The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

(Code 1993, § 23-104.2; Ord. No. 3266-A, 3-22-1993; Ord. No. 3267-A, 4-6-1993)

90-02-07. Notice and hearings

A. Notice of public hearing before the Board of Adjustment shall be given by publication in a newspaper of general circulation in the City where the property is located and by mailing written notice by the secretary of the Board of Adjustment to all owners of property within a 300-foot radius of the exterior boundary of the subject property. The notice by publication and written notice shall be published and mailed at least ten days prior to the hearing.

B. The notice, whether by publication or mail, of a public hearing before the Board of Adjustment shall contain:

1. Legal description of the property and the street address or approximate location in the City;

2. Present zoning classification of the property and the nature of the appeal, variance or exception requested; and

3. Date, time and place of the hearing.
C. On hearings involving minor variances or exceptions, notices shall be given by the secretary of the Board of Adjustment by mailing written notice to all owners of property adjacent to the subject property. The notice shall be mailed at least ten days prior to the hearing and shall contain the facts listed in subsection (b) of this section. The Board of Adjustment shall set forth in a statement of policy as to what constitutes minor variances or exceptions, subject to approval or amendment by the City Council.


90-02-08. Application for variance; fees; time limitation

A. A request for a variance, special exception or an administrative appeal shall be initiated by the filing of an application with the board. Such application shall be submitted in accordance with the requirements specified on an application form provided by the Planning Department.

B. A request for variance, special exception or administrative appeal shall be accompanied by a fee in accordance with the fee schedule in Appendix “A”.

C. A variance or special exception which has not been utilized within two years from the date of the board’s action shall thereafter be void. For the purposes of this provision, utilization shall mean actual use or the issuance of a building permit, when applicable, provided construction is diligently carried to completion.

(Code 1993, § 23-104.4; Ord. No. 3266-A, 3-22-1993; Ord. No. 3267-A, 4-6-1993)

90-02-09. Appeals from the board

An appeal from any action, decision, ruling, judgment or order of the Board of Adjustment may be taken by any person, jointly or severally aggrieved, or any taxpayer or any officer, department, board or bureau of the City to the district court in the manner established for such appeals to be taken under state law.

ARTICLE 03. ADMINISTRATION AND AMENDMENT

90-03-01. Building and occupancy permits generally

A. This article will be enforced by the Planning Department.

B. It is a violation of this code for any person to change or authorize the change in the use of the land; any building, structure or improvement thereon; or to erect, construct, alter, improve, move or remove any building, structure or improvement until properly approved building permit has been obtained.

C. It is a violation of this code for any person to occupy or to authorize or encourage the occupancy or use of any building, structure, or improvement until a properly approved occupancy permit has been issued.

D. Unless otherwise allowed by the Subdivision Regulations, neither building permits nor occupancy permits shall be considered for approval until all required public off-site water, sewer, drainage and street improvements have been completed and accepted by the City, including approval and acceptance of associated maintenance bonds and easements.


90-03-02. Building permits

A. Whenever any building, structure, facility, or other appurtenances is to be erected, constructed, altered, improved, moved or removed as required in the City's building code, a building permit shall be obtained from the building official as provided in the City's building code regulations.

B. Every applicant for a building permit, excluding remodels where the building footprint
does not change, shall submit a site plan as specified herein.

C. The site plan and associated plans and specifications shall be reviewed by the appropriate authority and either approved, if in conformance with City codes, or shall be check printed and returned for required revisions if not in full conformance.

D. If not approved and returned for revisions, the corrected site plan or associated plans and specifications shall be corrected and returned with the check print.

E. Three copies of each sheet of the submittal shall be delivered to the building official. One set will be retained by the City and two approved sets shall be returned to the applicant or his engineer, architect or land surveyor. One set, and the approved permit, shall be retained at the job site.


90-03-03. Certificates of occupancy

A. No land, building, structure or other physical improvement shall be occupied or used until a certificate of occupancy has been issued by the building official. No change shall be made in the physical features or use of land, building, structure or facility after the passage of these regulations without:

1. An approved zoning;

2. Any necessary building permit; and

3. The issuance of a certificate of occupancy certifying that all provisions of all City codes, ordinances and standards have been complied with.

B. As may be appropriate to the use for which a certificate of occupancy is requested, approval may be required from the Planning Department, the Public Works Department and/or the Fire Department in addition to that required of the building official.

C. When a particular development consists of two or more separate buildings or is a commercial group building development, and where all associated off-site and on-site public improvements have been completed and thereafter approved and accepted by the City, the building official may, upon the recommendation of the Planning Department Director or his or her designee and the Public Works Department Director or his or her designee, authorize the progressive issuance of certificates of occupancy for individual buildings within the development as each is satisfactorily completed with all necessary, associated parking ingress and egress and utilities as required for such approval by the appropriate City authority.

90-03-04. Site location on corner lots

A. Where any person who proposes the location of a building on a corner lot wherein the actual front of the building shall not also be the legal front of the lot, then the front yard setback requirement shall be required on the legal front and actual front. If a variance to this rule is required, it shall be secured through a variance requested from the board of adjustment in accordance with this code.


90-03-05. Amendments

A. The City Council may from time to time on its own motion or on petition of a property owner or on recommendation of the Planning Commission, amend the regulations and change the districts as herein established. No change in the regulations or district boundaries shall become effective until after a public hearing is held in relation thereto, at which time parties in interest and citizens shall have an opportunity to be heard. At least 20 days’ notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City. In addition to the newspaper notice, notice of a public hearing on any proposed zoning change shall also be given 20 days prior to the hearing by mailing written notice to owners of property within a 300 foot radius of the exterior boundary of the subject property. The notice shall contain:

1. Legal description of the property and the street address of approximate location in the City;

2. Present zoning and classification of the property and the classification sought by the applicant; and

3. Date, time and place of the public hearing.

B. A request to rezone property shall be initiated by the filing of an application with the City. Such application shall be submitted in accordance with the requirements specified on an application form provided by the Planning Department and include a fee according to a schedule of fees in Appendix “A”, as shall be modified from time to time by the council, and made available for public viewing in the City Clerk's office and a property owner’s list as specified in section 90-03-08 and state law.

C. A petition to change a district and regulations once heard and decided upon by the commission shall not be considered again until a period of six months has elapsed.

D. All project or matters that fall within the purview of the duties of the Planning Commission shall be referred to the commission for investigation and report before any final action shall be made thereon. If the commission fails to make an investigation and report on any matter or subject referred to it after a reasonable time determined by the
complexity of said request, such failure shall be considered a refusal to approve the proposed plan or project and the board or council shall be under no obligation to wait longer for reports or recommendations concerning the projects. As determined by the Planning Director


State Law References: Notice and public hearing of proposed regulations, 11 O.S. § 43-104; amendments or changes of regulations, 11 O.S. § 43-105; additional notice requirements, 11 O.S. § 43-106.

90-03-06. Violation and penalty

A violation of any provision of these regulations shall be deemed an offense and punishable, as provided in Section 1-14. In addition to any penalty, in case any building, is erected, constructed, reconstructed, altered, repaired, converted or maintained, or if any building, structure or land is used in violation of these regulations, the City may, pursuant to the provisions of 11 O.S. § 43-107, institute proceedings for injunctive or other relief.


90-03-07. Classification of new additions

A. All new additions and annexations of land to the City shall be in the "R-1" Single-Family Residential District unless otherwise classified by the City zoning map, for a period of time not to exceed one year from the effective date of the ordinance annexing the addition.

B. Within this one-year period of time, the Planning Commission shall study and make recommendations concerning the use of land within the annexation to promote the general welfare and in accordance with the general plan. Upon receipt of such recommendations, the council or board shall, after public hearings as required by law, establish the district classification of the annexation. This shall not be construed as preventing the council or board from holding public hearings prior to annexation and establishing the district classification at the time of the annexation.

90-03-08. **List of property owners within 300 feet**

All applicants requesting that property within the City be rezoned shall furnish the City a list of all other property owners, together with the property owners' mailing address, within 300 feet of the property to be rezoned. The list shall be certified as accurate and correct by a bonded abstractor, a licensed attorney, or a registered surveyor. The list as required in this section shall be provided before any public hearing on the rezoning shall be held.

(Prior Code, § 2-3; Code 1993, § 23-498)
ARTICLE 04. SITE DEVELOPMENT PLAN REQUIREMENTS

90-04-01. PURPOSE

It is the purpose of this article to regulate the safe, orderly and attractive development of townhouses, row houses and condominiums, multifamily, commercial and industrial land uses within the limits of the City, to conserve and enhance property values, to preserve adequate space for vehicular and transportation facilities usually associated with such uses, and to provide for effective traffic movement without congestion and hazards, and to provide for effective stormwater management and control. It is the purpose of this article to ensure that public utilities and services are provided in a safe and healthful manner, consistent with applicable regulations and standards. It is the further purpose of this article to recognize, in the planning for and of specific land uses, the densities and uses of adjacent land and the health, safety, morals, appearance and general welfare of the community. In order to achieve the aforementioned objectives, and to encourage imaginative use of land areas, certain modifications of the strict requirements of this article are provided for where deemed by the City Council, after seeking the recommendation of the Planning Commission, to be in the public interest.


90-04-02. APPLICABILITY

A. At the time of filing an application for a building permit, as required by 90-03-02, the applicant shall, for any erection, alteration or construction of any building or structure on, above or below grade in any zone, submit to the Planning/Inspection Department for review and approval a site plan prepared by a registered architect, registered professional engineer or a licensed land surveyor licensed in the state to practice as such. A site plan is not required for remodels where the building footprint does not change as per Section 90-03-02.B.

B. A site plan may not be required for applications requesting rezoning when the request conforms to the Comprehensive Plan/Land Use Map. In all other cases, a site plan shall be required and shall comply with Section 90-04-03.
90-04-03. SITE PLAN SPECIFICATIONS

A. This site plan shall include the following data:

1. Location of all existing and proposed building structures, utilities, drives, approaches, parking and other prominent physical features on the site;

2. Boundary of the entire tract by courses and distances and adjacent streets, alleys, drainage facilities and public utilities;

3. Area of tract;

4. Zoning of the tract;

5. Present record owner of the tract;

6. Phasing plan of proposed development;

7. Width and layout, including elevations, of all streets, alleys, and public right-of-way adjoining the tract;

8. Existing and proposed stormwater runoff patterns and flows including calculations of flow and adequacy of receiving stormwater gathering facilities to accommodate calculated increase of rate of runoff without adverse effect;

9. Location of existing public utility easements and facilities, proposed public utility easements and facilities, and their dimensions as may be required;

10. Size in square feet and use for each building, including the height of each building;

11. Layout, arrangement and specifications for paving and base, off-street parking spaces, aisles and drives, pedestrian walks and walkways, drainage, lighting signs and traffic control, safety islands, parking bumpers, curbs and gutters, fencing and screening and landscaping. Dimensional requirements for stall widths and depths, aisle widths, drive widths, radii, sidewalks and walkways, sight lines, setbacks, etc., shall conform with the Zoning Regulations and the City's curb cut regulations;

12. Layout, location and dimensional arrangement of poles, fire hydrants, Siamese connections, water valves, catch basins, underground piping and conduits, lighting fixtures standards, retaining walls, pump islands, signs, doorways, window wells, waste receptacles or areas, guy wires, storage sheds or areas, fencing and any other structure, facility or feature that might interfere with the safe and orderly movement of motor vehicles or pedestrians;

13. The location, size, layout and type of entrances and driveways in conformance
with the City's curb cut regulations;

14. Location and width of all sidewalks, crosswalks and safety islands shall comply with the ANSI/ICC (International Code Council) A117.1, Standard for Accessible and Usable Buildings and Facilities, for making facilities accessible to and usable by the physically handicapped;

15. Fencing, screening or walls to be erected; specifications, locations, dimensions, height;

16. Topography, existing and proposed, indicating areas of excavation, backfill and grading, slopes to be maintained and earth work specifications;

17. Disposition of stormwater runoff from buildings, paved areas and ground surfaces and indicating surface grades and elevations, catch basins, underground storm drains and their grades and elevations outfalls, headwalls and specifications and drainage calculations;

18. The total square footage of all impervious surface areas;

19. All public utilities and their easements indicating sizes, lines, grades and types/specifications all conforming to the appropriate City codes;

20. Landscape planting, clearly identified, showing location, type and size;

21. All zoning setback requirements and sight lines;

22. Name and seal of architect, engineer or land surveyor preparing the site plan.

B. All site plans shall be drawn to an appropriate scale on a sheet or sheets whose dimensions do not exceed 24 inches by 36 inches.

C. There shall be a key map showing the location of the property reference to government survey section lines and major streets.


90-04-04. SITE PLAN TO CONFORM WITH CITY CODES

All features and elements of the site plan required by this section shall in all respects conform to all applicable provisions of the codes of the City.

ARTICLE 05. PUD (PLANNED UNIT DEVELOPMENT)

90-05-01. INTENT AND PURPOSE

A. The purpose of the regulations, standards, and criteria contained in this chapter is to provide an alternate zoning procedure under which land can be developed or redeveloped with innovation, imagination, and creative architectural design when sufficiently justified under the provisions of this chapter. The objective of the Planned Development is to encourage a higher level of design and amenity than is possible to achieve under otherwise applicable zoning regulations. The end result can be a product which fulfills the objectives of the Muskogee Comprehensive Plan and planning policies of the City while departing from the strict application of the use and bulk regulations of the zoning title. The Planned Development is intended to permit and encourage such flexibility and to accomplish the following purposes:

1. To stimulate creative approaches to the commercial, residential and commercial/mixed-use development of land.

2. To provide more efficient use of land.

3. To preserve natural features and provide open space areas and recreation areas in excess of that required under existing zoning regulations.

4. To develop new approaches to the living environment through variety in type, design and layout of buildings, transportation systems, and public facilities.

5. To unify building and structures through design.

6. Promotion of long term planning pursuant to the Comprehensive Plan, which will allow harmonious and compatible land uses or combination of uses with surrounding areas.
B. The development of City owned buildings and property shall be exempt from the requirements of this section.


A. To fulfill the intended purpose of this district, single-family residential developments greater than twenty-five (25) acres and all other developments greater than ten (10) acres shall be developed as a Planned Development in accordance with this chapter, unless exempt by the Planning Director. Additionally, any development within the Central Business District may apply for approval as a Planned Development.

B. Each Planned Development should be presented and judged on its own merits. It shall not be sufficient to base justification for approval of a Planned Development upon an already existing Planned Development except to the extent such Planned Development has been approved as part of a development master plan.

C. The burden of providing evidence and persuasion that any Planned Development is necessary and desirable shall in every case rest with the applicant.

D. Buildings and uses or combinations of uses within a Planned Development shall be limited solely to those approved as part of a Planned Development permit; provided, however, that any buildings and uses or combinations of uses in compliance with a development master plan approved as part of a Planned Development permit may be approved by the City Council.

90-05-03. Standards for Review

Modifications in conventional zoning and subdivision regulations are privileges and will be considered by the City only in direct response to the accrual of tangible benefits from the Planned Development to the City or the neighborhood/area in which it would be located. These benefits shall be in the form of exceptional amenities, landscape, architectural or site design, or the conservation of special man-made or natural features of the site. In reviewing an application for a Planned Development, the Planning Commission and/or the City Council, as the case may be, shall be required to make certain findings based on the following standards.

A. Required Findings. No application for a Planned Development shall be approved unless all of the following findings are made about the development:

1. Comprehensive Plan. The Planned Development shall conform with the general planning policies of the City as set forth in the Comprehensive Plan.

2. Public Welfare. The Planned Development shall be so designed, located and proposed to be operated and maintained that it will not impair an adequate supply of light and air to adjacent property and will not substantially increase the danger of fire or otherwise endanger the public health, safety and welfare.
3. **Impact on Other Property.** The Planned Development shall not be injurious to the use or enjoyment of other property in the neighborhood for the purposes permitted in the district, shall not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the zoning district, shall not be inconsistent with the community character of the neighborhood, shall not alter the essential character of the neighborhood and shall be consistent with the goals, objectives, and policies set forth in the Comprehensive Plan, and shall not substantially diminish or impair property values within the neighborhood, or be incompatible with other property in the immediate vicinity.

4. **Impact on Public Facilities and Resources.** The Planned Development shall be so designed that adequate utilities, road access, drainage, and other necessary facilities will be provided to serve it at the cost of the developer in accordance with the Subdivision Regulations.

5. **Archaeological, Historical or Cultural Impact.** The Planned Development shall not substantially adversely affect a known archaeological, historical, or cultural resource located on or off of the parcel proposed for development.

6. **Parking and Traffic.** The Planned Development shall have or make adequate provision to provide ingress and egress to the proposed use in a manner that minimizes traffic congestion in the public streets, provides appropriate cross access to adjacent properties and parking areas, and provide adequate access for emergency vehicles.

7. **Adequate Buffering.** The Planned Development shall have adequate landscaping, public open space, and other buffering features to protect uses within the development and surrounding properties.

8. **Signage.** Any signage on the site of the Planned Development shall be in conformity with the Sign Regulations.

B. **Modification Standards.** In addition to the findings required above, the following standards shall be utilized in considering applications for modifications of the conventional zoning and subdivision regulations for a Planned Development. These standards shall not be regarded as inflexible, but shall be used as a framework by the City to test the quality of the amenities, benefits to the community, and design and desirability of the proposal.

1. **Integrated Design.** A Planned Development shall be laid out and developed as a unit in accordance with an integrated overall design. This design shall provide for safe, efficient, convenient and harmonious grouping of structures, uses and facilities, and for appropriate relation of space inside and outside buildings to intended uses and structural features.
2. **Beneficial Common Open Space.** Any common open space in the Planned Development shall be integrated into the overall design. Such spaces shall have a direct functional or visual relationship to the main building(s) and not be of isolated or leftover character. The following would not be considered usable common open space:

   a. Areas reserved for the exclusive use or benefit of an individual tenant or owner.
   
   b. Dedicated streets, alleys and other public rights-of-way.
   
   c. Vehicular drives, parking, loading and storage area.
   
   d. Irregular or unusable narrow strips of land less than fifteen feet (15’) wide.

3. **Functional and Mechanical Features.** Exposed storage areas, trash and garbage retainers, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures shall be accounted for in the design of the Planned Development and made as unobtrusive as possible. They shall be subject to such setbacks, special planting or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

4. **Visual and Acoustical Privacy.** The Planned Development shall provide reasonable visual and acoustical privacy for each dwelling unit. Fences, insulations, walks, barriers and landscaping shall be used as appropriate for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable view or uses, and reduction of noises.

5. **Energy Efficient Design.** A Planned Development shall be designed with consideration given to various methods of site design and building location, architectural design of individual structures, and landscaping design capable of reducing energy consumption within the Planned Development.

6. **Drives, Parking and Circulation.** Principal vehicular access shall be from dedicated public streets, and access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, adequate provision for service by emergency vehicles, and arrangement of parking areas that are safe and convenient, and insofar as feasible, do not detract from the design of proposed buildings and structures and the neighboring properties.
7. **Surface Water Drainage.** Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic.

**90-05-04. Site Development Standards**

Notwithstanding any limitations on variations which can be approved as contained elsewhere in the Zoning Regulations, site development allowances, i.e., deviations or variations from the underlying zoning provisions set forth outside this chapter may be approved provided the applicant specifically identifies each such site development allowance and demonstrates how each such site development allowance would be compatible with surrounding development, is in furtherance of the stated objectives of this section, and is necessary for proper development of the site.

**90-05-05. Application Requirements**

A. The following steps are provided to assure the orderly review of every Planned Development application in a timely and equitable manner.

B. An application for a Planned Development may only be filed by one who has an ownership interest or the agents thereof; or any contract purchaser or anyone holding an option to purchase the parcel of land on which the use or combination of uses is to be located.

C. Applications for a Planned Development shall be filed with the Planning Director in such form and accompanied by such information, with sufficient copies, as shall be established from time to time by the City. Every application shall contain, at a minimum, the following information and related data:

1. The names and addresses of the owner, or owners if more than one, of the subject property.

2. A statement from the owner of the subject property, if not the applicant, approving of the filing of the application by the particular applicant.

3. A survey of, and legal description and street address for the subject property.

4. A statement indicating compliance of the proposed Planned Development with the Comprehensive Plan; and evidence of the proposed project's compliance in specific detail with each of the "Standards for Review" in Section 90-05-03 for Planned Developments.

5. A scaled site plan showing the existing contiguous land uses, natural topographic features, zoning districts, public thoroughfares, transportation and utilities.
6. A scaled site plan of the proposed Planned Development showing lot area, the required yards and setbacks, contour lines, common space, and the location, floor area ratio, lot area coverage and heights of buildings and structures, number of parking spaces and loading areas.

7. Schematic drawings illustrating the design and character of the building, elevations and types of construction of all proposed buildings and structures. The drawings shall also include a schedule showing the number, type, and building area of all uses or combinations of uses, and the building area of the entire development. Single-family detached residential structures are excluded from the schematic drawing requirements of this section.

8. A landscaping plan showing the location, size, character and composition of vegetation and other material.

9. The substance of easements, and other restrictions existing and any to be imposed on the use of land, including common open space, and buildings or structures.

10. A schedule of development showing the approximate date for beginning and completion of each stage of construction of the Planned Development.

11. A professional traffic study acceptable to the City may be required, showing the proposed traffic circulation pattern within and in the vicinity of the area of the Planned Development, including the location and description of public improvements to be installed, and any streets and access easements.

12. A professional economic analysis acceptable to the City, including the following:
   a. The financial capability of the applicant to complete the proposed Planned Development;
   b. Evidence of the project's economic viability; and
   c. An analysis summarizing the economic impact the proposed Planned Development will have upon the City.

13. Copies of all environmental impact studies as required by law.

14. An analysis setting forth the anticipated demand on all City services.

15. A plan showing off-site utility improvements required to service the proposed Planned Development, and a report showing the cost allocations and funding sources for those improvements.

16. A site drainage plan for the proposed Planned Development.

17. A photometric/lighting plan for the proposed Planned Development.
D. Every application must be accompanied by the fee set out in Appendix “A” in such amount as established from time to time by the City Council to defray the costs of providing notice. Additional materials may be required during the review of a proposed Planned Development if determined necessary by the Planning Commission or the City Council.

90-05-06. Effect of Approval or Denial

A. Approval of the Planned Development permit by the City Council authorizes the applicant to proceed with any necessary applications for building permits, certificates of occupancy, and other permits which the City may require for the proposed Planned Development. The Planning Department shall review applications for these permits for compliance with the terms of the Planned Development permit granted by the City Council. No building permit shall be issued for development which does not comply with the terms of the Planned Development permit.

B. The City Council shall direct the Planning Director to revise the Official Zoning Map to reflect the existence and boundaries of each Planned Development.

C. Subject to subsection G below, an approval of a Planned Development permit by the City Council shall be null and void if the recipient does not file an application for a building permit relative to the proposed Planned Development within twelve (12) months after the date of adoption of the ordinance approving the Planned Development permit.

D. Subject to subsection G below, an approval of a Planned Development permit by the City Council shall be null and void if construction has not commenced within twelve (12) months, and is not completed within thirty (30) months after the date of adoption of the ordinance approving the Planned Development permit.

E. Subject to subsection G below, an approval of a Planned Development permit with a phasing plan shall be null and void if construction has not commenced or is not completed in accordance with the terms of that phasing plan.

F. An approval of a Planned Development permit with a master development plan shall be null and void if construction has not commenced or is not completed in accordance with the terms and conditions contained in the development master plan.

G. An extension of the time requirements stated in subsections C, D, and E of this Section may be granted by the City Council for good cause shown by the applicant, provided a written request is filed with the City Clerk at least four (4) weeks prior to the respective deadline.
H. No application for a Planned Development which was previously denied by the City Council shall be considered by the Planning Commission or the City Council if it is resubmitted in substantially the same form and/or content within six (6) months of the date of such prior denial. In this regard:

1. The Planning Director shall review the application for a Planned Development and determine if the application is or is not substantially the same. An applicant has the right to request a hearing before the City Council to appeal the determination of the Planning Director that the application is substantially the same, provided a petition for appeal is filed in writing with the City Clerk within ten (10) days of the Planning Director’s determination.

2. The City Council shall affirm or reverse the determination of the Planning Director, regarding whether the new application is in substantially the same form, within thirty (30) days of receipt of a petition for appeal.

3. If it is determined that the new application is not substantially in the same form, then the applicant shall be entitled to continue with the application process and have it reviewed in accordance with the provisions of the Zoning Regulations.

90-05-07. Amendments and Alterations to Approved Planned Development Permits

A. Except as provided in subsection B below, relating to minor changes to the Planned Development permit, any modifications to an approved Planned Development permit or any addition to or expansion of an existing Planned Development permit shall require separate review and approval under the provisions of the Zoning Regulations.

B. A minor change is any change in the site plan or design details of an approved Planned Development permit which is consistent with the standards and conditions applying to the Planned Development permit and which does not alter the concept or intent of the Planned Development. A minor change shall not increase the Planned Development's density, increase the height of buildings, reduce open space, modify the proportion of housing types, change or add new parking areas, alter alignment of roads, utilities or drainage, amend final development agreements, provisions or covenants, or provide any other change inconsistent with any standard or condition imposed by the City Council in approving the Planned Development permit. Said minor change may be approved by the Planning Director without obtaining separate approval by the City Council. In addition, the City Council may, after reviewing the request for a minor change made by the applicant, direct the Planning Director to process the request other than as a minor change.
ARTICLE 06. ZONING DISTRICTS

90-06-01. DISTRICTS ESTABLISHED

90-06-02. DISTRICT PURPOSE STATEMENTS

90-06-03. ZONING MAP

90-06-01. Districts Established

To carry out the purpose and provisions of these regulations, the following zoning districts are hereby established including residential and nonresidential districts, which are further defined by commercial and industrial districts, as shown below.

90-06-02. District Purpose Statements

A. Agricultural

A-1. Agricultural. The A-1, Agricultural district is to preserve land for agricultural use. The district allows for a variety of agriculture and compatible uses on large tracts of land, such as crop production, livestock keeping, commercial agriculture-related uses, and other compatible land uses.

B. Residential

R-A. Agricultural Residential. The R-A, Agricultural Residential district is to provide for low-density, single-family residential communities. The R-A district provides space on the fringes of the developed areas of the City for low-density residential and similar non-intensive uses, such as low intensity agricultural.

R-1. Single-family. The R-1, Single-family Residential district is to consist primarily of single-family dwellings and related recreational, religious and educational facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function necessary to the residential environment. Internal stability, attractiveness, order and efficiency is encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of each element.

R-2. Two-family. The R-2, Two-family Residential district accommodates two-family dwellings to provide for a slightly higher population density but to secure such characteristics as outlined in the R-1, single-family residential district. This district is generally located adjacent to the higher density multifamily districts and provides a transition to lower density R-1, Single-family Residential district.
**R-3. Townhouse.** The R-3, Townhouse Residential district, is to provide for a range of housing, primarily consisting of three or more individual dwelling units arranged side-by-side, offering a transition between less intense single- and two-family development and more intense multifamily or commercial uses.

**R-4. Multifamily.** The R-4, Multifamily Residential district is to provide for medium to high population density in townhome and multi-family dwellings. The district is generally located adjacent to the commercial districts and permits a transition to other residential districts.

**R-5. Mobile Home.** The R-5, Mobile Home residential district is to provide for an alternative living style and dwelling type to conventional single-family housing. The purpose of this district is to provide a grouping of home sites within the setting of a residential subdivision for mobile homes and manufactured housing units that are generally not compatible with conventional housing.

**C. Commercial**

**C-1. Local Commercial.** The C-1, Local Commercial district is to consist of retail sale businesses, offices, and professional service enterprises that provide day-to-day goods and services for surrounding residential neighborhoods. This district is intended to allow commercial development which can be carried out in a harmonious manner with a minimum of disruption and undesirable impact upon the adjacent residential uses.

**C-2. General Commercial.** The C-2, General Commercial district is to consist of a wide range of retail sale businesses, offices, and professional service enterprises that provide goods and services that serve a variety of purposes. Uses with generally larger footprints and/or outdoor sales requirements are allowed in this district.

**C-3 Regional Commercial.** The C-3, Regional Commercial district is to provide areas for all types of retailing and service uses that serve both the needs of local residents as well as draw customers from areas beyond the city limits. Generally, retail establishments that require large lots and outdoor display/storage as well as distribution and storage land uses are permitted in this district. This district is designed to accommodate commercial areas where customers reach individual business establishments primarily by automobile.

**D. Industrial**

**I-1. Light Industrial.** The I-1, Light Industrial district is intended to accommodate most types of industrial development as well as business parks. This district is designed to protect residential and less intensive commercial uses by locating general industrial uses in locations removed from such residential or commercial development. Certain general industrial uses that may tend to be objectionable due to their odor, vibrations, smoke, glare, heat, noise or similar characteristics are provided as special uses in this district.
I-2. Heavy Industrial. The I-2 Heavy Industrial district is intended to provide areas for industrial and related uses of such a nature that they do not create noticeable nuisances, hazards, or serious problems of compatibility with other kinds of land uses. The intensity of uses permitted in this district makes it desirable that they be located downwind and separated from residential and commercial uses whenever possible.

P. Port Industrial. The P, Port Industrial district is intended to provide industries and establishments that require access to port and terminal facilities. Uses included in this district are those where their existence is enhanced by a location adjacent to a navigable waterway.

E. Central Business District

CBD. Central Business District. The CBD, Central Business District, is intended to create and preserve an accessible and attractive downtown area offering a wide range of residential, retail, office, and service uses within a pedestrian-friendly, compact built environment.

90-06-03. Zoning Map

The zoning map and all the notations, references and other information shown thereon, as well as any amendments thereto, are a part of this ordinance and have the same force and effect as if the zoning map and all the notations, references and other information shown thereon, as well as any amendments thereto, were all fully set forth or described herein. The zoning map is on file in the Planning Department.
ARTICLE 07. AGRICULTURAL DISTRICT

90-07-01. GENERAL DESCRIPTION

90-07-02. PERMITTED AND SPECIAL USES

90-07-03. BULK AND YARD STANDARDS

90-07-01. General Description

A-1. Agricultural

The A-1 Agricultural District is to preserve land for agricultural use. The district allows for a variety of agriculture and compatible uses on large tracts of land, such as crop production, livestock keeping, commercial agriculture-related uses, and other compatible land uses.

90-07-02. Permitted and Special Uses

Table 90-07(A): Agricultural District Permitted and Special Uses Table lists permitted and special uses for the agricultural districts. A “P” indicates that a use is considered permitted within that district as of right. An “S” indicates that a use is permitted as a special exception in that district upon approval from the Board of Adjustment as required in Section 90-02-05 (Special Exceptions). A blank space or the absence of the use from the table indicates that use is not permitted within that district. However, a use not identified on the table may be determined by the Planning Director to be a permitted or special use in the district, based on his evaluation as to whether the proposed use is similar enough in character, intensity, and operations to that of a permitted or special use in the district.

Table 90-07(A): Agricultural District Permitted and Special Uses Table

P = Permitted Use  S = Special Use

<table>
<thead>
<tr>
<th>USE</th>
<th>A-1</th>
<th>USE STANDARDS</th>
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<tbody>
<tr>
<td>RESIDENTIAL</td>
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<tr>
<td>Dwelling, Single-Family</td>
<td>P</td>
<td>See Section 90-13</td>
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<tr>
<td>INSTITUTIONAL</td>
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<td>Municipal/Public Building</td>
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<td></td>
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<tr>
<td>Public Library</td>
<td>S</td>
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<tr>
<td>School, Preschool-12th Grade</td>
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<td></td>
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<tr>
<td>University or College</td>
<td>S</td>
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<tr>
<td>Place of Worship</td>
<td>P</td>
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<tr>
<td>USE</td>
<td>A-1</td>
<td>USE STANDARDS</td>
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<td><strong>AGRICULTURAL</strong></td>
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<tr>
<td>Agribusiness</td>
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<td>Animal Hospital</td>
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<td>Animal Husbandry</td>
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<tr>
<td>Animal Keeping – Exotic</td>
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<td>Animal Keeping – Fowl</td>
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<td>Animal Keeping – Livestock</td>
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<td>Crop Production</td>
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<td>Equestrian Facility – Commercial</td>
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<td>Equestrian Facility – Hobby</td>
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<tr>
<td>Feedlots</td>
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<td>Hog Farm – For show or consumption</td>
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<td></td>
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<tr>
<td>Hog Farm - Commercial</td>
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<tr>
<td>Kennel, Commercial</td>
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<td>Kennel, Hobby</td>
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<td>Slaughterhouse</td>
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<td>Stable</td>
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<tr>
<td>Veterinary Facility</td>
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<tr>
<td><strong>COMMERCIAL</strong></td>
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<tr>
<td>Agricultural Tourism</td>
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<td>Animal Sales/Grooming</td>
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<td>Feed and Fuel Store</td>
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<tr>
<td>Garden Center/Plant Nursery</td>
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<tr>
<td>Golf Course</td>
<td>S</td>
<td></td>
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<tr>
<td>Public Stables or Riding Academies</td>
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<tr>
<td><strong>INDUSTRIAL</strong></td>
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<tr>
<td>Agricultural Products Processing</td>
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<tr>
<td>Oil Wells or Gas Wells (including drilling thereof)</td>
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</tbody>
</table>
90-07-03. Bulk and Yard Standards

*Table 90-07(B): Agricultural District Bulk and Yard Regulations* establishes bulk and yard regulations for the agricultural zoning districts. Bulk and yard regulations apply to all uses within that district unless a different standard is listed for a specific use.

**Table 90-07(B): Agricultural District Bulk and Yard Standards**

<table>
<thead>
<tr>
<th>BULK AND YARD</th>
<th>A-1</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LOT DIMENSIONS</strong></td>
<td></td>
</tr>
</tbody>
</table>
| Lot Width (min.) | Agriculture: None  
| | Residential: See Article 90.08.03 |
| Lot Area (min.) | 10 acre |
| **SETBACKS** |     |
| Front (min.) | 35 ft |
| Side (min.) | 20 ft |
| Corner Side (min.) | 35 ft |
| Rear (min.) | 40 ft |
| **INTENSITY** |     |
| Lot Coverage (max.) | None |
| Building Height (max.) | 45 ft |
| Intensity of Use (max.) | None |

**NOTES:**

Except as provided in Article 90-13.
ARTICLE 08. RESIDENTIAL DISTRICTS

90-08-01. GENERAL DESCRIPTION

A. R-A. Agricultural Residential

The R-A, Agricultural Residential district is to provide for low-density, single-family residential communities. The R-A district provides space on the fringes of the developed areas of the City for low-density residential and similar non-intensive uses, such as low intensity agricultural.


B. R-1. Single-family

The R-1, Single-family Residential district is to consist primarily of single-family dwellings and related recreational, religious and educational facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function necessary to the residential environment. Internal stability, attractiveness, order and efficiency is encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of each element.


C. R-2. Two-family

The R-2, Two-family Residential district accommodates two-family dwellings to provide for a slightly higher population density but to secure such characteristics as outlined in the R-1, Single-family Residential district. This district is generally located adjacent to the higher density multifamily districts and provides a transition to lower density R-1 Single-family Residential district.

D. **R-3. Townhouse**

The R-3, Townhouse Residential district, is to provide for a range of housing, primarily consisting of three or more individual dwelling units arranged side-by-side, offering a transition between less intense single- and two-family development and more intense multifamily or commercial uses.

E. **R-4. Multifamily**

The R-4, Multifamily Residential district is to provide for medium to high population density in townhome and multi-family dwellings. The district is generally located adjacent to the commercial districts and permits a transition to other residential districts.


F. **R-5. Mobile Home**

The R-5, Mobile Home residential district is to provide for an alternative living style and dwelling type to conventional single-family housing. The purpose of this district is to provide a grouping of home sites within the setting of a residential subdivision for mobile homes and manufactured housing units that are generally not compatible with conventional housing.


**90-08-02. Permitted and Special Uses**

*Table 90-08(A): Residential Districts – Permitted Uses and Special Exceptions* lists permitted and special uses for the residential districts. A “P” indicates that a use is considered permitted within that district as of right. An “S” indicates that a use is permitted as a special exception in that district upon approval from the Board of Adjustment as required in Section 90-02-05 (Special exceptions). A blank space or the absence of the use from the table indicates that use is not permitted within that district. However, a use not identified on the table may be determined by the Planning Director to be a permitted or special use in the district, based on his evaluation as to whether the proposed use is similar enough in character, intensity, and operations to that of a permitted or special use in the district.
Table 90-08(A): Residential District – Permitted and Special Uses Table

P = Permitted Use   S = Special Use

<table>
<thead>
<tr>
<th>USE</th>
<th>R-A</th>
<th>R-1</th>
<th>R-2</th>
<th>R-3</th>
<th>R-4</th>
<th>R-5</th>
<th>USE STANDARDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>RESIDENTIAL</td>
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<td></td>
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<tr>
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<tr>
<td>Dwelling, Single-Family</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>See Section 90-13</td>
</tr>
<tr>
<td>Dwelling, Two-Family</td>
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<tr>
<td>Dwelling, Multi-Family</td>
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<td>P</td>
<td></td>
</tr>
<tr>
<td>Dwelling, Mobile and Manufactured</td>
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<tr>
<td>Dwelling, Townhouse</td>
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<td></td>
<td>P</td>
<td>P</td>
<td></td>
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</tr>
<tr>
<td>Dwelling, Senior Independent</td>
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<td></td>
<td></td>
<td>P</td>
<td></td>
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<tr>
<td>Bed &amp; Breakfast</td>
<td>S</td>
<td>S</td>
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<tr>
<td>Group Living</td>
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<tr>
<td>Community Residence, Large (8 or more)</td>
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<td></td>
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<td>S</td>
<td></td>
</tr>
<tr>
<td>Community Residence, Small (7 or fewer)</td>
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<td>S</td>
<td>S</td>
<td>S</td>
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<td>S</td>
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<tr>
<td>Assisted Living</td>
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<td></td>
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<tr>
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<tr>
<td>Animal Keeping – Exotic(^1)</td>
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<td>S</td>
<td></td>
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<tr>
<td>Animal Keeping – Livestock(^1)</td>
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</tr>
<tr>
<td>Animal Keeping – Fowl(^2)</td>
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<td></td>
<td></td>
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<tr>
<td>Equestrian Facility – Hobby(^3)</td>
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<td>Urban Agriculture</td>
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<td>Community Gardens</td>
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<td>Municipal/Public Building</td>
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<td>P</td>
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<tr>
<td>Public Library</td>
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<td>P</td>
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<tr>
<td>School, Preschool-12th Grade</td>
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<td>P</td>
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<tr>
<td>Place of Worship</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Professional Services</td>
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<tr>
<td>Day Care Home, Child (7 or fewer persons)</td>
<td>P</td>
<td>P</td>
<td>S</td>
<td></td>
<td></td>
<td></td>
<td>P</td>
</tr>
</tbody>
</table>

Footnote 1: A maximum of two (2) animals are permitted per one (1) acre lot. Additional animals may be allowed for lots greater than one acre, upon approval from the Board of Adjustment.

Footnote 2: A maximum of six (6) fowl, no roosters, are permitted per one (1) acre lot. Additional fowl may be allowed for lots greater than one acre, upon approval from the Board of Adjustment.
90-08-03.  **Bulk and Yard Standards**

A.  *Table 90-08(B): Residential District Bulk and Yard Regulations* establishes bulk and yard regulations for the residential zoning districts. Bulk and yard regulations apply to all uses within that district unless a different standard is listed for a specific use.

**Table 90-08(B): Residential District Bulk and Yard Standards**

<table>
<thead>
<tr>
<th>BULK AND YARD</th>
<th>R-A</th>
<th>R-1</th>
<th>R-2</th>
<th>R-3</th>
<th>R-4</th>
<th>R-5$^3$</th>
</tr>
</thead>
<tbody>
<tr>
<td>LOT DIMENSIONS</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lot Width (min.$^3$)</td>
<td>150 ft</td>
<td>60 ft</td>
<td>60 ft</td>
<td>60 ft</td>
<td>60 ft</td>
<td>50 ft</td>
</tr>
<tr>
<td>Lot Area (min.)</td>
<td>1 acre</td>
<td>7,200 sf</td>
<td>7,200 sf</td>
<td>Townhouse: 1,000 sf/per dwelling unit but no less than 8,200 sf</td>
<td>SF &amp; 2F: 7,200 sf</td>
<td>Townhouse &amp; MF: 1,000 sf/per dwelling unit but no less than 8,200 sf</td>
</tr>
<tr>
<td>SETBACKS</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front (min.$^3$)</td>
<td>35 ft</td>
<td>25 ft</td>
<td>25 ft</td>
<td>25 ft</td>
<td>25 ft</td>
<td>25 ft</td>
</tr>
<tr>
<td>Side (min.$^3$)</td>
<td>20 ft</td>
<td>6 ft</td>
<td>6 ft</td>
<td>6 ft</td>
<td>15 ft</td>
<td>6 ft</td>
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<tr>
<td>Corner Lot (min.$^3$)</td>
<td>25 ft</td>
<td>15 ft</td>
<td>15 ft</td>
<td>15 ft</td>
<td>20 ft</td>
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<tr>
<td>Rear (min.$^3$)</td>
<td>40 ft</td>
<td>25 ft</td>
<td>25 ft</td>
<td>30 ft</td>
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<td>25 ft</td>
</tr>
<tr>
<td>INTENSITY</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lot Coverage (max.)</td>
<td>None</td>
<td>35%</td>
<td>40%</td>
<td>45%</td>
<td>50%</td>
<td>35%</td>
</tr>
<tr>
<td>Building Height (max.)</td>
<td>2 1/2 stories or 35 ft.</td>
<td>2 1/2 stories or 35 ft.</td>
<td>2 1/2 stories or 35 ft.</td>
<td>2 1/2 stories or 35 ft.</td>
<td>2 1/2 stories or 35 ft.</td>
<td>2 1/2 stories or 35 ft.</td>
</tr>
<tr>
<td>Intensity of Use (max.)</td>
<td>1 dwelling per lot</td>
<td>1 dwelling per lot</td>
<td>2 dwellings per lot</td>
<td>None</td>
<td>None</td>
<td>1 dwelling per lot</td>
</tr>
</tbody>
</table>

**NOTES:**

1. Lot width measured at required front yard setback.
2. If fifty (50) percent or more of the lots on one side of a street between two intersecting streets are improved with buildings which have observed an average setback line greater or less than 25 ft, and no building varies more than five ft. from this average setback line, then said building may be erected at the setback so established by the existing buildings.
3. Refer to Article 90.12.04 for setback requirements related to accessory uses and buildings.
4. Lot coverage measured as combined total area covered by main and accessory buildings.
5. Mobile home parks can accommodate both mobile homes and travel trailers, provided that individual mobile home sites and travel trailer sites are not mixed. All mobile home and travel trailer parks must be approved by a preliminary plat and final plat.
6. If covered parking areas (open canopy) for multi-family dwellings are located to the interior side or rear of the main building, it shall be set back a minimum of three (3) feet from the interior side and rear lot lines. However, a canopy accessing an alley shall be set back a minimum of ten (10) feet from the rear lot line unless a vehicle maneuvering is provide onsite.
90-08-04. **Residential Districts Design Standards**

Development within the residential districts shall comply with the following design standards.

A. All residential buildings shall comply with the Building Code(s) adopted by the City of Muskogee.

B. Metal panels installed on the façade of any structure, excluding lap siding, shall only be allowed within areas zoned A (Agricultural) and R-5 (Mobile Home).

C. The roof slope shall have a minimum vertical rise of 3 inches for every 12 inches of horizontal run.

D. The eave projection and roof overhang shall be a minimum of twelve (12) inches, which may include the guttering.

E. Attached or detached accessory structures shall comply with Section 90-12-04 Accessory Structures and Uses.

F. Structures shall face a public or private street. If the structure is located on a corner lot, the structure should face and be addressed from the street which the front yard abuts, as shown on the approved plat of the addition the structure is located and comply with Section 90-03-04 (Site Location on Corner Lots).

90-09-05. **General Standards**

A. **Accessory Structures, and Uses**

See Article 90-12-04 (Accessory Uses and Structures) for standards covering accessory uses and structures.

B. **On-Site Development Standards**

See Article 90-12 (On-Site Development Standards) for standards governing additional on-site development standards such as exterior lighting requirements and permitted encroachments.

C. **Off-Street Parking**

See Article 90-14 (Off-Street Parking) for standards governing off-street parking.

D. **Landscaping and Screening**

See Article 90-15 (Landscaping and Screening) for standards governing landscaping and screening.
ARTICLE 09. COMMERCIAL DISTRICTS

90-09-01. GENERAL DESCRIPTION

90-09-02. PERMITTED AND SPECIAL USES

90-09-03. BULK AND YARD STANDARDS

90-09-04. COMMERCIAL DISTRICT DESIGN STANDARDS

90-09-05. GENERAL STANDARDS

90-09-01. General Description

G. C-1. Local Commercial

The C-1, Local Commercial district is to consist of retail sale businesses, offices, and professional service enterprises that provide day-to-day goods and services for surrounding residential neighborhoods. This district is intended to allow commercial development which can be carried out in a harmonious manner with a minimum of disruption and undesirable impact upon the adjacent residential uses.


H. C-2. General Commercial

The C-2, General Commercial district is to consist of a wide range of retail sale businesses, offices, and professional service enterprises that provide goods and services that serve a variety of purposes. Uses with generally larger footprints and/or outdoor sales requirements are allowed in this district.

I. C-3 Regional Commercial

The C-3, Regional Commercial district is to provide areas for all types of retailing and service uses that serve both the needs of local residents as well as draw customers from areas beyond the city limits. Generally, retail establishments that require large lots and outdoor display/storage as well as distribution and storage land uses are permitted in this district. This district is designed to accommodate commercial areas where customers reach individual business establishments primarily by automobile.
90-09-02. Permitted and Special Uses

_Table 90-09(A): Commercial Districts – Permitted Uses and Special Exceptions_ lists permitted and special uses for the commercial districts. A “P” indicates that a use is considered permitted within that district as of right. An “S” indicates that a use is permitted as a special exception in that district upon approval from the Board of Adjustment as required in Section 90.02-05 (Special exceptions). A blank space or the absence of the use from the table indicates that use is not permitted within that district. However, a use not identified on the table may be determined by the Planning Director to be a permitted or special use in the district, based on his evaluation as to whether the proposed use is similar enough in character, intensity, and operations to that of a permitted or special use in the district.

**Table 90-09(A): Commercial District – Permitted and Special Uses Table**

<table>
<thead>
<tr>
<th>USE</th>
<th>C-1</th>
<th>C-2</th>
<th>C-3</th>
<th>USE STANDARDS</th>
</tr>
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<td><strong>RESIDENTIAL</strong></td>
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<td>Group Living</td>
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</tr>
<tr>
<td>Community Residence, Small (7 or fewer persons)</td>
<td>S</td>
<td>S</td>
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<tr>
<td>Community Residence, Large (8 or more persons)</td>
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<tr>
<td>Transitional Living Center</td>
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<td><strong>Government and Educational</strong></td>
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<tr>
<td>Municipal/Public Building</td>
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<td>School, Preschool-12th grade</td>
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<td>University or College</td>
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<tr>
<td>Place of Worship</td>
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<tr>
<td><strong>Cultural, Recreational, and Entertainment</strong></td>
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<td>Social Club or Lodge</td>
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<td><strong>Professional Services</strong></td>
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<td>Day Care Center, Child (8 or more persons)</td>
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<td><strong>COMMERCIAL</strong></td>
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<td>Farm and Gardening Implements Sales and Service</td>
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<td>USE</td>
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<td>Feed and Fuel Store</td>
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<td><strong>Construction and Building Sales and Services</strong></td>
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<td>Carpenter and Cabinet Shop Sales</td>
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<td>Hardware Store</td>
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<td>Heating, Ventilating, Plumbing Supply and Sales</td>
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<td>Lumber and Materials Sales Yard</td>
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<td>Machine Shop</td>
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<td>Paint Shop</td>
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<td>Pipe Yard (resale only)</td>
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<td>Plumbing Shop</td>
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<td>Contractor's Plant or Storage Yard</td>
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<td><strong>Eating and Drinking Establishments</strong></td>
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<td>Catering Establishment</td>
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<td>Dairy Products or Ice Cream Store</td>
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<td>Delicatessen</td>
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<td>Restaurant (sit-down)</td>
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<tr>
<td>Restaurant (drive-thru)</td>
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<tr>
<td>Restaurant (drive-in)</td>
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<tr>
<td>Amusement and Recreational Establishments Serving Alcoholic Beverages</td>
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<td>Nightclubs/Dance Halls Serving Alcoholic Beverages</td>
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<td>Tavern/Bar</td>
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<td>Restaurants with Private Clubs</td>
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<td>Pool Halls, Serving Alcoholic Beverages</td>
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<td><strong>Entertainment and Spectator Sports</strong></td>
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<td>Drive-in Theater</td>
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<td><strong>Food and Beverage Retail Sales</strong></td>
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<td>Bakery, Retail (onsite production and sale)</td>
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<td>Convenience Food Store</td>
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<td>Fruit or Vegetable Stand</td>
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<td>Grocery or Supermarket</td>
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<td>Liquor Store</td>
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<td>Meat Market</td>
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<td><strong>Lodging</strong></td>
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<td><strong>Medical Service</strong></td>
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<td>Dental/Medical Laboratory</td>
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<td>Laboratories, Testing and Experimental</td>
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<td>Research Laboratories</td>
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<td>Auction Rooms</td>
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<td><strong>Indoor/Outdoor Supply</strong></td>
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<td>USE STANDARDS</td>
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<td>Nursery or Garden Supply Store</td>
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<td>Greenhouse</td>
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<td>Monument Sales</td>
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<td><strong>Prefabricated/Mobile Homes</strong></td>
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<td>Prefabricated House Sales</td>
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<td>Accountants</td>
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<td>Advertising Offices</td>
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<td>Collection Agencies</td>
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<td>Employment Agencies</td>
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<td>Medical Offices</td>
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<td>Messenger Services</td>
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<td>Utility Companies</td>
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<td><strong>Professional Studio</strong></td>
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<td>Arts Instruction</td>
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<td><strong>Repair or Laundry Shops, Consumer</strong></td>
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<td>Cleaning, Pressing or Laundry (pick-up/drop-off)</td>
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<td>S</td>
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<td>Furniture Repair and Upholstery</td>
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<td><strong>Retail Stores</strong></td>
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<tr>
<td>Barbershop, Beauty Shop, Nail Salon, Day Spa</td>
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<td>Retail Sales, Goods Produced on the Premise</td>
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<td>Shopping Center</td>
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<td>Retail Goods Establishment</td>
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<td>USE</td>
<td>C-1</td>
<td>C-2</td>
<td>C-3</td>
<td>USE STANDARDS</td>
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<td><strong>Sports and Recreation</strong></td>
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<td>Bowling Alley</td>
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<td>Golf Course</td>
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<td>Recreation Clubs, Private or Non-Profit</td>
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<tr>
<td>Dance Hall</td>
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<td>Roller Skating Rink</td>
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<tr>
<td><strong>Vehicle and Equipment, Sales and Service</strong></td>
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<tr>
<td>Car Wash</td>
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<tr>
<td>Ambulance Service, Office or Garage</td>
<td>P</td>
<td>S</td>
<td></td>
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<tr>
<td>Gas Station</td>
<td>P</td>
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<td>Used Car Lot (no commercial garages, only incidental repairs)</td>
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<td>Battery Service and/or Oil Change Stations</td>
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<td>Motorcycle Sales and Repair and Small Engine Repair</td>
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<td>Muffler and/or Tire Shops</td>
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<td>Trailers for Hauling, Rental and Sales</td>
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<tr>
<td>Vehicle and Machinery Repair, Used</td>
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<td>Vehicle and Machinery Sales</td>
<td>P</td>
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</table>

Note: No article or material stored or offered for sale in connection with the uses permitted within the C-1 district shall be stored or displayed outside the confines of a building unless it is listed as a Special Exception with Table 90-09 (A).
90-09-03. Bulk and Yard Standards

B. Table 90-09(B): Commercial District Bulk and Yard Regulations establishes bulk and yard regulations for the commercial zoning districts. Bulk and yard regulations apply to all uses within that district unless a different standard is listed for a specific use.

Table 90-09(B): Commercial District Bulk and Yard Standards

<table>
<thead>
<tr>
<th>BULK AND YARD</th>
<th>C-1</th>
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<tr>
<td><strong>LOT DIMENSIONS</strong></td>
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<tr>
<td>Lot Width (min.)</td>
<td>None</td>
<td>None</td>
<td>None</td>
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<tr>
<td>Lot Area (min.)</td>
<td>7,200 sq ft</td>
<td>7,200 sq ft</td>
<td>7,200 sq ft</td>
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<tr>
<td><strong>SETBACKS</strong></td>
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<tr>
<td>Front (min.)</td>
<td>25 ft</td>
<td>25 ft</td>
<td>35 ft</td>
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<tr>
<td>Side (min.)²</td>
<td>6 ft</td>
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<td>6 ft</td>
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<tr>
<td>Corner Side (min.)²</td>
<td>20 ft</td>
<td>20 ft</td>
<td>20 ft</td>
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<tr>
<td>Rear (min.)²</td>
<td>15 ft</td>
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<td><strong>INTENSITY</strong></td>
<td></td>
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<tr>
<td>Lot Coverage (max.)</td>
<td>40% (not to exceed 5,000 sq. ft. for main structure)</td>
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<tr>
<td>Building Height (max.)</td>
<td>2 1/2 stories or 35 ft</td>
<td>2 1/2 stories or 35 ft</td>
<td>2 1/2 stories or 35 ft</td>
</tr>
</tbody>
</table>

NOTES:

1. Where the side and/or rear lot line is adjacent to a residential zoning district, then it shall be screened by a six-foot-high sight proof fence or dense hedge.
90-09-04. Commercial District Design Standards

Development within the commercial districts shall comply with the following design standards. Development shall include all new construction and existing structures if the existing structure is enlarged or remodeled by more than fifty-one percent (51%).

1. Façade Articulation. Buildings shall comply with the following building articulation standards.
   a. All sides of the structure, except the rear of the structure unless the rear facade abuts a public street, where said façades is over one hundred (100) feet shall include architectural features a maximum of every seventy-five (75) feet, to minimize the appearance of blank walls. Such as, changes in wall texture, masonry patterns, windows, colonnade, columns or pilasters.
   b. The design of accessory buildings, such as security kiosks, maintenance buildings, and outdoor equipment enclosures, shall be incorporated into, and compatible in design concept with, the overall design of the project and the main buildings on the site.
   c. Predominant façade colors must be subtle, neutral or earth-tone colors. Primary colors, high-intensity colors, metallic or fluorescent colors, and black are prohibited as predominant façade colors. Building trim and accent areas may be brighter and include primary colors.

2. Window Design. Buildings shall comply with the following standards.
   a. Reflective glass is prohibited.

3. Roof Design. Buildings shall comply with the following roof design standards.
   a. Roofs shall be designed as an integral part of the façade design.
   b. When visible from the public street a roofline over one hundred (100) linear feet must be “broken up” by providing a change in height, or with the incorporation of a major focal point feature, such as a dormer, gable or projected wall feature, or articulations in the facade of the building, every one hundred (100) linear feet in building length that gives a visual appearance of the roofline being broken up.
   c. Parapet walls shall feature three-dimensional cornice treatments or other shadow-creating detail elements along their tops.
   d. “Green roof” designs are encouraged.
4. **Entrances.** Buildings shall comply with the following entrance design standards.
   a. Main entrances to the building shall be well defined.
   b. All public entrances shall make provision for pedestrian walkways and landscape areas.

5. **Building Materials.**
   a. **Permitted Materials.** Permitted building materials for exterior use are as follows:
      (i) Clay brick
      (ii) Natural or cast stone
      (iii) Stucco
      (iv) Wood
      (v) Architectural precast concrete
      (vi) Exterior insulating finish systems (EIFS)
      (vii) Vinyl (only allowed in the “C-1” District)
      (viii) Glass curtain walls (non-load bearing glass wall extending more than one story).
   b. **Prohibited Materials.** Prohibited materials for a predominant surface finish material are as follows:
      (i) Plain concrete block (allowed on rear of structure if not abutting a public street)
      (ii) Utility-sized brick
      (iii) Aluminum, steel or other metal sidings
      (iv) Metal wall panels
      (v) Exposed aggregate (rough finish) concrete wall panels
      (vi) Plastic
   c. The following roof materials are prohibited (if visible from a public street):
      (i) Corrugated metal (standing seam metal roofs permitted)
      (ii) Reflective surfaces that produce glare
90-09-05. **General Standards**

E. **Accessory Structures, and Uses**

See Article 90-12-04 (Accessory Uses and Structures) for standards covering accessory uses and structures.

F. **On-Site Development Standards**

See Article 90-12 (On-Site Development Standards) for standards governing additional on-site development standards such as exterior lighting requirements and permitted encroachments.

G. **Off-Street Parking**

See Article 90-14 (Off-Street Parking) for standards governing off-street parking and loading.

H. **Landscaping and Screening**

See Article 90-15 (Landscaping and Screening) for standards governing landscaping and screening.
ARTICLE 10. INDUSTRIAL DISTRICTS

90-10-01. GENERAL DESCRIPTION

90-10-02. PERMITTED AND SPECIAL USES

90-10-03. BULK AND YARD STANDARDS

90-10-04. INDUSTRIAL DISTRICT DESIGN STANDARDS

90-10-05. GENERAL STANDARDS

90-10-01. General Description

J. I-1. Light Industrial

The I-1, Light Industrial district is intended to accommodate most types of industrial development as well as business parks. This district is designed to protect residential and less intensive commercial uses by locating general industrial uses in locations removed from such residential or commercial development. Certain general industrial uses that may tend to be objectionable due to their odor, vibrations, smoke, glare, heat, noise or similar characteristics are provided as special uses in this district.

K. I-2. Heavy Industrial

The I-2 Heavy Industrial district is intended to provide areas for industrial and related uses of such a nature that they do not create noticeable nuisances, hazards, or serious problems of compatibility with other kinds of land uses. The intensity of uses permitted in this district makes it desirable that they be located downwind and separated from residential and commercial uses whenever possible.

L. P. Port Industrial

The P, Port Industrial district is intended to provide industries and establishments that require access to port and terminal facilities. Uses included in this district are those where their existence is enhanced by a location adjacent to a navigable waterway.

90-10-02. Permitted and Special Uses

Table 90-10(A): Industrial Districts – Permitted Uses and Special Exceptions lists permitted and special uses for the industrial districts. A “P” indicates that a use is considered permitted within that district as of right. An “S” indicates that a use is permitted as a special exception in that district upon approval from the Board of Adjustment as required in Section 90.02-05 (Special exceptions). A blank space or the absence of the use from the table indicates that use is not permitted within that district. However, a use not identified on the table may be determined by the Planning Director to be a permitted or special use in the district, based on his evaluation as
to whether the proposed use is similar enough in character, intensity, and operations to that of a permitted or special use in the district.

Table 90-10(A): Industrial District – Permitted and Special Uses Table

P = Permitted Use   S = Special Use

<table>
<thead>
<tr>
<th>USE</th>
<th>I-1</th>
<th>I-2</th>
<th>P</th>
<th>USE STANDARDS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>COMMERCIAL</strong></td>
<td></td>
<td></td>
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<tr>
<td>Agricultural Related</td>
<td></td>
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</tr>
<tr>
<td>Farm and Gardening Implements Sales and Service</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Feed and Fuel Store</td>
<td>P</td>
<td></td>
<td></td>
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<tr>
<td><strong>Animal Services</strong></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Kennel</td>
<td></td>
<td></td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Small Animal Hospital</td>
<td></td>
<td></td>
<td>P</td>
<td></td>
</tr>
<tr>
<td><strong>Distribution and Storage</strong></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Ice storage Locker Plant</td>
<td>P</td>
<td></td>
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<tr>
<td>Mini-Storage</td>
<td>P</td>
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<tr>
<td>Wholesale Distributing Center</td>
<td>P</td>
<td></td>
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<td></td>
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<tr>
<td>Freight Station</td>
<td>P</td>
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<td></td>
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</tr>
<tr>
<td>Warehouse Storage</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Construction and Building Sales and Services</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building Materials Storage Yard</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Carpenter and Cabinet Shop</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Heating, Ventilating, Plumbing Supply and Sales</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lumber and Materials Sales Yard</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contractor’s Plant or Storage Yard</td>
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<tr>
<td><strong>Transportation</strong></td>
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<tr>
<td>Bus Terminal</td>
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<tr>
<td><strong>Medical Service</strong></td>
<td></td>
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<tr>
<td>Dental Laboratory</td>
<td>P</td>
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<tr>
<td>Laboratories, Testing and Experimental</td>
<td>P</td>
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<tr>
<td>Research Laboratories</td>
<td>P</td>
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<tr>
<td><strong>Miscellaneous Commercial</strong></td>
<td></td>
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<tr>
<td>Auction Rooms</td>
<td>P</td>
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<td></td>
<td></td>
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<tr>
<td>Commercial School</td>
<td>P</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>USE</td>
<td>USE STANDARDS</td>
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<tr>
<td>-----</td>
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</tr>
<tr>
<td>Vending Companies</td>
<td>P</td>
<td></td>
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<tr>
<td>Outdoor Amusement Enterprises</td>
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<tr>
<td>Repair or Laundry Shops, Consumer</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cleaning, Pressing or Laundry (on site)</td>
<td>P  S</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cleaning, Pressing or Laundry (off site)</td>
<td>P</td>
<td></td>
<td></td>
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<tr>
<td>Furniture Repair and Upholstery</td>
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<tr>
<td>Vehicle and Equipment, Sales and Service</td>
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<tr>
<td>Trailers for Hauling, Rental and Sales</td>
<td>P</td>
<td></td>
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<tr>
<td>INDUSTRIAL</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufacturing and Production, Light</td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>Assembly of Electrical Appliances, Instruments, and Devices</td>
<td>P  P</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Automobile/Truck Assembling and Body work</td>
<td>P  P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bottling Works</td>
<td>P  P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building Materials Sales Yard</td>
<td>P  S</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Butane and Propane Storage (2,000 gallon tank(s) or above)</td>
<td>S  P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Butane and Propane Storage (Tank(s) less than 2,000 gallons)</td>
<td>P  P</td>
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<tr>
<td>Concrete and Cement Products Manufacture</td>
<td>P  P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contractors' Equipment Storage Yard</td>
<td>P  S</td>
<td></td>
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<tr>
<td>Freighting and Trucking Yards or Terminals;</td>
<td>P  P</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Public Utility Service Yards, Transferring or Receiving Stations</td>
<td>P  P</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Manufacturing, Food/Pharmaceuticals/Beauty Products</td>
<td>P  P</td>
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<td></td>
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<tr>
<td>Manufacturing, Assembly of Prepared Materials</td>
<td>P  P</td>
<td></td>
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<tr>
<td>Manufacturing, Pottery/Ceramic Products</td>
<td>P  P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufacturing, Mechanical Equipment and Electric Signs</td>
<td>P  P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Heavy Industry</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Acid Manufacture</td>
<td>P</td>
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<tr>
<td>Cement, Lime, Gypsum or Plaster of Paris Manufacture</td>
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<tr>
<td>Explosives, Manufacture or Storage</td>
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<tr>
<td>Gas Manufacture, Butane and Propane Storage</td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>Petroleum or its Products, Refining of</td>
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<tr>
<td>Wholesale Storage of Gasoline</td>
<td>P</td>
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<td></td>
</tr>
<tr>
<td>USE</td>
<td>I-1</td>
<td>I-2</td>
<td>P</td>
<td>USE STANDARDS</td>
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<td>-----</td>
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</tr>
<tr>
<td>Asphaltic Mixing Plants or Asphalt Plants</td>
<td></td>
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<tr>
<td>Farm Products, Grain and Feed Storage, Including Grain Elevators; Pipe Yard (fabrication or manufacturing)</td>
<td></td>
<td></td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Oil Field Equipment Storage Yard</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td><strong>Industrial Commercial</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cleaning and Dyeing Works</td>
<td></td>
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<td>P</td>
<td></td>
</tr>
<tr>
<td>Coal, Coke or Wood yard (50-ton capacity)</td>
<td></td>
<td></td>
<td>P</td>
<td></td>
</tr>
<tr>
<td><strong>Other Industry</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electrical Transmission Station</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recycling Center (no reprocessing)</td>
<td>P</td>
<td>P</td>
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<td></td>
</tr>
<tr>
<td>Industrial or Warehouse Requiring Access to Port and/or Terminal Facilities</td>
<td></td>
<td></td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Wrecking Yards, Salvage Yards or Junkyards</td>
<td>S</td>
<td>S</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Industrial Uses Located upon Davis Field Airport Property</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: Any use listed within the I-1 (Light Industrial District) may be allowed as a special exception within the I-2 (Heavy Industrial District) if said use compliments and/or supplements a facility located within the I-2 District.
90-10-03. Bulk and Yard Standards

Table 90-10(B): Industrial District Bulk and Yard Regulations establishes bulk and yard regulations for the industrial zoning districts. Bulk and yard regulations apply to all uses within that district unless a different standard is listed for a specific use.

Table 90-10(B): Industrial District Bulk and Yard Standards

<table>
<thead>
<tr>
<th>BULK AND YARD</th>
<th>I-1</th>
<th>I-2</th>
<th>P</th>
</tr>
</thead>
<tbody>
<tr>
<td>LOT DIMENSIONS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lot Width (min.)</td>
<td>60 ft</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Lot Area (min.)</td>
<td>7,200 sq ft</td>
<td>10,000 sq ft</td>
<td>None</td>
</tr>
<tr>
<td>SETBACKS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front (min.)²</td>
<td>25 ft</td>
<td>25 ft</td>
<td>25 ft¹</td>
</tr>
<tr>
<td>Side (min.)²</td>
<td>6 ft</td>
<td>6 ft</td>
<td>6 ft¹</td>
</tr>
<tr>
<td>Corner Side (min.)²</td>
<td>20 ft</td>
<td>20 ft</td>
<td>20 ft¹</td>
</tr>
<tr>
<td>Rear (min.)²</td>
<td>20 ft</td>
<td>20 ft</td>
<td>20 ft¹</td>
</tr>
<tr>
<td>INTENSITY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lot Coverage (max.)</td>
<td>80% (including main and accessory building)</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Building Height (max.)</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>

NOTES:

1. Setbacks shall not apply to required yards that have direct frontage to port or terminal facilities.

2. Where the side and/or rear lot line is adjacent to a residential zoning district, then it shall be screened by a six-foot-high sight proof fence or dense hedge. All industrial uses shall be set back a minimum of 50 feet from residential zoning districts.

3. Setbacks shall not apply to required yards that have direct frontage to port or terminal facilities.

4. Where the side and/or rear lot line is adjacent to a residential zoning district, then it shall be screened by a six-foot-high sight proof fence or dense hedge. All industrial uses shall be set back a minimum of 50 feet from residential zoning districts.
90-10-04. INDUSTRIAL District Design Standards

All structures zoned and used for I-1 (Light Industrial), I-2 (Heavy Industrial) or P (Port Industrial) shall comply with the following design standards.

A. Façade Articulation and Reduction of Mass and Scale.

The following standards for façade articulation and reduction of mass and scale apply to all façades that face a public right-of-way (excluding alleys) and the façade where the building entrance is located.

1. Large expanses of highly reflective wall surface material and mirror glass on exterior walls are prohibited to prevent heat and glare impacts on the adjacent public streets and properties (solar installations shall comply with Section 90-12-04.I.D.).

2. The design of accessory buildings, such as security kiosks, maintenance buildings, and outdoor equipment enclosures, shall be incorporated into, and compatible in design concept with, the overall design of the project and the main buildings on the site.

3. Predominant façade colors shall not be high-intensity (bright) colors, metallic, fluorescent colors, or black.

B. Roof Design

1. Reflective surfaces that produce glare are prohibited (solar installations shall comply with Section 90-12-04.I.D.).

2. “Green roof” and white roof designs are encouraged.

C. Site Layout

1. Public entrances and primary building elevations shall face public streets. Main entrances to the buildings shall be well defined and integrated into the overall design of the building.

2. Direct access to office or guest facilities shall be from street frontages or parking areas. Manufacturing and warehouse structures that produce odor, vibrations, smoke, glare, heat, noise or similar characteristics may be required set back towards the center of the site to minimize impact on adjacent parcels.

D. Building Materials

1. Permitted Material. Permitted building materials for exterior use in the construction of industrial uses are as follows:

   a. Brick

   b. Natural or cast stone
c. Tinted and/or textured concrete masonry units

d. Stucco

e. High quality metal may be used as exterior siding within the I-2 (Heavy Industrial) and P (Port Industrial) Districts

f. Architectural precast concrete

g. Exterior insulating finish systems (EIFS)
h. Plain concrete block

i. Other types of material shall be approved prior to issuance of a building permit.

90-10-05. General Standards

I. Accessory Structures, and Uses

See Article 90-12-04 (Accessory Uses and Structures) for standards covering accessory uses and structures.

J. On-Site Site Development Standards

See Article 90-12 (On-Site Development Standards) for standards governing additional on-site development standards such as exterior lighting requirements and permitted encroachments.

K. Off-Street Parking

See Article 90-14 (Off-Street Parking) for standards governing off-street parking and loading.

L. Landscaping and Screening

See Article 90-15 (Landscaping and Screening) for standards governing landscaping and screening.
ARTICLE 11. CENTRAL BUSINESS DISTRICT

90-11-01. GENERAL DESCRIPTION

90-11-02. PERMITTED AND SPECIAL USES

90-11-03. BULK AND YARD STANDARDS

90-11-04. CENTRAL BUSINESS DISTRICT DESIGN STANDARDS

90-11-05. GENERAL STANDARDS

90-11-01. General Description

CBD. Central Business District

The CBD, Central Business District, is intended to create and preserve an accessible and attractive downtown area offering a wide range of residential, retail, office, and service uses within a pedestrian-friendly, compact built environment.

90-11-02. Permitted and Special Uses

Table 90-11(A): Central Business District – Permitted Uses and Special Exceptions lists permitted and special uses for the Central Business districts. A “P” indicates that a use is considered permitted within that district as of right. An “S” indicates that a use is permitted as a special exception in that district upon approval from the Board of Adjustment as required in Section 90-02-05 (Special exceptions). A blank space or the absence of the use from the table indicates that use is not permitted within that district. However, a use not identified on the table may be determined by the Planning Director to be a permitted or special use in the district, based on his evaluation as to whether the proposed use is similar enough in character, intensity, and operations to that of a permitted or special use in the district.

Table 90-08(A): Central Business District – Permitted and Special Uses Table

<table>
<thead>
<tr>
<th>USE</th>
<th>CBD</th>
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<tbody>
<tr>
<td>Residential</td>
<td></td>
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<tr>
<td>Household Living</td>
<td></td>
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<tr>
<td>Dwelling, Multi-Family (upstairs only)</td>
<td>P</td>
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<tr>
<td>Dwelling, Multi-Family (downstairs)</td>
<td>S</td>
</tr>
<tr>
<td>Dwelling, Townhouse</td>
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</tr>
<tr>
<td>Group Living</td>
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<tr>
<td>Community Residence, Large (More than 6 persons)</td>
<td>S</td>
</tr>
<tr>
<td>USE</td>
<td>CBD</td>
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<tr>
<td>--------------------------------------------------------------------</td>
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</tr>
<tr>
<td>Community Residence, Small (6 or less persons)</td>
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</tr>
<tr>
<td>Assisted Living</td>
<td>S</td>
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<tr>
<td><strong>Government and Educational</strong></td>
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<tr>
<td>Municipal/Public Building</td>
<td>P</td>
</tr>
<tr>
<td>School, Preschool-12th Grade</td>
<td>P</td>
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<tr>
<td>University or College</td>
<td>P</td>
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<tr>
<td><strong>Religious</strong></td>
<td></td>
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<tr>
<td>Place of Worship</td>
<td>P</td>
</tr>
<tr>
<td><strong>Cultural, Recreational, and Entertainment</strong></td>
<td></td>
</tr>
<tr>
<td>Cultural Facility</td>
<td>P</td>
</tr>
<tr>
<td>Private Club</td>
<td>P</td>
</tr>
<tr>
<td>Social Club or Lodge</td>
<td>P</td>
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<tr>
<td><strong>Professional Services</strong></td>
<td></td>
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<tr>
<td>Day Care Home, Child (7 or fewer persons)</td>
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<tr>
<td>Day Care Center, Child (8 or more)</td>
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</tr>
<tr>
<td><strong>COMMERCIAL</strong></td>
<td></td>
</tr>
<tr>
<td>Construction and Building Sales and Services</td>
<td></td>
</tr>
<tr>
<td>Paint Shop</td>
<td>P</td>
</tr>
<tr>
<td><strong>Eating and Drinking Establishments</strong></td>
<td></td>
</tr>
<tr>
<td>Café</td>
<td>P</td>
</tr>
<tr>
<td>Catering Establishment</td>
<td>P</td>
</tr>
<tr>
<td>Dairy Products or Ice Cream Store</td>
<td>P</td>
</tr>
<tr>
<td>Delicatessen</td>
<td>P</td>
</tr>
<tr>
<td>Coffee or Sandwich Shop</td>
<td>P</td>
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<tr>
<td>Restaurants (sit-down)</td>
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<tr>
<td>Restaurants (drive-thru)</td>
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<tr>
<td>Amusement and Recreational Establishments Serving Alcoholic Beverages</td>
<td>P</td>
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<tr>
<td>Nightclubs</td>
<td>P</td>
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<tr>
<td>Tavern/Bar</td>
<td>P</td>
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<tr>
<td>Restaurants with Private Clubs</td>
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<tr>
<td>Pool halls, Serving Alcoholic Beverages</td>
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<tr>
<td><strong>Entertainment and Spectator Sports</strong></td>
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<tr>
<td>Museums</td>
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<tr>
<td>Music Halls (indoor)</td>
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<tr>
<td>USE</td>
<td>CBD</td>
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<tr>
<td>------------------------------------------</td>
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</tr>
<tr>
<td>Theater (indoor)</td>
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<tr>
<td><strong>Financial Services</strong></td>
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<tr>
<td>Bank</td>
<td>P</td>
</tr>
<tr>
<td>Credit Unions or Bureaus</td>
<td>P</td>
</tr>
<tr>
<td>Safe Depositories</td>
<td>P</td>
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<tr>
<td>Savings and Loan</td>
<td>P</td>
</tr>
<tr>
<td>Stock and Bonds Broker</td>
<td>P</td>
</tr>
<tr>
<td>Trust Companies</td>
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</tr>
<tr>
<td><strong>Food and Beverage Retail Sales</strong></td>
<td></td>
</tr>
<tr>
<td>Bakery, Retail (onsite production and sale)</td>
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</tr>
<tr>
<td>Convenience Food Store</td>
<td>P</td>
</tr>
<tr>
<td>Fruit or Vegetable Shop or Stand</td>
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</tr>
<tr>
<td>Grocery or Supermarket</td>
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<tr>
<td>Liquor Store</td>
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<td>Meat Market</td>
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<tr>
<td><strong>Lodging</strong></td>
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<tr>
<td>Bed and Breakfast Facility</td>
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<td>Hotel and Convention Centers</td>
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<td>Motel</td>
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<td><strong>Transportation</strong></td>
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<td>Bus Terminal</td>
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<td>Parking Lots and Parking Garages</td>
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<td><strong>Medical Service</strong></td>
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<td>Pharmacies</td>
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<td>Medical Offices</td>
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<td><strong>Miscellaneous Commercial</strong></td>
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<td>Auction Rooms</td>
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<td>Commercial School</td>
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<td><strong>Professional Office</strong></td>
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<td>Professional Offices</td>
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<tr>
<td>Office, Business</td>
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<tr>
<td>Employment Agencies</td>
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<td>Abstract Companies</td>
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<td>Accountants</td>
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<td>Advertising Offices</td>
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<td>USE</td>
<td>CBD</td>
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<td>----------------------------------------</td>
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<td>Collection Agencies</td>
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<td>Finance Companies</td>
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<td>Post Offices</td>
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<td>Messenger Services</td>
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<td>Protection Services</td>
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<td>Publicity Services</td>
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<td>Tax Consultants</td>
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<td>Utility Companies</td>
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<td>Travel Agencies</td>
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<td><strong>Professional Studio</strong></td>
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<tr>
<td>Arts Instruction</td>
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<tr>
<td><strong>Repair or Laundry Shops, Consumer</strong></td>
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</tr>
<tr>
<td>Cleaning, Pressing or Laundry (drop-off/pick-up)</td>
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<tr>
<td><strong>Retail Stores</strong></td>
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<tr>
<td>Barbershop, Beauty Shop, Nail Salon, Day Spa</td>
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<tr>
<td>Retail sales, Goods Produced on the Premise</td>
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<tr>
<td>Shopping Center</td>
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<td>Retail Goods Establishment</td>
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<tr>
<td>Nursery or Garden Supply Store (indoor)</td>
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<tr>
<td>Hardware Store</td>
<td>P</td>
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<tr>
<td>Florist Shops</td>
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<tr>
<td><strong>Sports and Recreation</strong></td>
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<tr>
<td>Bowling Alley</td>
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<tr>
<td>Recreation Clubs, Private or Non-profit</td>
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<tr>
<td>Dance Hall</td>
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<tr>
<td>Roller Skating Rink</td>
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90-11-03. **Bulk and Yard Standards**

*Table 90-11 (B): Central Business District Bulk and Yard Regulations* establishes bulk and yard regulations for the central business zoning districts. Bulk and yard regulations apply to all uses within that district unless a different standard is listed for a specific use.

**Table 90-11(B): Central Business District Bulk and Yard Standards**

<table>
<thead>
<tr>
<th>BULK AND YARD</th>
<th>CBD</th>
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<tbody>
<tr>
<td>LOT DIMENSIONS</td>
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<tr>
<td>Lot Width (min.)</td>
<td>None</td>
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<tr>
<td>Lot Area (min.)</td>
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<tr>
<td>SETBACKS</td>
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<td>Front (min.)</td>
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</tr>
<tr>
<td>Side (min.)1</td>
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</tr>
<tr>
<td>Corner Side (min.)1</td>
<td>None</td>
</tr>
<tr>
<td>Rear (min.)1</td>
<td>None</td>
</tr>
<tr>
<td>INTENSITY</td>
<td></td>
</tr>
<tr>
<td>Lot Coverage (max.)</td>
<td>None</td>
</tr>
<tr>
<td>Building Height (max.)</td>
<td>10 stories or 110 ft</td>
</tr>
</tbody>
</table>

**NOTES:**

1. Where the side or rear lot line is adjacent to a residential zoning district, then it shall be screened by a six-foot-high site proof fence or dense hedge.

90-11-04. **Central Business District Design Standards**

All structures located within the Central Business District shall comply with the following design standards.

**B. BuildingFacade and Roof**

1. Buildings are encouraged to use architectural massing elements, such as towers, turrets, or chamfered facades, to create interest and draw attention to highly visible areas.

2. Facades of buildings in excess of fifty (50) feet that face the public right-of-way including side and rear facades must be visually broken to minimize the appearance of blank walls. Such as, changes in wall texture, masonry patterns, windows, colonnade, columns or pilasters.
3. For every twenty-five (25) linear feet of building length, roof lines must either be varied with a change in height or the incorporation of a major focal point feature such as a dormer, gable or projected wall feature.

4. Horizontal ground floor façade elements shall, to the extent possible, align with horizontal ground floor façade elements of surrounding buildings in order to create continuity at the pedestrian level.

5. Upper story horizontal elements should be generally consistent with surrounding buildings. Small variations can be used to create visual interest and attractive building silhouettes.

6. The use of vertical cornice line elements is encouraged to create visual interest and articulate the building façade at the roof line.

c. **Building Orientation and Pedestrian Access**

1. Multi-family buildings shall provide entry from the public sidewalk to shared entry areas or lobbies.

2. Multiple-tenant commercial buildings, including the ground floor of mixed-use buildings, may include an individual entry for each tenant, or a primary lobby entrance that provides internal access to individual tenants.

3. For commercial and mixed-use projects, a designated pedestrian access path from rear parking areas to the public sidewalk shall be provided.

D. **Infill Building Relationships**

a. Infill buildings must match the height of an adjacent building or be at least twenty-four (24) feet in height.

b. Infill buildings shall continue the existing streetwall of the adjacent structures.

E. **Roof Types**

Flat and gable roof types are permitted in the Central Business District. Decorative mansard roofs are permitted for projects that are four (4) or more stories. Hip roofs are permitted for roofs that are three (3) stories or less. Buildings are encouraged to include design elements, such as turrets, dormers, or articulated roof elements that break up large roof areas.
F. **Prohibited Building Materials.**

The following exterior building materials are prohibited in the Central Business District. The use of any materials not specifically prohibited in this section is subject to review and approval prior to the issuance of a building permit.

1. Plain concrete masonry units (CMU); however, CMU is permitted as a base course (foundation) for residential uses for a maximum of four (4) feet in height as measured from grade
2. Vinyl or steel siding, aluminum or wood-slat siding
3. Formstone
4. T-111 Composite plywood siding
5. Utility-sized, king-size or jumbo brick
6. Fiberglass or plastic
7. Exposed aggregate (rough finish) concrete wall panels
8. Reflective glass
9. Any expansions of structures existing in the CBD District as of the date of the adoption of this Ordinance may use the same building materials on the façade as the façade of the existing structure, even if such materials are not listed as permitted or are listed as prohibited in this section. The use of such materials is subject to approval by the Board of Adjustment (BOA).

90-11-05. **General Standards**

M. **Accessory Structures, and Uses**

See Article 90-12-04 (Accessory Uses and Structures) for standards covering accessory uses and structures.

N. **On-Site Site Development Standards**

See Article 90-12 (On-Site Development Standards) for standards governing additional on-site development standards such as exterior lighting requirements and permitted encroachments.

O. **Off-Street Parking**

See Article 90-14 (Off-Street Parking) for standards governing off-street parking and loading.

P. **Landscaping and Screening**

See Article 90-15 (Landscaping and Screening) for standards governing landscaping and screening.
ARTICLE 12. ON-SITE DEVELOPMENT STANDARDS

90-12-01. PURPOSE

90-12-02. USE OF LAND AND BUILDINGS

90-12-03. EXTERIOR LIGHTING

90-12-04. ACCESSORY STRUCTURES AND USES

90-12-05. PERMITTED ENCROACHMENTS

90-12-06. TEMPORARY USES

90-12-07. ENVIRONMENTAL PERFORMANCE STANDARDS

90-12-01. Purpose

The purpose of this Section is to address the regulation of those other site improvements on a lot other than the Regulations for the principal building. This includes site design standards, accessory structures and uses, and permitted encroachments.

90-12-02. Use of Land and Buildings

A. Number of Buildings on a Lot

In the R-A, R-1, R-2, R-3, and R-5 zoning districts there shall be no more than one (1) principal building per lot, unless otherwise provided within the Zoning Regulations. In all other districts, more than one (1) building may be erected on a single lot, provided that each building shall comply with all bulk and yard requirements of a district as though it were a principal building on an individual lot.

B. All Activities within an Enclosed Structure

Within all districts, all activities shall be conducted entirely within an enclosed structure, with the exception of the following activities and uses:

1. Off-street parking and loading, in accordance with Article 14 (Off-Street Parking).

2. Outdoor businesses, and those businesses with a required outdoor component, including, but not limited to, outdoor entertainment, outdoor recreation, outdoor storage yards, contractor storage yards, restaurants with outdoor dining, car washes, kennels/pet “day care” services and similar businesses. However, these businesses may be limited or the outdoor components prohibited as a condition of a special use, where special use approval is applicable.
3. Temporary uses, in accordance with Article 90-12-06 (Temporary Uses).

C. Frontage on a Public or Private Street

All lots shall front on a public or private street. Lot width shall be calculated as the distance between side lot lines measured at the required front yard setback on a line parallel to the front lot line.

D. Required Yards

No lot shall be reduced in area so that the yards are less than required by this Ordinance. The required yards for a lot shall not be considered a yard for any other lot. All yards allocated to a building shall be located on the same lot as such building.

E. Applicability of Bulk Requirements

All structures erected after the effective date of this Ordinance shall meet the requirements for the zoning district in which the structure is located. No existing structure shall be enlarged, altered, reconstructed or relocated in such a manner that conflicts with the requirements of the zoning district in which the structure is located.

F. Applicability of Use Restrictions

No structure or land shall be used for any use other than one allowed as either a permitted or special use in the zoning district in which such structure or land is located. Structures or land may also be used for a temporary use or accessory use, in accordance with the requirements of Article 90-12-06 (Temporary Uses) and Article 90-12-04 (Accessory Structures and Uses).

G. Corner Visual Clearance

At all intersections, at a point of twenty (20) feet in any direction from the point of intersection of the street right-of-way, no sign, wall, fence, hedge, shrub or other object may exceed a height of three (3) feet above the established street grade.

90-12-03. Exterior Lighting

Lighting on a given site shall adhere to the following standards. City staff and officials may request submittal of a formal lighting plan at their discretion, the content of which shall be determined at the time that such a request is made.

A. Light Trespass and Distraction

Lighting shall be provided in such a way as to not interfere with roadway traffic or spill over on adjacent properties.

1. Specifically, the following types of light trespass are prohibited:
   a. Any light not designed for roadway illumination that produces direct or
reflected glare that could disturb the operator of a motor vehicle.

b. Any light that may be confused with, or construed as, a traffic control device, except as authorized by state, federal or local government.

B. Unshielded Lighting

The use of unshielded lighting, including incandescent light bulbs hung or strung on poles, wires, or any other type of support, are prohibited, except on a temporary basis in areas where approved sale of seasonal goods, carnivals, fairs or other similar activities are held and only when such activities are taking place.

C. Light Pole and Building-Mounted Lighting Heights

The maximum height of light poles on private property, as measured from grade at the base to the bottom of the luminaire, shall be as specified below. These standards do not apply to public right-of-way lighting. Permitted light pole heights shall be as follows:

1. Non-Residential Districts
   a. Lights poles and building-mounted fixtures shall be designed with fully shielded luminaires. Such poles or mounts shall not exceed thirty (30) feet in height.
   b. Light poles for outdoor recreational facilities shall not exceed sixty (60) feet in height. If light poles that exceed sixty (60) feet are necessary, such light poles are subject to special use approval.

2. Residential Districts
   a. Light poles shall not exceed twelve (12) feet in height.
   b. Lighting mounted on a dwelling shall not be mounted higher than fifteen (15) feet above grade.

D. Automatic Teller Machine Lighting

The operator, owner, or other person responsible for the automated teller machine shall provide lighting during the hours of darkness with respect to an open and operating automated teller machine and any defined parking area, access area, and the exterior of an enclosed automated teller machine installation.

90-12-04. Accessory Structures and Uses

All accessory structures and uses shall be subject to the requirements of this Section and the requirements of Article 90-12-05 (Permitted Encroachments).

A. General Regulations

All accessory structures and related uses shall be subject to the following regulations, in
addition to any other regulations within this Article and this Zoning Ordinance.

An accessory use may not be established prior to the establishment of the principal use to which it is an accessory.

The building height of any detached accessory structure shall not exceed eighteen (18) feet or the height of the principal building, whichever is less, unless located in the A-1 district or accessory structure height is otherwise permitted or limited by this Ordinance.

No accessory structures may be located in a front yard or corner side yard setback.

An accessory structure may not occupy more than 40% of the rear yard.

Detached accessory structures (including overhangs) shall be located a minimum of ten (10) feet, or the minimum distance required by the City Building Codes, from the principal structure or another accessory structure.

All accessory structures must be located a minimum of three (3) feet from any rear lot line and three (3) feet from an interior side lot line, unless otherwise permitted by this Ordinance.

Accessory structures shall not be located within a public or private easement.

On a reversed corner lot in a residential district, no detached accessory structure shall be closer to the side lot line abutting the street than the required front yard on the adjacent property to the rear. In addition, for such lots, all accessory structures shall be located no closer to the rear lot line than the minimum side yard of the adjacent residential property.

If located partially or completely between the side lot line and the principal structure on the lot, a detached accessory structure shall meet the minimum side yard requirements established for the principal structure.

B. Donation Boxes

Donation boxes are permitted for non-residential uses.

Only one (1) donation box is permitted per zoning lot. The donation box must be accessory to and owned by the principal use on the site.

No donation box may be located in the front yard. Donation boxes may be located in the corner side, interior side or rear yard but must be three (3) feet from any property line.

No donation box may be located within a required parking space.

The area surrounding the donation box must be kept free of any junk, debris or other material.

Donation boxes shall be maintained in good condition and appearance with no
structural damage, holes, or visible rust, and shall be free of graffiti.

Donation boxes shall be locked or otherwise secured.

Donation boxes shall contain the following contact information on the front of each donation box: the name, address, email, and phone number of the operator.

Donation boxes shall be serviced and emptied as needed, but at least every thirty (30) days.

Donation boxes shall not exceed five (5) feet in height and sixty (60) cubic feet.

C. Fences, General Requirements

1. All fences shall be measured from existing grade, unless otherwise specified.

2. Fences for utilities and public recreational uses in any district shall be subject to the regulations in 90-12-04.C.5.

3. For the purposes of this section, masonry walls shall be considered solid fences.

4. Fence Construction and Design Requirements

a. All fence posts shall be placed on the inside of the fence.

b. A fence or wall, including all posts, bases, and other structural parts shall be located completely within the boundaries of the lot on which it is located.

c. Fences shall only be constructed of the following materials:

   (i) Treated wood, cedar or redwood

   (ii) Simulated wood

   (iii) Decorative brick or stone

   (iv) Wrought-iron or aluminum designed to simulate wrought-iron

   (v) Galvanized or coated chain link, brown, black or green in color (permitted in rear and interior side yard only)

   (vi) Vinyl

   (vii) Barbed wire

   (A) In the I-1, I-2, and P Districts, barbed wire may only be used when installed atop a fence or wall having a height above grade of at least eight (8) feet.

   (B) In the A-1 District, barbed wire may only be used in connection with animal husbandry activities.

   (C) In the R-A District, barbed wire may only be installed
upon specific approval by the Zoning Board of Adjustment.

(D) When barbed wire is installed atop a fence or wall, the height of that fence or wall shall be determined as the distance between grade and the uppermost strand of barbed wire.

(E) Installation of barbed wire must meet the following standards:

(1) Barbed wire shall not be located within seven (7) feet of any property zoned R-1, R-2, R-3, R-4, R-5, C-1, C-2, C-3, CBD or PUD District.

(2) The barbed wire shall have barbs spaced no closer than at three-inch (3") intervals.

(3) The barbed wire fence or wall shall have not more than four (4) strands, except for barbed wire fencing used for animal husbandry activities.

(4) In all zoning districts, quasi-public buildings and facilities essential to the physical welfare of an area, such as electrical distribution substations, pipeline pumping stations, gas regulator stations, water storage facilities, or similar uses, fences may have one foot of barbed wire atop a fence having a minimum height of 8 feet above grade, with barbs tipped inward or outward.

(viii) Electric Fence

(A) In the A Districts, electric fences may be use for animal husbandry activities.

(B) In the R-A District, electric fences may only be installed upon specific approval by the Zoning Board of Adjustment on lots containing five (5) or more acres and used only for animal husbandry activities.

5. Fences in Residential Districts

a. Fences or walls, to a maximum height of six (6) feet, are permitted along the lot (property) line, except as follows:

(i) No fence greater than four (4) feet in height shall be permitted
in a front yard, or reversed corner side yard, or rear yard setback of a double-fronted lot.

(ii) No opaque fence or wall may be located in a front yard, or reversed corner side yard, or rear yard setback of a double-fronted lot. An opaque fence shall be defined as a fence that blocks or otherwise prevents the passage of light through fifty percent (50%) or more of its surface area.

(iii) When a residential lot abuts a commercial or industrial zoning district, the residential lot owner is permitted to erect a fence of up to eight (8) feet in height along the rear or interior side lot lines that abut such districts.

(iv) In all zoning districts, public or quasi-public buildings and facilities essential to the physical welfare of an area, such as electrical distribution substations, pipeline pumping stations, gas regulator stations, water storage facilities and similar uses may be surrounded by a fence having a height above grade not more than twelve (12) feet.

b. All fences and walls shall comply with the provisions regarding corner visual clearance as described in Subsection 90-12-02.G (Corner Visual Clearance).

6. Fences in Non-Residential Districts

a. Fences and walls are permitted along the property lines.

b. Fences in non-residential districts may be erected to a height of eight (8) feet.

c. In the C-1, C-2, or C-3 Districts, no fence greater than three (3') in height shall be permitted within the front or corner side yard setback.

7. Fences for Utilities and Public Recreational Uses

a. Whenever the lot line of a utility or public recreational use abuts a residential district, or whenever a utility use fronts on a public right-of-way, the use shall be fenced. In addition to the fencing, shrubs a minimum of five (5) feet in height shall be planted along the fence.

b. Utility uses shall be fenced. Barbed wire, razor wire or fences of similar material shall be permitted only on a lot used for a utility facility. All barbed wire, razor wire or similar material shall be placed no less than eight (8) feet above finished grade and shall extend inward toward the interior of the lot. Such fences shall be a maximum height of twelve (12)
feet. Such fences may be located in any yard and are not required to be an open type fence.

c. Public recreation areas may be enclosed along their boundaries (i.e., all yards) with an open type fence to a height not to exceed eight (8) feet. Tennis courts and other similar uses may be fenced in accordance with national standards for such uses.

8. **Fences Installed in Utility or Drainage Easements**

Fences may be installed or constructed across or upon certain utility or drainage easements located on the owner’s property provided that the following conditions are met:

a. No fence shall be installed or constructed across or upon any access easement.

b. No drainage easement, stormwater management easement, drainage swale, overland flow path, or storm inlet (individually and collectively referred to in this chapter as “drainage easement”) shall be altered or in any way impeded by such fence. A minimum clearance of three (3) inches from the bottom of the fence to the ground shall be maintained at all times on fences installed or constructed within the drainage easement.

c. Prior to digging postholes within the utility or drainage easement, the property owner or contractor shall notify Oklahoma One-Call System, Inc (Okie) of the proposed work and obtain from Okie all information relating to the location and depth of all underground pipes, conduits, wires and other apparatus within the utility or drainage easement.

d. All owners of the property on which the fence is installed or constructed and contractors performing work thereon shall be jointly and severally responsible for any damage to any pipes, conduits, wires and other apparatus within the utility or drainage easement.

e. It is the property owner’s obligation to promptly remove the fence or such portion of the fence as may be necessary upon notice from the City or public utility company in order for the City or public utility company to install, repair, remove, replace, maintain or do other work on such pipes, conduits, wires or other apparatus within the utility or drainage easement. If the property owner fails to do so in a timely manner or if there is an emergency as determined by the City or public utility company, the City or public utility company may remove the fence or such portion of the fence as may be necessary to do work within the
utility or drainage easement.

f. The City or public utility company and their contractors, employees and agents shall have no liability for the removal or damage to such fence in the course of performing any work on such pipes, conduits, wires or other apparatus within the utility or drainage easement and the property owner shall be responsible, at his/her cost, for the repair or reinstallation of any portion of the fence damaged or removed.

9. Nonconforming Fences

Any fence that is nonconforming, must be brought into conformance when repaired, reconstructed or expanded.

D. Garages, Attached and Detached

The following design standards apply to all residential garages. Attached garages shall not be considered accessory structures, but shall be subject to the regulations of this section for attached garages.

1. Attached Garages

Attached garages and all other attached accessory structures constructed after the date of adoption of this Ordinance shall be consistent with the architecture and design of the principal building. Consistency of design shall include use of the same palette of materials as the principal building, roofing, trim and colors.

2. Detached Garages

a. A detached garage shall not exceed a maximum height of one and a half stories, or eighteen (18) feet as measured from the garage floor to the peak of a pitched roof, whichever is lower.

b. Detached garages shall not occupy more than 40% of the rear yard.

c. Detached garages are not to be located in the front yard setback.

d. Detached garages shall be located a minimum of three (3) feet from any rear lot line or interior side lot line and shall not be located within the corner side yard setback.

e. If located partially or completely between the side lot line and the principal structure on the lot, a detached garage shall meet the minimum side yard setback requirements established for the principal structure.

f. Detached garages and all other detached accessory structures, larger
than one-hundred twenty (120) square feet, constructed after the date
of adoption of this Ordinance shall be consistent with the architecture
and design of the principal building. Consistency of design shall include
use of the same palette of materials as the principal building, roofing,
trim and colors. Detached garages or detached accessory structure
located within the A or R-A Districts shall be except from this
requirement.

g. Detached garages shall be located a minimum of ten (10) feet from the
principal structure on a lot. The distance shall be measured from the
walls of the structure.

E. Accessory Dwelling Units (Granny Flats)

1. Definition

An Accessory Dwelling Unit is defined as a self-contained housing unit
incorporated within a single-family dwelling or within an accessory structure to
a single-family dwelling unit, being the primary residence, and complies with
each of the criteria stated below. The intent of permitting accessory dwelling
units is to:

a. Provide older homeowners with a means of obtaining companionship,
security, and services from family, thereby enabling them to stay more
comfortably in homes and neighborhoods they might otherwise be
forced to leave;

b. Develop housing units in single-family neighborhoods that are
appropriate for households at a variety of stages in their life cycle;

c. Provide housing units for persons with disabilities;

d. Protect stability, property values, and the residential character of a
neighborhood.

2. Procedural Requirements

a. Accessory dwelling units can only be occupied by members of the
principal homeowners’ extended family and not as rental property.

b. Approved accessory dwelling units which no longer complies the criteria
and requirements in this section and in Subsection 90-12-04.E.1. shall
be discontinued or obtain approval through the Board of Adjustment.

c. Accessory dwelling units incorporated within a single family dwelling are
permitted As-of-Right within the A, R-A and R-1 zoning districts and are
otherwise prohibited in all other zoning districts.
d. Accessory dwelling units are only allowed as an accessory use in the A, R-A and R-1 zoning districts through special permit and are otherwise prohibited in all other zoning districts.

3. Use and Dimensional Regulations

a. The Building Inspections Department may issue a Building Permit authorizing the installation and use of an accessory dwelling unit within an existing or new owner-occupied, single-family dwelling or a Special Permit authorizing the installation and use of an accessory dwelling unit in a detached structure on a single-family home lot only when the following conditions are met:

   (i) The unit will be a complete, separate housekeeping unit containing both kitchen and bath.
   (ii) Only one accessory dwelling unit may be created within a single-family house or house lot.
   (iii) The owner(s) of the residence or residential lot in which the accessory dwelling unit is created must continue to occupy at least one of the dwelling units as their primary residence, except for bona fide temporary absences.
   (iv) The gross floor area of an accessory unit shall not occupy more than 900 square feet and or, if located in an accessory structure, 40% of the rear yard or, whichever is less.
   (v) The combined square footage of an accessory dwelling unit, primary residence and all other structures located on the property shall not cover more than thirty-five (35) percent of the lot.
   (vi) Any new separate outside entrance serving a detached accessory dwelling unit shall face the interior of the lot.
   (vii)
(viii) The accessory structure in which an accessory dwelling unit is located shall not exceed a maximum building height of one and a half stories, or eighteen (18) feet.

(ix) An accessory dwelling unit shall not have a footprint larger than that of the principal residence to which it is accessory.

(x) Once an accessory dwelling unit has been added to a single-family lot, the accessory dwelling unit shall never be enlarged beyond the 40% of the rear yard or 900 square feet, whichever is less, or exceed the maximum lot coverage allowed by this ordinance.

(xi) The structure in which an accessory dwelling unit is located constructed after the date of adoption of this Ordinance shall be consistent with the architecture and design of the principal building. Consistency of design shall include use of the same palette of materials as the principal building, roofing, roof pitch, trim and colors.

(xii) An accessory dwelling unit may not be occupied by more than two (2) people, nor have more than one bedroom.

(xiii) The construction of any accessory dwelling unit must be in conformity with the City Building Codes and all other applicable State and local regulations.

(xiv) One additional off-street parking space, beyond that which is required for the principal structure as provided in Article 90-14 (Off-Street Parking), shall be available for use by the owner-occupant(s) and tenants.

b. To encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the Zoning Board of Adjustment may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

c. When a structure, which has received a permit for an accessory dwelling unit, is sold, the new owner(s), if they wish to continue to exercise the Permit, must, within thirty (30) days of the sale, submit a notarized letter to the Building Official stating that they will occupy one of the dwelling units on the premises as their primary residence, except for bona fide temporary absences.
d. Prior to issuance of a permit, the owner(s) must send a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner’s primary residence, except for bona fide temporary absences.

e. Prior to issuance of a permit, a floor plan must be submitted showing the proposed interior and exterior changes to any previously existing accessory structure or primary structure that is being converted for use as an accessory dwelling unit.

F. Home Occupations

A “Home occupation” is defined as any business, occupation or activity conducted for gain within a single-family dwelling, or an accessory building thereto, which is incidental or secondary to the use of such building for dwelling purposes and which does not change the essential residential character of the building. The regulations of this section dealing with home occupations are designed to protect and maintain the residential character of a neighborhood while permitting certain limited commercial activities.

1. The home occupation shall be conducted entirely within the dwelling and shall be clearly incidental and secondary to the use of the dwelling for residential purposes.

2. No more than thirty percent (30%) or six-hundred (600) square feet of the residential dwelling, including any garage or accessory building, whichever is less, shall be used to conduct the home occupation.

3. A home occupation shall not be established prior to the member(s) of the family conducting the home occupation taking possession of, and residing in, the dwelling.

4. No person who is not a member of the family and residing on the premises shall be employed in the home occupation activity on the premises.

5. All home occupations shall be conducted entirely within an enclosed building. No materials or equipment associated with the home occupation shall be stored outside the building.

6. No sign other than a name plate not more than two (2) square feet in area, attached to the dwelling, shall be allowed. No display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling shall be allowed.

7. The conduct of any home occupation shall not eliminate the kitchen, living room, bathrooms, or all of the bedrooms of the dwelling.
8. The receipt, sale or shipment of deliveries shall not be made more than once a week and the deliveries shall not restrict traffic circulation within the neighborhood.

9. There shall be no display, activity or environmental manifestation that will indicate from the exterior of the residential dwelling in which a home occupation is being conducted that such residential dwelling is being used in whole or in part for anything other than residential purposes. The home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than usually experienced in an average residential occupancy within a residentially zoned district under normal circumstances where no home occupation exists.

10. Home occupations shall not generate refuse exceeding amounts typically produced by an average residential occupancy within a residentially zoned district under normal circumstances where no home occupation exists.

11. No alteration of any kind shall be made to the residential dwelling where a home occupation is conducted that would change its residential character, including, but not limited to, the enlargement of public utility services, cooking facilities, or driveway or parkway areas beyond the capacities customarily required for residential use.

12. The home occupation shall not involve the use of commercial vehicles other than one vehicle not to exceed three-quarter ton owned by the resident of the dwelling, which shall be parked in an adequate off-street parking area.

13. The following businesses, occupations or activities are specifically prohibited home occupations:
   
a. Motor vehicle and accessory sales or rental, repair and/or painting and detailing, including trailer rental or sales.

b. Medical or dental clinics.

c. Restaurants.

d. Kennels (as defined under Article 90-18 of this Zoning Ordinance) and veterinary clinic.

e. Funeral homes.

f. Nursery schools, but not day care homes with seven (7) or fewer children.
g. Repair shops or service establishments, except the repairs of electrical appliances, cameras, lawnmowers, or other similar small items.

h. Beauty shops and barber shops, except when customer visits are by appointment only and are limited to no more than two customers at any given time. Beauty and barber shops allowed under these provisions shall be registered with the appropriate licensing and inspection authorities.

14. On the premises, retail sales shall be prohibited except for sales of products or goods produced or fabricated, or plants grown on the premises as a result of the home occupation, or for incidental retail sales made in connection with a home occupation. All sales shall occur within an enclosed building.

G. Mechanical Equipment

1. In all districts, all ground-based mechanical equipment including, but not limited to, electrical generators, heating, ventilating and air-conditioning (HVAC) units, may be located in the interior side or rear yard. Ground-based mechanical equipment is prohibited in the front yard.

2. In all commercial districts, all approved ground-based mechanical, including, but not limited to, HVAC units, shall be completely screened when visible from the adjoining lot, or public right-of-ways, excluding alleys. Screening materials may be masonry, wood, landscaping or other opaque material, and shall effectively screen mechanical equipment so no portion is visible from a street or adjoining lot. Color and texture of a masonry screen wall shall be compatible with the color and texture of the principal building on the site.

3. Any HVAC units located on the roof of any structure in any zoning district, that can be seen from a public or private street, shall be screened either by an architectural element of the roof and at least six (6) feet from any supporting wall of the building to permit safe access to the roof.

H. Outdoor Storage of Vehicles and Equipment

1. Outdoor storage must meet the following standards:

   a. All manufacturing, assembly, repair or work activity shall take place inside an enclosed building. No work shall take place outdoors.

   b. No required parking area shall be used as an outdoor storage.

   c. The lot shall be paved with asphalt, concrete or an equivalent surfacing meeting the established standards of the Public Works Department.

      (i) Any outdoor storage area shall be paved as provided above or
overlaid with a dust-free surface such as decomposed granite, or a suitable substitute approved by the Public Works Department.

(ii) All such areas shall be graded and drained so as to dispose of all surface water in a manner consistent with water quality control standards enforced by the Public Works Department.

(iii) All such areas shall be maintained in good repair, in a clean, neat and orderly condition.

d. All such areas shall have a landscaped area not less than 10 feet in depth, maintained along the street side of the lot.

e. All outdoor storage must comply with the screening requirements of Article 90-15 (Landscaping and Screening). In the C-1, C-2, or C-3 District, no materials stored or displayed outdoors shall be of a greater height than that of the required screening.

f. Additional accessory outdoor storage for principal uses may be approved as a special use.

I. Outdoor Vehicular Display

1. Outdoor displays for new and used vehicle sales shall be allowed only as follows:
   a. Only automobiles, of the type permitted on the public streets shall be allowed.
   b. The vehicles shall be displayed at ground level if located within the front or corner side yard setback.
   c. Outdoor vehicle displays shall be reasonably limited in number, attractively arranged, and the displayed vehicles shall not be placed to appear crowded.
   d. No vehicle shall be allowed to be displayed within the right-of-way.

2. Outdoor vehicular displays must meet the following standards:
   a. The vehicular display lot shall be paved with asphalt, concrete, or an equivalent surfacing meeting the established standards of the Public Works Department.
   b. Outdoor vehicular display areas must comply with parking lot screening requirements established in Article 90-15 (Landscaping and Screening).
J. Porches

1. Unenclosed porches or stoops may encroach six (6) feet into any required front or corner side setback.

2. Enclosed porches must meet all minimum yard setback requirements.

K. Satellite Dish Antennas

1. General Requirements
   a. Satellite dish antennas shall be permanently installed on a building, in the ground or on a foundation, and shall not be mounted on a portable or movable structure.
   b. Subject to the service provider requirements, the dish color shall be of a neutral color, such as white or grey, and shall blend with the surroundings as best as possible. No additional signs or advertising shall be permitted on satellite dish itself, aside from the logos of the satellite dish service provider and/or dish manufacturer.
   c. Cables and lines serving ground-mounted satellite dish antennas shall be located underground.
   d. Compliance with all federal, state and local regulations shall be required in the construction, installation and operation of satellite dish antennas.
   e. All exposed surfaces of the antenna shall be kept clean and all supports shall be painted to maintain a well-kept appearance. Antennas no longer in use must be removed.

2. Small Satellite Dish Antennas (One Meter or Less in Diameter)

Small satellite dish antennas, which are one (1) meter or less in diameter, shall be subject to the general requirements of Paragraph 1 above. Every effort shall be made to install small satellite dish antennas in locations that are not readily visible from neighboring properties or from the public right-of-way.

3. Large Satellite Dish Antennas (One Meter or More in Diameter)

   a. Large satellite dish antennas shall not be allowed within any residential district.
b. **Non-Residential Districts**

(i) A large satellite dish antenna are permitted only in the rear yard, and shall be set back a distance from all lot lines that is at least equal to the height of the dish, but in no case less than ten (10) feet from any lot line.

(ii) Roof-mounting shall be permitted only if the satellite dish antenna is in scale with the overall building mass and location, and shall be screened by an architectural feature. The visible portion of the dish shall not comprise more than twenty-five percent (25%) of the corresponding height or width of the screen.

(iii) Ground-mounted satellite dish antenna shall provide screening, which includes fencing, berming or landscaping to accomplish the following:

   (A) All ground-mounted accessory equipment and the lower part of the support structure shall be completely screened.

   (B) Where feasible, trees shall be installed to the side and rear of the antenna and at a height/elevation equal to the tallest portion of the dish.

L. **Sheds and Private Greenhouses**

1. Sheds and private greenhouses are permitted only in the rear yard. Sheds and private greenhouses shall be located a minimum of three (3) feet from any rear or interior side lot line and shall not be located within the corner side yard setback.

2. The maximum height of any shed or private greenhouse shall be eighteen (18) feet.

3. Sheds and private greenhouses shall be located a minimum of ten (10) feet from the principal structure on a lot. The distance shall be measured from the walls of the structures.

M. **Solar Energy Collectors**

A solar energy collector and heat storage unit of size needed to supply the building to which it is appurtenant shall be considered an accessory use and be so regulated. Solar energy collectors shall be mounted so that they cannot be seen from adjacent residential uses or the public right-of-way, except that they may be visible from an alley.
1. **Building-Mounted Solar Energy Collectors**
   a. A Building-Mounted Solar Energy Collector may have a maximum height of ten feet (10’) as measured from the roof surface on which the system is mounted to the highest edge of the system provided, however, that the system does not extend above the peak roof height or façade height.

2. **Ground-Mounted Solar Energy Collectors**
   a. The maximum height of a Ground-Mounted Solar Energy Collector shall be six feet (6’) as measured from the average grade at the base of the system to the highest edge of the system and screened so it is not visible from a public right-of-way or adjacent properties.
   
   b. All parts of any Ground-Mounted Solar Energy Collectors shall be set back at least five feet (5’) from interior side and rear property lines.

3. **Removal**
   
   If the Solar Energy Collector(s) remains nonfunctional or inoperative for a continuous period of one (1) year, the system shall be deemed discontinued and shall constitute a public nuisance. The owner/operator shall remove the abandoned system at their expense. Removal includes the entire system and mounting hardware, including panels, equipment, and fencing from the property.

4. **Swimming Pools**
   
   Private swimming pools shall be located in rear yards subject to compliance with City Building Codes and all other applicable State and local regulations.
   
   a. Swimming pools shall be setback a minimum of ten (10) feet from the interior side and rear lot lines and shall not be located within the corner side yard setback.
   
   b. All permanent swimming pools shall be screened with a six (6) foot sight proof fence. Permanent swimming pool means a pool that remains on the property for more than ninety (90) days.
   
   c. All swimming pools shall be drained, covered or maintained during the off-season.
O. Wind Energy Conversion Systems (WECS)

1. Authorization of Use
   a. WECS shall be permitted as accessory structures in all commercial and industrial districts in accordance with the requirements of this Ordinance and subject to approval by the Building Official, and Planning Director or their designees.
   b. WECS may be authorized as a special use in any residential district in accordance with the procedures established in Article 90-02-05 (Special Exceptions) of this Zoning Ordinance.

2. Height
   a. WECS
      (i) The total height of a WECS shall not exceed ten feet (10') above the maximum permitted height of the zoning district, which it is located.
      (ii) In all zoning districts, the minimum clearance between the lowest tip of the rotor or blade and the ground shall be twenty-five feet (25').
      (iii) Any WECS that exceeds the height limitations defined in this Section shall be required to obtain approval of a zoning variance in accordance with Article 90-02-06 (Variances) of this Zoning Code.
   b. Location
      (i) Roof-Mounted WECS
         (A) Roof-Mounted WECS shall be affixed to the roof deck of a flat roof or to the rear facing slope of a pitched roof and may not be affixed to the parapet or chimney of any structure.
         (B) Such systems must be set back a minimum of five feet (5') from the edge or eave of the roof.
      (ii) Ground-Mounted WECS:
         (A) Ground-Mounted WECS, including all appurtenances and anchoring equipment, shall not be located within any setback or in any utility, water, sewer, drainage or other type of public easement.
(B) Ground-Mounted WECS shall be set back a distance equal to 1.1 times the total system height, from the base to all property lines, third party transmission lines, Ground-Mounted WECS, overhead electric distribution systems and communication towers.

3. Design

All WECS shall be constructed of a monopole or other freestanding design without the use of guy-wires or supporting cables.

4. Noise

Sound levels for any WECS shall not exceed seventy-five (75) decibels at any point on the property line of the lot in which the WECS is located. The city may, at its discretion, require a professional sound measurement by a third party expert at the expense of the property owner, to confirm performance of the wind energy system, in accordance with the Performance Standards, as measured from the ground level at the nearest property line.

5. Color

WECS shall be monochromatic in color, finished with a neutral and non-reflective coating, such as white or light grey. Ground equipment, such as cabinets and associated facilities, shall be factory finished to match or complement the color of other structures on the lot.

6. Unauthorized Access

Ground-Mounted WECS and all components thereof shall be protected against unauthorized access by the public. No climbing ladder, foot pegs or rungs shall be permanently attached below a height of twelve feet (12’) above grade.

7. Removal

If the WECS remains nonfunctional or inoperative for a continuous period of one (1) year, the system shall be deemed discontinued and shall constitute a public nuisance. The owner/operator shall remove the abandoned system at their expense. Removal of the system includes the entire structure, including foundations, transmission equipment, and fencing from the property. Nonfunctioning or lack of operation may be proven by reports from the interconnected utility. If removal of towers and appurtenant facilities is required, the Building Official shall notify the owner/operator. Each WECS shall have a Decommissioning Plan outlining the anticipated means and cost of removing the WECS at the end of its serviceable life or upon becoming a discontinued use.
8. **Submittal Requirements**

a. **Application**

An applicant for a WECS permit shall submit at least three (3) full copies of a site plan, prepared by a professional engineer licensed to practice in the State of Oklahoma. The professional engineer shall certify, in writing, that the site plan meets all of the requirements of the City of Muskogee Code of Ordinances. Site plan requirements shall include:

(i) A site plan drawn to scale no greater than 1 inch equals 50 feet, based on a certified instrument survey by a surveyor licensed in the State of Oklahoma.

(ii) Location of the WECS on the site and total height of the system, including blades, rotor diameter, and ground clearance. The area of the base of each tower and depths shall be indicated.

(iii) Utility lines, telephone lines and any other lines, both above and below ground, within a radius of 2,000 feet. Information presented shall contain details as how the power will be delivered to the grid, including the route and size of poles and towers to be used.

(iv) Property lot lines, land uses and the location and dimensions of all existing structures and uses on and off site within 2,000 feet of each WECS.

(v) Dimensional representation of the various structural components of the wind tower construction, including the base and footing.

(vi) Design data indicating the basis of design, including manufacturer’s dimensional drawings and installation and operation instructions.

(vii) Certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Building Code.

(viii) Certification that the electrical system design is in compliance with accepted engineering practices and with the appropriate provisions of the National Electric Code.

(ix) Certification that the rotor over speed control system is in compliance with accepted engineering practices.
(x) The applicant shall provide a shadow flicker and blade glint zone model for any proposed WECS as requested by staff. The model shall:

(xi) Model and describe the zones where shadow flicker and blade glint will likely be present within the project boundary and a 2 mile radius beyond the project boundary. Include the topography, existing residences, wind speeds and directions, and existing vegetation and roadways. The model shall represent the most probable scenarios of wind consistency, sunshine constancy, and wind directions and speeds.

(xii) Calculate the locations of shadow flicker and blade glint caused by the proposed project; the expected durations of the flicker and glint at these locations and the total number of possible hours per year of flicker and glint at all locations.
90-12-05. **Permitted Encroachments**

An encroachment is the extension or placement of any structure or building, or component of such, into a required yard setback. Additional restrictions on permitted encroachments, including additional yard requirements and bulk regulations, can be found in Section 90-12-04 (Accessory Structures and Uses) above and are referenced within the following table. Permitted encroachments are found in Table 90-12-05 Permitted Encroachments.

### Table 90-12-05 Permitted Encroachments

<table>
<thead>
<tr>
<th>YARD WHERE PERMITTED</th>
<th>FRONT YARD, CORNER SIDE YARD</th>
<th>INTERIOR SIDE YARD</th>
<th>REAR YARD</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TYPE OF ENCROACHMENT</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accessibility Ramp</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Air Conditioner Window Unit</td>
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<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Arbor or Trellis</td>
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<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Awning &amp; Canopy</td>
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<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Balcony</td>
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<td>(No associated steps located in front yard)</td>
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</tr>
<tr>
<td>Bay Window</td>
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<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Chimney</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Compost Pile</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Deck</td>
<td>P</td>
<td>(Extend no more than 6' into required yard)</td>
<td>P</td>
</tr>
<tr>
<td>(Extend no more than 6' into required yard)</td>
<td>P</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Driveway</td>
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<td>P</td>
</tr>
<tr>
<td>Eaves (Principal Structure)</td>
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<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Electrical Generator</td>
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<td>(Extend no more than 6' into required yard)</td>
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</tr>
<tr>
<td>Exterior Stairwells</td>
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</tr>
<tr>
<td>Fence</td>
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</table>

### Table 90-12-05 Permitted Encroachments (continued)

<table>
<thead>
<tr>
<th>TYPE OF ENCROACHMENT</th>
<th>FRONT YARD, CORNER SIDE YARD</th>
<th>INTERIOR SIDE YARD</th>
<th>REAR YARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fire Escape</td>
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<tr>
<td>- No more than 6' into a required yard</td>
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<tr>
<td>Flagpole</td>
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</tr>
<tr>
<td>Feature</td>
<td>Description</td>
<td>Regulations</td>
<td>Notes</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
<td>-------------</td>
<td>-------</td>
</tr>
</tbody>
</table>
| Gazebo | - No more than 3 (within a residential district)  
- Not to exceed 10’ above the maximum permitted height in the zoning district | P | P |
| Hedges | (Maximum height of 4’) | P | P |
| Mechanical Equipment, Ground-Mounted | (Central air conditioning, heating, ventilating, compressors, etc.)  
- Subject to Subsection 90-12-04.G | P | P |
| Ornamental Lighting, Lamp Posts, & Lawn Decorations | (Benches, statues, birdbaths, sculptures, etc.)  
- Subject to view obstruction and exterior lighting regulations | P | P |
| Outdoor Fireplaces | (Maximum height of 4’ and area of 10 SQ. FT. WITHIN FRONT YARD) | P | P |
| Patio or Terrace | - Extend no more than 6’ into required yard | P | P |
| Porch, Unenclosed | - Extend no more than 6’ into required yard | P | P |
| Recreational Equipment | - Does not include equipment located on park/playground, school or day care center site  
- Located no less than 5’ from any lot line  
- Basketball standards & backboards shall be permitted in all setbacks and yards | P | P |
| Satellite Dish Antenna (1 meter or less in diameter) | - Subject to Subsection 90-12-04.K | P | P |
| Satellite Dish Antenna (More than 1 meter in diameter) | - Subject to Subsection 90-12-04.K  
(Non-Residential Districts only) | P | P |
| Sidewalk & Private Walkway | | P | P |
| Sills, Belt Course, Cornices & Ornamental Features of the Principal Structure | | P | P |
90-12-06.  **Temporary Uses**

A.  **Temporary Use Permit Application**

1.  Any person, firm or corporation desiring to obtain a temporary use permit, as required by this section, shall file a written application with the Building Official on a form provided by the City, provided this section shall not apply to any government, school or church use.

2.  The Building Official shall grant temporary use permits for those uses listed below so long as he/she determines that the proposed use, complies with the requirements of this section and this Ordinance. Unless expressly provided in this section, every temporary use or structure shall comply with the bulk requirements applicable in the district in which it is located.

3.  Temporary uses not specifically listed here shall require the specific approval of the Planning Director. Unless otherwise limited, temporary uses may be allowed in any zoning district, provided that it is consistent with the purpose and intent of this Ordinance and the zoning district in which it is located.

4.  Every temporary use shall comply with this Ordinance and all local regulations. The Building Official or Planning Director may impose other conditions, as part of the temporary use permit approval, as necessary to achieve the purposes of this Ordinance, and to protect the public health, safety, comfort, convenience and general welfare. No temporary use shall be permitted in any district if it would have a significant negative impact on any adjacent property or on the area as a whole.
B. **General Provisions**

Every temporary use shall comply with all the requirements listed below.

1. No temporary use shall be permitted that causes, or threatens to cause, an on-site or offsite threat to the public health, safety, comfort, convenience and general welfare.

2. Every temporary use shall be operated in accordance with such restrictions and conditions as the Fire, Inspection, Planning and Health Department or other agencies may require. If required by the City, the operator of the temporary use shall employ appropriate security personnel.

3. No temporary use shall be permitted if the additional vehicular traffic reasonably expected to be generated by such use would have undue detrimental effects on surrounding streets and uses. No temporary use shall block handicapped or fire lanes.

4. No temporary use shall be authorized that would unreasonably reduce the amount of parking spaces available for use in connection with permanent uses located on the lot in question. The Planning Director may make an assessment of the total number of parking spaces that will be reasonably required in connection with a proposed temporary use, on the basis of the particular use, its intensity and the availability of other parking facilities in the area. The Planning Director shall approve the temporary use only if such parking spaces are provided.

c. **Permitted Temporary Uses**

1. **Carnival/Circus**

Carnivals/circuses shall be evaluated on the basis of the adequacy of the parcel size, parking provisions, traffic access, and the absence of undue adverse impact, including noise, on other properties. These uses need not comply with the yard requirements and the maximum height requirements of this Ordinance. The concessionaire responsible for the operation of any such use shall:

   a. Submit, in advance of the event, a site layout displaying adequate ingress and egress routes for emergency vehicles with no dead-end aisles.

   b. Comply with all local, state and federal regulations.

   c. Provide refuse containers in the number and locations required by the City. All containers shall be properly serviced.
d. Provide for thorough clean-up of the site at the completion of the event.

e. Provide proof that all amusement devices have been State inspected.

f. Upon written notice from the City, immediately stop the use of any amusement device or structure found by the City to pose a threat to the public safety.

2. **Seasonal Goods Sales**

The sale of seasonal goods, such as Christmas trees or pumpkins patches, shall be evaluated based on the adequacy of the parcel size, parking provisions, traffic access, and the absence of undue adverse impact on other properties. These uses shall be limited to a period not to exceed thirty (30) days.

3. **Farmers Markets**

Farmers markets shall comprise of two or more farmers selling fruit, vegetables, plants or any other farm products that were grown, raised or made by the vendor for direct sale to the consumer. Other products such as hand-made crafts and ready-to-eat foods are allowed if made by the vendor. At least seventy-five percent (75%) of the products at a farmers market shall be grown or processed by the vendor or under that vendor’s direction. A product not grown or processed by or for a vendor must have been grown or processed by and purchased directly from another farmer or producer and the name and location of that farm or business must be identified on the product or on a sign in close proximity to the product.

4. **House, Apartment, Garage and Yard Sales**

House, apartment, garage and yard sales are allowed in any district, but only when limited to personal possessions of, or arts and crafts made by, the owner or occupant of the dwelling unit where the sale is being conducted. These uses shall be limited to a period not to exceed three (3) consecutive days and no more than three (3) sales shall be conducted from the same residence in any twelve (12) month period. House, apartment, garage and yard sales are exempt from temporary use permits.

5. **Arts and Crafts Shows, and Plant Shows (Outdoor)**

Arts and crafts shows, and plant shows shall be evaluated based on the adequacy of the parcel size, parking provisions, traffic access, and adverse impact on other properties.

6. **Sidewalk Sales**
Sidewalk sales are permitted in the commercial districts only. They shall be in conjunction with, and clearly incidental to, an existing permanent on-site use. Sidewalk sales are permitted to display and sell only merchandise that is found in stores participating in the sidewalk sale. Sidewalk sales shall not interfere with the pedestrian access. No sidewalk sale shall be permitted for a period of more than five (5) successive days and no more than three (3) sales shall be permitted in any twelve (12) month period. Sidewalk sales within the Central Business District (CBD) are exempt from temporary use permits.

7. **Temporary Construction and Real Estate Sales Related Trailers**

   a. Temporary buildings, including manufactured/mobile homes, or temporary storage containers, that are used solely for office or storage purposes in conjunction with construction work only, may be permitted in any zoning district during the period that the construction work is in progress, but such temporary buildings shall be removed upon completion of the construction work.

   b. Temporary offices, both incidental and necessary for the sale or rental of real property within a residential subdivision or residential development in which such offices are located, may be permitted in any zoning district until such time as the real property has been sold or rented or six (6) months after issuance of the final occupancy permit, whichever is less. These structures shall not contain any sleeping or cooking accommodations, except those located in a model unit used for demonstration purposes only. No trailer, unit or office shall be used as the general office or headquarters of any firm.

8. **Tents**

No tent or similar structure shall be erected, used, or maintained for human residence, except such small tents that are used for temporary recreational purposes. Erection, use, and maintenance of tents and similar structures for non-residential uses shall be subject to the fire prevention and other applicable regulations of the City.

9. **Commercial/Industrial Districts**

Tents within commercial districts shall be permitted for no longer than fourteen (14) days and must be in conjunction with a special event of a use located on the same lot. Tents must be removed within two (2) days of the end of the event for which it was erected, but in no case may a tent be in place for longer than fourteen (14) days. Every tent shall comply with the bulk requirements applicable to accessory structures. Additionally, the size and location of tents
may be restricted where it is determined that it creates parking and/or access problems on the site.

10. **Residential Districts**

   Tents within residential districts shall be limited to no more than five (5) days. These structures shall include tents used for entertainment, vehicle storage, general storage, or assembly purposes that are not intended for living purposes, such as camping and sleeping. Tents within residential districts are exempt from temporary use permits.

11. **Temporary Storage Containers**

   a. Temporary storage containers are permitted in any zoning district when used for loading or unloading. Containers are permitted on site for a period not to exceed ten (10) days.

   b. Temporary storage containers shall not be used for permanent storage. They shall not serve as a substitute for permanent storage needs on the site on which they are located. Containers shall not be permanently attached to the ground, serviced with permanent utilities or stacked on the site.

   c. Temporary storage containers are exempt from temporary use permits.

   d. Temporary storage containers cannot block sidewalks and traffic flows.

   e. Temporary storage containers must adhere to the Corner Visual Clearance regulations established in Subsection 90-12-02.G (On-Site Development Standards).
90-12-07. Environmental Performance Standards

All uses shall comply with the performance standards established in this section unless any federal, state, county or local law, ordinance or regulation establishes a more restrictive standard, in which case, the more restrictive standard shall apply.

A. Noise

No activity or use shall be conducted in a manner that generates a level of sound greater than seventy-five (75) decibels as measured on another property. These limits shall not apply to construction noises, noises emanating from safety signals or warning devices, noises not directly under the control of the owner or occupant of the property, and transient noises from moving sources, such as motor vehicles, railroads and aircraft.

B. Glare and Heat

Any activity or the operation of any use that produces glare or heat shall be conducted so that no glare or heat from the activity or operation shall be detectable at any point off the lot on which the use is located. Flickering or intense sources of light shall be controlled or shielded so as not to cause a nuisance across lot lines.

C. Vibration

No earthborne vibration from the operation of any use shall be detectable at any point off the lot on which the use is located.

D. Dust and Air Pollution

Dust and other types of air pollution, borne by the wind from sources, such as storage areas, yards, roads, conveying equipment and the like, within lot boundaries, shall be kept to a minimum by appropriate landscaping, screening, sheltering, paving, fencing, wetting, collecting or other acceptable means.

E. Discharge and Disposal of Radioactive and Hazardous Waste

The discharge of fluid and the disposal of solid radioactive and hazardous waste materials shall comply with applicable federal, state and local laws and regulations governing such materials or waste. No operation that produces radioactive or hazardous waste material shall commence without prior notice to the City. Notice shall be given at least three (3) weeks before the operation is commenced. Radioactive and hazardous material waste shall be transported, stored, and used in conformance with all applicable federal, state and local laws.

F. Electromagnetic Interference

Electromagnetic interference from any operation of any use in any district shall not adversely affect the operation of any equipment located off the lot on which such interference originates.
6. **Odors**

Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public, or which interferes unreasonably with the comfort of the public, shall be removed, stopped or modified so as to remove the odor.

H. **Toxic Substances**

The storage, handling, or transport of toxic substances shall comply with federal, state and local regulations.

I. **Fire and Explosion Hazards**

Materials that present potential fire and explosion hazards shall be transported, stored, handled and used only in conformance with all applicable federal, state and local regulations.
ARTICLE 13. USE STANDARDS

90-13-01. PURPOSE

90-13-02. USE OF LAND AND STRUCTURES

90-13-03. ADDITIONAL STANDARDS

90-13-04. GENERAL USE STANDARDS

90-13-01. Purpose

The purpose of this Article is to set forth additional requirements for certain permitted and special uses. These standards are intended to ensure that the use is compatible with the surrounding area.

90-13-02. USE OF LAND AND STRUCTURES

No structure or land may be used or occupied except in conformity with the regulations for the zoning district in which it is located.

90-13-03. Additional Standards

In addition to the use standards below, all uses are required to comply with all provisions of this Ordinance including, but not limited to, Article 12 (On-Site Development Standards), Article 14 (Off-Street Parking), Article 15 (Landscaping and Screening), and Article 16 (Signs), and all other City regulations.

90-13-04. GENERAL Use Standards

Adult Use

1. Adult uses engaging in sexually oriented or explicit displays of any and all media types, either live or pre-recorded, must adhere to the provisions of section 54-253 et seq. of the City Code.

2. Any adult use shall not be located within 1,000 feet of any building primarily and regularly used for worship services and religious activities; any public or private school; any public park or playground; any public library; or any land zoned or used for residential purposes.

3. Buildings, structures and uses accessory and customarily incidental to any permitted adult use shall be permitted, provided that there shall be no uses allowed which create noise or nuisance, other than such as are customarily incidental and essential to retail establishments;

4. Nameplates and signs shall be permitted when relating only to the permitted adult use business or to products sold on the premises.
5. No article or material stored or offered for sale in connection with a permitted adult use shall be stored or displayed outside the confines of a building, unless it is so screened by permanent sight proof screen, wall, fence or planting that it cannot be seen from adjacent lots. No screening in excess of six feet in height shall be required.

(Ord. No. 3802-A, § 2, 9-10-2008)

Bed and Breakfast

1. The structure must be located in a designated historical district or be a historical site as designated by the Historic Preservation Commission.

2. All parking spaces shall be located to the rear of the structure.

3. One sign shall be allowed which shall not be more than six square feet in area and which may be lighted by no more than two 50-watt light bulbs.

4. The bed and breakfast facility must maintain the residential character of the neighborhood.

5. Fire exits shall be in the rear of the structure and enclosed by buffers.

6. The bed and breakfast facility must meet all applicable codes and licensing procedures and must have a minimum of 2,500 square feet of habitable area and a minimum of one bathroom for every two guest rooms. The bed and breakfast facility shall not have to meet commercial kitchen codes, unless commercial equipment is installed.

Commercial, General & Regional

1. No article or material stored or offered for sale in connection with the uses permitted under Article 90-09 Commercial Districts shall be stored or displayed outside the confines of a building unless it is so screened by permanent sight proof screen, wall, fence or planting that it cannot be seen from adjacent lots. No screening in excess of six feet in height shall be required.

2. Those uses permitted under Article 90-09 Commercial Districts shall comply with the following provisions:

   a. All yards, unoccupied with buildings or merchandise, or used as traffic ways, shall be landscaped and maintained in good condition the year round; and

   b. Driveways used for ingress and egress shall conform to the city standards.
Commercial, Local

1. Not more than 20 percent of the floor area shall be devoted to uses incidental to the primary use.

2. No material or goods shall be stored or displayed outside of a building, unless allowed as a special use in Table 90-09(A) and approved by the Board of Adjustment.

Drive-Through Facility

A drive-through facility is considered a separate use, rather than incidental to the principal use, and shall be subject to the following standards:

a. All drive-through facilities shall provide adequate stacking spaces, in accordance with Article 14 (Off-Street Parking, 90-14-11 Stacking Spaces for Drive-Through Facilities).

b. All drive-through lanes must be located and designed to ensure that they will not adversely affect the safety and efficiency of parking spaces, maneuvering aisles or traffic circulation on adjoining streets.

c. All drive-through stacking lanes shall not intersect with pedestrian access to the main public entrance of a building.

d. No exterior lighting shall produce a glare into, or upon, the surrounding area or any residential premises. All drive-through facilities shall be properly screened, in accordance with Article 90-15-09.D Screening Requirements, to prevent glare from vehicles passing through service lanes.

e. Drive aisles shall be separated from landscaped areas by a six (6) inch curb.

f. The volume on all intercom menu displays shall be maintained at a level so as not to be easily heard by the adjoining residential districts. The volume on all intercom menu displays shall comply with Section 90-12-07.A. Noise.

g. The operator of the drive-through facility shall provide adequate on-site outdoor waste receptacles and shall provide daily litter clean-up of the facility and along the rights-of-way abutting the property.

Dwelling, Single Family

Churches and main and accessory buildings, other than dwellings or accessories to dwellings, shall have a setback of ten feet from interior side lot lines.

Dwelling, Multi-family or Townhouse

When any townhouse or multi-family dwelling or use abuts a residentially zoned property, an opaque, ornamental fence, wall or dense evergreen hedge having a height of not less than six
feet shall be installed on the side and rear property line and shall be maintained in good condition. Fence shall comply with Subsection 90-12-04.C (Fences).

**Gas Station**

Gas station canopies shall be designed with luminaries under the canopy to minimize light pollution.

1. All gas station driveways must be located and designed to ensure that they will not adversely affect the safety and efficiency of traffic circulation on adjoining streets.
2. Gas stations may offer convenience items for sale as a secondary activity.
3. Gas stations may also include an automatic car wash with one (1) bay. Stacking spaces shall be in accordance with Article 14 (Off-Street Parking, 90-14-11 Stacking Spaces for Drive-Through Facilities).
4. In addition, gas stations may be included accessory to a “Minor Motor Vehicle Repair and Service Shop.” However, they shall be subject to the provisions of this section and the standards of Paragraph L (Motor Vehicle Repair and Service, Major or Minor) below.
5. Open canopies covering the pumps and islands may be located within the front yard setback, but shall not be located closer than fifteen (15) feet to the property line.

**Industrial**

1. No article or material permitted in this district, either for primary or incidental use, shall be kept, stored or displayed outside the confines of a building unless it is to be screened by fences, walls or planting that it cannot be seen from adjoining public streets or adjacent lots when viewed by a person standing on ground level. Fence shall comply with Subsection 90-12-04.C (Fences).
2. No residential dwellings will be allowed within this district; however, this district does allow sleeping facilities for caretakers and night watchmen employed on the premises.

**Kennel (includes Animal Hospital and Pet “Day Care”)**

1. Exterior enclosures and runs shall provide protection against weather extremes. Floors of runs shall be made of impervious material to permit proper cleaning and disinfecting.
2. All animal quarters and runs are to be kept in a clean, dry and sanitary condition.
3. Fencing surrounding exercise areas and/or runs shall be of a sufficient height to
prevent escape and shall be buried as part of installation to prevent escape by digging beneath the fence posts.

4. Noise shall be mitigated so as not to create a public nuisance for adjoining properties and shall comply with all noise regulations. This shall exclude noise from exercise or training while outdoors during the daytime.

**Manufactured Homes, Mobile Home and Mobile Home Parks (includes Travel Trailer)**

1. Compliance with HUD standards. All mobile and manufactured homes must be certified as meeting the Mobile Home Construction and Safety Standards or the National Manufactured Housing Construction and Safety Standards as established by the U.S. Department of Housing and Urban Development.

2. Skirting. Shall comply with the building codes adopted by the City of Muskogee.

3. Pad or foundation required. All structures shall be placed on a permanent foundation or pad constructed of Portland cement or equally durable material of not less than six inches in depth and shall comply with all building codes adopted by the City of Muskogee. The foundation shall be designed for the soil characteristics and wind loads prevalent to the individual site and afford adequate surface drainage.

4. Anchoring. Shall comply with the building codes adopted by the City of Muskogee.

5. Exterior features. The property to be developed must be comparable to site-built housing within the neighborhood. In this regard, it would be expected that units have a pitched roof, low profile, covered front and rear entry, site-built steps and porches. The exterior finish is to be real or simulated wood siding, vinyl siding, aluminum siding, stucco, brick or a combination. Mobile homes located within a mobile home park are excluded from the exterior features.

6. Screening--From commercial or residential uses. All mobile home subdivisions or mobile home parks shall be screened from neighboring commercial and other residential uses by a transition area, open space, greenbelt or other permanent open space of at least 20 feet in width and a sight-obscuring fence of not less than six feet in height.

7. Landscaping. All areas not covered by structures or paved surfaces shall be landscaped and maintained, primarily with turf (seed or sod) or live groundcover.

8. Installation of utilities. Mobile home parks and subdivision developers are required to install utilities and cable lines in the street right-of-way and underground to each mobile home site.
9. Guarantee of open space land. Adequate guarantee must be provided to ensure permanent retention of at least ten (10) percent of the development as open space land area within all mobile home subdivision developments or mobile home park, by private reservation for the use of the residents within the development.

10. Storm drainage systems. Installation of a storm drainage system in all mobile home subdivisions shall be required. The storm sewer system should be sized and designed according to standard engineering practices and the city code.

11. Fire protection. Adequate fire protection should be provided in accordance with applicable state and local requirements. Fire hydrants shall be installed within 300 feet (driving distance) of all mobile homes, service buildings, and other structures located within a mobile home park or mobile home subdivision. Care shall be taken to maintain the open area free of dry brush, leaves and weeds which might communicate fires between mobile homes and other buildings in the development.

Motor Vehicle, Dealership or Rental Establishment

Any service and repair facilities within a motor vehicle dealership or rental establishment must also comply with the standards of Paragraph L (Motor Vehicle Service and Repair) below.

Motor Vehicle, Service and Repair

1. Minor motor vehicle service and repair shops may not store the same vehicles outdoors on the site for longer than ten (10) days. Major motor vehicle service and repair shops may not store the same vehicles outdoors on the site for longer than thirty (30) days.

2. All driveways must be located and designed to ensure that they will not adversely affect the safety and efficiency of traffic circulation on adjoining streets.

3. All repair operations shall be fully enclosed. Wrecked or junked vehicles shall not be stored for longer time periods than those specified above and shall be screened from the public right-of-way and any adjacent residential districts.

4. Minor motor vehicle service and repair shops may also include gas stations as an accessory use. All gas stations which are part of such an establishment must comply with the regulations of Paragraph G (Gas Station) above.
Group Living Facilities

Group living facilities shall include, but not limited to, neighborhood group homes, community group home, residential treatment center, transitional living center, emergency or protective center, detention/correctional facility, assisted living facilities, independent living facilities, nursing homes, or other similar uses. Group living facilities shall meet all federal, state and local requirements including, but not limited to, licensing, health, safety and building code requirements. In addition, the following criteria shall be required:

1. Must be licensed by the appropriate state agency and meet contracting standards of the state;
2. No certificate of occupancy will be issued after the effective date of the ordinance until all of the provisions within this section are complied with. The certificate of occupancy will be revoked automatically upon revocation of the state license;
3. No signs advertising the neighborhood group home shall be permitted on the lot or structure;
4. The facility shall be harmonious with surrounding buildings, in respect to scale, architectural design and building placement. No exterior alterations of the dwellings or any customary accessory structure shall be made which would detract from the residential character of the structure. Fire escapes, if required, must be located on the rear of the structure if architecturally feasible or on the side of the structure and screened;
5. To avoid clustering, a neighborhood group home, community group home, residential treatment center, transitional living center, emergency or protective center, and a detention/correctional facility shall not be located on a lot within one-half mile (2,640 feet) of any other lot containing said facilities;
6. The surrounding street network shall be capable of accommodating the traffic generated by the facility.

Parking, Off-Street Structure or Lot

1. Parking Structure
   a. Parking structures located in the CBD District shall include commercial uses along at least fifty percent (50%) of the length of the block in which the parking structure is located. The façade of the parking structure shall, to the extent possible, align with existing facades along the street frontage.
   b. In all other commercial districts, a landscaped yard a minimum of ten (10) feet in width shall be provided adjacent to a public right-of-way,
excluding alleys.

2. **Off-Street Parking Lot**
   a. The off-street parking lot shall be solely for the parking of passenger vehicles and shall not be used as an off-street loading area.
   b. No sale display, repair or service of any kind shall be conducted in any off-street parking lot.
   c. No signs of any kind, other than signs designating entrances, exits and conditions of use, shall be maintained on any off-street parking lot.
   d. No buildings other than those for shelter of attendants shall be erected upon any off-street parking lots. The allowable shelters shall not exceed ten (10) feet in height and fifty (50) square feet in area.
   e. The off-street parking lot shall be screened and landscaped in accordance with Article 14 (Landscaping and Screening).
   f. The off-street parking lot shall be kept free from refuse and debris. All landscaping shall be maintained in a healthy growing condition, and be neat and orderly in appearance.

**Outdoor Dining**

Outdoor dining is considered a separate use, rather than incidental to the principal use, and shall be subject to the following standards:

1. Outdoor dining shall not interfere with the pedestrian access or parking spaces and aisles. Unless otherwise permitted by the City, outdoor dining areas shall be located only on private property.
2. Outdoor dining shall not be located in any required yard that abuts a residential use or district, unless an alley is located between the use and a residential use or district.

**Place of Worship**

Places of worship shall be designed so that the location of entrances and exits, exterior lighting, service areas, and parking and loading facilities will minimize traffic congestion, pedestrian hazards and adverse impacts on adjoining properties.


**Utilities, Private**

Private utilities shall be designed so that the location of entrances and exits, exterior lighting, service areas, and parking and loading facilities will minimize traffic congestion, pedestrian
hazards, and adverse impacts on adjoining properties. Additional landscaping and screening may be required.
ARTICLE 14. OFF-STREET PARKING

90-14-01. PURPOSE

The purpose of this article is to:

A. Ensure the provision and design of off-street parking areas that are safe for pedestrians and motorists;

B. Minimize potential negative impacts to adjacent properties, provide adequate parking for the intended use; and

C. Reduce the reliance for on-street parking so that safe and efficient vehicular travel on the streets is promoted.


90-14-02. GENERAL PROVISIONS AND RESTRICTIONS

The following provisions apply in all zones, except as otherwise specifically mentioned:

A. Conformance

Off-street parking and maneuvering areas in conformance with this article shall be provided for any building constructed, for any building that is expanded, for any land use, or any change in use that would result in additional parking spaces being required.
B. Plans

Whenever off-street parking is proposed, or required under the provisions of these regulations, or whenever existing parking is changed or redesigned, plans drawn to scale shall be submitted to and approved by the Inspection Department prior to construction indicating conformance with this article.

C. Continuation

Off-street parking and maneuvering areas in conformance with this article shall be maintained with the use to which they relate so long as such use remains.

D. Expansion

For lawfully existing structures, uses, or off-street parking or maneuvering areas that are enlarged, expanded or changed, conformance to this article shall be required for only the increase that will result due to the expansion or change in use.

90-14-03. PARKING EXEMPT ZONE

A. Exempt from Parking Requirements

1. The Parking Exempt Zone area, as described in this section, is exempt from the provisions of Section 90-14-05. However, when off-street parking is provided within this area, the requirements of sections 90-14-02.B. and 90-14-9 shall apply:

2. Parking Exempt Zone: beginning at the intersection of 7th Street with Court Street then east along Court Street to 6th Street, then north along 6th Street to Denison Street, then east along Denison Street to Main Street, then south along Main Street to Court Street, then east along Court Street to Cherokee Street, then south along Cherokee street to Columbus Street, then west along Columbus Street to 7th Street, then north along 7th Street to the point of beginning (see figure 1).
ACCESSIBLE PARKING

A. ADA Compliance

All parking lots must comply with the “ADA Accessibility Guidelines for Buildings and Facilities” regulations issued by federal agencies under the Americans with Disabilities Act of 1990 (ADA) for the amount and design of accessible vehicle parking spaces required in parking lots and structures.

B. Required Spaces

With the exception of single-family, two-family and townhouse dwellings, in all off-street parking facilities where parking is provided for employees, visitors or both, parking spaces for disabled persons shall be provided. The number of accessible parking spaces shall be included in the total number of required parking spaces and shall be in accordance with the applicable requirements of this article and the Americans with Disabilities Act of 1990 (ADA), as amended from time to time, and all additional governing codes and applicable laws.
C. Dimensions and Design

Such spaces shall comply with the design standards presented in this article and the Americans with Disabilities Act of 1990 (ADA), provided that in no instance shall the width of any one (1) space be less than sixteen (16) feet. Such spaces shall be identified by a sign and pavement markings indicating parking for the disabled only. Such spaces shall be the spaces closest to the entrance of the building or structure, and shall be connected by a paved surface designed to provide safe and easy access.

90-14-05. Computation of PARKING REQUIREMENTS

A. The table provided in Section 90-14-10 shows the minimum number of off-street parking spaces to be provided for a use. Square feet shall mean gross floor area. The total number of required off-street parking spaces for any use shall be obtained by rounding up to the next whole number (e.g., where 4.20 parking spaces are required, five parking spaces shall be provided).

B. In the case of a use not specifically mentioned, the requirement for off-street parking spaces for a use which is mentioned and similar shall be determined by the Planning Director and shall apply.

C. When an off-street parking space is used jointly by two or more uses with different requirements, or two or more uses having the same requirement, an area shall be provided equal to the total of the requirements of all the uses, unless it can be demonstrated to the satisfaction of the Planning Director that the uses will operate at different hours or days, subject to the requirements in Subsection 19-14-06.B.

D. In the case of mixed uses (e.g., restaurant and hotel, dwelling and bed and breakfast inn) and uses with two or more different functional areas (i.e., warehouse with office, dining area with convenience food store), the total requirement for off-street parking spaces shall be the sum of the requirements for each of the various uses.

E. Where parking is determined by the number of seats and continuous seating such as pews or benches is provided, every eighteen (18) inches of bench or pew shall represent one seat.

Except as otherwise specified, parking or loading spaces required on an employee basis shall be based on the maximum number of employees normally present on the premises at any one time. When the determination of the number of parking spaces is based on the number of employees, the owner and/or manager shall be counted as an employee(s). (Code 1993, § 23-462)
90-14-06. COLLECTIVE PROVISIONS

A. Off-street parking spaces for separate uses may be provided collectively if the aggregate number of spaces provided is not less than the sum of the spaces required for each use separately. No parking or loading space, or portion thereof, shall serve as the required space for more than one (1) use with the exception of the following alternate shared parking arrangement described in Paragraph B below.

B. An off-street parking facility may be alternately shared between two (2) or more uses, provided that use of such facility by each user does not occur at the same time. No alternate shared use of parking spaces shall be permitted unless:

1. Approval is obtained from the Planning Director that confirms that the use of such facility by each user does not take place at the same hours during the same days of the week.

2. The users of the shared parking facility shall record an agreement with the Muskogee County Clerk to share parking facilities, subject to approval by the Planning Director. A copy of the recorded agreement shall be filed with City Clerk and the Planning Department.

3. The location and design requirements of this Article are met.

4. Any subsequent change in ownership or use shall require proof that the minimum parking requirements, per this Article, have been met for each use. The owner of an existing building or use shall have one-hundred eighty (180) days within which to accommodate all required off-street parking. If the owner is unable to accommodate the parking or fails to meet the requirements in Subsection 90-14-06.B., then the occupancy permit shall be revoked with respect to the use for which the separate parking was required. The occupancy permit shall be reinstated when all applicable provisions of this Article are complied with.

90-14-07. LAND BANKED FUTURE PARKING

The Planning Commission may permit land banking of up to twenty-five percent (25%) of the required parking spaces through the site plan review process.

A. Sufficient evidence shall be provided by the applicant that supports the reduced parking needs.

B. The area proposed for land banking of parking spaces shall be an area suitable for parking at a future time.
C. Landscaping of the land-banked area shall be in full compliance of the Zoning Regulations and, at a minimum, landscaped with turf. As a result of site plan review, additional landscaping of the land-banked area may be required.

D. The land banking area cannot be used for any other use. The land banked parking area cannot be used to fulfill other landscaping requirements of this Ordinance.

E. As part of the site plan review process, the applicant shall show the area to be banked on the site plan and marked as “Land-Banked Future Parking.”

F. The Planning Director, on the basis of increased parking demand for the use, shall require the conversion of all or part of the land-banked area to off-street parking spaces. Nothing shall prevent the applicant from converting the land banked area to parking prior to City notification.

90-14-08. Location of Off-Street Parking

A. The ownership of the land upon which parking is provided shall be the same as the ownership of the land upon which the principal use exists, and within 300 feet of the proposed land use, inclusive of streets and alleys.

B. Parking may be located in the front, rear and side yard setbacks. In commercial centers the required parking spaces shall be located on the same lot as the use and all access and maneuvering areas shall be available for all users on the commercial center through the use of easements. The easement shall be established by a recorded statement on the plat that the easement is to be used and maintained by all the lot owners within the commercial center. An easement may be established pursuant to a grant of easement or other appropriate recorded document. For attached dwelling units, parking, access and maneuvering areas may be provided in an easement or other appropriate recorded document. The easement shall be established by the recorded plat, with a statement on the plat that the easement is to be used and maintained by all the lot owners within the development;

C. Residential Uses

1. All required parking spaces for residential uses shall be located on the same lot as the building or use served.

2. For single-family, two-family and townhouse dwellings, parking shall be permitted in private driveways, but no such parking may encroach onto the public right-of-way.

3. Tandem parking is permitted for townhouse or multi-family dwellings but both spaces must be allotted to the same dwelling unit and located on the same lot as the dwelling.
D. Non-Residential Uses

All required off-street parking areas for non-residential uses shall be located on the same lot as, or within three-hundred (300) feet of, the building or use served. However, off-street parking accessory to a non-residential use shall not be located in any residential district.

90-14-09. Design of Vehicle Parking

Design requirements are as follows:

A. Parking dimensions

1. Dimensions of parking spaces and maneuvering areas shall be provided as shown in the table below.

2. All parking spaces shall have a minimum vertical clearance of seven feet six inches (7’ 6”).

B. Access

1. Off-street parking shall be provided with vehicular access to a street or alley or cross-access connection.

2. Location, design and width of any driveway that intersects with a public street shall be in accordance with the City’s Curb Cut Regulations.

3. Within off-street parking lots, one-way traffic aisles shall be at least eleven (11) feet in width and two-way traffic aisles shall be at least twenty (20) feet in width. Furthermore, all aisles shall be provided as shown in the figure 90-14-09.A Parking Dimensions by Angle.

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<th>FIGURE 90-14-09.A: PARKING DIMENSIONS BY ANGLE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>0° (PARALLEL)</td>
</tr>
<tr>
<td>typical</td>
</tr>
<tr>
<td>A - Width of Aisle: One-Way</td>
</tr>
<tr>
<td>B - Width of Aisle: Two-Way</td>
</tr>
<tr>
<td>C - Width of Space</td>
</tr>
<tr>
<td>D - Depth of Space</td>
</tr>
</tbody>
</table>
Note: If compact spaces are provide, said spaces shall be posted for compact use in accordance with Subsection 19-14-09.F
C. **Public right-of-way**

Parking or maneuvering areas located within the public right-of-way shall not be used to meet off-street parking or off-street loading requirements;

D. **Backin across property lines**

No parking space shall be permitted where the unparking vehicle must be backed across any property line adjacent to a public right-of-way except for single-family, two-family or townhouse dwellings;

E. **Parking structure or garage**

Parking or maneuvering areas located inside a structure or garage shall be provided as shown on Figure 90-14-09.A of this article. A garage, located within the CBD, where the doors providing vehicular access are adjacent to a public right-of-way, shall be required to setback from said right-of-way the minimum distance necessary so the vehicle will not encroach into the street;

F. **Compact spaces**

A maximum of fifteen (15) percent of all provided parking spaces may be compact spaces. Dimensions for compact spaces are shown on Figure A of this article. Compact spaces shall be designated as such;

G. **Handicapped parking**

Handicapped parking spaces shall be provided in accordance with the schedule provided in Figure 90-14-09.B. of this article. The minimum width of a handicapped space shall be 12 feet, or nine feet if an additional adjacent delineated access aisle at least three feet wide is provided along one side; spaces nine feet in width may share a common access aisle between two spaces. The depth of a handicapped space shall be provided as shown on Figure 90-14-09.A of this article. Each handicapped space shall be designated by a sign showing the international disabled symbol of a wheelchair. Each sign shall be no smaller than one foot by one foot and shall be located at the end of the space at a height between four feet and seven feet. The sign may either be wall-mounted or freestanding. Handicapped spaces shall be located so as to provide convenient access to a primary accessible building entrance unobstructed by curbs or other obstacles to wheelchairs.

1. Handicapped parking for residential uses shall be provided at the rate of one space for each dwelling unit that is designed for occupancy by the physically handicapped.

2. Handicapped parking spaces shall be provided for all uses other than single-family, two-family or townhouse dwellings at the following rate.
TABLE 90-14-09.B.: HANDICAPPED PARKING SPACES REQUIRED

<table>
<thead>
<tr>
<th>NUMBER OF PARKING SPACES PROVIDED</th>
<th>NUMBER OF HANDICAPPED SPACES REQUIRED</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-24</td>
<td>0</td>
</tr>
<tr>
<td>25-74</td>
<td>1</td>
</tr>
<tr>
<td>75-99</td>
<td>2</td>
</tr>
<tr>
<td>100-199</td>
<td>3</td>
</tr>
<tr>
<td>200-299</td>
<td>4</td>
</tr>
<tr>
<td>300-399</td>
<td>5</td>
</tr>
<tr>
<td>400 and above</td>
<td>61</td>
</tr>
</tbody>
</table>

NOTES:

1. An additional 1 handicapped space is required for each 200 additional parking spaces provided.

3. Handicapped parking spaces required by this article shall count toward fulfilling off-street parking requirements.

H. Surfacing

The surface of all parking spaces, drive aisles, maneuvering and vehicular display or storage areas shall be paved with either asphaltic concrete or Portland cement concrete. Semi-pervious materials such as grasscrete and pervious pavers may also be used, subject to the approval of the Public Works Director.

1. If a paved driveway is available or provided, a gravel driveway will not be permitted. The owner must maintain an allowed gravel parking area or driveway in a manner so that its permitted use will not endanger the health, safety and welfare of the general public, or damage any public improvement, water meter, sidewalk, curb, drainage ditch, culvert, drainpipe, gutter or any appurtenance.

2. Gravel Parking Areas and Driveways. If a property has an existing gravel parking area or driveway, no part of which has been previously paved, it may be maintained as such unless:

   (i) The building structure on the property is enlarged, or removed.

   (ii) The property is rezoned.

   (iii) The use requires additional parking.

   (iv) The parking area is not sufficiently screened from adjacent uses and the public right-of-way or does not meet the screening and buffering requirements set forth in Article 17: Landscaping and
Screening.

I. Drainage

Off-street parking areas and driveways shall be constructed to dispose of all surface water without crossing sidewalks and without adverse effect upon adjacent property;

J. Striping

Except for parking spaces for single-family, two-family or townhouse dwellings, all parking spaces shall be clearly delineated or striped and the striping shall be maintained so it is visible;

K. Perimeter Enclosures, Curbing or Wheel Stops

1. Except for parking areas provided for single-family, two-family or townhouse dwellings, the perimeter of all parking, maneuvering, driveways and vehicular display or storage areas shall be enclosed by a permanent wall, fence, curb, wheel or bumper barrier. The barrier must be a minimum of six inches in height. A discontinuous barrier may be used as long as the separation between barriers does not exceed four feet.

2. Bumper stops, wheel stops or curbing shall be provided to prevent vehicles from damaging or encroaching upon any adjacent parking or loading space, sidewalk, landscaped area, parking lot island, fence, wall or building.

L. Lighting

Lights used for illumination of parking areas and driveways shall be directed away from adjacent properties and rights-of-way so as to confine direct rays to the site and comply with Section 90-12-03 (Exterior Lighting).

M. Off-street loading

1. For any industrial use, off-street loading spaces and maneuvering areas shall be provided in accordance with the following schedule.

2. The minimum dimensions of an off-street loading space are 12 feet wide by 40 feet long, with a minimum vertical clearance of 14 feet. A minimum maneuvering aisle width of 24 feet shall be provided for the off-street loading space;
N. Drive-through stacking lanes

1. Automobile stacking lanes for drive-through uses shall comply with Section 90-13-04.D. and the following:

   a. Restaurants shall provide 80 feet behind each order and pickup window, or if the functions are separated, 30 feet behind an order board, and 50 feet behind the pickup window;

   b. Financial institutions or financial transactions facilities (i.e., bill payment window) shall provide sixty (60) feet behind each window or transfer facility;

   c. A carwash shall provide 40 feet behind each bay or stall;

   d. Drive-through stacking lanes for uses not specifically mentioned shall provide sixty (60) feet behind the pickup location;

   e. The minimum width of a drive-through lane shall be nine (9) feet;

   f. Required drive-through stacking lanes shall not intersect with pedestrian access to a public entrance of a building;

   g. Each drive-through lane shall be striped, marked or otherwise distinctly delineated;

   h. Drive-through stacking lanes shall not be located in parking space maneuvering aisles;

O. Tandem parking

Except for parking spaces for single-family, two-family or townhouse dwellings, a parking space that is blocked by a tandem parking space shall not count toward fulfilling off-street parking requirements. A tandem parking space is a parking space located so that it abuts the second space and access to that second space can only be made through the abutting (tandem) space;
P. Repair bays

Repair bays within an automobile service station, repair garage or other similar use shall not be counted as part of the required off-street parking spaces;

Q. Self-storage or mini-warehouse facilities

A driveway aisle for mini-warehouse or self storage facilities shall be a minimum width of 24 feet. A driveway aisle where access to storage units is only on one side of the aisle shall be 16 feet in width. No off-street parking spaces are required for these facilities. Off-street parking as indicated in section 90-14-05 (Computation of Parking Requirements) shall be provided for any accessory use (i.e., office, dwelling) of the mini-warehouse or self-storage facility;

R. Landscaping and Screening

1. All sides of open off-street parking areas shall be screened from any adjoining residentially zoned lot by a solid and opaque fence, wall or dense evergreen hedge, having a height of not less than six feet. Such fence, wall or hedge, shall be maintained in good condition.

2. All parking lots shall be landscaped in accordance with Article 17 Landscaping and Screening.

S. Display or storage areas

Required parking, maneuvering, or access areas for vehicular sales uses shall not be used for display or storage of vehicles. Display or storage areas shall be delineated on required plans. Striping shall not be required for automobile display or storage areas.

90-14-10. OFF-STREET VEHICLE PARKING REQUIREMENTS

A. The minimum number of off-street parking spaces to be provided for the designated uses shall be as follows in Table 90-14-10(Off-Street Parking Required By Use).

<table>
<thead>
<tr>
<th>USE</th>
<th>MINIMUM OFF-STREET PARKING SPACES REQUIRED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
</tr>
<tr>
<td>Detached One Dwelling</td>
<td>2 per dwelling unit</td>
</tr>
<tr>
<td>Attached Dwelling Units:</td>
<td></td>
</tr>
<tr>
<td>Studio or Efficiency</td>
<td>1.1 per dwelling unit</td>
</tr>
<tr>
<td>1-Bedroom</td>
<td>1.5 per dwelling unit</td>
</tr>
<tr>
<td>2-Bedroom</td>
<td>1.7 per dwelling unit</td>
</tr>
<tr>
<td>3 or more Bedrooms</td>
<td>2.0 per dwelling unit</td>
</tr>
<tr>
<td>Boardinghouse, Dormitory, Fraternity, Sorority, or Other</td>
<td>1 per bed</td>
</tr>
<tr>
<td>Use</td>
<td>Minimum Off-Street Parking Spaces Required</td>
</tr>
<tr>
<td>---------------------------------------------------------------------</td>
<td>--------------------------------------------</td>
</tr>
<tr>
<td>Communal Living Arrangement where Common Kitchen Facilities Serve the Occupants</td>
<td></td>
</tr>
<tr>
<td>Mobile Home Park or Recreational Vehicle Park</td>
<td>2 per mobile home space or 1 per recreational vehicle space</td>
</tr>
<tr>
<td>Commercial</td>
<td></td>
</tr>
<tr>
<td>Automobile Service or Repair</td>
<td>1 per 200 square feet plus 1 per employee</td>
</tr>
<tr>
<td>Automobile Sales</td>
<td>1 per 200 square feet of sales area plus 1 per 2,000 sq. ft. of display area</td>
</tr>
<tr>
<td>Barbershop, Beauty Salon</td>
<td>2 per chair or station</td>
</tr>
<tr>
<td>Carwash (Full-service)</td>
<td>1 per bay or stall plus 1 per employee</td>
</tr>
<tr>
<td>Commercial Centers:</td>
<td></td>
</tr>
<tr>
<td>25,000 – 400,000 sq. ft.</td>
<td>4 per 1000 square feet</td>
</tr>
<tr>
<td>Over 400,000</td>
<td>4.5 per 1000 square feet</td>
</tr>
<tr>
<td>Hotel, Motel, Bed &amp; Breakfast Inn</td>
<td>1 per room or suite plus 1 per employee plus 1 per 200 sq. ft. for conference room, bar or restaurant area</td>
</tr>
<tr>
<td>Lumberyard, Nursery, Building Materials</td>
<td>1 per 750 square feet</td>
</tr>
<tr>
<td>Mortuary, Funeral Home</td>
<td>1 per 4 seats in main assembly room plus 1 per employee</td>
</tr>
<tr>
<td>Office, Administrative, Business or Professional</td>
<td>1 per 300 square feet</td>
</tr>
<tr>
<td>Use</td>
<td>Minimum Off-Street Parking Spaces Required</td>
</tr>
<tr>
<td>Commercial</td>
<td></td>
</tr>
<tr>
<td>Retail, General (i.e., department store, grocery, drugstore, etc.)</td>
<td>1 per 250 square feet</td>
</tr>
<tr>
<td>Restaurant</td>
<td>1 per 100 square feet</td>
</tr>
<tr>
<td>Retail, Furniture, Appliance or Building Supply</td>
<td>1 per 500 square feet</td>
</tr>
<tr>
<td>Industrial</td>
<td></td>
</tr>
<tr>
<td>Manufacturing</td>
<td>1 per employee based on maximum on duty at any one time</td>
</tr>
<tr>
<td>Warehouse</td>
<td>1 per employee based on maximum on duty at any one time</td>
</tr>
<tr>
<td>Health Services</td>
<td></td>
</tr>
<tr>
<td>Hospital</td>
<td>2 per bed</td>
</tr>
<tr>
<td>Medical or Dental Offices, Clinics, Veterinary Clinics, Emergency Clinics, and Health Related Offices (i.e., psychologist, optometrist, etc.)</td>
<td>1 per 150 square feet</td>
</tr>
<tr>
<td>Entertainment And Recreation</td>
<td></td>
</tr>
<tr>
<td>Use</td>
<td>Per Area/Unit</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Arcade, Game Room</td>
<td>1 per 250 square feet</td>
</tr>
<tr>
<td>Bowling alley, Pool Hall</td>
<td>4 per lane, 2 per table</td>
</tr>
<tr>
<td>Golf Course</td>
<td>4 per hole</td>
</tr>
<tr>
<td>Golf Driving Range</td>
<td>1.5 per tee</td>
</tr>
<tr>
<td>Miniature Golf</td>
<td>1 per hole</td>
</tr>
<tr>
<td>Race Track</td>
<td>1 per 4 seats</td>
</tr>
<tr>
<td>Skating Rink</td>
<td>1 per 250 square feet</td>
</tr>
<tr>
<td>Stadium, Sports Arena</td>
<td>1 per 4 seats</td>
</tr>
<tr>
<td>Tennis, Handball or Racquetball Facilities</td>
<td>4 per court</td>
</tr>
<tr>
<td>Theater</td>
<td>1 per 4 seats</td>
</tr>
</tbody>
</table>

**Educational Institutions**

<table>
<thead>
<tr>
<th>Use</th>
<th>Per Area/Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elementary or Junior High School</td>
<td>2 per classroom</td>
</tr>
<tr>
<td>Senior High School</td>
<td>1 per 3 students</td>
</tr>
<tr>
<td>College</td>
<td>1 per 3 students</td>
</tr>
</tbody>
</table>

**Miscellaneous**

<table>
<thead>
<tr>
<th>Use</th>
<th>Per Area/Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Auditorium, Assembly Hall or Lodge</td>
<td>1 per 4 seats. If no fixed seats, then 1 per 100 square feet</td>
</tr>
<tr>
<td>Church, Religious Institution</td>
<td>1 per 4 seats within main auditorium. If no fixed seats, then 1 per 100 square feet</td>
</tr>
<tr>
<td>Day Care Center, Preschool</td>
<td>1 per employee and adequate off-street area for pick-up and delivery of children</td>
</tr>
<tr>
<td>Health Club</td>
<td>1 per 150 square feet</td>
</tr>
<tr>
<td>Library</td>
<td>1 per 400 square feet</td>
</tr>
<tr>
<td>Museum</td>
<td>1 per 500 square feet</td>
</tr>
<tr>
<td>Group Living Facilities</td>
<td>1 employee plus 1 per 2 beds</td>
</tr>
</tbody>
</table>

**Note:** Uses not specifically categorized above shall provide parking spaces as determined by the Planning Director with respect to the number of spaces that are required to serve employees and/or the visiting public at each such use.

ARTICLE 15. LANDSCAPING AND SCREENING

90-15-01. PURPOSE

90-15-02. LANDSCAPE PLAN

90-15-03. SELECTION, INSTALLATION, AND MAINTENANCE OF PLANT MATERIALS

90-15-04. LANDSCAPE DESIGN STANDARDS

90-15-05. PARKING LOT LANDSCAPING

90-15-06. BUFFER YARDS

90-15-07. SCREENING REQUIREMENTS

90-15-01. PURPOSE

A. Purpose

The purpose of the landscape requirements is:

1. To promote the beautification of the city and to enhance its aesthetic quality.
2. To promote reasonable preservation and replenishment of valued trees.
3. To aid in establishing the ecological balance by contributing to air purification and oxygen regeneration.
4. To break up large expanses of pavement for appearance and reduce summer heat gain within parking and paved areas.

B. Applicability

These requirements shall apply to paved areas for off-street parking, vehicular access and vehicular maneuvering when said combined areas have a minimum of 2,500 square feet of pavement. An exception from the number of trees required will be allowed for new and used car dealers. However, these requirements do not apply to one-family or two-family dwellings.

90-15-02. LANDSCAPE PLAN

A. Site Plan Requirements

A site plan showing the development of the property shall be submitted to the city for review and approval with a building permit application. The following items related to parking lot landscaping must be shown on the plan.

1. The location and dimensions of all existing and proposed structures, property lines, easements, parking lots and drives, roadways and rights-of-way, sidewalks, signs, refuse disposal and recycling areas, sidewalks, bicycle paths
and parking facilities, fences, electrical equipment, recreational facilities, drainage facilities, and other freestanding structures, as determined necessary by the Building Inspector.

2. The location, quantity, size, name and condition, both scientific and common, of all proposed and existing plant materials, including trees and other material in the right-of-way, and indicating plant material to be retained and removed.

3. Dimensions of planters and type of six-inch barrier enclosing the planter.

4. The existing and proposed grading of the site indicating contours at one (1) foot intervals.

5. Elevations of all proposed fences, steps, stairs, retaining walls both fixed (cast concrete, unitized walls) and any natural rock outcroppings on the site.

6. Elevations, cross-sections, and other details as determined necessary by the Building Inspector.

7. Watering system.

B. City's Issuance of a Certificate of Occupancy

Prior to the city's issuance of a certificate of occupancy for a building or use of the off-street parking and maneuvering areas, all landscape requirements must be complete.

C. Minor Changes to Approved Landscape Plans

Minor changes to the landscape plan that do not result in a reduction in the net amount of plant material as specified on the approved landscape plan shall be approved by the Building Inspector. Changes to the size and amount of plant materials of an approved landscape plan shall not be considered a minor change. Major changes shall be approved by the body granting approval of the landscape plan initially.

90-15-03. SELECTION, INSTALLATION, AND MAINTENANCE OF PLANT MATERIALS

A. Selection

Plant material shall be selected for its form, texture, color, pattern of growth and suitability to local conditions.

1. All planting materials used shall be of good quality and meet American Nursery & Landscape Association (ANLA) standards for minimum acceptable form, quality and size for species selected, and capable to withstand the seasonal temperature variations of northeastern Oklahoma, as well as the individual site microclimates.

2. The use of species native to northeastern Oklahoma shall be encouraged.
3. Size and density of plant material, both at the time of planting and at maturity, are additional criteria that shall be considered when selecting plant material.

4. Where appropriate, the use of drought tolerant plant material is preferred.

5. Trees shall be maintained in a living condition.

B. Plant Material Selection and Quality

The scale and nature of landscape materials shall be appropriate to the size of the site and related structures.

C. Installation

All landscaping materials shall be installed in accordance with the current planting procedures established by the American Nursery & Landscape Association (ANLA). All plant materials shall be free of disease and shall be installed so that soil of sufficient volume, composition and nutrient balance are available to sustain healthy growth.

1. Trees shall be planted in a location to ensure that they will reach their intended size at normal maturity and no closer together than the following spacing requirements:
   a. Small trees: 20 feet;
   b. Medium trees: 30 feet; and
   c. Large trees: 40 feet.

2. Landscaping location and species should allow for good visibility so not to obstruct driver vision at turns or pedestrian crossings.

3. No tree, other than those species listed as small trees in Section 86-21, may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within ten (10) lateral feet of any underground water, sewer, or transmission line or other utility.

4. Minimum tree sizes at time of planting shall be as follows:
   a. Shade trees shall be not less than 2 inches in caliper. Caliper shall be measured six inches above ground level. Each tree shall be planted in a pervious area not less than six feet in diameter.
   b. Evergreen trees shall be not less than six feet in height above ground level.
   c. Ornamental trees shall be not less than one inch in caliper.
   d. Every five shrubs shall be planted in a pervious area not less than 80 square feet with any one side no less than four feet.
e. Ground covers within the planters are required to prevent dust, maintain moisture and facilitate growth of trees. Acceptable ground covers are grass or sod, bark, and decorative rock. Living ground covers and low-growing shrubs such as sedum, English ivy, vinca and certain junipers are also acceptable when placed in sufficient quantities. The ground cover to be used must be noted on the site plan.

D. Required Element

Landscape materials depicted on landscape plans approved by the City shall be considered to be required site plan elements in the same manner as buildings, parking and other improvements. As such, the owner of record, or in some instances the homeowner’s association, shall be responsible for the maintenance, repair and replacement of all landscape materials, and fences, steps, retaining walls and similar landscaping elements over the entire life of the development.

E. Maintenance

All landscaping materials shall be maintained in good condition, shall present a healthy, neat and orderly appearance, and shall be kept free of refuse and debris. Any dead, unhealthy or missing plants shall be replaced within six (6) months of notification by the City or the next reasonable available growing/planting season. All fences, steps, retaining walls and similar landscaping elements required within the landscaping plan shall be maintained in good repair. The owner of the premises shall be responsible for the maintenance, repair, and replacement of all landscape materials, fences, steps, retaining walls and similar landscaping elements, and refuse disposal areas. Irrigation systems, when provided, shall be maintained in good operating condition to promote the health of the plant material and the conservation of water.

90-15-04. LANDSCAPE DESIGN STANDARDS

Landscape plans, with parking lots having one-hundred (100) or more spaces, shall be prepared by a licensed Landscape Architect, registered in the State of Oklahoma, and evaluated and approved based on the following design criteria.

A. Shade Trees

All deciduous shade trees shall have a minimum trunk size of two (2) inches in caliper at planting, unless otherwise specified.

B. Evergreen Trees

Evergreens trees shall have a minimum height of six (6) feet at planting and shall be incorporated into the landscape treatment of a site, particularly in those areas where year-round screening and buffering is required.
C. **Ornamental Trees**

Single stem ornamental trees shall have a minimum trunk size of one inch in caliper at planting, unless otherwise specified. Multiple stem ornamental trees shall have a minimum height of eight (8) feet at planting, unless otherwise specified.

D. **Shrubs**

Unless otherwise specified, all large deciduous and evergreen shrubs shall have minimum height of three (3) feet at installation, and all small deciduous and evergreen shrubs shall have a minimum height of eighteen (18) inches at installation.

1. Large shrubs shall be considered to be those shrubs that reach five (5) or more feet in height at maturity.

2. Small shrubs shall be considered to be those shrubs that can grow up to five (5) feet in height if left unmaintained, but are generally kept at heights of eighteen (18) to thirty (30) inches.

E. **Softening of Walls and Fences**

Plant material shall be placed intermittently against long expanses of building walls, fences and other barriers to create a softening effect and to help break up long expanses of blank walls with little architectural detail. Where said walls and fences are over one-hundred (100) feet in length, on any side, shall include plant material features a maximum of every seventy-five (75) feet.

F. **Planting Beds**

Planting beds may be mulched with shredded hardwood, granite mulch, river rock, feather rocks or similar materials.
G. Approved tree list

The following list constitutes the allowed tree or ornamental species for parking lot landscaping in the city. No species other than those included in the list may be planted without permission of the City.

### Permitted Trees

<table>
<thead>
<tr>
<th>COMMON NAME</th>
<th>SCIENTIFIC NAME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ash, Green</td>
<td>Fraxinus pennsylvanica</td>
</tr>
<tr>
<td>Black Gum</td>
<td>Nyssa sylvatica</td>
</tr>
<tr>
<td>Cypress, Bald</td>
<td>Taxodium distichum</td>
</tr>
<tr>
<td>Elm, Lacebark</td>
<td>Ulmus parvifolia</td>
</tr>
<tr>
<td>Golden Raintree</td>
<td>Koelreuteria paniculata</td>
</tr>
<tr>
<td>Hackberry</td>
<td>Celtis occidentalis</td>
</tr>
<tr>
<td>Kentucky Coffee</td>
<td>Gymnocladus dioica</td>
</tr>
<tr>
<td>Locust, Shademaster</td>
<td>Gleditsia triacanthos &quot;Shademaster&quot;</td>
</tr>
<tr>
<td>Locust, Thornless</td>
<td>Gleditsia tracanthos inermis</td>
</tr>
<tr>
<td>London Plane</td>
<td>Platanus acerifolia</td>
</tr>
<tr>
<td>Maple, Autumn Blaze</td>
<td>Acer freemanii</td>
</tr>
<tr>
<td>Maple, October Blaze</td>
<td>Acer rubrum</td>
</tr>
<tr>
<td>Maple, Red Sunset</td>
<td>Acer rubrum &quot;Franksred&quot;</td>
</tr>
<tr>
<td>Oak, Live</td>
<td>Quercus virginiana</td>
</tr>
<tr>
<td>Oak, Red</td>
<td>Quercus rubra</td>
</tr>
<tr>
<td>Oak, Shumard</td>
<td>Quercus shumardii</td>
</tr>
<tr>
<td>Oak, Sawtooth</td>
<td>Quercus acutissima</td>
</tr>
<tr>
<td>Oak, Water</td>
<td>Quercus nigra</td>
</tr>
<tr>
<td>Oak, Willow</td>
<td>Quercus phellos</td>
</tr>
<tr>
<td>Pine, Austrian</td>
<td>Pinus nigra</td>
</tr>
<tr>
<td>Pine, Slash</td>
<td>Pinus caribaea</td>
</tr>
<tr>
<td>Pistache, Chinese</td>
<td>Pistacia chinensis</td>
</tr>
</tbody>
</table>

### Permitted Ornamentals

<table>
<thead>
<tr>
<th>COMMON NAME</th>
<th>SCIENTIFIC NAME</th>
</tr>
</thead>
<tbody>
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<td>Redbud</td>
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<tr>
<td>Pear, Aristocrat</td>
<td>Pyrus calleryana 'Aristocrat'</td>
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<tr>
<td>Maple, Amur</td>
<td>Acer ginnala</td>
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<tr>
<td>Smoketree</td>
<td>Cotinus coggygria</td>
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<tr>
<td>Olive, Russian</td>
<td>Elaeagnus angustifolia</td>
</tr>
<tr>
<td>Hawthorn, Washington</td>
<td>Crataegus phaenopyrum</td>
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PROHIBITED TREES

<table>
<thead>
<tr>
<th>COMMON NAME</th>
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<tbody>
<tr>
<td>North American Elm</td>
<td>Ulmus americana</td>
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<tr>
<td>Female Cottonwood</td>
<td>Populus deltoides</td>
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<tr>
<td>Catalpa</td>
<td>Catalpa</td>
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<tr>
<td>Tree of Heaven</td>
<td>Ailanthus altissima</td>
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<tr>
<td>Sweetgum</td>
<td>Liquidambar styraciflua</td>
</tr>
<tr>
<td>Siberian or Chinese Elm</td>
<td>Ulmus pumila</td>
</tr>
<tr>
<td>Black Locust</td>
<td>Robinia pseudoacacia</td>
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<td>Poplar</td>
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<td>Boxelder</td>
<td>Acer negundo</td>
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<td>Silver Maple</td>
<td>Acer saccharinum</td>
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<tr>
<td>Sycamore</td>
<td>Platanus occidentalis</td>
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</tbody>
</table>

SCIENTIFIC NAME

H. Irrigation

Landscape design pursuant to the requirements of this section shall recognize the need for irrigation and water conservation. Sprinkler irrigation systems may be required for certain landscaped areas, as determined by a landscape architect. The need for sprinkler irrigation systems shall be determined by the type of plant material and the condition/growing medium that they are installed in. For instance, whether there is a permanent means available to water plant material, such as hose bibs, shall be a consideration. All irrigation systems shall be designed to minimize the use of water.

1. Required landscaping shall be irrigated by one of the following methods:
   a. An underground sprinkling system;
   b. A drip system; or
   c. An outside hose attachment within 100 feet of all landscaped areas.

I. Species Diversity

Diversity among required plant material is encouraged not only for visual interest, but to reduce the risk of losing a large population of plants due to disease.
J. Berming

Earthen berms and existing topographic features shall be incorporated into the landscape treatment of a site where there is sufficient space and, in particular, when berms and existing topographic features can be combined with plant material to facilitate effective screening. Minimum un-retained berm side slopes shall be maintained at no less than a 4:1 slope ratio to prevent erosion and be properly and safely maintained. Retained slopes may be implemented with the appropriate terracing necessary to reduce the need for safety railing.

K. Turf Required

All areas within yards that are unpaved shall be landscaped primarily with turf (seed or sod) or live groundcover. Artificial turf is prohibited.

L. Parking Areas

All landscaped areas shall be protected with six-inch curbs or equivalent barriers.


90-15-05. PARKING LOT LANDSCAPING

A. Parking Lot Landscaping Design Guidelines

All parking lots of ten (10) or more spaces are subject to site plan review and a landscape plan as a condition of obtaining a building permit.

1. Perimeter Landscaping

Perimeter landscaping is required for all parking lots and shall be established along the edge of the parking lot that abuts the public right-of-way, excluding alleys.

2. Interior Parking Lot Landscaping

Interior parking lot landscaping is required for those lots of ten (10) or more spaces.

3. Landscaping in Excess of Requirements

Nothing in this section shall be deemed to prevent the applicant’s voluntary installation of additional interior parking lot landscaping, so long as parking space requirements and parking lot design requirements are complied with.
B. **Existing Parking Lots**

For existing parking lots that currently do not comply with the required parking lot landscaping, such landscaping shall be provided when:

1. A new principal building.
2. Over fifty percent (50%) of the total area of an existing parking lot is reconstructed. Resealing or re-striping of an existing parking lot, which does not entail paving or resurfacing by replacement of the asphalt or concrete, shall not be subject to this requirement.
3. When an existing parking lot less than ten thousand (10,000) square feet in area is expanded by fifty percent (50%) or more in total surface area.
4. When an existing parking lot over ten thousand (10,000) square feet in area is expanded by twenty-five percent (25%) or more in total surface area.
5. When an existing parking lot is required to provide landscaping, which would result in creating a parking area that no longer conforms to the parking regulations of the Article and this Code, such existing parking lot shall not be required to install all or a portion of the required landscaping. The applicant shall be required to show that landscaping cannot be accommodated on the site. If only certain requirements are able to be accommodated on the site, those elements shall be required. The Planning Director shall make the determination that all or a portion of required landscaping does not have to be installed.

C. **Parking Lot Landscaping Design Requirements**

Landscaping is required for all parking lots. Landscaped areas outside of shrub and tree masses shall be planted in turf or other groundcover. The landscaped area shall be improved as follows:

1. **Quantity of Landscape Material**
   
   One tree from the list of permitted trees or two ornamentals from the list of permitted ornamental trees shall be provided for every 2,500 square feet of paved area. For new and used car dealers only, five shrubs in lieu of each tree will be allowed. The minimum amount of trees and shrubs required by this section shall be located within the parking lot islands or landscaped areas. The required trees shall not be located in the right-of-way.

2. **Landscaped Areas**

   No portion of a parking space shall be located more than fifty (50) feet from a landscaped area or parking lot island and all rows of parking spaces shall be terminated by a parking lot island or landscaped area.
3. **Design of Planting Areas**

Parking lot islands or landscaped areas shall be at least one-hundred eight (108) square feet in area, with no side being less than six (6) feet, and at least six (6) inches above the surface of the parking lot and protected with concrete curbing, except where designed specifically for the absorption of stormwater. Such islands and landscaped areas shall be properly drained and irrigated as appropriate to the site conditions to ensure survivability.

4. **Type of Landscape Material**

Shade trees shall be the primary plant materials used in parking lot islands and landscaped areas. Ornamental trees, shrubs, hedges and other plant materials may be used to supplement the shade tree plantings but shall not create visibility conflicts for vehicles and pedestrians. The remaining area shall be planted in turf or other live groundcover, perennials or ornamental grasses.

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**BUFFER YARDS**

This section establishes standards for the dimensions and improvement requirements of buffer yards between land uses and/or zoning districts within the rear or interior side yard.

**A.** Buffer yards are required in the following situations:

1. Where a Multi-Family District abuts a R-1, R-2 or R-3 District.
2. Where a Commercial, Industrial or CBD district abuts a Residential District.
3. Where a non-residential use is located within a residential district.
4. However, a buffer yard is not required where an alley is located between a commercial use and a residential use.

**B.** Buffer yards shall be provided in interior side and rear yards. Buffer yards may be located within required setbacks, and shall be reserved for the planting of material and installation of screening as required by this section. No parking, driveways, sidewalks, accessory buildings or other impervious surfaces are permitted within the buffer yard area.

**C.** All plantings in the buffer yard shall be in accordance with the design standards of this Section. The minimum size and improvement of buffer yards shall be as follows:

1. A buffer yard shall be a minimum of six (6) feet in width.
2. An opaque masonry wall (stone, stucco or brick), solid screen fence or dense evergreen hedge, at least six (6) feet in height, shall be erected along one hundred percent (100%) of the yard length.
3. Areas not planted with trees or shrubs shall be maintained as turf or other groundcover.

90-15-07. SCREENING REQUIREMENTS

A. Refuse Disposal Dumpsters and Refuse Storage Areas

All refuse containers shall be fully enclosed on three (3) sides by a solid wood or simulated wood screen fence, an opaque masonry wall (stone, stucco or brick) or principal structure wall six (6) feet in height and the enclosure shall be gated. The materials used for screening, including the enclosure, shall complement the architecture of the principal structure. An extension of an exterior principal structure wall may be used as one of the screening walls for a refuse container, provided that such wall meets the minimum six (6) foot height requirement and is of the same building materials as the principal structure. Such wall may not be the gated enclosure.

B. Loading Berths

Loading berths in all zoning districts shall be screened as much as possible, unless such screening is determined unnecessary by the body approving the landscape plan. Such screening shall consist of an opaque masonry wall (stone, stucco or brick), a solid wood or simulated wood screen fence, or dense evergreen hedge, at least six (6) feet in height.

C. Outdoor Storage and Display Areas

All outdoor storage areas shall be completely screened by an opaque masonry wall (stone, stucco or brick) or a solid wood or simulated wood screen fence no less than six (6) feet in height. Where feasible, plant materials shall be installed along the fence or wall located along the public right-of-way to provide a softening effect. No materials stored outdoors shall be of a greater height than that of the required fence or wall, except within the I-1, I-2 and P Districts.

1. When the rear or interior side yard of an outdoor display area abuts a residential district, or the rear yard is separated from a residential district by an alley, the outdoor display area shall be effectively screened from view by an opaque masonry wall (stone, stucco or brick), a solid wood or simulated wood screen fence or dense evergreen hedge, at least six (6) feet in height.

2. All outdoor display areas shall be designed with a landscaped yard along the public right-of-way, excluding alleys, a minimum of ten (10) feet in width and planted with shade or evergreen trees at a rate of one (1) tree per twenty-five (25) feet, and supplemented with shrubs and perennials to enhance the view from the public right-of-way. These screening requirements are not intended to prohibit openings reasonably necessary for access drives and walkways.

3. Motor vehicle dealerships or rental establishments with outdoor sales and display lots shall be designed with permanent screening along the right-of-way.
meeting the requirements of Paragraph 2 above, but such plantings may be clustered. However, the screening may consist of small shrubs and/or a low pedestrian wall, rather than shade or evergreen trees, to optimize the view of motor vehicles for sale.

D. Drive-Through Facility

Drive aisles of drive-through facilities shall be effectively screened from view when adjacent to residential properties in order to minimize the impact of exterior site lighting, headlight glare and any menu intercom displays. Such screening shall be approved during the site plan review process and shall consist of an opaque masonry wall (stone, stucco or brick), a solid wood or simulated wood screen fence or dense evergreen hedge at least six (6) feet in height. Plant materials shall be installed along the fence or wall to provide a softening effect.
ARTICLE 16. SIGNS

90-16-01. PURPOSE

C. It is the intent of this article to control all signs, to protect property values, to encourage the most appropriate use of land, to secure safety in the streets, to achieve a more desirable living environment, to protect and enhance the attractiveness of the city as a place of residence, employment, and civic activity, and generally to promote the public safety and welfare.

D. While in most instances signs are erected as an accessory use, they constitute a separate and distinct use of the land upon which they are erected and essentially a use of the visible portion of land adjacent to public streets and sidewalks.

E. The purpose of this article is to:

1. Protect and enhance the character, property values, and stability of new and existing residential neighborhoods and commercial and industrial districts in the city.

2. Establish a regulatory framework for the use of signs as an addition to economic and social activities of the residents, institutions and businesses of the community.

3. Conserve the taxable value of land and buildings.
4. Reduce sign clutter and to eliminate the potential for the distraction of motorists and the degradation of the appearance of the community that results from an excessive number of signs.

5. Protect aesthetic values and to establish and maintain standards of community appearance with respect to signs.

6. Provide standards and procedures for the removal, elimination, or relocation of signs which fail to conform to those standards as established herein.

7. Establish an administrative framework for the enforcement of the standards and regulations established herein.


90-16-02. SIGN PERMIT

The following permit regulations shall apply to all signs in the city unless otherwise exempted:

A. Applicability

Except as otherwise provided in this Code, it shall be unlawful for any person to erect, construct, enlarge, move, convert or place any sign in the city, or cause the same to be done, without first obtaining a sign permit for each such sign from the building official or designated officer as required by this Code. These directives shall not be construed to require any permit for a change of copy on any sign, nor for the repainting, cleaning and other normal maintenance or repair of a sign or sign structure for which a permit has previously been issued, so long as the sign or sign structure is not modified in any way. No new permit is required for signs which have permits and which conform with the requirements of this Code on the date of its adoption unless and until the sign is altered or relocated. Permit fees shall be in an amount according to a schedule of fees, as shall be modified from time to time by the council, and made available for public viewing in the city clerk’s office.

B. Change of sign owner or user

Whenever there is a change in the sign user (excluding outdoor advertising signs), owner, or owner of the property on which the sign is located, the new sign user, owner, or new property owner shall obtain a new sign permit if the sign is to be altered or relocated.

1. A building permit shall be required for the erection, alteration, or reconstruction of any sign unless exempt as per Section 90-16-05;

2. No sign shall be erected or maintained unless it is in compliance with the regulations of this article and this Code;

3. Signs must be constructed of durable materials, be maintained in good condition and not be permitted to become dilapidated;
4. Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign, or internal to it, without causing glare for motorists, pedestrians, or neighboring premises. They shall not produce more than one foot-candle of illumination four feet from the sign;

5. Any sign which advertises an activity, business, product, or service which has ceased operation, existence or production, or which no longer carries a message, for a period of a year shall be removed at the end of the year;

6. All signs erected or maintained pursuant to the provisions of this article shall be erected and maintained in compliance with all applicable State laws and with the building code, electrical code and other applicable city codes. In the event of a conflict, the more restrictive provision shall prevail;

7. Signs which display either constantly or in sequence, by electronically or electrically controlled changes in the same lamp bank, shall be permitted provided the copy display shall remain constant for at least two-second intervals between changes;

8. No sign shall occupy a parking space required under the minimum standards of this chapter; and

9. Wall signs shall cover no more than 25 percent of the wall area on any one side of the structure.


90-16-03. Sign removal and disposal

A. Removal

1. The Building Official shall cause to be removed any sign that endangers the public safety, such as an abandoned, dangerous, or materially, electrically or structurally defective sign, or a sign for which no permit has been issued.

2. The Building Official shall order the removal of an illegal sign otherwise required to be removed after notice herein provided or as provided in the applicable building, electrical or fire codes. Such notice shall be to the building owner or sign owner by registered mail or written notice served personally. If such sign is not removed within 30 days or the time provided in the building codes, the inspecting officer may remove such sign at the expense of the owner thereof. Signs placed in the rights-of-way may be removed immediately by the city with the cost of removal to be borne by the owner of the sign.
B. Disposal costs

1. Any sign removed by the city pursuant to the provisions of this section shall become the property of the city and may be disposed of in any manner deemed appropriate by the city. Any sell or salvage value shall be used to offset the costs of removal. The cost of the removal of the sign by the city shall be considered a debt owed to the city by the owner of the sign and the owner of the property, and may be recovered in an appropriate court action by the city. The cost of removal shall include any and all incidental expenses incurred by the city in connection with the sign's removal.

2. When it is determined by the city that said sign would cause an imminent danger to the public safety and contact cannot be made with a sign owner or building owner, no written notice shall have to be served. In this emergency situation, the city may correct the danger, with all costs being charged to the sign owner and property owner.


90-16-04. PROHIBITED SIGNS

1. Flashing signs. No sign shall display lights resembling the flashing lights customarily used in traffic signals or in police, fire, ambulance, or rescue vehicles; nor shall any signs use the words, slogans, dimensional shape and size, or colors of the governmental traffic signs.

2. Illegally-affixed signs. Signs painted or attached to natural features (such as trees or rocks), telephone poles, utility poles, or fence posts are prohibited.

3. Obscene signs. Signs of an obscene nature. If in the opinion of the City Attorney, the sign falls within the prohibitions of Sections 54-254 or meets the definition of an obscene sign as defined in Article 18 Definitions.

4. Obstructing signs. Signs which obstruct any ingress or egress, including doors, windows or fire escapes.

5. Off-premise signs. Off –premise signs unless otherwise provided.

6. Parked Vehicle signs. Signs placed or painted on parked vehicles or trailers where the primary purpose is to advertise a product or service, or to direct the public to a business or activity located on or off the premises are prohibited. Signs displayed on trucks, buses, other vehicles or trailers, which are being operated and stored in the normal course of a business, such as signs indicating the owner or business that are located on delivery trucks, moving vans and rental trucks, are permitted, provided that the primary purpose of such vehicles is not the
display of signs, and that they are parked or stored in areas appropriate to their use as vehicles.

7. **Portable signs.** Portable signs shall be prohibited. No portable sign placed on a lot or premises after May 14, 2007, shall continue. Portable signs which were lawfully in place prior to May 14, 2007, as established pursuant to MCC Section 220463 (2008) or in the case of an individual sign owner, by substantial proof of the same to the City, and which met and continue to meet all code requirements for the placement of portable signs in existence at the time of the placement of the signs, are to be considered to be a legal nonconforming use and may continue. Portable signs not legally placed, which did not meet herein, which were modified so that the portable sign no longer meets Code requirements for the placement of portable signs then in existence, is to be considered an unlawful nonconforming use and shall be removed as provided in Section 90-16-03.

8. **Signs which constitute a traffic hazard, including those signs that:**
   a. No signs, except traffic signs and signals and informational signs erected by a public agency, are permitted within any street or public right-of-way, unless otherwise provided.
   b. Signs which obstruct the view of motor vehicle operators entering a public roadway from any parking area, service drive, private driveway, alley or other thoroughfare are prohibited.
   c. Make use of any word, phrase, symbol or character in a manner that misleads, interferes with, or confuses traffic.

9. **Temporary signs.** Temporary signs unless otherwise provided.

10. **Vehicle signs.** A sign that is attached to or painted on a vehicle or trailer that is parked on public or private property which the primary purpose is to advertise or attract attention to a produce sold or a business. Except vehicle signs that meet the following conditions.
    a. *The primary purpose of such vehicle or trailer is not the display of signs;*
    b. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable and actively used in the daily function of the business to which the signs relate.

90-16-05. EXEMPT SIGNS

The following types of signs are exempt from the provisions of this article and shall be allowed without a sign permit.

A. Bulletin board

Bulletin boards for public, charitable or religious institutions when the same are located on the premises of the institutions and less than eighteen (18) square feet in area, provided such sign shall be located on the same zoning lot as the principal building.

B. Construction signs

One (1) construction sign no more than eighteen (18) square feet in surface area in a Residential District and no more than thirty-six (36) square feet in surface area in a Commercial, Industrial and CBD District, which denotes the architect, contractor or engineer, when placed on the zoning lot which is a construction site of such architect, contractor or engineer.

C. Directory signs

Directory signs no more than six (6) square feet in surface area.

D. Flags

Flags, emblems and insignia of political, civic, philanthropic, religious educational organizations and the United States flag or State flags displayed for noncommercial purposes.

E. Historic designation

Plaques or tablets denoting names of buildings and date of erection or names of buildings or dates, cut into any masonry surface.

F. Holiday decorations

Decorations displayed in connection with civic, patriotic or religious holidays.

G. Political and noncommercial signs

Temporary signs advertising political candidates or parties, provided that such signs may not be erected before the applicable filing period and shall be removed within ten days following such election; or signs advertising support or opposition to any public issue, provided that such signs shall not be erected more than 30 days prior to an election on the issue and shall be removed within ten days following such election. Such signs shall not be placed any closer than twelve (12) feet from the curb or edge of the street. Permission from the property owner shall be obtained prior to installing the sign.
H. Real estate signs

In the Residential Districts, one (1) real estate sign no more than eight (8) square feet in surface area, except not more than eighteen (18) square feet in surface area for multiple-family dwellings, and in the Commercial Districts, one (1) real estate sign no more than thirty-six (36) square feet in surface area per street frontage, which advertises the sale or rental of the premises on the lot upon which the sign is located. Real estate signs shall not be placed any closer than twelve (12) feet from the curb or edge of the street.

I. Temporary signs

Temporary signs advertising special events, provided that such signs may not be erected more than 30 days prior to said special event and shall be removed within seven days following such special event. Temporary signs shall not be placed any closer than twelve (12) feet from the curb or edge of the street. Permission from the property owner shall be obtained prior to installing the sign.

J. Traffic control signs

Traffic and other signs erected and maintained by the city or other governmental agency, legal notices and all other similar signs required by law to be posted.

K. Utility signs

Signs showing the location of public telephones and signs placed by utilities to show the location of underground facilities.

L. Warning signs

Warning signs, such as “no trespassing,” “beware of dog,” etc., each not more than two (2) square foot in size and not to exceed one sign per every 2,500 square feet per lot.

M. Window signs

Nothing shall be construed in this article as a provision to regulate window signs.


90-16-06. Residential District Sign Regulations

A. The following signs shall be allowed in the Residential Districts unless otherwise provided in this subsection.

1. Real estate signs, construction signs, identification signs and instructional signs which comply with the number, height, area, manner and location provisions of the districts, provided that real estate signs shall be removed within five days after the close of sale; and
2. Subdivision ground sign as approved in the final plat. One sign not over one-hundred fifty (150) square feet in area and shall not encroach into the right-of-way;

B. Number, height, area, manner and location of signs are as follows:

1. Only one identification sign, not to exceed two (2) square feet in area, shall be allowed for each zoning lot except that one additional identification sign shall be permitted where the lot has more than one access to a public way, and except that the number of instructional signs shall be limited to the number reasonably necessary to instruct and inform the public and where a hazard to traffic is not created as determined by the Director of Public Works;

2. Only wall signs, not to exceed twenty (20) feet in height, and ground signs, not to exceed seven (7) feet in height, of the non-illuminated type shall be allowed;


90-16-07. Commercial and Industrial District Sign Regulations

A. The following signs shall be allowed in the Commercial Districts:

1. Any sign allowed in a Residential District and subject to the same regulations as to number, height, location, manner and area unless otherwise specified;

2. Temporary signs only if attached to the building structure and which do not project beyond the surface of that portion of the building greater than 12 inches;
   a. Two temporary signs shall be allowed per business.
   b. One flag or balloon may be directly attached to each parking lot light pole, if located within the Highway Commercial District and zoned C-2 or C-3. Balloons shall not exceed a height of thirty (30) feet, unless said balloon is setback from the closest property line a distance of one-hundred ten (110) percent of the height of the balloon.

3. On-premise, noncommercial, and off-premise signs which meet the number, height, area, manner and location provisions of these districts.

B. There shall be no limit on the number of non-projecting wall signs.

C. A ground sign shall not exceed thirty (30) feet in height.

D. On-premise wall signs, ground signs and roof signs shall be allowed. The aggregate display surface area of all signs shall not be greater than two (2) square feet of display surface area per each lineal foot of street frontage.
E. Ground signs are allowed as follows:

1. Ground signs are allowed for non-shopping center, individual businesses.
   a. The maximum area allowed shall be 150 square feet per sign area.
   b. One sign shall be permitted per tract ownership, except when there is a single ownership fronting on two streets of intersecting public streets, not to include alleyways, or driveways; one additional sign shall be permitted with at least 300 feet minimum separation between signs.

2. Ground signs are allowed for shopping center locations where there are freestanding buildings either as individually owned properties or leased sites.
   a. The maximum area allowed shall be one-hundred fifty (150) square feet per sign area.

3. Ground signs are allowed for shopping centers where there are multiple tenant buildings or occupancies.
   a. Maximum area allowed shall be 300 square feet per sign area where tenant signs are located on one ground sign.
   b. One additional ground sign shall be permitted when there is a single ownership on a contiguous lot with frontage in excess of six-hundred (600) feet, with at least three-hundred (300) feet minimum separation between signs. Maximum area allowed for additional sign permitted under this section shall be one-hundred fifty (150) square feet per sign area.

F. Off-premises and noncommercial signs shall be only be allowed in C-3, I-1, I-2, and P districts if they meet the following requirements on area, height, manner and location:

1. Location requirements.
   a. The sign will be allowed in "C-3" districts and above in the Highway Commercial District;
   b. The signs shall be oriented to be primarily visible from those streets designated in the Highway Commercial District;
   c. The signs shall be located no closer than 600 feet to any other off-premise or noncommercial sign on the same side of the road and shall be permitted only on lots having a street frontage of 100 feet or more;
   d. The sign cannot be located within 100 feet of a line drawn perpendicular to the right-of-way from another such sign on the opposite side of the roadway;
e. The signs shall not be located within 150 feet of a public park; and

f. The signs shall not be located within 150 feet of a residential district unless such residential district is on a state or federal highway.

2. The sign shall not be located, constructed, or extended closer to the street right-of-way line than 25 feet or the required setback for structures under the Major Street Plan (Section 66-42) with no exceptions;

3. Height requirements.
   a. No sign shall exceed 50 feet in height, except a sign can be a maximum of 60 feet in height when it abuts a freeway which is elevated ten feet or more above grade; and
   b. Height measurements shall be made from the grade level at the base of the sign structure support nearest the street, straight upward to the highest point of the sign facing, excluding embellishments and extensions;

4. Area. No sign shall contain more than two sides, nor shall the total display surface area for each side exceed 675 square feet. The two sides shall face in opposite directions. The term "opposite" shall, in addition to its ordinary meaning, include V-shaped signs when not more than 15 feet separates the open side of the display surface;

5. Manner of signs.
   a. Signs which display either constantly or in sequence, by electronically or electrically controlled changes in the same lamp bank, shall be permitted provided the copy display shall remain constant for at least two-second intervals between changes;
   b. No sign shall display lights resembling the flashing lights customarily used in traffic signals or in police, fire, ambulance, or rescue vehicles; nor shall any signs use the words, slogans, dimensional shape and size, or colors of the governmental traffic signs;
   c. No such sign shall contain visible moving parts on the cutout or extension portion of the sign; and
   d. Cutouts or extensions shall be permitted in addition to the display surface area permitted herein, so long as the cutouts or extensions do not exceed 15 percent of the display surface area.

90-16-08. **CBD District Sign Regulations**

The following on-premises signs only shall be allowed in the "CBD" Central Business District:

A. One wall or projection sign per facade on every side of the building with exposed illumination will be permitted for each individual business;

B. The outline area of each wall sign shall not exceed twenty-five (25%) percent of the wall area of the business on which the sign is attached. No sign may exceed 150 square feet in total display surface area;

C. No sign shall extend above the second story of any building or exceed thirty (30) feet in height, whichever is less, unless it is an integral part of the building;

D. Except for clocks and dial temperature signs, all signs shall be stationary. Portable signs shall be prohibited;

E. A sign which has been designated as a landmark or is of historical significance may be continued in use;

F. Signs may project up to five (5) feet into any portion of the right-of-way. Signs which overhang a sidewalk shall be a minimum of eight (8) feet above said sidewalk;

G. No sign may illuminate or cause to be illuminated any portion of this property designated as residential usage;

H. All signs are subject to the requirements of existing building codes. Any such requirement which is more restrictive shall prevail; and


90-16-09. **Mural exhibits**

A. **Purpose**

It is the intent of the city to permit and encourage original art mural exhibits on a content-neutral basis within certain terms and conditions. Original art mural exhibits comprise a unique medium of expression which serves the public interest. Original art mural exhibits have purposes distinct from signs and confer different benefits. Such purposes and benefits include: improved aesthetics; avenues for original artistic expression; public access to original works of art; community participation in the creation of original works of art; community building through the presence of and identification with original works of art, particularly those of cultural, historic or social significance. Murals can increase community identity and foster a sense of place and enclosure if they are located in areas visible to pedestrians or other passersby.
B. Definition

The term "mural exhibit" means an original art mural exhibit means a hand produced original work of visual art which is tiled or painted by hand directly upon, or affixed directly to an exterior wall of a building. An original art mural does not include a “sign” as defined by and regulated by the City of Muskogee Sign Regulations.

C. Where permitted

Mural exhibits are permitted on any commercial building that is commercially zoned within the corporate limits of the city, as well as, public owned buildings approved by the City.

D. Permit required

All mural exhibits shall be required to obtain a Site Plan Permit describing the location of the mural.

E. Review administrative procedure

All applicants for a mural exhibit under this section shall submit a written application for a site plan permit on a form approved by the Planning Director. The site plan shall be subject to review and approval by the City of Muskogee Planning Commission at its next regular meeting. Provided, however, said review and approval shall be limited to ensuring compliance with the following:

1. The exhibit is not a “sign” as defined and regulated by the City of Muskogee Sign Regulations, except as permitted under subsection (f).
2. The exhibit does not contain sexually explicit conduct or sexually explicit nudity, as defined in Section 54-253 of the Muskogee City Code;
3. The exhibit does not contain gang affiliation symbols;
4. The exhibit does not contain content or images which violate the criminal laws of this state; and
5. The display is not so shocking that it is likely to create a public safety issue by impeding traffic flow.

In any instance where the Planning Commission rejects a mural exhibit site plan based on any factors herein identified, the applicant may request in writing that the matter be appealed to the City Council at its next regular meeting. Said written request shall be made within ten (10) business days of the action of the Planning Commission. The final decision of whether to grant a site plan permit shall rest with the City Council.
F. Mural exhibits as signs

All mural exhibits containing an advertising message, announcement/declaration, insignia, 
surface or space erected or maintained in view of the observer thereof for identification, 
advertisement or promotion of the interests of any person, entity, product, or service, shall be 
considered a sign as defined by the Sign Regulations of this Article; provided, however, there 
shall be allowed an incorporate image or attached plaque identifying the artist and/or financial 
sponsor(s) of the mural which measures the greater of either 5% of the total square area of the 
mural or the maximum display surface area allowed for a wall sign in the zoning district where 
the mural is created.

G. Condition of Mural Exhibits

The Planning Department shall be charged with authority to order the painting, repair, 
alteration or removal of Mural Exhibits which become dilapidated or are abandoned. A Mural 
Exhibit shall be deemed to be dilapidated when 25% or more of the display surface area 
contains peeling or flaking paint, or is otherwise not preserved in the manner in which it was 
originally created.

(Code 1993, § 23-510.1; Ord. No. 3511-A, § 1, 2-14-2000)

90-16-10. Nonconforming signs

A nonconforming sign lawfully existing at the time of the passage of this article may not be 
continued and maintained by reasonable repairs if:

A. The sign is deemed unsafe;
B. The sign is located in the sight triangle and obstructs the view of motorists as 
determined by the Director of Public Works;
C. The sign is in 50 percent disrepair;
D. The sign cannot be maintained in conformance with the building, electrical and fire 
codes;
E. The sign is in a required parking space or is located in the public right-of-way;
F. The sign is deemed abandoned;
G. The sign is an off-premises or noncommercial sign outside the highway commercial 
district unless otherwise provided.

The off-premises or noncommercial mentioned in this section shall be removed immediately.

(Prior Code, app. A, § 16-113; Code 1993, § 23-512; Ord. No. 3008-A, 4-28-1986; Ord. No. 3267-
90-16-11. Enforcement and administration

A. All provisions of this article shall be enforced and administered by the Building Official.

B. The duties and powers of the Building Official shall be:

1. To receive all applications for building permits for the erection of signs;

2. To ensure, prior to issuance of any building permit and certificate of occupancy required by building or city codes, that the erection and completion of the proposed sign and structure conforms in all respects to the provisions of these Zoning Regulations and other applicable regulations; and

3. To require any information necessary to determine the conformity of the application with the regulations of this article and building codes. This information may include:

   a. Area of the sign;

   b. Size, character, general layout and designs proposed for painted displays;

   c. The method and type of illumination, if any;

   d. The location proposed for such signs in relation to property lines, zoning district boundaries, right-of-way lines, and existing signs;

   e. Location of other signs within 600 feet on the same side of the roadway or opposite side of the roadway if necessary;

   f. Payment of fee to obtain building permit; and

   g. Approval of landowner.

4. To order the painting, repair, alteration or removal of signs which become dilapidated or are abandoned, or which constitute a physical hazard to the public.


90-16-12. Penalty

A. Any person who violates any provision of this article or fails to comply with any requirements hereof, shall upon conviction, be subject to a fine as established in the Municipal Code of Ordinances, or as established by the Judge of the Municipal Court. Each day that such violation exists shall constitute a separate offense.

ARTICLE 17. NONCONFORMING USES

90-17-01. CONTINUATION OF EXISTING BUILDINGS

A nonconforming building or structure lawfully existing at the time of the passage of these regulations may be continued and maintained, including reasonable repairs, except as otherwise provided in this article.


90-17-02. ALTERATION OR ENLARGEMENT OF BUILDINGS OR STRUCTURE

A. A nonconforming building or structure shall not be added to or enlarged in any manner unless the building or structure, including additions and enlargements, is made to conform with all regulations of the district in which it is located. If a building or structure is conforming as to use but not conforming as to yards, off-street parking or height, the building may be enlarged or added to, provided that the enlargement or addition complies with yard, off-street parking and height requirements of the district in which the building or structure is located.

B. No nonconforming building or structure shall be moved in whole or in part to another location on the lot unless every portion of the building or structure is made to conform to all the regulations of the district in which it is located.


90-17-03. RESTORATION OF DAMAGED BUILDINGS

A. A nonconforming building or structure which is damaged or partially destroyed by fire, flood, wind, earthquake, the public enemy or act of God, to the extent of not more than fifty (50) percent of its value, may be continued or resumed, provided that such restoration is started within a period of one year and is diligently pursued to its completion.
B. In the event damage or destruction exceeds fifty (50) percent of such nonconforming building or structure's value, no repairs or construction shall be made unless every portion of such building or structure is made to conform to all the regulations for new buildings in the district in which it is located. Any building or structure that is nonconforming due to off-street parking and is conforming in all other respects may be restored regardless of the extent of damage.


90-17-04. CHANGE IN USE

A. A nonconforming structure or a structure containing a nonconforming use not permitted by this Ordinance in the district in which it is located shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

B. The use of a nonconforming building or structure may be changed to a use of the same or a more restricted district classification, but, where the use of a nonconforming building or structure is changed to a use of a more restrictive district classification, it shall not thereafter be changed to a use of a less restricted district classification.


90-17-05. BUILDING VACANCY

A. A nonconforming building, structure or portion thereof which is or hereafter becomes vacant and remains unoccupied for a continuous period of 90 days shall not thereafter be occupied except by a use which conforms with the regulations and requirements of the district in which the building or structure is located.


90-17-06. NONCONFORMING USES OF LAND

A. A nonconforming use of land, where the total value of all permanent structures of buildings is less than $1,000.00, existing at the time of the adoption of these regulations, may not be continued for a period of more than three years.

B. A nonconforming use of land may not be extended or expanded.

C. If the nonconforming use or any portion thereof is discontinued for a period of one month, or changed, any future use of such land, or change in use, shall be in conformity with the provisions of the district in which the land is located.
90-17-07. **REPAIRS**

A. If a nonconforming structure or a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and an order of vacation or demolition is entered by the Building Official by reason of physical condition, it shall not thereafter be used, restored, repaired, or rebuilt except in conformity with the provision of the district in which located.

ARTICLE 18. DEFINITIONS

90-18-01. PURPOSE

For the purpose of this Ordinance, certain generic uses and general terms are hereby defined in this Article.

90-18-02. INTERPRETATIONS

The following rules shall be applied in the interpretation of the language in this Ordinance:

A. Definitions

Whenever a defined word or term appears in the text of this Ordinance, its meaning is construed as set forth in the definition. Any word appearing in parenthesis, between a word and its definition herein, is construed in the same sense as that word.

B. Gender

Words’ denoting one gender applies to the others as well.

C. Mandatory, Prohibitory and Permissive Terms

1. Mandatory Terms

“Must” and “shall” are each mandatory terms used to express a requirement or to impose a duty.

2. Prohibitory Terms

“Must not,” “may not” and “shall not” are each mandatory negative terms used to establish a prohibition.

3. Permissive Terms

“May” and “should” are permissive.

D. Number

The singular includes the plural and vice versa.

E. “Used” or “Occupied”
Whenever the word “used” or “occupied” is used, it is to be construed as though followed by the phrase “or arranged, intended, or designed to be used/occupied.”

F. Tense

The present tense includes the past and future tenses, and the future tense includes the present.

G. Undefined Terms

Any words not defined as follows shall be construed in their generally accepted meaning as defined in the most recent publication of Webster's New World Dictionary, College Edition.

H. Regulations

If a definition contains a regulation and the use is inconsistent with that regulation, the use is prohibited.

90-18-03. Rules of Use Definitions

A. Certain uses in this Ordinance are defined to be inclusive of many specific uses in order to eliminate overly detailed lists of uses in the zoning districts established by this Article. These terms are referred to in this Article as generic uses.

B. A use that is not specifically listed in a zoning district or does not fall within a generic use definition as defined in this Article is prohibited. However, a use not identified within any zoning district may be determined by the Planning Director to be a permitted or special use within a specific district, based on his/her evaluation as to whether the proposed use is similar enough in character, intensity, and operations to that of a permitted or special use in the district.

C. If a use is listed within any of the use tables or if the definition specifically excludes such use, then the generic use cannot be interpreted as allowing that use.

90-18-04. Definitions (Generic Use/General Term)

Generic Use. Certain terms in this Article are defined to be inclusive of many uses in order to eliminate overly detailed lists of uses in the zoning districts established by this Ordinance. A use that is not specifically listed in a zoning district or does not fall within a generic use definition as defined in this Article, or as interpreted pursuant to Article 90-18-02 (Interpretation), is prohibited.

General Use. When used in this Ordinance, the following terms shall have the following meanings ascribed to them, except when the context clearly requires otherwise.

ABUTTING

Bordering upon; having a contiguous boundary. Land parcels separated by a public right-of-way may be construed as abutting.
ACCESSORY BUILDING

A building customarily incidental to the main building and located on the same lot with the main building.

ACCESSORY USE

A use customarily incidental, appropriate and subordinate to the principal use of land or buildings located upon the same lot.

ADJACENT/ADJOINING

Nearby, may or may not be abutting.

ADULT USE

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. Adult Arcade. A business enterprise to which the public is permitted or invited and where coin or currency, card or slug operated or electronically, electrically or mechanically controlled devices, still or motion picture machines, projectors, videos, holograms, virtual reality devices or other image producing devices are maintained to show images on a regular or substantial basis, where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing "specified sexual activities" or "specified anatomical areas." Such devices shall be referred to as "adult arcade devices."

2. Adult Bookstore, Adult Novelty Store or Adult Video Store. A business enterprise which has as a substantial portion of its stock-in-trade or a substantial portion of its revenues or devotes a substantial portion of its interior commercial space or advertising to the sale, rental or viewing for any form of consideration, of any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, computer software or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities." As used in this article, "substantial portion" means more than ten percent and "interior space" means that portion of the premises open to the public excluding restrooms and common areas.

   a. A business enterprise may have other principal business purposes or operations that do not involve the offering for sale, rental, or viewing of materials depicting or describing "specified sexual activities" or "specified anatomical areas," and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes or operations will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the
materials specified above.

3. **Adult Cabaret.** A nightclub, bar, tavern, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic or non-intoxicating beverages are sold, dispensed or served with or without charge, which features: 1) servers or entertainers who appear semi-nude; 2) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or 3) films, motion pictures, video cassettes, computer software, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

4. **Adult Dance Studio.** Any enterprise which provides for members of the public a partner for dance where the partner is "nude" or "semi-nude" or where the partner, or the dance, is distinguished or characterized by the emphasis on matter depicting, or describing or relating to "specified sexual activities" or "specified anatomical areas."

5. **Adult Entertainment Enterprise.** Any enterprise, other than one defined in this subsection, which has one of its principal business purposes the offering of forms of entertainment on its premises involving the depiction or description of "specified sexual activities" or "specified anatomical areas."

6. **Adult Hotel or Adult Motel.** A hotel or motel or similar commercial establishment which: 1) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit televisions, transmissions, films, motion pictures, video cassettes, computer software, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to newspapers, magazines, pamphlets or leaflets, radio or television, or, 2) offers a sleeping room for rent for a period of time less than ten hours; or 3) allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten hours.

7. **Adult Motion Picture or Mini-motion Picture Theater.** A commercial establishment where films, motion pictures, video cassettes, computer software, slides or similar photographic reproductions characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" are shown for any form of consideration. Commercial motion picture theatres displaying moving pictures with a Motion Picture Association of America rating of 'R' or below are specifically excluded herein.

8. **Adult Theater.** A theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear semi-nude or live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities."
9. **Escort Agency.** A person or business association who furnishes, offers to furnish, or advertises to furnish "escorts" as one of its primary purposes for a fee, tip, or other consideration.

10. **Figure Modeling Studio.** Any establishment or business which provides for members of the public, the services of a live human model for the purpose of reproducing the human body, is in a state of nudity or semi-nude, by means of photograph, painting, computer software, sketching, drawing, or other pictorial form.

11. **Massage Parlor.** any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body is performed. Unless the massage parlor meets one of the following exceptions the massage parlor shall be considered an "adult business" and shall meet all the requirements of this article. The definition of massage parlor shall not include the practice of massage in any licensed hospital, nor by a physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semi-professional or professional athlete or athletic team or school athletic program performed in conjunction with such program, nor by an Oklahoma state-licensed physical therapist, nor any massage therapist who is a member of a national or international massage therapist association and where such therapist at all times maintains a membership level which requires liability insurance at said membership level for that association, nor barbers and cosmetologists duly licensed under the laws of this state in the course of practice of their usual and ordinary licensed vocation and profession. Certification and/or licensure as a massage therapist, cosmetologist or barber shall be conspicuously posted in the public area of the establishment or place of business.

12. **Sexual Encounter Establishment or Center.** A business or commercial establishment that has as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one or more of the persons is semi-nude or in a state of nudity. The definition of adult business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Oklahoma engages in medically approved and recognized sexual therapy.

13. **Semi-nude Model Studio.** Any place where a person, who appears semi-nude or displays "specified anatomical areas" is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.
14. **Specified Anatomical Areas.** Includes any of the following: human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or, human male genitals in a discernibly turgid state, even if completely and opaquely covered.

15. **Specified Sexual Activities.** Includes any of the following: the fondling or other intentional touching of human genitals, public region, buttocks, anus, or female breasts; or, sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or, masturbation, actual or simulated; or human genitals in a state of sexual stimulation, arousal, or tumescence; or excretory functions as part of or in connection with any of the activities above.

### AGRIBUSINESS

Secondary agricultural processing other than grains, farm supply and machinery sales, storage and services, fuel production as agricultural by-product, bulk produce storage facilities other than grain, livestock slaughtering.

### AGRICULTURE

The practice of cultivating the ground, including harvesting of crops and rearing and management of livestock for production of plant crops and livestock for food, fiber and fuel.

### AIRPORT

The following words, terms and phrases, when used in Article 20 herein, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. **Airport.** Land and facilities for the takeoff and landing of aircraft, including runways, aircraft storage buildings, helicopter pads, air traffic control facilities, informational facilities and devices, terminal buildings, and airport auxiliary facilities, including fences, lighting and antenna systems, driveways, and access roads. This term includes aircraft maintenance facilities, aviation instruction facilities, and heliports.

2. **Airport Director.** The Public Works Director of the City of Muskogee, Oklahoma or his designee.

3. **Airport Elevation.** The highest point of an airport's usable landing area measured in feet from sea level.


5. **Airport Zoning Board of Adjustment.** The board shall consist of the same members as the Airport Board. The board shall have jurisdiction to enforce the Airport Hazard Zoning Regulations adopted by the City of Muskogee.

6. **Approach Surface.** A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope.
as the approach zone height limitation slope set forth in Section 90-20-03. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

7. **Approach, Transitional, Horizontal and Conical Zones.** These zones are set forth in section 90-20-02.

8. **Conical Surface.** A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.

9. **Hazard to Air Navigation.** An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

10. **Height.** For the purpose of determining the height limits in all zones set forth in Article 20 and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

11. **Horizontal Surface.** A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

12. **Larger Than Utility Runway.** Runways that are constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft. These include runways 4/22 and 13/31 at the airport.

13. **Nonconforming Use.** Any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of Article 20 or an amendment thereto.

14. **Nonprecision Instrument Runway.** A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

15. **Obstruction.** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 90-20-03.

16. **Person.** An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity, and includes a trustee, a receiver, an assignee, or a similar representative of any of them.

17. **Precision Instrument Runway.** A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

18. **Primary Surface.** A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway, for military runways or when the runway has no specially prepared hard surface, or planned hard surface the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section 90-20-02. The elevation of any point on
the primary surface is the same as the elevation of the nearest point on the runway centerline.

19. **Runway.** A defined area on an airport prepared for landing and takeoff of aircraft along its length.

20. **Structure.** An object, including a mobile object, constructed or installed by man, including, without limitation, building, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

21. **Transitional Surfaces.** Those surfaces that extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

22. **Tree.** Any object of natural growth.

23. **Utility Runway.** A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less. The utility runway is runway 18/36 at the airport.

24. **Visual Runway.** A runway intended solely for the operation of aircraft using visual approach procedures.

**ALLEY**

A public passage or way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

**AMUSEMENT ESTABLISHMENT**

A use providing recreational/social activity that may or may not be open to the general public. There are two types of “Amusement Establishments:”

1. **Indoor:** Bowling alleys, pool halls, dance halls, pinball, electronic and video games, and other similar amusement facilities.

2. **Outdoor:** Including archery ranges (indoor or outdoor), shooting ranges or galleries.

**ANIMAL CLINIC**

See “Animal Hospital.”

**ANIMAL HOSPITAL/VETERINARY CLINIC**

A place where animals are given medical care and the boarding of animals limited to short-term care incidental to receiving medical care.
ANTENNA  See “Tower, Antenna.”

APARTMENT
A room or suite of rooms designed and arranged for use as a residence by a single family.

ARCADE
A continuous covered area which opens onto a street or to a plaza. It is unobstructed to a height of not less than 12 feet, and is accessible to the public at all times.

AREA
Depending upon context, either a general space devoted to an identified use (i.e., parking area) or the two-dimensional measurement of a horizontal space on a floor or on the ground.

ASSISTED LIVING FACILITY
A facility that provides daily assistance and long-term residence for disabled or elderly individuals. This includes a combination of housing, supportive services, personalized assistance and health care designed to respond to the individual needs of those who need help with activities of daily living, such as dressing, grooming, bathing, etc. An “Assisted Living Facility” shall not include “Independent Living Facility,” “Community Residence” or “Nursing Home.”

AUCTION HOUSE
A place where objects of art, furniture, and other goods are offered for sale to persons who bid on the object in competition with each other.

AUTOMOBILE SERVICES
See “Gas or Service Station.”

BAR  See “Tavern/Bar.”

BASEMENT
A portion of a building between the floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is more than the vertical distance from grade to ceiling.

BED AND BREAKFAST FACILITY
A dwelling or area containing one or more structures located within a Historic District and occupied by the property owner, where, for compensation, lodging and meals are provided for up to a maximum of eight guest rooms, and the owner thereof intends that the same guest occupy the bed and breakfast facility for less than 30 days.

BLOCK  An area enclosed by dedicated streets and occupied by or intended for buildings; or, if the word is used as a term of measurement, it shall mean the distance along a side of a street between the nearest two dedicated streets which intersect the street on the side.
BOARDINGHOUSE

A dwelling other than a hotel where, for compensation or by prearrangement for a definite period, meals are provided for three or more persons, but not exceeding forty (40).

BREEZEWAY

A covered passageway one story in height connecting a main structure and an accessory building.

BUILDING

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. Area. The building area shall include all overhanging roofs.

2. Building. A structure intended for shelter, housing or enclosure of persons, animals or chattel. When separated by dividing walls, without openings, each portion of such structure so separated shall be deemed a separate structure.

3. Building Official. Any person duly appointed to that office by the City.

4. Height. The vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of coping of a flat roof or the highest gable of a pitch or hip roof.

5. Line. A line parallel or approximately parallel to the street line and beyond which buildings may not be erected or extended.

6. Main. A building in which is conducted that principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the main building.

7. Site. A single parcel of land which is owned, occupied or intended to be occupied by a building or structure.

BULK

The term used to describe the size and mutual relationships of buildings and other structures as to size, height, coverage and shape, location of exterior walls in relation to lot lines, the center line of streets, other walls of the same building, and to other buildings or structures, and to all open spaces relating to the building or structure.

BUSINESS

Includes neighborhood retail business, commercial and manufacturing uses, districts and establishments as herein defined, related to the exchange of goods or services for value, regardless of whether for profit.
CAR WASH
A commercial establishment engaged in the washing and cleaning of passenger vehicles, recreational vehicles or other light duty equipment, whether automatic or by hand, within an enclosed building.

CARPORT
A rectilinear structure with a roof but not enclosed on all four sides that is intended to provide cover for up to two automobiles.

CELLAR
A story having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

CEMETERY
Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, and necessary sales and maintenance facilities. Mortuaries may be included when operated within the boundary of such cemetery.

CHILD CARE CENTER  See “Day Care Center.”

CLEANING, PRESSING OR LAUNDRY
An establishment providing self-service card or coin-operated washing, drying, dry cleaning or ironing machines, using nonflammable solutions, for hire to be used by customers on the premises.

CLINIC  See “Medical Facilities.”

COLLEGE  SEE “UNIVERSITY/COLLEGE.”

COMMISSION  The City of Muskogee Planning and Zoning Commission.

COMMUNITY RESIDENCE
A group residence consisting of a group home or specialized residential care home licensed, certified or accredited by the appropriate state or federal agencies, and serving as a single housekeeping unit for the housing of six (6) or more unrelated persons with functional disabilities who share responsibilities, meals, recreation, social activities and other aspects of residential living. “community residence” does not include a residence which services persons as an alternative to incarceration for a criminal offense, or persons whose primary reason for placement is substance or alcohol abuse, nor does it include a nursing or medical facility.

1.  Community Residence - Small: A community residence providing living accommodations for no more than eight (8) residents, including live-in staff. Visiting staff who do not reside within the community residence shall not be counted for purposes of establishing the number of residents.
2. **Community Residence - Large**: A community residence providing living accommodations for more than eight (8) residents, including live-in staff. Visiting staff who do not reside within the community residence shall not be counted for purposes of establishing the number of residents.

**CONCENTRATED ANIMAL FEEDING OPERATION (CAFO)**

An animal feeding operation that confines animals for more than forty-five (45) days during a growing season, in a small or confined area that does not produce vegetation.

**CONVALESCENT, REST OR NURSING HOME** See “Assisted Living Center.”

**CORNER VISUAL CLEARANCE**

At all intersections, at a point of twenty (20) feet in any direction from the point of intersection of the street right-of-way.

**COUNTRY CLUB**

A club organized and operated primarily for social and outdoor recreation purposes with recreation facilities for members, their families and invited guests.

**COURT**

An open, unoccupied space, bounded on more than two sides by the walls of the building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard or permanently open space.

**COVERAGE**

The percentage of the lot area covered by the building. The building area shall include all overhanging roofs.

**CULTURAL FACILITY**

A use that provides cultural services and facilities including, but not limited to, museums, cultural centers, historical societies, art galleries, and libraries.

**DAY CARE HOME**

A residential dwelling in which a permanent occupant of the dwelling provides care for up to seven (7) children from outside households. The number counted includes the family’s natural or adopted children and all other persons under the age of twelve (12). “Day Care Home” does not include facilities that receive only children from a single household.
DAY CARE CENTER
A facility, other than within a residential dwelling, providing care for more than eight (8) children in a protective setting for less than twenty-four (24) hours per day, including preschools and nursery schools. A “Day Care Center” does not include a program or classes operated by an “Educational Facility” (all types) or “Place of Worship,” that provides care for children for less than twenty-four (24) hours per day (in such cases, the day care services shall be considered part of the “Educational Facility” (all types) or “Place of Worship”).

DECK
A deck is a roofless outdoor space built as an aboveground platform projecting from the wall of a building and is connected by structural supports at grade or by the building structure.

DEPTH OF LOT See “Lot.”
DEPTH OF REAR YARD See “Yard.”

DETENTION/CORRECTIONAL FACILITY
A facility for the detention, confinement, treatment or rehabilitation of persons arrested or convicted for the violation of civil or criminal law. Such facilities include an adult detention center, juvenile delinquency center, prerelease center, correctional community treatment center, jail and prison. Such facilities shall not be a permitted use or a use permitted upon review in the R-4 Multi-Family Residential District.

DISTRICT
A section of the city for which regulations governing the use of buildings and premises or the height and area of buildings are uniform.

DRIVE-IN RESTAURANT OR REFRESHMENT STAND
A place or premises used for sale, dispensing or serving of food, refreshments or beverages in automobiles including those establishments which customers may serve themselves from outside or porch enclosed service windows and may eat or drink the food, refreshments or beverages on the premises either in automobiles or at tables primarily located outside.

DRIVE-THROUGH FACILITY
Establishments offering goods and services directly to customers waiting in parked motor vehicles such as but not limited to banks, financial institutions, restaurants, drug stores, dry cleaners, and pharmacies.
**DRIVING RANGE**

An area equipped with distance markers, clubs, balls and tees for practicing the striking of golf balls, which may include a snack-bar and pro-shop. Miniature golf courses are considered “outdoor recreation” and not a “driving range.”

**DUPLEX** SEE “DWELLING, TWO-FAMILY.”

**DWELLING**

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. **Attached.** A dwelling designed as a single structure, containing separate dwelling units, each of which is designed to be occupied as a separate permanent residence for one (1) family or household. Each dwelling is separated from the other by a wall extending from the ground to the roof or a ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

2. **Detached.** A dwelling which is entirely surrounded by open space on the same lot.

3. **Dwelling.** A building or portion thereof, on a single zoning lot, intended or used for residential purposes, not including transient housing.

4. **Dwelling Unit.** A building or portion of a building designed and used for residential purposes by a single household including cooking and toilet facilities for use by the household. The term includes manufactured and mobile homes, but does not include re-creational vehicles.

5. **Mobile and Manufactured.** A factory-built, detached, transportable residential building containing one dwelling unit designed to meet the following standards:


6. **Multiple-Family.** A residential building containing three (3) or more attached dwelling units, each of which is designed to be occupied as a separate permanent residence for one (1) household, varying arrangements of party walls and entrances can exist and each dwelling unit has an individual entrance to a common hallway or the outdoors.

7. **Senior independent.** A residential complex containing multi-family dwellings designed for and principally occupied by senior citizens. Such facilities may include a congregate meals program in a common dining area, but exclude “assisted living facility”, “community residence”, and “transitional living center” as elsewhere defined.
8. **Single-Family.** A residential building containing one dwelling unit designed to be occupied by one (1) household.

9. **Townhouse, Row House & Condominium.** A residential building containing three (3) or more individual dwelling units arranged side-by-side with each individual dwelling unit having its own entrance directly to the outdoors. A “townhouse dwelling” may include a common interior stairwell shared by two (2) units but each dwelling unit shall have an individual entrance.

16. **Two-Family (Duplex).** A residential building designed as a single structure, containing two (2) separate dwelling units, each of which is designed to be occupied as a separate permanent residence for one (1) household. A “Two-Family Dwelling” may include a common interior stairwell to both dwelling units but each dwelling unit shall have an individual entrance.

**ELDERLY/RETIREMENT HOUSING**  SEE “DWELLING, SENIOR INDEPENDENT.”

**EMERGENCY AND PROTECTIVE SHELTER**  SEE “TRANSITIONAL LIVING CENTER.”

**FAMILY**

One or more persons occupying a single dwelling unit, as a single housekeeping unit, provided that no family shall contain over six (6) persons unless all members are related by blood, marriage or adoption. Domestic servants may be housed on the premises without being designated as a family. Individuals not related by blood, marriage or adoption occupying a single dwelling unit for on-site institutional education, training, supervision, medical care or nursing care shall not be considered a family as defined herein.

**FARM, SMALL**

A portion of land within a lot used for low-intensity agricultural use including growing produce but not the raising of livestock or poultry.

**FENCE**

A structure, other than a building, which is a barrier and used as a boundary or means of protection or confinement.

**FLOOD DAMAGE PREVENTION**

The following words, terms and phrases, when used in Article 22 of this Ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. **Appeal.** A request for a review of the Floodplain Administrator’s interpretation of any provision of this Article.
2. **Area of Special Flood Hazard.** The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Insurance Rate Map (FIRM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A and AE.

3. **Base Flood.** The flood having a one percent chance of being equaled or exceeded in any given year.

4. **Base Flood Elevation (BFE).** The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones that indicate the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

5. **Basement.** Any area of the building having its floor subgrade (below ground level) on all sides.

6. **Critical Feature.** An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

7. **Development.** Any manmade change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

8. **Elevated Building.** A non-basement.
   a. Built, in Zones AE, A & X, to have the top of the elevated floor at or above the Base Flood Elevation and, elevated above the ground level by means of piling, columns (post and piers), or shear walls parallel to the floor of the water; and
   b. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones AE, A or X, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

9. **Existing Construction.** For the purpose of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as “existing structures.”

10. **Existing Manufactured Home Park or Subdivision.** The construction of the facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
11. Expansion to an Existing Manufactured Home Park or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

12. Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:
   a. The overflow of inland or tidal waters; or
   b. The unusual and rapid accumulation or runoff of surface waters from any source.

13. Flood Insurance Rate Map (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

14. Flood Insurance Study. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, the water surface elevation of the base flood, as well as the flood boundary-floodway map.

15. Floodplain or Flood Prone area. Any land area susceptible to being inundated by water from any source. See “Flood or Flooding.”

16. Floodplain Administrator. A person accredited by the OWRB and designated by the City Council to administer and implement laws, ordinances and regulations relating to the management of floodplains.

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

18. Floodplain Management Regulations. Zoning Ordinances, Subdivision Regulations, building codes, health regulations, special purpose ordinances (such as a floodplain, grading, and erosion control ordinance) and other applications of police power. The term "Floodplain Management Regulations" describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reductions.

19. Floodplain Permit Application. The official form used for application to the floodplain permit committee for all proposed development in areas of special flood hazard. A completed and approved floodplain development application is required before any development may be considered for review and approval in the manner prescribed for such development.

20. Floodplain Permit Committee. The designated administrative authority for administering the City's floodplain management provisions.
21. **Flood Protection System.** Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

22. **Floodway or Regulatory Floodway.** The channel of a river, creek, 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 a designated height.

23. **Flood Zone(s).** Defined as:
   a. *Zone A* - an area inundated by the 1% annual chance flood, for which no BFEs have been established.
   b. *Zone AE* - an area inundated by the 1% annual chance flood, for which BFEs have been determined.
   c. *Zone X* - areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than one foot or with drainage areas less than one square mile; and areas protected by levees for 1% annual chance flood.

24. **Functionally Dependent Use.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term "functionally dependent use" includes only docking facilities, and port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

25. **Habitable Floor.** Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used for storage purposes only is not a habitable floor.

26. **Highest Adjacent Grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

27. **Historical Structure.** Any structure that is:
   a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register of Historic Places;
   b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
   (1) By an approved state program as determined by the Secretary of Interior; or
   (2) Directly by the Secretary of Interior in states without approved programs.

28. **Levee.** A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

29. **Levee System.** A flood protection system which consists of a levee and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

30. **Lowest Floor.** The lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking or 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 requirement of 44 CFR 60.3 of the National Flood Insurance Program regulations.

31. **Manufactured Home.** A structure transportable in one 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) consecutive days. The term "Manufactured Home" does not include a recreational vehicle.

32. **Manufacture Home Park or Subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

33. **Mean Sea Level.** For purposes of the National Flood Insurance Program, the current National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

34. **New Construction.** For floodplain management purposes, structures for which the start of construction commenced on or after the effective date of Ordinance No. 1435-A of the City.

35. **New Manufactured Home Park or Subdivision.** The construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
36. *Recreational Vehicle.* A vehicle which is:
   a. Built on a single chassis;
   b. Four hundred (400) square feet or less when measured at the largest horizontal projections;
   c. Designed to be self-propelled or permanently towable by a light-duty truck; and
   d. Designed primarily not for use as a permanent dwelling but, as temporary living quarters for recreational, camping, travel or seasonal use.

37. *Start of Construction.* 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 180 days of the permit date. The term "actual start" means either 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 or walkways; nor does it include excavation for 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.

38. *Structure.* A walled or roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

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

40. *Substantial Improvement.* See “a and b below.”
   a. Any repair, 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 start of construction of the improvement. This 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 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.

b. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term "substantial improvement" does not, however, include either:

(1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions; or

(2) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

41. Use. Any actual or anticipated utilization or change in utilization of real property and specifically shall include, but shall not be limited to, any request or application for a zoning change.

42. Variance. A grant of relief to a person from the requirements of Article 22 when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by Article 22. For full requirements, see 44 CFR 60.6 of the National Flood Insurance Program regulations.

43. Violation. The failure of a structure, or other development, to be fully compliant with the community's floodplain management regulations. A structure, or other development, without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3(b)(5), (c)(4), (c)(10) or (d)(3) of the National Flood Insurance Program Regulations, is presumed to be in violation until such time as that documentation is provided.

44. Water Surface Elevation. The height, in relation to current National Geodetic Vertical Datum (NGVD) or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**FLOOR AREA RATIO**

The total floor area on a zoning lot divided by the area of that zoning lot.

**GARAGE**

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. Garage. A building, attached or detached, used or designed to be used for the parking and storage of vehicles by those resident upon the premises.

2. Garage Apartment. A dwelling unit for one family erected in connection with a private
garage.

3. **Private Garage.** An accessory building or a part of the main building used for storage purposes only for not more than three automobiles, or for a number of automobiles which does not exceed 1 1/2 times the number of families occupying the dwelling unit to which such garage is accessory, whichever number is the greater. Such space shall not be used for storage of more than one commercial vehicle which does not exceed 2 1/2 tons rated capacity, per family living on the premises, and not to exceed two spaces shall be rented to persons not residing on the premises for storage of noncommercial passenger vehicles only.

4. **Public Garage.** Any garage other than a private garage available to the public, used for care, servicing, repair or equipping of automobiles or where such vehicles are parked or stored for remuneration, hire or sale.

**GARDEN**

A landscaped area of a yard on a lot that is used for the growing of produce, flowers, or shrubs that are not intended for sale/distribution. “Garden” does not include the raising of livestock or poultry.

**GAS OR SERVICE STATION**

A parcel of land, including structures, thereon, that is used for the sale of gasoline or oil fuels but not butane or propane fuels, or other automobile accessories and which may or may not include facilities for lubrication, washing, cleaning or otherwise servicing automobiles but not including the painting thereof.

**GAZEBO**

A freestanding outdoor structure that is open-sided in design for recreational use and not for habitation.

**GREEN SPACE**

An open area which is landscaped and does conflict with any other requirements of the zoning regulations (i.e., parking area cannot be considered in the open space requirement).
GOLF COURSE

A tract of land with at least nine (9) holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse, restrooms and shelters as accessory uses. A “driving range” may be included as part of a “golf course.”

GREENHOUSE/PLANT NURSERY

Retail business whose principal activity is the selling of plants, primarily grown on the site, and having outside storage, growing or display of plants and related materials such as planting materials and arts and crafts items. A “greenhouse/plant nursery” is a retail operation and does not include landscaping businesses.

HISTORIC

The following words, terms and phrases, when used in Article 21 of this ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. Certificate of Appropriateness. The official document issued by the Historic Preservation Commission approving any application made by the owner for the erection, demolition, moving, rehabilitation, reconstruction, restoration or alteration of any structure designated historic property and coming within the purview of the Historic Preservation Commission of the City.

2. Cultural or Architectural Significance. That which has a special historical, cultural or aesthetic interest or value as part of the development, heritage, cultural or aesthetic characteristics of the city, region or nation.

3. District. An area of historic, architectural or cultural value, with clearly defined boundaries, all of which are determined by the Historic Preservation Commission.

4. Good Repair. A condition which not only meets minimum standards as set forth by City Code, but which also guarantees continued attractiveness, continued structural soundness and continued usefulness.

5. Historic Property. Any land, building, structure, site or object having notable character or qualities of historical, architectural or cultural significance as determined by the Historic Preservation Commission or listed on the National Register of Historic Places.

6. Reconstruction. The process of recreating or reproducing by new construction all or part of the form and detail of a vanished resource as it appeared at a specified period in time.

7. Rehabilitation. The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.

8. Restoration. The process of accurately recovering all or part of the form and detail of a
historic resource and its setting at a particular period of time by means of the removal of later work and the replacement of missing earlier work.

HOME OCCUPATION
A business or commercial activity that is an accessory use of a dwelling unit.

HOSPITAL
An institution providing health services primarily for human inpatients and medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central service facilities and staff offices which are an integral part of the facilities.

HOTEL
A building or group of buildings under one ownership containing six or more sleeping rooms occupied, intended or designed to be occupied temporary abiding place of persons who are lodged with or without meals for compensation, but not including an auto or mobile home park or camp, sanitarium, hospital, asylum, orphanage or building where persons are housed under restraint.

INCIDENTAL REPAIR
Those repairs to vehicles occurring or likely to occur as an especially minor consequence or by change. Such repairs include, for example, adjustments to doors, headlamps, wiper blades, hood latches, locking mechanisms and windows. Excluded are those repairs associated with removal, application or installation of substantive parts of a vehicle for the purpose of repair.

INSPECTING OFFICER
Any person duly appointed by the city.

LOT
The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. Area. The total horizontal area included within the boundaries of the lot lines.

2. Corner. A lot which has two adjacent sides abutting on a street for their full length and provided that the interior angles formed by the sides are each greater than 135 degrees.

3. Depth. The average distance from the street right-of-way line to the rear lot line, measured in the general direction of the side property lines of the lot.

4. Double Frontage. A lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.
5. **Frontage.** The horizontal distance between the side property lines measured at the front property lines.

6. **Interior.** A lot other than a corner lot.

7. **Lines.** The lines bounding a lot as described herein.

8. **Lot.** A distinct portion or plot of land occupied or intended to be used by one building or associated groups of buildings, including such open spaces as required by these regulations and having its principal frontage on the public street.

9. **Recorded.** A lot which is a part of subdivision, the plat of which has been recorded in the office of the county clerk of the county, or a lot described by metes and bounds, the description of which has been recorded in the office of the county clerk prior to the passage of these regulations.

**KENNEL**

Establishments where pet animals owned by another person are temporarily boarded overnight for a fee or any lot or premise on which four (4) or more dogs more than six (6) months of age are kept. “Kennel” shall not apply to animal hospitals operated by veterinarians duly licensed under the law where the boarding of animals is accessory to medical treatment.

**LODGINGHOUSE**

A building other than a hotel where lodging for five or more persons is provided for compensation.

**MANUFACTURED HOME SUBDIVISION**

An exclusive family residential housing subdivision for manufactured homes and modular housing units in which the home or housing unit owner owns the property upon which the home is situated.

**MEDICAL FACILITY**

A building or a portion of a building containing the offices and associated facilities of one or more licensed practitioners providing medical, dental, psychiatric, osteopathic, chiropractic, or other outpatient medical-related services, with or without shared or common spaces, equipment, or assistants. Clinics also include alternative medicine clinics such as acupuncture and physical therapy offices, but do not include ambulatory care or hospital facilities.

**MEDICAL/DENTAL CLINIC**

A facility for the examination and treatment of ill and afflicted human outpatients provided, however, that patients are not kept overnight.
MINI-STOREAGE
A facility used only for the storage of personal property (no commercial storage) where individual renters control individual storage spaces. A “Mini-Storage” may also include accessory retail sales of packing, moving and storage supplies, and rental of moving vehicles.

MOBILE HOME
A transportable, factory-built, detached dwelling unit that is built to the National Manufactured Housing Construction and Safety Standards Act of 1974.

MOBILE HOME PARK OR COURT
Land or property which is used or intended to be used or rented for occupancy for dwelling by two or more mobile homes or movable sleeping quarters of any kind.

MOBILE HOME SITE
A lot having its principal frontage on a dedicated public street, occupied or intended to be occupied by a single mobile home as a permanent site for the same and meeting all the requirements of these regulations as provided for in the "D-1" mobile home site district.

MOBILE HOME SUBDIVISION
An exclusive family residential housing subdivision for mobile homes and modular housing units in which the mobile home owner owns the property upon which the home is situated.

MODULAR HOMES
Modular home means a detached single-family residential dwelling built in accordance with the standards set forth in the International Residential Code which is made of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

MOTEL
An inn or group of cabins along or connected to a dedicated street or highway in which individuals or families may spend the night.

MUNICIPALITY OR MUNICIPAL
Referring to or belonging to the City of Muskogee.

MUNICIPAL/PUBLIC BUILDING
A building or structure owned, operated and/or occupied by a governmental agency to provide a governmental service to the public. “Municipal/Public Building” includes public safety facilities and public works facility, but does not include park district field houses or recreation centers, which would be considered a “Park/Playground,” or school buildings, which would be considered “School, Preschool-12th Grade.”
MUSIC HALL
See “Theater.”

NEIGHBORHOOD GROUP HOME
See “Assisted Living Facility.”

NONCONFORMING USE
A building, structure or use of land lawfully occupied at the time of the effective date of the ordinance from which this chapter is derived or amendments thereto and which does not conform to the use regulations of the district in which it is situated.

NURSING HOME
See “Assisted Living Facility.”

OFFICE
A use that engages in the processing, manipulation or application of business information or professional expertise. Such an office may or may not offer services to the public. An “Office” is not materially involved in fabricating, assembling or warehousing of physical products for the retail or wholesale market, nor is an office engaged in the repair of products or retail services. It is characteristic of a “Office” that retail or wholesale goods are not shown on the premises to a customer. Examples include, but are not limited to, professional offices for non-profit organizations, advertising, accounting, investment services, insurance, contracting, architecture, planning, engineering, legal services and real estate services. “Office” does not include government offices, which are considered a “Government Facility.”

OPEN SPACE
The area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projection of cornices, eaves or porches.

OUTDOOR DINING
A seating area located outdoors of a contiguous restaurant, usually in addition to an indoor seating area. “Outdoor Dining” does not include “Roadside Sales Stands.”

OUTDOOR DISPLAY/SALES
An outdoor arrangement of objects, items, products, or other materials, typically not in a fixed position and capable of rearrangement, designed and used for the purpose of advertising or identifying a business, product, or service.

OUTDOOR STORAGE YARD
The principal use of a lot where personal or business properties are stored outside.
PARKING

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. **Commercial Lot.** A parcel of land which is used for the storage of motor vehicles and is not accessory to any other use on the same or any other zoning lot, and contains space rented to the general public by the hour, day, week, month or year. However, the term "commercial parking lot" shall not include any establishment used for automobile repairs, except minor repairs, which are solely incidental to the storage of motor vehicles or any establishment used exclusively for the storage of commercial or public utility vehicles or for dead storage of motor vehicles.

2. **Off-Street.** A type of parking wherein the maneuvering of the vehicle while parking and unparking, as well as the parking itself, is done entirely on land not within the public right-of-way, and where access to the area is by means of standard driveway approach.

3. **Space.** An area for the parking of a motor vehicle, not on a public street or alley, surfaced with a paved driveway connecting the parking space with a street or alley permitting free ingress and egress. A public street or right-of-way shall not be classified as off-street parking space in computing the parking requirements for any use.

PAWN SHOP

An establishment that lends money on the deposit or pledge of physically delivered personal property, and who may also purchase of such property on the condition of selling it back again at a stipulated price. “Pawn Shop” includes establishments that buy personal property, such as jewelry or artwork, made of gold or other materials for refining. Consignment shops, antique shops and jewelry stores are not considered “Pawn Shops,” but “Retail Goods Establishments.”

PERSON

An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity, and includes a trustee, a receiver, an assignee, or a similar representative of any of them.

PET ‘DAY CARE’

See “Kennel.”
PLACE OF WORSHIP

A building, together with its accessory buildings and uses, where persons regularly assemble for religious purposes and related social events and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes. A “Place of Worship” may include group housing for persons under religious vows or orders, such as a rectory or convent. “Places of Worship” may also include day care facilities and/or weekly religious instruction.

PLAZA

An open space accessible to the public at all times. It shall not at any point be more than five feet above nor more than 12 feet below the curb level of the nearest adjoining street. It must be unobstructed from its lowest level to the sky except for certain permitted obstructions such as arbors, awnings, ornamental fountains and flagpoles.

PRIVATE CLUB

A membership organization and its facility that holds regular meetings and caters exclusively to members and their guests for social, intellectual, recreational or athletic purposes. A “Private Club” may, subject to other regulations controlling such uses, maintain dining facilities or engage professional entertainment for the enjoyment of dues-paying members and their guests. “Private Club” shall not include “Country Club.”

PUBLIC AGENCY

Public agencies include governments, cities, municipalities or governing bodies.

PUBLIC HEALTH CENTER

A facility primarily utilized by a health unit for the provision of public health services including related facilities as laboratories, clinics and administrative offices operated in connection therewith.

RECREATION FACILITY

A building specifically dedicated to recreational activity uses including but not limited to activities such as tennis, baseball, racquetball, ice skating, track and field, swimming, weight training. A “Recreation Facility” does not include “Amusement Establishment” uses.

RECREATIONAL VEHICLE

A vehicle used for temporary living quarters which can be towed, hauled or driven and is designed for recreational, camping or travel use and includes, but is not limited to, travel trailers, camping trailers, fifth wheels, motor homes and pickup campers.
RECREATIONAL VEHICLE PARK
Any premises on which two or more recreational vehicles are parked or situated and used for the purpose of supplying to the public a parking space for two or more such vehicles.

RESIDENTIAL-DESIGN MANUFACTURED HOME
See “Dwelling, Mobile and Manufactured.”

RESIDENTIAL TREATMENT CENTER
A community-based residential facility providing diagnostic or therapeutic services and long-term room and board in a highly structured environment for its residents for alcoholism and drug abuse, mental illness or behavioral disorders and exclusive of a hotel or motel.

RETAIL GOODS ESTABLISHMENT
A commercial enterprise that provides physical goods, products or merchandise directly to the consumer, where such goods are typically available for immediate purchase and removal from the premises by the purchaser. However, no “Retail Goods Establishment” shall sell firearms. “Retail Goods Establishment” shall not include any adult uses.

RESTAURANT
An establishment where food and beverages are prepared and served for the general public as the primary business.

RETAIL
The selling of merchandise directly to the ultimate consumer.

RETAIL SALES, GOODS PRODUCED ON PREMISE
The selling of goods that are produced on-site and sold to consumers on the same site.

RIGHT-OF-WAY
An area of land dedicated or otherwise conveyed to the City and intended to be occupied by public use including roads, sidewalks, utilities and other public facilities. On a subdivision plat, rights-of-way are to be separate and distinct from other lots or parcels. Rights-of-way intended for public facilities shall be dedicated to public use and title transferred to the appropriate public agency.

RIVERFRONT
The area of land abutting the Arkansas, Verdigris and Neosho/Grand Rivers lying within the jurisdiction of the Commission.

ROADSIDE SALES STANDS
A temporary structure, no larger than one hundred (100) square feet located alongside a street that is used for selling goods produced on agricultural land.
ROOMING AND BOARDING HOUSE

A facility licensed and regulated by the state wherein congregate meals and lodging are provided for its residents exclusive of a supervised living or residential care facility as elsewhere defined, and exclusive of a hotel or motel. Lodging is only provided for compensation of three or more, but not exceeding forty (40), persons. Any building providing lodging for more than this number shall be defined as a hotel under the terms of these regulations.

SALES YARD

An outdoor or indoor portion of a lot that is used to display large items for purchase.

SANITARIUM

An institution providing health facilities for inpatient medical treatment or treatment and recuperation.

SCHOOL, PRESCHOOL-12TH GRADE

An institution of learning not operated for profit, which offer and maintain a course of instruction leading to degrees or certificates of graduation recognized by the board of education of the state.

SEATS

The seating capacity of a particular building; in the event individual seats are not provided, each twenty (20) inches of benches or similar seating accommodations shall be considered as one seat for the purpose of these regulations.

SETBACK

The required minimum distance a building or structure, or other improvement on a lot, must be located from a lot line.

SERVANTS/CARETAKERS QUARTERS

A portion of a dwelling unit that provides a place of residence for a domestic servant/caretaker (a person not considered part of the “family” that occupies the dwelling).

SHED

A relatively small accessory structure often purchased pre-built or as a kit in pre-fabricated sections. It is not designed to be served by heat, electricity, or plumbing and does not need to be placed on a permanent foundation. A “Shed” is typically intended to store lawn, garden, or pool care equipment.

SHELTER, STORM/FALLOUT

A structure or portion of a structure intended to provide protection of human life during periods of danger from nuclear fallout, air raids, storms or other emergencies.
**SHOP YARD**

A lot or portion of a lot or parcel used to store and maintain construction equipment and other materials and facilities customarily required in the building trade by a construction contractor. This definition includes architects, engineers, surveyors’ construction offices, shops, and real estate sign placement service; and showroom and shops for the display and sale of electrical, plumbing, heating, air conditioning, sheet metal, and other material in connection with contracting services.

**SHOPPING CENTER**

A group of retail and other commercial establishments that is planned, owned, and managed as a single property. The center’s size and orientation are generally determined by the market characteristics of the trade area served by the center with off-street parking, landscaped areas, and pedestrian malls or plazas provided on the property as an integral part of the unit.

**SIGHT TRIANGLE**  See “Corner Visual Clearance.”

**SIGN**

The following words, terms and phrases, when used in Article 16 of this Ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. **A-Frame.** A temporary advertising device ordinarily in the shape of an “A” or some variation thereof, located on the ground, not permanently attached and easily movable, and usually two-sided. Also called a “sandwich board.”

2. **Abandoned or Obsolete.** A sign which no longer correctly directs or exhorts any person, advertises a business, lesser, owner, product, activity conducted or available on the premises where the sign is displayed.

3. **Area.** The area of the largest single face of the sign within a perimeter which forms the outside shape including any frame that forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. See Article 16 (Signs) for measurement of sign area.

4. **Awning.** A structure of canvas, canvas-like or other materials extended over a window or door or over a patio, deck, etc. as a protection from the sun or rain.

5. **Balloon.** Any sign that is any lighter-than-air or gas-filled balloon attached by means of a rope or tether to a definite or fixed location. Displays designed to inflate or move by use of a fan or blower is also considered a balloon sign. Balloons used as temporary attention-getting devices in conjunction with another sign which are no more than eighteen (18) inches in diameter, are not considered balloon signs.

6. **Banner.** Any sign printed or displayed upon cloth or other flexible material with or without frames.
7. **Bulletin Board.** A sign which accommodates manually changeable copy which displays information on activities and events on the premises.

8. **Construction.** Any sign identifying individuals or companies involved in design, construction, wrecking, financing or development when placed upon the premises where work is under construction, but only for the duration of construction or wrecking.

9. **Electronic.** Signs whose alphabetic, pictographic or symbolic informational content can be changed or altered on a fixed display screen composed of electrically illuminated segments. For the purposes of this Article, electronic signs within ground or wall signs are regulated as one (1) of the two (2) following types:
   a. **Electronic Display Screen.** A sign, or portion of a sign, that displays an electronic image or video, which may or may not include text. This definition includes television screens, plasma screens, digital screens, flat screens, LED screens, video boards and holographic displays.
   b. **Electronic Message Sign.** Any sign, or portion of a sign, that uses changing lights to form a sign message or messages in text form wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. “Time and Temperature Devices” are not considered electronic message signs.

10. **Face.** The visible sign proper including all characters and symbols, excluding essential structural elements which are not an integral part of the display.

11. **Ghost.** A painted wall sign that remains from an earlier time or advertises the use of a building that provides evidence of the history of the use of the building or activities of the community. A “Ghost Sign” is not considered an off-premise sign.

12. **Ground.** A sign supported by one or more columns, uprights, poles or braces extended from the ground or from an object on the ground, or sign which is erected on the ground, or by any other means than by attachment to a building support. See “Sign, Ground – Monument” and “Sign, Ground – Pole” below.
   a. **Sign, Ground – Monument.** Any sign, other than a pole sign, placed upon or supported by the ground independently of any other structure. Ground monument signs are typically mounted on a masonry base. As distinguished from a ground pole sign, the sign base of any monument sign must be a minimum of seventy-five percent (75%) or more of the width of the sign face that is to be situated upon the base. A sign base less than seventy-five percent (75%) of the width of the sign face is considered a ground pole sign.
b. **Sign, Ground – Pole.** A sign erected and maintained on one (1) or more freestanding mast(s) or pole(s) and not attached to any building, but not including a ground monument sign.

13. **Height.** The vertical distance measured from the mean curb level of the lot upon which the sign is located to the uppermost point on the sign or sign structure.

14. **Highway Commercial District.** Shall include all lots that have frontage abutting a state or federal highway.

15. **Identification.** Any sign containing only the name and/or address of the dwelling/building occupant or of the dwelling/building, or of the dwelling/building owner or manager.

16. **Illegal.** Any sign erected in violation of the terms of an applicable ordinance or a nonconforming sign for which the amortization period has expired.

17. **Instructional.** The instructional signs which notify or instruct the public as to limitations or regulations relating to designated uses of certain parcels of property or private streets or rights-of-way, and including warning signs, exit signs, traffic signs and directional signs for parking or parking restrictions.

18. **Internally Illuminated.** A sign illuminated by a light source, either incandescent, fluorescent, neon or other light, which is enclosed by the sign panel(s) or within the sign.

19. **Menu Board.** A device which functions to list items for sale at a drive-thru restaurant.

20. **Moving.** A sign or other advertising structure with moving, revolving or rotating parts or visible mechanical movement of any kind, including wind-activated signs. Clocks are not considered signs with moving parts.

21. **Noncommercial.** Any sign which communicates information or ideas and is not typically a commercial sign.

22. **Obscene.** A sign which is found to meet the three (3) established criteria of obscenity: 1) prurient in nature; 2) completely devoid of scientific, political, educational or social value; and 3) a violation of local community standards as determined by the City Attorney.

23. **Off-Premise.** Any sign which does not direct attention to a profession or business conducted, or to a commodity, service, activity or entertainment sold or offered upon the premises where such sign is located.

24. **On-Premise.** Any sign which directs attention to a profession or business conducted, or to a commodity, service, activity or entertainment sold or offered upon the premises where such sign is located.

25. **Pennant.** Any geometric shaped cloth, fabric or other lightweight material normally fastened to a stringer, which is secured or tethered so as to allow movement of the sign.
26. **Permanent.** A sign attached to a structure or the ground which is made of materials intended for long-term use.

27. **Political.** A sign whose function is to draw attention to or communicate a position on any issue, candidate or measure in any national, state or local election.

28. **Portable.** A transportable sign on wheels, skids, or framing of substantial construction, including trailers and search lights used for advertising or promotional purposes, which is not designed or intended to be permanently affixed to a building, other structure, or the ground, but which is capable of being temporarily anchored or placed on the ground.

29. **Projecting.** A sign means any sign which is attached to a building or other structure and extends beyond the line of the building or structure or beyond the surface of that portion of the building or structure to which it is attached by more than 12 inches.

30. **Real Estate.** A sign pertaining to the lease, rental, or sale of the premises upon which it is located.

31. **Roof.** Any sign located on or attached to the roof of a building, supported by poles, uprights or braces extending from the roof of a building.

32. **Sign.** Any writing, picture, drawing, decoration, emblem, trademark, flag, banner, statue, or any other object of similar character which is designed to attract attention to the subject thereof or is used as a means of identification, advertisement, or announcement.

33. **Structure.** Any structure or material which has supported or is capable of supporting or helping maintain a sign in a stationary position, including decorative covers.

34. **Temporary.** Any sign, banner, pennant, balloon or similar device or display which is intended for a temporary period of display constructed of cloth, canvas, light fabric, cardboard, wood or other light materials, with or without frames.

35. **Time and Temperature Device.** A mechanism integrated into a sign that displays the time and/or temperature, but does not display any commercial advertising or identification.

36. **Under-Awning.** Any sign attached to and mounted under an awning.

37. **Under-Canopy.** Any sign attached to and mounted under a canopy.

38. **Wall.** A sign attached to and supported by the exterior surface of the wall of a building or structure in a plane substantially parallel to that of the supporting wall including a sign painted directly on the surface of the building.

39. **Window.** Any sign which is painted on, applied or attached to or located within three feet of the interior of a window.
STORY

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. **Half Story.** A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which space not more than two-thirds of the floor area is finished off for use. A half-story containing independent apartments or living quarters shall be counted as a full story.

2. **Story.** A portion of a building, other than a basement, between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

SOCIAL CLUB OR LODGE

See “Private Club.”

STREET

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. **Intersecting.** Any street which joins another street at any angle whether or not it crosses the other.

2. **Line.** A imaginary line between a lot, tract or parcel of land and a contiguous street.

3. **Private.** Any private thoroughfare which affords access to abutting property.

4. **Street.** The streets, avenues, boulevards, roads, lanes, alleys, viaducts, highways and other ways dedicated for public use.

STRUCTURE

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. **Accessory.** A structure customarily incidental to the main building and located on the same lot with the main building.

2. **Alterations.** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.
3. **Height.** The height of a structure shall be measured from the average established grade at the street lot line or from the average natural ground level, if higher, or if no street grade has been established, to the highest point of the roof’s surface, if a flat surface, to the deck line of mansard roofs and to the mean height level between eaves and ridge for hip and gable roofs. In measuring the height of a building, except for airport zoning purposes, the following structures shall be excluded:

   a. Chimneys;
   b. Cooling Towers;
   c. Elevators;
   d. Bulkheads;
   e. Penthouses;
   f. Tanks;
   g. Water Towers;
   h. Radio Towers;
   i. Ornamental Cupolas;
   j. Domes or Spires; and
   k. Parapet walls not exceeding four (4) feet in height.

4. **Structure.** Anything constructed or erected, the use of which requires location on the ground or attached to something having a location on the ground.

**SWIMMING POOL**

A receptacle for water and/or an non-natural occurring pool of water over twelve (12) inches in depth, either at a private residence intended only for the use of the individual owner, his family and friends, or at a multi-family residence intended only for the use of the tenants of the building, their families and friends.

**TAVERN/BAR**

An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises. Snack foods or other prepared food may be available for consumption on the premises as an accessory use only. A “Tavern/Bar” with live performances (music, theater, etc.) is considered “Music Hall.” A microbrewery is considered a “Tavern/Bar.”
TEMPORARY CONSTRUCTION TRAILER/STRUCTURE
This use includes watchman’s trailers, construction equipment sheds, contractor trailers and similar uses incidental to a construction project and sales of homes within a newly constructed development.

TEMPORARY STORAGE CONTAINER
Temporary self-storage containers delivered to residential or commercial uses for the resident or business owner to store belongings, and then picked up and returned to a warehouse until called for. Also known as “PODS” (“Portable On-Demand Storage” containers).

TENNIS COURT  See “Recreation Facility.”

THEATER
A facility with fixed seats for the viewing of movies or live presentations of musicians or other performing artists.

TOWER
The following words, terms and phrases, when used in Article 19 of this Ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. Alternative Tower Structure. Manmade trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

2. Antenna. An exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

3. Backhaul Network. The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

4. FAA. The Federal Aviation Administration.

5. FCC. The Federal Communications Commission.

6. Height. The distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

7. Preexisting Towers and Preexisting Antennas. A tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of the ordinance from which this article is derived, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
8. **Tower.** A structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers or monopole towers. The term "tower" includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term "tower" includes the structure and any support thereto.

**TRAILERS FOR HAULING, RENTAL AND SALES**

An open area zoned within one parcel used for the display, sale, or rental of new or used trailers which must be in condition to be driven on or off the area and where no repair work is done except minor incidental repair on trailers to be displayed, sold or rented on the premises. This area shall not be used for the storage of wrecked automobiles, trucks or trailers.

**TRANSITIONAL LIVING CENTER**

A community-based residential facility that provides short-term (120 days or less) room and board in a supervised living environment utilizing counseling and rehabilitation services for persons with a history of juvenile delinquency, behavioral disorders, mental illness, alcoholism or drug abuse, exclusive of a hotel or motel.

**TRAVEL TRAILER**

A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling and to be towed behind a motor vehicle, being either of a gross weight of not more than 4,500 pounds or an overall length of not more than 28 feet.

**TRAVEL TRAILER PARK**

Any premises on which two or more pickup coaches or travel trailers are parked or situated and used for the purpose of supplying to the public a parking space for two or more such coaches or trailers.

**TREE**

Any object of natural growth typically having a single stem or trunk.

**UNIVERSITY/COLLEGE**

An institution providing post-secondary education that may also conduct research. Students enrolled in a “University/College” may reside in on-site dwellings.
USE

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. **Accessory.** A use customarily incidental, appropriate and subordinate to the principal use of land or buildings located upon the same premises.

2. **Primary.** A use permitted in a zoning district without the need for special administrative review and approval, upon satisfaction of the standards and requirements of this Ordinance.

3. **Special.** A use that owing to some special characteristics attendant to its operation or installation is permitted in a zoning district only after review and is subject to approval by the Board of Adjustment.

4. **Use.** The term employed to refer to any purposes for which buildings, other structures or land may be arranged, designed, intended, maintained or occupied; and an occupation, business, activity or operation carried on, or intended to be carried on, in a building or other structure or on land; or a name under which it is arranged, designed, intended, maintained or occupied.

UTILITY

Any service or facility that provides usefulness and amenity to developed property including, but not limited to, sanitary sewer, water, natural gas, electricity, telephone, cable television and other telecommunication systems.

VEHICULAR AND MACHINERY, SALES

An open area zoned within one parcel used for the display, sale, or rental of new or used vehicles and machinery, which must be in condition to be driven/hauling on or off the area and where no repair work is done except minor incidental repair on vehicles/machinery to be displayed, sold or rented on the premises. This area shall not be used for the storage of wrecked automobiles, trucks or trailers.

WAREHOUSE

A building where goods and materials are stored as a service to another entity.

WHOLESALE DISTRIBUTION CENTER

The storage, wholesale and distribution of manufactured products, supplies and equipment. A "Wholesale Distribution Center" use may also include a showroom related to the items stored on-site and secondary retail sales to the public.
YARD

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. **Front.** A yard extending across the front of a lot between the side yards and being the minimum horizontal distance between the structure and the front lot line.

2. **Rear.** A yard extending across the rear of a lot measured between the rear lot line and the rear of the main building or any projections of the main building other than steps or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has the same dimensions. On both corner lots and interior lots, the rear yard shall, in all cases, be at the opposite end of the lot from the front yard.

3. **Side.** A yard between the building and the side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between the side lot lines and the main building or any projections other than steps.

4. **Yard.** 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 except where otherwise specifically provided in these regulations that an accessory building may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front or rear yard, the least horizontal distance between the lot line and the main building shall be used.

ZONING

A general plan to regulate and direct the use and development of property within a municipality or other political jurisdiction by dividing it into districts according to present and potential use of lands and properties.
ARTICLE 19. WIRELESS COMMUNICATION TOWERS AND ANTENNAS

90-19-01. PURPOSE

The purpose of this article is to establish general guidelines for the placement of wireless communications towers and antennas. The goals of this article are to:

8. Protect residential areas and land uses from potential adverse impacts of towers and antennas;
9. Encourage the location of towers in nonresidential areas;
10. Minimize the total number of towers throughout the community;
11. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
12. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
13. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, placement, landscape screening, and innovative camouflaging techniques;
14. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
15. Consider the public health and safety of communications towers; and
16. Avoid potential damage to adjacent properties from tower failure through engineering and careful placement of tower structures. In furtherance of these goals, the city shall give due consideration to the master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.


90-19-02. Applicability

New towers and antennas

All new towers or antennas in the city shall be subject to these regulations, except as provided in Subsections A through C of this section, inclusive.

A. Amateur radio station operators/receive-only antennas. This article shall not govern any tower, or the installation of any antenna, that is under forty-five (45) feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas. If the tower or antenna exceeds forty-five (45) feet in height or if more than one tower is located on any single parcel, the provisions of this article shall apply.

B. Preexisting towers or antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this article, other than the requirements of Section 90-19-03.F and G.

C. AM array. For purposes of implementing this article, an AM array consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

D. Guyed towers. Guyed towers shall not be allowed within the city.

E. Lattice towers. Lattice towers shall only be allowed within districts zoned industrial.


90-19-03. General Requirements

A. Principal or accessory use

Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot, provided it meets required setback distances.
B. Lot size

For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

C. Inventory of existing sites

Each applicant for an antenna and/or tower shall provide to the Planning Director an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of city or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Planning Director may share such information with other applicants applying for administrative approvals or special use permits under this article or other organizations seeking to locate antennas within the jurisdiction of the city; provided, however, that the Planning Director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

D. Aesthetics

Towers and antennas shall meet the following requirements:

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

E. Lighting

Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

F. State or federal requirements

All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and
antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner’s expense.

G. Building codes; safety standards

To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner’s expense.

H. Measurement

For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in city irrespective of municipal and county jurisdictional boundaries.

I. Not essential services

Towers and antennas shall be regulated and permitted pursuant to this article and shall not be regulated or permitted as essential services, public utilities, or private utilities.

J. Franchises

Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in a city have been obtained and shall file a copy of all required franchises with the Planning Director.

K. Public notice

For purposes of this article, any special use request, variance request, or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Table 90-19(A), in addition to any notice otherwise required by this article.

L. Signs

No signs shall be allowed on an antenna or tower except such signs as may be required by this article.
M. Buildings and support equipment

Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 90-19-07.

N. Multiple antenna/tower plan

The city encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.


90-19-04. PERMITTED USES

A. Generally

The uses listed in Subsection B of this section are deemed to be permitted uses and shall not require administrative approval or a special use permit.

B. Specific uses

The following uses are specifically permitted: Antennas or towers located on property owned, leased, or otherwise controlled by the city or state, provided that a license or lease authorizing such antenna or tower has been approved by the city or state.

(Code 1993, § 23-459.1(5); Ord. No. 3617-A, 8-12-2002)

90-19-05. ADMINISTRATIVELY APPROVED USES

A. Generally

The following provisions shall govern the issuance of administrative approvals for towers and antennas.

1. The Planning Director may administratively approve the uses listed in Subsection B of this section.

2. Each applicant for administrative approval shall apply to the Planning Director providing the information set forth in Section 90-19-06.B.1 and B.3 and a nonrefundable fee according to a schedule of fees, as shall be modified from time to time by the council, and made available for public viewing in the City Clerk's office to reimburse the city for the costs of reviewing the application.

3. The Planning Director shall review the application for administrative approval and determine if the proposed use complies with Sections 90-19-03, and 90-19-06.B.4 and B.5.

4. The Planning Director shall respond to each application by either approving or denying said application.
5. In connection with any such administrative approval, the Planning Director may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

6. If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to Section 90-19-06 prior to filing any appeal that may be available under this article.

B. Specific uses

The following uses may be approved by the Planning Director after conducting an administrative review:

1. **Towers or antennas placed in certain zoning districts.** Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any district zoned industrial, or any monopole tower in any district zoned C-2 General Commercial, or C-3 Regional Commercial.

2. **Placement on existing structures.** Locating antennas on existing structures or towers consistent with the terms of Subsections B.2.a of this section.

   a. **Antennas on existing structures.** Any antenna which is not attached to a tower may be approved by the Planning Director as an accessory use to any commercial, industrial, professional, or institutional structure provided that:

      (i) The antenna does not extend more than thirty (30) feet above the highest point of the structure;

      (ii) The antenna complies with all applicable FCC and FAA regulations; and

      (iii) The antenna complies with all applicable building codes.

   b. **Antennas on existing towers.** An antenna which is attached to an existing tower may be approved by the Planning Director and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided that such collocation is accomplished in a manner consistent with the following:

      (i) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Planning Director allows reconstruction as a monopole.
(ii) Height:

1. An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna.

2. The height change referred to in Subsection B.2.b.(ii)(1) of this section may only occur one time per communication tower.

3. The additional height referred to in Subsection B.2b.(ii)(1) of this section shall not require an additional distance separation as set forth in Section 90-19-06. The tower's pre-modification height shall be used to calculate such distance separations.

(iii) On-site location:

1. A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location, provided that it continues to satisfy setback requirements.

2. After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.

3. A relocated on-site tower shall be measured from the new tower location for purposes of calculating separation distances between towers pursuant to Section 90-19-06.B.5.

4. The on-site relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in Section 90-19-06.B.5 shall only be permitted when approved by the Planning Director.

c. New towers in nonresidential zoning districts. Locating any new tower in a nonresidential zoning district other than industrial or regional commercial, provided that a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Planning Director concludes the tower is in conformity with the goals set forth in Section 90-19-01 and the
requirements of Section 90-19-03; the tower meets the setback requirements in section 90-19-06B.4 and separation distances in Section 90-19-06.B.5; and the tower meets the following height and usage criteria:

(i) For a single user, up to ninety (90) feet in height;

(ii) For two users, up to one-hundred twenty (120) feet in height; and

(iii) For three or more users, up to one-hundred fifty (150) feet in height.

d. Locating any alternative tower structure in a zoning district other than industrial or regional commercial that in the judgment of the Planning Director is in conformity with the goals set forth in Section 90-19-01.

e. Installing a cable micro cell network through the use of multiple low-powered transmitters/receivers attached to existing wire line systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.


90-19-06. Special use permits

A. Generally

The following provisions shall govern the issuance of special use permits for towers or antennas by the Planning Commission:

1. If the tower or antenna is not a permitted use under Section 90-19-04 or permitted to be approved administratively pursuant to Section 90-19-05, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.

2. Applications for special use permits under this section shall be subject to the procedures and requirements of this article, except as modified in this section.

3. In granting a special use permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

4. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
5. An applicant for a special use permit shall submit the information described in this section and a nonrefundable fee according to a schedule of fees, as shall be modified from time to time by the council, and made available for public viewing in the City Clerk's office to reimburse the city for the costs of reviewing the application.

B. Towers

1. **Information required.** Applicants for a special use permit for a tower shall submit the following information, in addition to any other required information:

   a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), master plan classification of the site and all properties within the applicable separation distances set forth in Subsection B.5 of this section, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the planning director to be necessary to assess compliance with this article.

   b. A survey and legal description of the parent tract and leased parcel (if applicable).

   c. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

   d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 90-19-03.C shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower and the owner/operator of the existing tower, if known.

   e. A landscape plan showing specific landscape materials.

   f. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

   g. A description of compliance with section 90-19-03.C, G, J, L, and M, Subsections B.4 and B.5 of this section, and all applicable federal, state or local laws.

   h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
i. Identification of the entities providing the backhaul network for the tower described in the application and other cellular sites owned or operated by the applicant in the municipality.

j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

k. A description of the feasible locations of future towers or antennas within the city based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

2. Factors considered in granting special use permits for towers. In addition to any standards for consideration of special use permit applications, the Planning Commission shall consider the following factors in determining whether to issue a special use permit, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this article are better served thereby:

a. Height of the proposed tower;

b. Proximity of the tower to residential structures and residential district boundaries;

c. Nature of uses on adjacent and nearby properties;

d. Surrounding topography;

e. Surrounding tree coverage and foliage;

f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

g. Proposed ingress and egress; and

h. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Subsection B.3 of this section.

3. Availability of suitable existing towers, other structures, or alternative technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or
alternative technology. Substantial evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

a. No existing towers or structures are located within the geographic area which meets the applicant's engineering requirements.

b. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

c. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.

d. The applicant’s proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro cell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

4. **Setbacks.** The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this article would be better served thereby:

a. Towers must be set back a distance equal to at least seventy-five (75) percent of the height of the tower from any adjoining lot line.

b. Accessory buildings must satisfy the minimum zoning district setback requirements.

5. **Separation.** The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Planning Commission may reduce the standard separation requirements if the
goals of this article would be better served thereby.

a. Separation from off-site uses/designated areas.

(i) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 90-19.(A), except as otherwise provided in Table 90-19.(A) below.

(ii) Separation requirements for towers shall comply with the minimum standards established in Figure Table 90-19.(A) below.

<table>
<thead>
<tr>
<th>OFF-SITE USE/DESIGNATED AREA</th>
<th>SEPARATION DISTANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family or duplex residential units¹</td>
<td>200 feet or 300% height of tower, whichever is greater</td>
</tr>
<tr>
<td>Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired</td>
<td>200 feet or 300% height of tower,² whichever is greater</td>
</tr>
<tr>
<td>Vacant unplatted residentially zoned lands³</td>
<td>100 feet or 100% height of tower, whichever is greater</td>
</tr>
<tr>
<td>Existing multifamily residential units greater than duplex units</td>
<td>200 feet or 300% height of tower, whichever is greater</td>
</tr>
<tr>
<td>Nonresidentially zoned lands or nonresidential uses</td>
<td>None; only setbacks apply</td>
</tr>
</tbody>
</table>

NOTES:

1. Includes residential district manufactured homes and mobile homes used for living purposes.

2. Separation measured from the base of the tower to the closest building property/lot line.

3. Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multifamily residually zoned land greater than duplex.
b. *Separation distances between towers.* Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 90-19.(B) below.

<table>
<thead>
<tr>
<th></th>
<th>LATTICE</th>
<th>GUYED</th>
<th>MONOPOLE 75 FEET IN HEIGHT OR GREATER</th>
<th>MONOPOLE LESS THAN 75 FEET IN HEIGHT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lattice</td>
<td>5,000</td>
<td>5,000</td>
<td>1,500</td>
<td>750</td>
</tr>
<tr>
<td>Guyed</td>
<td>5,000</td>
<td>N/A</td>
<td>1,500</td>
<td>750</td>
</tr>
<tr>
<td>Monopole 75 Feet in Height or Greater</td>
<td>1,500</td>
<td>1,500</td>
<td>1,500</td>
<td>750</td>
</tr>
<tr>
<td>Monopole Less Than 75 Feet in Height</td>
<td>750</td>
<td>750</td>
<td>750</td>
<td>750</td>
</tr>
</tbody>
</table>

6. *Security fencing.* Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Planning Commission may waive such requirements, as it deems appropriate.

7. *Landscaping.* The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Planning Commission may waive such requirements if the goals of this article would be better served thereby.

   a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least six (6) feet wide outside the perimeter of the compound.

   b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced.

   c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(Code 1993, § 23-459.1(7); Ord. No. 3617-A, 8-12-2002)
90-19-07. Buildings or other equipment storage

A. Antennas mounted on structures or rooftops
   Equipment storage buildings or cabinets shall comply with all applicable building codes.

B. Antennas mounted on utility poles or light poles
   The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:
   1. In residential districts, the equipment cabinet or structure may be located:
      a. In a side yard provided the cabinet or structure is no greater than four (4) feet in height and the cabinet or structure is located a minimum of three (3) feet from all lot lines. The cabinet or structure shall be screened by a solid fence six (6) feet in height or an evergreen hedge with an ultimate height of at least four (4) feet and a planted height of at least three (3) feet.
      b. In a rear yard, provided the cabinet or structure is no greater than eight (8) feet in height. The cabinet or structure shall be screened by an a solid fence six (6) feet in height or an evergreen hedge with an ultimate height of not less than the height of the cabinet or structure and a planted height of at least three (3) feet.
   2. In commercial or industrial districts the equipment cabinet or structure shall be no greater than eight (8) feet in height. The structure or cabinet shall be screened by a solid fence eight (8) feet in height or by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least three (3) feet. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence eight (8) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least three (3) feet.

C. Antennas located on towers
   The related unmanned equipment structure shall be located in accordance with the minimum yard requirements of the zoning district in which it is located.

D. Modification of building size requirements
   The requirements of subsections A thru C of this section may be modified by the Planning Director in the case of administratively approved uses or by the Planning Commission in the case of uses permitted by special use to encourage collocation.

(Code 1993, § 23-459.1(8); Ord. No. 3617-A, 8-12-2002)
90-19-08. Removal of abandoned antennas and towers

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the city notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) day period shall be grounds to remove the tower or antenna at the owner's expense and/or a fine not to exceed $200.00 per offense. Each day that a tower remains after said notice shall be considered a separate offense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(Code 1993, § 23-459.1(9); Ord. No. 3617-A, 8-12-2002)

90-19-09. Nonconforming uses

A. Not expansion of nonconforming use

Towers that are constructed and antennas that are installed, in accordance with the provisions of this article shall not be deemed to constitute the expansion of a nonconforming use or structure.

B. Preexisting towers

Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this article.

C. Rebuilding damaged or destroyed nonconforming towers or antennas

Notwithstanding Section 90-19-08, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in Sections 90-19-06.B.4 and B.5. The height and location of the tower on site shall be of the same intensity as the original facility approval. Building permits to rebuild the facility shall comply with the current applicable building codes, Section 90-19-02.5. (Guyed Towers) and shall be obtained within ninety (90) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 90-19-08.

(Code 1993, § 23-459.1(10); Ord. No. 3617-A, 8-12-2002)
ARTICLE 20. AIRPORT HAZARD ZONING REGULATIONS

90-20-01. GENERAL DESCRIPTION

A. This article is adopted pursuant to the authority conferred by 3 O.S. § 100 et seq., known as the Airport Zoning Act. It is hereby found that an obstruction has the potential for endangering the lives and property of users of Davis Field Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Davis Field Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Davis Field Airport and the public investment therein. Accordingly, it is declared:

1. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Davis Field Airport;

2. That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and

3. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.
It is further declared that the prevention of the creation or establishment of hazards of air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests to land.


90-20-02. Airport zones established

A. In order to carry out the provisions of this article, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to Davis Field Airport. Such zones are shown on the Davis Field Airport Action Plan consisting, in part, of three sheets, E4-E6, prepared by Barnard Dunkelberg & Company, dated October, 1999, and approved or technically modified by the Federal Aviation Administration, which are made a part hereof through incorporation by reference. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. **Utility runway visual approach zone.** The inner edge the utility runway visual approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

2. **Runway larger than utility with a visibility minimum greater than three-fourths mile nonprecision instrument approach zone.** The inner edge of the runway larger than utility with a visibility minimum greater than three-fourths mile nonprecision instrument approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

3. **Precision instrument runway approach zone.** The inner edge of precision instrument runway approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway which is runway 13/31.
4. **Transitional zones.** The transitional zones are the areas beneath the transitional surfaces.

5. **Horizontal zone.** The horizontal zone is established by swinging arcs of 5,000 feet radii for all noninstrument runways and 10,000 feet for all instrument runways from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

6. **Conical zone.** The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.

(Prior Code, app. A, § 16-77; Code 1993, § 23-603; Ord. No. 3267-A, 4-6-1993; Ord. No. 3528-A, § 1, 6-12-2000)

**90-20-03. Airport zone height limitations**

**A. Specific limitations**

Except as otherwise provided in this article, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this article to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. **Utility runway visual approach zone.** The utility runway visual approach zone slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

2. **Runway larger than utility visual approach zone.** The runway larger than utility visual approach zone slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

3. **Runway larger than utility with a visibility minimum greater than three-fourths mile nonprecision instrument approach zone.** The runway larger than utility with a visibility minimum greater than three-fourths mile nonprecision instrument approach zone slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

4. **Precision instrument runway approach zone.** The precision instrument runway approach zone slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance 10,000 feet along the extended runway centerline; thence
slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

5. *Transitional zone.* The transitional zone slopes seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 611 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.

6. *Horizontal zone.* The horizontal zone established at 150 feet above the airport elevation or at a height of 761 feet above mean sea level.

7. *Conical zone.* The conical zone slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

**B. Excepted height limitations**

Nothing in this article shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land. (Prior Code, app. A, § 16-77; Code 1993, § 23-604; Ord. No. 3267-A, 4-6-1993; Ord. No. 3528-A, § 1, 6-12-2000)

**90-20-04. Use restrictions**

Notwithstanding any other provisions of this article, no use may be made of land or water within any zone established by this article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

90-20-05. Nonconforming uses

A. Regulation not retroactive

The regulations prescribed herein shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of the ordinance from which this article is derived, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance from which this article is derived, and is diligently prosecuted.

B. Marking and lighting

Notwithstanding the provision of Subsection A of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Public Works Director or his/her designee to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the city.


90-20-06. Permits

A. Future uses

Except as specifically provided in Subsections 1 thru 3 of this section, hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this article shall be granted unless a variance has been approved in accordance with Subsection D of this section.

1. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
2. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

3. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this article except as set forth in Section 90-20-03.B.

B. Existing uses

No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of the ordinance from which this article is derived or any amendments thereto or than it is when the application for a permit is made. Except as indicated an application for such a permit shall be granted.

C. Nonconforming uses abandoned or destroyed

Whenever the Public Works Director or his/her designee determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the Zoning Regulations.

D. Variances

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed herein, may apply to the Airport Zoning Board of Adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this article. Additionally, no application for variance to the requirements of this article may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Public Works Director or
his/her designee for advice as to the aeronautical effects of the variance. If the Public Works Director or his/her designee does not respond to the application within 15 days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

E. **Obstruction marking and lighting**

Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this article and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner’s expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the City, at its own expense, to install, operate, and maintain the necessary markings and lights.


90-20-07. **Enforcement**

A. It shall be the duty of the Public Works Director or his/her designee of the city to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Public Works Director or his/her designee at the Office of Public Works, 301 South Cherokee Street, Muskogee, OK, upon a form published for that purpose. Applications required by this ordinance to be submitted to the Public Works Director or his/her designee shall be promptly considered and granted or denied. Application for action by the Airport Zoning Board of Adjustment shall be forthwith transmitted by the Public Works Director or his/her designee.


90-20-08. **Additional powers of board of adjustment**

A. The Airport Zoning Board of Adjustment, in addition to their normal powers and duties, shall exercise the following powers:

1. To hear and decide appeals from any order, requirement, decision, or determination made by the Public Works Director or his/her designee in the enforcement of this article;

2. To hear and decide special exceptions to the terms of this article upon which such Board of Adjustment may be required to pass; and

3. To hear and decide specific variances consistent with the Airport Zoning Act.

B. The board of adjustment shall adopt rules for its governance and in harmony with the provisions of this article. Meetings of the Board of Adjustment shall be held at the call of the chairperson and at such other times as the Board of Adjustment may determine.
The chairperson or, in the absence of the chairperson, the acting chairperson may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the City Clerk of the city and on due cause shown.

C. The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this article.

D. The mayor, subject to approval of the City Council, shall appoint the required number of members to the Airport Zoning Board of Adjustment which shall be the same members as the Airport Board.


90-20-09. Appeals

A. Any person aggrieved, or any taxpayer affected, by any decision of the Public Works Director or his/her designee in the areas made in the administration of this article, may appeal to the City's Board of Adjustment.

B. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Public Works Director or his/her designee a notice of appeal specifying the grounds thereof. The Public Works Director or his/her designee shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

C. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Public Works Director or his/her designee certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of Public Works Director or his/her designee cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Board of Adjustment on notice to the Public Works Director or his/her designee and on due cause shown.

D. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
E. The Board of Adjustment may, in conformity with the provisions of this article, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.


90-20-10. Judicial review

Any person aggrieved, or taxpayer affected, by any decision of the Board of Adjustment under this article, may appeal to the district court of the county as provided in 3 O.S. § 111.


90-20-11. Penalties

Each violation of this article or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by a fine according to a schedule of fees, as shall be modified from time to time by the council, and made available for public viewing in the City Clerk’s office or imprisonment for not more than one year in the county jail, or both; and each day a violation continues to exist shall constitute a separate offense.


State Law References: Enforcement and remedies, 3 O.S. § 112.

90-20-12. Conflicting regulations

Where there exists a conflict between any of the regulations or limitations prescribed herein and the Aircraft Pilot and Passenger Protection Act (APPPA) or any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

ARTICLE 21. HISTORIC PRESERVATION

90-21-01. General descriptions

This article is intended to promote the education, cultural, economic and general welfare of the public, through the protection, enhancement, perpetuation, and use of structures and areas of historic, architectural or cultural significance. In order to maintain the character and beauty of such structures and areas, restrictive requirements are provided governing both the use of land and the erection, moving, demolition, rehabilitation, reconstruction, restoration or alteration of structures thereon. In addition, provisions are made for the appointment by the City Council of a Historic Preservation Commission to advise this body in matters pertaining to this article.


90-21-02. Historic preservation commission--Membership

A. Appointment for member qualification. The Historic Preservation Commission shall consist of a maximum of nine (9) members and no less than five (5) members, which shall to be appointed by the Mayor and approved by the City Council. All members shall have a demonstrated interest in historic preservation and knowledge of the history of the city. The Director of Planning or his/her designee shall serve as an ex officio
nonvoting member. Whenever possible, at least two (2) members should be professionals in the fields of law, history, architecture and archaeology.

B. Compensation. All Historic Preservation Commission members shall serve without compensation.

C. Term of membership. The terms of members shall be for three (3) years. The terms shall be staggered so that no more than three (3) members shall be appointed in any one year.

D. Filling of vacancies. Vacancies occurring on the Historic Preservation Commission shall be filled within sixty (60) days by persons appointed by the Mayor and approved by the City Council.


90-21-03. Meeting and rules

A. The Historic Preservation Commission shall meet at least four (4) times per year, in public and open meetings, with written minutes kept.

B. The Historic Preservation Commission shall adopt rules in accordance with the provisions of this article.

C. The Historic Preservation Commission shall elect a chairperson from its membership and such person shall serve for one year and shall be eligible for reelection.

D. Three (3) Historic Preservation Commission members shall constitute a quorum, and action taken at any meeting shall require a majority vote of those members present.

E. Failure to attend three (3) consecutive meetings of the board without valid reasons as determined solely by the other members of the board shall constitute neglect of duty and the board may request the City Council declare the position vacant and appoint a replacement to fill the unexpired term.


90-21-04. Duties and powers

The Historic Preservation Commission shall have the following duties and powers:

A. To designate a structure, site, object, area or district as a historic property or historic district;
B. To issue or deny a certificate of appropriateness for a request for a building permit, demolition permit or moving permit for a historic property or for any structure within a Historic Preservation District;

C. To conduct surveys of structures and areas for the purpose of determining those of historical, architectural and/or cultural significance;

D. To maintain and periodically revise a comprehensive inventory and description of structures, sites, markers, objects, areas and/or districts having historical, architectural, archaeological and/or cultural significance, as to period or field of interest;

E. To advise owners or residents of significant structures, area or sites of any problems and techniques of and resources for historic preservation;

F. To make recommendations concerning the preparation and publication of maps, brochure and descriptive materials about structures, sites, markers, objects, areas or districts of historical, cultural, architectural and/or archaeological significance and to make recommendations concerning the establishment of an appropriate system of markers for each place;

G. To assist and encourage any organization or persons who desire to protect, enhance or perpetuate the use of structures, sites, markers, objects, areas or districts of historical, architectural, archaeological and/or cultural significance;

H. To encourage and assist in the establishment of educational and cultural programs, tours and events to advance the foregoing purposes;


90-21-05. Historic designation

The Historic Preservation Commission may designate any site, structure, object or area as a historic property or historic district.


90-21-06. Criteria for evaluation

To be designated a historic property or historic district, the Historic Preservation Commission shall find that the property or area satisfies at least one of the following criteria:

A. Exemplifies or reflects the board, cultural, political, economic or social history of the nation, state or community;
B. Is identified with historic persons or with important events in national, state or local history;

C. Embodies the distinguishing characteristics of an architectural type inherently valuable for the study of a period, style or method of construction or of indigenous materials or craftsmanship;

D. Is representative of the notable work of a master builder, designer or architect whose work influenced his age or development in the nation, state, region or local area; or

E. Has yielded, or is likely to yield, information important in history or prehistory.


90-21-07. Procedure for designation

The Historic Preservation Commission shall notify in writing all property owners within the area of the proposed historic district or property owners of the proposed historic property, in order to inform them of the subject area, time, date and place of the public hearing at which historic designation will be considered; the notice shall be mailed not less than fifteen (15) days prior to the meeting. At least fifteen (15) days prior to the public hearing, the notice shall be published in the legal notice section of a newspaper of general circulation in the area.


90-21-08. Certificate of appropriateness--Required

A certificate of appropriateness shall be granted by the Historic Preservation Commission prior to the issuance of a building permit for construction that affects the exterior architectural appearance, a demolition permit or a moving permit for any property designated as a historic property, or located within a historic district, or listed on the National Register of Historic Places. It shall be a violation for any person to commence construction, alteration or modification of any property which has been either designated as historic property or included in a district without first obtaining a certificate of appropriateness.


90-21-09. Criteria for review

90-21-10. Application/Procedure

A. The applicant shall submit to the Planning Department for review any sketches, plans, drawings, photos or other information which will clearly show the Historic Preservation Commission what changes will be made.

B. In the case of a demolition permit the applicant is strongly encouraged to, in addition to those items required under Subsection A above, submit to the Planning Department the following documentary evidence:

1. A report from an architect or other professional trained in historic preservation and protection which tends to establish the criteria of Subsection 90-21-11.A;

2. A report from an engineer which tends to establish the criteria of Subsection 90-21-11.B; or

3. An affidavit from the owner which tends to establish the criteria of Subsection 90-21-11.C. Said affidavit shall include:
   a. A written description of all efforts to consider options for renovation, adaptive reuse and redevelopment of the property;
   b. A report from an engineer or architect relating to costs to implement the elements in Subsection 3.a above; and
   c. An appraisal of the property.

C. The Historic Preservation Commission shall meet within five (5) days after a request is received.

D. The Historic Preservation Commission shall approve, approve with conditions or deny the request at their meeting.


90-21-11. DEMOLITION OR REMOVAL OF HISTORIC PROPERTY

In rare instances, physical deterioration of a historic structure may be so great as to render a structure historically non-significant for loss of integrity. Recognizing that demolition or removal of a historic structure constitutes an irreplaceable loss to the quality and character of the City, a certificate of appropriateness for a demolition permit shall only be granted if one of the following occurs:

A. The structure is noncontributing to the historic integrity of the historic district and the demolition will not adversely affect the historic character of the property or district.
B. The structure poses an imminent threat to public health or safety and the demolition of said structure is required to alleviate said threat.

C. There is no viable economic use of the structure. For purposes of this subparagraph, the term "no viable economic use" shall mean:
   1. The structure is incapable of earning a reasonable economic return;
   2. The structure cannot reasonably be adapted for any other use which would result in a reasonable economic return; and
   3. The owner, using due diligence, has been unable to find a developer, financier, purchaser or tenant that would enable the owner to realize a reasonable economic return.

(Ord. No. 2911-A, § 4, 1-29-2013)

90-21-12. Appeal

Any person aggrieved by a decision of the Historic Preservation Commission or this article, shall have the right of appeal to the City Council. An appeal shall be in writing stating the grounds for the appeal and submitted to the Planning Department within five (5) days of the Historic Preservation Commission's decision. The appeal shall be heard by the City Council at their next available meeting.


90-21-13. Violation and Penalty

A. Any person violating any provision of this article shall be subject to revocation of their certificate of appropriateness by the Historic Preservation Commission with approval of the City Council.

B. Violation of any provision of this article is an offense and shall be punished according to a schedule of fines, as shall be modified from time to time by the City Council, and made available for public viewing in the office of the City Clerk, as provided in Section 1-14.

ARTICLE 22. FLOOD DAMAGE PREVENTION

90-22-01. STATEMENT OF PURPOSE

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

4. Protect human life and health;

5. Minimize expenditure of public money for costly flood control projects;

6. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

7. Minimize prolonged business interruptions;
8. Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges, located in floodplains;

9. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas;

10. Ensure the potential buyers are notified that property is in a flood area; and

11. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.


90-22-02. Findings of fact

The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to other lands because they are inadequately elevated, flood proofed, or otherwise protected from flood damage.

(Prior Code, § 10 1/2-2; Code 1993, § 23-802; Ord. No. 3052-A, 4-27-1987)

90-22-03. Methods of reducing flood losses

A. In order to accomplish its purposes, these regulations are established to:

1. Restrict or prohibit uses that are dangerous to health, safety or property due to water, water-related or erosion hazards, or that result in damaging increases in erosion or in flood heights, widths or velocities;

2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage throughout their intended lifespan;

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

4. Control filling, grading, excavating, vegetation removal, dredging and other development which may increase flood damage; and

5. Prevent or regulate the construction of flood barriers which will unnaturally divert or restrict floodwaters or which may increase flood hazards in other areas, whether adjacent upstream or downstream.

(Prior Code, § 10 1/2-4; Code 1993, § 23-803; Ord. No. 3052-A, 4-27-1987)
90-22-04. **Applicability; compliance with and interpretation of article provisions**

A. This article shall apply to all areas of special flood hazard within the jurisdiction of the city.

B. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this article and other applicable regulations.

C. This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

D. In the interpretation and application of this article all provisions shall be:
   a. Considered as minimum requirements;
   b. Liberally construed in favor of the council; and
   c. Deemed neither to limit nor repeal any other powers granted under state statutes.

(Prior Code, §§ 10 1/2-6, 10 1/2-9–11; Code 1993, § 23-805; Ord. No. 3052-A, 4-27-1987)

90-22-05. **Basis for establishing the areas of special flood hazard**

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific engineering report entitled, The Flood Insurance Study for Muskogee County, Oklahoma, and Incorporated Areas, dated February 4, 2011 with the accompanying flood insurance rate map (FIRM), are hereby adopted by reference and declared to be a part of these regulations. (Prior Code, § 10 1/2-7; Code 1993, § 23-806; Ord. No. 3052-A, 4-27-1987; Ord. No. 3338-A, 8-28-1995; Ord. No. 3738-A, § 1, 6-12-2006)

90-22-06. **Establishment of floodplain permit**

A floodplain permit shall be required to ensure conformance with the provisions of this article. A floodplain permit shall be obtained before any construction, zoning change, change in use, or development begins, or any required drawing approval or building permit is issued within any area of special flood hazard.


90-22-07. **Warning and disclaimer of liability**

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes.
This article does not imply that land outside the areas of special flood hazards, or uses permitted within such areas, will be free from flooding or flood damages. This article shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

(Prior Code, § 10 1/2-12; Code 1993, § 23-808; Ord. No. 3052-A, 4-27-1987)

90-22-08. Designation of floodplain administrator

The Director of Planning is hereby appointed the Floodplain Administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (Code of Federal Regulations/National Flood Insurance Program Regulations) pertaining to floodplain management.


90-22-09. Designation of floodplain permit committee; duties and responsibilities

A. The Director of Planning, Director of Public Works and the Civil Engineer are hereby appointed to serve as the Floodplain Permit Committee and are authorized and instructed to implement and administer this article by granting or denying floodplain permit applications in accordance with its provisions.

1. The Director of Planning shall serve as chairman of the committee and shall call meetings of the committee as required to review and pass on floodplain permit applications;

2. A unanimous approval of the committee shall be required to grant a floodplain permit; and

3. The committee may defer action on any floodplain permit application and require the applicant or his engineer or architect to provide such revised or additional information as deemed necessary to render a final decision.

B. Duties and responsibilities of the Floodplain Permit Committee shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this article;

2. Review permit applications to determine whether proposed building sites will be reasonably safe from flooding;

3. Review, approve or deny all applications for development permits required by adoption of this article;
4. Review permits for proposed development to ensure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1251 et seq.) from which prior approval is required;

5. Make the necessary interpretation where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be conflict between a mapped boundary and actual field conditions);

6. Notify, in riverine situations, adjacent communities and the State Water Resources Board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Administration;

7. Ensure that flood carrying capacity within the altered or relocated portion of the watercourse is maintained;

8. When base flood elevation data has not been provided in accordance with Section 90-22-05, obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state, or other source, in order to administer the provisions of Sections 90-22-12 through 90-22-14;

9. In unnumbered A zones (flood hazard areas without base flood elevations where it is required that you use the best available data), require one of the following actions as a condition of a permit:
   a. Determine an elevation from the nearest benchmark outside of the flood hazard area and require the lowest floor of the structure in the unnumbered A zone to be one foot or more above such elevation;
   b. Where flooding history is greater than the elevation specified in Subsection B.9.a of this section, require the lowest floor elevation to be one foot or more above such elevation;
   c. Require elevation of the lowest floor to be two or more feet above the highest adjacent grade next to the building site;
   d. Require that the lowest floor elevation be one foot or more above the base flood elevation which is the elevation of the nearest benchmark outside of the flood hazard area; or
   e. When a regulatory floodway has not been designated, the Floodplain Permit Committee must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE on the community's FIRM, unless it is demonstrated that
the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community; and

10. Under the provisions of 44 CFR 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zone AE on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA.

11. Become accredited by the OWRB in accordance with Title 82 O.S. § 1601-1618, as amended.


90-22-10. Permit procedures; approval or denial

A. Application for a floodplain permit shall be presented to the Floodplain Permit Committee on forms developed by it and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

1. Elevation, in relation to mean sea level, of the lowest floor, including basement, of all new and substantially improved structures;

2. A description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and

3. Maintain a record of all such information in accordance with this article.

B. Approval or denial of a floodplain permit by the Floodplain Permit Committee shall be based on all of the provisions of this article and the following relevant factors:

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

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

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

4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;

6. The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;

7. 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;

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

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

10. The relationship of the proposed use to the comprehensive plan for that area.

11. Plans shall be sealed by a registered professional engineer registered in the State of Oklahoma, and all survey information shall be sealed by a registered land surveyor registered in the State of Oklahoma.

(Prior Code, § 10 1/2-17; Code 1993, § 23-811; Ord. No. 3052-A, 4-27-1987)

90-22-11. Variance and appeal

A. Variances

1. The City Council, as set out in this article, shall hear and render judgment on requests for variances from the requirements of this article. It shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Permit Committee in the enforcement or administration of this article. Those aggrieved by the decision of the appeals board may appeal such decision in the courts of competent jurisdiction.

2. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 90-22-10.B have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases. Upon consideration of the factors noted in this section and the intent of this article, the appeals board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article.
B. Prerequisites for Granting Variances

Prerequisites for Granting variances include the following:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief and the applicant for the variance has paid the appropriate fee;

2. Variances shall only be issued upon:
   a. A showing of good and sufficient cause;
   b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
   c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

4. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this article.

6. The city shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

7. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functional dependent use, provided that:
   a. The criteria outlined in this section are met; and
   b. The structure of other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
C. Procedure for Appeal

1. Any person or persons aggrieved by an alleged error in any requirement, interpretation, decision, or determination made by the Floodplain Permit Committee in the enforcement or administration of this article may appeal such alleged error to the City Council within thirty (30) days after the date of the written decision. The appeal shall be filed in writing with the City Clerk. The City Clerk shall forward the appeal to the Floodplain Administrator.

2. The information required to be submitted by the appellant for the appeal shall be the following:
   a. All the information, plans, elevations, and calculations and other material specified in Section 90-22-10 of this article;
   b. Documentation that the request is based upon good and sufficient cause and documentation from a licensed engineer, registered in the State of Oklahoma, that the appeal will not increase the level of the base flood discharge in the regulatory floodway;
   c. The appellant must also pay any fee required by the code as provided in the fee schedule.

3. The Floodplain Administrator shall perform the following duties:
   a. Docket the appeal on receipt from the clerk;
   b. Provide written notice to the appellant of the date, time and place that council will consider the appeal;
   c. Present the appeal to the city council within sixty (60) days of receipt of the appeal;
   d. Notify the appellant of the decision of the city council on the appeal; and
   e. Maintain all records and actions involving an appeal or variance and report to the National Flood Insurance Program Administrator, as required or upon request, with all necessary information concerning the appeal, including justification for any variances to the regulations.

4. No permit of any kind will be issued for any development upon any application for a floodplain permit which is the subject of the appeal until a final decision has been made by the city council. (Federal Law Reference – 44 C FR § 60.6)

90-22-12. **General standards for flood hazard areas**

A. In all areas of special flood hazard, the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

3. All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into floodwaters; and

7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.


90-22-13. **Specific standards for flood hazard areas**

A. In all areas of special flood hazards the following provisions are required:

1. **Residential construction.** New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one or more feet above the base flood elevation. A licensed professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Permit Committee that the standard of this subsection, as proposed in section 90-22-15, is satisfied.

2. **Nonresidential construction.** New construction or substantial improvements of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated to one foot or more above the base flood level.
3. **Enclosures.** New construction and substantial improvements, with 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. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

b. The bottom of all openings shall be no higher than one foot above grade; or

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

4. **Manufactured homes.**

a. All manufactured homes to be placed within Zone A shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;

b. Anchoring. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure. All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Special requirements shall be that:

   (a) Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations with mobile homes less than fifty (50) feet long requiring one additional tie per side;

   (b) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than fifty (500 feet long requiring four additional ties per side;
(c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; all anchoring must be of a "man earth" type or equal; and

(d) Any additions to the mobile home must be similarly anchored.

c. All manufactured homes shall be in compliance with this article; and

d. All manufactured homes to be placed or substantially improved within Zone AE on the community's FIRM shall be elevated on a permanent foundation such that the bottom of the I beam of the manufactured home is at or above the base flood elevation, and shall be securely anchored to an adequately anchored foundation system in accordance with the provisions of this article.

5. Recreational vehicles. Recreational vehicles on sites within Zone AE and A on the community's FIRM shall either:

a. Be on the site for fewer than 180 days;

b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system or if it is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions; or

c. Meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" in Subsection 4 of this section.

6. Accessory Structure. Accessory structures to be placed on sites within Zones A and AE shall comply with the following:

a. The structure shall be unfinished on the interior;

b. The structure shall be used only for parking and limited storage;

c. The structure shall not be used for human habitation. Prohibited activities or uses include but not to working, sleeping, living, cooking or restroom use;

d. Service facilities such as electrical and heating equipment must be elevated to or above the BFE;

e. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

f. The structure shall be designed to have low flood damage potential and constructed with flood resistance materials;
g. The structure shall be firmly anchored to prevent flotation, collapse and lateral movement;

h. Floodway requirements must be met in the construction of the structure;

i. Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE; and

j. The structure shall be located so as not to cause damage to adjacent and nearby structures.


90-22-14. Floodways

A. Floodways located within areas of special flood hazard established in this article are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other developments unless certification by a professional licensed engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels within the community during occurrence of the base flood discharge;

2. If Subsection 1 of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 90-22-12; and

3. Under the provisions of 44 CFR 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

90-22-15. Standards for subdivision proposals, flood hazard areas

A. All subdivision proposals shall be consistent with Sections 90-22-01 through 90-22-03 of this Article.

B. All proposals for the development of subdivisions including manufactured home parks and subdivisions shall meet floodplain permit requirements of Sections 90-22-06, 90-22-10 and 90-22-12 et seq.

C. Base flood elevation data shall be generated for subdivision proposals and other proposed development including manufactured home parks and subdivisions which is greater than thirty (30) lots or three (3) acres, whichever is less, if not otherwise provided pursuant to Sections 90-22-05.

D. All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

E. All subdivision proposals including manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.


90-22-16. Penalties for noncompliance

No structure or land shall hereafter be constructed, located, extended, converted, altered, or changed in use without full compliance with the terms of this article and other applicable regulations. Violation of the provisions of this article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with condition) shall constitute a misdemeanor and a general nuisance. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be punished according to a schedule of fines, as shall be modified from time to time by the City Council, and made available for public viewing in the office of the City Clerk, as provided in Section 1-14, for each violation, and, in addition, shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.