



**CITY OF
BALDWIN CITY**

***ZONING
REGULATIONS***

April, 2010

**Zoning Regulations
Table of Contents
City of Baldwin City, Kansas**

-0-

ARTICLE 1: TITLE; PURPOSE; DEFINITIONS; DISTRICT AND GENERAL REGULATIONS..... 1-1

Sections:

| | |
|--|------|
| 1-101 Title..... | 1-1 |
| 1-102 Purpose..... | 1-1 |
| 1-103 Jurisdiction | 1-1 |
| 1-104 Definitions..... | 1-2 |
| 1-105 Districts..... | 1-20 |
| 1-106 General Regulations Governing All Zoning Districts | 1-21 |
| 1-107 Vesting of Development Rights | 1-22 |

ARTICLE 2: "RLD" RESIDENTIAL LOW DENSITY DISTRICT REGULATIONS 2-1

Sections:

| | |
|---|-----|
| 2-101 Application..... | 2-1 |
| 2-102 Use Regulations | 2-1 |
| 2-103 Performance Standards | 2-1 |
| 2-104 Parking Regulations | 2-1 |
| 2-105 Off-Street Loading Regulations | 2-2 |
| 2-106 Sign Regulations | 2-2 |
| 2-107 Height, Area and Bulk Regulations | 2-2 |
| 2-108 Supplementary Height, Area and Bulk Regulations | 2-2 |
| 2-109 Supplementary Use Regulations..... | 2-2 |

ARTICLE 3: "R-1A" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS 3-1

Sections:

| | |
|---|-----|
| 3-101 Application..... | 3-1 |
| 3-102 Use Regulations | 3-1 |
| 3-103 Performance Standards | 3-1 |
| 3-104 Parking Regulations | 3-1 |
| 3-105 Off-Street Loading Regulations | 3-2 |
| 3-106 Sign Regulations | 3-2 |
| 3-107 Height, Area, and Bulk Regulations | 3-2 |
| 3-108 Supplementary Height, Area and Bulk Regulations | 3-2 |
| 3-109 Supplementary Use Regulations..... | 3-2 |

ARTICLE 4: "R-1B" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS 4-1

Sections:

| | |
|--|-----|
| 4-101 Application..... | 4-1 |
| 4-102 Use Regulations | 4-1 |
| 4-103 Performance Standards | 4-1 |
| 4-104 Parking Regulations | 4-1 |
| 4-105 Off-Street Loading Regulations | 4-2 |
| 4-106 Sign Regulations | 4-2 |
| 4-107 Height, Area, and Bulk Regulations | 4-2 |

| | | |
|-------|---|-----|
| 4-108 | Supplementary Height, Area and Bulk Regulations | 4-2 |
| 4-109 | Supplementary Use Regulations | 4-2 |

ARTICLE 5: "R-1C" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS 5-1

Sections:

| | | |
|-------|---|-----|
| 5-101 | Application | 5-1 |
| 5-102 | Use Regulations | 5-1 |
| 5-103 | Performance Standards | 5-1 |
| 5-104 | Parking Regulations | 5-1 |
| 5-105 | Off-Street Loading Regulations | 5-2 |
| 5-106 | Sign Regulations | 5-2 |
| 5-107 | Height, Area, and Bulk Regulations | 5-2 |
| 5-108 | Supplementary Height, Area and Bulk Regulations | 5-2 |
| 5-109 | Supplementary Use Regulations | 5-2 |

ARTICLE 6: "R-2" TWO-FAMILY RESIDENTIAL DISTRICT REGULATIONS..... 6-1

Sections:

| | | |
|-------|---|-----|
| 6-101 | Application | 6-1 |
| 6-102 | Use Regulations | 6-1 |
| 6-103 | Performance Standards | 6-1 |
| 6-104 | Parking Regulations | 6-1 |
| 6-105 | Off-Street Loading Regulations | 6-1 |
| 6-106 | Sign Regulations | 6-1 |
| 6-107 | Height, Area, and Bulk Regulations | 6-1 |
| 6-108 | Supplementary Height, Area and Bulk Regulations | 6-2 |
| 6-109 | Supplementary Use Regulations | 6-2 |

ARTICLE 7: "RP-3" PLANNED MULTI-FAMILY RESIDENTIAL DISTRICT..... 7-1

Sections:

| | | |
|-------|--|-----|
| 7-101 | Application | 7-1 |
| 7-102 | Use Regulations | 7-1 |
| 7-103 | Plan Approval Guidelines | 7-1 |
| 7-104 | Performance Standards | 7-1 |
| 7-105 | Parking Regulations | 7-1 |
| 7-106 | Off-Street Loading Regulations | 7-1 |
| 7-107 | Sign Regulations | 7-1 |
| 7-108 | Height, Area, and Bulk Regulations | 7-1 |
| 7-109 | Supplementary Height, Area, and Bulk Regulations | 7-2 |
| 7-110 | Supplementary Use Regulations | 7-2 |

ARTICLE 8: "U" PLANNED UNIVERSITY DISTRICT 8-1

Sections:

| | | |
|-------|--|-----|
| 8-101 | Application | 8-1 |
| 8-102 | Use Regulations | 8-1 |
| 8-103 | Plan Approval Guidelines | 8-1 |
| 8-104 | Performance Standards | 8-2 |
| 8-105 | Parking Regulations | 8-2 |
| 8-106 | Off-Street Loading Regulations | 8-2 |
| 8-107 | Sign Regulations | 8-2 |
| 8-108 | Height, Area, and Bulk Regulations | 8-2 |

| | | |
|--|--|-------------|
| 8-109 | Supplementary Height, Area, and Bulk Regulations | 8-2 |
| 8-110 | Supplementary Use Regulations..... | 8-2 |
| ARTICLE 9: "OTO" OLD TOWN OVERLAY DISTRICT REGULATIONS..... | | 9-1 |
| Sections: | | |
| 9-101 | Intent | 9-1 |
| 9-102 | Establishment of Overlay District | 9-1 |
| 9-103 | Uses | 9-1 |
| 9-104 | Bulk Standards | 9-1 |
| 9-105 | Permit Review | 9-1 |
| 9-106 | Appeals | 9-2 |
| ARTICLE 10: "CP-0" PLANNED COMMERCIAL OFFICE DISTRICT REGULATIONS..... | | 10-1 |
| Sections: | | |
| 10-101 | Application..... | 10-1 |
| 10-102 | Use Regulations | 10-1 |
| 10-103 | Plan Approval Guidelines | 10-2 |
| 10-104 | Performance Standards | 10-2 |
| 10-105 | Parking Regulations | 10-2 |
| 10-106 | Off-Street Loading Regulations | 10-2 |
| 10-107 | Sign Regulations | 10-2 |
| 10-108 | Height, Area and Bulk Regulations | 10-2 |
| 10-109 | Supplementary Height, Area and Bulk Regulations | 10-2 |
| 10-110 | Supplementary Use Regulations..... | 10-2 |
| ARTICLE 11: "CP-1" PLANNED LIMITED COMMERCIAL DISTRICT REGULATIONS..... | | 11-1 |
| Sections: | | |
| 11-101 | Application..... | 11-1 |
| 11-102 | Use Regulations | 11-1 |
| 11-103 | Plan Approval Guidelines | 11-2 |
| 11-104 | Performance Standards | 11-2 |
| 11-105 | Parking Regulations | 11-2 |
| 11-106 | Off-Street Loading Regulations | 11-2 |
| 11-107 | Sign Regulations | 11-2 |
| 11-108 | Height, Area and Bulk Regulations | 11-2 |
| 11-109 | Supplementary Height, Area and Bulk Regulations | 11-2 |
| 11-110 | Supplementary Use Regulations..... | 11-2 |
| ARTICLE 12: "CP-2" PLANNED GENERAL COMMERCIAL DISTRICT REGULATIONS..... | | 12-1 |
| Sections: | | |
| 12-101 | Application..... | 12-1 |
| 12-102 | Use Regulations | 12-1 |
| 12-103 | Plan Approval Guidelines | 12-3 |
| 12-104 | Performance Standards | 12-3 |
| 12-105 | Parking Regulations | 12-3 |
| 12-106 | Off-Street Loading Regulations | 12-3 |
| 12-107 | Sign Regulations | 12-3 |
| 12-108 | Height, Area and Bulk Regulations | 12-3 |
| 12-109 | Supplementary Height, Area and Bulk Regulations | 12-3 |
| 12-110 | Supplementary Use Regulations..... | 12-3 |

ARTICLE 13: "CP-3" PLANNED CENTRAL BUSINESS DISTRICT REGULATIONS 13-1

Sections:

- 13-101 Application 13-1
- 13-102 Use Regulations 13-1
- 13-103 Plan Approval Guidelines 13-1
- 13-104 Performance Standards 13-1
- 13-105 Parking Regulations 13-1
- 13-106 Off-Street Loading Regulations 13-1
- 13-107 Sign Regulations 13-1
- 13-108 Height, Area and Bulk Regulations 13-2
- 13-109 Supplementary Height, Area and Bulk Regulations 13-2
- 13-110 Supplementary Use Regulations 13-2

ARTICLE 14: "CP-4" PLANNED HIGHWAY SERVICE COMMERCIAL DISTRICT REGULATIONS 14-1

Sections

- 14-101 Application 14-1
- 14-102 Use Regulations 14-1
- 14-103 Plan Approval Guidelines 14-1
- 14-104 Performance Standards 14-1
- 14-105 Parking Regulations 14-1
- 14-106 Off-Street Loading Regulations 14-1
- 14-107 Sign Regulations 14-2
- 14-108 Height, Area and Bulk Regulations 14-2
- 14-109 Supplementary Height, Area and Bulk Regulations 14-2
- 14-110 Supplementary Use Regulations 14-2

ARTICLE 15: "IP-1" PLANNED LIGHT INDUSTRIAL DISTRICT REGULATIONS 15-1

Sections:

- 15-101 Application 15-1
- 15-102 Use Regulations 15-1
- 15-103 Plan Approval Guidelines 15-2
- 15-104 Performance Standards 15-2
- 15-105 Parking Regulations 15-2
- 15-106 Off-Street Loading Regulations 15-2
- 15-107 Sign Regulations 15-2
- 15-108 Height, Area and Bulk Regulations 15-2
- 15-109 Supplementary Height, Area and Bulk Regulations 15-2
- 15-110 Supplementary Use Regulations 15-2

ARTICLE 16: "IP-2" PLANNED MEDIUM INDUSTRIAL DISTRICT REGULATIONS 16-1

Sections:

- 16-101 Application 16-1
- 16-102 Use Regulations 16-1
- 16-103 Plan Approval Guidelines 16-2
- 16-104 Performance Standards 16-2
- 16-105 Parking Regulations 16-2
- 16-106 Off-Street Loading Regulations 16-2
- 16-107 Sign Regulations 16-2

ARTICLE 22: OFF-STREET LOADING REGULATIONS 22-1
Sections:

22-101 Requirements 22-1
22-102 Interpretation of the Chart 22-1
22-103 Mixed Uses of One Building 22-2
22-104 Design Standards 22-2

ARTICLE 23: DISTRICT SIGN REGULATIONS 23-1
Sections:

23-101 Scope, Objectives and Purposes 23-1
23-102 Definitions 23-2
23-103 General Sign Requirements 23-7
23-104 Procedural Requirements 23-12
23-105 Design and Construction Standards 23-16
23-106 District Regulations 23-17
23-107 Nonconforming Signs 23-24

ARTICLE 24: DISTRICT HEIGHT, AREA AND BULK REGULATIONS 24-1

ARTICLE 25: SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS 25-1
Sections:

25-101 Application 25-1
25-102 Modification of Height Regulations 25-1
25-103 Modification of Area Regulations 25-1

**ARTICLE 26: SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES;
ACCESSORY USES; PROHIBITED USES 26-1**
Sections:

26-101 Conditional Uses - Purpose and Intent 26-1
26-102 Application of Conditional Uses 26-1
26-103 Additions and Changes to Conditional Uses 26-2
26-104 Conditional Uses Enumerated 26-2
26-105 Continuance of a Conditional Use 26-6
26-106 Accessory Uses 26-6
26-107 Eligibility for Accessory Use 26-7
26-108 Accessory Uses Allowed 26-7
26-109 Specialty Accessory Uses 26-11
26-110 Accessory Building or Structure Use 26-18
26-111 Prohibited Uses 26-18

ARTICLE 27: NONCONFORMING USES 27-1
Sections:

27-101 Nonconforming Lots of Record 27-1
27-102 Nonconforming Use of Land 27-2
27-103 Nonconforming Use of Structures 27-2
27-104 Discontinuance of Nonconforming Uses 27-2
27-105 Destruction of a Nonconforming Use 27-3
27-106 Intermittent Use 27-3

| | |
|--|-------------|
| 27-107 Existence of a Nonconforming Use | 27-3 |
| ARTICLE 28: THE BOARD OF ZONING APPEALS | 28-1 |
| Sections: | |
| 28-101 Organization and Procedure | 28-1 |
| 28-102 Powers | 28-1 |
| 28-103 Variances | 28-1 |
| 28-104 Special Exceptions | 28-2 |
| 28-105 Special Yard and Height Exceptions | 28-4 |
| 28-106 Guidelines for Conditions | 28-4 |
| 28-107 Application | 28-5 |
| 28-108 Stay of Proceedings | 28-5 |
| 28-109 Public Hearing | 28-6 |
| 28-110 Findings and Records of Proceedings | 28-6 |
| 28-111 Lapse of Special Exception | 28-6 |
| 28-112 Decisions of the Board | 28-6 |
| ARTICLE 29: ADMINISTRATION | 29-1 |
| Sections: | |
| 29-101 Enforcement | 29-1 |
| 29-102 Zoning Certificate | 29-1 |
| 29-103 Application for Zoning Certificate | 29-1 |
| 29-104 Fees | 29-2 |
| 29-105 Issuance of Zoning Certificate | 29-2 |
| 29-106 Revocation of Zoning Certificate | 29-2 |
| 29-107 Stop Order | 29-2 |
| 29-108 Period of Validity | 29-2 |
| 29-109 Certificate of Occupancy | 29-3 |
| 29-110 Reports | 29-3 |
| 29-111 Administrative Permit | 29-3 |
| 29-112 Vesting of Development Rights | 29-3 |
| ARTICLE 30: SPECIAL EVENTS..... | 30-1 |
| Sections: | |
| 30-101 Purpose and Intent | 30-1 |
| 30-102 Special Event Defined | 30-1 |
| 30-103 Special Events Not Requiring a Permit | 30-2 |
| 30-104 Special Events Subject to an Administrative Permit..... | 30-2 |
| 30-105 Special Events Subject to Governing Body Approval..... | 30-3 |
| 30-106 Application and Fee..... | 30-4 |
| ARTICLE 31: AMENDMENTS..... | 31-1 |
| Sections | |
| 31-101 Who May Petition or Apply | 31-1 |
| 31-102 Procedures for Consideration of Request for Amendments, Revisions or Changes..... | 31-1 |
| 31-103 Posting of Sign | 31-3 |
| 31-104 Factors to be Considered | 31-4 |
| 31-105 Traffic and/or Other Studies | 31-6 |
| 31-106 Limitations on Reapplication for Amendments | 31-7 |

ARTICLE 32: INTERPRETATION, CONFLICT, REMEDIES AND PENALTY..... 32-1

Sections:

| | |
|--|------|
| 32-101 Interpretation and Conflict | 32-1 |
| 32-102 Remedies Available..... | 32-1 |
| 32-103 Penalty | 32-1 |

ARTICLE 33: MISCELLANEOUS 33-1

Sections:

| | |
|---|------|
| 33-101 Validity | 33-1 |
| 33-102 Accrued Rights and Liabilities Saved | 33-1 |
| 33-103 Severability..... | 33-1 |
| 33-104 Effective Date | 33-1 |
| 33-105 Repealing Clause | 33-1 |

Sections:**1-101 Title****1-102 Purpose****1-103 Jurisdiction****1-104 Definitions****1-105 Districts****1-106 General Regulations Governing All Zoning Districts****1-107 Vesting of Development Rights**

1-101 Title: These Regulations, including the Zoning District maps and overlays made a part hereof, shall be known and may be cited as the "Zoning Ordinance of Baldwin City, Kansas," and shall hereinafter be referred to as "these Regulations."

1-102 Purpose: These Regulations are intended to serve the following purposes:

1. To promote the health, safety, morals, comfort and general welfare of all the citizens of Baldwin City, Kansas.
2. To create a variety of zoning districts sensitive to the needs of the peculiarities of the various uses; designed to protect and enhance the values inherent in each zone.
3. To regulate and restrict the height, number of stories, and size of buildings; the percentage of lots that may be occupied by buildings and other structures; size of yards, courts, and other open spaces.
4. To provide for adequate light and air, and acceptable noise levels.
5. To avoid the undue concentration of populations and to prevent overcrowding in the use of land and community facilities.
6. To provide adequate notice on subsequent changes to these Regulations and an opportunity for interested parties to be heard.
7. To provide information regarding possible flood hazards.
8. To facilitate the adequate provisions of transportation, water, sewage, schools, parks, and other public improvements and to carry out the goals and objectives as set forth in applicable laws of the State of Kansas and the Comprehensive Plan for Baldwin City, Kansas.
9. To promote the achievement of the Comprehensive Plan for Baldwin City, Kansas.
10. To inform the public regarding future development in the City of Baldwin City, thereby providing a basis for wise decisions with respect to such development.

1-103 Jurisdiction: Except as otherwise provided herein, these Regulations shall apply to all of the land within the corporate limits of the City of Baldwin City, Kansas.

1-104 Definitions: For the purpose of these Regulations, certain terms and words are hereby defined. Words used in the present tense shall include both the past and the future, and words used in the future tense shall include the present. Words in the singular number shall include the plural and words in the plural number shall include the singular. The word "building" shall include the word "structure"; the word "dwelling" shall include the word "residence"; the word "lot" shall include the word "plot"; the word "person" shall include individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities. The word "shall" is mandatory and not directory while the word "may" is permissive. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for". Words or terms not herein defined shall have their ordinary and customary meaning in relation to the context.

1. **ABANDONED VEHICLE:** Any inoperable motor vehicle to which the last registered owner of record thereof has relinquished all further dominion and control.
2. **ABUTTING:** Adjoining or bordering.
3. **ACCESS:** The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.
4. **ACCESSORY BUILDING:** A subordinate building or portion of the main building, located on the same lot, the use of which is clearly incidental to that of the main building or to the use of the land on which it is located. Customary accessory buildings include, but are not limited to, garages, carports, garden houses, small storage sheds and children's playhouses.
5. **ACCESSORY USE:** A subordinate use which serves an incidental function to that of the principal use of the premise. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, air conditioners, barbecue grills, fireplaces, and satellite dish antennas.
6. **ADMINISTRATIVE OFFICER:** See Zoning Administrator.
7. **AIRCRAFT:** A weight-carrying structure for navigation of the air that is supported either by its own buoyancy or by the dynamic action of the air against its surfaces. Aircraft includes, but is not limited to, airplanes, helicopters, gliders, ultra-light airplanes, hot-air balloons, and the like.
8. **AIRPORT OR AIRCRAFT LANDING FIELD:** Any landing area, runway or other facility designed, used, or intended to be used either publicly or by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage, and tiedown areas, hangars, and other necessary buildings and open spaces.
9. **ALLEY:** A public or private thoroughfare which provides only a secondary means of access to abutting property.

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10. **ALTERATION:** A change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing the height, or moving from one location or position to another, shall be considered as an alteration.
 11. **AMENDMENT:** The process of change or alteration to the Zoning Ordinance in one of the following forms:
 - a. A comprehensive revision or modification of the zoning text and/or maps.
 - b. A text change in the zone requirements.
 - c. A change in the maps, i.e., the zoning designation of a particular parcel or parcels. This form is also known as "rezoning."
 - d. The approval of a Conditional Use Permit as provided within these Regulations.
 12. **ANIMAL HOSPITAL OR CLINIC:** An establishment where animals are admitted principally for examination, treatment, board or care by a Doctor of Veterinary Medicine. This does not include open kennels or runs.
 13. **APARTMENT:** A room or a suite of rooms within an apartment house or complex arranged, intended or designed for a place of residence of a family.
 14. **APARTMENT HOUSE:** A building or buildings containing apartments used as a place of residence for five (5) or more families.
 15. **APPLICANT:** The owner of a tract of land, or his duly designated representative, for which an amendment has been requested.
 16. **AUCTION SALES YARD:** A tract of land and accompanying buildings and/or other structures, if any, arranged or designed to be used for the sale by auction of merchandise offered on consignment.
 17. **AUTOMOTIVE AND MACHINERY REPAIR SHOPS:** A building used for the repair of motor vehicles or machinery. This shall include, but not be limited to, body and paint shops, glass service shops and auto service centers.
 18. **AUTOMOTIVE SALES AREA:** An open area, other than a street, used for display or sale of new or used motor vehicles, and where no repair work is done except minor incidental repair of motor vehicles to be displayed and sold on the premises.
 19. **AUTOMOTIVE SERVICE STATION:** Any building, structure or land used for the dispensing, sale or offering for sale at retail any motor vehicle fuels, oils, or accessories, including lubrication of motor vehicles and replacement or installation of minor parts and accessories, but not including tire recapping, major repair work such as motor replacement, body and fender repair or spray painting, provision of rental equipment, or open motor vehicle sales lots.
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20. **BASEMENT:** A space wholly or partly underground and having more than one-half of its total usable space below building grade. Underground homes constructed with berms on top and on three sides, as well as walkout construction shall not be considered as basements.
21. **BOARD OF ZONING APPEALS:** That board created herein which has the statutory authority to hear and determine appeals, exceptions and variances to these Regulations.
22. **BOARDING OR ROOMING HOUSE:** A dwelling in which roomers, lodgers and/or boarders are housed but individual cooking facilities are not provided.
23. **BUFFER AREA:** Open and unobstructed ground area of a plot in addition to any required yards or road widenings around the perimeter of any plot.
24. **BUILDABLE WIDTH:** The width of that part of a lot not included within any required open space.
25. **BUILDING:** Any site-built structure built for the support, shelter, or enclosure of persons, animals, chattels or movable property of any kind, and which is permanently affixed to the land, exclusive of fences.
26. **BUILDING, COMMUNITY:** A building used for noncommercial social, educational, or recreational activities of a neighborhood or community.
27. **BUILDING, COMPLETELY ENCLOSED:** Any building having no outside openings other than ordinary doors, windows and ventilators.
28. **BUILDING HEIGHT:** The vertical distance from the established grade to the highest point on the roof or parapet wall.
29. **BUILDING LINE:** A line, usually fixed parallel to the lot line, beyond which a building cannot extend under the terms of these Regulations. The building line is equivalent to the setback or yard line.
30. **BUILDING, PRINCIPAL:** A building in which is conducted the main or principal use of the plot on which said building is situated. In any residential district, any dwelling shall be deemed to be a principal building on the plot on which it is located.
31. **BUILDING, PUBLIC:** A publicly-owned building used or occupied for a public purpose. Public buildings include, but are not limited to: fire stations, police stations, auditoriums, gymnasiums, natatoriums, community halls, maintenance buildings, park shelters, jails or penal institutions, and schools. This shall include privately owned buildings used for the same public-type purposes.

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32. **BULKY WASTE:** Discarded or stored inoperative household appliances, disused furniture, disused equipment, junk lumber and other building debris, parts of machinery and equipment, and similar waste not ordinarily collected with compactor equipment; provided that bulky waste shall not mean abandoned or inoperable vehicles in whole or in part.
 33. **CANOPY:** Any structure, movable or stationary, attached to and deriving its support from framework, posts or other means independent of a connected structure for the purpose of shielding a platform, stoop or sidewalk from the elements; or a roof-like structure of a permanent nature which projects from the wall of a structure and overhangs the public way.
 34. **CAR WASH:** An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.
 35. **CEMETERY:** Land used for burial and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.
 36. **CHILD CARE CENTER:** A facility licensed by the State of Kansas to provide for the care of thirteen (13) or more children from two (2) weeks to sixteen (16) years of age, and which is maintained for less than twenty-four (24) hours per day.
 37. **CHURCH:** An establishment, the principal purpose of which is religious worship, but which may include such accessory uses in the main structure or in separate buildings, as Sunday School rooms, assembly rooms, kitchen, recreational facilities and/or library.
 38. **CITY:** The governing body of the City of Baldwin City, Kansas, or the delegated staff, boards or agencies thereof. City also means the lands within the corporate limits of the City of Baldwin City, Kansas.
 39. **CITY ENGINEER:** The City Engineer, or such person designated by the Governing Body to provide engineering assistance in administering the provisions of these Regulations governing areas of normal responsibilities assigned to the City Engineer.
 40. **CLEAN RUBBLE:** Inert uncontaminated construction and demolition waste which includes concrete and concrete products, reinforcing steel, asphalt pavement, brick, soil or rock.
 41. **CLINIC:** A building designed and used for the medical, dental or surgical diagnosis or treatment of patients under the care of doctors and/or nurses, with no overnight boarding.
 42. **CLUB:** Buildings and facilities owned or operated by a corporation, association, person or persons for social, educational, or recreational purposes, but not primarily for profit which inures to any individual and not primarily to render a service which is customarily carried on as a business.

43. **CLUB, MEMBERSHIP:** Membership clubs, including private clubs, as defined by K.S.A. 41-2601 et seq and succeeding amendments, including but not limited to such clubs as the American Legion, VFW, and the Elks.
44. **CLUSTER HOUSING:** The site planning technique of grouping dwelling units around courts, parking areas, common open spaces and private drives as opposed to fronting all on a public street.
45. **COMMON OPEN SPACE:** An area of land, water or combination thereof, planned for active or passive recreation, but not including areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas, or required yards. The area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.
46. **COMPREHENSIVE PLAN:** The adopted Comprehensive Plan for the City of Baldwin City, Kansas, and amendments thereto.
47. **CONDITIONAL USE:** A use of any building, structure or parcel of land that, by its nature, is perceived to require special care and attention in siting so as to assure compatibility with surrounding properties and uses. Conditional uses are allowed only after public notice, hearing, and approval as prescribed in these Regulations and may have special conditions and safeguards attached to assure that the public interest is served.
48. **CONDITIONAL USE PERMIT:** A written document of certification issued by the Zoning Administrator permitting the construction, alteration or establishment of a Conditional Use.
49. **CONDOMINIUM:** A building containing two (2) or more dwelling units which are designed and intended to be separately owned in fee under the Townhouse Ownership Act (K.S.A. 58-3710 et seq) of the State of Kansas.
50. **CONSTRUCTION/DEMOLITION LANDFILL:** A permitted solid waste disposal area used exclusively for the disposal on land of construction and/or demolition waste.
51. **CONSTRUCTION/DEMOLITION WASTE:** Waste building materials and rubble resulting from construction, remodeling, repair or demolition operations on houses, commercial buildings, other structures, pavements, curbing, bridges, and trees and brush; but not asbestos.
52. **COUNTY:** The Board of County Commissioners of Douglas County, Kansas, or its delegated staff, boards or agencies.
53. **COUNTY HEALTH OFFICER:** The Director of the County Health Department, or such person designated to administer the Health Regulations of Douglas County.

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54. **COURT:** An unobstructed open area bounded on three or more sides by the walls of a building or buildings; an OUTER COURT extends to a street or yard, and an INNER COURT does not.
 55. **DAY CARE HOME:** A facility licensed by the State of Kansas to provide for the care of not more than ten (10) children under fourteen (14) years of ages, not more than six (6) of whom are under kindergarten age, between the hours of 6:00 a.m. and 9:00 p.m. This term is further construed to include similar units operated under other names.
 56. **DENSITY:** The average number of dwelling units per acre of land, expressed in terms of "units per acre." The area is exclusive of public streets or other public dedications. (Example: 30 dwelling units occupying 4 acres of land is 7.5 units per acre.)
 57. **DETENTION CENTER:** A secure residential facility licensed by the State of Kansas, designed specifically for children who require secure custody and which provides temporary living accommodations for alleged delinquent, miscreant, wayward, truant or deprived children pending court disposition or placement in an appropriate program.
 58. **DISTANCE:** Horizontal distances unless otherwise designated.
 59. **DISTRICT:** A section or sections of the zoning jurisdiction for which the regulations governing permitted use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform.
 60. **DOG:** Any canine specie over six (6) months of age.
 61. **DORMITORY:** A building or portion thereof that contains living quarters for students, staff, or members of an accredited college, university, boarding school, theological school, hospital, religious order, or comparable organization; provided that said building is owned or managed by said organization and contains not more than one cooking and eating area.
 62. **DRINKING ESTABLISHMENT:** A premises, which may be open to the general public, where alcoholic liquor by the individual drink is served.
 63. **DWELLING:** Any building, or portion thereof, designed or used primarily for residential purposes, including residential-design manufactured homes and modular homes.
 64. **DWELLING, MULTI-FAMILY:** A building or portion thereof, arranged, intended or designed for occupancy by three (3) or four (4) families. As used herein, this may also be referred to as a triplex or quadplex.
 65. **DWELLING, SEASONAL:** A residence intended for occasional, but not permanent, occupancy.

ARTICLE 1

GENERAL PROVISIONS

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66. **DWELLING, SINGLE-FAMILY:** A building having accommodations for and occupied exclusively by one family. A residential-design manufactured home shall be considered a single-family dwelling.
 67. **DWELLING, TWO-FAMILY:** A building or portion thereof, arranged, intended or designed for occupancy by two (2) families. As used herein, this may also be referred to as a duplex.
 68. **DWELLING UNIT:** A building, or part thereof, containing complete housekeeping facilities for one family.
 69. **EASEMENT:** A grant by a property owner to specific persons or to the public to use land for a specific purpose or purposes. Also, a right acquired by prescription.
 70. **EFFICIENCY UNIT:** A dwelling unit, constructed as a part of a residential complex, having a living room of at least 220 square feet; an additional 100 square feet of living area for each occupant of such unit in excess of two (2); a separate closet; a separate bathroom containing a water closet, lavatory and bathtub or shower; and, a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front.
 71. **ESTABLISHED SETBACK:** The average setback on each street on which a lot fronts established by three (3) or more buildings; provided, only those properties that are within the same district and within 300 feet on each side of said lot along the same side of the street, but not beyond any intersecting street, are used in determining the established setback.
 72. **EXOTIC BIRDS OR ANIMALS:** Birds or animals not commonly kept domestically or that are not native to Douglas County and/or the United States. Exotic birds or animals includes, but are not limited to, bears, lions, tigers, cougars, wolves, half-breed wolves, and snakes. Birds in the ratite family, llamas and buffalo shall not be considered as exotic birds or animals.
 73. **FAMILY:** One (1) or more persons related by blood or marriage or adoption, living together as a single housekeeping unit plus usual domestic servants; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit.
 74. **FAMILY DAY CARE HOME:** A facility licensed by the State of Kansas to provide children under eighteen (18) years of age with food and lodging for less than twenty-four (24) hours per day. This term is further construed to include similar units with different names.
 75. **FARMERS MARKET:** The seasonal selling or offering for sale at retail of home-grown vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables or produce, or have taken the same on consignment for retail sale.

ARTICLE 1

GENERAL PROVISIONS

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76. **FEED LOT, COMMERCIAL:** A livestock feedlot or feedyard as defined by K.S.A. 47-1501 et seq, licensed by and operated under standards set forth by the State of Kansas.
 77. **FENCE:** An unroofed barrier or unroofed enclosing structure, including retaining walls.
 78. **FLOOD PLAIN:** That area of land subject to inundation of water as a result of what is commonly known as the 100-year flood.
 79. **FLOOR AREA:** The square foot area of all space within the outside line of a wall, including the total area of all floor levels, but excluding porches, garages, or unfinished space in a basement or cellar.
 80. **FOSTER HOME:** A facility licensed by the State of Kansas for the care of four (4) or less persons unrelated to the operator(s).
 81. **FRONT:** The part or side of any building or structure facing the street or frontage road which is used as the basis for establishing the permanent address for the building or structure.
 82. **FRONTAGE:**
 - a. **Street Frontage:** All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street; or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
 - b. **Lot Frontage:** The distance for which the front boundary line of the lot and the right-of-way are coincident.
 83. **GARAGE, PRIVATE:** An accessory building designed or used for the storage of motor vehicles owned and used by the occupants of the building to which it is accessory.
 84. **GARAGE, PUBLIC:** A building, or portion thereof, other than a private garage, designed or used for equipping, repairing, hiring, servicing, selling or storing motor vehicles.
 85. **GARAGE, STORAGE:** A building, or portion thereof, designed or used exclusively for housing motor vehicles, other than trucks and commercial vehicles, pursuant to previous contract or arrangement.
 86. **GOVERNING BODY:** The City Council of the City of Baldwin City, Kansas.
 87. **GROUP HOME:** Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability who need not be related by blood or marriage and not to exceed two (2) staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of the State of Kansas. For purposes of this definition, disability shall mean:

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- a. **DISABILITY:** A condition, with respect to a person, which means:
1. A physical or mental impairment which substantially limits one or more of such person's major life activities;
 2. A record of having such an impairment; or,
 3. Being regarded as having such an impairment.

Such terms do not include current, illegal use or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).

88. **GROUP DAY CARE HOME:** A facility licensed by the State of Kansas for the care of seven (7) to twelve (12) children under fourteen (14) years of age, and which is maintained for less than twenty-four (24) hours per day.
89. **GUEST HOUSE:** Living quarters within a detached accessory building located on the same premises with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utilities and not rented or otherwise used as a separate dwelling.
90. **HAZARDOUS WASTE:** Any waste meeting the definition of K.S.A. 65-3430 and amendments thereto.
91. **HAZARDOUS WASTE DISPOSAL FACILITY:** Any facility which meets the requirements as defined in K.S.A. 65-3430, as amended.
92. **HIGHWAY, LIMITED ACCESS:** A freeway or expressway providing for through traffic in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over such trafficway.
93. **HOME OCCUPATION:** An occupation or business activity which is clearly incidental and secondary to the use of the premises for dwelling.
94. **HOSPITAL:** A building or group of buildings having room facilities for one or more abiding patients, used for providing services for the in-patient medical and surgical care of sick or injured humans, and which may include related facilities such as laboratories, out-patient department, training facilities, central service facilities, and staff offices; provided, however, that such related facilities must be incidental and subordinate to the main use and must be an integral part of the hospital operation.
95. **HOTEL:** A building, or portion thereof, or a group of buildings, which provides sleeping accommodations for transients with or without meals, whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court, or otherwise.

96. **INDUSTRIAL LANDFILL:** A permitted solid waste disposal area used exclusively for the disposal on land of industrial solid waste.
97. **INDUSTRIAL PARK:** A special or exclusive type of planned industrial area designated and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors. Industrial parks may be promoted or sponsored by private developers, community organizations, or governmental organizations.
98. **INDUSTRIAL SOLID WASTE:** Non-toxic, non-hazardous solid waste generated from industrial processing and acceptable as material for disposal in an industrial landfill as determined by the Kansas Department of Health and Environment.
99. **INTENSITY:** The degree or level of concentration to which land is used for commercial, industrial or any other nonresidential purpose.
100. **JUNK:** Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, bulky waste, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.
101. **JUNKYARD:** An establishment which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of a motor vehicle graveyard. This term shall include salvage yards.
102. **KENNEL, BOARDING:** Any place, area, building or structure where dogs (including those under one year of age) are boarded, housed, cared for, fed or trained by other than the owner.
103. **KENNEL, BREEDER:** Any place, area, lot, building or structure where more than four (4) dogs are kept for any purposes.
104. **LABORATORY, MEDICAL:** An establishment which provides bacteriological, biological, medical, x-ray, pathological and other similar analytical or diagnostic services.
105. **LANDSCAPING:** The improvement of a lot, parcel or tract of land with grass, shrubs and/or trees. Landscaping may include pedestrian walks, flowerbeds, ornamental features such as fountains, statuary, and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.
106. **LAUNDRY:** An establishment where commercial laundry and dry cleaning work is undertaken.
107. **LAUNDRY, SELF-SERVICE:** An establishment equipped with individual coin-operated washing, drying and/or dry cleaning machines.
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- 108. LIVESTOCK SALES YARD:** An enclosure or structure designed or used for holding livestock for purpose of sale or transfer by auction, consignment, or other means.
- 109. LOADING SPACE OR LOADING BERTH:** A space within the main building or on the same lot as the main building providing for the standing, loading, or unloading of motor vehicles.
- 110. LOT:** A parcel of land occupied or intended for occupancy by a use permitted in these Regulations, including one (1) main building or unit group of buildings together with permitted accessory buildings and required yard areas and parking spaces, having its principal frontage upon a public street. A lot may include one (1) or more platted lots or metes and bounds described tracts, but must be under single ownership and, when more than one (1) parcel, be contiguous.
- 111. LOT AREA:** The area of a horizontal plane bounded by the front, side and rear lot lines, excluding any road right-of-way or road easements.
- 112. LOT, CORNER:** A lot abutting upon two or more streets at their intersection.
- 113. LOT COVERAGE:** The percentage of a lot which, when viewed directly from above, would be covered by a structure or structures or any part thereof, excluding projecting roof eaves.
- 114. LOT, DEPTH OF:** The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.
- 115. LOT, DOUBLE FRONTAGE:** A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.
- 116. LOT INTERIOR:** A lot whose side line or lines do not abut upon any street.
- 117. LOT LINES:** The lines bounding a lot as defined herein.
- 118. LOT OF RECORD:** A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Register of Deeds, or a parcel of land, the deed of which was recorded prior to the adoption of these Regulations.
- 119. LOT, WIDTH OF:** The distance, measured on a horizontal plane, between the side lot lines, measured at right angles to the lot depth at the established front building line.
- 120. LOT, ZONING:** A parcel or tract of land used, developed, or built as a unit under single ownership or control. Said zoning lot may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof.
- 121. MANUFACTURE:** Any method of processing, developing, fabricating or assembling either raw material, semi-finished materials or parts into semi-finished or finished products.
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- 122. MANUFACTURED HOME:** A dwelling unit substantially assembled in an off-site manufacturing facility for installation or assembly at the dwelling site, bearing a label certifying that it was built in compliance with the current edition of the National Manufactured Home Construction and Safety Standards established by 42 U.S.C. 5403, and generally known as the HUD Code.
- 123. MANUFACTURED HOME PARK:** An area, parcel, tract, or plot of ground equipped as required for support of manufactured homes and used or intended to be used by two or more occupied manufactured homes, provided the manufactured home spaces shall not be sold or offered for sale individually. The term "manufactured home park" does not include sale lots on which unoccupied manufactured homes, whether new or used, are parked for the purpose of storage, inspection or sale.
- 124. MANUFACTURED HOME SALES AREA:** An open space, other than a street, used for display or sale of new or used manufactured homes and where no repair work is done except minor incidental repair of manufactured homes to be displayed and sold on the premises.
- 125. MANUFACTURED HOME, RESIDENTIAL-DESIGN:** A manufactured home on a permanent foundation which has (A) minimum dimensions of 22 body feet in width, (B) a pitched roof, and (C) siding and roofing materials which are customarily used on site-built homes.
- 126. MOBILE HOME:** A transportable, factory-built structure designed to be used as a year-round residential dwelling, built prior to enactment of the National Manufactured Home Construction and Safety Standards Act, which became effective June 15, 1976, or which fails to meet this standard.
- 127. MODULAR HOME:** A dwelling structure located on a permanent foundation and connected to public utilities consisting of preselected, prefabricated units or modules, and transported to and/or assembled on the site of its foundation; in contradistinction to a dwelling structure which is custom-built on the site of its permanent location, and also in contradistinction to a manufactured home or a residential-design manufactured home.
- 128. MOTOR HOME:** A portable dwelling designed and constructed as an integral part of a self-propelled vehicle used for recreation.
- 129. MOTOR VEHICLE:** A motorized vehicle with rubber tires for use on highways, including passenger cars, pick-ups and trucks.

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- 130. MOTOR VEHICLE GRAVEYARD:** Any establishment which is maintained, used, or operated for storing, keeping, buying, or selling three (3) or more wrecked, scrapped, ruined, dismantled or inoperative motor vehicles; provided, however, such term shall not include any location where motor vehicle bodies are placed along stream banks for purposes of bank stabilization and soil erosion control, if such placement conforms with guidelines established by the Chief Engineer of the Division of Water Resources of the State Board of Agriculture and has been permitted accordingly.
- 131. MOTOR VEHICLE, INOPERABLE:** Any vehicle that is unable to operate or move under its own power. It shall also mean any vehicle that is in an abandoned, wrecked, dismantled, scrapped, junked or partially dismantled condition which includes having uninflated tires, no wheels, or lacking other parts necessary for the normal operation of the vehicle. It shall also mean any vehicle that because of mechanical defects, a wrecked or partially wrecked frame or body or dismantled parts, cannot be operated in a normal, and safe manner. An inoperable vehicle shall not include vehicles needing only the installation of a battery or the addition of fuel in order to operate.
- 132. NONCONFORMING BUILDINGS, LAND AND/OR USE:** The use of a building or land which was lawful at the time these Regulations became effective but which, because of the passage of these Regulations, does not conform to the regulations of the district in which it exists.
- 133. NONCONFORMING LOT:** An unimproved lot which does not comply with the lot size requirements for any permitted use in the district in which it is located.
- 134. NOXIOUS MATTER:** Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.
- 135. NURSERY:** Any land used to raise trees, shrubs, flowers and other plants for sale or for transporting.
- 136. NURSING OR CONVALESCENT HOME:** An institution or agency licensed by the State for the reception, board, care or treatment of five (5) or more unrelated individuals, but not including group boarding homes for minors or group homes for adults.
- 137. OPEN SPACE:** Useable open space designed and intended for use by all residents of a residential area, including publicly dedicated space.
- 138. OUTDOOR STORAGE:** The storage of goods and materials outside of any building or structure, but not including storage of a temporary or emergency nature.
- 139. OVERLAY DISTRICT:** A district which acts in conjunction with the underlying zoning district or districts.
- 140. OWNER:** Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to a tract of land.
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141. **PACKAGE LIQUOR STORE:** An establishment in which alcoholic beverages are sold for consumption off the premises.
142. **PARKING LOT:** An area, other than a private parking area, street or alley, used for parking of motor vehicles and available for public or semi-public use.
143. **PARKING SPACE:** Any area surfaced for all-weather use, including gravel, sand, or comparable materials, used for the purpose of storing one parked motor vehicle.
144. **PERSON:** Any individual, partnership, joint venture, corporation, or other business or legal entity.
145. **PLANNING COMMISSION:** The Planning Commission of Baldwin City, Kansas.
146. **PRESCHOOL:** A facility licensed by the State of Kansas to provide daytime care and instruction for children between the age of thirty (30) months and the age at which the children are eligible to attend kindergarten. This term is further construed to include "Day Nursery School" and other similar uses.
147. **RECREATIONAL EQUIPMENT:** An item which is not used in connection with customary accessory residential uses on a lot. Included in the meaning of recreational equipment are such large items as slide-in campers, boat trailers, hang gliders, ski jets, houseboats, pontoons, and boats over fourteen (14) feet in length which require a trailer for transportation.
148. **RECREATIONAL OR SPORTS-RELATED ACTIVITIES OR FACILITIES:** Any lot, plot, parcel or tract of land and/or water; and/or any building or structure, or combination thereof; planned, intended or designed for recreational use. Said activities and/or facilities shall include, but not be limited to, such things as: athletic fields, ball diamonds, golf courses, golf driving ranges, miniature golf courses, swimming pools, natatoriums, tennis courts, racquetball courts, recreational lakes, marinas, racetracks, drag strips, gun clubs, hunting reserves, sporting clay ranges, private shooting ranges, and all common appurtenant accessory activities and facilities such as lighting, bleachers, and concession stands, etc.
149. **RECREATIONAL VEHICLE:** A vehicular-type unit built on or for use on a chassis and designed as living quarters, both permanent and temporary, for recreational, camping or travel use, and which has its own motive power, or is mounted on, or which can be drawn by another vehicle. The term recreational vehicle shall include, but not be limited to, motor homes, travel trailers, camper trailers, pickup truck campers, hauling trailers, and camper buses.
150. **RECREATIONAL VEHICLE CAMPGROUND:** A lot or tract of land designed for occupancy by recreational vehicles for temporary or transient living purposes, including the use of camping spaces for tents.
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ARTICLE 1

GENERAL PROVISIONS

151. **RESIDENTIAL CENTER:** A non-secure facility licensed by the State of Kansas providing residential care for more than ten (10) persons unrelated to the operator(s).
152. **RESTAURANT:** A building wherein food is prepared and sold to the public for human consumption. Restaurant includes, but is not limited to, cafe, cafeteria, grill, pizza parlor, diner, snack shop, hamburger shop and steak house.
153. **RIGHT-OF-WAY:** A strip of land dedicated or reserved for use as a public way which normally includes streets, sidewalks, or other public utility or service area.
154. **SALE, RETAIL:** The sale of goods, merchandise and/or commodities to the ultimate consumer.
155. **SALE, WHOLESALE:** The sale of goods for resale, or the sale of goods produced or processed from raw materials which require bulk delivery of the product.
156. **SANITARY LANDFILL:** A disposal site in which the method of disposing of solid waste and/or industrial solid waste is by landfill, dump or pit and which has a solid waste disposal permit issued under K.S.A. 65-3401 et seq, and amendments thereto.
157. **SCHOOL:** Any building or buildings housing public or private elementary, junior high, high school, college, university, post-graduate, technical or vocational school, offering courses in general instruction at least five days per week and seven months per year.
158. **SCREENING:** Fencing or vegetation maintained for the purpose of concealing from view.
159. **SETBACK:** The distance between a building and the lot line, or road easement line, whichever provides the desired minimum distance.
160. **SIGN:** See Article 23.
161. **SOLID WASTE:** Garbage, refuse and other discarded materials including, but not limited to solid, semisolid, sludge, liquid and contained gaseous waste materials resulting from commercial, agricultural and domestic activities. Such term shall not include hazardous wastes.
162. **STOCKYARD, COMMERCIAL:** A penned enclosure, or structure, where livestock are maintained temporarily for the purpose of slaughtering, marketing or shipping.
163. **STORE OR STORAGE:** As related to waste tires, means the placing of waste tires in a manner that does not constitute disposal of the waste tires. Storage includes the beneficial use of waste tires as fences, silo covers and erosion control, and such other beneficial uses determined not to create health or environmental risks by the Secretary of Health and Environment of the State of Kansas.

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164. **STORY:** That portion of a building, other than a basement, included 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.
165. **STORY, HALF:** A story under a gable, hip or gambrel roof of which the wall plates on at least two opposite exterior walls are not more than 2 feet above the floor of such story.
166. **STREET:** An easement or right-of-way, other than an alley, which provides principal access to adjacent properties.
167. **STRUCTURE:** Anything constructed or erected which requires location on the ground, or attached to something having a location on the ground.
168. **SWIMMING CLUB:** A pool and accessory building operated for members and their guests, whether or not operated for gain.
169. **SWIMMING POOL, PRIVATE:** A pool which is an accessory use to a residence and for the exclusive use of the occupants of the residential building and their guests.
170. **SWIMMING POOL, PUBLIC:** A pool and accessory buildings, generally owned and operated by a governmental entity, whether open or enclosed, and for use by the general public.
171. **TAVERN:** An establishment in which cereal malt beverages are sold or served to customers.
172. **TOWNHOUSE:** A single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by party walls or are located immediately adjacent thereto with no visible separation between walls or roofs.
173. **TRANSFER STATION:** A facility, including land and buildings, used for the handling and processing of solid waste to be bundled, bailed or otherwise packaged for transport to another site for disposal in a solid waste landfill. Transfer station can include material recovery operations, recycling facilities and any other ancillary and/or accessory operation associated with the management of solid waste.
174. **TRAVEL TRAILER:** A structure, not to exceed nine feet in width, designed to provide temporary living quarters for recreational, camping or travel use, constructed with integral wheels to make it mobile and/or towable by a motor vehicle.
175. **USE:** The specific purpose for which land or a building is used.
176. **USEABLE OPEN SPACE:** Land or water which is free of buildings, structures and/or substantial improvements and which is readily accessible by the public or residents of a residential development. Useable open space does not include streets, alleys, off-street parking or loading areas, roofs, or slopes in excess of 50 percent.
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177. **VISIBILITY TRIANGLE:** The triangular area formed by the intersecting street right-of-way lines and a straight line joining said street right-of-way lines at points which are thirty (30) feet distant from the point of intersection, measured along said right-of-way lines.
178. **WASTE TIRE:** A whole tire that is no longer suitable for its original intended purpose because of wear, damage or defect, as defined in K.S.A. 65-3424, et seq, and amendments thereto.
179. **WASTE TIRE ABATEMENT:** The processing or removing to an approved storage site of waste tires which are creating a danger or nuisance.
180. **WASTE TIRE BENEFICIAL USE:** The use or storage of waste tires in a way that creates an on-site economic benefit, other than from processing or recycling, to the owner of the tires. This shall not include the disposal of waste tires on the owners land simply to avoid proper disposal as prescribed by these Regulations and/or state law.
181. **WASTE TIRE COLLECTION CENTER:** A site where used or waste tires are collected from the public prior to being offered for recycling or disposal.
182. **WASTE TIRE PROCESSING FACILITY:** A site where equipment is used to cut, burn or otherwise alter whole waste tires so that they are no longer whole.
183. **WASTE TIRE SITE:** A site at which 1,000 or more whole tires are accumulated.
184. **WIND ENERGY CONVERSION SYSTEM:** The combination of mechanical and structural elements used to produce electricity by converting the kinetic energy of wind to electrical energy. Wind Energy Conversion Systems consist of the turbine apparatus and any other buildings, support structures and other related improvements necessary for the generation of electric power from wind.
185. **WIND ENERGY CONVERSION SYSTEM, COMMERCIAL:** A single Wind Energy Conversion System exceeding 25 kW or 100 feet or more in height above grade, or more than one Wind Energy Conversion System of any size proposed and/or constructed by the same person or group of persons on the same or adjoining parcels or as a unified or single generating system.
186. **WIND ENERGY CONVERSION SYSTEM HEIGHT:** The distance measured from the ground level at the base of the tower structure to the highest point on the Wind Energy Conversion System, including the rotor blades.
187. **WIND ENERGY CONVERSION SYSTEM, SMALL:** A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 25 kW, which is less than 100 feet in height above grade and which is intended to primarily reduce on-site consumption of utility power.
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- 188. **YARD:** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from the general ground level of the graded lot upward; provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.
- 189. **YARD, FRONT:** A yard extending across the full width of the lot, the depth of which is the least distance between the lot line or road easement or right-of-way line and the front building line.
- 190. **YARD, REAR:** A yard extending across the full width of the lot between the rear building line and the rear lot line, the depth of which is the least distance between the rear lot line and the rear building line.
- 191. **YARD, SIDE:** A yard between the side building line and the side line of the lot and extending from the front yard to the rear yard and being the least distance between the side lot line and the side building line.
- 192. **ZONE OR DISTRICT:** A section of the zoning area for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land and open space about buildings are herein established.
- 193. **ZONING ADMINISTRATOR:** The person or persons authorized and empowered by the Governing Body to administer the requirements of these Regulations.

1-105 Districts: The following districts are created in order to regulate and restrict the use of land and the location of buildings erected or altered for specific uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit population density and the intensity of the use of lot areas, and to regulate and determine the areas of yards, courts, and other open spaces surrounding such buildings. The City of Baldwin City, Kansas, is hereby divided into districts of which they shall be in number, known as:

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| “RLD” | Residential Low Density District |
| "R-1A" | Single-Family Residential District |
| "R-1B" | Single-Family Residential District |
| “R-1C” | Single-Family Residential District |
| “R-2” | Two-Family Residential District |
| "RP-3" | Planned Medium Density Residential District |
| “U” | University District |
| “HOTO” | Historic Old Town Overlay District |
| "CP-O" | Planned Commercial Office District |
| “CP-1” | Planned Limited Commercial District |
| "CP-2" | Planned General Commercial District |
| "CP-3" | Planned Central Business District |
| "CP-4" | Planned Highway Service Commercial District |
| "IP-1" | Planned Light Industrial District |
| "IP-2" | Planned Medium Industrial District |

ARTICLE 1

GENERAL PROVISIONS

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|-------|-----------------------------|
| "PUD" | Planned Unit Development |
| "FP" | Floodplain Overlay District |

The above listing shall be considered as listing the districts in their respective order from most restrictive to least restrictive. Requests for "rezoning" may be approved for a more restrictive classification than that requested based on the above listing.

Such land, and the district classification thereof, shall be shown on the official map designated as the "Zoning District Boundary Map of Baldwin City, Kansas." Such Zoning District Boundary Map, and all symbols, notations, dimensions, and references shown thereon pertaining to such districts shall be as much a part of these Regulations as if it were fully described herein, and shall be filed as part of these Regulations with the Zoning Administrator of Baldwin City, Kansas. Said Map shall be available for inspection in the office of the Zoning Administrator as well as in the office of the City Clerk, and any later alterations of the Map, adopted by amendment as provided by these Regulations, shall be filed and made available for public reference. The above stated map shall hereinafter be referred to as the "map" in this document.

When uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of these Regulations, the following rules shall apply:

1. In cases where a boundary line is given a position within a street or alley, or navigable or non-navigable stream, it shall be deemed to be in the center of the street, alley, or stream. If the actual location of such street, alley, or stream varies slightly from the location as shown on the maps, then the actual location shall control.
2. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.
3. In cases where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from a railroad shall be measured from the center of such right-of-way.
4. Where the district boundaries are not otherwise indicated and where the property has been, or may hereafter be, divided into blocks and lots, the district boundaries shall be construed to be the lot lines. Where the districts designated on the maps accompanying and made a part of these Regulations are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the maps or by Code of the Governing Body.
5. In unsubdivided property, unless otherwise indicated, the district boundary line on the map accompanying and made a part of these Regulations shall be determined by the use of the scale contained on such map.
6. When a lot held in single ownership on the effective date of these Regulations is divided by a district boundary line, the entire lot shall be construed to be within the less restrictive district; unless otherwise indicated on the map or by Code of the Governing Body.

7. Where a district boundary follows a street, alley, watercourse or other right-of-way, in case of the vacation of said street, alley, watercourse or other right-of-way, the abutting zoning classification of each side thereof shall automatically be extended to the center line of said vacated street, alley, watercourse or right-of-way. Two districts shall be deemed to adjoin even though separated by a public way or portion thereof.

1-106 General Regulations Governing All Zoning Districts:

1. Except as hereinafter provided:
 - a. No land may be used except for a purpose permitted in the district in which it is located.
 - b. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or part thereof be used, except for a use permitted in the district in which the building is located.
 - c. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered to exceed the height, area and bulk regulations, the parking regulations, or the off-street loading regulations herein established for the district in which the building is located.
2. If a use in any structure is hereafter changed to another, then the new use must comply with the use regulations of these Regulations.
3. The minimum yards, parking spaces, open spaces, including lot area per family, required by these Regulations for each and every building existing at the time of the passage of these Regulations, or of any building hereafter erected, shall not be encroached upon or considered as required yard or open space for any other building, nor shall any lot area be reduced below the requirements of these Regulations.
4. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and, except as hereinafter provided, in no case shall there be more than one main building on one lot.
5. No structure shall hereafter be built or moved, and no structure or land shall hereafter be used, occupied or designed for use or occupancy unless the minimum off-street parking and loading spaces required by Articles 21 and 22 are provided. No structure or use already established on the effective date of these Regulations shall be enlarged unless the minimum off-street parking and loading spaces which would be required by Articles 21 and 22 are provided for the whole structure or use as enlarged.
6. Nothing contained in these Regulations shall be deemed to be consent, license or permit to use any property; to locate, construct or maintain any structure or facility; or to carry on any trade, industry, occupation or activity.

7. Zoning of Annexed Lands: Unless land is rezoned at the time of its annexation into the City, the land shall retain its zoning status under Douglas County Zoning Regulations until such time as the property is rezoned pursuant to the provisions of these Regulations. The City shall have the authority to secure civil remedies for violations of such Douglas County Zoning Regulations to the same extent that it may secure civil remedies for violations of these Regulations pursuant to Article 32, herein.

1-107 Vesting of Development Rights: The rights of landowners of properties platted or subdivided for residential purposes prior to the adoption of these Regulations shall be protected from the requirements of these Regulations for use of said land for the intended residential purposes for a period of five (5) years from the time in which such property was first platted or subdivided, provided:

1. Verifiable evidence is presented showing the date in which said plat or subdivision of land was first created. Acceptable evidence shall be:
 - a. signed and sealed plats recorded with the Register of Deeds;
 - b. recorded deeds conveying land;
 - c. recorded Affidavits of Equitable Interest on contracts for deed for said tracts of land.
2. Within said five (5) year period actual sales occur resulting in separate owners on the tracts of land.
3. The division of land was legally done in conformance with the then Baldwin City Subdivision Regulations.

Except for lots in a recorded plat, any remaining contiguous tracts of land within the area divided under this rule held in common ownership at the conclusion of said five (5) year period shall be considered an unplatted lot, as defined in these Regulations, and subsequent divisions of said lot shall be in conformance with the Subdivision Regulations then in effect.

Properties divided or platted for any use other than residential purposes shall not be permitted to develop or further develop except in conformance with these Regulations and the Baldwin City Subdivision Regulations. Persons who obtained a validly issued permit under the previous Baldwin City Zoning Ordinance shall be permitted to develop the property so long as the permit issued under the previous Baldwin City Zoning Ordinance does not expire. Failure to start construction under said permit before the expiration of the permit shall not protect the owner from the provisions of these Regulations, the Baldwin City Subdivision Regulations, or any other applicable Codes or regulations then in effect.

Sections:**2-101 Application****2-102 Use Regulations****2-103 Performance Standards****2-104 Parking Regulations****2-105 Off-Street Loading Regulations****2-106 Sign Regulations****2-107 Height, Area and Bulk Regulations****2-108 Supplementary Height, Area and Bulk Regulations****2-109 Supplementary Use Regulations**

2-101 Application: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "RLD" Residential Low Density District. The purpose of this District is to provide for the platted development of low-density residential neighborhoods that retain the character of the basically rural area. This district is limited to those areas of Baldwin City where adequate water, sewage disposal and other infrastructure does not exist and is not anticipated to be extended. The density of any individual proposed development shall be determined by the adequacy of the site to meet the development standards and policies of these and all other Baldwin City and Douglas County rules and regulations, including but not limited to the Environmental/Sanitary Code, soil suitability classification, and other such factors that will justify and support such proposed density. The burden of proof for such proposed density shall be on the person proposing the development and the City may require any and all such proof deemed necessary before any approval of the project may be granted. Other development standards as outlined within the City of Baldwin City Subdivision Regulations shall be met in order for further development under this District to occur; especially the requirement of paved streets.

2-102 Use Regulations: In District "RLD" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Group Homes as defined in these Regulations.
3. Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classification yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding and watering stations.

2-103 Performance Standards: The Performance Standards for permitted uses are contained in Article 20 of these Regulations.

2-104 Parking Regulations: The Parking Regulations for permitted uses are contained in Article 21 of these Regulations.

2-105 Off-Street Loading Regulations: The Off-Street Loading Regulations for permitted uses are contained in Article 22 of these Regulations.

2-106 Sign Regulations: The Sign Regulations for permitted uses are contained in Article 23 of these Regulations.

2-107 Height, Area and Bulk Regulations: In the "RLD" Residential Low Density District, the minimum dimensions of yards required along designated major roads and highways in Reno County shall be as follows:

1. **Height:** No buildings or structures shall exceed 35 feet in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet or a minimum of 70 feet from the centerline of the existing right-of-way, whichever is greater.
3. **Side Yard:** There shall be a side yard on each side of a dwelling. The depth of the side yard shall be at least 10 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Minimum Lot Size and Dimensions:** Every lot hereafter created shall provide a minimum lot area of 43,560 square feet or one (1) acre, but not more than a maximum lot area of 130,680 square feet or three (3) acres. The minimum width of a lot shall be 120 feet. The minimum depth of a lot shall be 250 feet. There shall not be a lot depth to lot width ratio greater than 4:1 (i.e. the depth of the lot cannot be greater than 4 times the width of the lot). In the event of unusual lot configurations, the Zoning Administrator shall determine whether the lot dimensions meet the spirit and intent of this requirement.
6. **Lot Area Per Dwelling Unit:** Every dwelling hereafter erected, constructed, reconstructed, moved or altered shall be on a lot with a minimum lot area of 43,560 square feet or one (1) acre, but not more than a maximum lot area of 130,680 square feet or three (3) acres per dwelling unit.

The Area and Bulk Regulations are also set forth in the chart of Article 24. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

2-108 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 25 of these Regulations.

2-109 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 26 of these Regulations.

Sections:**3-101 Application****3-102 Use Regulations****3-103 Performance Standards****3-104 Parking Regulations****3-105 Off-Street Loading Regulations****3-106 Sign Regulations****3-107 Height, Area and Bulk Regulations****3-108 Supplementary Height, Area and Bulk Regulations****3-109 Supplementary Use Regulations**

3-101 Application: The regulations set forth in this Article, or set forth elsewhere in this code when referred to in this Article, are the regulations in the "R-1A" Single-Family Residential District. The purpose of this District is to provide for single-family residential development of a moderately spacious character where public utilities are present to support the development. The District is also designed to protect and preserve existing development of a similar character.

3-102 Use Regulations: In District "R-1A" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Group homes, as defined in these Regulations.
3. Residential-design manufactured homes.
4. Railroad right-of-ways, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding, and watering stations.
5. Temporary buildings, the uses of which are incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision, but not for use as a residence; and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period or one year from the time of erection of such temporary buildings, whichever is sooner.

3-103 Performance Standards: The Performance Standards for permitted uses are contained in Article 20 of these Regulations.

3-104 Parking Regulations: The Parking Regulations for permitted uses are contained in Article 21 of these Regulations.

ARTICLE 3

"R-1A" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS

3-105 Off-Street Loading Regulations: The Off-Street Loading Regulations for permitted uses are contained in Article 22 of these Regulations.

3-106 Sign Regulations: The Sign Regulations are contained in Article 23 of these Regulations.

3-107 Height, Area and Bulk Regulations: In the "R-1A" Single-Family Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 35 feet in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a dwelling. No side yard shall be less than 10 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 80 feet. The minimum depth of a lot shall be 150 feet.
6. **Lot Area per Family:** Every dwelling hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 16,000 square feet per family.

The Area and Bulk Regulations are also set forth in the chart of Article 24. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

3-108 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 25 of these Regulations.

3-109 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 26 of these Regulations.

Sections:**4-101 Application****4-102 Use Regulations****4-103 Performance Standards****4-104 Parking Regulations****4-105 Off-Street Loading Regulations****4-106 Sign Regulations****4-107 Height, Area, and Bulk Regulations****4-108 Supplementary Height, Area and Bulk Regulations****4-109 Supplementary Use Regulations**

4-101 Application: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "R-1B" Single-Family Residential District. The purpose of this District is to provide for single-family residential development of a higher density, serviced by public utilities, and accessible to public infrastructure capable of supporting the development. The District is also designed to protect and preserve existing development of a similar character.

4-102 Use Regulations: In District "R-1B" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Group homes, as defined in these Regulations.
3. Residential-design manufactured homes.
4. Railroad right-of-ways, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding, and watering stations.
5. Temporary buildings, the uses of which are incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision, but not for use as a residence; and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period or one year from the time of erection of such temporary buildings, whichever is sooner.

4-103 Performance Standards: The Performance Standards for permitted uses are contained in Article 20 of these Regulations.

4-104 Parking Regulations: The Parking Regulations for permitted uses are contained in Article 21 of these Regulations.

ARTICLE 4

"R-1B" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS

4-105 Off-Street Loading Regulations: The Off-Street Loading Regulations for permitted uses are contained in Article 22 of these Regulations.

4-106 Sign Regulations: The Sign Regulations are contained in Article 23 of these Regulations.

4-107 Height, Area, and Bulk Regulations: In the "R-1B" Single-Family Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 35 feet in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a dwelling. The depth of the side yard shall be at least 6 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 60 feet. The minimum depth of a lot shall be 100 feet.
6. **Lot Area Per Family:** Every dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 8,000 square feet per family.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 24. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

4-108 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 25 of these Regulations.

4-109 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 26 of these Regulations.

Sections:**5-101 Application****5-102 Use Regulations****5-103 Performance Standards****5-104 Parking Regulations****5-105 Off-Street Loading Regulations****5-106 Sign Regulations****5-107 Height, Area, and Bulk Regulations****5-108 Supplementary Height, Area and Bulk Regulations****5-109 Supplementary Use Regulations**

5-101 Application: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "R-1C" Single-Family Residential District. The purpose of this District is to protect and preserve existing single-family development on small lots in the older and/or original portion of the city. Creation of new developments of densities allowed within this district are prohibited. This district is not to be used except to accommodate existing development.

5-102 Use Regulations: In District "R-1C" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Group homes, as defined in these Regulations.
3. Residential-design manufactured homes.
4. Railroad right-of-ways, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding, and watering stations.
5. Temporary buildings, the uses of which are incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision, but not for use as a residence; and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period or one year from the time of erection of such temporary buildings, whichever is sooner.

5-103 Performance Standards: The Performance Standards for permitted uses are contained in Article 20 of these Regulations.

5-104 Parking Regulations: The Parking Regulations for permitted uses are contained in Article 21 of these Regulations.

5-105 Off-Street Loading Regulations: The Off-Street Loading Regulations for permitted uses are contained in Article 22 of these Regulations.

5-106 Sign Regulations: The Sign Regulations are contained in Article 23 of these Regulations.

5-107 Height, Area, and Bulk Regulations: In the "R-1C" Single-Family Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 35 feet in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a dwelling. The depth of the side yard shall be at least 6 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 40 feet. The minimum depth of a lot shall be 100 feet.
6. **Lot Area Per Family:** Every dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 5,600 square feet per family.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 24. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

5-108 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 25 of these Regulations.

5-109 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 26 of these Regulations.

Sections:

- 6-101 Application**
- 6-102 Use Regulations**
- 6-103 Performance Standards**
- 6-104 Parking Regulations**
- 6-105 Off-Street Loading Regulations**
- 6-106 Sign Regulations**
- 6-107 Height, Area, and Bulk Regulations**
- 6-108 Supplementary Height, Area and Bulk Regulations**
- 6-109 Supplementary Use Regulations**

6-101 Application: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "R-2" Two-Family Residential District. The purpose of this District is to provide for areas of single-family and two-family residential development and related residential activities.

6-102 Use Regulations: In District "R-2" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. All uses permitted in the "R-1B" Single-Family Residential District.
2. Two-family dwellings.

6-103 Performance Standards: The Performance Standards for permitted uses are contained in Article 20 of these Regulations.

6-104 Parking Regulations: The Parking Regulations for permitted uses are contained in Article 21 of these Regulations.

6-105 Off-Street Loading Regulations: The Off-Street Loading Regulations for permitted uses are contained in Article 22 of these Regulations.

6-106 Sign Regulations: The Sign Regulations are contained in Article 23 of these Regulations.

6-107 Height, Area, and Bulk Regulations: In the "R-2" Single-Family Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 35 feet in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a dwelling. The depth of the side yard shall be at least 6 feet.

4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 40 feet. The minimum depth of a lot shall be 120 feet.
6. **Lot Area Per Family:** Every dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 7,000 square feet per family for single-family dwellings and 3,500 square feet per family for two-family dwellings.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 24. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

6-108 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 25 of these Regulations.

6-109 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 26 of these Regulations.

ARTICLE 7 "RP-3" PLANNED MULTI-FAMILY RESIDENTIAL DISTRICT REGULATIONS

Sections:

- 7-101 Application
- 7-102 Use Regulations
- 7-103 Plan Approval Guidelines
- 7-104 Performance Standards
- 7-105 Parking Regulations
- 7-106 Off-Street Loading Regulations
- 7-107 Sign Regulations
- 7-108 Height, Area, and Bulk Regulations
- 7-109 Supplementary Height, Area, and Bulk Regulations
- 7-110 Supplementary Use Regulations

7-101 Application: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "RP-3" Planned Multi-Family Residential District. The purpose of this District is to permit multi-family dwellings within existing neighborhoods as in-fill development under strict site design and to accommodate new developments of multi-family dwellings adjacent to, or near areas within the community where it has planned for higher density development.

7-102 Use Regulations: In District "RP-3" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Two-Family dwellings.
2. Multi-family dwellings.

7-103 Plan Approval Guidelines: The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 19 of these Regulations.

7-104 Performance Standards: The Performance Standards for permitted uses are contained in Article 20 of these Regulations.

7-105 Parking Regulations: The Parking Regulations for permitted uses are contained in Article 21 of these Regulations.

7-106 Off-Street Loading Regulations: The Off-Street Loading Regulations for permitted uses are contained in Article 22 of these Regulations.

7-107 Sign Regulations: The Sign Regulations are contained in Article 23 of these Regulations.

7-108 Height, Area, and Bulk Regulations: In the "RP-2" Planned Multi-Family Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

ARTICLE 7 "RP-3" PLANNED MULTI-FAMILY RESIDENTIAL DISTRICT REGULATIONS

1. **Height:** Buildings or structures shall not exceed 35 feet in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a dwelling. The depth of the side yard shall be at least 6 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 40 feet. The minimum depth of a lot shall be 120 feet.
6. **Lot Area Per Family:** Every two-family dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 3,500 square feet per family or 7,000 square feet per building. Every multi-family dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 3,500 square feet per family.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 24. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

7-109 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 25 of these Regulations.

7-110 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 26 of these Regulations.

Sections:

- 8-101 Application**
- 8-102 Use Regulations**
- 8-103 Plan Approval Guidelines**
- 8-104 Performance Standards**
- 8-105 Parking Regulations**
- 8-106 Off-Street Loading Regulations**
- 8-107 Sign Regulations**
- 8-108 Height, Area, and Bulk Regulations**
- 8-109 Supplementary Height, Area, and Bulk Regulations**
- 8-110 Supplementary Use Regulations**

8-101 Application: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "U" Planned University District. The two principal functions of this district are: (1) to give Baker University oriented functions more flexibility than they would have if mapped in another district; and (2) to permit the establishment of the types of uses which ordinarily cluster about a university, but which are not located on university property. The "U" Planned University District is established for the purpose of assuring that the growth and expansion of the Baker University Campus and the development of the city, may be undertaken in a harmonious, efficient and orderly manner; and to provide for the convenience, safety and health of the student body and the public.

8-102 Use Regulations: In District "U" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-Family dwellings.
2. Boarding or rooming houses.
3. Colleges, universities and theological schools, including their buildings owned or leased for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, athletic facilities, and dormitories.
4. Fraternities and Sororities.
5. Offices, meetings rooms, laboratories and other facilities for educational, fraternal and research organizations and institutions.
6. Parking lots for motor vehicles accessory to uses permitted in the Planned University District.
7. Structures providing lodging rooms for unmarried students.

8-103 Plan Approval Guidelines: The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 19 of these Regulations.

8-104 Performance Standards: The Performance Standards for permitted uses are contained in Article 20 of these Regulations.

8-105 Parking Regulations: The Parking Regulations for permitted uses are contained in Article 21 of these Regulations.

8-106 Off-Street Loading Regulations: The Off-Street Loading Regulations for permitted uses are contained in Article 22 of these Regulations.

8-107 Sign Regulations: The Sign Regulations are contained in Article 23 of these Regulations.

8-108 Height, Area, and Bulk Regulations: In the "U" Planned University District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

1. **Height:** No building or structure shall exceed 45 feet in height; except those otherwise exempted in Article 24 of these Regulations.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. No side yard shall be less than 10 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** No minimum regulations.
6. **Lot Area:** Building coverage shall be governed by the official Campus Plan of Baker University or amendments thereto. Dormitories shall provide 500 square feet of land per each occupant.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 24. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

8-109 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 25 of these Regulations.

8-110 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 26 of these Regulations.

Sections:**9-101 Intent****9-102 Establishment of Overlay District****9-103 Uses****9-104 Bulk Standards****9-105 Permit Review****9-106 Appeals**

9-101. Intent: The "OTO" Old Town Overlay District, is intended to:

1. Encourage development that conforms to the size, orientation and setting of existing buildings in the "Old Town" neighborhood of Baldwin City;
2. Conserve and improve the value of property in and around designated landmarks and other historic properties within the "Old Town" neighborhood;
3. Foster and encourage preservation, restoration, and rehabilitation of structures in the "Old Town" neighborhood;
4. Conserve the cultural resources, historic resources and property values within the "Old Town" neighborhood; and,
5. Foster civic pride in the beauty and noble accomplishments of the past as represented in the "Old Town" neighborhood's landmarks, historic districts, and historic resources.

9-102. Establishment of Overlay District: The "OTO" Old Town Overlay District shall apply to the "Old Town" area, as shown on the Old Town Overlay Map of the City of Baldwin City.

9-103. Uses: The "OTO" Old Town Overlay District does not regulate the use of land or the use of buildings or structures. The uses are controlled by the regulations of the underlying base zoning district or districts.

9-104. Bulk Standards: The "OTO" Old Town Overlay District does not regulate the bulk standards applicable to buildings or structures. The bulk standards are controlled by the regulations of the underlying base zoning district or districts.

9-105. Permit Review: Prior to any building permits being issued for new one and two-family dwellings, or substantial renovation of existing structures and accessory structures, within the "OTO" Old Town Overlay District, the Zoning Administrator shall review the architectural and site plans to determine the appropriateness of their design elements in terms of the general "Old Town" neighborhood and adjoining properties.

1. Appropriateness shall be considered, in most cases, to include evaluations of the following:

A. Architectural features -- including front porches; cornice lines; horizontal lines of

windows; and architectural embellishments such as shutters, dormers, belvederes, chimneys, etc.

- B. Materials, colors and textures.
- C. Roof treatment and pitch.
- D. Bulk.
- E. Height.
- F. Orientation of houses and garages.
- G. Setbacks and spacing between buildings.
- H. Fencing, walls and hedges.

2. In addition to the above the following shall be addressed when applicable:

- A. If a duplex dwelling is proposed in an area predominantly characterized by single family dwellings, the duplex shall be designed in a manner to create the appearance of a single family dwelling.
- B. If a multiple story dwelling is proposed for a neighborhood predominantly characterized by one-story buildings, then it shall be demonstrated that the building design will be in scale and compatible with the area. A building greater than one story should clearly delineate the boundary between each floor of the structure through belt courses, cornice lines, or detailing between characteristic of the area. In neighborhoods predominantly characterized by two-story dwellings, one-story dwellings typically would not be considered consistent with the area.
- C. If rear access from an alley is the predominant form of garage access along the street, then such rear access shall be required. If driveway access from the street is the predominant form of garage access along the street, then the garage shall be designed and located in a manner consistent with the neighborhood and shall not be the predominant focal feature of the front facade.

9-106. Appeals: All appeals of applicability regarding decisions of the Zoning Administrator in the “OTO” Old Town Overlay District shall be taken to the Planning Commission for public hearing and final decision by the governing body by following the same standards for any rezoning hearing and decision as found in Article 31 of these Regulations.

ARTICLE 10 "CP-0" PLANNED COMMERCIAL OFFICE DISTRICT REGULATIONS

Sections:

10-101 Application

10-102 Use Regulations

10-103 Plan Approval Guidelines

10-104 Performance Standards

10-105 Parking Regulations

10-106 Off-Street Loading Regulations

10-107 Sign Regulations

10-108 Height, Area and Bulk Regulations

10-109 Supplementary Height, Area and Bulk Regulations

10-110 Supplementary Use Regulations

10-101 Application: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "CP-0" Planned Commercial Office District. The purpose of this District is to provide for office and non-retail business developments that provide a service or support a neighborhood or the community. This District is intended to be used to transition, where deemed appropriate, from residential developments to more intensive types of commercial and/or retail business activity.

10-102 Use Regulations: In District "CP-0" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Medical clinics, including supporting laboratories, and accessory drug stores, pharmacies and optical services associated therewith.
2. Offices and office buildings for the administrative functions of companies, corporations, social or philanthropic organizations or societies, or for professional activities including, but not limited to:
 - Accountants
 - Architects
 - Consultants
 - Doctors
 - Engineers
 - Insurance
 - Lawyers
 - Photographic studios
4. Savings and loan institutions, credit union offices, and banks, including drive-through facilities.
5. Railroad right-of-ways, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding, and watering stations.

ARTICLE 10 "CP-0" PLANNED COMMERCIAL OFFICE DISTRICT REGULATIONS

10-103 Plan Approval Guidelines: The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 19 of these Regulations.

10-104 Performance Standards: The Performance Standards for permitted uses are contained in Article 20 of these Regulations.

10-105 Parking Regulations: The Parking Regulations for permitted uses are contained in Article 21 of these Regulations.

10-106 Off-Street Loading Regulations: The Off-Street Loading Regulations for permitted uses are contained in Article 22 of these Regulations.

10-107 Sign Regulations: The Sign Regulations are contained in Article 23 of these Regulations.

10-108 Height, Area and Bulk Regulations: In the "CP-0" Planned Commercial Office District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 25 feet and/or 2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. The depth of the side yard shall be at least 5 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 65 feet. The minimum depth of a lot shall be 100 feet.
6. **Lot Area:** Every building hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 7,000 square feet.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 24. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

10-109 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 25 of these Regulations.

10-110 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 26 of these Regulations.

ARTICLE 11 "CP-1" PLANNED LIMITED COMMERCIAL DISTRICT REGULATIONS

Sections:

11-101 Application

11-102 Use Regulations

11-103 Plan Approval Guidelines

11-104 Performance Standards

11-105 Parking Regulations

11-106 Off-Street Loading Regulations

11-107 Sign Regulations

11-108 Height, Area and Bulk Regulations

11-109 Supplementary Height, Area and Bulk Regulations

11-110 Supplementary Use Regulations

11-101 Application: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "CP-1" Planned Limited Commercial District. The purpose of this District is to provide for limited retail shopping and personal service uses to be developed either as a unit or in individual parcels to serve the needs of nearby residential neighborhoods.

11-102 Use Regulations: In District "CP-1" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "CP-O" Planned Commercial Office District.
2. Automotive service stations, provided bulk storage of flammable liquids is underground; and further provided that no repair services are conducted on the premises.
3. Convenience food stores, provided said building shall not exceed 5,000 square feet in area.
4. Retail stores and shops which supply the regular and customary needs of the residents of the neighborhood and which are primarily for their convenience, including but not limited to, the following:

- Artist materials, supply, studio
- Barber and/or beauty shop
- Book and stationery store
- Camera shop
- Delicatessen and/or carry-out food (maximum seating capacity of 12)
- Dry cleaning, pressing, laundry, tailor shop
- Florist shop
- Newspaper or magazine sales
- Optical sales and service
- Package liquor store
- Pharmacy
- Shoe store or repair shop

ARTICLE 11 "CP-1" PLANNED LIMITED COMMERCIAL DISTRICT REGULATIONS

11-103 Plan Approval Guidelines: The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 19 of these Regulations.

11-104 Performance Standards: The Performance Standards for permitted uses are contained in Article 20 of these Regulations.

11-105 Parking Regulations: The Parking Regulations for permitted uses are contained in Article 21 of these Regulations.

11-106 Off-Street Loading Regulations: The Off-Street Loading Regulations for permitted uses are contained in Article 22 of these Regulations.

11-107 Sign Regulations: The Sign Regulations are contained in Article 23 of these Regulations.

11-108 Height, Area and Bulk Regulations: In the "CP-0" Planned Commercial Office District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 25 feet and/or 2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. The depth of the side yard shall be at least 5 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 65 feet. The minimum depth of a lot shall be 100 feet.
6. **Lot Area:** Every building hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 7,000 square feet.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 24. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

11-109 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 25 of these Regulations.

11-110 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 26 of these Regulations.

ARTICLE 12 "CP-2" PLANNED GENERAL COMMERCIAL DISTRICT REGULATIONS

Sections:

12-101 Application

12-102 Use Regulations

12-103 Plan Approval Guidelines

12-104 Performance Standards

12-105 Parking Regulations

12-106 Off-Street Loading Regulations

12-107 Sign Regulations

12-108 Height, Area and Bulk Regulations

12-109 Supplementary Height, Area and Bulk Regulations

12-110 Supplementary Use Regulations

12-101 Application: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "CP-2" Planned General Commercial District. The purpose of this District is to provide sufficient space in appropriate locations for most commercial and service activities.

12-102 Use Regulations: In District "CP-2" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "CP-1" Planned Limited Commercial District and/or in the "CP-4" Planned Highway Service Commercial District.
2. Automotive service stations, provided bulk storage of flammable liquids is underground.
3. Auditorium or theatre, but no open-air drive-in theatres.
4. Bowling alleys and amusement arcades.
5. Convenience food stores, provided the maximum gross floor area shall not exceed 7,000 square feet.
6. Drive-in and drive-through establishments, except as otherwise prohibited herein.
7. Food storage lockers.
8. Hotels, motels, and motor hotels.
9. Lawn and garden supply sales and service, including storage yards.
10. Membership clubs, including private clubs as defined by K.S.A. 41-2601 et seq, and subsequent amendments.
11. Photographic studios.

ARTICLE 12 "CP-2" PLANNED GENERAL COMMERCIAL DISTRICT REGULATIONS

12. Printing, publishing, and engraving firms, including newspaper publishing; provided said operations are principally retail businesses.
13. Radio and television studios, provided no broadcast towers are located on the premises.
14. Reupholstering.
15. Savings and loan institutions, credit union offices and banks, including drive-through facilities.
16. Warehousing, not exceeding 5,000 square feet in any single building.
17. All other commercial or retail stores and activities not otherwise prohibited or restricted by these Regulations, including but not limited to, the following:

- Antique shop
- Appliance store and/or repair shops
- Art school, gallery or museum
- Building materials sales
- Car wash
- Catering establishment
- Clothing and apparel store
- Curio or gift shop
- Department store
- Drinking establishment
- Dry goods store
- Dyeing and cleaning works
- Furniture store
- General service and repair establishment
- Grocery store or supermarket
- Hardware store
- Lumber yard
- Meat market, including processing facilities
- Motor vehicle service and/or repair, but not sales
- Painting and/or decorating shop
- Parking lots operated as a business
- Plumbing and heating shop
- Radio and television sales and/or service
- Sewing machines sales, service and/or instruction
- Sporting goods sales
- Taverns
- Tire sales and service including vulcanizing, but not manufacture
- Toy store
- Variety store

ARTICLE 12 "CP-2" PLANNED GENERAL COMMERCIAL DISTRICT REGULATIONS

12-103 Plan Approval Guidelines: The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 19 of these Regulations.

12-104 Performance Standards: The Performance Standards for permitted uses are contained in Article 20 of these Regulations.

12-105 Parking Regulations: The Parking Regulations for permitted uses are contained in Article 21 of these Regulations.

12-106 Off-Street Loading Regulations: The Off-Street Loading Regulations for permitted uses are contained in Article 22 of these Regulations.

12-107 Sign Regulations: The Sign Regulations are contained in Article 23 of these Regulations.

12-108 Height, Area and Bulk Regulations: In the "CP-2" Planned General Commercial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 35 feet and/or 3 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. The depth of the side yard shall be at least 5 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
6. **Lot Dimensions:** The minimum width of a lot shall be 65 feet. The minimum depth of a lot shall be 100 feet.
6. **Lot Area:** Every building hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 7,000 square feet.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 24. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

12-109 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 25 of these Regulations.

12-110 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 26 of these Regulations.

Sections:**13-101 Application****13-102 Use Regulations****13-103 Plan Approval Guidelines****13-104 Performance Standards****13-105 Parking Regulations****13-106 Off-Street Loading Regulations****13-107 Sign Regulations****13-108 Height, Area and Bulk Regulations****13-109 Supplementary Height, Area and Bulk Regulations****13-110 Supplementary Use Regulations**

13-101 Application: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "CP-3" Planned Central Business District. This District encompasses the shopping and office core of the central business district of the City of Baldwin City. Appropriate uses are the same as for the "CP-2" General Commercial District, but with altered off-street parking and off-street loading requirements in recognition of the practical difficulty of providing off-street parking and loading spaces in the core district, and in recognition of the collective responsibility to provide other parking and loading for the district.

13-102 Use Regulations: In District "CP-3" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "CP-2" Planned General Commercial District; provided, however, that automotive sales, service, repairs or assembly shall not be permitted in the "CP-3" Planned Central Business District.
2. Residential uses, but not on the ground floor.

13-103 Plan Approval Guidelines: The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 19 of these Regulations.

13-104 Performance Standards: The Performance Standards for permitted uses are contained in Article 20 of these Regulations.

13-105 Parking Regulations: None required.

13-106 Off-Street Loading Regulations: None required.

13-107 Sign Regulations: The Sign Regulations are contained in Article 23 of these Regulations.

13-108 Height, Area and Bulk Regulations: In the "CP-2" Planned Central Business District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 35 feet and/or 3 stories in height.
2. **Front Yard:** None.
3. **Side Yard:** None.
4. **Rear Yard:** None.
5. **Lot Dimensions:** None.
7. **Lot Area:** None.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 24. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

13-109 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 25 of these Regulations.

13-110 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 26 of these Regulations.

ARTICLE 14 "CP-4" PLANNED HIGHWAY SERVICE COMMERCIAL DISTRICT REGULATIONS

Sections:

- 14-101 Application
- 14-102 Use Regulations
- 14-103 Plan Approval Guidelines
- 14-104 Performance Standards
- 14-105 Parking Regulations
- 14-106 Off-Street Loading Regulations
- 14-107 Sign Regulations
- 14-108 Height, Area and Bulk Regulations
- 14-109 Supplementary Height, Area and Bulk Regulations
- 14-110 Supplementary Use Regulations

14-101 Application: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "CP-4" Planned Highway Service Commercial District. The purpose of this District is to provide space in appropriate locations, particularly along the existing major highways where a general mixture of commercial and service activity now exists, for those uses of a more intensive nature that are clearly commercial in nature but which require more land area to function efficiently.

14-102 Use Regulations: In District "CP-4" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "CP-2" Planned General Commercial District.
2. Automotive sales and service, including display and storage yard.
3. Boat sales and service, including display and storage yard.
4. Farm machinery sales and service, including display and storage yard.
5. Manufactured home and trailer sales and service, including display and storage yard.

14-103 Plan Approval Guidelines: The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 19 of these Regulations.

14-104 Performance Standards: The Performance Standards for permitted uses are contained in Article 20 of these Regulations.

14-105 Parking Regulations: The Parking Regulations for permitted uses are contained in Article 21 of these Regulations.

14-106 Off-Street Loading Regulations: The Off-Street Loading Regulations for permitted uses are contained in Article 22 of these Regulations.

ARTICLE 14 "CP-4" PLANNED HIGHWAY SERVICE COMMERCIAL DISTRICT REGULATIONS

14-107 Sign Regulations: The Sign Regulations are contained in Article 23 of these Regulations.

14-108 Height, Area and Bulk Regulations: In the "CP-4" Planned Highway Service Commercial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 35 feet and/or 3 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. The depth of the side yard shall be at least 20 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 150 feet. The minimum depth of a lot shall be 150 feet.
6. **Lot Area:** Every building hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 25,000 square feet.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 24. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

14-109 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 25 of these Regulations.

14-110 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 26 of these Regulations.

Sections:**15-101 Application****15-102 Use Regulations****15-103 Plan Approval Guidelines****15-104 Performance Standards****15-105 Parking Regulations****15-106 Off-Street Loading Regulations****15-107 Sign Regulations****15-108 Height, Area and Bulk Regulations****15-109 Supplementary Height, Area and Bulk Regulations****15-110 Supplementary Use Regulations**

15-101 Application: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "IP-1" Planned Light Industrial District. This District is intended primarily for light manufacturing, fabricating, warehousing, and wholesale distributing in low buildings with off-street loading and off-street parking for employees, and with access by major streets and/or railroads. This district is intended to be established mainly as an Industrial Park and not for use on individual lots or tracts.

15-102 Use Regulations: In District "IP-1" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Manufacturing, processing, fabrication and assembling of any commodity except junk or salvage and except the uses enumerated as permitted in District "IP-2" or requiring a Conditional Use Permit.
2. Warehousing, wholesaling and storage of any commodity except junk or salvage and except the uses enumerated as permitted in District "IP-2" or requiring a Conditional Use Permit.
3. Dwellings for resident night watchmen and caretakers employed on the premises.
4. Laboratories, research, experimental, or testing.
5. Offices and office buildings.
6. Restaurants and automatic food and beverage vending machines.
7. Railroad right-of-ways, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding, and watering stations.

15-103 Plan Approval Guidelines: The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 19 of these Regulations.

15-104 Performance Standards: The Performance Standards for permitted uses are contained in Article 20 of these Regulations.

15-105 Parking Regulations: The Parking Regulations for permitted uses are contained in Article 21 of these Regulations.

15-106 Off-Street Loading Regulations: The Off-Street Loading Regulations for permitted uses are contained in Article 22 of these Regulations.

15-107 Sign Regulations: The Sign Regulations are contained in Article 23 of these Regulations.

15-108 Height, Area and Bulk Regulations: In the "IP-1" Planned Light Industrial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area of any lot shall be as follows:

1. **Height:** Buildings and structures shall not exceed 75 feet in height; provided, however the height limit shall be 45 feet if adjacent to a residential district.
2. **Front Yard:** The depth of the front yard shall be at least 40 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. The depth of the side yard shall be at least 15 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** None.
6. **Lot Area:** None.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 24. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

15-109 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 25 of these Regulations.

15-110 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 26 of these Regulations.

Sections:**16-101 Application****16-102 Use Regulations****16-103 Plan Approval Guidelines****16-104 Performance Standards****16-105 Parking Regulations****16-106 Off-Street Loading Regulations****16-107 Sign Regulations****16-108 Height, Area and Bulk Regulations****16-109 Supplementary Height, Area and Bulk Regulations****16-110 Supplementary Use Regulations**

16-101 Application: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "IP-2" Planned Medium Industrial District. This District provides for industrial operations within the incorporated cities that are more intensive in nature and, as a result, require more consideration in siting, and greater access to major facilities and services such as highways, railroads, utilities, etc.

16-102 Use Regulations: In District "IP-2" no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in "IP-1" Planned Light Industrial District.
 2. Book or publishing plants.
 3. Bus barns or lots.
 4. Cold storage and ice plants.
 5. Creameries and dairy product processing.
 6. Food and beverage products, canning and preserving, processing and packaging of products.
 7. Furniture reupholstering and refinishing.
 8. Industrial machinery sales and service.
 9. Machine shops.
 10. Metal fabrication.
 11. Physical processing of chemicals, (i.e., mixing), but not including processing involving chemical reactions.
 12. Plastic extrusion.
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16-103 Plan Approval Guidelines: The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 19 of these Regulations.

16-104 Performance Standards: The Performance Standards for permitted uses are contained in Article 20 of these Regulations.

16-105 Parking Regulations: The Parking Regulations for permitted uses are contained in Article 21 of these Regulations.

16-106 Off-Street Loading Regulations: The Off-Street Loading Regulations for permitted uses are contained in Article 22 of these Regulations.

16-107 Sign Regulations: The Sign Regulations are contained in Article 23 of these Regulations.

16-108 Height, Area and Bulk Regulations: In the "IP-2" Heavy Industrial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area of any lot shall be as follows:

1. **Height:** : Buildings and structures shall not exceed 75 feet in height; provided, however the height limit shall be 45 feet if adjacent to a residential district.
2. **Front Yard:** The depth of the front yard shall be at least 40 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. The depth of the side yard shall be at least 15 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 25 feet.
5. **Lot Dimensions:** None.
6. **Lot Area:** None.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 24. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

16-109 Supplementary Height, Area and Bulk Regulations: The Supplementary Height, Area and Bulk Regulations are contained in Article 25 of these Regulations.

16-110 Supplementary Use Regulations: The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 26 of these Regulations.

(Reserved for Future Use)

Sections:**18-101 Statutory Authorization, Findings of Fact, Purpose****18-102 General Provisions****18-103 Administration****18-104 Provisions for Flood Hazard Reduction****18-105 Floodplain Management Variance Procedures****18-106 Penalties for Violation****18-107 Amendments****18-108 Definitions****18-101 Statutory Authorization, Findings of Fact, Purpose.****1. Statutory Authorization.**

- A. Approval of Draft Regulation by Kansas Chief Engineer Prior to Adoption.** The following Floodplain Management regulations, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on March 17, 2010.
- B. Kansas Statutory Authorization.** The Legislature of the State of Kansas has in K.S.A. 12-741 et seq, and specifically in K.S.A. 12-766, delegated responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the governing body of the City of Baldwin City, Kansas, adopts the following regulations.

2. Findings of Fact.

- A. Flood Losses Resulting from Periodic Inundation.** The special flood hazard areas of Baldwin City, Kansas, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.
- B. General Causes of the Flood Losses.** These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.
- C. Methods Used to Analyze Flood Hazards.** The Flood Insurance Study (FIS) that is the basis of this Article uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps.
- (1) Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this Article is representative of large floods, which are characteristic

of what can be expected to occur on the particular streams subject to this Article. It is in the general order of a flood which could be expected to have a one percent chance of occurrence in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated August 5, 2010 as amended, and any future revisions thereto.

- (2) Calculation of water surface profiles that are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
- (3) Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
- (4) Delineation of floodway encroachment lines within which no development is permitted that would cause **any** increase in flood height.
- (5) Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

3. **Statement of Purpose.** It is the purpose of this Article to promote the public health, safety, and general welfare; to minimize those losses described in Section 18-101(2)(A); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) and K.A.R. 5-44-4 by applying the provisions of this Article to:

- A. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
- B. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
- C. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

18-102 General Provisions.

1. **Land to which Regulations Apply.** This Article shall apply to all lands within the City of Baldwin City, Kansas, identified as numbered and unnumbered A Zones, AE, AO, and AH Zones, on both the Douglas County Workmap dated August 5, 2010 and the Flood Insurance Study dated August 5, 2010, of the Flood Insurance Rate Map (FIRM) as amended, and any future revisions thereto. In all areas covered by this Article, no development shall be permitted except through the issuance of a floodplain development permit, granted by the City of Baldwin City or its duly designated representative under such safeguards and restrictions as the governing body or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Section 18-104.

2. **Compliance.** No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this Article and other applicable regulations.
3. **Abrogation and Greater Restrictions.** It is not intended by this Article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. All other regulations inconsistent with this Article are hereby repealed to the extent of the inconsistency only.
4. **Interpretation.** In their interpretation and application, the provisions of this Article shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.
5. **Warning and Disclaimer of Liability.** The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This Article shall not create a liability on the part of the City of Baldwin City, Kansas, any officer or employee thereof, for any flood damages that may result from reliance on this Article or any administrative decision lawfully made thereunder.
6. **Severability.** If any section; clause; provision; or portion of this Article are adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this Article shall not be affected thereby.

18-103 Administration.

1. **Floodplain Development Permit.** A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Section 18-102(1). No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.
2. **Designation of Floodplain Administrator.** The City of Baldwin City Zoning Administrator is hereby appointed to administer and implement the provisions of this Article.
3. **Duties and Responsibilities of Floodplain Administrator.** Duties of the Floodplain Administrator shall include, but not be limited to:
 - A. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this Article have been satisfied;

- B. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
- C. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
- D. Issue floodplain development permits for all approved applications;
- E. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
- F. Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse; and
- G. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
- H. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed;
- I. When floodproofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a registered professional engineer or architect.

4. **Application for Floodplain Development Permit.** To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

- A. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
 - B. Identify and describe the work to be covered by the floodplain development permit;
 - C. Indicate the use or occupancy for which the proposed work is intended;
 - D. Indicate the assessed value of the structure and the fair market value of the improvement;
 - E. Specify whether development is located in designated flood fringe or floodway;
 - F. Identify the existing base flood elevation and the elevation of the proposed development;
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- G. Give such other information as reasonably may be required by the floodplain administrator;
- H. Be accompanied by plans and specifications for proposed construction; and,
- I. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

18-104 Provisions for Flood Hazard Reduction.**I. General Standards.**

- A. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section are satisfied.
- B. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this Article. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.
- C. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the 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.
- D. All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:
 - (1) Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (2) Construction with materials resistant to flood damage;
 - (3) Utilization of methods and practices that minimize flood damages;
 - (4) All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

- (5) New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and
- (6) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
 - (a) All such proposals are consistent with the need to minimize flood damage;
 - (b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
 - (c) Adequate drainage is provided so as to reduce exposure to flood hazards; and
 - (d) All proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.

E. *Storage, Material, and Equipment.*

- (1) The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
- (2) Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

F. *Nonconforming Use.* A structure, or the use of a structure or premises that was lawful before the passage or amendment of this Article, but which is not in conformity with the provisions of this Article, may be continued subject to the following conditions:

- (1) If such structure, use, or utility service is discontinued for six (6) consecutive months, any future use of the building shall conform to this Article.
- (2) If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure

listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

2. **Specific Standards.** In all areas identified as numbered and unnumbered A zones, AE, and AH Zones, where base flood elevation data have been provided, as set forth in Section 18-104(1)(B), the following provisions are required:

- A. *Residential Construction.* New construction or substantial improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above base flood elevation. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**
- B. *Non-Residential Construction.* New construction or substantial improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.** Such certification shall be provided to the floodplain administrator as set forth in Section 18-103(3)(G)(H)(I).
- C. Require, for all new construction and substantial improvements, that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and 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 flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
- (1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and
 - (2) The bottom of all opening shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

3. **Manufactured Homes.**

- A. All manufactured homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes 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.

B. Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's FIRM on sites:

- (1) Outside of a manufactured home park or subdivision;
- (2) In a new manufactured home park or subdivision;
- (3) In an expansion to and existing manufactured home park or subdivision; or
- (4) In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial-damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

C. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, that are not subject to the provisions of Section 18-104(3)(B) of this Article, be elevated so that either:

- (1) The lowest floor of the manufactured home is a minimum of one (1) foot above the base flood level; or
- (2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

4. **Areas of Shallow Flooding (AO and AH Zones).** Located within the areas of special flood hazard as described in Section 18-102(1) are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

A. *AO Zones.*

- (1) All new construction and substantial-improvements of residential structures, including manufactured homes, shall have the lowest floor, including basement,

elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).

- (2) All new construction and substantial improvements of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two (2) feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (3) Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

B. *AH Zones.*

- (1) The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in Section 18-104(2).
- (2) Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

5. **Floodway.** Located within areas of special flood hazard established in Section 18-102(1), are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:

- A. The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
- B. The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in **any** increase in flood levels within the community during the occurrence of the base flood discharge.
- C. If Section 18-104(5)(B), is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Article.
- D. In unnumbered A zones, the community shall obtain, review, and reasonably utilize any

ARTICLE 18

"FP" FLOODPLAIN OVERLAY DISTRICT REGULATIONS

base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in Section 18-104(1)(B).

6. **Recreational Vehicles.** Require that recreational vehicles placed on sites within all unnumbered and numbered A Zones, AE, AH, and AO Zones on the community's FIRM either:
 - A. Be on the site for fewer than 180 consecutive days, *or*
 - B. Be fully licensed and ready for highway use*; *or*
 - C. Meet the permitting, elevation, and anchoring requirements for manufactured homes of this Article.

*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

18-105 Floodplain Management Variance Procedures:

1. **Establishment of Appeal Board.** The Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Article. All requests for appeals and variances shall follow the procedures established in Article 28.
2. **Responsibility of Appeal Board.** Where an application for a floodplain development permit is denied by the Floodplain Administrator, the applicant may apply for such floodplain development permit directly to the Appeal Board, as established above.

The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Article.

3. **Further Appeals.** Any person aggrieved by the decision of the Board of Zoning Appeals or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 and 12-760.
4. **Floodplain Management Variance Criteria.** In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this Article, and the following criteria:
 - A. Danger to life and property due to flood damage;
 - B. Danger that materials may be swept onto other lands to the injury of others;
 - C. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - D. Importance of the services provided by the proposed facility to the community;

- E. Necessity to the facility of a waterfront location, where applicable;
- F. Availability of alternative locations, not subject to flood damage, for the proposed use;
- G. Compatibility of the proposed use with existing and anticipated development;
- H. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- I. Safety of access to the property in times of flood for ordinary and emergency vehicles;
- J. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
- K. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

5. Conditions Variances:

- A. Generally, 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 items two (2) through six (6) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
 - B. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provide the proposed activity will not preclude the structure's continued historic designation.
 - C. Variances shall not be issued within any designated floodway if any significant increase in flood discharge would result.
 - D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - E. Variances shall only be issued upon: (a) showing of good and sufficient cause, (b) determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) 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 Articles.
 - F. A community shall notify the applicant in writing over the signature of a community official that: (a) the issuance of a variance to construct a structure below base flood
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level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this Article.

18-106 Penalties for Violation. Penalties shall be as established in Article 32 of these Regulations.

18-107 Amendments. The regulations, restrictions, and boundaries set forth in this Article may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Baldwin City, Kansas. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the FEMA Region VII office. The regulations of this Article are in compliance with the NFIP regulations.

18-108 Definitions. Unless specifically defined below, or defined elsewhere in these Regulations, words or phrases used in this Article shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Article its most reasonable application.

1. **100-year Flood.** See "*base flood.*"
2. **Accessory Structure.** See "*appurtenant structure.*"
3. **Actuarial Rates.** See "*risk premium rates.*"
4. **Administrator.** The Federal Insurance Administrator.
5. **Agency.** The Federal Emergency Management Agency (FEMA).
6. **Appeal.** A request for review of the Floodplain Administrator's interpretation of any provision of this Article or a request for a variance.
7. **Appurtenant Structure.** A structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.
8. **Area of Shallow Flooding.** A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
9. **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.

10. **Base Flood.** The flood having a one percent chance of being equaled or exceeded in any given year.
11. **Basement.** Any area of the structure having its floor subgrade (below ground level) on all sides.
12. **Building.** *See "structure."*
13. **Chief Engineer.** The chief engineer of the Division of Water Resources, Kansas Department of Agriculture.
16. **Chief Executive Officer or Chief Elected Official.** The official of the community who is charged with the authority to implement and administer laws, Articles, and regulations for that community.
16. **Community.** Any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.
16. **Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
17. **Elevated Building.** For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
18. **Eligible Community or Participating Community.** A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).
19. **Existing Construction.** For the purposes 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."*
20. **Existing Manufactured Home Park or Subdivision.** A manufactured home park or subdivision for which 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 before the effective date of the floodplain management regulations adopted by a community.
21. **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).

22. **Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).
23. **Flood Boundary and Floodway Map (FBFM).** An official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.
24. **Flood Elevation Determination.** A determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.
25. **Flood Elevation Study.** An examination, evaluation and determination of flood hazards.
26. **Flood Fringe.** The area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.
27. **Flood Hazard Boundary Map (FHBM).** An official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.
28. **Flood Hazard Map.** The document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.
29. **Flood Insurance Rate Map (FIRM).** An official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
30. **Flood Insurance Study (FIS).** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.
31. **Floodplain or Flood-prone Area.** Any land area susceptible to being inundated by water from any source (*see "flooding"*).
32. **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.
33. **Floodplain Management Regulations.** Zoning Articles, subdivision regulations, building codes, health regulations, special purpose Articles (such as floodplain and grading Articles) and other applications of police power. The term describes such state or local regulations, in any

combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

34. **Floodproofing.** Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.
35. **Floodway or Regulatory Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
36. **Floodway Encroachment Lines.** The lines marking the limits of floodways on Federal, State and local floodplain maps.
37. **Freeboard.** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "*Freeboard*" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.
38. **Functionally Dependent Use.** A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.
39. **Highest Adjacent Grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
40. **Historic 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 the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.
41. **Lowest Floor.** The lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this Article.
42. **Manufactured Home.** See definition in Article 1.

43. **Manufactured Home Park or Subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
44. **Map.** The Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).
45. **Market Value or Fair Market Value.** An estimate of what is fair, economic, just and equitable value under normal local market conditions.
46. **Mean Sea Level.** For purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.
47. **New Construction.** For the purposes of determining insurance rates, structures for which the *"start of construction"* commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *"new construction"* means structures for which the *"start of construction"* commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.
48. **New Manufactured Home Park or Subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lot 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 the community.
49. **(NFIP).** The National Flood Insurance Program (NFIP).
50. **Participating Community.** Also known as an *"eligible community,"* any community in which the Administrator has authorized the sale of flood insurance.
51. **Permit.** A signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.
52. **Person.** Any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.
53. **Principally Above Ground.** Any structure that at least 51 percent of the actual cash value of the structure, less land value, is above ground.
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54. **Reasonably Safe From Flooding.** Base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
55. **Recreational Vehicle.** A vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently able to be towed 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.
56. **Remedy A Violation.** To bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.
57. **Risk Premium Rates.** Those rates established by the Administrator pursuant to individual community studies and investigations, which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. *"Risk premium rates"* include provisions for operating costs and allowances.
58. **Special Flood Hazard Area.** See *"area of special flood hazard."*
59. **Special Hazard Area.** An area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.
60. **Start of Construction.** Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, 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, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, 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.
61. **State Coordinating Agency.** The Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.
62. **Structure.** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *"Structure"* for insurance purposes, means a walled and roofed building, other than a gas or
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liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

63. **Substantial-Damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
64. **Substantial Improvement.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "*start of construction*" of the improvement. This term includes structures, which have incurred "*substantial damage*," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "*historic structure*," provided that the alteration will not preclude the structure's continued designation as a "*historic structure*."
65. **Variance.** A grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.
66. **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 by this Article is presumed to be in violation until such time as that documentation is provided.
67. **Water Surface Elevation.** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

Sections:**19-101 Purpose****19-102 Application, Review, Approval Procedure****19-103 Development Plan****19-104 Development Plan - Joint Planning Commission Review****19-105 Development Plan - Phasing, Time Restrictions****19-106 Appeals of Planning Commission Action on Development Plan****19-107 Remedies for Noncompliance**

19-101 Purpose: The procedures and requirements set forth in this Article, or the requirements set forth elsewhere in these Regulations when referred to in this Article, are for the development plans required for “Planned” districts and Conditional Use Permits designated elsewhere in these Regulations. These requirements are specifically intended to accommodate:

1. The planned, coordinated, and orderly development of properties classified in one of the zoning districts established herein and designated as a “Planned” district.
2. The consideration of an application for a Conditional Use under the provisions of these Regulations.

The requirements and regulations herein prescribed pertaining to height, open space, setbacks, parking, loading, and signs may be adjusted or modified so that the property in question may be developed in a reasonable manner and, at the same time, will not be detrimental to the public welfare and the interests of the community, but in keeping with the general intent and spirit of these Regulations. Such adjustments or modifications may be made as a part of the rezoning or Conditional Use process, or may be allowed after approval by the Planning Commission upon request of the applicant.

19-102 Application, Review, Approval Procedure: In order to assure that proposed rezonings to a “Planned” district and proposed uses requiring Conditional Use permits meet the requirements of these Regulations and will be compatible with surrounding properties and uses, it is hereby required that all applications for a “Planned” district or a Conditional Use permit include a development plan which must be approved as specified within this Article prior to any construction on the property.

The procedure for approval of a development plan shall consist of the following:

1. Application for a “Planned” district, or for a Conditional Use permit; and,
2. Submission of a development plan.

The development plan shall be submitted at the time the application is submitted and no application shall be deemed complete nor set for public hearing until said development plan is submitted. No building permit shall be issued for property in a “Planned” district or for a Conditional Use Permit until the property has been zoned and the development plan for the entire property and/or each phase of development has been approved in accordance with the

provisions of these Regulations. Properties classified in a “Planned” zoning district at the time of the initial adoption of these Regulations may change uses or construct additions to existing buildings without the necessity of obtaining development plan approval if the Zoning Administrator deems such improvements are within the spirit and intent of the underlying zoning classification. Any construction for the first time on properties classified in a “Planned” zoning district must have a development plan approved as provided herein prior to any building permit being issued.

19-103 Development Plan: Application for a “Planned” district or a Conditional Use and development plan approval shall be made in accordance with the procedures outlined in Article 31 of these Regulations. The application shall include a development plan that describes the applicant's intentions for the use and development of the property. The development plan shall include and/or display the following information:

1. A topographic survey indicating the legal description, property boundary, existing contours, existing utilities and easements, and natural and manmade features of the property.
2. A development plan, drawn to the same scale as the topographic survey, indicating:
 - a. existing contours (shown as dashed lines).
 - b. proposed contours (shown as solid lines)
 - c. location and orientation of all existing and proposed buildings.
 - d. areas to be used for parking, including the number and arrangement of stalls.
 - e. areas to be developed for screening, including the location of plant materials, and screening structures and features.
 - f. pedestrian and vehicular circulation, and their relationship to existing streets, alleys and public right-of-way.
 - g. points of ingress and egress
 - h. location of all existing and proposed utilities (sanitary sewage systems, water systems, storm drainage systems, gas lines, telephone lines and electrical power lines).
 - i. drainage controls (retention or detention ponds).
 - j. location, size and characteristics of identification and business signs.
 - k. lighting layout, appurtenances, and intensity of illumination.

- l. proposed finished floor elevations of all buildings and structures.
3. A statement of intent shall accompany the preliminary development plan to explain the measures used to achieve compatibility of the proposed development with surrounding properties through the planning of the site and the location and design of structures.

19-104 Development Plan – Planning Commission Review: The Planning Commission shall review the application along with the development plan and shall approve or deny the development plan, or may request modifications to the development plan as deemed necessary to carry out the spirit and intent of these Regulations. Approval by the Planning Commission shall constitute approval and permanency of the development plan, thereby establishing the criteria for construction of the proposed development.

In the process of reviewing any development plan, the Planning Commission may provide approval of the development plan conditioned upon certain limitations or restrictions deemed necessary to protect the public interest and surrounding properties, including, if any, the following:

1. Limitations on the type, illumination and appearance of any signs or advertising structures.
2. Direction and location of outdoor lighting.
3. Arrangement and location of off-street parking and off-street loading spaces.
4. The type of paving, landscaping, fencing, screening and other such features.
5. Limitations on structural alterations to existing buildings.
6. Plans for control or elimination of smoke, dust, gas, noise or vibration caused by the proposed use.
7. Waiver of any standards, requirements or depiction of information required by this Article when requested by the applicant and shown to be unnecessary as applied to the specific case in question.
8. Such other conditions and/or limitations that are deemed necessary.

19-105 Development Plan - Phasing, Time Restrictions: The applicant may proceed with construction based on the entire development plan, or may elect to develop the property in phases. The applicant may submit the development plan separately for the first and each successive phase of construction, or for all of the project with a depiction of the phasing sequence; however, all “Planned” districts and Conditional Uses approved with a development plan shall have construction begun with one (1) year of said approval by the Planning Commission. The applicant may request a one (1) year extension of this time restriction by submitting a request in writing to the Planning Commission stating the reasons construction has

not begun and at what time construction is expected to begin. If the Planning Commission agrees, the one (1) year extension may be granted one time but shall not be granted for any longer period.

The Planning Commission shall review the development plan and shall act on said plan in a reasonable time period. Upon approval by the Planning Commission, the development plan shall be filed for record in the office of the Zoning Administrator.

After the development plan has been approved, and when in the course of carrying out the development plan, minor adjustments are requested by the applicant and such adjustments conform to the minimum standards established by the approved development plan for building coverage, parking spaces, points of ingress and/or egress, heights, setbacks and/or other requirements, such adjustments may be made by the Zoning Administrator. If the requested adjustments are deemed by the Zoning Administrator to exceed the minimum standards established by the approved development plan, the revised development plan must be submitted and approved by the Planning Commission before any further work can proceed. Said revised development plan shall not require another public hearing unless the Planning Commission determines that the revisions requested are so significant that the public interest will be protected only by conducting a public hearing on said revised development plan. Regardless of whether a public hearing is required or not, at no time shall the Conditional Use previously approved be subject to disapproval. The only issue in said review shall be the requested revisions to the previously approved development plan.

Those properties granted a Conditional Use Permit at the time of adoption of these Regulations and which do not have an approved Development Plan may submit a Development Plan at any time for administrative approval by the Zoning Administrator, including to allow a permitted enlargement, expansion or other improvement of said use as permitted by these Regulations. If the Zoning Administrator deems the proposal beyond his/her authority, the owner may submit the proposed Development Plan to the Planning Commission as outlined in the paragraph above.

19-106 Appeals of Planning Commission Action on Development Plan: Any decision of the Planning Commission regarding development plans may be appealed to the Governing Body, whose decision shall be final. An appeal shall be filed in writing with the Zoning Administrator not later than fifteen (15) days following the date of the Planning Commission's final action. If no appeal is taken within that time, the decision of the Planning Commission shall be final. The appeal shall set forth the basis for the appeal and the relief sought by the applicant. The Zoning Administrator shall schedule the appeal before the Governing Body no later than thirty (30) days following the filing of the appeal. The Zoning Administrator shall notify all interested persons in writing of the time and place of the Governing Body's meeting at least ten (10) days prior to said meeting.

19-107 Remedies for Noncompliance: If the applicant fails to comply with the time requirements herein established, the approved development plan shall be declared null and void and no permit for construction shall be issued until a new development plan has been approved following the procedures previously cited. The “Planned” district or Conditional Use permit shall remain in effect but shall do so without an approved development plan. If the approved development plan is voided, the Planning Commission or the Governing Body may initiate an action to have the zoning changed to the previous zoning classification, or to have the Conditional Use permit revoked, or may seek some other more restrictive zoning classification by following the procedures outlined in these Regulations.

Sections:**20-101 Purpose****20-102 Performance Standards – Districts “RLD”, “R-1A”, “R-1B”, “R-1C” and “R-2”****20-103 Performance Standards – Districts “RP-3” and “U”****20-104 Performance Standards – Districts “CP-0”, “CP-1”, “CP-2” and “CP-4”****20-105 Performance Standards – District “CP-3”****20-106 Performance Standards – Districts “IP-1” and “IP-2”****20-107 Performance Standards – Conditional Uses****20-108 Performance Standards – Lighting****20-109 Performance Standards – Outdoor Storage, Merchandise Display, Refuse, Small Wind Energy Conversion Systems****20-110 Performance Standards - Landscaping****20-111 Performance Standards - Screening**

20-101 Purpose: The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the performance standards for uses permitted within these Regulations. The standards established herein are intended to provide guidance in the development or redevelopment of property in the City of Baldwin City for the purpose of encouraging and requiring orderly development at a quality level generally equal to or exceeding that commonly found elsewhere in the community. The standards stated within this Article are the minimum required or maximum permitted, whichever the case may be, for the uses permitted in these Regulations.

20-102 Performance Standards – Districts “RLD”, “R-1A”, “R-1B”, “R-1C” and “R-2”: The following are the performance standards for the “RLD” Residential Low Density District, “R-1A” Single-Family Residential District, “R-1B” Single-Family Residential District, “R-1C” Single-Family Residential District and the “R-2” Two-Family Residential District.

1. No use shall be operated and no activity or equipment maintained that produces noise of a pitch or level that violates the residential character, livability, or tranquility of the neighborhood.
2. No single-family dwelling shall be constructed, reconstructed, moved or altered unless it conforms to the minimum dwelling size requirements set forth herein.
3. No main or accessory building or structure shall project beyond the property line. Nothing shall be allowed to be placed in any public right-of-way within the corporate limits of the City of Baldwin City without the express permission of the City.
4. Residential real estate sales offices are subject to the following standards:
 - a. There shall be only one residential sales office in any one subdivision.
 - b. All sales shall be limited to the sale of new properties located within that subdivision.

- c. Any sales office within a subdivision shall be located within a permanent residential structure with a minimum dwelling size equal to or greater than that of the zoning district. Manufactured homes, mobile homes, and construction trailers shall not be permitted to be used as a residential real estate sales office.
 - d. No additional parking facilities other than adjacent on-street parking or customary driveway parking shall be permitted.
 - e. Upon issuance of any final approval of construction for 90% of the lots within the subdivision, the sales office shall be terminated.
 - f. A model home complex operated in conjunction with a residential sales office may include a decorative fence in the front yard enclosing or defining the extent of the complex. To qualify as a decorative fence, the surface of the fence must be at least fifty percent (50%) open, the fence cannot be constructed of chain link or other wire materials, and the fence cannot exceed four (4) feet in height. The front yard fence shall be removed upon the termination of the sales office.
3. Residential-design manufactured homes shall comply with the requirements of the Manufactured Home Code of the City of Baldwin City.
 4. Accessory structures shall be no more than a maximum thirty percent (30%) coverage within a required rear yard either as single or cumulative structures.
 5. Exterior light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.

20-103 Performance Standards - Districts "RP-3" and "U": The following are the performance standards for the "RP-3" Planned Multi-Family Residential and "U" University Districts.

1. Pedestrian circulation systems (sidewalks, walkways and paths) shall be located and designed to provide separation from automobile traffic along all public and private streets, drives and parking areas.
2. No use shall be operated and no activity or equipment maintained that produces noise of a pitch or level that violates the residential character, livability, or tranquility of the neighborhood.
3. No main or accessory building or structure shall project beyond the property line. Nothing shall be allowed to be placed in any public right-of-way within the corporate limits of the City of Baldwin City without the express permission of the City.
4. Site drainage patterns shall be designed, graded and constructed to prevent surface drainage from collecting on or flowing across pedestrian paths, walks and sidewalks.

5. The maximum lot coverage shall be sixty percent (60%).
6. A minimum of ten percent (10%) of landscaped open space shall be provided on each site as common or semi-common areas open for use and available to all persons who reside on the premises.
7. Exterior light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.

20-104 Performance Standards – Districts “CP-0”, “CP-1”, “CP-2” and “CP-4”: The following are the performance standards for the “CP-0” Planned Commercial Office District, “CP-1” Planned Limited Commercial District, “CP-2” Planned General Commercial District and the “CP-4” Planned Highway Service Commercial District.

1. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
2. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
3. Merchandise which may be appropriately displayed or stored outside a building shall be kept off the public sidewalks and streets, and shall not reduce the capacity of a parking lot below that specified in Article 20 herein. In addition, the outdoor storage or display area shall occupy an area not greater than thirty percent (30%) of the ground floor area of the building. Automobiles and trucks for sale may be stored or displayed outside a building, but must maintain a setback of at least ten (10) feet from a street right-of-way, or six (6) feet from a side or rear lot line.
4. A minimum of 50% of the gross surface area of each building front along any street shall use decorative materials. Use of substantial amounts of masonry materials (face brick, stucco, stone) is encouraged. The use of aluminum siding, metal ribbed panels, and extensive mirrored glass surfaces is discouraged. Evaluation of building materials shall be based on the quality of its design and relationship and compatibility to building materials in the immediate neighborhood. Architectural metal panels may be an acceptable substitute for masonry. Appropriate landscaping can be used to complement and enhance a building’s design, color and material.
5. Architectural treatments (e.g., building material, colors, facade design, roof lines, screening) shall be consistent and compatible with surrounding properties. Treatment that is uniform on all sides will be deemed to meet the requirements of this principle. Adjacent land uses, visibility from public streets, use of screening devices (walls, fences, berms, landscaping) are criteria to be considered when varying this treatment. The applicant will have the burden of demonstrating the reasons for differing treatments on different sides (e.g., the need for truck access on one side and pedestrian access on another).

6. Any manufacturing or assembly of products shall be entirely within a totally enclosed building.

20-105 Performance Standards - District "CP-3": The following are the performance standards for the "CP-3" Planned Central Business District.

1. Only that property which is designated "CP-3" on the official zoning map shall be subject to the requirements of the "CP-3" Zoning District.
2. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
3. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
4. Merchandise which may be appropriately displayed or stored outside a building shall be kept off the public sidewalks and streets, except during special promotional activities and sales approved by the Governing Body with a special event permit.
5. The gross surface area of each building front shall be consistent and compatible with the adjacent buildings. The applicant will have the burden of demonstrating the reasons for differing treatments.

20-106 Performance Standards - Districts "IP-1" and "IP-2": The following are the performance standards in the "IP-1" Planned Light Industrial District and the "IP-2" Medium Industrial District.

1. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
2. No emission of air contaminants from any source within the boundaries of any lot or tract shall exceed emission rates established by the Kansas Secretary of Health and Environment pursuant to K.S.A. 65-3001 et seq, or amendments thereto, and any administrative regulations adopted thereunder.
3. No activity shall be permitted that creates any off-site electrical disturbance.
4. Areas devoted to retail sales of commodities manufactured, processed, fabricated, assembled, warehoused, or stored on the premises shall not exceed ten percent (10%) of the gross floor area of the main use, and in no event shall such areas exceed 5,000 square feet.
5. Architectural treatments (e.g., building material, colors, facade design, roof lines, screening) shall be consistent and compatible with surrounding properties. Adjacent land uses, visibility from public streets, use of screening devices (walls, fences, berms,

landscaping) are criteria to be considered when varying this treatment. Long expanses of overhead doors shall be relieved by matching their color to the wall or trim, recessing the doors, or adding architectural details to diminish the dominance of the doors.

20-107 Performance Standards - Conditional Uses: The following are the performance standards for Conditional Uses authorized by these Regulations.

1. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
2. Any manufacturing or assembly of products shall be entirely within a totally enclosed building.
3. No emission of air contaminants from any source within the boundaries of any lot or tract shall exceed emission rates established by the Kansas Secretary of Health and Environment pursuant to K.S.A. 65-3001 et seq, or amendments thereto, and any administrative regulations adopted thereunder.
4. No activity shall be permitted that creates any off-site electrical disturbance.
5. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.

20-108 Performance Standards - Lighting: It is the intent of this section to eliminate adverse impacts of light through spillover; provide attractive lighting fixtures and layout patterns that contribute to unified exterior lighting design of nonresidential developments; and provide exterior lighting that promotes safe vehicular and pedestrian access to and within a development, while minimizing impacts on adjacent properties.

1. For all non-residential uses, including those established by Conditional Use Permit, the following design guidelines and standards shall apply.
 - a. Plan Required.
 - (1) Applicants shall submit a unified lighting plan with final plan applications for all commercial developments subject to these lighting standards. A point-by-point calculation to show compliance with the lighting standards is required. The calculations shall be measured at grade for lighting levels within the development site. A cut sheet of proposed fixtures, including a candlepower distribution curve, shall also be submitted. A vertical plan footcandle calculation shall be submitted for property lines abutting residential properties.
 - b. General Lighting Standards.

- (1) Pedestrian Walkway Lighting. Pedestrian-level, bollard lighting, groundmounted lighting, or other low, glare-controlled fixtures mounted on building or landscape walls shall be used to light pedestrian walkways.
 - (2) Lighting Height. Bollard-type lighting shall be no more than four feet (4') high. See subsection 2.d. below for lighting standards specific to parking areas.
 - (3) Lighting for Security.
 - (a) Accent lighting on buildings is encouraged as a security feature.
 - (b) Interior and exterior lighting shall be uniform to allow for surveillance and avoid isolated areas.
 - (4) Illumination Levels. Pedestrian areas shall be illuminated to a minimum of one (1) footcandle.
 - (5) Design of Fixtures/Prevention of Spillover Glare. Light fixtures shall use cutoff lenses or hoods to prevent glare and light spill off the project site onto adjacent properties, buildings, and roadways.
 - (6) Color of Light Source. Lighting fixtures should be color-correct types such as halogen or metal halide to ensure true-color at night and ensure visual comfort for pedestrians.
- c. Architectural Building-Mounted Lighting.
- (1) Building-mounted lighting may be used only to highlight specific architectural features or primary customer or building entrances. General floodlighting of building façades is not permitted.
 - (2) Building-mounted neon lighting is allowed only when recessed, or contained in a cap or architectural reveal.
- d. Parking Lot Lighting.
- (1) Luminaire Fixture Height. The mounting height for luminaire fixtures shall not exceed thirty-three feet (33') as measured to the top of the fixture from grade.
 - (2) Average Maintained Footcandles:
 - (a) The maximum average maintained footcandles for all parking lot lighting shall be three (3) footcandles, the minimum average maintained footcandles shall be one (1) footcandle. For the

purpose of this standard, the average maintained footcandle shall be calculated at 0.8 of initial footcandles.

- (b) The maximum maintained vertical footcandle at an adjoining residential property line shall be 0.5 footcandles, measured at five feet (5') above grade.
- (3) **Uniformity Ratios.** Luminaire fixtures shall be arranged in order to provide uniform illumination throughout the parking lot of not more than a 6:1 ratio of average to minimum illumination, and not more than 20:1 ratio of maximum to minimum illumination.
- e. **Canopy Lighting.**
 - (1) **Average Maintained Footcandles.** The maximum average maintained footcandles under a canopy shall be 35 footcandles. Areas outside the canopy shall be regulated by the standards in Parking Lot Lighting above.
 - (2) **Fixtures.** Acceptable fixtures and methods of illumination include:
 - (a) Recessed fixtures incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the canopy.
 - (b) Indirect lighting where light is beamed upward and then reflected down from the underside of the canopy. Such fixtures shall be shielded such that direct illumination is focused exclusively on the underside of the canopy.

20-109 Performance Standards – Outdoor Storage, Merchandise Display, Refuse, Small Wind Energy Conversion Systems:

1. **Exterior Storage:** Except as otherwise permitted by these regulations or during permitted construction on any tract, all exterior storage of equipment, raw materials or finished products shall be fully screened from the view of adjacent parcels and streets by a solid screen fence at least six (6) feet in height. Storage within IP-1 Planned Light Industrial District or IP-2 Planned Medium Industrial District shall be exempt from screening of exterior storage visible from abutting streets.

Screening and enclosure required for permitted outdoor storage shall be by means of a fence, wall or berm, in combination with landscaping, designed to create a minimum of seventy-five (75) percent opacity. Crates, boxes, trailers or other temporary storage facilities shall not be considered appropriate screening materials. Outdoor storage shall not interfere with the required and/or approved operation of the site, including but not limited to traffic circulation, parking, open space or aesthetics. Areas used for approved exterior storage are permitted to be graveled rather than paved; provided the screening provisions above are met.

2. Exterior Display for merchandise for Sale: No merchandise or equipment may be displayed outside a building unless located within an outdoor display confinement area not to exceed thirty percent (30%) of the ground floor area of the building or tenant space. In no case shall merchandise for sale be displayed in any required parking area, or interfere with vehicular access or parking or pedestrian circulation. The following are exceptions to this provision:
- a. Daily sidewalk sales and temporary displays, not to exceed one hundred fifty (150) square feet in area or thirty percent (30%) of the ground floor area of the building or tenant space, whichever is less, shall be permitted on sidewalk areas immediately adjacent to the business during business hours. All such merchandise and display shall be temporary in nature and shall be moved inside the business after business hours.
 - b. Outdoor display of landscape plantings, materials and supplies, and lawn and garden supplies (as accessory sales for businesses with other commercial activities) are subject to the following:
 - (1) Seasonal landscape plantings may be displayed outside of an outdoor display confinement area on a seasonal basis upon approval of a temporary sales and events permit issued by the Zoning Administrator. Plantings shall be kept off the public sidewalks and streets, shall not reduce the capacity of a parking lot below that required by these Regulations, and shall not hinder the movement of pedestrians on any sidewalk around the building.
 - (2) Landscape materials and lawn and garden supplies are required to be located within an outdoor display confinement area. However, such materials and supplies may be displayed outside of an outdoor display confinement on a seasonal basis upon approval of a temporary sales and events permit issued by the Zoning Administrator. Materials and supplies shall be kept off the public sidewalks and streets, shall not reduce the capacity of a parking lot below that required by these Regulations, and shall not hinder the movement of pedestrians on any sidewalk around the building.
 - c. Outdoor display and storage of landscape plantings, materials and supplies, and lawns and garden supplies associated with retail nurseries and/or lawn and garden supply stores (stand alone developments not associated with other commercial activities) and not located within an outdoor display confinement area may be permitted on a permanent basis if included in the original Development Plan approval or as a Development Plan amendment as provided in these Regulations.
 - d. Outdoor display of motor vehicles, recreational vehicles including but not limited to boats, jet skis and travel trailers, manufactured homes and/or farm machinery and equipment for sale on licensed sales lots (where applicable) shall be permitted

to utilized the lot to the maximum extent; provided all displays are kept off the public sidewalks, streets, and all public rights-of-ways, shall not reduce the capacity of a parking lot below that required by these Regulations, and shall not hinder the movement of pedestrians.

3. Refuse: Except during permitted construction on any tract, all waste materials, debris, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes, and located on a paved surface designed for adequate vehicle and removal equipment access and operation. Containers shall be screened from view from adjacent parcels and any streets. Unless the container is contained within the building until time of collection, screening shall be provided by dense landscaping, landforms, by housing the container in a refuse enclosure at least as tall as the container, or a combination there of. This screen shall provide complete visual screening of the dumpster and be compatible in material and color with the principal structure on the lot.

The owner of any land parcel shall be responsible for keeping that land free of refuse. All exterior storage not included as a permitted accessory use, a permitted use, included as part of a Conditional Use Permit, or otherwise permitted by these regulations or other City code shall be considered refuse.

4. Where permitted as an accessory use, small wind energy conversion systems shall conform to the following standards:
 - a. The maximum capacity of the system shall be 25 kW. There shall be no more than one (1) system on an individual property.
 - b. The lowest point of the rotor blades shall be at least 20 feet above ground level at the base of the tower.
 - c. The maximum height of the structure shall be less than 100 feet as measured to the top of the blade at its highest point.
 - d. The minimum setback shall be a distance equal to the height of the structure from all property lines.
 - e. Any small wind energy conversion systems proposed to exceed the standards stated herein shall be permitted only by the issuance of a Conditional Use Permit after proper notice and hearing as provided by these Regulations.

20-110 Performance Standards - Landscaping:

1. Intent: The intent of this section is to provide shade and to enhance the visual integrity of the community; to encourage the use of landscape vegetation to visually soften paved areas and hard architectural lines, buffer uncomplimentary land uses, screen unsightly views, enframe buildings and scenic views, and to generally enhance the quality and appearance of developments; to ensure the preservation and/or replenishment of trees native to the region; and to promote sound environmental conditions by providing shade, air purification, oxygen regeneration, ground water recharge, storm water runoff retardation, and noise, glare and heat abatement.
2. For the purposes of this section, the following words shall have the following meanings:
 - a. ***Deciduous trees*** means generally those trees which shed their leaves annually, such as ash, sycamore and willow.
 - b. ***Evergreen trees*** means generally those trees which do not shed their leaves annually, such as pine, spruce and juniper.
 - c. ***Ground cover*** means landscape materials, or living low-growing plants other than turf grass, installed in such a manner so as to form a continuous cover over the ground surface.
 - d. ***Landscaped open space*** means all land area within the property lines not covered by building or pavement.
 - e. ***Landscape material*** shall consist of such living material as trees, shrubs, ground cover/vines, turf grasses, and nonliving material such as: rocks, pebbles, sand, bark, brick pavers, earthen mounds (excluding pavement); and/or other items of a decorative or embellishment nature such as: fountains, pools, walls, fencing, sculpture and geo-block drives.
 - f. ***Large trees*** generally include those species of trees that reach a height of seventy feet (70') or taller at maturity.
 - g. ***Medium trees*** means trees generally thirty (30) to seventy feet (70') in height at maturity.
 - h. ***Native grasses*** means species of perennial grass other than those designated as noxious weeds by the Kansas Department of Agriculture.
 - i. ***Private street setback*** means that distance of open area between the curb line and the building or parking setback line.
 - j. ***Public street setback*** means that distance of open area between the street right-of-way line and the building or parking setback line.

- k. *Shrubs* means any self-supporting, woody plant of a species which normally grows to an overall minimum height of less than fifteen feet (15') in this region.
- l. *Small trees* means trees generally thirty feet (30') or less in height at maturity, including ornamental flowering trees and patio trees.
- m. *Trees* means any self-supporting, woody plant of a species which normally grows to an overall minimum height of fifteen feet (15') in this region.
- n. *Turf grass* means a species of perennial grass grown as permanent lawns or for landscape purposes as distinguished from those species grown for agricultural or commercial seed purposes.

"The American Standard for Nursery Stock," in its most current edition, as published by the American Association of Nurserymen, shall be referred to in determining the applicability of the definitions in this section.

3. General Conditions:

- a. A landscape plan shall be submitted in support of all development. All land areas which are to be unpaved or not covered by buildings shall be brought to finished grade and planted with turf or native grass or other appropriate ground cover and receive trees as specified in Section 20-110(4) below.
- b. In addition to the minimum number of trees to be planted, as set forth in Section 20-110(4), development of commercial and industrial properties adjoining residential districts shall comply with the screening requirements of these Regulations.
- c. Tree Preservation.
 - (1) Development for which a landscaping plan is required shall be designed to preserve existing trees and vegetation to the greatest extent possible and shall seek to incorporate existing stands of trees as well as individual trees. Sensitivity to site grading, storm drainage, building location and orientation and parking lot configuration shall be demonstrated to ensure tree and vegetation preservation. The intent of these Regulations is to recognize the need to alter the landscape during site development activities, while setting out standards necessary to ensure tree preservation to the greatest extent possible.
 - (2) A tree preservation plan shall be submitted at the time of site plan review. The plan shall indicate the general location and massing of wooded areas, areas with dense shrubbery, and isolated individual mature hardwood trees and designate which areas or trees are to be preserved and which are to be

removed. The Zoning Administrator shall review the plan and either approve it or direct the applicant to seek alternative site design to improve preservation of existing trees.

4. Minimum Tree Requirements:
 - a. All Residential Development: One tree per lot shall be required within the setback area abutting the street frontage.
 - b. All Other Development.
 - (1) One tree per sixty feet (60'), or portion thereof, of street frontage shall be required within the landscape setback abutting the street frontage. The trees may be clustered or arranged within the setback area and need not be placed evenly at sixty-foot intervals.
 - (2) Small ornamental trees and shrubs shall be provided to meet site and screening requirements.
 - c. Adequate clearance between trees and other infrastructures shall be coordinated in such a manner to allow for the location of street trees within the right-of-way, wherever practical, and shall promote the longevity of the street trees to avoid premature loss of the trees. The street tree plan shall coordinate the locations of street trees to allow access to utilities with minimal disruption to the street trees and their supporting root systems, while avoiding increased service costs to the utilities. Landscaping shall observe all sight-distance requirements.
5. Planting Requirements: The planting and minimum size standards for all new plant material shall be as follows:
 - a. Deciduous Trees. One and one-half inch (1½") caliper as measured six inches (6") above the ground.
 - b. Evergreen Trees. Minimum six feet in height;
 - c. Shrubs. At least three-gallon container size or eighteen inches tall.
6. Planting Requirements within Parking Areas:
 - a. The intent of this section is to encourage interior landscaping within vehicular parking areas, to break up the large expanses of pavement, and to provide relief from the reflected glare and heat, as well as to guide vehicular and pedestrian traffic.
 - b. Except for those having a paved area no wider than a double-loaded aisle or more

than 65 feet in width, all parking areas, including lots for the sale or display of autos, trucks, motorcycles, boats, recreational vehicles, campers and similar items, shall include the following as minimum requirements:

- (1) An area equal to not less than one (1) of every fifteen (15) parking stalls in the parking lot shall be used for interior landscaping. The applicant shall submit calculations demonstrating compliance with this requirement. Planting which is required along the perimeter of a parking lot shall not be considered as part of the interior landscaping requirement.
- (2) The landscaping and planting areas shall be reasonably dispersed throughout the parking lots.
- (3) The interior dimensions of any planting area or planting median shall be sufficient to protect the landscaping materials planted therein and to insure proper growth. Each area shall be protected by portland cement concrete vertical curbs, or similar structures.
- (4) The primary landscaping materials used in parking lots shall be trees which provide shade or are capable of providing shade at maturity. Shrubbery, hedges and other planting material may be used to complement the tree landscaping, but shall not be the sole contribution to the landscaping. Effective use of earth berms and existing topography is also encouraged as a component of the landscape plan.
- (5) In those instances where plant material exists on a parking lot site prior to its development, such landscape material may be used if properly preserved.
- (6) No landscaping, tree, shrub, fence, wall or similar item shall be placed in zones of ingress or egress at street corners, or in the intersection of a public right-of-way that the City Engineer or his or her designee determines is an obstruction to visibility, extends into sight lines, or is a traffic hazard.

7. Timing for Establishing Landscaping:

- a. Except where otherwise provided in these regulations, or with the prior approval of the Zoning Administrator, all landscape material, living and nonliving, shall be in place prior to issuance of a final certificate of occupancy.
- b. All plant material shall be healthy and in place prior to issuance of a final certificate of occupancy. A temporary certificate from the Zoning Administrator may be issued without the installation, provided written assurances are given that the planting will take place when the proper season arrives.

8. Maintenance and Enforcement:
 - a. The trees, shrubs and other landscaping materials depicted on plans approved by the City shall be considered as required elements of the project in the same manner as parking, building materials and other details are elements of the project.
 - b. The landowner shall be responsible for the continued maintenance to remain in compliance with all the requirements of this Article.
 - c. Plant material which exhibits evidence of insect pests, disease, and/or damage shall be appropriately treated and dead plants promptly removed and replaced within the next planting season.
 - d. All landscaping will be subject to periodic inspection by the City.
 - e. Should landscaping not be installed, maintained and replaced as needed to comply with the approved plan, the landowner shall be considered in violation of these Regulations.

9. Waivers: Upon written request, the Zoning Administrator may grant an administrative waiver for single-family, duplex and triplex residences regarding requirements of this article. Any other request to waive or modify any of the requirements of this Article shall be made to and at the discretion of the Planning Commission. Such request shall be approved by the Zoning Administrator or the Planning Commission only upon a finding that the following conditions are evident:
 - a. That the conditions unique to the particular property dictate a waiver or modification;
 - b. That strict application of the provisions of this Article will result in unnecessary hardship to the applicant and/or property owner;
 - c. That the waiver or modification will not adversely affect the rights of adjacent property owners nor the general public welfare; and
 - d. That the waiver or modification will not be opposed to the general spirit of these regulations.

20-111 Performance Standards - Screening:

1. **Commercial or industrial use adjacent to a residential zone.** Whenever a commercial or industrial zoned tract adjacent to a residential zoning district is used, screening to

- protect the residential land from the affect of the commercial or industrial use shall be required.
2. **Type of screening required.** Screening shall consist of a wall, fence or evergreen plantings six (6) to eight (8) feet in height having a visual density of at least ninety percent (90%). Screens adjacent to the front yard of a residential zone shall not exceed forty-eight (48) inches in height.
 3. **Location of screen.** All required screening shall be located within three (3) feet of the property line adjacent to the residential zone.
 4. **Evergreen hedges or shrubs.** Evergreen plantings shall be plated at a height of at least thirty-six (36) inches and shall reach the required height and effective screening within eighteen (18) months.
 5. **Maintenance of screens.** All required screens shall be permanently maintained in good and effective condition, and whenever necessary, repaired or replaced.
 6. **Installation prior to occupancy.** Whenever screening is required, it shall be installed within six months of occupancy of the commercial or industrial use as allowed.

Sections:

- 21-101 Parking Requirements**
- 21-102 Interpretation of the Chart**
- 21-103 Joint Use and Off-Site Facilities**
- 21-104 Design Standards**
- 21-105 Performance Standards**

21-101 Parking Requirements: When any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by 50 percent or more, or a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of 10 percent or more in the number of existing parking spaces, or any building or structure hereafter erected is converted for the uses listed in Column 1 of the chart below in any zoning district, accessory off-street parking spaces shall be provided as required in Column 2 or Column 3 or as required in subsequent sections of this Article or in these Regulations.

| Column 1 USE OR USE CATEGORY | Column 2 SPACES REQUIRED PER BASIC MEASURING UNIT | Column 3 ADDITIONAL REQUIREMENTS |
|--|--|---|
| One-family dwellings | 3 per dwelling unit | |
| Multi-family dwellings | 1 per bedroom per unit | |
| Apartments | 2 per dwelling unit or 1.5 per efficiency unit | |
| Church, temple or similar place of assembly | 1 per 5 seats or bench seat spaces (Seats in main auditorium only) | |
| College or high school | 1 per 5 seats in main auditorium or 8 per classroom whichever is greater | |
| Elementary or nursery school | 1 per 10 seats - main assembly room or 1 per classroom whichever is greater | |
| Country club or golf club | To be determined by the Planning Commission and Governing Body | |

ARTICLE 21**PARKING REGULATIONS**

| Column 1 USE OR USE CATEGORY | Column 2 SPACES REQUIRED PER BASIC MEASURING UNIT | Column 3 ADDITIONAL REQUIREMENTS |
|--|---|--|
| Public library, museum art gallery, or community center | 5 per building | Plus 1 additional for each 300 sq. ft. of floor area in excess of 1,000 square feet |
| Dormitories, fraternities, sororities | 2 per each 3 occupants | |
| Sanitarium - nursing or convalescent home, home for the aged or similar institution | 1 per 5 patient beds | |
| Hotel | 1 per guest room or suite | 1 per 2 employee or staff members per shift |
| Tourist court - motel - motor hotel or motor lodge | 1 per sleeping room or suite | 1 per 2 employees staff members per shift |
| Rooming, boarding, lodging house or group home | 2 per 3 beds | |
| Hospital | 1 per 3 patient beds | 1 per 2 employees or staff members per shift |
| Office or office building, studio or clinic | 1 per 200 square feet of floor area | 3 spaces minimum |
| Funeral home | 1 per 5 seats in auditorium or chapel | |
| Restaurant, tavern, drinking establishment, or other establishment for consumption of food or beverage on the premises | 1 per 3 seats or seating spaces | |

ARTICLE 21**PARKING REGULATIONS**

| Column 1 USE OR USE CATEGORY | Column 2 SPACES REQUIRED PER BASIC MEASURING UNIT | Column 3 ADDITIONAL REQUIREMENTS |
|--|--|--|
| Retail store or personal service establishment and banks | 1 per 250 square feet of floor area | Retail food stores over 4,000 sq. ft., 1 per 150 sq. ft. of floor area |
| Private clubs | 1 per 3 persons maximum design capacity | |
| Furniture or appliance store, machinery, equipment, and auto and boat sales and service | 1 per 300 square feet of floor area | 2 spaces minimum Auto sales & service - 10 minimum |
| Auditorium - theatre - gymnasium - stadium - arena or convention hall with fixed seats | 1 per 4 seats or seating spaces | |
| Bowling alley | 5 per 1,000 sq. ft. of gross floor area | |
| Food storage locker | 1 per 200 sq. ft. customer service area | |
| Amusement place - dance hall - skating rink - swimming pool - auditorium or exhibition hall without fixed seats | 1 per 100 sq. ft. of floor area | Does not apply to accessory uses |
| General service or repair establishment - printing - publishing - plumbing, heating | 1 per 300 sq. ft. of floor area | |
| Manufacturing or industrial establishment, research or testing lab, wholesale warehouse or similar establishment | 2 per 1,000 square feet of floor area | |

21-102 Interpretation of the Chart:

1. The use regulations for each District are not affected by arrangement of uses in the chart.
2. The parking requirements in this Article do not limit other requirements for parking contained in these Regulations.
3. The parking requirements in this Article do not limit special requirements which may be imposed in connection with Conditional Uses, Article 26.
4. Floor area, as used in the chart, shall be as defined in Article 1, Definitions.
5. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
6. The parking spaces required for a use not specifically listed in the chart shall be the same as for a listed use of similar characteristics with similar demands for parking as determined by the Zoning Administrator.
7. In the case of mixed uses (uses with different parking requirements occupying the same building or premises) or in the case of joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

21-103 Joint Use and Off-Site Facilities: All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from the building served.

1. Up to 50 percent of the parking spaces required for (a) theatres, night clubs or cafes, and up to 100 percent of the parking spaces required for a church auditorium may be provided and used jointly by (b) banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those listed in (a); provided, however, that a written agreement is properly executed and filed as specified below.
2. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the City Attorney and shall be filed with the Zoning Administrator.

21-104 Design Standards:

1. An off-street parking space is a paved area not in a street or alley, being a minimum of 9 feet by 19 feet, exclusive of driveways or access drives, permanently reserved for the temporary storage of one motor vehicle and connected with a street or alley by a paved driveway which affords satisfactory ingress and egress for motor vehicles. Paving shall be either asphalt or concrete meeting standards established by the City. Double-loaded parking areas shall maintain a 25-foot aisle.
2. Entrances or exits for all parking facilities shall comply with the requirements of the City Engineer.
3. Screening shall be erected along any property line adjacent to or adjoining any single-family residence, two-family residence or multi-family residence to eliminate the passage of light from vehicles. Screening along side yards shall not extend nearer to the street than the front yard setback line. The installation and maintenance of required screening shall be the responsibility of the landowner whose land use necessitates the screening.
4. Parking improvements shall include all parking stalls, aisles, driveways and other areas used for vehicular parking, loading or circulation. The construction and renovation of certain structures and facilities must conform to the provisions of the Americans with Disabilities Act (ADA) Title III of 1990, and amendments thereto. Structure plans for construction, alteration or remodeling permits must identify how compliance to the ADA parking and other site requirements are to be met. Permits for new construction must comply with the entire Title III of the Act as it relates to the structure and site.

The Zoning Administrator will provide information upon request to assist the public in interpreting the requirements of the ADA, which generally provide for at least one accessible route within the boundary of the site from a parking space or street to an accessible structure entrance. Accessible spaces and access aisles are required, as well, among other detailed provisions.

21-105 Performance Standards:

1. All off-street parking spaces and their access drives required for all commercial and industrial uses shall be paved with an asphalt or concrete surface. No unpaved alley shall be used as access to a paved parking area. All required off-street parking spaces and their access drives shall be maintained in good condition and free of all weeds, dust, trash and other debris. Said paving shall be maintained in good conditions free of broken asphalt or concrete, poor drainage, potholes, or other conditions detrimental to the parking area. Existing parking not in conformance to the paving standard shall be paved when improvements or changes to the building or structure exceed 40% of the value of the property; said value being the appraised value for tax purposes for the current year established and of record with Douglas County. Phasing of improvements shall not be permitted to avoid this requirement.

2. All off-street parking spaces, and their access drives, shall be planned and engineered to assure proper drainage of surface water. Paved parking areas may incorporate curbs and gutters to collect and divert storm water to a storm sewer, but such curb & gutter shall be required only when necessary or desirable to provide proper drainage of surface water. If a developer shows that surface water can be adequately handled, to the satisfaction of the City Engineer, then there is no preference for curb & gutter of parking areas. If a storm sewer is not available, positive drainage shall be provided on such lot or parcel and discharge of the same shall be through defined drainage courses. No drainage shall be directed over adjoining lands unless approved by the City Engineer.
3. Plans shall be prepared and presented for all uses except single-family residential and two-family residential as required by Article 19 to assure proper design and construction of any off-street parking spaces and their access drives and shall be approved by the City Engineer prior to issuance of a building permit. If conditions of the site are such that compliance with these requirements may be difficult or may pose a potential problem with adjacent properties, or if the proposed use will include parking needs for buses, tractor-trailer semis, or other such large vehicles, additional spaces may be required or reserved to accommodate such conditions or such vehicles, which shall be shown on the site plan.
4. When located in a residential district, parking shall not be permitted within a front yard setback except in permitted driveways.
5. If lighting facilities are provided, they shall be so arranged as to deflect or direct light away from any adjacent single-family residence, two-family residence or multi-family residence.
6. Paved parking areas shall be adequately marked with at least two (2) inch wide stripes of traffic paint, for channelization and movement of vehicles.
7. No business shall be conducted on any parking lot except when conducted in compliance with these Regulations.
8. Parking and access drives to all residential uses shall be paved. Also, all other areas devoted to permitted parking or providing access to approved accessory buildings on residential properties shall be paved.

Sections:

- 22-101 Requirements**
- 22-102 Interpretation of the Chart**
- 22-103 Mixed Uses of One Building**
- 22-104 Design Standards**

22-101 Requirements: Except as otherwise provided in these Regulations, when any building or structure is hereafter erected or structurally altered to the extent of increasing floor area by 50 percent or more, or any building is hereafter converted for the uses listed in Column 1 of the chart below, when such buildings contain the floor areas specified in Column 2, accessory off-street loading spaces shall be provided as required in Column 3, or as required in subsequent sections of this Article.

| Column 1 Use or Use Category | Column 2 Floor Area as Defined in Article 1 in Square Feet | Column 3 Loading Spaces Required |
|--|---|---|
| Retail Store, Department Store, Restaurant, Wholesale House, Warehouse | 2,000 - 10,000 | One |
| Repair, General Service | 10,000 - 20,000 | Two |
| Manufacturing or Industrial Establishment | 20,000 - 40,000 | Three |
| | 40,000 - 60,000 | Four |
| | Each 50,000 over 60,000 | One Additional |
| Apartment Building, Motel, Offices or Office Building | 5,000 - 10,000 | One |
| Hospital or Similar Institution, Places of Public Assembly | 10,000 - 100,000 | Two |
| | 100,000 - 200,000 | Three |
| | Each 100,000 over 200,000 | One Additional |
| Funeral Home or Mortuary | 2,500 - 4,000 | One |
| | 4,000 - 6,000 | Two |
| | Each 10,000 over 6,000 | One Additional |

22-102 Interpretation of the Chart:

1. The loading space requirements apply to all Districts except the "CP-3" Central Business District as noted in Article 13 of these regulations.
2. The loading space requirements in this Article do not limit special requirements which may be imposed in connection with Conditional Uses, Article 26.

22-103 Mixed Use of One Building: Where a building is used for more than one use or for different uses, and where the floor area used for each use for which loading space is required is below the minimum for required loading spaces, but the aggregate floor area used is greater than such minimum, then off-street loading space shall be provided as if the entire building were used for that use in the building for which the most spaces are required.

22-104 Design Standards:

1. Loading spaces shall have minimum dimensions of 12 feet by 35 feet and vertical clearance of at least 15 feet.
2. Loading spaces for a funeral home or mortuary may be reduced in size to 10 feet by 25 feet and vertical clearance reduced to 8 feet.

Sections:**23-101 Scope, Objectives, Purpose****23-102 Definitions****23-103 General Sign Requirements****23-104 Procedural Requirements****23-105 Design and Construction Standards****23-106 District Regulations****23-107 Nonconforming Signs**

23-101 Scope, Objectives, Purpose: The provisions of this Article shall govern the placement, use and structural quality of privately owned outdoor signs and other advertising and identification devices together with their appurtenant and auxiliary apparatus. After the effective date of this Code, no sign shall be erected, constructed, reconstructed or otherwise altered without first obtaining a separate sign permit. Such sign permit shall be legally issued only when in compliance with the regulations set forth in this Article. The Sign Regulations are found to be necessary and proper to the following objectives:

1. To protect the general public from damage and injury which may be caused by the faulty and unregulated construction of signs.
2. To prevent the obstruction of traffic visibility and confusion with traffic control devices resulting from improperly placed and designed signs.
3. To ensure the visual quality of signs and preserve and promote aesthetic quality in the City of Baldwin City.

These Sign Regulations are intended:

1. To eliminate potential hazards to motorists and pedestrians using the public streets, sidewalks, and rights-of-way.
2. To safeguard and enhance private investment and property values.
3. To control public nuisances.
4. To protect government investments in public buildings, streets, sidewalks, traffic control and utility devices, parks, and open spaces.
5. To preserve and improve the appearance of the City through adherence to reasonable aesthetic principles, in order to create an environment that is attractive to residents and to non-residents who come to live, visit, work, or trade.
6. To eliminate excessive and confusing sign displays.
7. To encourage signs which by their design are integrated with and harmonious to the surrounding environment and the buildings and sites they occupy.

23-102 Definitions: For the purpose of this Article, certain terms, phrases and words used throughout this Article shall have the meaning assigned them in this section:

I. GENERAL

- A. ABANDONED SIGN:** Any sign, including off-site signs unless owned and operated by a bona fide billboard company, which no longer directs a potential customer to or exhorts any person, or advertises a bona fide business, project, product, service or activity.
- B. DAMAGED SIGN:** Any sign, including off-premise signs, damaged by any means, more than fifty per cent (50%) of its value.
- C. ELECTRONIC CHANGEABLE COPY SIGN:** A sign or portion thereof that displays electronic, non-pictorial, text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays.
- D. ELECTRONIC GRAPHIC DISPLAY SIGN:** A sign or portion thereof that displays electronic, static images, static graphics or static pictures, with or without information, defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, repixelization or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic graphic display signs include projected images or messages with these characteristics onto buildings or other objects.
- E. FACADE:** The entire exterior surface of a particular side of a structure or establishment to be considered in the calculation of the maximum gross surface area of a wall, roof or projecting sign or signs.
- F. FLASHING SIGN:** A directly or indirectly illuminated sign or portion thereof that exhibits changing light or color effect by any means, so as to provide intermittent illumination that changes light intensity in sudden transitory bursts and creates the illusion of intermittent flashing light by streaming, graphic bursts showing movement, or any mode of lighting which resembles zooming, twinkling, or sparkling.
- G. ILLUMINATED SIGN:** Any sign which contains an element designed to emanate artificial light internally or externally.

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- H. INDIRECTLY ILLUMINATED SIGN:** Any sign which is partially or completely illuminated at any time by a light source separate from the sign housing which is so shielded as to not be visible at eye level.
- I. MARQUEE:** A permanent roofed structure attached to and supported by the building and projecting over public property.
- J. OFF-PREMISES SIGN:** A sign delivering a message or advertisement other than the name, occupation or nature of the activities conducted on the premises or the products sold or manufactured thereon, and shall include all signs including political signs with a gross surface area of more than thirty-two (32) square feet.
- K. ON-PREMISES SIGN:** A sign which carries only advertisement that is incidental to a lawful use of the premises on which it is located, including signs or sign devices indicating the business transacted, services rendered, goods sold or produced on the premises, the rental or lease of products or building space, and/or name of the person, firm or corporation occupying the premises.
- L. OWNER:** Any person(s), firm(s), corporation(s), or any other legal entity having legal title to or sufficient proprietary interest in a tract of land (including leasehold interests) or a sign.
- M. SEMI-ILLUMINATED SIGN:** Any sign located on a building which building face is uniformly illuminated over its entire area, including the area of the sign, by use of electricity or other artificial light. Semi-illuminated signs shall be permitted in any location where illuminated signs are permitted.
- N. SHIMMERING SIGN:** A sign which reflects an oscillating sometimes distorted visual image.
- O. SIGN:** Any advertising device or surface placed out-of-doors, on or off premises, or placed indoors, when in view of the general public, which conveys information or identification. Included in this definition of "sign" shall be any structure used for said display and all sign supports.
- P. SIGN, GROSS SURFACE AREA OF:** The gross surface area of a sign shall be the sum of all surface areas of the sign faces, except that ground or pole signs designed as double-faced signs, with both faces parallel and when the distance between the faces does not exceed two (2) feet, then only one face of the sign shall be considered in determining the sign area. In determining the gross surface area of a sign, each face of a sign may be broken down into not more than three (3) areas. Each surface area shall include the total area within a single continuous perimeter enclosing the extreme limits of the sign elements. Such perimeters need not include any structural elements lying outside the limits of such signs when they do not form an integral part of the display, nor shall it include architectural embellishments when such do not contain any advertising or printed copy, and are
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not lighted and do not exceed ten percent (10%) of the permitted sign area.

- Q. SIGN AREA, MAXIMUM TOTAL GROSS SURFACE AREA:** Maximum allowed square footage of sign area permitted per zoning lot.
- R. SIGN, HEIGHT:** Sign height shall be measured from ground level at the foundation of the sign to the highest element of the sign.
- S. SIGN SETBACK:** The minimum sign setback shall be the horizontal distance between a sign and a front and side lot line, as measured from that part of the sign, including its extremities and supports, nearest to any point on an imaginary vertical plane projecting from the front and side lot line.
- T. SIGN STRUCTURE:** An element or assemblage of elements which supports or is capable of supporting a sign. A sign structure may be free-standing, attached to a building, an integral part of the building, or combination thereof.
- U. STRUCTURAL MEMBER:** A component part of a structural system required to carry the primary supportive stresses of the building to the ground, as opposed to members carrying little or no supportive stresses other than their own weight, and functioning as an in-fill or nonstructural enclosure.
- V. UNIFIED SHOPPING CENTER:** A group of retail stores and/or service establishments designed to serve a community or neighborhood.

Classification of Signs

2. FUNCTIONAL TYPES OF SIGNS.

- A. ADVERTISING SIGN:** A sign which directs the attention of the public to a business, commodity, service or entertainment conducted, sold, or furnished at a location OTHER than the premises on which the sign is located or to which it is affixed.
- B. ADVERTISING DECORATION:** Any sign which has attached various sign materials used for temporary display and decoration, including streamers, banners, pennants, pinwheels, commercial flags, bunting, and similar devices.
- C. BILLBOARD:** An off-site sign, or portion thereof, consisting of outdoor signs which advertise, promote, or otherwise disseminate information pertaining to goods, products, or services, including charitable services, political services or appeals, not related to goods, products, or services which comprise a primary use on the premises where the sign is located. Such signs include:
 - 1) Poster panels or bulletins normally mounted on a building wall or freestanding structure with advertising copy in the form of pasted paper.

- 2) Multi-prism signs, which are poster panels or bulletins normally mounted on a building wall or freestanding structure with advertising copy in the form of pasted paper and alternating advertising message on the one (1) display area.
 - 3) Painted bulletins, where the advertiser's message is painted directly on the background of a wall-mounted or freestanding display area.
- D. BULLETIN BOARD SIGN:** An on-premises sign containing the name of the institution or organization, which may include names of persons connected with it, announcing persons, events or activities occurring at the institution or organization. Such signs may also present a greeting or similar message.
- E. BUSINESS DIRECTIONAL SIGN:** An off-site sign which provides directions to the location of a business.
- F. BUSINESS SIGN:** A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.
- G. CONSTRUCTION SIGN:** A temporary on-site sign indicating the names of architects, engineers, landscape architects, contractors, similar artisans, and financiers involved in the design and construction of a structure or project during the period of construction.
- H. DIRECTIONAL SIGN:** An on-site sign containing words or symbols indicating an entrance to, or exit from, a building as well as the location of parking, loading, restrooms, and emergency entrances which are for the convenience of the public.
- I. FARM/RANCH DIRECTIONAL SIGN:** A sign which provides direction to the headquarters of the farm or ranch.
- J. FIRST AMENDMENT SIGN:** A sign which gives a non-commercial opinion of the sign owner and which is located on the property owned or occupied by the owner of the sign.
- K. IDENTIFICATION SIGN:** A sign giving the name and address of a building, business, development or establishment.
- L. NAMEPLATE SIGN:** A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and where applicable, a professional title.
- M. OFFICIAL SIGN:** A sign erected, maintained and owned by a public entity within its own jurisdiction or, for a city or affiliated entity, within three (3) miles of the city limits.

- N. **POLITICAL SIGN:** A sign pertaining to the announcement of an individual being a candidate for an elective political office. Any such sign exceeding thirty-two (32) square feet of gross surface area shall be classified as an off-site sign and regulated accordingly.
- O. **PROJECT DIRECTORY SIGN:** An on-site sign containing the names and locations, in list or map form, of the individual components making up a planned unit development, shopping center, or similar project.
- P. **PROJECT TITLE SIGN:** An on-site sign which carries the overall name of a residential subdivision, shopping center, industrial park, medical complex, planned unit development, mobile home park, and similar projects.
- Q. **REAL ESTATE SIGN:** An on-premises sign displayed for the purpose of offering real property for sale, lease or rent.
- R. **SERVICE SIGN:** A sign which is owned by and displays information on a non-profit, service, charitable and/or religious organization or group.
- S. **SPECIAL SIGN:** Any sign classified as a farm/ranch directional sign, rural business sign and/or a service sign. These signs are permitted only so long as they remaining allowable under the Kansas Highway Advertising Control Act as administered by the Kansas Department of Transportation.
- T. **TEMPORARY SIGN:** Any on-site sign, including, but not limited to, signs of lightweight cardboard, airborne, plastic or paper material, intended to be displayed for not more than sixty (60) days.

3. STRUCTURAL TYPES OF SIGNS.

- A. **ARCH SIGN:** Any sign located at the drive entrance to a residence or business either adjacent to or arched over the drive entrance.
- B. **AWNING SIGN:** Any sign affixed directly on, painted on or attached to an awning.
- C. **CANOPY SIGN:** Any sign affixed directly on, painted on or attached to a canopy.
- D. **COMMERCIAL BALLOON SIGN:** An on-premise, temporary sign that is inflated and exceeds five (5) square feet in area, as measured at the largest cross-section, designed to advertise a specific product or service sold, produced or conducted on the premises, on which advertising copy, logos, symbols or emblems may or may not be printed, painted or attached. Commercial balloon signs may be tethered or mounted to a structure or the ground.

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- E. **ELECTRONIC MESSAGING SIGN:** An electronic changeable copy sign, an electronic graphic display sign, or video display sign.
 - E. **GROUND SIGN:** A sign placed upon, or supported by, the ground independently of any building or structure on the property. This includes a sign supported on poles or posts, the base of the face which is less than six (6) feet above ground level.
 - F. **MARQUEE SIGN:** Any sign mounted on, painted on or supported by a marquee.
 - G. **POLE SIGN:** A sign whose base of the face of which is more than six (6) feet above ground level and is supported by poles or posts.
 - H. **PORTABLE SIGN:** An on-site sign designed in such a manner to be readily movable and not permanently attached to the property. Any non-permanent sign not classed as a temporary sign shall be deemed to be a portable sign.
 - I. **PROJECTING SIGN:** Any sign that is wholly or partially attached to and dependent upon a building for support and which projects more than 1 foot beyond the face of said building.
 - J. **ROOF SIGN:** A sign mounted and supported wholly upon or over the roof of any structure.
 - K. **VIDEO DISPLAY SIGN:** A sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs. Video display signs include projected images or messages with these characteristics onto buildings or other objects.
 - L. **WALL SIGN:** A sign attached to or painted on a wall in such a manner that the exposed face of the sign is in a plane approximately parallel to the plane of the wall.

23-103 General Sign Requirements. The following standards shall apply to all signs within the City of Baldwin City:

1. **Traffic Safety:** No sign shall be maintained at any location where it may interfere with the view of, or where it may obstruct view of, or interfere with, mislead or confuse traffic. Nor shall any sign be placed in the visibility triangle as defined in these Regulations, or project into said area unless the bottom edge of the projecting sign is at least twelve (12)

feet above the centerline grade of the intersecting streets. Signs shall not be erected or maintained which contain, include, or are illuminated by any flashing light, electronic change in messages, electronic change in background colors, electronic change in light intensity, or electronic video display, except those giving highway public service information such as lane closures, road closures, and detours; those giving time, date, and temperature; and electronic messaging signs as authorized below.

The restrictions in this subsection shall not apply to permitted projecting signs located in the Central Business District as provided herein.

2. **Clearance from Electrical Power Lines:** No metal ground sign shall be located within eight (8) feet vertically and eight (8) feet horizontally of electrical wire or conductors in free air carrying more than 48 volts, without regard to whether or not such wires or conductors are insulated or otherwise protected.
3. **Illuminated Signs:** Signs shall be shaded wherever necessary to avoid casting bright light upon property located in any residential district or upon any public street or park.
4. **Spotlights and Floodlights:** Signs shall not be erected or maintained which are not effectively shielded so as to prevent:
 - A. beams or rays of light from being directed at any portion of the traveled way of any roadway, or
 - B. beams of light of such intensity or brilliance as to cause glare or impair vision of the operator of any motor vehicle.
5. **Electronic Messaging Signs:** Electronic messaging signs are subject to the following provisions and requirements:
 - A. The size and location of the sign shall be consistent with all other requirements of these Regulations.
 - B. The electronic display background color tones, logos, symbols, and any other electronic graphic or video display shall not blink, flash, rotate, scroll, change in illumination intensity, or otherwise change in outward appearance, except when the electronic message or display is changed to another message or display, and as otherwise provided herein.
 - C. The electronic display background color tones, lettering, logos, pictures, illustrations, symbols, and any other electronic graphic or video display for on-site advertising signs shall not change at intervals less than eight seconds, except that on-site advertising signs twenty (20) square feet or less in area and which are located on roadways posted 45 miles per hour or less speed limit shall be exempt from any intervals between changes in messages.

- D. The electronic display background color tones, lettering, logos, pictures, illustrations, symbols, and any other electronic graphic or video display for off-site advertising signs shall not change at intervals less than eight seconds.
- E. The maximum duration of the transition of the electronic image or message change shall be no more than two seconds.
- F. All electronic messaging signs must be equipped with a default mechanism that will stop the messaging or freeze the image in one position when a malfunction in electronic programming occurs.
- G. Electronic messaging signs must not exceed a maximum illumination of 8,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 2,000 nits (candelas per square meter) between dusk to dawn as measured from the sign's face at maximum brightness.
- H. Electronic messaging signs must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one half-hour before sunset and one half-hour after sunrise.
- I. Audio speakers are not allowed with any electronic messaging sign, except as provided in subsection K. below.
- J. Any form of pyrotechnics is prohibited in association with an electronic messaging sign.
- K. Permitted electronic messaging signs, not facing public roads or residential properties and used in drive-through restaurants, gasoline stations, and similar establishments serving motorists, shall be exempt from provisions A through E of this subsection, provided the electronic messaging sign area does not exceed eight inches in height or four feet in width or extend more than five feet above the ground. Audio speakers used in connection with signs permitted in this subsection shall not be audible beyond the property on which the sign is located.
- L. The following are prohibited activities regarding the electronic messaging signs:
 - 1. No sign shall be permitted which includes or displays explosives, fireworks, or any other pyrotechnical devices.
 - 2. No sign shall be permitted which includes flashing signs, except as specifically permitted herein.
 - 3. No sign shall be permitted which includes shimmering signs, except as specifically permitted herein.

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4. No sign shall be permitted which includes audio devices, except as specifically permitted herein.
 5. No sign shall be permitted which revolves, pivots, or otherwise moves from a normal stationary or fixed position, except as specifically permitted herein.
 6. **Signs Not To Be Located Within Public Right-of-Way:** Any signs and supports which are located upon or over the public right-of-way, including streets, alleys and parkways, shall be prohibited; provided, however, the following exceptions shall be allowed:
 - A. Signs and supports required by governmental authority.
 - B. Signs on commercial vehicles or commercial trailers which denote the name and address of a bona fide business which owns or leases said vehicle when these vehicles are lawfully operated or parked and not used expressly for the purpose of advertising a product, service or activity.
 - C. A temporary sign located on public property used to announce a special event or activity when written authorization is granted by the Zoning Administrator that the sign will not constitute a traffic hazard or attractive nuisance, and the sign is located in a proper zone. The Zoning Administrator may utilize the opinions of both the Police Chief and the City Engineer in making a determination under this provision.
 7. **Obstruction to Exit:** No sign shall be erected so as to obstruct any fire escape, required exit, window, or door opening intended as a means of egress.
 8. **Obstruction to Ventilation:** No sign shall be erected which interferes with any opening required for ventilation.
 9. **Signs on Trees or Utility Poles:** No sign shall be attached to a tree or utility pole whether on public or private property.
 10. **Corner and Through Lots:** On corner and through lots, each lot line that abuts a street or highway shall be considered a separate street frontage. On corner and through lots, restrictions that are phrased in terms of "signs per zoning lot" shall be deemed to permit the allowable number of signs facing each street or highway that abuts the lot.
 11. **Maintenance Required:** Signs shall be maintained so as to be structurally sound and in a safe condition, and shall be kept in a state of undeteriorated appearance by means of painting, sealing or coating and repair or replacement of damaged parts, panels or lights.

12. Clearance Drop Zone for Pole Signs: Pole signs shall be located so as to provide a clearance drop zone in all directions such that the pole sign would fall on the property on which it is located. This requires that the pole sign be setback from all property lines a minimum distance equal to the height of the pole sign.

13. Classification of Signs:

A. Functional Types

- 1) Advertising Sign
- 2) Advertising Decoration Sign
- 3) Billboard Sign
- 4) Bulletin Board Sign
- 5) Business Directional Sign
- 6) Business Sign
- 7) Construction Sign
- 8) Directional Sign
- 9) Farm/Ranch Directional Sign
- 10) First Amendment Sign
- 11) Identification Sign
- 12) Nameplate Sign
- 13) Official Sign
- 14) Political Sign
- 15) Project Directory Sign
- 16) Project Title Sign
- 17) Real Estate Sign
- 18) Service Sign
- 19) Special Sign
- 20) Temporary Sign

B. Structural Types:

- 1) Arch Sign
- 2) Awning Sign
- 3) Canopy Sign
- 4) Commercial Balloon Sign
- 5) Electronic Messaging Sign
- 6) Ground Sign
- 7) Marquee Sign
- 8) Pole Sign
- 9) Portable Sign
- 10) Projecting Sign
- 11) Roof Sign
- 12) Wall Sign

23-104 Procedural Requirements.

1. **Permit:** No sign, except for signs listed in section 23-104 (6) herein, shall be painted, constructed, erected, repainted, remodeled, relocated, or expanded unless such sign complies with the regulations of this Code. Permits shall be obtained from the Zoning Administrator. Fees for sign permits shall be as specified by the Governing Body. All signs shall be designed, constructed, erected and electrified in compliance with the adopted minimum standards as set forth in the adopted building codes of the City of Baldwin City.

2. **Application for Permit:** Application for a permit shall be made in writing upon forms provided by the Zoning Administrator and shall contain, or have attached, the following information:
 - A. The name, address, and telephone number of the applicant.
 - B. The location of the building, structure or lot where the sign is to be located.
 - C. Position of the sign(s) in relation to nearby buildings and structures.
 - D. Two sets of prints showing the plans and specifications of the proposed sign and sign structure, along with the method of construction and attachment to the building or in the ground.
 - E. The name of the person, firm, corporation or association erecting the sign.
 - F. Written consent of the owner of the building, structure or land to which or on which the sign is to be erected.
 - G. Additional information as the Zoning Administrator shall required to show full compliance with this and all other applicable laws and regulations of the City of Baldwin City, Kansas.

3. **Issuance of Permit:** Upon the filing of an application for a sign permit, the Zoning Administrator or designate shall examine such plans and specifications, along with the premises upon which it is proposed to erect the sign, and other pertinent data, to determine if the provisions of the Sign Regulations of Baldwin City, Kansas, are complied with. If all such requirements are met, the permit shall be issued. If the work authorized by such permit is not started within 120 days from the date of its issuance, such permit shall become null and void.

The issuance of the Sign Permit as required by this Code shall not act in lieu of any other permits or fees required by any other provisions of this Code or any other rules or regulations applicable to such sign and its placement.

4. **Permit Revocation:** If the Zoning Administrator shall find that any sign subject to this Article is unsafe or structurally unsound, is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this Article, written notice shall be given to the owner, occupant, or person-in-charge, specifying the problem. If such person fails to remove or alter the sign so as to comply with the provisions of this Article within thirty (30) days of such notice, the Zoning Administrator may cause such sign to be removed or altered to comply with this Article.
5. **Sign Removal:**
 - A. All abandoned signs and their supports shall be removed within thirty (30) days from the date of notification of abandonment by the Zoning Administrator. The Zoning Administrator may grant a time extension not exceeding an additional thirty (30) days for an abandoned, non-damaged sign. All signs structurally damaged shall be repaired or removed within thirty (30) days of the date of notification by the Zoning Administrator.
 - B. If the owner, occupant, or person-in-charge, after due notice, fails or refuses to correct a violation of this Article, the Zoning Administrator shall cause such signs and their supports to be demolished and removed. If such sign cannot be demolished because it is painted on a building or other non-sign structure, such sign shall be painted over or removed by sandblasting.
 - C. When in the opinion of the Zoning Administrator any sign is in such condition as to constitute an imminent hazard requiring immediate action to protect the public, he may erect barricades or cause the sign to be taken down, repaired, shored, or otherwise made safe without delay. Such action, under such circumstances, may be taken without prior notice to or hearing of the owner, agents, leinholders, and occupants.
 - D. Any cost incurred by the County or City associated with the demolition, removal or repair of any sign under the provisions of this Code shall be levied, certified, and collected as a special assessment against the lot or tract of ground upon which the sign was located. Said assessment, if not paid when due, shall be certified to the County Clerk for collection with other special assessments.
6. **Exemptions from Permits:** The following signs shall be exempt from paying fees and obtaining a sign permit; however such signs shall be subject to the Sign Regulations. (This exemption shall not be construed as relieving the owner of the sign from the responsibility for its meeting the structural and maintenance requirements as specified in this Code):
 - A. Real estate sign advertising the sale, rental or lease of the premises on which the sign is displayed, with the following limitations: One (1) unlighted sign per street frontage per listing, provided that a maximum of six (6) real estate signs be permitted on a zoning lot.

- B. Real estate directional sign not exceeding six (6) square feet in area.
- C. Advertising decoration signs, and any indoor signs, even though such signs may be visible from the outside of the building.
- D. No more than two (2) temporary on-site signs placed in or upon windows of a commercial or industrial building, whether painted or attached.
- E. Nonelectrical nameplates not exceeding two (2) square feet in area.
- F. Nonelectrical construction signs denoting the architect, engineer or contractor when placed upon work under construction, and not exceeding thirty two (32) square feet in area.
- G. Nonelectrical identification signs.
- H. Nonelectrical arch nameplate signs.
- I. Nonelectrical memorial signs or tablets giving names of persons or buildings and date of erection not to exceed twenty-five (25) square feet in size.
- j. Project title signs for subdivision identification, both on-site and off-site, subject to the following conditions:
 - 1) On-site signs shall be allowed as long as lots remain vacant within the subdivision. Off-site signs shall be allowed for a maximum of two (2) years; however the Zoning Administrator may grant six (6) month extensions until the subdivision is seventy percent (70%) sold to either a builder or an individual buyer.
 - 2) On-site and off-site signs shall be unlighted; shall be neither reflective nor fluorescent; and shall be used exclusively for the purpose of advertising the subdivision.
 - 3) No sign shall be authorized until the final subdivision plat has been duly recorded.
 - 4) On-site signs shall be located at or near entrances to the portion of the subdivision under construction, and not more than two (2) sign structures shall be maintained in any one (1) subdivision less than forty (40) acres in size. For each additional forty (40) acres or fraction thereof, one (1) additional sign may be erected.
 - 5) Off-site signs shall be located on the most direct routes from the major road network to the location of the subdivision. However, when said off-site sign is located along a highway that is regulated by the billboard

provisions of this Article, the location of such off-site sign shall be subject to the billboard provisions of this Article.

- 6) The maximum area shall be one hundred twenty eight (128) square feet for each sign.
- 7) The maximum length of any sign shall be sixteen (16) feet.
- K. Signs of a duly constituted governmental body, including directional signs for public buildings and uses, traffic or similar regulatory devices, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, hazards, parking, swimming, dumping and other similar signs.
- L. Advertising decorations, temporarily displayed during special event periods only, such as grand openings, holidays, carnivals and the like, with a limit of twelve (12) such events and a total time limitation of eight (8) weeks within any calendar year for any business or institution.
- M. Auction signs placed along roads and highways on private property advertising auctions off said roads or highways; provided, said signs shall not be placed more than thirty (30) days prior to said auction and shall be removed within seven (7) days of the completion of said auction or sale. Said signs shall not be more than thirty two (32) square feet in area and shall not be illuminated.
- N. Political signs, when located on private property with the permission of the owner or tenants, provided that not more than four (4) signs shall be allowed for each street frontage per zoning lot. Total area of all signs shall not exceed sixty-four (64) square feet per zoning lot. All signs shall be removed within seven (7) days following the election in which the candidate is elected to office or is eliminated from further participation in the election as a candidate, of after a ballot question has been decided.
- O. Flags or emblems of a government or of a political, civic, philanthropic, educational or religious organization, displayed on private property, but only if the flag or emblem is used solely as an identifying symbol and does not include advertising language.
- P. Address numerals and other signs required to be maintained by law or governmental order, rule or regulation, provided that the content and size of the sign do not exceed the requirements of such law, order, rule or regulation.
- Q. Such additional signs as "No Hunting," "No Fishing," "No Trespassing" and other like signs.

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7. **Exemption from Fees:** The following signs shall be exempt from paying fees; however, a permit shall be obtained and they shall be subject to the Sign Regulations. (This exemption shall not be construed as relieving the owner of the sign from the responsibility for its meeting the structural and maintenance requirements as specified in this Code):
- A. Nonelectrical bulletin boards not exceeding thirty-two (32) square feet in area for public, educational, charitable, fraternal or religious institutions when such sign is located on the premises of such institution.
 - B. Directional signs.
8. **Prohibited Signs:** Any signs and supports which are located upon or over the public right-of-way, including streets, alleys and parkways, shall be prohibited; provided, however, the following exceptions shall be allowed:
- A. Signs and supports required by governmental authority.
 - B. Signs on commercial vehicles or commercial trailers which denote the name and address of a bona fide business which owns or leases said vehicle when these vehicles are lawfully operated or parked and not used expressly for the purpose of advertising a product, service or activity.
 - C. A temporary sign located on public property used to announce a special event or activity when written authorization is granted by both the Chief of Police and the Zoning Administrator that the sign will not constitute a traffic hazard or attractive nuisance, and the sign is located in a proper zone.
 - D. Signs allowed to project over public property in the "CP-3" Planned Central Business District, pursuant to Section 23-106 herein.

23-105 Design and Construction Standards: The design and construction of signs and sign structures shall be subject to the following standards:

- 1. **Ground Signs:**
 - A. **Letters, Materials to be Secured:** All letters, figures, characters, or representations in cutout or irregular form maintained in conjunction with, attached to or superimposed upon any ground sign shall be safely and securely built or attached to the sign's structure.
 - B. **Premises to be Kept Free of Weeds, Etc.:** The premises surrounding all ground signs shall be maintained by the owner thereof in a sanitary and uncluttered condition, free and clear of all noxious substances, rubbish, litter and weeds.

2. Projecting Signs:

- A. Removable Parts to be Secured:** Any removable parts of a projecting signs, such as a cover of a service opening, shall be securely fastened by safety chains or hinges.

- B. Location:** The horizontal clearance between a projecting sign and the curb line shall be not less than 2 feet. A projecting sign projecting more than two-thirds of the distance from the property line to the curb line shall be not less than 12 feet above the ground or pavement below. A projecting sign projecting less than two-thirds of the distance from the property line to the curb line shall be not less than 8 feet above the ground or pavement below.

- C. Awnings:** Awnings, whether used as a sign or not, may extend over public property not more than 7 feet from the face of a supporting building but no portion shall extend nearer than 2 feet to the face of the nearest curb line measured horizontally. In no case shall the awning extend over public property greater than two-thirds of the distance from the property line to the nearest curb in front of the building site.

23-106 District Regulations.

- 1. Single-Family Residential District:** The following types of signs, along with applicable size, height, and setback requirements in classes of districts zoned "RLD" Residential Low Density, "R-1A" Single-Family Residential, "R-1B" Single-Family Residential, "R-1C" Single-Family Residential and "R-2" Two-Family Residential are permitted:

- A. Functional Types**

- 1) Construction Sign
- 2) First Amendment Sign
- 3) Identification Sign
- 4) Nameplate Sign
- 5) Official Sign
- 6) Political Sign
- 7) Project Title Sign
- 8) Real Estate Sign
- 9) Service Sign

- B. Structural Types**

- 1) Ground Sign
- 2) Wall Sign

C. Maximum Gross Surface Area

- 1) Construction Signs: Thirty-two (32) square feet.
- 2) First Amendment Signs: Thirty-two (32) square feet.
- 3) Identification Signs: Eight (8) square feet.
- 4) Nameplate Signs: One (1) square foot.
- 5) Official Signs: One hundred (100) square feet.
- 6) Political Signs: Thirty-two (32) square feet.
- 7) Project Title Signs: Thirty-two (32) square feet.
- 8) Real Estate Signs: Six (6) square feet.
- 9) Service Signs: Eight (8) square feet.
- 10) Maximum Height: Fifteen (15) feet.
- 11) Required Setback: None for all permitted signs, but in no case shall any sign be placed on or project over public property.
- 12) Illumination: No sign shall be illuminated.

2. **Multi-Family Residential and "U" Planned University District:** The following types of signs, along with applicable size, height, and setback requirements in the "RP-3" Planned Medium Density Residential and the "U" Planned University District are permitted:

A. Functional Types

- 1) Construction Sign
- 2) First Amendment Sign
- 3) Identification Sign
- 4) Nameplate Sign
- 5) Official Sign
- 6) Political Sign
- 7) Project Title Sign
- 8) Real Estate Sign
- 9) Service Sign

B. Structural Types

- 1) Ground Sign
- 2) Wall Sign

C. Maximum Gross Surface Area

- 1) Construction Signs: Thirty-two (32) square feet.
- 2) First Amendment Signs: Thirty-two (32) square feet.
- 3) Identification Signs: Eight (8) square feet.
- 4) Nameplate Signs: One (1) square foot.
- 5) Official Signs: One hundred (100) square feet.
- 6) Political Signs: Thirty-two (32) square feet.

- 7) Project Title Signs: Thirty-two (32) square feet.
 - 8) Real Estate Signs: Six (6) square feet.
 - 9) Service Signs: Eight (8) square feet.
 - 10) Maximum Height: Fifteen (15) feet.
 - 11) Required Setback: None for all permitted signs, but in no case shall any sign be placed on or project over public property.
 - 12) Illumination: Signs may be illuminated indirectly or with internal illumination.
3. **Commercial Districts:** The following types of signs, along with applicable size, height and setback requirements in classes of districts zoned "CP-0" Planned Commercial Office, "CP-1" Planned Limited Commercial, "CP-2" Planned General Commercial and "CP-4" Planned Highway Service Commercial, are permitted:
- A. **Functional Types Permitted**
 - 1) Advertising Decoration
 - 2) Bulletin Board Sign
 - 3) Business Sign
 - 4) Construction Sign
 - 5) Directional Sign
 - 6) First Amendment Sign
 - 7) Identification Sign
 - 8) Nameplate Sign
 - 9) Official Sign
 - 10) Political Sign
 - 11) Project Directory Sign
 - 12) Project Title Sign
 - 13) Real Estate Sign
 - 14) Rural Business Sign
 - 15) Service Sign
 - B. **Structural Types Permitted**
 - 1) Awning, canopy and marquee signs
 - 2) Electronic messaging sign
 - 3) Ground sign
 - 4) Roof sign
 - 5) Projecting sign
 - 6) Pole sign
 - 7) Portable sign, subject to the restrictions of this Article
 - 8) Wall sign

- C. **Number of Signs Permitted:** Any of the functional types approved for this district with no more than one ground or pole sign permitted for each zoning lot having frontage on a public right-of-way. The maximum sign area of said ground or pole sign shall not exceed 200 square feet.

EXCEPTION: Where a zoning lot has a frontage greater than 250 feet along the same right-of-way, such zoning lot is permitted to have two (2) ground or pole signs, plus one (1) additional ground or pole sign for every additional 200 feet of frontage; or the owner may elect to combine two (2) or more such signs, where permitted, into one (1) ground or pole sign thereby allowing a fifty percent (50%) area increase for each sign that is eliminated, with a maximum allowable sign area not to exceed the maximum gross surface area.

- D. **Maximum Gross Surface Area:** The combined area of all signs shall not exceed four (4) square feet of area for each lineal foot of lot, provided no single sign shall exceed a gross surface area of 200 square feet.
- E. **Maximum Height:** Thirty (30) feet above the highest point of the principal structure, or fifty (50) feet above ground level, whichever is less.
- F. **Required Setback:** None for all permitted signs, but in no case shall any sign be placed on or project over public property.
- G. **Illumination:** Illuminated signs shall be permitted.
4. **Central Business District:** The following types of signs, with applicable size, height and setback requirements, are permitted in the "CP-3" Planned Central Business district:
- A. **Functional Types Permitted**
- 1) Advertising Decoration
 - 2) Bulletin Board Sign
 - 3) Business Sign
 - 4) Construction Sign
 - 5) Directional Sign
 - 6) First Amendment Sign
 - 7) Identification Sign
 - 8) Nameplate Sign
 - 9) Official Sign
 - 10) Political Sign
 - 11) Project Directory Sign
 - 12) Project Title Sign
 - 13) Real Estate Sign
 - 14) Rural Business Sign
 - 15) Service Sign

B. Structural Types Permitted

- 1) Awning, canopy and marquee signs
- 2) Electronic messaging sign
- 3) Ground sign
- 4) Roof sign
- 5) Projecting sign
- 6) Pole sign
- 7) Portable sign, subject to the restrictions of this Article
- 8) Wall sign

- C. Number of Signs Permitted:** Any of the functional types approved for this district with no more than one ground or pole sign permitted for each zoning lot having frontage on a public right-of-way. The maximum sign area of said ground or pole sign shall not exceed 200 square feet.

EXCEPTION: Where a zoning lot has a frontage greater than 250 feet along the same right-of-way, such zoning lot is permitted to have two (2) ground or pole signs, plus one (1) additional ground or pole sign for every additional 200 feet of frontage; or the owner may elect to combine two (2) or more such signs, where permitted, into one (1) ground or pole sign thereby allowing a fifty percent (50%) area increase for each sign that is eliminated, with a maximum allowable sign area not to exceed the maximum gross surface area.

- D. Maximum Gross Surface Area:** The combined area of all signs shall not exceed four (4) square feet of area for each lineal foot of lot, provided no single sign shall exceed a gross surface area of 200 square feet.

- E. Maximum Height:** Thirty (30) feet above the highest point of the principal structure, or fifty (50) feet above ground level, whichever is less.

- F. Required Setback:** See section 23-105(2).

- G. Illumination:** Illuminated signs shall be permitted.

- 5. Industrial Districts:** The following types of signs, with applicable size, height and setback requirements in classes of districts zoned "IP-1" Planned Light Industrial and "IP-2" Planned Medium Industrial, are permitted:

A. Functional Types Permitted

- 1) Advertising Decoration
- 2) Bulletin Board Sign
- 3) Business Sign
- 4) Construction Sign
- 5) Directional Sign

- 6) First Amendment Sign
- 7) Identification Sign
- 8) Nameplate Sign
- 9) Official Sign
- 10) Political Sign
- 11) Project Directory Sign
- 12) Project Title Sign
- 13) Real Estate Sign
- 14) Rural Business Sign
- 15) Service Sign

B. Structural Types Permitted

- 1) Awning, canopy and marquee signs
- 2) Electronic messaging sign
- 3) Ground sign
- 4) Roof sign
- 5) Projecting sign
- 6) Pole sign
- 7) Portable sign, subject to the restrictions of this Article
- 8) Wall sign

C. Number of Signs Permitted: Any of the functional types approved for this district with no more than one ground or pole sign permitted for each zoning lot having frontage on a public right-of-way. The maximum sign area of said ground or pole sign shall not exceed 200 square feet.

EXCEPTION: Where a zoning lot has a frontage greater than 250 feet along the same right-of-way, such zoning lot is permitted to have two (2) ground or pole signs, plus one (1) additional ground or pole sign for every additional 200 feet of frontage; or the owner may elect to combine two (2) or more such signs, where permitted, into one (1) ground or pole sign thereby allowing a fifty percent (50%) area increase for each sign that is eliminated, with a maximum allowable sign area not to exceed the maximum gross surface area.

D. Maximum Gross Surface Area: The combined area of all signs shall not exceed four (4) square feet of area for each lineal foot of lot, provided no single sign shall exceed a gross surface area of 200 square feet.

E. Maximum Height: Thirty (30) feet above the highest point of the principal structure, or fifty (50) feet above ground level, whichever is less.

F. Required Setback: None for all permitted signs, but in no case shall any sign be placed on or project over public property.

G. Illumination: Illuminated signs shall be permitted.

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6. **Conditional Uses:** All signs permitted within this Article shall be available within any property subject to a Conditional Use Permit; provided that alternative or additional requirements concerning the type, size, height and location of any signs may be established on specific sites upon the approval of the Conditional Use Permit by the governing body.
 7. **Portable Signs:** Portable signs, mobile signs, temporary signs, and banners are all regulated under this section. For convenience they are all described herein as portable signage. Portable signage may be permitted for short periods of time in order to advertise special events. Such portable signage shall comply with the following:
 - A. Portable signage shall be limited to one sign, thirty-six square feet in area, per zoning lot. Lot widths greater than one hundred (100) feet may have additional signage as if each one hundred (100) foot increment, or portion thereof, were a separate zoning lot.
 - B. Portable signage may be displayed on a non-residential zoning lot (or residential zoning lot with legitimate non-residential special exception or nonconforming use) for no longer than sixty days, and for no more than twelve occasions within any twelve month period (or any combination of signs or dates, the total time frame shall not exceed sixty days and twelve occasions within any twelve month period).
 - C. Cube shaped portable signage (limited to 40"w x 40"d x 54"h and two per zoning lot) may be displayed on commercial/industrial zoned property in addition to any other permitted signage. They shall be installed off city rights-of-way, easements, vehicular parking and maneuvering areas, and not within sight vision triangles.
 - D. Signage with fabric, plastic, or similar semi-durable materials (not paper or cardboard) installed within permanent *framed areas* on exterior building walls shall be considered wall signage and not portable signage.
 - E. Portable signage, unlighted, may be permitted on a residential zoning lot for a non-commercial message for no longer than seventy-two hours within any twelve month period.
 - F. Portable signage shall comply with all other applicable provisions of these Regulations.
 - G. With City Council approval, recognized events such as festivals sponsored by business associations or the City may place portable signage in or above the public rights-of-way.
 - H. Portable signage shall have no vested nonconforming rights.
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8. **Commercial Balloon Signs:** Where permitted, commercial balloon signs shall be subject to the following provisions:
- A. Commercial balloon signs shall be limited to one balloon sign per zoning lot at any given time.
 - B. Commercial balloon signs shall be limited to a maximum of 160 square feet in area as measured at the largest cross section.
 - C. Commercial balloon signs shall be limited to seven (7) day permits issued no more than four (4) times per calendar year.
 - D. Commercial balloon signs shall be limited in height to a maximum of forty-five (45) feet above grade when mounted or tethered on a roof or structure, and to twenty-five (25) feet above grade when mounted on or tethered to the ground.
 - E. Commercial balloon signs shall be located no closer than one hundred (100) feet to the nearest lot line of any “RLD”, “R-1A”, “R-1B”, “R-1C”, “R-2” or “RP-3” zoning district.
 - F. Commercial balloon signs must be anchored and/or tethered in accordance with the commercial balloon sign manufacturer’s recommendations.
 - G. Commercial balloon signs must be deflated and properly secured when wind speeds exceed forty (40) miles per hour or the manufacturer’s maximum wind speed, whichever is less.
 - H. Commercial balloon signs shall be located no closer than five hundred (500) feet to any hospital helicopter landing pad.
 - I. Commercial balloon signs shall be located in accordance with all applicable Federal Aviation Administration regulations.
 - J. Any gas used in commercial balloon signs must be non-combustible.
 - K. Commercial balloon signs shall be fire retardant.
 - L. Commercial balloon signs shall be located no closer than the height of the commercial balloon sign plus ten (10) feet from any electric power transmission line.
9. **Billboard Signs:** Billboard and/or off-premise outdoor advertising signs shall be prohibited within the City of Baldwin City.

23-107 Nonconforming Signs: Every sign in existence at the time these Sign Regulations become effective may continue in existence subject to the following:

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

ARTICLE 24

DISTRICT HEIGHT, AREA AND BULK REGULATIONS*

| DISTRICT | Maximum Height of Building | | Minimum Yard Requirement in Feet | | | Minimum Lot Dimensions in Feet | | Minimum Lot Area in Square Feet |
|---|-----------------------------------|----------------|---|----------------------|------------------|---------------------------------------|--------------|--|
| | Feet | Stories | Front Yard | Side Yard (A) | Rear Yard | Width | Depth | |
| "RLD" Residential Low Density | 35 | N/A | 30(B) | 10 | 20 | 120 | 250 | 43,560 (1 acre) (C) |
| "R-1A" Single-Family Dwelling | 35 | N/A | 30 | 10 | 20 | 80 | 150 | 16,000 |
| "R-1B" Single-Family Residential | 35 | N/A | 30 | 6 | 20 | 60 | 100 | 8,000 |
| "R-1C" Single-Family Residential | 35 | N/A | 30 | 6 | 20 | 40 | 100 | 5,600 |
| "R-2" Two-Family Residential | 35 | N/A | 30 | 6 | 20 | 40 | 120 | 7,000/3,500 (D) |
| "RP-3" Planned Multi-Family Residential | 35 | N/A | 30 | 6 | 20 | 40 | 120 | 7,000/3,500 (E) |
| "U" University | 45 | N/A | 30 | 10 | 20 | (F) | (F) | (F) |
| "CP-0" Planned Commercial Office | 25 | 2 | 30 | 5 | 20 | 65 | 100 | 7,000 |
| "CP-1" Planned Limited Commercial | 25 | 2 | 30 | 5 | 20 | 65 | 100 | 7,000 |
| "CP-2" Planned General Commercial | 35 | 3 | 30 | 5 | 20 | 65 | 100 | 7,000 |
| "CP-3" Planned Central Business | 35 | 3 | -0- | -0- | -0- | -0- | -0- | -0- |
| "CP-4" Planned Highway Service Commercial | 35 | 3 | 30 | 20 | 20 | 150 | 150 | 25,000 |
| "IP-1" Planned Light Industrial | 75/45 (G) | N/A | 40 | 15 | 20 | -0- | -0- | -0- |
| "IP-2" Planned Medium Industrial | 75/45 (G) | N/A | 40 | 15 | 25 | -0- | -0- | -0- |

- (A) A side yard shall be provided on each side of the lot. The dimension given is for one side only.
- (B) The front yard setback is 30 feet or a minimum of 70 feet from the centerline of the right-of-way, whichever is greater.
- (C) The lot size is a minimum of 1 acre and a maximum of 130,680 square feet or 3 acres and there is a lot depth to lot width ratio of no greater than 4:1.
- (D) 7,000 for a single-family residence; 3,500 per unit for a two-family residence.
- (E) 7,000 minimum per building and 3,500 per unit.
- (F) There are no bulk requirements; however minimum setbacks must be maintained.
- (G) 45 feet if adjacent to any residential district.

*This chart is a summary of textual regulations in preceding Articles. If conflicts are determined to exist between the chart and the text, the text in the appropriate Article shall prevail.

Sections:**25-101 Application****25-102 Modification of Height Regulations****25-103 Modification of Area Regulations**

25-101 Application: The regulations set forth in this Article qualify or supplement the district regulations appearing elsewhere in these Regulations.

25-102 Modification of Height Regulations:

1. The height regulations as prescribed in these Regulations shall not apply to the following, provided, however, that the setbacks of the structures from all lot lines are equal to the height of the structures:

- Belfries
- Chimneys
- Church Spires
- Conveyors
- Cooling Towers
- Elevator Penthouses
- Fire Towers
- Flag Poles
- Grain Elevators
- Monuments
- Ornamental Towers and Spires
- Small Wind Energy Conversion Systems
- Smoke Stacks
- Stage Towers or Scenery Lofts
- Tanks
- Water Towers
- Lighting Poles or Standards

2. Public or semi-public service buildings, hospitals, institutions, or schools, when permitted, may be erected to a height not exceeding 75 feet, when the required side and rear yards are increased by at least 1 foot for each 1 foot of additional building height above the height regulations for the district in which the building is located.

25-103 Modification of Area Regulations:

1. Yards, generally:
 - a. Except as herein provided for accessory buildings and structures, whenever a lot abuts upon a public alley, one-half of the alley width may be considered as a portion of the required yard.

- b. Every part of a required yard shall be open to the sky, except as authorized by this Article. Ordinary projections of sills, awnings, canopies, belt courses, air conditioning units, chimneys, cornices, and ornamental features may project to a distance not to exceed 24 inches into a required yard setback.
 - c. In the event that a lot is to be occupied by a group of two or more related buildings to be used for residential, school, institutional, hotel, or motel purposes, there may be more than one main building on the lot where such buildings are arranged around a court having a direct street access; provided, however:
 - (1) That said court, between buildings that are parallel or within 45 degrees of being parallel, shall have a minimum width of 30 feet for 1-story buildings, 40 feet for 2-story buildings, and 50 feet for 3-story buildings, and, in no case may such buildings be closer to each other than 15 feet;
 - (2) Where a court having direct street access is more than 50 percent surrounded by a building, the minimum width of the court shall be at least 20 feet for 1-story buildings, 30 feet for 2-story buildings, and 40 feet for 3-story buildings.
 - d. Where a lot is used for a commercial or industrial purpose, more than one main building may be located on the lot, but only when such buildings conform to all open space requirements on the lot.
2. Accessory Buildings and Structures:
- a. Except as herein provided, no accessory building shall project into a required yard setback along any street.
 - b. Accessory buildings may be located in a required side or rear yard; however, no accessory building may be located closer than 5 feet from a rear lot line, nor less than 5 feet from a side lot line. No alley may be used in meeting this requirement.
 - c. Filling station pumps and pump islands may occupy the required yards; provided, however, that they are not less than 15 feet from the property line, and further provided that canopies and other similar coverings over the pumps and pump islands shall have at least 14 feet of vertical clearance and shall not project beyond the property line.
 - d. Accessory, open and uncovered swimming pools and permanent barbecue grills may occupy a required rear yard, provided they are not located closer than 5 feet to the side or rear lot line. No alley may be used in meeting this requirement.

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- e. Accessory storm caves which are not a part of the main building may occupy a required side and/or rear yard, provided they are not located closer than 5 feet to the side or rear lot line. No alley may be used in meeting this requirement.
 - f. Accessory buildings which are not a part of the main building, although connected by an open breezeway, may be constructed under the requirements of 25-203(2)(b) herein.
3. Front Yards:
- a. When an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
 - b. On double frontage lots, the required front yard shall be provided on each street frontage.
 - c. Open, unenclosed porches, platforms, or paved terraces, not covered by a roof or canopy and which extend or project into the front and side yard shall not extend or project into the required front yard more than 10 feet or into the required side yard more than 3 feet.
 - d. Where 25 percent or more of the street frontage within 200 feet of the property in question is improved with buildings that have a front yard (with a variation of 6 feet or less) that is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established; provided, however, that a depth of front yard of more than fifty percent (50%) in excess of the depth of the required front yard in the district in which the lot is located shall not be required. Where forty percent (40%) or more of the street frontage is improved with buildings that have no front yard, no front yard shall be required for the remainder of the street frontage.
4. Side Yards: The minimum depth of side yards for schools, libraries, churches, community houses, and other public and semi-public buildings in residential districts shall be 25 feet, except where a side yard is adjacent to a lot used for commercial or industrial purposes, in which case the depth of the yard shall be as required in the district in which the building is located.
5. Rear Yards: Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues may project into the required rear yard for a distance of not more than 5 feet, but only where the same are so placed as not to obstruct light and ventilation.

6. Corner Visibility: No sign, fence, wall, hedge, planting, or other obstruction, extending to a height in excess of 3 feet above the established street grade measured from the crown of the street, shall be erected, planted, or maintained in such a manner as to materially impede vision within the visibility triangle area of a corner lot.

7. Easements: No building, either a main or an accessory building, shall be constructed, moved, or altered so as to encroach onto or within a platted or recorded easement.

Sections:

- 26-101 Conditional Uses - Purpose and Intent**
- 26-102 Application of Conditional Uses**
- 26-103 Additions and Changes to Conditional Uses**
- 26-104 Conditional Uses Enumerated**
- 26-105 Continuance of a Conditional Use**
- 26-106 Accessory Uses**
- 26-107 Eligibility for Accessory Use**
- 26-108 Accessory Uses Allowed**
- 26-109 Specialty Accessory Uses**
- 26-110 Accessory Building or Structure Use**
- 26-111 Prohibited Uses**

26-101 Conditional Uses - Purpose and Intent: The establishment of certain land uses are not appropriate in the City of Baldwin City; especially those land uses that are of an extremely sensitive nature due to the intensity or environmental impacts associated with the normal operation of the business or activity. However, it is recognized that it may be acceptable, on a case-by-case, site-by-site basis, to permit the development of such land uses where conditions warrant and adequate safeguards are taken to mitigate any of the potential problems associated with said development. Therefore, in order to develop certain land use in the City of Baldwin City a Conditional Use Permit issued in accordance with these Regulations shall be required.

It is the intent of this Article to require a Conditional Use Permit for all proposed land uses, except those specifically prohibited herein or allowed as a permitted use in one of the established zoning districts. As such, it is acknowledged that any property owner may seek a Conditional Use Permit for any of the types of land uses indicated herein for any property. The subsequent approval of such request by the Governing Body is a purely discretionary act that will be decided based upon the facts and circumstances discovered in the review of each application. There is no implied "right" for any person or landowner to obtain a Conditional Use Permit for any use on any property.

It is also the intent of this Article to allow the issuance of Conditional Use Permits that provides for more than one use on any property; provided the range or type of uses is clearly delineated within the Conditional Use Permit, the other relevant facts have been evaluated, and the approval is consistent with the spirit and intent of this Article and these Regulations.

26-102 Application of Conditional Uses: Before the location or establishment of any land use requiring a Conditional Use Permit, a Development Plan in sufficient detail and a statement as to the proposed use of the buildings, structures, and premises shall be submitted to the Planning Commission as specified in Article 19 of these Regulations. The Planning Commission shall hold a public hearing following the provisions also outlined in Article 31 of these Regulations and shall review such Development Plan and statements and shall, after a careful study of the effect that such buildings, structures, or uses will have upon the surrounding property, submit a recommendation to the Governing Body.

Following receipt of the Planning Commission's recommendation, the Governing Body may, within the specifications herein provided, permit such buildings, structures, or uses; provided that the public health, safety, and general welfare will not be adversely affected, that ample off-street parking facilities will be provided, that the transportation and utility services are appropriate for the level and intensity of the proposed development, and that necessary safeguards will be provided for the protection of surrounding property, persons, and of neighborhood values. In this regard, the Governing Body may impose reasonable conditions on the approval of a Conditional Use Permit including, but not limited to, those items identified in Article 19 of these Regulations.

26-103 Additions and Changes to Conditional Uses: All subsequent requests for additions and structural alterations to Conditional Uses approved by the Governing Body shall be considered in the same procedure as outlined in Section 26-102 herein.

26-104 Conditional Uses Enumerated: The following Conditional Uses are some of the uses that may be approved by the Governing Body as provided in this Article. Other land uses may also be permitted by Conditional Use Permit except those specifically listed as permitted uses in the zoning districts or as prohibited uses in these Regulations.

1. Airports, aviation fields, helio-ports, and/or landing fields, either public or private.
2. In a residential district, an apartment in a detached garage may be established, provided no such action shall reduce the number of available off-street parking spaces required and that additional off-street parking shall be established for such apartment.
3. Asphalt and/or concrete plants.
4. Bed and breakfast facility.
5. Buildings, structures or premises for public utility services or public service corporations; including but not limited to, water treatment plants, wastewater treatment plants, pump stations, filter beds, water towers, substations, electric transmission lines, reservoirs, and utility maintenance shops and yards.
6. Cemeteries, mausoleums or crematories for the disposal of the dead.
7. Churches and church-related facilities including camps, schools, retreat centers and similar facilities; publicly-owned and operated community buildings, art gallery, museums and libraries.
8. Commercial uses in a residential structure located in a residential district within the City of Baldwin City when, in the opinion of the City, the use will not be detrimental to the residential neighborhood by reason of the intensity of use. Sufficient restrictions, conditions and limitations may be imposed to maintain the residential character of the neighborhood.

ARTICLE 26**SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES**

9. Commercial parking lot.
10. A Commercial Wind Energy Conversion System, subject to the following:
 - a. Wind Energy Conversion System shall meet the following setback requirements:
 - (1) The height of the Wind Energy Conversion System plus 50 feet from public roads.
 - (2) A distance equal to twice the Wind Energy Conversion System height from a residential structure.
 - b. Maintaining continuous liability insurance coverage in an amount not less than \$1,000,000.00 with the City named as an additional insured. In lieu of such coverage the permit holder may provide an indemnification agreement satisfactory to the City.
11. Any small Wind Energy Conversion System proposed to exceed the Performance Standards as stated within these Regulations.
12. Contractor's shop and/or yard, including construction equipment and/or material storage areas.
13. Drive-in theatres.
14. Explosives, fireworks, ammunition, black powder, or similar material wholesale sales, storage, warehousing and/or manufacturing.
15. Exposition centers and/or buildings.
16. Fairgrounds.
17. Fire stations.
18. Grain elevators and its accessory activities including, but not limited to, bulk fuel storage facilities, ammonia storage, tire repair facilities, etc.
19. Greenhouses, nurseries and/or hydroponic farms operated as a retail business.
20. Group Boarding Home, Licensed Group Day Care Home, Child Care Center, Licensed Day Care Home, Preschool, Detention Center, Family Day Care Home, or Residential Center, except as permitted by K.S.A. 12-736 as amended, provided:

ARTICLE 26

SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES

- a. The applicant shall submit, as a part of the application, the plans for the proposed facility giving the type of services to be rendered, the number of persons to be placed in the facility, the number of staff to be employed and other information that will help in determining the extent of services to be provided.
 - b. A report from the Douglas County Health Department shall be submitted by the applicant, giving the current status of the applicant's license to operate the proposed facility and listing all requirements yet to be met in order for the proposed facility to be granted authorization to begin its operations.
 - c. Off-street parking at a rate of one space per employee plus two additional spaces for guests.
 - d. When operated out of an existing or proposed residential structure, the following standards shall be met:
 - 1) That no person other than members of the household living on the premises and one (1) outside person shall be employed.
 - 2) That only one non-illuminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
 - 3) Outside play areas shall be fenced.
21. Heavy industrial uses, which are all industrial operations not permitted in the "I-2" Medium Industrial District, when located within the "I-2" Medium Industrial District.
 22. Hospitals, nursing or convalescent homes, congregate care facilities and retirement housing.
 23. Hospital or clinic for large or small animals; provided such hospital or clinic and treatment rooms be maintained within a completely enclosed, soundproof building, and that such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls.
 24. Judicial centers, jails, penal or correctional institutions.
 25. Keeping of exotic birds and/or animals on any tract of land, whether in a building or not.
 26. Kennels, either boarding or breeding, provided all kennel operations shall comply with the requirements of the State of Kansas.
 27. Manufactured home and recreational vehicle sales and service, including display yard.

28. Manufactured home parks, subject to the standards established in the Manufactured Home and Recreational Vehicle Code.
29. Manufactured home subdivisions, subject to the standards established in the Manufactured Home and Recreational Vehicle Code.
30. Manufacturing, processing, fabrication and assembling of any commodity.
31. Mortuaries and attendant accessory activities and facilities.
32. In property zoned "RP-3", multi-family dwellings, including apartment houses, townhouses, garden apartments, condominiums; provided; provided sufficient on-site and off-site improvements are made to accommodate the density and intensity of the project. Sufficient restrictions, conditions and limitations may be imposed to maintain the residential character of the neighborhood.
33. Parks and playgrounds.
34. Radio or television broadcasting towers and/or stations, microwave transmitting and/or receiving towers and/or stations, commercial telecommunication towers, or any tower or other similar structure 50 feet or more in height; whether publicly or privately owned, provided:
 - A. The location of every tower must be such that it is at least a minimum distance from all property lines equal to $\frac{1}{2}$ the height of the tower.
 - B. Every commercial telecommunication tower shall be designed to provide co-location with a minimum of forty-eight (48) antennas and their attendant cables.
 - C. All lighting necessary to comply with the FAA lighting requirements shall consist of dual lighting structures with day time strobe lights on medium intensity and night time red lights only. No high intensity strobes or night time strobes shall be permitted. Further, all towers requiring lighting shall provide battery backup or other alternative power source to assure lighting operations during times of power outages.
 - D. No new commercial telecommunication tower location shall be approved unless the applicant shall show that there is not sufficient or usable space on existing or approved towers in the same service area. Such verification shall be in the form of written correspondence from the owner of such towers or structures of their unavailability. At a minimum, the service area for every tower shall be a minimum of three (3) miles from the tower location.

ARTICLE 26

SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES

- E. Any communication tower that is unused for a period of twelve (12) months or more shall be declared abandoned and shall be notified of the necessity of removing the tower and appurtenances and reclaiming the lands as provided herein.
- F. A plan for reclamation of the site shall be prepared and submitted as a part of the application. The plan shall indicate a timetable for the reclamation of the proposed use of the site upon the removal of the tower. If the land lease provides appropriate language for reclamation upon removal of the tower, no further action shall be necessary.
35. Recreational or sports-related activity or facility, whether publicly or privately owned.
36. Recreational vehicle park or campground, subject to the standards established in the Manufactured Home and Recreational Vehicle Code.
37. Riding academies, stables and/or show arenas, indoor or outdoor rodeo arenas and/or facilities.
38. Schools, preschools or kindergartens, either publicly or privately owned or operated.
39. Truck stops and/or truck terminals.
40. Zoos, commercial aquariums, or aviaries.
41. Any other use not specifically listed as a permitted and/or accessory use in any district in these Regulations, or as a prohibited use.

26-105 Continuance of a Conditional Use: A Conditional Use Permit shall be allowed to continue, unless specified otherwise as a condition of its original authorization, as long as all conditions placed on it are met. However, if that particular use ceases to exist for a period of twelve (12) months, it will forfeit its approved development plan and will not be allowed to exist again unless a new application is made to approve a development plan, a public hearing held, and a new development plan approved in conformance with the requirements of these Regulations. If the use is not reestablished, the Planning Commission and/or governing body may initiate action to remove the Conditional Use Permit from the property by calling for a public hearing and following the procedures outlined within these Regulations for an amendment.

26-106 Accessory Uses: Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property or the users thereof, and shall be on the premises of the main use.

26-107 Eligibility for Accessory Use: The determination of the eligibility of a proposed use as an accessory use shall be made by the Zoning Administrator.

26-108 Accessory Uses Allowed: Accessory uses shall be allowed; provided, said accessory uses shall be limited to those specified herein for the various zoning classifications:

1. In District "RLD" Residential Low Density, "R-1A" Single-Family Residential, "R-1B" Single-Family Residential, "R-1C" Single-Family Residential, "R-2" Two-Family Residential and "RP-3" Planned Medium Density Residential District, only the following accessory uses are allowed:
 - A. Accessory buildings and uses commonly associated with residential activity, including, but not limited to, the following:
 - 1) Accessory off-street parking and loading spaces
 - 2) Fences or walls
 - 3) Flag poles
 - 4) Gates or guard houses for subdivisions
 - 5) Guest houses
 - 6) Home barbecue grills
 - 7) Parabolic and satellite dish-type antennas
 - 8) Play equipment
 - 9) Private garages and carports
 - 10) Servants quarters
 - 11) Small storage sheds
 - 12) Small Wind Energy Conversion Systems
 - 13) Solar collectors
 - 14) Swimming pools
 - B. Television and radio receiving antennas less than 50 feet in height
 - C. No accessory building or use shall occupy a required front yard (except basketball goals, flag poles and fences as permitted) or shall be placed closer than 3 feet to a side or rear lot line. The ground floor area of all accessory buildings shall not exceed 900 square feet.
 - D. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.
 - E. Home occupations such as, but not limited to, the following:
 - Accountant
 - Architect
 - Artist

- Attorney
- Author or writer
- Clergyman
- Counselor
- Engineer
- Home crafts
- Insurance Agent
- Photographer
- Planner
- Real Estate Agent
- Salesman
- Seamstress/Dressmaker
- Secretary/Typist
- Teaching or instruction provided not more than 3 students are taught at any one time and not more than 12 students per day

The following conditions and restrictions shall apply to such customary home occupations:

- 1) The home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the main building or structure is clearly the dwelling used by the person as his or her private residence.
- 2) No person other than members of the household living on the premises and one (1) outside person shall be employed.
- 3) Only one non-illuminated ground or wall sign not more than four (4) square feet in area is used to advertise the home occupation.
- 4) No display or storage of equipment or materials outside of a building or structure shall be permitted.
- 5) No equipment or machine is used in such activity that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.
- 6) Off-street parking and loading shall be provided and that no generation of substantial volumes of vehicular or pedestrian traffic or parking demand shall be permitted.

- F. Storage or parking of accessory recreational vehicles, such as boats, boat trailers, camping trailers, or converted buses or trucks; provided that such uses shall not be allowed within required front yards or side yards along streets, and shall be placed upon a hard surface as defined in the off-street parking regulations. Such storage or parking shall not include the outdoor storage or parking of commercial trucks or buses which exceed 26,000 pound license capacity in any residential district.
2. In Districts "CP-0" Planned Commercial Office, "CP-1" Planned Limited Commercial, "CP-2" Planned General Commercial, "CP-3" Planned Central Business District, and "CP-4" Planned Highway Service, only the following accessory uses are allowed:
- A. Awnings.
 - B. Parking areas, loading areas, and/or private garages for motor vehicles.
 - C. Exterior lighting, including floodlighting.
 - D. Radio, television, and/or microwave antennas or towers, provided such shall not exceed 50 feet in height.
 - E. Fences or walls, including security or screen fences or walls.
 - F. Flagpoles, cooling towers and other similar uses.
 - G. Food service and vending machines for tenants.
 - H. Small Wind Energy Conversion Systems.
 - I. Solar collectors.
 - J. Parabolic and satellite dish-type antennas.
 - K. Signs.
 - L. Washing and other motor vehicle cleaning shall be permitted as an accessory use in service stations, provided such washing and cleaning shall not utilize more than two car stalls or more than 30 percent of the floor area in any one station, shall be a part of the main building, shall not be equipped to handle anything larger than a one ton truck, and shall not be open for use during hours when the service station is closed. Such washing and cleaning operation shall utilize the same entrance drives as the service station and may use coin-operated or attendant-operated equipment, but not continuous line or conveyor type washing equipment.

ARTICLE 26

SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES

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- M. Outdoor storage in connection with retail sales of products sold on the premises, where storage is incidental to the approved occupancy of a building. Storage of motor vehicles used in connection with the permitted trade or business is permitted, but not including storage of heavy equipment such as road-building or excavating equipment.
 - N. Storage or parking of accessory vehicles and equipment outdoors connected to the business conducted on the same premises; provided that such storage or parking shall not be allowed within required front yards or side yards along streets, shall be screened from adjoining properties by appropriate screening materials including chain link with mesh or slat inserts, and may be placed upon a graveled surface maintained free from weeds.
3. In Districts "IP-1" Planned Light Industrial, and "IP-2" Planned Medium Industrial, only the following accessory uses are allowed:
- A. Awnings.
 - B. Parking areas, loading areas and/or private garages for motor vehicles.
 - C. Exterior lighting, including floodlighting.
 - D. Fences or walls, including security or screen fences or walls.
 - E. Loading equipment.
 - F. Parabolic and satellite dish-type antennas.
 - G. Radio, television and/or microwave antennas or towers, provided such shall not exceed 50 feet in height.
 - H. Gate houses.
 - I. Employee recreation facilities.
 - J. Small Wind Energy Conversion Systems.
 - K. Solar Collectors.
 - L. Storage or parking of accessory vehicles and equipment outdoors connected to the business conducted on the same premises; provided that such storage or parking shall not be allowed within required front yards or side yards along streets, shall be screened from adjoining properties by appropriate screening materials including chain link with mesh or slat inserts, and may be placed upon a graveled surface maintained free from weeds.
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26-109 Specialty Accessory Uses: The following uses, activities, or items shall be the accessory uses or restrictions allowable:

1. Hotels, Motels, Motor Hotels: The following are accessory uses within a hotel, motel or motor hotel:
 - A. Restaurant
 - B. Health clubs, spas and exercise rooms
 - C. Clubs
 - D. Drinking establishments
 - E. Banquet rooms
 - F. Notion counters
 - G. Newspaper and magazine counters
 - H. Vending machines
 - I. Arcades
 - J. Beauty and barber shops
 - K. Flower and gift shops
 - L. Swimming pools

Provided all except swimming pools are within the main building and designed to serve the occupants and patrons of the hotel, motel or motor hotel.

2. Hospitals: The following are accessory uses within a hospital:
 - A. Residential quarters for staff and employees
 - B. Nursing and convalescent quarters
 - C. Storage and utility buildings
 - D. Food service and vending machines
 - E. Laundry and dry cleaning pickup and delivery
 - F. Flower and gift shops
 - G. Other similar services for hospital personnel, visitors and patients
3. Construction Sites: Construction and hauling trailers may be used as a temporary construction office on the site of a construction project, provided such construction or hauling trailer is removed upon completion of the project. Other temporary structures may be placed for storage at construction sites, but must be removed upon completion of the construction. At no time shall the temporary structures be used or considered as advertising signs.
4. Fences or Walls: Fences or walls, subject to the following:
 - A. Fences or walls may be constructed to a maximum height of eight (8) feet above the average grade subject to the restrictions of this Article. A permit shall be required for all fences or walls where a new fence or wall is constructed or an existing fence or wall is being extended. A fence permit shall also be required

for the replacement or reconstruction of 50 percent (50%) or more of the linear feet of the entire existing fence. Any such replacement or reconstruction shall comply with all the provisions of this Article except setbacks. In determining the height of a fence, the material used in the fence posts shall not be considered.

- B. Fences or walls (including retaining walls) in any planned district shall be approved by the Planning Commission as part of the development plan prior to the issuance of any fence permit.
- C. Retaining walls may be permitted where they are reasonably necessary due to the topography of the lot, where the wall is located at least two (2) feet from any street right-of-way, and where the wall does not extend more than six (6) inches above the ground level of the land being retained.
- D. All fences or walls constructed prior to the adoption of these Regulations which do not meet the standards of this Article may be replaced and maintained resulting in a fence the same size, type and material; provided, however, that no fence shall be replaced or reconstructed in a manner which obstructs the sight distance triangles as defined in this Article.
- E. In all districts, the following restrictions and standards shall apply to all fences and walls:
 - 1) Location.
 - a) Front yard. Fences erected in the front yard shall be constructed with materials not designed to confine animals or people, but shall be erected of materials that are decorative in nature. Suitable materials include, but are not limited to, the following:
 - (1) Wrought iron
 - (2) Picket
 - (3) Split rail
 - (4) Other decorative materials approved by the building inspector or generally recognized as decorative in nature.

Specifically prohibited in front yards are privacy fences and chain link and other materials commonly defined as "chicken wire" or similar nature.

 - b) Rear yard. A fence or wall may be constructed on the rear property line on all lots whose rear lot lines abut another lot or a designated thoroughfare. Fencing any platted easement shall be at the risk of the landowner, subject to the design requirements of

the City. In the case of a double frontage lot whose rear yard abuts a collector or local street, a fence or wall may be constructed, except the provisions for a front yard as stated above shall apply for both frontages.

- c) Side yard. A fence or wall may be constructed on the side property line. No fence shall be permitted in any platted easement.
- d) Corner lot. A fence or wall not more than three (3) feet in height may project into or enclose any required front or side yard along the street frontage of the lot.

2) Design Standards.

- a) All fences and walls shall be constructed with a finished side facing outward from the property. The posts and support beams shall be on the inside or shall be designed as an integral part of the finished surface.
- b) All fence segments abutting a designated thoroughfare, except on corner lots, shall provide one (1) gate opening per lot to allow access to the area between the fence and the edge of the street for maintenance and mowing.
- c) Spikes and Barbed Wire Fences. No person shall place or permit to be placed or remain on any fence or wall, within five (5) feet of any public street or sidewalk or less than six (6) feet above grade, any spikes or sharp pointed cresting, or any barbed wire, or other thing dangerous and liable to snag, tear, cut or otherwise injure anyone coming in contact therewith.
- d) Electric Fences. No person shall erect a fence containing uninsulated electric conductors that may be exposed to human contact anywhere within the City.

5. Swimming Pools: Swimming Pool shall include a pool, pond, lake, open tank or any structure, whether "Public" or "Private", not located within a completely enclosed building, and intended for swimming or recreational bathing and which may be equipped with a water recirculating system or involve structural materials. This includes in-ground, above-ground, and on-ground swimming pools. Spas, hot tubs, and the like, ornamental ponds or water features developed as landscape design features where swimming is not intended and does not occur shall be excluded from this definition, but shall be subject to siting requirements herein. For purposes of this subsection, the following terms are defined:

- A. Public swimming pool means any indoor or outdoor structure, chamber, or tank containing a body of water for swimming and/or diving, that is intended to be used collectively for swimming, diving, or bathing and is operated by any person whether as the owner, lessee, operator, licensee, or concessionaire, regardless of whether or not fee is charged for use, but does not mean any private residential swimming pool.
- B. Private residential swimming pool means any outdoor structure, chamber, or tank containing a body of water for swimming, diving, or bathing located at a dwelling housing no more than three families and used exclusively by the residents and their nonpaying guests. This definition includes temporary, portable, blow-up and/or wading pools, unless specifically excluded as a "Portable/ Blow-up/ Wading/ Kiddie Pool", as defined herein.
- C. Barrier means a fence, wall, building wall or any combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool. Plywood, particle board, lattice, chicken wire, split rail, snow fence, and other unsecured or unsuitable materials, as deemed by the Zoning Official, are NOT permitted.
- D. Ornamental Pond means a pool, pond, lake, stream or open tank, not wholly enclosed inside of a building, where swimming, for human recreational use, is not intended and does not occur. The pool, pond, lake, stream or open tank, or any combination thereof, shall not cover more than one percent (1%) of the total square footage of the lot and will not be deeper than 3' at its deepest point. Ornamental ponds, as described above, with a depth greater than 18" shall not have a drop ratio greater than 3 to 1 and are required to have safety ledges installed every 12" of depth. Ornamental ponds are required to have moving water as to prevent any hazards such as infestations or stagnant water to occur.
- F. Water Feature (Not an Ornamental Pond) means either a Statuary Fountain; a shallow water fountain not exceeding twelve (12") inches water depth; a feature using waterfalls, streams, etc. where the water is in a concealed container (not exceeding 50 gallons) below the ground level or wholly enclosed in water feature; or any combination of the above mentioned not in excess of six feet (6') in height at any given point, and not greater than two percent (2%) of the front yard's total square footage. Water features are to be strictly decorative in use and shall not be located within 15' of any right of way. Still water or standing water is not permitted.
- G. Public spa means any public swimming pool that is typically operated as a smaller, higher temperature pool for recreational or non-medical uses.

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- H. Special use pool means a public swimming pool containing flume slides, wave generating equipment, or other special features that necessitate different design and safety requirements.

 - I. Portable/Blow-up/Wading/Kiddie Pools mean pools that are only capable of holding eighteen inches (18") of water or less at the deepest point and are nine feet (9') or less in water surface diameter at the widest point, or less than sixty-five (65) square feet in surface area.

PRIVATE RESIDENTIAL SWIMMING POOLS

No private residential swimming pool, exclusive of "Portable/Blow-up/Wading/Kiddie Pools", shall be allowed in any district unless it complies with all the following conditions and requirements:

- A. The pool is to be used solely for the enjoyment of the occupants and their guests of the principal use of the property on which it is located.

- B. The pool may not be located in the front yard area, nor closer than five (5) feet to a rear or side lot line.

- C. Every swimming pool, including existing pools, shall be completely enclosed by a fence or other permissible barrier of sturdy construction, the top of which shall not be less than four (4) feet above the level of the ground where located, which shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such barrier. Rails are not permitted in place of a wall or fence. Such fence or other barrier shall be of conventional design and each opening in it shall be provided with a self closing, self latching gate with secure lock and shall be kept locked at all times, unless such pool is under the immediate observation/supervision of a responsible person. The latch shall not be lower than forty-eight (48) inches and located on the inside of the gate, not accessible to small children.

In the case of pools which are partially or completely above-ground, in lieu of a fence or other permissible barrier, the outside structure of the pool wall may constitute part of the conventional barrier but must have a permissible topper-barrier, so that the complete barrier, measured from the adjacent grade or the highest point of access to the pool, is not less than six (6) feet. The steps or ladder shall be designed to be secured, locked or removed to prevent access, or the steps or ladder shall be surrounded by and completely enclosed by a fence or other permissible barrier with gate as stated above.

Spas, Hot Tubs, and the like having a span of 9' or less at the widest point shall be locked with a top specifically made from the manufacturer of the spas or hot tubs, in lieu of a fence, whenever not in the immediate supervision of a

ARTICLE 26

SUPPLEMENTARY USE REGULATIONS; CONDITIONAL USES; ACCESSORY USES; PROHIBITED USES

responsible adult. Spas, Hot Tubs and the like having a span greater than 9' at any point shall be considered a swimming pool and must adhere to the swimming pool guidelines.

No part of any barrier shall be located between the building setback line as established by the Zoning Ordinance and the street on which the lot or parcel abuts.

- D. Every swimming pool shall have a barrier consisting of a fence, a wall, or a combination thereof on the top of the pool which completely surrounds the above-ground or on ground swimming pool and obstructs access to the swimming pool. The maximum vertical clearance between the top of the pool and the bottom of the barrier shall not exceed four inches (4").

Plywood, particle board, chicken wire and other unsecured or unsuitable materials, as deemed by the Zoning Official, are NOT permitted.

Required fencing and/or other permitted barrier must be in place within twenty-four (24) hours after the swimming pool has been constructed or filled.

PORTABLE/BLOW-UP/WADING/KIDDIE POOLS

Portable/ Blow-up/ Wading/ Kiddie Pools meeting ALL of the following are exempt from any obtaining any permits, but must comply with the general requirements:

- A. Pools that are not erected, whether containing water or not, except for between and including the dates of April 1st through October 31st of the same calendar year.
- B. The pools shall not create any safety or health hazards. It is solely the responsibility of the property owner that these types of pools are not a safety hazard or do not become a health hazard.
- C. The pools are not equipped with a water recirculating system or involve structural materials.
- D. The pools may be required to be removed or required to adhere to the swimming pool regulations if all criteria are not met as determined by the Safety-Service Director or designee.

LARGE PONDS.

- A. General:

1. Large Ponds shall require a Conditional Use Permit in all districts as a part of the overall design of a subdivision containing at least three (3) acres of land.
 2. Minimum surface area of any pond shall be one half (½) acre. The maximum surface area shall not exceed twenty-five percent (25%) of the net acreage of the parcel.
 3. The side slope of a Large Pond shall be horizontal to vertical at a ratio of 3:1. The ratio shall be maintained to a minimum depth of seventeen (17) feet. Large Ponds that do not meet this ratio are required to be enclosed with a six (6) foot fence.
 4. To prevent adverse effects of drainage to adjoining properties, a drainage system shall be installed to accommodate overflows and surface drainage from the pond development and said drainage shall be diverted to a suitable outlet or drainage ditch.
- B. Setback:
1. A Large Pond shall have a minimum setback from any street right-of-way of one hundred (100) feet.
 2. Large Ponds on industrial parcels shall have a side yard setback of not less than ten percent (10%) of the width of the parcel, with a minimum setback of twenty-five (25) feet.
- C. Retention ponds and other ponds not specifically permitted above may be permitted with the approval of the Planning Commission and subject to its requirements.
6. Solar collectors. Solar collectors are permitted provided that the following performance standards are met:
 - A. Roof-mounted solar collectors located on front or side building roofs visible from the public right-of-way shall not extend above the peak of the roof plane on which they are mounted, and no portion of any such solar collector shall extend more than 24 inches perpendicular to the point on the roof where it is mounted.
 - B. Roof-mounted solar collectors located on the rear side of building roofs shall not extend above the peak of the roof plane on which they are mounted, and no portion of any such solar collector shall extend more than four (4) feet perpendicular to the point on the roof where it is mounted.

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- C. Ground-mounted solar collectors shall not exceed eight (8) feet in total height and shall be located within the rear yard at least 12 feet inside the property line.
 - D. All lines serving a ground-mounted solar collector shall be located underground.

26-110 Accessory Building or Structure Use: No accessory building or structure shall be constructed upon a lot until the construction of the main building or structure has been actually commenced, and no accessory building or structure shall be used unless the main building or structure on the lot is also being used, unless permitted by Special Exception as provided herein.

26-111 Prohibited Uses: After the effective date of these Regulations:

1. No mobile home, as defined in these Regulations, shall be moved, relocated, or otherwise placed on any property within the City of Baldwin City, including within any Manufactured Home Park or Manufactured Home Subdivision.
2. No manufactured home or mobile home shall be used for any purpose other than as a residential dwelling as permitted within these Regulations. At no time shall a manufactured home or mobile home be permitted to be converted to a storage unit, office or any other such use.
3. No mobile home or manufactured home originally built to be a single-wide unit shall be attached or connected to any other mobile home or manufactured home, or to any other structure or building. This shall not prohibit reasonable, aesthetically designed stoops, porches, decks, carports or the like from being built onto or adjacent to an approved manufactured home.
4. No recreational vehicle shall be used for dwelling purposes while a dwelling is being constructed on the same site, except as permitted by these Regulations under the issuance of an administrative permit.
5. No property shall be used as junkyard, sanitary landfill, construction/demolition landfill, industrial landfill, hazardous or toxic waste storage facility, quarry or mine, or other similar use or activity, including as an accessory use to another principal use.
6. No sexually oriented business, as defined by K.S.A. 12-770, as amended, shall be permitted within the City of Baldwin City, Kansas.

Sections:

- 27-101 Nonconforming Lots of Record**
- 27-102 Nonconforming Use of Land**
- 27-103 Nonconforming Use of Structures**
- 27-104 Discontinuance of Nonconforming Uses**
- 27-105 Destruction of a Nonconforming Use**
- 27-106 Intermittent Use**
- 27-107 Existence of a Nonconforming Use**

27-101 Nonconforming Lots of Record:

1. In Residential Districts:
 - a. In any residential district, notwithstanding the regulations imposed by any other provision of these Regulations, a single-family detached dwelling or a two-family dwelling which complies with the restrictions in Section 27-101-1.b., below, may be erected or expanded on a lot that is not less than 25 feet in width and that consists entirely of a tract of land that:
 - 1) Has less than the prescribed minimum lot area, width or depth, or all three, and,
 - 2) Is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations, and,
 - 3) Has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulation or regulations.
 - b. Construction permitted by Section 27-101-1.a., above, shall comply with all of the regulations (except lot area, width and depth) applicable to single-family dwellings and two-family dwellings in the zoning district in which the lot in question is located; provided, however, that the following front and side yard requirements shall apply in place of the front and side yard requirements otherwise applicable:
 - 1) The dwelling shall provide a yard on each side of the dwelling.
 - 2) The dwelling shall provide a front yard equal to either the required front yard or the established front yard as provided by these Regulations. In no case shall an expansion be allowed to encroach into the required front yard greater than what exists for the existing structure.

- 3) The sum of the widths of the two side yards on each lot shall be not less than the smaller of:
 - a) Twenty-five percent of the width of the lot, or
 - b) The minimum total for both side yards prescribed by the bulk regulations for said zoning district, and,
 - c) No side yard shall be less than 10 percent of the width of the lot, and in no case less than 3 feet.

2. In Districts Other Than Residential Districts:

- a. In any district other than a residential district, notwithstanding the regulations imposed by any other provision of these Regulations, a building designed for any permitted use may be erected on a lot of the type described in Section 27-101.a., previously cited.
- b. Construction permitted by Section 27-101.a., previously cited, shall comply with all the regulations (except lot area, width and depth) applicable in the zoning district in which the lot in question is located.

27-102 Nonconforming Use of Land: Where open land is being used as a nonconforming use at the time of the enactment of these Regulations, and such use is the principal use and not accessory to the main use conducted in a structure, such use may be continued; provided, such nonconforming use shall not be extended or enlarged, either on the same or adjoining property. The protection afforded to nonconforming use of land by this section applies only to such land held under ownership or lease agreement for said activity on or before the effective date of these Regulations, but shall not apply to new lands purchased or leased after said date. In addition, said protection shall not apply to any activities not legal under the terms of the regulations which these Regulations replace.

27-103 Nonconforming Use of Structures: Except as otherwise provided herein, the lawful use of a structure existing on the effective date of these Regulations may be continued although such use does not conform to the provisions hereof. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use. The nonconforming use of a structure may be hereafter extended throughout those parts of a structure which were lawfully and manifestly arranged or designed for such use at the time of the enactment of these Regulations.

27-104 Discontinuance of Nonconforming Uses: No land or structure or portion thereof used in whole or in part for a nonconforming use which remains idle or unused for a continuous period of twelve (12) months, whether or not the equipment, fixtures, improvements or facilities are removed, shall again be used except in conformity with the regulations of the district in which such land or structure is located.

27-105 Destruction of a Nonconforming Use: No structure which has been damaged by any cause whatsoever to the extent of more than 50 percent of the fair market value of the structure, immediately prior to damage, shall be restored except in conformity with the provisions of these Regulations, and all rights as a nonconforming use are terminated. If a structure is damaged by less than 50 percent of the fair market value, it may be repaired or reconstructed and used as before the time of damage, provided, that such repairs or reconstruction be substantially completed within twelve (12) months of the date of such damage.

27-106 Intermittent Use: The casual, intermittent, temporary or illegal use of land or structures shall not be sufficient to establish the existence of a nonconforming use. The existence of a nonconforming use on the part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

27-107 Existence of a Nonconforming Use: Whether a nonconforming use exists shall be a question of fact and shall be decided by the Zoning Administrator, subject to appeal to the Board of Zoning Appeals after public notice and hearing and in accordance with the rules of the Board and of these Regulations.

Sections:

- 28-101 Organization and Procedure**
- 28-102 Powers**
- 28-103 Variances**
- 28-104 Special Exceptions**
- 28-105 Special Yard and Height Exceptions**
- 28-106 Guidelines for Conditions**
- 28-107 Application**
- 28-108 Stay of Proceedings**
- 28-109 Public Hearing**
- 28-110 Findings and Records of Proceedings**
- 28-111 Lapse of Special Exceptions or Variances**
- 28-112 Decisions of the Board**

28-101 Organization and Procedure: The Board of Zoning Appeals, as established by the Governing Body by separate ordinance, shall administer the details of the application of these Regulations in accordance with the general rules set forth herein. The Board may adopt rules and regulations as it may deem necessary to effectuate the provisions of these Regulations.

28-102 Powers: The Board of Zoning Appeals shall have the following powers:

1. In accordance with the specific provisions of this Article, to authorize upon appeal of specific cases such variance from the terms of these Regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these Regulations would result in unnecessary hardship, and so that the spirit of these Regulations shall be observed and substantial justice done.
2. To hear and decide those special exceptions to the terms of these Regulations upon which such Board is required to pass under these Regulations.
3. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of these Regulations.

28-103 Variances: The Board of Zoning Appeals shall have the power to grant the following variances:

1. A variation in the bulk requirements in any district so as to relieve practical difficulties or particular hardships in cases, when and where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographical conditions or other extraordinary or exceptional situations or conditions of such piece of property, the strict application of each regulation or restriction would result in peculiar and exceptional practical difficulties to, or exceptional hardship upon the owner of such property. Such variance shall comply, as nearly as possible, in every respect with the spirit, intent and purpose of these Regulations; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and

exceptional hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice. Such variance shall be granted only when public safety and welfare are secured and substantial justice done.

2. A request for a variance may be granted in such case, upon a finding by the board that **ALL** of the following conditions have been met:
 - a. The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner(s) or of the applicant;
 - b. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
 - c. The strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
 - d. The variance desired will not adversely affect the public health, safety, order, convenience, prosperity, or general welfare, and;
 - e. That granting the variance desired will not be opposed to the general spirit and intent of these Regulations.

28-104 Special Exceptions: In order to provide for adjustment in the relative locations of uses and buildings of the same or different classifications, to promote the usefulness of these Regulations as an instrument for fact finding, interpretation, application, and adjustment, and to supply the necessary elasticity to its efficient operation; special exceptions are hereby permitted by the terms of this Article. The following buildings and uses are permitted as special exceptions if the Board of Zoning Appeals finds that in its opinion, as a matter of fact, such exceptions will not adversely affect the uses of adjacent and neighboring property permitted by these Regulations:

1. Replacing a nonconforming mobile home or manufactured home with a newer and/or larger manufactured home on the same lot; provided, said reestablished manufactured home, if approved, shall be set up in accordance with Manufactured Home and Recreational Vehicle Code of the City of Baldwin City within 60 days of the placement of said manufactured home.
2. A manufactured home or recreational vehicle on an individual lot on an emergency basis on any lot where the permanent dwelling unit has been destroyed by fire, storm or other such calamity and the dwelling unit has been rendered uninhabitable, and where the placement of the manufactured home or recreational vehicle will be for a period longer than one (1) year. The placement of the manufactured home or recreational vehicle for a period not greater than one (1) year is allowed under these conditions by the issuance of an administrative permit by the Zoning Administrator under Section 29-110 of these

Regulations.

3. Placing a manufactured home as a second home on a lot under instances of extreme hardship or necessity as determined by the Board, provided:
 - a. The applicant shall clearly state the hardship or reason of necessity for requesting the Special Exception.
 - b. The Special Exception may be permitted for a period of up to three (3) years and may be renewed for successive three (3) year periods; provided, however, that at such time as the hardship or reason of necessity shall cease to exist, the Special Exception shall become null and void and said manufactured home shall be forthwith removed.
 - c. Such manufactured home shall be maintained in a safe and sanitary condition and shall comply with all other applicable adopted codes and procedures of the City of Baldwin City.
4. In the "R-1A" Single-Family Residential, "R-1B" Single-Family Residential or "R-1C" Single-Family Residential District, a private garage(s) and/or storage building(s) as an accessory building(s) covering more than 1,200 square feet.
5. The erection and use of an accessory building or structure prior to the erection and use of a principal or main building or structure.
6. A nonconforming commercial use to extend to the entire lot or a larger portion of the lot where there is now a commercial use on a portion of the lot.
7. A nonconforming commercial use on a lot between two lots which are used commercially.
8. A nonconforming use now existing in any part of a building to be extended vertically or laterally to other portions of the building. In a building now occupied by a nonconforming commercial or industrial use, an additional use of the same classification in the remainder of the building.
9. The extension of an existing nonconforming building and the existing use thereof, upon the lot occupied by such building at the time of the passage of these Regulations; or the erection of an additional building upon the lot owned at the time of the passage of these Regulations by a nonconforming commercial or industrial establishment and which additional building is a part of such establishment.
10. Where a use district boundary line crosses a lot, a use of either classification on the whole lot within 100 feet of said district boundary line.

11. Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of these Regulations where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of these Regulations to relieve congestion in the streets would be best served by permitting such parking off the premises.

28-105 Special Yard and Height Exceptions: The following special yard exceptions, limited as to location and especially in locations described below in this section, are permitted by these Regulations if the Board of Zoning Appeals finds that in its opinion, as a matter of fact, such exception will not substantially affect adversely the uses of adjacent and neighboring property permitted by these Regulations and provided such exceptions are approved by the Board:

1. An exception in the yard regulations on a lot where, on the adjacent lot, there is a front, side or rear yard that does not conform with the yard regulations.
2. A yard exception on a corner lot, or lots opposite or adjoining permanent open spaces, including parks and playgrounds.
3. An exception in the depth of the rear yard on a platted lot in a block where there are nonconforming rear yard conditions.
4. An exception where there are irregularities in depths of existing front yards on a street frontage on the side of a street between two intersecting streets, so that any one of the existing depths shall, for a building hereafter constructed or extended, be the required minimum front yard depth.

28-106 Guidelines for Conditions: Where, in these Regulations, special exceptions are permitted, provided they are approved by the Board of Zoning Appeals where the Board is authorized to decide appeals or approve certain uses, and where the Board is authorized to approve variances; such approval, decision, or authorization shall be limited by such conditions as the case may require, including, if necessary, any of the following specifications:

1. No outside signs or advertising structures except professional or directional signs.
2. Limitations of signs as to size, type, color, location or illumination.
3. Amount, direction, and location of outdoor lighting.
4. Amount and location of off-street parking and loading space.
5. Maintenance requirements including cleaning and painting of buildings, structures or facilities.
6. Type of roof (i.e., gable, flat, etc.).

7. Construction design and type of construction materials to be used.
8. Whether the buildings, if multiple buildings are proposed, can be connected or not.
9. Exit, entrance, door and window locations.
10. The type and amount of paving, landscaping, fencing, screening and other such features.
11. Hours of operation, including limitations on nighttime hours.
12. Limitations on structural alterations to existing buildings.
13. Plans for the control or elimination of smoke, dust, gas, noise or vibration caused by the proposed use.
14. Such other conditions and/or limitations that are deemed necessary.

28-107 Application: Written application for a variance, a special exception, or an appeal referred to in this Article shall be filed with the Board or its agent, upon forms and in a manner prescribed by the Board. Said application shall be submitted within 30 days of the action requiring said variance, special exception or appeal.

28-108 Stay of Proceedings: Upon the application for an appeal of an order, requirement, decision, or determination made by an administrative official in the enforcement of these Regulations, said application shall stay all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after the application for appeal has been filed with him, that by reason of facts stated in the certificate the stay would, in his opinion, cause imminent peril to life or property. In such case the proceedings shall not be stayed except by a restraining order which may be granted by the Board, or by a court of competent jurisdiction on application, on notice to the Zoning Administrator and on due cause shown.

28-109 Public Hearing: The Board shall hold a public hearing on each application for an appeal, decision, variance or special exception. Applications for a variance or special exception must be accompanied with a certified list of property owners, and their addresses, within 200 feet of the property for which the variance or special exception is being sought; provided said notification area shall extend to 1,000 feet when said property is adjacent to or the 200 foot notification area would extend beyond the city limits. On all applications, notice of the time and place of the public hearing shall be published once in the official City paper not less than 20 days prior to the date of such public hearing. In addition, for all applications for a variance or special exception all property owners within the notification area shall be notified by first class mail of such public hearing and be given an opportunity to attend and be heard regarding such application for a variance or special exception.

28-110 Findings and Records of Proceedings: The Board of Zoning Appeals shall hold the public hearing at such prescribed time and place and shall make its findings and determinations in writing within a reasonable time from the date of filing of the application, and shall forthwith

transmit a copy thereof to the applicant. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, and shall keep records of its examinations and other official actions, which shall be a public record.

28-111 Lapse of Special Exceptions or Variances: After the Board of Zoning Appeals has approved a special exception or granted a variance, the special exception or variance so approved or granted shall lapse after the expiration of one (1) year if no substantial construction or change of use has taken place in accordance with the plans for which such special exception or variance was granted, and the provisions of these Regulations shall thereafter govern.

28-112 Decisions of the Board: In exercising the foregoing powers, the Board of Zoning Appeals, in conformity with the provisions of this Article, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken; may attach appropriate conditions and may issue or direct the issuance of a permit. Any person, official or governmental agency dissatisfied with any order or determination of the Board of Zoning Appeals may bring an action in the District Court of Douglas County, Kansas, to determine the reasonableness of any such order or determination within thirty (30) days of the rendering of the order or determination by said Board of Zoning Appeals.

Sections:

- 29-101 Enforcement**
- 29-102 Building Permit**
- 29-103 Application for Building Permit**
- 29-104 Fees**
- 29-105 Issuance of Building Permit**
- 29-106 Revocation of Building Permit**
- 29-107 Stop Order**
- 29-108 Period of Validity**
- 29-109 Certificate of Occupancy**
- 29-110 Reports**
- 29-111 Administrative Permit**
- 29-112 Vesting of Development Rights**

29-101 Enforcement: It shall be the duty of the Zoning Administrator to enforce the provisions of this Ordinance and to refuse to issue any permit for any building, or for the use of any premises, which would violate any of the provisions of this Ordinance. It shall also be the duty of all officers and employees of City of Baldwin City, Kansas, to assist the Zoning Administrator by reporting any seeming violation in new construction, reconstruction or land use. In case any building is erected, constructed, reconstructed, moved, altered, repaired or converted or any building or land is used in violation of this Ordinance, the Zoning Administrator is hereby authorized and directed to institute any appropriate action to put an end to such violation.

29-102 Building Permit: No building, structure, or addition thereto constructed, built, moved, remodeled or reconstructed after the effective date of this Ordinance shall be occupied or used for any purpose; and no land vacant on the effective date of this Ordinance shall be used for any other purpose; and no use of any land or structure shall be changed to any other use, unless a building permit shall first be obtained from the Zoning Administrator certifying that the proposed use or occupancy complies with all the provisions of this Ordinance.

29-103 Application for Building Permit: The application for a building permit shall be made on forms provided by the Zoning Administrator and shall be accompanied by a site plan of the real estate upon which said application is made. Said site plan shall be drawn to scale showing the following items:

1. Legal description of the real estate involved.
2. Location and size of all buildings, structures, yards and open space.
3. Width and length of all entrances and exits to and from said real estate.
4. All adjacent and adjoining roads or highways.

5. Sufficient grades and elevations to establish the proper placement of buildings, adequate sewage disposal systems, the proper drainage of the property, and the applicability of possible floodplains.
6. Location and specifications of all signs, lighting, fencing, screening, landscaping and other such site improvements.

Site plans so furnished shall be filed by the Zoning Administrator and shall become a permanent record. A record of all building permits shall be kept on file in the Office of the Zoning Administrator.

29-104 Fees: An application for a building permit shall be accompanied by such fee as shall be officially specified by ordinance of the Governing Body from time to time.

29-105 Issuance of Building Permit: A building permit shall be either issued or refused by the Zoning Administrator within 10 working days after the receipt of the application thereof, or within such further period as may be agreed to by the applicant. When the Zoning Administrator refuses to issue a building permit, the applicant shall be advised of the reasons for the refusal in writing.

29-106 Revocation of Building Permit: A building permit issued in accordance with the provisions of this Ordinance may be revoked by the Zoning Administrator if he finds that prior to the completion of the structure for which the permit was issued there is a departure from the approved plans, specifications and/or requirements or conditions required under the terms of the building permit, or the same was issued under false representation, or that any other provisions of this Ordinance are being violated.

29-107 Stop Order: Failure, refusal or neglect of any property owner, or his authorized representative, to apply for and secure a valid building permit, including the payment of the prescribed fee, shall be reason for the issuance of a "stop order" by the Zoning Administrator; provided said owner or authorized representative shall have been notified in writing at least 48 hours prior to the issuance of said stop order that he is in violation of regulations of the City. Said stop order shall be posted on or near the property in question, in a conspicuous place and no further construction shall proceed. Where such construction has proceeded without filing for and receiving a valid permit, the fee for the issuance of a subsequent building permit shall be quadrupled.

29-108 Period of Validity: A building permit shall become null and void ninety (90) days after the date on which it is issued unless within such ninety (90) day period construction, building, moving, remodeling or reconstruction of a structure is commenced or a use is commenced. A building permit shall expire upon issuance of a certificate of occupancy as specified herein, or within one (1) year from the date of issuance of the certificate, regardless of the state of completion of the construction authorized by said certificate. Any construction not completed when a building permit expires shall cease and no new construction may commence until such time as a newly issued building permit is issued in conformance with this Article and this Ordinance.

29-109 Certificate of Occupancy: No new or existing building or structure shall be occupied or used, and no change in the character or use of land or of a building shall occur, until a certificate of occupancy has been issued by the Zoning Administrator certifying that such building or use complies with all requirements of this Ordinance and other applicable City of Baldwin City rules and regulations.

29-110 Reports: The Zoning Administrator shall periodically report in writing to the Governing Body and Planning Commission a summary of all building permits and certificates of occupancy issued during the preceding period, giving details of any permitted variations, as well as the current status of all applications in process for amendments, conditional uses, appeals, and variances. Such report shall include comments on any problems encountered in the administration of this Ordinance which may need correction by amendment to this Ordinance.

29-111 Administrative Permit: A manufactured home or recreational vehicle on an individual lot may be authorized by the Zoning Administrator, on an emergency basis for a period not to exceed one (1) year, on any lot where the permanent dwelling unit has been destroyed by fire, storm or other such calamity and the dwelling unit has been rendered uninhabitable. If the authorization for the emergency placement of such manufactured home or recreational vehicle unit lasts longer than one (1) year, a Special Exception may be granted by the Board of Zoning Appeals for an additional period of time, provided, the procedures for approval of Special Exceptions outlined in Article 28 herein are followed.

29-112 Vesting of Development Rights: In conformance with the provisions of K.S.A. 12-764, and any subsequent amendments, the following shall apply:

1. The rights of landowners of properties platted or subdivided for residential development shall be protected for use of said land for the intended residential purposes for a period of five (5) years from the time in which such property was first platted or subdivided, provided:
 - a. Verifiable evidence is presented showing the date in which said plat or subdivision of land was first created. Acceptable evidence shall be: signed and sealed certificates or plats of survey from a Registered Land Surveyor showing the several lots proposed to be created, either dated or dated and recorded with the Register of Deeds; recorded Restrictive or Protective Covenants for the development; recorded deeds conveying land; or recorded Affidavits of Equitable Interest on contracts for deed for said tracts of land.
 - b. Within said five (5) year period actual sales occur resulting in separate owners on the tracts of land.
 - c. The division of land was legally done in conformance with the then City of Baldwin City Zoning Ordinance and Subdivision Regulations.

2. Except for lots in a recorded plat, any remaining contiguous tracts of land within the area divided under this rule held in common ownership at the conclusion of said five (5) year period shall be considered an unplatted lot and subsequent divisions of said lot shall be in conformance with the City of Baldwin City Subdivision Regulations then in effect.

3. Properties divided or platted for any use other than agricultural or residential purposes shall not be permitted to develop or further develop except in conformance with this Ordinance and the City of Baldwin City Subdivision Regulations. Persons who obtain a validly issued permit under the previous City of Baldwin City Zoning Ordinance shall be permitted to develop the property so long as the permit issued under the previous City of Baldwin City Zoning Ordinance does not expire. Failure to start construction under said permit before the expiration of the permit shall not protect the owner from the provisions of this Ordinance or the City of Baldwin City Subdivision Regulations then in effect.

Sections:**30-101 Purpose and Intent****30-102 Special Event Defined****30-103 Special Events Not Requiring a Permit****30-104 Special Events Subject to an Administrative Permit****30-105 Special Events Subject to Governing Body Approval****30-106 Application and Fee**

30-101 Purpose and Intent: The purpose and intent of this Article is to provide for the temporary use of land for special events in a manner consistent with its normal use and beneficial to the general welfare of the public. Furthermore, it is the intent of this Article to protect nearby property owners, residents and businesses from special events which may be disruptive, obnoxious, unsafe or inappropriate given site conditions, traffic patterns, land use characteristics, and the nature of the proposed use. Finally, it is the intent of this Article to preserve the public health, safety and convenience.

30-102 Special Event Defined: The term "special event" shall mean a temporary, short-term use of land or structures, not otherwise included as a permitted or accessory use by these Regulations, for one or more of the following types of activities:

1. Type 1. Fund-raising or non-commercial events for nonprofit religious, educational, or community service organizations; including any on-site signs and structures in conjunction with the event.
2. Type 2. Temporary banners attached to the wall of a building or placed across street rights-of-way.
3. Type 3. Promotional activities or devices intended to attract attention to a specific place, business, organization, event or district, such as signs, searchlights or balloons.
4. Type 4. Commercial activities intended to sell, lease, rent or promote specific merchandise, services or product lines, such as a tent sale, trade show, farmers market, Christmas tree sales, or product demonstration.
5. Type 5. Public or private events intended primarily for entertainment or amusement, such as concerts, festivals, carnivals, circuses or parades, or as temporary "one-time" activities of a generally short duration, particularly such activities as "locational" work by film companies. Additionally, the temporary placement of a portable asphalt plant and attendant materials and equipment during construction work on any public road when such placement is not adjacent to said construction but will be placed within 1 and ¼ miles of said construction may be allowed under this provision.

The term "special event" shall not include amusement enterprises, garage sales at an individual residence, transient merchants, or off-site promotional signs.

30-103 Special Events Not Requiring a Permit: Special events meeting the Type 1 definition are allowed without a Special Event Permit, provided all of the following performance standards are met:

1. The special event is conducted entirely on private property owned or leased by the sponsoring organization as a permanent facility.
2. Any structure used in conjunction with the special event shall meet all applicable yard setbacks, shall be the subject of a valid zoning certificate, and shall be promptly removed upon cessation of the event.
3. The special event shall be restricted to hours of operation between 6:00 a.m. and 10:00 p.m., to a maximum duration of four (4) days, and to a maximum frequency for similar events of two (2) times per calendar year.

30-104 Special Events Subject to an Administrative Permit: Special events meeting the following standards may be issued a Special Event Permit administratively by the Zoning Administrator. In administering the provisions of this section, the Zoning Administrator shall be guided by applicable City policies as adopted by the Governing Body. Any applicant denied a Special Event Permit shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Governing Body.

1. Special events meeting the Type 2 definition may be permitted administratively by the Zoning Administrator, provided that all of the following performance standards are met:
 - a. An application is made and a fee paid in accordance with Section 30-106.
 - b. No more than one banner will be displayed when attached to the wall of a building.
 - c. The banner shall not be more than 40 square feet in size.
 - d. The banner will be displayed for a maximum duration of fifteen (15) days per permit.
2. Special events meeting the Type 3 or Type 4 definition, and Type 1 events not meeting the standards of Section 30-103, may be permitted administratively by the Zoning Administrator subject to the prior review and approval of special arrangements for traffic and crowd control by the Police Chief, Fire Chief, and City Engineer. No such administrative permit shall be issued unless all of the following performance standards are met:
 - a. An application is made and a fee paid in accordance with Section 30-106.

- b. The special event will not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
- c. The activity shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces caused by the event itself.
- d. The special event shall not endanger the public health, safety, or welfare given the nature of the activity, its location on the site, and its relationship to parking and access points.
- e. The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.
- f. Any structure used in conjunction with the special event shall meet all sight distance requirements, shall be the subject of a valid zoning certificate, and shall be promptly removed upon the cessation of the event.
- g. The special event shall be conducted on private property where the property owner has granted the appropriate permission.
- h. The duration and hours of operation of the special event shall be consistent with the intent of the event and the surrounding land uses, but in no case shall the duration exceed ten (10) days.

30-105 Special Events Subject to Governing Body Approval: Any special event not meeting the criteria of Sections 30-103 or 30-104 may be granted a Special Event Permit by the Governing Body. Such permit may be subject to such conditions and safeguards as the Governing Body may deem necessary to protect the public health, safety and welfare. These conditions may include, but shall not be limited to:

1. Restrictions on the hours of operation, duration of the event, size of the activity, or other operational characteristic.
2. The posting of a performance bond to help ensure that the operation of the event and the subsequent restoration of the site are conducted according to Governing Body expectations.
3. The provision of traffic control or security personnel to increase the public safety and convenience.
4. Obtaining liability and personal injury insurance in such form and amount as the Governing Body may find necessary to protect the safety and general welfare of the community.

30-106 Application and Fee:

1. No Special Event Permit shall be issued until an application has been submitted to the Zoning Administrator and the appropriate fee paid. The application shall be made on forms provided by the Zoning Administrator, and shall be accompanied by the following items as applicable:
 - a. A letter from the applicant describing the proposed event, the hours of operation, the duration of the event, anticipated attendance, and any structures, signs or attention-attracting devices used in conjunction with the event.
 - b. A sketch plan showing the location of the proposed activities, structures and signs in relation to existing buildings, parking areas, streets and property lines.
 - c. A letter from the property owner or manager, if different from the applicant, agreeing to the special event.
2. Each application for a Special Event Permit shall be accompanied by an application fee, except that such fee shall be waived for any applicant registered with the State of Kansas as a nonprofit organization. The fees shall be as established by the Governing Body by separate ordinance.
3. The Special Event Permit shall be posted on the site for the duration of the event.

Sections:**31-101 Who May Petition or Apply****31-102 Procedures for Consideration of Request for Amendments, Revisions or Changes****31-103 Posting of Sign****31-104 Factors to be Considered****31-105 Traffic and/or Other Studies****31-106 Limitations on Reapplication for Amendments**

31-101 Who May Petition or Apply: Applications for amendments, revisions or changes in the Zoning District Boundary Maps in effect for Baldwin City, Kansas, or for a Conditional Use Permit as authorized by Article 26, may be made by any person who owns the land for which such an amendment, revision, change or Conditional Use Permit is sought, or by the owner's agent as defined by these Regulations. If such application is made by the owner's agent, said agent shall enter upon the application the name and current mailing address of the owner and shall submit written authorization to act as agent for said owner prior to the setting of any public hearing. Applications for amendments, revisions or changes to the Zoning Regulations, the Zoning District Boundary Maps and/or Conditional Use Permits may also be made by the Planning Commission or the Governing Body; provided, such proposed amendments, revisions, changes, or Conditional Use shall first be submitted to the Planning Commission for public hearing, recommendation and report and the final decision is made by the Governing Body.

31-102 Procedures for Consideration of Request for Amendments, Revisions or Changes: All applications or requests for amendments, revisions or changes to the Zoning Regulations, the Zoning District Boundary Maps or for a Conditional Use Permit shall be made to the Zoning Administrator on such forms as provided and acceptable to the Zoning Administrator. The payment of the application fee, as established by the Governing Body by separate resolution, shall be made at the time of the submission of the application. Immediately upon receipt of an application for rezoning or Conditional Use by the owner, or his agent, and the payment of the appropriate fee, the Zoning Administrator shall note thereon the date of filing and make a permanent record thereof. An application shall be deemed complete when the Zoning Administrator has received: a completed application form, any required development plan, the application fee, and such other documents necessary to process the application without further delay.

All such proposed applications for amendment, revisions or changes to the Zoning Regulations and/or for a Conditional Use shall be submitted to the Planning Commission for recommendation. The Planning Commission shall hold a public hearing thereon and shall cause a written summary to be made of the proceedings. Notice of such hearing shall be published once in the official city newspaper at least 20 days prior to the date of the hearing. Said notice shall fix the time and place for such hearing, shall give the name and address of the applicant, and shall contain a statement regarding the proposed changes in regulations or restrictions, or in the boundary or classification of any zone or district, or the requested Conditional Use.

If the application is not a general amendment, revision or change to the Zoning Regulations, but is for a rezoning or Conditional Use Permit affecting specific property, the property affected shall be designated by legal description and a general description sufficient to identify the property under consideration. In addition to such publication notice, written notice of such proposed rezoning and/or Conditional Use shall be mailed by certified mail with return receipt at least 20 days before the public hearing to all owners of record of lands located within at least 200 feet of the area proposed to be altered; provided, said notice shall extend 1,000 feet in those areas where the notification area extends outside the corporate limits of the city. All notices shall include a statement that a complete legal description is available for public inspection in the office of the Zoning Administrator. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or Governing Body. The applicant shall provide a certified list of the owners of record of said lands at the time of the filing of the application.

In the case of an application by the Planning Commission or the Governing Body, all the above stated requirements shall be followed except:

1. No fee shall be required.
2. If the application is for an amendment or revision to the text of the Zoning Regulations, notice of the public hearing shall not be required to be mailed to all affected persons; therefore, a certified list of the owners of land shall not be required.

The Planning Commission shall hold the public hearing at the place and time so stated within the legal notice. The hearing may be adjourned from time to time, and at the conclusion of the same, the Planning Commission shall take action on the request by preparing a recommendation either to approve, approve with conditions as authorized by these Regulations, or disapprove the application by a majority of the members of the Planning Commission present and voting at the hearing. When the Planning Commission fails to make a recommendation on an application, the Planning Commission shall be deemed to have made a recommendation of disapproval. Any such hearing may, for good cause at the request of the applicant, or in the discretion of the Planning Commission, be continued.

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, revision, change or Conditional Use Permit and the reasons therefore, the Governing Body may: 1) adopt such recommendation by resolution; 2) override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or 3) return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new and amended recommendation. Upon the receipt of such recommendation, the Governing Body, by a simple majority thereof, may adopt, may revise or amend and adopt, or may disapprove such recommendation by resolution, or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the

Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly. The proposed amendment, revision, change, or Conditional Use Permit, if approved with or without conditions, shall become effective upon publication of the adopting resolution.

If such amendment or Conditional Use Permit affects the boundaries of any zone or district, the resolution shall describe the boundaries as amended, or if provision is made for the fixing of the same upon the official maps which has been incorporated by reference, the amending resolution shall define the change or the boundary as amended, shall order the official maps be changed to reflect such amendment or Conditional Use, shall amend the section of the resolution incorporating the same and shall reincorporate such maps as amended.

Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment, supplement, change, or Conditional Use Permit, if a protest against an amendment, supplement, change or Conditional Use Permit is filed in the office of City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, duly signed and acknowledged by the owners of record of 20 percent or more of any property proposed to be rezoned, or by the owners of record of 20 percent or more of the total area required to be notified of the proposed amendment, supplement, change or Conditional Use of a specific property, excepting public streets and highways, the resolution of approval shall not be passed except by three-fourths majority vote of the Governing Body.

31-103 Posting of Sign: Each applicant for a rezoning and each applicant for a Conditional Use Permit shall, within 48 hours of filing such application, place a sign upon the lot, tract or parcel of land for which the application was filed. Said sign shall be furnished by the Zoning Administrator to the applicant and the applicant shall firmly affix and attach the sign to a wood or metal backing or frame and place the sign as hereinafter set forth.

Said sign shall be maintained and kept in place by the applicant until final disposition of such application, or until withdrawal of the application. The sign shall be removed by the applicant after final action on the application. Every effort shall be made by the applicant to maintain and kept the sign in place until final disposition of such application, or until withdrawal of the application. The sign shall be removed by the applicant after final action on the application.

The bottom of said sign shall be a minimum of two (2) feet above the ground line. Said sign shall be placed within five (5) feet of the street right-of-way line, in a position on such lot, tract or parcel of land as to have no visual obstructions thereto and to be readily seen by passersby. If the lot, tract or parcel of land has more than one (1) street abutting thereto, signs shall be placed facing all street frontages.

Failure to comply with this requirement shall not deprive the Planning Commission of its jurisdiction or affect any decision, but may be due cause for the Planning Commission to refuse to hear the application or to adjourn the hearing or to require further notice.

31-104 Factors to be Considered:

1. When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based using the following guidelines:
 - a. Whether the change in classification would be consistent with the intent and purpose of these Regulations;
 - b. The character and condition of the surrounding neighborhood and its effect on the proposed change;
 - c. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions;
 - d. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification;
 - e. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity;
 - f. The suitability of the applicant's property for the uses to which it has been restricted;
 - g. The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped;
 - h. Whether adequate sewer and water facilities, and all other needed public services including transportation, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified;
 - i. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development;
 - j. The recommendations of permanent or professional staff;

- k. Whether the proposed amendment would be in conformance to and further enhance the implementation of the Comprehensive Plan;
 - l. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such a reclassification; and,
 - m. Such other factors as may be relevant from the facts and evidence presented in the application.
2. Because of particular conditions associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts, but are permitted as Conditional Uses when their proposed location is supplemented by additional requirements so as to make the use requested compatible with the surrounding property, the neighborhood and the zoning jurisdiction.

In approving a Conditional Use, the minimum requirements of approval for all similar types of permitted uses in the same district must be met unless otherwise reduced by specific reference in the recommendation of the Planning Commission or the approval of the Governing Body. The requirements may be made more stringent if there is potentially injurious effects which may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public.

The Planning Commission may recommend approval of a Conditional Use, and the Governing Body may approve such Conditional Use, using the following factors as guidelines:

- a. Whether approval of the Conditional Use would be consistent with the intent and purpose of these Regulations;
- b. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood;
- c. Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided;
- d. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected;
- e. The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped;

- f. Whether the applicant's property is suitable for the proposed use;
- g. The recommendations of permanent or professional staff;
- h. Whether the proposed Conditional Use would be in conformance to and further enhance the implementation of the Comprehensive Plan;
- i. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed on the applicant by not upgrading the value of the property by approving the proposed Conditional Use; and,
- j. Whether the proposed Conditional Use, if it complies with all the conditions upon which the approval is made contingent (as authorized in Article 18 of these Regulations), will not adversely affect the property in the area affected.
- k. Such other factors as may be relevant from the facts and evidence presented in the application.

31-105 Traffic and/or Other Studies: In the case of an application for rezoning of land or for a Conditional Use Permit for a use which may, in the opinion of the Planning Commission or Governing Body, substantially change traffic patterns, create traffic congestion, and/or have a perceived impact on the community of such magnitude warranting special study, either the Planning Commission or Governing Body may require that the applicant procure the services of a competent professional consultant or expert for the purpose of preparing such traffic and/or other studies deemed necessary.

A traffic study must address how the traffic generated by the proposed development will be handled on the site; how vehicular ingress and egress from the site onto public roads will function; and, show that no undue burden will be placed upon the existing public road system. The study shall include recommendations of the on-site and off-site improvements necessary to achieve appropriate levels of traffic safety.

The other studies shall address the substance of the concern and/or impacts and shall identify the extent of such impacts and any and all mitigation remedies possible to lessen those impacts on the neighborhood and/or citizens and taxpayers of Baldwin City, Kansas.

The results of the traffic study and/or other studies shall be used in determining the impact of the proposed rezoning or conditional use permit and guide the development of a recommendation or decision regarding the same, including requirements of construction and/or installation of the recommended improvements outlined with the traffic study or such other studies.

31-106 Limitations on Reapplication for Amendments: Whenever an application for amendment, supplement, change, rezoning or conditional use permit has been denied by the Governing Body or withdrawn after newspaper publication notice for public hearing, such application or one substantially similar shall not be reconsidered sooner than one (1) year after said denial or from the date the application was withdrawn. The Governing Body may waive the limitation for good cause if there is a substantial change in the application as proposed. All requests for waiver of the limitation shall be made in writing, stating the basis for the request and the change that is felt to warrant such waiver, at least fourteen (14) days prior to the meeting of the Governing Body at which such request is to be heard. If the request is granted, then the application shall begin again as a new request and meet all requirements of these Regulations for hearing.

ARTICLE 32 INTERPRETATION, CONFLICT, REMEDIES AND PENALTY

Sections:

32-101 Interpretation and Conflict

32-102 Remedies Available

32-103 Penalty

32-101 Interpretation and Conflict: In interpreting and applying the provisions of these Regulations, they shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort, prosperity, or general welfare. It is not intended by these Regulations to interfere with, or abrogate or annul any easements, covenants or other agreement between parties. Where the conditions or requirements imposed by the provisions of these Regulations are either more restrictive or less restrictive than comparable conditions or restrictions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall apply.

If any property is not given a zoning classification on the Zoning District Boundary Maps because of error or omission, such property shall be classified "R-1A" Single-Family Residential until changed by amendment, unless authorized by these Regulations.

32-102 Remedies Available: In case any building or structure is or is proposed to be erected, constructed, reconstructed, moved, altered, converted, or maintained, or any building, structure, or land is or is proposed to be used in violation of these Regulations, the Zoning Administrator or the City Attorney may, in addition to all other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, relocation, alteration, conversion, maintenance, or use, or to correct or abate such violation, or to prevent the occupancy of a building, structure or land.

32-103 Penalty: Any person or corporation who shall violate any of the provisions of these Regulations or fail to comply herewith, or with any of the requirements thereof; or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and, upon conviction thereof, shall be liable to a fine of not more than five hundred dollars (\$500.00) and/or imprisonment for not more than six (6) months for each offense and each day such violation shall be permitted to exist shall constitute a separate offense. The owner of any building or premises or part thereof, where anything in violation of these Regulations shall be placed, or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith, and who assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof shall be subject to the same fine as hereinbefore provided.

Sections:**33-101 Validity****33-102 Accrued Rights and Liabilities Saved****33-103 Severability****33-104 Effective Date****33-105 Repealing Clause**

33-101 Validity: If any section, paragraph, subdivision, clause, phrase, or provision of these Regulations shall be adjudged invalid or held unconstitutional the same shall not affect the validity of these Regulations as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional. All regulations or parts of regulations in conflict herewith are hereby repealed.

33-102 Accrued Rights and Liabilities Saved: The repeal of the existing Zoning Ordinance provided in Section 33-105 herein shall not affect any rights accrued, fines, penalties, forfeitures, or liabilities incurred thereunder, or actions involving any of the provisions of said Ordinance or parts thereof. Said Ordinance below repealed is hereby continued in force and effect, after the passage, approval and publication of these Regulations, for the purpose of such rights, fines, penalties, forfeitures, liabilities or actions thereof.

33-103 Severability: Each article, section and subdivision or a section of these Regulations is hereby declared to be independent of every other article, section, or subdivision or section, so far as inducement for the passage of these Regulations is concerned.

33-104 Effective Date: These Regulations, being designated as the "Zoning Ordinance of Baldwin City, Kansas," shall be in full force and effect within the City of Baldwin City, Kansas, from and after its passage and publication in accordance with K.S.A. 12-3009 through 12-3012.

33-105 Repealing Clause: These Regulations repeals all other rules, regulations, resolutions and/or ordinances of the City of Baldwin City, Kansas, addressing matters contained within these Regulations in their entirety to the extent said rules, regulations, resolutions and/or ordinances conflict.

ORDINANCE NO. 12xx

AN ORDINANCE AMENDING CHAPTER 16, ARTICLE 3 OF THE CODE OF THE CITY OF BALDWIN CITY, KANSAS, AND ADOPTING BY REFERENCE THE SUBDIVISION REGULATIONS OF THE CITY OF BALDWIN CITY, KANSAS, APRIL, 2010 EDITION

WHEREAS, the Baldwin City Planning Commission has determined that the management and evaluation of new land development within the corporate limits of the City of Baldwin City, Kansas, would best be handled through rules and regulations adopted under the authority of K.S.A. 12-741 et seq; and,

WHEREAS, the Baldwin City Planning Commission has prepared the Subdivision Regulations for the City of Baldwin City, Kansas, April, 2010 Edition; and,

WHEREAS, the Baldwin City Planning Commission has conducted a public hearing and, by a majority vote of the entire membership thereof, recommended the adoption of the Subdivision Regulations for the City of Baldwin City, Kansas, April, 2010 Edition; and,

WHEREAS, pursuant to K.S.A. 12-3009, the City of Baldwin City is authorized to incorporate a standard or model code or ordinance in booklet or pamphlet form by reference, which provisions shall be as much part of the ordinance as if the same had been set out in full in this ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the City of Baldwin City, Kansas, that:

- Section 1. Existing Chapter 16, Article 3 of the Code of the City of Baldwin City, Kansas, are hereby repealed.
- Section 2. New Section 16-301 of the Code of the City of Baldwin City, Kansas, shall read as follows: "The Subdivision Regulations of the City of Baldwin City, Kansas, April, 2010 Edition, prepared by the Baldwin City Planning Commission is, by reference, incorporated in and by this publication made part of this chapter and article as fully as though set out at length herein and is adopted as the Subdivision Regulations for the City of Baldwin City, Kansas."
- Section 3. New Section 16-302 of the Code of the City of Baldwin City, Kansas, shall read as follows: "No fewer than three (3) copies of the Subdivision Regulations marked "Official Copy as Incorporated by Ordinance No. _____ of the City of Baldwin City" and to which shall be attached a published copy of this ordinance, shall be filed with the City Clerk to be open for inspection and available to the public at all reasonable business hours."

Section 4. This Ordinance shall be included in the Code of the City of Baldwin City, Kansas, and shall be in full force and effect from and after publication in the official city newspaper as required by law.

ADOPTED and APPROVED by the Governing Body of the City of Baldwin City, Kansas, this _____ day of April, 2010.

APPROVED:

Ken Wagner, Mayor

ATTEST:

Darcy Higgins, City Clerk

APPROVED AS TO FORM:

Matt Hoy, City Attorney

