

TITLE IV. LAND DEVELOPMENT REGULATIONS

Adopted: October 21, 2003
(Ordinance No. 696, as amended; through Ordinance 836)

CHAPTER 400: GENERAL PROVISIONS

SECTION 400.1 TITLE

Land Development Regulations of Lake Lotawana, Missouri.

SECTION 400.2 AUTHORITY

The authority to adopt Land Development Regulations is codified in Chapter 89, Missouri Revised Statutes.

SECTION 400.3 EFFECTIVE DATE

These Land Development Regulations shall be in full force and effect from and after their approval by the Board of Aldermen.

SECTION 400.4 PURPOSE AND INTENT

- A. Consistent with the City's adopted Comprehensive Plan, as same may from time to time be amended, the purpose of these Regulations is to:
- (1) Promote the public health, safety, and general welfare;
 - (2) Ensure that all development approvals, legislation and public/private acts are consistent with the adopted Comprehensive Plan;
 - (3) Promote orderly, appropriate and balanced use and development of land consistent with sound environmental policies;
 - (4) Protect the quality and quantity of prime agricultural and environmentally sensitive lands;
 - (5) Facilitate safe and economical provision of streets, water, wastewater disposal, stormwater drainage, schools, libraries, utilities, parks, fire and police facilities, and other public requirements;
 - (6) Regulate the density of population, the location and use of buildings, structures and land for trade, industry, residence, mixed uses, prevent the overcrowding of land, and avoid the undue concentration of population;
 - (7) Preserve features of historic and archeological significance;
 - (8) Establish levels of service in these Regulations to ensure the availability and location of concurrent and adequate public facilities by state, county, regional, or other service providers (including transportation, stormwater management, sewer, water, telephone, electric and gas utilities, emergency services, fire, police, parks, open space, library and schools) consistent with the Comprehensive Plan, as amended; and to insure

appropriate financing for services and facilities necessary to protect the health, safety and general welfare of current and future residents;

- (9) Establish administrative regulations to oversee the land development process and to establish appropriate and proportional fees for City, State and board review of development approvals;
- (10) Maintain predictability of the development approval process, protect vested rights, and assure fairness for affected landowners; and
- (11) Protect the planning process through adoption of interim development controls during studies, citizen forums and public hearings necessary for the formulation and adoption of updated comprehensive plans and amended land development regulations, by preventing the establishment of non-conforming uses during the planning process which would be inconsistent with proposed amendments and insuring full citizen and developer participation.

SECTION 400.5 JURISDICTION

These Regulations shall apply throughout the City and shall provide a guide for the courts in relation to public and private acts outside of the City limits that have a detrimental effect upon the City and property within the City.

SECTION 400.6 USE OF LAND

- A. No structure shall be used, erected, converted, enlarged, reconstructed, moved or altered, nor shall any land be used, except for a use permitted in the district in which such structure or land is located or conditional or accessory to a permitted use;
- B. No structure shall be erected, converted, enlarged, reconstructed or altered to exceed the height limit herein established for the district in which such structure is located;
- C. No structure shall be erected, converted, enlarged, reconstructed or altered, nor shall any land be used, except in conformity with the area regulations of the district in which such building or land use is located;
- D. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, and no land shall be used, except in conformity with the off-street parking and loading regulations of the district in which such structure is located;
- E. Every structure erected, converted, enlarged, reconstructed or altered shall be located on a lot as defined herein and in no case shall there be more than one principal structure on a lot except as provided in these Regulations;
- F. All inhabited manufactured homes shall be located in a manufactured home subdivision. The temporary use of a manufactured home or a temporary building in conjunction with construction work shall be permitted. No manufactured home or mobile home may be used as an accessory structure in a residential district;

- G. No structure or land shall be occupied or used without first obtaining a Building Permit and a Certificate of Occupancy from the Zoning Administrator of the City of Lake Lotawana, as specified in these Regulations; and

SECTION 400.7 SUBDIVISION OF LAND

- A. All divisions or subdivisions of land into two or more parcels, tracts, or lots for purpose of sale, development or lease shall be subject to the procedures and requirements of these Regulations.
- B. Any plat, hereafter made, for each subdivision or each part thereof lying within the City shall be prepared, presented for approval, and recorded as herein prescribed.
- C. No subdivision plat, as defined in these Regulations, shall be filed for record or recorded in the office of the Recorder of Deeds of Jackson County, Missouri unless and until the approval of the Board of Aldermen is endorsed thereon by the City.

SECTION 400.8 COORDINATION WITH OTHER REGULATIONS AND PLANS

- A. *Consistency with the Code.* The use of structures and land within the City shall be subject to all other applicable provisions of the Lake Lotawana Code as well as these Regulations, whether or not such other provisions of those Regulations are specifically cross-referenced in these Regulations. Cross references to other provisions of these Regulations are for the convenience of the reader; lack of a cross reference should not be construed as an indication that other provisions of these Regulations do not apply.
- B. *Consistency with the Comprehensive Plan.* These Regulations are intended to implement the goals and policies of the Lake Lotawana Comprehensive Plan, as same may from time to time be amended, and are hereby deemed to be consistent with and in accordance with the adopted Comprehensive Plan. Any amendments, development approvals or actions of City, County or State officials, agencies and governments, fire districts, water districts, other utility providers or private persons pursuant to these Regulations shall be consistent with the Comprehensive Plan to the extent consistent with law.
- C. *Conflicts.* Whenever any provision of these Regulations or any other applicable law, rule, contract, resolution or regulation of local, state or federal government contains certain standards covering the same subject matter, the more restrictive requirements or higher standards shall govern, except as provided by law.
- D. *Development Under Prior Regulations.*
 - (1) Existing Uses. Existing use which have been legally established under prior City or County Zoning Regulations may continue as legal non-conforming uses pursuant to the provisions of these Regulations.
 - (2) Non-Conforming Lots and Uses. All uses of land made nonconforming by these Regulations or by prior regulations of the City or Jackson County shall obtain a Certificate of Non-Conformity from the Board of Adjustment, in accordance with these Regulations except as otherwise provided in Section 410.07.

- (3) Development Under Review. Any development for which a valid building permit has been issued by the City or County prior to the effective date of these Regulations or any amendments hereto, shall be permitted to continue provided that (a) substantial construction under such permit was commenced prior to the effective date of these Regulations or any applicable amendment; (b) construction shall be diligently pursued; and © the permit does not expire. Any permit issued under prior regulations shall expire twelve (12) months after adoption of these Regulations unless renewed by the City upon application of the property owner.

SECTION 400.9 FEES

- A. *Fee Required.* Any application for development approval pursuant to these Regulations shall be subject to the required fee.
- B. *Amount of Fee.* The amount of each fee shall be established by separate resolution of the Board of Aldermen.
- C. *Payment.* All fees shall accompany the application, shall be made payable to Lake Lotawana and shall be submitted to the Zoning Administrator.
- D. *Exemptions.* No fee is required for an application filed in the public interest by the Board of Aldermen or the Planning Commission or any governmental, district or public utility service provider.

SECTION 400.10 SEVERABILITY

It is hereby declared to be the intent of Lake Lotawana that the provisions of these Regulations shall be severable. If any provision is declared invalid by a court of competent jurisdiction, it is hereby declared to be the legislative intent that:

- A. The effect of such decision shall be limited to that provision or provisions which are expressly stated in the decision to be invalid; and
- B. Such decision shall not affect, impair or nullify these Regulations as a whole or any other part thereof, but the rest of these Regulations shall continue in full force and effect.

SECTION 400.11 ZONING ADMINISTRATOR

- A. The Zoning Administrator shall be appointed by the Board of Aldermen. The Zoning Administrator shall have the responsibility and authority to administer and enforce the provisions of these Regulations, including, but not limited to the following powers and duties:
 - (1) Serve as staff for the Board of Aldermen, Planning Commission, and the Board of Adjustment and shall act as a liaison to other governments, districts, utilities, neighborhoods and associations in land use matters;
 - (2) Review and render interpretations of these Regulations, the Official Zoning Map, the Major Street Plan and the Capital Improvements Program;
 - (3) Review and render interpretations of all provisions of the Comprehensive Plan;

- (4) Make recommendations to the Board of Aldermen, Planning Commission and Board of Adjustment regarding amendments to the Comprehensive Plan, these Regulations, the Official Zoning Map, the Major Street Plan and the Capital Improvements Program;
- (5) Accept applications for development approval; certify the completeness of submitted applications with the requirements of these regulations; review and prepare staff reports recommending approval, approval with conditions or denial of applications for amendments to the Comprehensive Plan, amendments to the Future Land Use Map, amendments to the text of these Regulations, subdivisions, variances, conditional use permits, site plans, planned developments, and overlay zoning districts;
- (6) Accept applications for, review, and approve, approve with conditions or deny, applications for all development approvals; zoning, building and grading permits; and all other certificates and permits which the Zoning Administrator is authorized to issue;
- (7) Monitor developments to ensure compliance with conditions of a development approval;
- (8) Facilitate the creation and adoption of special area, corridor, neighborhood and floodplain plans;
- (9) Monitor and assist in the enforcement of these Regulations;
- (10) Review all floodplain development approval applications to ensure that the provisions of these Regulations will be met;
- (11) Review development applications to ensure that all necessary permits' licenses, franchises and approvals have been obtained from federal, state, local governmental districts, public and private utilities and other public agencies;
- (12) Notify adjacent communities, Jackson County, and the Missouri Department of Natural Resources (MoDNR) prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency;
- (13) Keep a record of all permits, appeals, variances, certificates, reviews and such other transactions and correspondence pertaining to the administration of these Regulations;
- (14) Accept applications for vacations of rights-of-way and easements, and forward such applications to the City Engineer, Jackson County and the Missouri Department of Transportation (MoDOT) for processing; and
- (15) Such other responsibilities as may be assigned by the Mayor.

B. *Enforcement Order.* If the Zoning Administrator shall find that one or more of the provisions of these Regulations is being violated, the Zoning Administrator shall notify, in writing, the person responsible for such violation, indicating the nature of the violation and ordering action necessary to correct it. The Zoning Administrator shall order:

- (1) The discontinuance of the illegal use of land, buildings or structures;
- (2) The removal of illegal buildings or structures, or additions, alterations or structural changes thereto;
- (3) The discontinuance of any illegal work being done; or
- (4) Any other action authorized by these Regulations, the Planning Commission, Board of Adjustment and the Board of Aldermen to ensure compliance and to prevent violation of these Regulations.

SECTION 400.12 PLANNING AND ZONING COMMISSION

A. *Membership.* The Planning and Zoning Commission shall consist of seven (7) members including the Mayor, a member of the Board of Aldermen selected by the Board, and five (5) citizens appointed by the Mayor and approved by the Board of Aldermen. The Zoning Administrator, together with the City's designated Planning Consultant, shall serve as Staff to the Planning and Zoning Commission.

- (1) *Terms of Office.* The members shall be appointed for four (4) year terms which terms shall be staggered and shall be arranged so that the terms of not more than two (2) members will expire each year. Members may be reappointed for additional terms
- (2) *Vacancies.* Vacancies shall be filled by appointment by the Mayor with approval by the Board of Aldermen for the unexpired term of any member whose term becomes vacant.
- (3) *Removal from the Planning and Zoning Commission.* Members of the Planning and Zoning Commission may be removed by the Board of Aldermen, upon written notice of the charges and after a public hearing for inefficiency, neglect of duty or malfeasance in office.
- (4) *Officers.* The Planning and Zoning Commission shall elect its Chairman and Secretary from among the citizen members. The terms of Chairman and Secretary shall be for one (1) year with eligibility for re-election. The Planning and Zoning Commission may also elect for a term of one (1) year, a Vice-Chairman who shall serve in the absence or disqualification of the Chairman.
- (5) *Expenditures and Reimbursement.* The expenditures of the Planning and Zoning Commission, exclusive of grants and gifts, shall be within the amounts appropriated by the Board of Aldermen. All members of the Planning and Zoning Commission shall serve without compensation except for such amounts determined appropriate by the Board of Aldermen to offset expenses incurred in the performance of their duties.

B. *Powers and Duties.* The Planning and Zoning Commission shall, with the approval of the Board of Alderman, appoint the employees and staff necessary for its work, and may contract with City planners and other professional persons for the services that it requires. The Zoning Administrator, together with the City's designated planning consultant, shall serve as staff to the

Commission. The Planning and Zoning Commission's powers and duties include, but are not limited to:

- (1) Review and recommend action on all requests for amendments to the Comprehensive Plan and all special area, corridor, neighborhood or floodplain plans;
- (2) Review and recommend action on subdivision site plans and conditional use permits to the Board of Aldermen;
- (3) Review and recommend action on all requests for amendments to the zoning map or the text of these Regulations, including creation of overlay zoning districts;
- (4) Decide all requests for variance or other discretionary administrative process from the provisions of these Regulations that are not assigned to the Board of Adjustment or the Board of Aldermen;
- (5) Review and make recommendations to the Board of Aldermen on all requests for approval planned development plans;
- (6) Recommend to the Board of Aldermen, from time to time, amendments, supplements, changes or modifications to these Regulations, the official Zoning Map, Major Street Plan and Capital Improvement Programs; and
- (7) Perform such other duties as may be assigned by state law, these Regulations and/or the Board of Aldermen.

C. *Planning and Zoning Commission Action.* Decisions of all issues brought before the Planning and Zoning Commission shall require a vote of four (4) members of the Planning and Zoning Commission, regardless of quorum, absence, abstention or disqualification.

- (1) **Approval.** No street or other public facility, nor any public utility, whether publicly or privately owned, shall be authorized, located or constructed in the municipality, or shall be accepted, widened, removed, extended, relocated, narrowed, vacated, abandoned, changed, and no land shall be acquired for sale or lease of any street or other public facility until the location, extent and character thereof has been submitted to and approved by the Planning and Zoning Commission. Such street, utility or public facility authorization, location or construction shall be consistent with the Comprehensive Plan. If such street, utility or public facility is not depicted in the Comprehensive Plan, the Major Street Plan or a Capital Improvements Program, then such Comprehensive, Major Street Plan or Capital Improvements Program, shall first be amended before any activity described in this section may be commenced. The failure of the Planning and Zoning Commission to act or seek amendment of the Comprehensive Plan, Major Street Plan or Capital Improvements Program, within sixty (60) days after the date of official submission to it shall be deemed approval.
- (2) **Disapproval.** In case of disapproval, where authorized by these Regulations, the Planning and Zoning Commission shall communicate in writing its findings and

conclusions to the Board of Aldermen, and the Board of Aldermen, by vote of not less than two-thirds (2/3) of its entire membership, may overrule such disapproval.

- (3) Appeal. All decisions of the Planning and Zoning Commission may be appealed by the applicant or other party with standing to the Board of Aldermen within 30 days after the filing of such decision with the City Clerk. No appeal shall lie from any recommendation or failure to make a recommendation of the Planning and Zoning Commission to the Board of Adjustment.

D. *Procedures.*

- (1) Rules of Procedure. The Planning and Zoning Commission shall adopt rules of procedure and Administrative Rules and Regulations consistent with the provisions of these Regulations, which rules shall not conflict with State law or City ordinance and regulations, and shall promptly file said rules with the City Clerk with a request that said rules or regulations be submitted to the Board of Aldermen for adoption by ordinance. Rules and Regulations may be amended from time to time by action of the Planning and Zoning Commission and approval by ordinance passed by the Board of Aldermen.
- (2) Chairperson Administers Oath. The chairperson, or in the absence of the chairperson, the acting chairperson or Zoning Administrator, shall administer oaths and compel attendance of witnesses.
- (3) Meetings. The Planning and Zoning Commission shall hold regular meetings and special meetings as they provide by rule, and shall adopt rules for the transaction of business and keep a record of its proceedings. The Planning and Zoning Commission shall hold its regular meeting on the third (3rd) Thursday of each month at a time and place designated by the Chairman; provided, however, that any regular monthly meeting of the Planning and Zoning Commission may be omitted, if in the sole discretion of the Chairman, there are too few items on the agenda to justify the expense of holding the meeting. Other meetings may be designated by the Planning and Zoning Commission or may be called by the Chairman. All meetings of the Planning and Zoning Commission shall be open to the public and shall be either video or audio taped or transcribed by an official stenographer.
- (4) Notice of Meetings. Publication of the notice of public hearing and notification of affected property owners shall be done in conformance with these Regulations. The agenda for each Planning and Zoning Commission meeting shall be posted in the City Offices not later than three (3) days prior to the scheduled meeting.
- (5) Conduct of Meetings. Roberts Rules of Order shall prevail at all meetings of the Planning and Zoning Commission unless superseded by these Regulations.
- (6) Minutes. All decisions of the Planning Board shall be in writing and shall contain findings of fact, supporting evidence and conclusions. The decision shall be adopted at the public hearing or at any continuation of such hearing to a date certain within the time limit prescribed by law. The Planning and Zoning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent,

abstaining, disqualified or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions. The minutes shall be filed upon their approval in the office of the Zoning Administrator and shall be public record.

- (7) Conflict of Interest. No Planning and Zoning Commissioner shall participate in any discussion or vote on any item in which the Planning and Zoning Commissioner or such Planning and Zoning Commissioner's family has any interest, or in which any conflict of interest under state law or any perceived or actual violation of the ethical rules of the American Planning Association occurs. If a Planning and Zoning Commission member votes on a recommendation or decision as to which the provisions of this subsection applies, the member's vote or decision shall be voided and the Planning and Zoning Commission action shall be voided if the vote in favor of the action thereupon falls below four.
- (8) Public Hearing Procedure. The Planning and Zoning Commission shall conduct its public hearing with regard to any quasi-judicial matter before it so as to conform to procedural due process of law including reasonable allowance of the following: (a) opportunity to set forth argument; (b) opportunity for cross-examination of witnesses by submission of written questions to the Chairman; (c) presentation of witnesses, exhibits and displays; (d) submission of proposed findings of fact and conclusions of law to the Commission. In all cases the Chairman shall have discretion to limit the time allowed for presentation, the number of witnesses, the time allotted to each witness, the number of exhibits, and the page length of the document as shall be reasonable and proper in the circumstances and upon determining that fairness and justice will be provided.

SECTION 400.13 BOARD OF ADJUSTMENT

- A. *Membership.* The Board of Adjustment shall consist of five (5) members, who shall be appointed by the Mayor and approved by the Board of Aldermen. The Zoning Administrator, together with the City's designated planning consultant, shall serve as staff to the Board of Adjustment.
 - (1) Term of Office. The terms shall be overlapping five (5) year terms. Members may be reappointed for additional terms.
 - (2) Alternates. Three (3) alternate members with the same qualifications as members may be appointed by the Mayor with the approval of the Board of Aldermen, to serve in the absence of or the disqualification of the regular members. Alternate members shall be appointed for terms of three (3) years each. Alternates may be reappointed for additional terms
 - (3) Vacancies. Vacancies shall be filled by appointment by the Mayor with the approval of the Board of Aldermen for the unexpired term of any member whose term becomes vacant.
 - (4) Chairman: The Board of Adjustment shall appoint a Chairman and Vice Chairman from among its members for a term of 2 (two) years, and may be re-appointed for additional terms

- (5) Removal from Office. Members of the Board of Adjustment may be removed from office by the Board of Aldermen, after written notice and public hearing, for inefficiency, neglect of duty or malfeasance in office.
 - (6) Reimbursement. All members of the Board of Adjustment shall serve without compensation except for such amounts determined appropriate by the Board of Aldermen to offset expenses incurred in the performance of their duties.
- B. *Board of Adjustment, Powers and Duties.* The Board of Aldermen may provide by adoption of administrative rules and regulations for the procedures by which this section shall be administered and enforced. The Board of Adjustment shall have the power and duty to:
- (1) Interpret these Regulations when there is dispute as to the meaning or application of any provision of these Regulations between the applicant/owner and the Zoning Administrator, or when the location of a zone boundary is in doubt;
 - (2) Hear and decide appeals from any non-discretionary order, requirement, decision or determination made by the Zoning Administrator in the enforcement of these Regulations where it is alleged by the appellant that there is clear error in fact or law in such order, requirement, decision or refusal made by the Zoning Administrator based on or made in the enforcement of these Regulations;
 - (3) Hear and decide upon applications for use and area variances in accordance with the provisions of these Regulations;
 - (4) Hear and decide upon applications for legal non-conforming use or area certificates;
 - (5) Undertake such other responsibilities as may be required by these Regulations or by the Board of Aldermen.
- C. *Board of Adjustment, Powers Not Granted.* The Board of Adjustment shall not have the power or authority to alter or change the provisions and requirements of these Regulations or the Zoning Map.
- D. *Board of Adjustment, Procedures.*
- (1) Rules of Procedure. The Board of Adjustment shall adopt rules and administrative regulations governing its procedure consistent with the provisions of these Regulations and State law.
 - (2) Chairman Administers Oath. The chairman, or in the absence of the chairman, the acting chairman, shall administer oaths and compel attendance of witnesses.
 - (3) Meetings. The Board of Adjustment may meet once a month, and more often if necessary, for the transaction of business.

- (4) Notice of Meetings. Publication of the notice of public hearing and notification of affected property owners shall be done in conformance with these Regulations. The agenda for the meeting shall be posted in the City Offices three (3) days prior to the scheduled meeting.
 - (5) Conduct of Meetings. All public meetings of the Board of Adjustment shall be open to the public.
 - (6) Minutes. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions. Every rule, regulation, amendment or appeal thereof, and every order, requirement or determination of the Board of Adjustment shall be immediately filed in the office of the City Clerk and shall be a public record. All decisions of the Board of Adjustment shall be in writing and shall include a written finding of fact based on testimony and evidence together with conclusions specifying the reasons for the Board of Adjustment action.
 - (7) Reporter to Be Employed. All testimony, objections thereto, and rulings thereon shall be taken down or taped by a reporter employed by the Board for that purpose. The reporter may be an employee of the City designated by the Chairman as official reporter for the Board. The notes or tapes taken by the reporter shall be preserved for three (3) years, but no longer unless specifically requested by the Chairman or the City Attorney.
 - (8) Conflict of Interest. No Board of Adjustment member shall participate in any discussion or vote on any item in which the Board of Adjustment member, the family of such member of the Board of Adjustment has any interest or in which such member has any conflict of interest under state law, or where there is a perceived or actual violation of the ethical rules of the American Planning Association. Any action of the Board of Adjustment shall be voided if a Board of Adjustment member votes on a matter in which the member has a conflict of interest.
 - (9) Vote and Quorum. The affirmative vote of four (4) members of the Board of Adjustment shall be required to approve any request, application or variance. A quorum of four (4) members of the Board of Adjustment shall be required for a meeting to be held.
 - (10) The Board of Adjustment shall conduct its public hearing with regard to any quasi-judicial matter before it so as to conform to procedural due process of law, including the reasonable allowance of the following: (a) opportunity to set forth argument; (b) opportunity for cross-examination of witnesses by submission of written questions to the Chairman; (c) presentation of witnesses, exhibits and displays; (d) submission of proposed findings of fact and conclusions of law to the Board of Adjustment. In all cases the Chairman shall have discretion to limit the time allowed for presentation, the number of witnesses, the time allotted to each witness, the number of exhibits, and the page length of the document, as shall be reasonable and proper in the circumstances and upon determining that fairness and justice will be provided.
- E. *More than One Appeal Within a Year.* After the Board of Adjustment has heard an appeal and made a decision, it may, in its sole discretion, refuse, for a period of one (1) year thereafter, to

hear an appeal based on a similar application by the same parties for the same property. A person who has successfully appealed against a permit granted by the Zoning Administrator, need not pay an additional filing fee for appealing a similar permit requested by the same parties, for a period of twelve (12) months from the date of the Board of Adjustment's initial decision.

- F. *Variances - See Section 405.032.*

SECTION 400.14 BOARD OF ALDERMEN

The powers of the Board of Aldermen in the administration of these Regulations shall include but shall not be limited to the following powers:

- A. Approve the appointment of a Zoning Administrator;
- B. Approve the appointment of members of the Planning and Zoning Commission;
- C. Approve the appointment of members of the Board of Adjustment;
- D. Decide all requests for amendments to the Comprehensive Plan;
- E. Decide all requests for amendments to the text of these Regulations, the Official Zoning Map, the Major Street Plan, Capital Improvements Program and all requests for establishment of an overlay zoning district;
- F. Consider and adopt other development manuals and land development regulations;
- G. Consider and adopt special area, corridor, neighborhood or floodplain plans; and
- H. Designate local historic and archeological sites, structures and districts.

SECTION 400.15 RESTRICTION ON SALE OF LAND

No owner, or agent of the owner, of any land located within the City, knowingly or with intent to defraud, may transfer, sell, agree to sell, or negotiate to sell that land by reference to or by other use of a plat of any purported subdivision of the land before the plat has been approved by the Board or Planning and Zoning Commission and recorded in the Department of Records of Jackson County. Any person violating any of the provisions of this Chapter shall forfeit and pay to the City a penalty not to exceed three hundred dollars (\$300.00) for each lot transferred or sold or agreed or negotiated to be sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from this penalty. The City may enjoin or vacate the transfer or sale or agreement by legal action, and may recover the penalty in such action.

SECTION 400.16 VIOLATIONS

Any person violating any provision of this Chapter is guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or by

confinement in the County Jail for not more than ninety (90) days, or by both such fine and confinement. The violation of any provision of this Chapter may be prosecuted in municipal court regardless of whether civil or administrative action is taken against the permit holder. The Zoning Administrator may request the City Attorney to institute a civil action, regardless of whether a criminal action has been taken, and to request injunctive, declaratory, legal or equitable relief where appropriate.

CHAPTER 405: DEVELOPMENT APPROVAL PROCESS

SECTION 405.1 APPLICATION PROCESS AND OFFICIAL FILING DATE

- A. *Standardized Forms.* Requests for development approvals required by these Regulations shall be made on applications provided by the City. The City may promulgate submittal requirements, instructions for completing forms, internal procedures for acceptance and filing of applications, and provisions for waiver by establishing administrative guidelines. Additional information may be required for particular applications. These application, forms, procedures, completeness requirements, and provisions shall be adopted as Administrative Rules and Regulations by the Board of Aldermen.
- B. *Application Submission.* All development applications shall be submitted to the Zoning Administrator.
- C. *Fees.* At the time the development approval application is submitted, the applicant shall pay to the City all fees as required and adopted by the City. The fees are not transferable to other properties nor are they refundable. Refunds shall be granted if the fees collected are in excess of the amount required at the time of filing and such excess is not due to a substantial design change from that which was indicated on the initial application, or if an error in the fee calculation is discovered. If a development application has not been deemed complete within six (6) months from the date of the application, the application shall be dismissed. Reapplications shall require the payment of fees.
- D. *Pre-Application Conference.* Before filing any application, the applicant may request a pre application meeting with the Zoning Administrator to discuss the procedures and requirements of the application.
- E. *Determination of Complete Application.* The Zoning Administrator shall review all applications for development approval for completeness. No application shall be considered complete until all items required by the applicable sections of these Regulations in support of the application shall have been submitted, and all fees paid. Incomplete applications shall be returned to the applicant with a statement as to what sections are incomplete, and no action taken until any deficiencies are remedied. Complete applications shall be processed according to this Chapter. Failure by the Zoning Administrator to make a determination of completeness within fourteen (14) days of the submission of the application shall result in the application being deemed complete. Any resubmittal after a determination that an application was incomplete shall start a new fourteen (14) day review period. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Chapter.
- F. *Processing of Application and Report.* Within thirty (30) days after the determination that an application for development approval is complete or is deemed complete under this Chapter, the Zoning Administrator shall review the application, forward the application for review to the Planning and Zoning Commission, Board of Adjustment or Board of Aldermen, as may be required and prepare a report. Any written report of the Zoning Administrator or City staff shall be made available to the applicant not less than five (5) days prior to the public hearing. For those development approval applications for which a public hearing is required, the Zoning

Administrator shall, within thirty (30) days, schedule the matter for public hearing and/or decision within the time and in the manner required by this Chapter.

- G. *Official Filing Date.* The time for processing and acting on development approval applications or development permits shall commence on the date that a complete application has been filed, together with all required reports thereon, with the secretary of the approval body. Modification of any application by the applicant following the filing of the application and prior to the expiration of the period during which the City is required to act shall extend the period for a like time following the Zoning Administrator's determination that the modified application is complete and the application is refiled.
- H. *Amendments.* Amendments to development approval applications shall be approved in the same manner as the original development application, except as otherwise provided for amending plats or replats, herein.
- I. *Withdrawal.* Once filed, a development approval application may be withdrawn upon a written notice of withdrawal to the Zoning Administrator. The thirty (30) day time limitation shall cease on the date that the notice is received by the Zoning Administrator; however, the Zoning Administrator may elect to present a withdrawal request to the Planning and Zoning Commission for consideration.

SECTION 405.2 NOTICE PROVISIONS

- A. *Contents.* Any notice of a public hearing required by the provisions of these Regulations shall contain the following information:
 - 1. date, time and place of the public hearing;
 - 2. subject of the hearing, including the type of development approval application;
 - 3. street address and legal description of the property which is the subject of the public hearing;
 - 4. current zoning classification of the property; and
 - 5. brief description of the proposed development.
- B. *Publication.* Where notice by publication is required by these Regulations or by state law, such notice shall be published once in a newspaper of general circulation in the City, at least fifteen (15) days before the public hearing.
- C. *Mailed Notice.* Where notice by mail ("mailed notice") is required by these Regulations or the provisions of state law, such notice shall be sent, at the applicant's cost, by certified mail, to the owners of all real property located within five hundred (500) feet from the exterior boundaries of the property which is the subject of the development application. The owners of real property to whom notice must be sent shall be determined by a title company, at the expense of the applicant.

- D. *Notice Provisions.* In addition to the requirements for notice by publication and/or mail, the Zoning Administrator shall post a sign along every street frontage on the property which is subject to the application. Such signs shall be posted at least fifteen (15) days prior to the hearing, and shall remain posted on the property until after the public hearing. If any sign is removed from its posting by anyone other than the City, then the city shall re-post the sign once in the seven (7) day period prior to the scheduled public hearing, and should the sign be removed a second time by anyone other than the City, then the City shall not be obligated to re-post the sign, and the public hearing will proceed as scheduled and previously posted.
- E. *Notification of Appeal.* Whenever appeal is taken from a final decision on a development approval application following a public hearing, the applicant or owner shall give notice by mail in accordance with the provisions of these Regulations, at the expense of the applicant.
- F. *Notification of Revocation.* Whenever the City determines to revoke a development permit whether or not it was obtained following a public hearing, the City shall give notice of such action, to the property owner of the property which is the subject of the revocation, and the Board of Aldermen shall hold a public hearing on such revocation prior to its determination.
- G. *Cost of Notice.* All actual costs incurred by the City in preparing and publishing the notice required by these Regulations shall be paid by the applicant prior to publication or mailing of such notice according to a schedule of fees established by the Board of Aldermen.

SECTION 405.3 PUBLIC HEARING PROCEDURES

- A. *Setting of the Hearing.* For every application for a development approval for which a public hearing is required by these Regulations or state law, when the Zoning Administrator determines that a development approval application is complete, the Zoning Administrator shall schedule a public hearing on such application, and shall cause notice of such hearing to be provided pursuant to the requirements of these Regulations.
- B. *Examination and Copying of Documents.* All applications, and the materials submitted in support of such applications, shall be available for public inspection during normal business hours. Copies of such material shall be made available at the cost of the person requesting the copies.
- C. *Conduct of Hearing.* Any person or persons may appear at a public hearing and submit relevant evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name, address, and, if appearing on behalf of an organization, the name and mailing address of the organization for the record. The body conducting the hearing shall exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious. Any person appearing as a witness may ask relevant questions of other persons appearing as witnesses, but shall do so only through submission of written questions to the chairperson of the body conducting the hearing, at the Chairperson's discretion, which shall not be unreasonably withheld.
- D. *Order of Proceedings.* The order of proceedings shall be as follows:

1. The Zoning Administrator and/or staff shall present a summary of the proposed development approval application together with a written or oral recommendation. This recommendation shall address each factor required by these Regulations to be considered prior to approval of the development permit;
 2. The applicant shall present any relevant information that the applicant deems appropriate, including a response to staff and/or the Zoning Administrator;
 3. Public testimony shall be heard first in favor of the proposal, then in opposition to it; and the applicant may then respond to any testimony or evidence presented by the public; and
 4. The Zoning Administrator may at the close of the public hearing respond to any statement made by the applicant or any public comment.
- E. *Record of Proceedings.* The body conducting the hearing shall record the proceedings by any appropriate means and according to such procedures as the Board of Aldermen may, from time to time, prescribe by Administrative Rules or Regulations. A copy of such record shall be provided, to any person, upon written request to the secretary of the body conducting the hearing and payment of a fee set by the Board of Aldermen to cover the cost of duplication of the record of the proceedings. The record of proceedings may include any or all of the following: tapes of all proceedings, including testimony and statements of personal opinions, the minutes of the secretary, all applications, exhibits and papers submitted and any proceeding before the body, all staff and advisory body or commission reports and recommendations, and the decision and report(s) of the body before which the hearing is conducted. All records of the body shall be public records, open for inspection during normal City business hours and upon reasonable notice.
- F. *Continuance of Proceedings.* The body conducting the hearing may, on its own motion or at the request of any person, for good cause, continue the hearing to a fixed date, time and place. No renotification shall be required if a hearing is continued. An applicant shall have the right to request and be granted one (1) continuance; however, all subsequent continuances shall be granted at the discretion of the body conducting the hearing only upon good cause shown. The total time period for which proceedings may be continued, including the original hearing period, shall not exceed one hundred eighty (180) days.
- G. *Additional Rules.* Where appropriate, other provisions of the Lake Lotawana Code applicable to the body conducting the hearing and any of the body's adopted Administrative Rules or Regulations as long as the same are not in conflict with this Chapter. The body conducting the hearing may adopt Administrative Rules and Regulations to limit the number of applications for development approval which may be considered at a single meeting and the time for each presentation.

SECTION 405.4 POST-DECISION PROCEEDINGS

- A. *Reapplication Following Denial.* Whenever any development approval application is denied for failure to meet the substantive requirements of these Regulations, an application for development permit for all or a part of the same property shall not be considered for a period of one (1) year from the date of denial unless the subsequent application involves a proposal that is materially different from the previously denied proposal or unless a majority of the body charged with conducting the initial public hearing determine that the prior denial was based upon a material mistake of fact. The body charged with conducting the initial public hearing shall determine if the new application is materially different from the original application.

- B. *Administrative Appeals.* Any person, including any officer or agency of the City of Lake Lotawana, aggrieved by a final determination on a development approval application by the Zoning Administrator or other approval body, may appeal such final determination to the administrative body designated to hear such appeal. A written appeal must be filed with the secretary or clerk of the body hearing the appeal within thirty (30) days after the final decision is filed with the secretary or clerk to the body. The appeal shall contain a written statement of the reasons why the final decision is erroneous, and shall be accompanied by the fee established by the Board of Aldermen. The appeal shall be heard at a public hearing within thirty (30) days after the filing of the appeal. The administrative body hearing the appeal may affirm, reverse or modify the decision from which appeal was taken within thirty (30) days after the date the hearing is closed. The appellate body may attach such conditions as it considers reasonably necessary.

SECTION 405.5 EXPIRATION OF DEVELOPMENT APPROVAL

- A. *Time of Expiration.* Any development approval shall be valid for one (1) year from the date of approval, unless a shorter period of validity is otherwise set forth in these Regulations, unless extended as provided in this Section. Development approvals shall automatically expire and become null and void, and all activities pursuant to such development approval thereafter shall be deemed in violation of these Regulations, if the applicant has violated or has failed to comply with any condition that was imposed as part of the final approval of the development application, or that was contained in a development agreement entered into between the applicant and the City.

- B. *Extension of Time.* Unless otherwise prohibited by state law or these Regulations, the Zoning Administrator may extend the time for expiration of a development approval, for a period not to exceed one (1) year, upon a showing of good cause by the applicant, if application for extension is made in writing within the original period of validity. An extension for a period in excess of one (1) year shall be granted only by the body which granted the original development approval. A determination by the final decision-maker on whether to extend such development approval for a period exceeding one (1) year shall be made in accordance with procedures set forth in these Regulations for original approval of the particular development approval for which extension is requested. No extension may be granted by the Zoning Administrator or by the approval body for a period exceeding any time limits established by state law.

SECTION 405.6 REVOCATION OF DEVELOPMENT APPROVAL

- A. *Initial Findings by Zoning Administrator.* If the Zoning Administrator determines, based upon inspection, that there are reasonable grounds for revocation of a development approval authorized by this Chapter, the Zoning Administrator shall schedule a public hearing before the

original decision-maker. If the decision was made by the Zoning Administrator, the hearing shall be conducted by the Board of Adjustment.

- B. *Notice and Public Hearing.* Notice shall be given in the same manner provided for the original application.
- C. *Decision and Notice.* Within ten (10) days from the conclusion of the hearing, the decision-maker shall render a decision, and shall notify, in writing, the holder of the approval.
- D. *Effect and Appeals.* A decision to revoke a development approval shall become final fourteen (14) days after the date notice of the decision was given, unless appealed. After such effective date, all activities pursuant to such approval thereafter shall be in violation of these Regulations. Appeal from the decision to revoke the approval shall be to the Board of Aldermen. Where the Board of Aldermen made the decision to revoke the approval, appeal shall be taken to the Circuit Court of Jackson County.
- E. *City's Right Cumulative.* The City's right to revoke a development approval, as provided in this Chapter, shall be in addition to any other remedy allowed by law.

SECTION 405.7 REVIEW AND DECISION BY Planning and Zoning Commission

- A. *Public Hearing and Recommendation by Planning and Zoning Commission.* Whenever the Planning and Zoning Commission is required by Missouri law or these Regulations to make a recommendation to the Board of Aldermen concerning a development approval application, the Planning and Zoning Commission shall conduct a public hearing. The public hearing shall be held within the time frame established by these Regulations. If no specific time frame is established by this title for such hearing, the hearing shall be held within thirty (30) days after the day the completed application is filed with the Secretary of the Planning and Zoning Commission by the Zoning Administrator, unless the applicant agrees to a later hearing date. If no public hearing is required, the Planning and Zoning Commission shall consider the matter at a regularly scheduled public meeting. The Planning and Zoning Commission's written recommendation, if any, together with the staff report and recommendation, if any, shall be filed with the Clerk of the Board of Aldermen within ten (10) days of the date the Planning and Zoning Commission's recommendation is made.
- B. *Decision by Planning and Zoning Commission.* If the Planning and Zoning Commission has been delegated final decision-making authority for a development approval application pursuant to these Regulations, whether by original jurisdiction or upon appeal, it shall decide whether to approve, conditionally approve or deny the application at a hearing, following receipt of the report and recommendation of the Zoning Administrator or staff. The Planning and Zoning Commission shall prepare a written statement setting forth the findings of fact and conclusions establishing the basis for its decision and shall mail a copy of such decision to the applicant, at the address on the application and shall file same with the Clerk of the Planning and Zoning Commission within ten (10) days of the decision.
- C. *Appeal.* For those development approval applications where the Planning and Zoning Commission has decision making authority, an applicant may appeal any decision of the Planning and Zoning Commission to the Board of Aldermen by giving notice of the appeal to the

Board of Aldermen within thirty (30) days of the decision of the Planning and Zoning Commission.

SECTION 405.8 REVIEW AND DECISION BY BOARD OF ALDERMEN

- A. *Public Hearing by Board of Aldermen.* Whenever the Board of Aldermen is required by state law or these Regulations to review and decide upon a development approval application, the Board of Aldermen shall conduct a public hearing, if required to do so by these Regulations or state law. The public hearing shall be held within the time frame established by these Regulations or the applicable statute. If no specific time frame is established for such hearing, the hearing shall be held within thirty (30) days after the day the recommendation of the Planning and Zoning Commission is filed with the Clerk to the Board of Aldermen. If no public hearing is required, the Board of Aldermen shall consider the matter at a regularly scheduled public meeting.
- B. *Decision by the Board of Aldermen.* If the Board of Aldermen is the final decision-making authority for a development application pursuant to these Regulations, whether by original jurisdiction or on appeal, it shall decide whether to approve, conditionally approve or deny the application at a public hearing, following the receipt of the recommendation of the Planning and Zoning Commission. If a public hearing is required by these Regulations prior to a decision, the hearing shall be conducted in the manner provided in these Regulations. The decision shall contain the Board of Alderman's findings of fact and conclusions establishing the basis for the decision. Written notice of the decision shall be sent by first class mail to the applicant, at the address set forth on the application, within ten (10) days of the decision.
- C. *Appeal.* An applicant may appeal any decision of the Board of Aldermen to the circuit court of Jackson County within six (6) months of the decision.

SECTION 405.9 CONDITIONS OF APPROVAL

- A. *Authority to Condition Development Approvals.* The Planning and Zoning Commission, Board of Adjustment or Board of Aldermen may impose on any approval of a development application such conditions as are reasonably necessary to assure compliance with applicable general or specific standards stated in these Regulations.
- B. *Record and Notification of Conditions.* The Zoning Administrator shall include a copy of the conditions attached to approval of the development application with the record of the decision which is filed with the secretary of the final decision-maker or the Clerk of the Board of Aldermen.

SECTION 405.10 PERFORMANCE AND PAYMENT AGREEMENTS

- A. *Performance And Payment Agreement Assurances.* No development approval shall be approved unless a payment and performance surety agreement, bond or letter of credit is provided, as determined by these Regulations.
- B. *Time Extension.* An applicant may request an extension of the time for performance by submitting a written request and justification to the Zoning Administrator at least thirty (30) days prior to the time limit set out in the performance or payment agreement. Each request shall be accompanied by a filing fee as adopted by the City. A guarantee, in an amount sufficient

to cover the cost of remaining site improvements, together with assurance of payment of all providers of loans material or work, shall be required if necessary in order for an extension to be granted. Such guarantee must be filed within thirty (30) days of the granting of the extension or the extension shall become null and void. Should the granting of such extension require the filing of any instruments, the fees for recording such instruments shall be paid by the developer to the Zoning Administrator. Time extension requests which do not meet the following criteria or which are not approved by the Zoning Administrator shall be considered by the Planning and Zoning Commission, whose decision shall be final. The Zoning Administrator is authorized to approve time extensions which meet the following criteria after consultation with all affected departments and utilities:

1. Sidewalk Improvements. A three (3) year time extension may be granted provided a plan indicating the uncompleted sidewalks and a time schedule for completion is submitted.
2. Other Site Improvements. A one (1) year time extension may be granted provided at least seventy-five percent (75%) of the required site improvements have been completed.

SECTION 405.11 GUARANTEE OF PERFORMANCE AND PAYMENT

- A. *Guarantee Type.* As is provided for in this Chapter, a development approval may be filed for record before the required site improvements are completed if one of the following guarantees of performance and payment is filed with the City Clerk within three (3) years after the plat has been approved by the Planning and Zoning Commission:
 1. Performance bond;
 2. Trust agreement;
 3. Letter of credit; or
 4. Cash or cashier's check.
- B. *Performance Bond.* A performance and payment bond shall be executed by a surety company licensed to do business in the state in an amount equal to the cost estimate, as approved by the Director of Public Works, of all uncompleted and unaccepted improvements required by these Regulations (other than gas and electric lines), with the condition that the developer shall complete such improvements and have them accepted by the Director of Public Works within three (3) years from the date of approval. The Zoning Administrator and the Director of Public Works are authorized to sign the bond instrument on behalf of the City, and the City Attorney shall approve the same as to form.
- C. *Trust Agreement.* The developer shall cause to be placed in a trust account on deposit in a bank or trust company or with a qualified escrow agent selected by the developer and approved by the Director of Public Works a sum of money equal to the cost estimate, as approved by the Director of Public Works, of all uncompleted and unaccepted site improvements (other than gas and electric lines) required by these Regulations. The Zoning Administrator and the Director of

Public Works are authorized to sign the bond instrument on behalf of the City, and the City Attorney shall approve the same as to form.

- D. *Letter of Credit.* The developer shall provide an irrevocable letter of credit in an amount equal to the cost estimate, as approved by the Director of Public Works, of all uncompleted and unaccepted site improvements and payment obligations (other than gas and electric lines) required by these Regulations. The Zoning Administrator and the Director of Public Works are authorized to sign the bond instrument on behalf of the City, and the City Attorney shall approve the same as to form.
- E. *Cash or Cashier's Check.* The developer shall provide to the City cash or a cashier's check in an amount equal to the cost estimate as approved by the Director of Public Works, of all uncompleted and unacceptable site improvements and payment obligation (other than gas and electric lines) required by these Regulations. Upon completion of the required site improvements and their acceptance by the Director of Public Works, the amount will be refunded to the developer by the City.
- F. *Substituting Guarantees.* When a developer has given security in any of the forms herein above provided, and when fifty percent (50%) of the required site improvements has been completed and accepted by the Director of Public Works, and all obligations paid, or whenever any segment or segments of the required site improvements have been completed and have been accepted by the Director of Public Works, the developer may substitute for the original guarantee a new guarantee in an amount equal to the cost of the remaining site improvements. The cost estimate shall be approved by the Director of Public Works. Such new guarantee need not be in the same form as the original guarantee so long as such guarantee is one that is listed in this Section. However, in no event shall the substitution of one security for another in any way change or modify the terms and conditions of the performance agreement or the obligation of the developer as specified in the development agreement.
- G. *Supplementary Guarantees.* Supplementary guarantees may be required as follows:
 - 1. *Renewal.* One (1) year from the date of development approval or plat recordation, and annually thereafter until the expiration of the three (3) year period from the date of development approval, the Director of Public Works shall review the estimated cost of completing such site improvements as are not then completed and determine the adequacy of the existing performance and payment guarantee. Should the director determine that the sum set out in the performance and payment guarantee is inadequate to provide for the completion of the uncompleted site improvements at the then prevailing construction costs, he shall require a substitute guarantee to cover the newly estimated cost or a supplemental guarantee to cover the additional sum needed for completion.
 - 2. *Performance and Payment Guarantee.* If a developer submits an original performance and payment guarantee after a period of two (2) years has elapsed from the date of development approval, the actual cost estimate of completing the uncompleted site improvements together with payment of obligations shall be increased by an amount, based upon a locally recognized construction cost index as approved by the Director of

Public Works, required to cover an estimated inflationary increase in the cost during the duration of the period covered by the performance and payment guarantee.

3. Failure to Provide Guarantee. Should the developer fail to provide the necessary additional or substitute guarantee within thirty (30) days of a request for same by the Director of Public Works, the Director of Public Works shall refuse to accept from such developer a performance and payment guarantee.

- H. *Release upon Completion of Site Improvements.* Upon completion of the required site improvements, together with payment of all obligations and acceptance by the Director of Public Works, an instrument releasing the applicant from the provisions of the performance and payment agreement shall be filed by the Zoning Administrator with the County Recorder.

SECTION 405.12 SUBDIVISIONS

- A. *Purpose.* The provision of adequate data concerning on and off-site land use, environmental conditions, and utility requirements, traffic impact, and the adequacy and concurrency of streets, stormwater management, parks, fire, police, emergency services, libraries, public sewer and water facilities is vital to ensure the continued health, safety and welfare of the City's residents. The City will require the submission of key planning and engineering information, as specified within these Regulations, and may require the submission of project-specific reports or studies, such as an Environmental Impact Report, Traffic Impact Report or Needs Assessment, as appropriate. The purpose of this Section is to enable the City and owner or developer to collaborate in the processing of applications in order to enhance planning and timeliness of subdivision processing and review, promote public participation in the land use regulation review process and the land use decision-making process, promote neighborhood involvement and encourage neighborhood associations and interested citizens to review land use issues involving their community, and provide information on and to streamline the business and real estate development process.
- B. *Applicability.* The owner of a tract of land located within the City who divides the tract in two or more parts to lay out a subdivision of the tract, including an addition to a municipality, to develop buildings or lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts, must have a plat of the subdivision prepared. A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. The division of a tract of land for any of the purposes specified herein does not require a transfer of title of all or part of the tract. No person shall subdivide any tract of land except in conformity with the provisions of these Regulations. The decision making entity shall approve a plat if it conforms to:
 1. The Comprehensive Plan, and any Special Area, Neighborhood and Floodplain Plans;
 2. The Major Street Plan, adopted watershed, or drainage plans, Capital Improvement Program and other plans for the extension of thoroughfares, streets, public highways and location of public facilities and improvements within the City, taking into account

access to and extension of sewer and water mains and the instrumentalities of public utilities;

3. The provisions of these Regulations.

SECTION 405.13 SUBDIVISIONS, MAJOR

The Major Subdivision Site Plan will be used to determine if the proposed development is in compliance with current regulations and the Comprehensive Plan, and to ensure adequate traffic circulation within the property to be developed as well as to and from adjoining properties. The Major Subdivision Site Plan also will serve as a source of information for the City to use in its planning activities. A Major Subdivision Site Plan shall be required when a tract of land within the City is to be zoned, re-zoned and/or platted and meets one (1) or more of the following criteria:

- A. The application proposes four (4) or more residential dwelling units;
- B. The application contains any land designated for non-residential use;
- C. The application requests a plan amendment or rezoning from a residential to a non-residential district, to a higher density zoning classification; to a floating zone district, or to a planned development district; or
- D. The application requests subdivision plat approval in which the entire property will be subdivided in two (2) or more phases.

SECTION 405.14 SUBDIVISIONS, MINOR

- A. An application for a Minor Subdivision is intended to recognize that the site plan review process required for a Major Subdivision can be reduced for small scale projects that are most heavily impacted by cost of producing and reviewing this data, allowing the City to provide alternate procedures for simple resubdivisions, lot splits, and the platting of existing development and of land proposed for site development where public improvements are not required. Applicants for subdivisions or resubdivisions creating no more than three (3) new lots for which no new public improvements are needed may follow the procedure for Minor Subdivision set forth in Section 405.015 B, provided that the subdivision meets all of the following criteria:
 1. The Zoning Administrator shall certify that the proposed subdivision meets all the requirements of the Minor Subdivision;
 2. No new public street shall be necessary for each lot to access a public street;
 3. No flag lots shall be created;
 4. Each of the lots is contiguous with at least one of the other lots in the subdivision for a distance of at least fifty (50) feet; and
 5. No off-site improvements to the City's infrastructure or off-site drainage improvements are determined to be necessary by the Zoning Administrator.

- B. The Planning and Zoning Commission and/or the Board of Aldermen may require that a development application submitted as a Minor Subdivision be resubmitted as a Major Subdivision if a determination is made that the development application is inconsistent with any element of the Comprehensive Plan, as amended, any established City codes or policies, or these Regulations.
- C. Any further lot splits shall be treated as Major Subdivisions, where the cumulative number of lots, parcels or tracts equals three (3) or more.

SECTION 405.15 SUBDIVISION APPROVAL, GENERALLY

- A. *Major Subdivisions.* All subdivisions, except Minor Subdivisions, are subject to the following four-step approval process:
 - 1. Pre-Application Conference and Concept Plan - Submitted to the Zoning Administrator for action (Optional);
 - 2. Preliminary Plat - Submitted to the Zoning Administrator for action by the Planning and Zoning Commission and the Board of Aldermen;
 - 3. Construction Plan - Submitted to the Zoning Administrator for action; and
 - 4. Final Plat-Submitted to the Zoning Administrator for action by the Planning and Zoning Commission and the Board of Aldermen.
- B. *Minor Subdivisions.* Minor subdivisions are subject to the following three-step process:
 - 1. Pre-Application Conference and Concept Plan - Submitted to the Zoning Administrator for action (Optional);
 - 2. Preliminary Plat and Final Plat shall be submitted together to the Zoning Administrator for action by the Planning and Zoning Commission and the Board of Aldermen.

SECTION 405.16 PROHIBITED SUBDIVISIONS

No person may subdivide land except in accordance with all of the provisions of these Regulations. Except as exempted in these Regulations, the following acts are prohibited:

- A. *Parcel Creation.* Creation of parcels without subdividing, including judicial partition or sale or partition of any interest or parcel of through deed, intestacy, trust, partnership, corporation, association or other form of transaction;
- B. *Selling Land Prior to Approved Plat.* Transfer of title to any tract, parcel, lot or land before a plat has been approved in accordance with the provisions of these Regulations and recorded in the County Department of Records; and
- C. *Subdivision by Metes and Bounds.* Subdivision by the use of metes and bounds description for the purpose of sale, transfer or lease with the intent of evading these Regulations.

SECTION 405.17 SUBDIVISION EXEMPTIONS

Applicants exempt from subdivision plat approval may be subject to development approval requirements as required in these Regulations. The following divisions of land shall be exempt from these subdivision regulations:

- A. The public acquisition of land for the widening of existing streets or constructing public works;
- B. Any lot, parcel or tract of land which has been legally subdivided or resubdivided by plat or deed prior to the adoption of these Regulations;
- C. Public parks and public improvements owned, operated, or maintained by a governmental entity;
- D. Temporary subdivision sales offices or seasonal type uses; and
- E. Replacement of a preexisting or existing single family dwelling unit or related accessory structure.

SECTION 405.18 CERTIFICATE OF DETERMINATION

Upon the written request of an owner of land, an entity that provides utility service, or the Board of Aldermen, the Zoning Administrator shall make the following determinations within fourteen (14) days after receipt of such request and shall issue to the requesting party a written certification of that determination:

- A. Whether a plat is required under these Regulations for the subdivision of land; and
- B. If a plat is required, whether it has been prepared and whether it has been reviewed and approved by the City.

SECTION 405.19 CITIZEN PARTICIPATION

- A. *Purpose.* Citizen participation encourages applicants to be good neighbors and allows for informed decision making. The purpose of citizen participation is to:
 - 1. Encourage applicants to pursue early and effective communications with the affected public in conjunction with applications, giving the applicant an opportunity to understand and attempt to mitigate any documentable adverse impact of the proposed project on the adjoining community and to educate and inform the public;
 - 2. Provide citizens and property owners of impacted areas with an opportunity to learn about applications that may affect them and to work with applicants to resolve concerns at an early stage of the process; and
 - 3. Facilitate ongoing communication between the applicant, interested citizens and property owners, the Zoning Administrator, and the planning staff throughout the application review process.

- B. *Applicability.* It is the policy of the City to encourage applicants to meet with property owners of surrounding neighborhoods prior to filing an application for development approval. Inclusion of citizen participation prior to required public hearings will be noted by the governing body when considering the need for a continuance in a given application. An applicant for subdivision or site plan approval who elects to incorporate citizen participation may follow the recommended procedures and submit documentation of such efforts at the earliest feasible time in the process. It is not the intent of this Section to require neighborhood meetings, but rather to encourage meetings prior to the submission of an application for approval and documentation of efforts which have been made to resolve any potential concerns prior to the formal application process.
- C. *Recommended Procedures.* The Applicant should hold at least one (1) meeting with surrounding neighborhoods before formally filing an application. The target area shall include property owners within the public hearing notice area and any neighborhood association which incorporates the subject property and/or is adjacent to the subject property and is registered with the Zoning Administrator.
- D. *Report on Implementation of Citizen Participation.* An applicant should provide a written report on the results of its citizen participation effort prior to the filing of an application. The report will be attached to the public hearing report(s). At a minimum, the citizen participation report should include the following information:
1. Details of techniques the applicant used to involve the public, including: dates and locations of all meetings where citizens were invited to discuss the applicant's proposal, content, dates mailed, and numbers of mailings, including letters, meeting notices, newsletters and other publications; where residents, property owners, and interested parties receiving notices, newsletters, or other written materials are located; and the number of people that participated in the process;
 2. A summary of concerns, issues and problems expressed during the process;
 3. The methods by which the applicant has addressed or intends to address concerns, issues and problems expressed during the process; and
 4. Concerns, issues and problems the applicant is unable to address. This statement shall indicate why the concerns cannot or should not be addressed.
- E. *Restrictions on Continuances.* It is the intent of these Regulations to encourage applicants to involve neighborhoods in the development approval process while, at the same time, streamlining the development approval process through the discouragement of continuances. Any person who has Received Notice of a neighborhood meeting and failed to participate shall not be permitted to request a continuance of any hearing relating to any development approval unless good cause is shown for the failure to participate. For the purpose of this Section, a person will be considered to have "Received Notice" if their name appears on the invitation list of the applicant relating to a meeting which was actually held.

SECTION 405.20 PRE-APPLICATION CONFERENCE AND CONCEPT PLAN

- A. *Purpose.* Before any application for discretionary development approval is made pursuant to these Regulations, the owner, the owner's agent, the applicant and/or the owner's surveyor, engineer or land planning consultant (collectively "applicant") shall confer with the Zoning Administrator to discuss procedures and requirements for development approval pursuant to these Regulations, and more specifically, the tentative development plans of the applicant. The purpose of the Concept Plan is to demonstrate conformance with the Master Plan, compatibility of land use and coordination of improvements within and among individually platted parcels, sections, or phases of a development prior to approval of a Preliminary Plat.
- B. *Applicability.* A Concept Plan shall be required when an applicant is applying for the subdivision of less than the entire, contiguous land area held in common ownership. The Concept Plan shall illustrate future development of the entire area under common ownership. Where a Concept Plan is required, no further development applications shall be approved until a Concept Plan has been submitted and approved.
- C. *Concept Plan Contents.* The applicant shall prepare a Concept Plan to be presented to the Zoning Administrator for discussion and review. The following information will be required for a Concept Plan:
1. Name and addresses of the developer, record owner, land planner and engineer, as applicable;
 2. Proposed name of a development or subdivision, if applicable;
 3. Date concept plan was revised and/or prepared;
 4. North point indicator and scale on each page;
 5. Location map drawn at a scale of 2,000 feet per inch showing the area within a one mile radius of the proposed development site;
 6. A layout of the entire property, including dimensions and area of all proposed and existing lots and its relationship to adjacent property, existing development and recorded plats;
 7. Description of all existing covenants, liens and encumbrances;
 8. Existing permanent structures and significant man-made features such as railroads, structures, utilities and drainage structures;
 9. Existing or platted easements, rights-of-way, streets or other public ways;
 10. Proposed major categories of land use showing compatibility with the Comprehensive Plan, as amended;

11. Proposed number of dwelling units and gross density of each type of residence and proposed square footage and floor area ratio for all non-residential land uses;
12. Approximate location and width of all existing and proposed streets within and abutting the proposed subdivision;
13. Existing and proposed arterial and collector streets to serve the general area;
14. Proposals for connections with existing water supply and sanitary sewerage systems or for on site sewage disposal system, and proposals for collecting and discharging surface water drainage;
15. Significant drainage features and structures including any 100-year floodplains;
16. Approximate boundaries and timing of proposed phases of development, if applicable;
17. Identification of environmentally sensitive areas (wetlands, hillsides, streams, habitat, trees and shrubs) on the site and within 250 feet of the site; and
18. Identification of all properties adjacent to the subdivision within 250 feet on all sides, specifying ownership, size of parcels and all structures and uses of land of such parcels.

D. *Concept Plan Review.*

1. Concept Plan review shall focus on applicable provisions of these Regulations, the environmental and physical features of the proposed development, the availability of adequate public facilities and services concurrent with development, the timing and placement of public improvements and development improvements required by other City plans and regulations.
2. The Zoning Administrator shall forward copies of the Concept Plan after determining the completeness of the Application to appropriate City staff and other service providers and assemble comments and coordinate recommendations from applicable service providers and other federal, state, regional, county, city, utility and special district regulatory bodies and agencies.
3. The Zoning Administrator shall provide the applicant with written comments within fourteen (14) days after receipt of the Concept Plan to assist the applicant in completing the approval process.
4. The Zoning Administrator shall advise the Applicant as to required changes in the Concept Plan before the Applicant can proceed with the development approval process.

SECTION 405.21 PRELIMINARY SUBDIVISION PLATS

- A. *Submittal Requirements.* Applicants for preliminary subdivision plat approval shall submit a complete application and other required materials and information to the Zoning Administrator. The Preliminary Plat shall be in sufficient detail to convey the applicant's intentions in platting

the proposed subdivision. It shall contain a written description of the existing conditions on the tract and the necessary drawings and sketches as required by this Chapter to convey the applicant's plan of development. The plat shall be signed by a registered surveyor.

- B. *Filing Procedure.* The applicant shall file the following with the Zoning Administrator, at least thirty (30) days prior to the Planning and Zoning Commission meeting at which the Preliminary Plat is to be considered:
1. A reproducible original and the number of copies of the proposed Preliminary Plat specified on the application;
 2. All other information required by this Chapter or as specified on the application;
 3. The applicable plat review fee; and
 4. A complete list of the names and mailing addresses of all owners of record of all land within the boundaries of the proposed subdivision.
- C. *Contents.* The Preliminary Plat shall be prepared on a tracing cloth, mylar or similar quality material at a scale of one inch equals one hundred (100) feet (1" = 100' or larger), unless specifically waived by the Zoning Administrator, in a size that is a multiple of eight and one-half inches by eleven inches (8½" x 11"), with a maximum size of 22" x 34". Where a proposed subdivision does not fit on a single sheet, the final plat shall be submitted on two (2) or more sheets of the same dimensions along with an index sheet showing the entire development at a smaller scale. The Preliminary Plat shall show or have attached the following information:
1. An amended Concept Plan as required by the Zoning Administrator together with all information submitted for the Concept Plan application;
 2. Legal description of the entire subject property;
 3. Tract boundaries (traverse bearings and distances of the boundaries) and location by section, township, range, City and state, including descriptive boundaries of the subdivision;
 4. The scale shall be one inch equals one hundred (100) feet (1" = 100') unless specifically waived by the Zoning Administrator;
 5. Total acreage of the proposed subdivision;
 6. The boundary lines of all adjoining lands for a distance of one hundred (100) feet and showing (with dotted lines) the right-of-way lines and adjacent streets and alleys with their widths and names;
 7. The following information for land located within two hundred fifty (250) feet of the proposed subdivision: topography based on USGS or NAVD Datum at five (5) foot contour intervals; names of adjacent subdivisions; layout of streets (with names) and

- including an indication of road surface locations whether such streets are paved or unpaved; dedicated rights-of-way with widths; connections with adjoining platted streets; widths and locations of alleys; easements, and public walkways adjacent to or connecting with the tract; location, size and rights-of-way widths of all existing sanitary sewer, storm sewer, and water supply facilities; parks and other open spaces; and permanent structures;
8. Existing topography with contours at a maximum of five (5) foot intervals. All topographic data shall relate to USGS or NAVD Datum. In areas where grades are gentle, the Zoning Administrator may require a lesser contour interval. The location of water courses, limits of floodplains, floodways, ravines, bridges, lakes, wooded areas, approximate acreage and such other existing features as may be pertinent to the subdivision shall be shown;
 9. Existing and proposed deed restrictions, easements and restrictive covenants;
 10. Location of proposed culverts and bridges;
 11. Layout and width of right-of-way and cross sections showing surfacing of all existing and proposed streets and public ways proposed for the subdivision, and proposed street names;
 12. Lot layout, lot number, approximate dimensions, approximate lot areas, easements, setback requirements with dimensions, and the number or letter of each block;
 13. All parcels of land to be dedicated or reserved for public use or for use in common by property owners in the subdivision and any conditions of such dedication or reservation;
 14. Utility plans showing the locations and sizes of all existing and proposed sanitary sewerage lines and facilities or all proposed on site, the locations and sizes of all existing and proposed water distribution system lines and facilities, the location of the closest existing water and sewer mains, and the location and character of all other existing and proposed public utility lines, including gas and power lines. These plans shall be accompanied by a written and signed statement explaining how the applicant proposes to provide sewage treatment facilities or other disposal of sanitary wastes. When the applicant intends to use existing sewage treatment facilities, a letter from the proper authority accepting responsibility for treatment of sanitary wastes from the proposed subdivision is required to be provided by the applicant;
 15. A stormwater management plan, stormwater calculations and proposed size, nature and location of all proposed storm drainage improvements;
 16. Identification, location and nature of all existing and proposed zoning districts and land uses to be included within the subdivision and the zoning district and status of adjacent properties within two hundred fifty (250) feet of the subdivision; and
 17. Proposed use of lots.

D. *Application Date.*

1. The Zoning Administrator shall review the plat and other information and documentation submitted by the applicant and, within ten (10) working days of submission, determine if the application as submitted is complete.
2. If the application is determined to be incomplete, the Zoning Administrator shall return the application to the applicant with a written explanation specifying the additional information required to be submitted to complete the application.
3. If the application is determined to be complete, the Zoning Administrator shall so notify the applicant and shall forward the application to the Planning and Zoning Commission for review at its next regularly scheduled meeting after all application fees have been paid.
4. For the purposes of these Regulations, the date of the meeting of the Planning and Zoning Commission at which time a complete Preliminary Plat is reviewed shall constitute the official submittal date of the plat. The thirty (30) day period for formal approval or disapproval of the plat will commence from the official submittal date of the Preliminary Plat.

E. *Commission Review and Approval Procedures.* Within thirty (30) days after the submittal of a complete Preliminary Plat application to the Planning and Zoning Commission, the Commission shall consider and determine the application. Notice of the meeting at which the Preliminary Plat will be considered shall be published by the City at least once. Following the hearing, and within thirty (30) days of submission of the complete Preliminary Plat, the Planning and Zoning Commission shall recommend approval, disapproval, or approval with conditions together with a written decision including findings of fact and conclusions, which shall be filed on the next working day with the City Clerk. The Planning and Zoning Commission, with the consent of the applicant, may extend the thirty (30) day period. Notice of the Planning and Zoning Commission's decision shall be forwarded to the applicant in writing on the date of the filing of the written decision with the City Clerk.

F. *Guidelines for Commission Decision.* The Planning and Zoning Commission shall consider the following criteria in making a recommendation on the Preliminary Plat.

1. The plat conforms to all applicable provisions of these Regulations;
2. The development pattern is consistent with the goals and policies of the Comprehensive Plan, as amended, the Official Map, the Major Street Plan the Capital Improvements Program, and any other applicable planning documents adopted by the City (special area plans, floodplain maps, neighborhood plans and floating zone district requirements);
3. The location, spacing and design of proposed streets, curb cuts and intersections are consistent with good traffic engineering design principles;

4. The plat is served, or will be served concurrently with the time of development, with all necessary and adequate on and off-site public utilities, including, but not limited to, water, sewer, gas, electric, and telephone service, sewer or on site sewage disposal system, transportation capacity, storm drainage;
 5. Each lot in the plat of a residential development has adequate and safe access to/from a local street. If lot access is to/from a collector or arterial street, the Planning and Zoning Commission shall expressly find that such access is safe and that no other lot access or subdivision configuration is feasible;
 6. The plat will be laid out and developed in a manner that is sensitive to environmental features and/or characteristics of the tract or parcel including, but not limited to, topography, slope, soils, geology, hydrology, floodplains, wetlands, vegetation and trees;
 7. The plat is located in an area of the City that is appropriate for current development activity and which will not contribute to the need for inappropriate and untimely extensions and expansions of public facilities, utilities and services, as shown in the Capital Improvements Program;
 8. The applicant agrees to: (a) dedicate land, right-of-way and easements, (b) provide satisfactory assurances to comply with all required conditions imposed; and ©) pay all exactions, impact and linkage fees, host and tipping fees and environmental mitigation fees as required; as may be determined to be needed to effectuate the purposes of these Regulations and the standards and requirements incorporated herein;
 9. All relevant and applicable submission requirements have been satisfied in a timely manner;
 10. The impacts on environmental systems and sensitive lands have been fully mitigated; and
 11. The development is compatible with surrounding development and all buffers, landscaping and fencing conditions can be met.
- G. *Board of Aldermen Review and Approval.* Following action by the Planning and Zoning Commission, the Board of Aldermen shall review the application and the recommendation of the Planning and Zoning Commission and either approve, conditionally approve, or disapprove the Preliminary Plat.
1. If the Preliminary Plat is approved or approved with conditions, the applicant shall comply with the conditions and then may proceed with the Construction Plan, as amended, and Final Plat approval processes.
 2. If the Preliminary Plat is disapproved, the Clerk of the Board of Aldermen shall, within ten (10) days of the Board of Aldermen's action, record the reasons for disapproval in

the journal of the Board of Aldermen's meeting, notify the applicant in writing of the action and the reasons therefor and return the Preliminary Plat to the applicant.

- H. *Effect of Preliminary Plat Approval.* Preliminary Plat approval shall confer upon the applicant, for a period of one (1) year from the date of approval by the Board of Aldermen, the right to proceed to final plat approval and to develop the subject tract or parcel pursuant to the terms and conditions pursuant to which the preliminary plat approval was granted by the Board of Aldermen. The one (1) year period may be extended by the Planning and Zoning Commission upon written application by the applicant. If no Final Plat on any portion of a subdivision for which preliminary approval has been granted is approved within said one (1) year period, or such longer period as the Planning and Zoning Commission may expressly allow a re-submission of the Preliminary Plat (or a revised Preliminary Plat) shall be required pursuant to the then current subdivision regulations and any other applicable land use regulations or requirements. After approval of the Preliminary Plat, the applicant shall prepare and file Construction Plans as required for all public facilities and utilities to be provided.
- I. *Resubdivision.* No development approval shall be granted with respect to any plat which has predated the requirements of these Regulations, and the developer, subdivider of such plat or owner shall be required to submit a resubdivision process which shall consist of submission of a Concept Plan, Preliminary and Final Plat applications. Such pre-dated plat shall be vested as to the size of lots, parcels and tracts, but otherwise shall conform to all other requirements of these Regulations.

SECTION 405.22 CONSTRUCTION PLANS/CONSTRUCTION OF IMPROVEMENTS

A. *Construction Plans.*

- 1. Following approval of the Preliminary Plat, the applicant shall have prepared, by a professional engineer registered in the State of Missouri, construction plans, consisting of complete construction drawings and specifications of all easements, streets, traffic control devices, street lights, sanitary sewers or on site sewage disposal system, storm water facilities, water system facilities, sidewalks and other improvements required by these Regulations. Construction plans shall be submitted to the Zoning Administrator for review and approval.
- 2. All improvements required pursuant to these Regulations shall be constructed in accordance with the design standards and plan requirements of these Regulations, the standards and specifications of the City, and, where applicable, the requirements and authorization of the appropriate state agency, county department, utility company or local franchisee.

B. *Construction Plan Requirements.*

- 1. General: The Construction Plan shall be sealed by a professional engineer. Five (5) copies of the Construction Plans shall be submitted to the Zoning Administrator for review. The Construction Plans shall be at any scale from one (1) inch equals ten (10) feet (1" = 10') through one (1) inch equals one hundred (100) feet (1" = 100'), so long as the scale is an increment of ten (10) feet and is sufficiently clear in reflecting details of

the proposed construction. Construction Plans shall be prepared on 22" x 34" sheets. The Preliminary Plat or title page shall be used as the cover sheet for the Construction Plans. The Plans shall include the following information, shown on separate sheets:

- (1) The Preliminary Plat for the project drawn on the existing topographic survey of the property;
- (2) Roadway, sidewalk, bikeway and traffic control construction plans, profiles and detail sheets;
- (3) Sanitary sewer system construction plans, profiles and detail sheets or plans approved by the county showing the on-site sewage disposal system;
- (4) Storm water management plan showing plan and profile of proposed storm sewer and drainage facilities, detail sheets, hydrological and hydraulic calculations and other information as required by the Zoning Administrator;
- (5) Proposed grading cross sections and final contours in critical drainage areas;
- (6) Water distribution system construction plans and details;
- (7) Locations of electric, telecommunications and other utility improvements;
- (8) A general schedule of the timing and sequence of construction for all required improvements;
- (9) Roadway Construction Detail Sheets: All construction details pertaining to the roadway improvements (e.g., pavement details, pavement width, curbing, sidewalk, unpaved areas, entrances, lighting, etc.) shall be shown on typical section, in plan and profile. Specific details shall include but not be limited to:
 - (a) Pavement installation, widening, or resurfacing improvements dimensioned and developed in accordance with City improvement standards;
 - (b) Pavement widening and resurfacing improvements in the right-of-way as measured from the centerline;
 - (c) Mathematical profile grade and elevations at twenty-five (25) feet intervals on vertical curves and fifty (50) feet intervals on tangent sections for all roadway construction. Elevations at quarter point intervals along pavement edge at street intersection corners;
 - (d) Resurfacing profile grade elevations on existing centerline and edges of pavement at twenty-five (25) feet intervals and breaks in grade (i.e., irregularities in pavement);

- (e) Jointing plan and details for Portland Cement Concrete pavement;
 - (f) Type and location of entrance construction;
 - (g) Propose traffic control devices and signs to be used during construction and upon completion of the project; and
 - (h) Every subdivision shall provide access of each lot to a public road. In ER and LDR districts, a gated subdivision may be built. All roads within such a subdivision shall be private, built to all public road construction standards, and shall provide a development agreement running with the land to bind all lots within the subdivision through Homeowners Association dues sufficient to support a performance and payment bond or letter of credit with buildup of reserves to assure repair and replacement of all roads, sidewalks, and other similar facilities;
- (10) Sanitary Sewer or On-Site Sewage Disposal System, Storm Drainage, and Water Line Plans and Profile Sheets: All construction details pertaining to the wastewater disposal system, storm drainage and water distribution system improvements shall be prepared in accordance with all requirements of these Regulations and other pertinent City and County regulations and standards and shall be shown in plan and profile. With the approval of the Zoning Administrator, profiles may be omitted from water distribution system drawings. Specific details shall include, but shall not be limited to:
- (a) Existing ground and finished grade shown and designated;
 - (b) Methods to be used in repairing open trenching of pavement;
 - (c) Limits of backfill and pavement replacement at all crossings of existing roadway surfaces not bored;
 - (d) Location of all utilities to be encountered in construction. Sufficient copies of plans must be submitted for utility providers; and
 - (e) Proof of plan approval by any other political subdivisions having jurisdiction over any aspect of the proposed development must be received prior to Construction Plan approval;
- (11) Grading Plan and Cross Section Sheets: A grading plan for the entire tract within the Preliminary Plat boundaries shall be provided. All grading details pertaining to site development shall be shown in plan or on cross section sheets. Specific details shall include, but shall not be limited to:
- (a) Existing and proposed contours, normally at two (2) foot intervals, in critical drainage areas. Contour intervals for Grading Plans greater than two (2) feet will require the Zoning Administrator's approval;

- (b) Site grading shall be compatible with ultimate roadway elevations;
 - (c) Where required by the Zoning Administrator, cross sections showing existing ground and finished grades plotted at a scale of not less than one inch equals one hundred feet (1"=100') horizontal and one inch equals ten feet (1"= 10') vertical; and
 - (d) Erosion Control Plan, as applicable, showing compliance with State requirements.
- (12) Detailed plans as shall be required by the planning staff, Zoning Administrator, City Engineer and Public Works Department with regard to mitigation of environmental impacts, on and off-site construction of the stormwater management system, and buffering, fencing and landscaping.
- C. *Public Agency Reviews.* Prior to approving the construction plans, the Zoning Administrator shall submit the construction plans to all applicable federal, state, regional, county, adjacent city and special district reviewing agencies and public utility companies servicing the subdivision or required to review the construction plans. The Zoning Administrator shall forward comments from those agencies to the applicant along with the City's comments.
- D. *Timing of Improvements.* No grading, removal of trees or other vegetation, land filling, construction of improvements, or other material change, shall commence on the subject property until the applicant has:
- 1. Entered into a Development Agreement with the City or otherwise arranged for completion of all required improvements;
 - 2. Received approval of the construction plans and all necessary grading permits from the Zoning Administrator;
 - 3. Obtained necessary approvals and permits from applicable federal, state agencies, regional, county, public utility and special district; and
 - 4. If an Excavation Activity is to occur as defined in these Regulations, the obtaining of a conditional use permit for Substantial Land Alteration and/or a Quarry or Sand and Gravel Overlay Zoning District approval.
- E. *Modification of Construction Plans.* All installations of improvements and all construction shall conform to the approved construction plans. If the applicant chooses to make minor modifications in design and/or specifications during construction, such changes shall be made at the applicant's own risk, but only with the written approval of the Zoning Administrator. It shall be the responsibility of the applicant to notify the Zoning Administrator in advance of any changes to be made from the approved drawings. In the event that actual construction work deviates from that shown on the approved construction plans and such deviation was not approved in advance by the Zoning Administrator, the applicant may be required to correct the

installed improvements to conform to the approved construction plans. In addition, the City may take such other actions as may be deemed appropriate including, but not limited to, revocation of plat approval and/or permits already issued and/or withholding of future approvals and permits.

F. *As-Built Drawings.*

1. Prior to final inspection of the required improvements, the applicant shall submit to the Zoning Administrator one (1) reproducible copy and two (2) prints of as-built engineering drawings for each of the required improvements that have been completed. Each set of drawings shall be recertified by the applicant's engineer indicating the date when the as-built survey was made.
2. Sewerage and storm drainage. As-built drawings shall show the constructed vertical elevation, horizontal location and size of all sanitary sewers or on site sewage disposal system, storm sewers, manholes, inlets, junction boxes, detention basins and other appurtenances or elements of the sewerage and storm drainage systems constructed to serve the subdivision.
3. Streets and Street Lights. Unless otherwise required by the Zoning Administrator, as-built drawings for roadways or street improvements shall be limited to a survey of the street centerline, with final profile elevations recorded on the drawings at 100-foot intervals, plus the notation of changes in horizontal alignment or intersection geometrics which may have been made during construction, and the location of street lights.
4. Water. As-built drawings for water lines, valves, fire hydrants and other appurtenances or elements of the water distribution system constructed to serve the project shall be limited to horizontal location and size of water lines and location and description of valves with dimensional ties as may be required by the Zoning Administrator or the Director of Public Works.
5. Sidewalks. As-built drawings showing location with respect to the street right-of-way, width and vertical elevation.
6. Control Points. As-built drawings shall show all control points and monumentation.
7. Environmental Mitigation. As built drawing showing all required mitigation based upon an Environmental Impact Report.

G. *Failure to Complete Improvements.* If no Subdivision Improvement Agreement has been executed and no security has been posted, the failure to complete all required public improvements within the period specified by the City shall result in expiration of plat approval. If a Subdivision Improvement Agreement has been executed and security has been posted and required public improvements are not installed pursuant to the terms of the Agreement, the City may:

1. Declare the Subdivision Improvement Agreement to be in default and require that all public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
2. Suspend final plat approval until the public improvements are completed and record a document to that effect with the County Department of Records for the purpose of public notice;
3. Obtain funds pursuant to the surety and complete the public improvements by itself or through a third party;
4. Assign its right to receive funds pursuant to the surety in whole or in part to any third party, including a subsequent owner of the subdivision or addition for whom the public improvements were not constructed, in exchange for the subsequent owner's Agreement to complete the required public improvements; and/or
5. Exercise any other rights available under the law, including injunctive equitable, declaratory damages or other legal relief and remedies.

SECTION 405.23 FINAL SUBDIVISION PLAT

- A. *Submittal Requirements.* Applicants for Final Plat approval shall submit a complete application and other required materials and information to the Zoning Administrator. The Final Plat shall be in sufficient detail to convey the applicant's ideas and intentions in platting the proposed subdivision. It shall contain a written description of the existing conditions on the tract and the necessary drawings and sketches as required by this Chapter to convey the applicant's plan of development. The plat shall be signed by a registered surveyor.
- B. *Filing Procedure.* Following approval and prior to the expiration of the Preliminary Plat, the applicant may continue the subdivision process by filing a Final Plat. A Final Plat shall not be accepted for review after the expiration of the Preliminary Plat. The Final Plat application shall be filed with the Zoning Administrator thirty (30) days prior to the Planning and Zoning Commission meeting at which the application is to be reviewed and shall contain:
 1. One (1) reproducible original and a sufficient number of copies of the proposed Final Plat as specified on the application;
 2. The additional information required pursuant to these Regulations or specified on the application;
 3. A completed application form;
 4. The applicable fees for filing and recording the plat, and for review of the Construction Plans; and
 5. An agreement in writing on a form provided by the City Attorney that the developer will install all of the improvements required herein.

C. *Substantial Compliance with Preliminary Plat.* Prior to submitting the Final Plat to the Planning and Zoning Commission, the Zoning Administrator shall review the plat for substantial compliance with the approved or conditionally approved preliminary plat. If the Final Plat for a subdivision is found to deviate substantially from the approved Preliminary Plat, the applicant will be required to submit a new Final Plat if the deviations are eliminated, or a new Preliminary Plat if the deviations are retained. If a new Preliminary Plat is required, the applicant must comply with other applicable land development regulations at the time of resubmittal. Substantial deviations shall include, but are not necessarily limited to, the following:

1. a change in the location or design of a public street;
2. a change in the layout of lots or blocks;
3. a change in access to lots;
4. a change in areas, streets or rights-of-way to be reserved or dedicated;
5. a change in the drainage plan which increases the runoff from the tract;
6. a change in the public utilities and facilities to be provided;
7. a change in the extent of buffering between the proposed subdivision and adjacent areas and/or land uses; OR
8. a change in environmental mitigation.

D. *Contents.* The Final Plat shall be prepared on a tracing cloth, mylar or similar quality material at a scale of one inch equals one hundred feet (1" = 100' or larger), unless specifically waived by the Zoning Administrator, in a size that is a multiple of eight and one-half inches by eleven inches (8½" x 11"), with a maximum size of 22" x 34". Where a proposed subdivision does not fit on a single sheet, the final plat shall be submitted on two (2) or more sheets of the same dimensions along with an index sheet showing the entire development at a smaller scale. The Final Plat shall show or have attached the following information:

1. All information required of a Concept Plan and Preliminary Plat;
2. The location of the boundary in reference to existing official monuments or the nearest established street lines, including the angles and distances to such reference points or monuments shall be furnished. The plat shall show all monumentation, which shall be installed as required by the Zoning Administrator in a manner that meets or exceeds current Minimum Standards for Property Boundary Surveys;
3. The location by section, township, range, City and state, including descriptive boundaries of the subdivision based on an accurate traverse giving angular and linear dimensions which shall mathematically close and which shall be tied into the State Grid System. Bearings and distances of all exterior boundary lines and along the center lines of streets shall be furnished;

4. The legal description of the entire tract to be subdivided. The registered surveyor shall determine the coordinates of each and every controlling corner of the boundary of the tract of land being surveyed or subdivided. The procedures and the coordinate values shall meet or exceed the current Minimum Standards for Property Boundary Surveys of the Department of Natural Resources, 10 CRS 30-2.010. These coordinate values will be shown on the Final Plats. Any $\frac{1}{4}$ - $\frac{1}{4}$ corner that is referenced on a subdivision plat shall be referenced to the proper controlling corners of the section (any 2 of the 9 corners recognized by the Government Land Office);
5. The names, lines, three-line profiles, typical sections and grades of all proposed streets and their widths, right-of-way widths, and names;
6. An accurate by metes and bounds description of any property offered for dedication to the City or another public entity for public use;
7. Structure lines and easements for rights-of-way provided for public use, services or utilities with figures showing their dimensions and listing uses that are being provided;
8. All dimensions and bearings, both linear and angular, radii and arcs, necessary for locating the boundaries of the subdivision, blocks, lots, streets, easements, structure lines, and other areas to be dedicated for public or private use. The linear dimensions are to be expressed in feet and decimals of a foot;
9. Area in square feet for each lot or parcel, which shall equal or exceed applicable zoning ordinance requirements;
10. Structure setback lines with dimensions;
11. An accurate drawing of the proposed subdivision with the lots clearly numbered. If the blocks are to be numbered or lettered, these should be shown clearly in the center of the block;
12. Approved Construction Plans conforming with the requirements of these Regulations, for all roadway, grading, sanitary sewerage system, storm drainage facilities, water distribution system, environmental mitigation, and other pertinent site improvements. Two (2) sets of such Construction Plans shall be submitted with the Final Plat;
13. Boundary lines and description of the boundary lines of any areas other than streets and alleys which are to be dedicated or reserved for public use;
14. Two (2) copies of all deed restrictions easements and/or restrictive covenants and, if applicable, articles of incorporation and bylaws of a homeowner's association for the proposed subdivision;
15. A statement dedicating all easements, streets alleys and other public areas not previously dedicated;

16. Certification by a Registered Land Surveyor that all details of the plat are correct;
 17. Other certifications as required to comply with these Regulations;
 18. Two (2) copies of a sanitary sewer construction permit issued by the State, DNR which includes the approval of all lines and necessary appurtenances intended to serve the proposed lots as shown on the final plat, or plans approved by Jackson County showing the location of all parts of an on site sewage disposal system;
 19. Proof of payment of all fees and taxes owed or owing to all taxing and regulatory jurisdictions, including but not limited to the City and County and the appropriate school district and fire district; and
 20. Other information pertaining to the proposed development as may be determined to be necessary from time to time by the Planning and Zoning Commission to facilitate review of the Final Plat.
- E. *Commission Review and Approval Procedures.* The Final Plat shall conform as closely as possible to the approved Preliminary Plat. All improvements and facilities to be provided by the developer shall be approved by the Zoning Administrator and installed prior to the issuance of an occupancy permit, or adequate security in lieu of making improvements shall be provided. All required dedications and easements shall be offered for dedication on the final plat by the applicant before the Planning and Zoning Commission shall approve the Final Plat; however, approval of the Final Plat shall not itself constitute acceptance of land for dedication. Acceptance of land dedication requires separate, written approval by the Board of Aldermen.
- F. *Commission Guidelines for Decision.* The Planning and Zoning Commission shall consider the following criteria in making a decision on the Final Plat:
1. The Final Plat substantially conforms to the approved preliminary plat and any conditions and exceptions granted pursuant thereto;
 2. The Final Plat conforms to all applicable requirements of these Regulations, the zoning ordinance and other applicable land development regulations; and
 3. All submission requirements of these Regulations have been satisfied.
- G. *Board of Aldermen Review and Approval.* Following action by the Planning and Zoning Commission, the Board of Aldermen shall review the application and the recommendation of the Planning and Zoning Commission and either approve, conditionally approve, or disapprove the Final Plat. The Board of Aldermen shall, within thirty (30) days following its consideration, render a written decision incorporating its findings of fact and conclusions which shall approve, disapprove or approve with conditions the Final Plat and shall transmit written notice of its decision to the applicant on the next working day. If the proposed Final Plat is approved, the Zoning Administrator shall execute the plat. The applicant may then file and record the plat. If the proposed Final Plat is disapproved, the City Clerk shall, within ten (10) days of the Board of

Aldermen action, record the written decision in the minutes of the Board of Aldermen meeting, and further notify the applicant in writing of the action and the reasons therefore, and return the Final Plat to the applicant.

- H. *Effect of Final Plat Approval.* Final Plat approval shall confer upon the applicant the right to apply for building permits and to develop the subject tract or parcel pursuant to the terms and conditions pursuant to which the Final Plat approval was granted by the Board of Aldermen; provided, however, that no Final Plat shall be filed and recorded unless and until approval by the Zoning Administrator. No lot in the subdivision may be sold until the Final Plat has been officially recorded. If the Final Plat is not recorded within ninety (90) days after approval by the Board of Aldermen, it shall be of no further force or effect unless, prior to the expiration of such ninety (90) day period, the Final Plat has been extended by approval of the Board of Aldermen.
- I. *Acceptance of Dedication.* The approval of a plat shall not be considered an acceptance of any proposed dedication and does not impose on the City any duty regarding the maintenance or improvement of any dedicated parts until the appropriate city authorities make an actual appropriation of the dedicated parts by entry, use, or improvement. The disapproval of a plat shall be considered a refusal by the City of the offered dedication indicated on the plat.
- J. *Requirements after Approval.*
 - 1. The applicant shall submit prints of the Final Plat on cloth and prints on paper for certification as specified by the Zoning Administrator.
 - 2. The Final Plat shall contain a certificate consenting to the recordation of the plat as submitted. This certificate shall be signed and acknowledged by all parties having any title interest in the land subdivided. The cloth copies shall carry the original signatures of the owners and a notary public.
 - 3. The Final Plat shall carry a certification by a registered surveyor that the details of the plat are correct.
 - 4. Certificates of approval shall be filled in by the signature and seal of the Zoning Administrator.

SECTION 405.24 FILING AND RECORDATION

- A. *Recording Procedures.* Within ninety (90) days following Final Plat approval by the Board of Aldermen, the applicant shall file an approved plat with the County Department of Records. The applicant shall furnish the Zoning Administrator with the recording date, the document number, and the book and page numbers after recording the approved plat. The applicant shall bear all expenses in connection with the filing of the Final Plat and the County Department of Records shall not be required to file the Final Plat until the applicant has paid the required filing fee. If not paid, and if the Final Plat is not filed within ninety (90) days of approval by the Board of Aldermen or if, for any other reason, the applicant fails to record the approved Final Plat within said ninety (90) days, the Final Plat shall be deemed null and void, unless an extension has been granted by the Board of Aldermen, for good cause, prior to the expiration of said ninety (90) days. Prior to recordation, the applicant and/or the property owner must submit to the Zoning

Administration a certificate or other documentation from the County Division of Finance indicating that there are no outstanding delinquent taxes, assessments or fees with respect to the property proposed for subdivision and/or the property owner, and that all taxes, liens and encumbrances have been satisfied of record on the land to be dedicated as streets, alleys or for other public purposes. Simultaneously with or prior to the filing of the Final Plat, the applicant and/or owner shall record in the County Department of Records any Development Agreement or other legal document entered into by the City and the applicant or developer. Failure to record the Development Agreement shall make the Final Plat null and void. The City may record a document against the subject property with the County Department of Records stating that the Final Plat is null and void and that further sale, lease or development of the property within the subdivision is prohibited.

- B. *Fees.* At the time the Concept Plan has been certified as complete by the Zoning Administrator the applicant shall deposit all fees covering the administrative processing of the Plat. All impact fees, exactions, mitigation, tipping and host fees and dedications together with the performance, payment and release agreement shall be paid to the City Clerk prior to the execution of the final plat by the Zoning Administrator. Such fees shall be in the form of a check made payable to the city.

SECTION 405.25 AMENDMENT OF PLATS

- A. *Purpose.* The purpose of this Section is to provide a streamlined and efficient process for the combination of parcels or correction of mistakes in an approved subdivision. The Zoning Administrator is authorized to amend plats administratively. A resubdivision of a plat is required to be approved.
- B. *Applicability.* The Planning and Zoning Commission may approve an amended plat, if the amending plat is signed by the applicant(s) and is solely for one or more of the following purposes:
 - 1. To correct an error in a course or distance shown on the preceding plat;
 - 2. To add a course or distance that was omitted on the preceding plat;
 - 3. To correct an error in a real property description shown on the preceding plat;
 - 4. To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - 5. To show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 - 6. To correct any other type of scrivener or clerical error or omission, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - 7. To correct an error in courses and distances of lot lines between two (2) adjacent lots if both lot owners join in the application for amending the plat, neither lot is abolished, the amendment does not attempt to remove recorded covenants or restrictions and the

amendment does not have a material adverse effect on the property rights of the other owners in the plat;

8. To relocate a lot line to eliminate an inadvertent encroachment of a structure or other improvement on a lot line or easement that existed prior to the original approval of the plat;
 9. To relocate a lot line between two adjacent lots if both of the owners of the lots consent to amendment of the plat, the amendment does not attempt to remove recorded covenants or restrictions which were imposed as a condition of or in connection with plat approval;
 10. To combine two lots into a single consolidated lot.
- C. *Initiation.* A developer or owner seeking to amend an approved plat shall file with the Zoning Administrator the amending plat, together with a copy of the plat being amended and a statement detailing the amendments being proposed. The Zoning Administrator shall, upon determination of the completeness of the application, notice a hearing before the Planning and Zoning Commission. If the plat being amended has been recorded, the additional recordation fee shall be deposited with the city at the time of plat filing.
- D. *Decision.* Notice and a hearing before the Planning and Zoning Commission shall be required for the approval and issuance of an amending plat. The applicant or any interested party with standing may appeal the determination of the Planning and Zoning Commission to the Board of Aldermen.
- E. *Recordation Language.* The amending plat shall be clearly marked "Amending plat of (plat number and name). This plat amends the plat previously recorded in the plat and deed records of Jackson County, Volume ___, Page ___." The amending plat shall then be recorded if all requirements have been met. If the plat being amended has not been recorded, the amending plat may be approved by the Zoning Administrator. Upon approval by the Zoning Administrator, the amending plat shall be annotated with the following statement: "This plat includes amendments approved by the Zoning Administrator."

SECTION 405.26 RESUBDIVISION WITH OR WITHOUT VACATING PRECEDING PLAT

- A. *Applicability.* A resubdivision with or without shall be recorded and is controlling over the preceding plat without vacation of that plat if the resubdivision:
1. Is signed and acknowledged by all of the owners of the property being replatted;
 2. Is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the Planning and Zoning Commission, subject to appeal to the Board of Aldermen; and
 3. Does not attempt to amend or remove any covenants or restrictions which were imposed as a condition of or in connection with the plat approval.

- B. *Initiation.* A subdivider wishing to resubdivide an approved plat shall file with the Zoning Administrator the proposed replat, together with a copy of the plat being replatted and a statement detailing the amendments being proposed. The resubdivision shall follow all of the requirements and procedures for a preliminary plat. If the plat being replatted has been recorded, the additional recordation fee shall be deposited with the City at the time of plat filing.

SECTION 405.27 RESUBDIVISION OF ANTIQUATED PLATS

- A. *Applicability.* For purposes of this Section, any subdivision which has not been recorded prior to the effective date of these Regulations, shall not be considered a plat and a replat of such a subdivision shall be required. A resubdivision is recorded and is controlling over the prior approved plat. The resubdivision shall follow all of the requirements and procedures for preliminary plat.
- B. *Initiation.* A subdivider developer or owner wishing to resubdivide shall file with the Zoning Administrator the proposed plat, together with a copy of the preceding plat and a statement detailing the changes being proposed. If the plat being resubdivided has been recorded, the additional recordation fee shall be deposited with the city at the time of plat filing.

SECTION 405.28 ZONING AMENDMENTS

- A. *Zoning Amendments Authorized.* The text of these Regulations or the Official Zoning Map may be amended from time to time consistent with the adopted Comprehensive Plan, as amended, by the Board of Aldermen.
- B. *Initiation of Application.* An owner of real property within the City, or that owner's authorized representative, may, upon proof of ownership, apply for amendment of the text of these Regulations or a change in zoning district boundaries for that landowner's property. Such amendment may also be initiated by the City Planning and Zoning Commission, the Zoning Administrator or the Board of Aldermen.
- C. *Application.* An application by a property owner for a change in these Regulations or the Official Zoning Map shall be on a form supplied by the Zoning Administrator. Said application shall be completed in its entirety and filed with the Zoning Administrator who shall set a public hearing date before the Planning and Zoning Commission.
- D. *Information Required in Amendment Application.* When the application involves a change in the Official Zoning Map, the applicant shall submit the following information:
 - 1. A legal description of the property;
 - 2. A scaled map of the property, correlating with the legal description, and clearly showing the property's location, its perimeter dimensions and the floor area ratio of each building and structure proposed for the site;
 - 3. The name, address, and phone number of the applicant and property owner;
 - 4. A description of the present use of the property and existing zoning;

5. A description of the proposed use of the property and requested zoning;
6. The area of the property in square feet and/or acres;
7. The proposed time schedule for development;
8. The source/method for providing utility/infrastructure services to the property;
9. A description of existing road conditions and any new roads to be included in the development and of the effect the proposed development will have on existing road and traffic conditions;
10. Declaration of the property's status relative to floodplain information provided by FEMA;
11. A list of any state, federal, or other public agencies' approvals or permits required for the proposed development;
12. The effect the proposed development may have on surrounding properties;
13. Additional exhibits as may be required by the Zoning Administrator such as a site plan showing elevations of property, location and size of all existing and proposed structures, roadways, easements, and parking areas, and the location of present and proposed points of access of the property;
14. The signatures(s) of the applicant(s) and owners(s) certifying the accuracy of the required information;
15. The name and address of all property owners within 500 feet of the boundaries of the property which is the subject of the requested amendment; and
16. The submission of a Site Plan, in accord with all of the requirements of these Regulations, shall be required for a change in the Official Zoning Map.

E. *Special Notice Requirements.*

1. Notice of all public hearings required by these Regulations shall be published, except for such hearings as may have been continued. If such continuance of a public hearing is to a specific date and time not later than sixty (60) days from the first hearing for which required notice was given, the announcement of the continuance at the originally scheduled hearing time and location is sufficient notice of the continued public hearing and no additional notice is required.
2. Published notice of a proposed zoning amendment shall contain, in addition to all other requirements for notice, a statement describing the proposed change in regulations or restrictions, or the zoning classification or zoning district boundaries of the property. If

the proposed amendment would change the zoning classification of any property, or the boundaries of any zoning district, such notice shall contain the address or general location of such property, its present zoning classification, and the proposed classification.

3. For a change in zoning district boundaries or other zoning map amendment, the Zoning Administrator, at applicant's cost, shall give notice at least fifteen (15) days prior to the hearing by certified mail, return receipt requested, to property owners of real property located within 500 feet of the boundaries or the district or land which is to be changed.
- F. *Public Hearing by the Planning and Zoning Commission.* The Planning and Zoning Commission shall hold a public hearing on each proposed zoning amendment. Such hearing shall be held in any place in the City designated by the Planning and Zoning Commission regardless of the location of the land affected by such amendment or amendments.
- G. *Report and Recommendation by Commission.* Upon conclusion of the public hearing, the Planning and Zoning Commission shall forward to the Board of Aldermen a summary of all evidence taken in the hearing, together with its recommendations for any change to the Official Zoning Map or these Regulations together with its approval, conditional approval or denial of the site plan application where an amendment to the Official Zoning Map is requested. Said recommendation may be for approval, disapproval or approval in part, and the reasons for the recommendation shall be included.
- H. *Amendments to Text.* When a proposed amendment would result in a change in the text of these Regulations but would not result in a change of zoning classification of any specific property, the recommendation of the Planning and Zoning Commission shall contain findings of fact and conclusions as to:
 - (1) Whether such change is consistent with these Regulations and the goals and policies of the Comprehensive Plan, as amended;
 - (2) The areas that are most likely to be directly affected by such change and the likely physical, environmental and fiscal impacts of such change and the extent to which such impacts can be mitigated; and
 - (3) Whether the proposed amendment is necessary because of changed conditions, or other fiscal, physical, environmental, or other economic conditions in the areas and zoning districts affected.
- I. *Decision by Board of Aldermen.* Upon the receipt of the recommendation of the Planning and Zoning Commission, the Board of Aldermen shall consider the application and may approve the recommendation of the Planning and Zoning Commission. If an ordinance approving any amendment to these Regulation or the Official Zoning Map is not introduced to the Board of Aldermen within ninety (90) days after the report of the Planning and Zoning Commission is received by the Board of Aldermen, the amendment shall be deemed denied. The Board of Aldermen shall not approve any amendment to the Regulations or to the Official Zoning Map which changes the recommendation of the Planning and Zoning Commission until it remands

the application to the Planning and Zoning Commission for its further recommendation as to the change. Upon the return of the Planning and Zoning Commission's recommendation on the change, the Board of Aldermen may approve, conditionally approve or deny the application with or without the change.

- J. *Public Hearing.* The Board of Aldermen shall hold a public hearing on a proposed ordinance granting or denying an application for amendment or supplement to the Official Zoning Map or these Regulations.
- K. *Public Hearing Notice.* Notice of the time and place of the public hearing before the Board of Aldermen shall be published in one newspaper having general circulation within the City at least fifteen (15) days before the date of said hearing.
- L. *Protest of Proposed Zoning Amendment.* If a written protest against a proposed amendment is signed by the owners of thirty percent (30%) or more of the land area (exclusive of streets and alleys) either included in such proposed amendment or within an area determined by lines drawn parallel to and two-hundred-fifty (250) feet distant from the boundaries of the district proposed to be changed, and is filed with the clerk of the Board of Aldermen prior to the introduction by the board of Aldermen of an ordinance relating to the proposed amendment, then, such amendment may not be adopted except by the favorable vote of two-thirds (2/3) of all members of the Board of Aldermen.
- M. *Approved Action.* If the Board of Aldermen approves an application, it shall adopt an ordinance to that effect. The amending ordinance shall define the change or boundary as amended, order the official zoning map to be changed to reflect such amendment.

SECTION 405.29 COMPREHENSIVE PLAN AMENDMENTS

- A. *Procedures for Amending Comprehensive Plan Text.* The text of the adopted Comprehensive Plan may be amended from time to time. Amendments to the Comprehensive Plan text may be initiated by the Zoning Administrator, by the Planning and Zoning Commission, by the Board of Aldermen or by petition of a property owner or owner of a business located in the City. Proposed text amendments by property owners or business owners shall be reviewed as set forth in the Comprehensive Plan. The Board of Aldermen may establish by resolution schedules during which Comprehensive Plan text amendments will be considered.
- B. *Procedures for Amending Land Use Map.* The Planning and Zoning Commission, the Board of Aldermen, a property owner or the owner of a business located in the City may initiate a request for amendment of the land use map of the Comprehensive Plan. The application for amendment of the land use map may be accompanied by an application for a zoning amendment. The Board of Aldermen may establish by resolution schedules during which Comprehensive Plan text amendments will be considered.
- C. *Recommendation on Amendments by Planning and Zoning Commission.* Prior to adoption of any Comprehensive Plan Amendment, the Commission shall hold a public hearing in accordance with these Regulations, after receiving the report and recommendation of the Zoning Administrator. Following its decision on the application, the Commission shall adopt the

amendment by resolution expressly referencing the same and shall cause to be affixed to the amendment the signatures of the Chair and Secretary of the Commission.

- D. *Decision on Amendment by Board of Aldermen.* Following receipt of Planning and Zoning Commission recommendations, the Board of Aldermen shall schedule a public hearing to decide whether to adopt the amendment. The public hearing shall be conducted in accordance with these Regulations. The Board of Aldermen shall consider the proposed amendment to the Comprehensive Plan and shall render a decision thereon. Thereafter, the zoning regulations and zoning map shall be rendered consistent with the approved Comprehensive Plan amendment.

SECTION 405.30 CONDITIONAL USE PERMITS

- A. *Purpose and Intent.* Conditional uses are those uses which generally are compatible with the permitted land uses in a given zoning district, but which require individual review of their location, design and configuration and the imposition of conditions in order to ensure the appropriateness of the use at a particular location within a given zoning district.
- B. *Status of Conditional Permitted Uses.*
1. The designation of a use in a zoning district as a conditional use does not constitute an authorization or assurance that such use will be approved. The submission of a concept and site plan in accord with all of the requirements of these Regulations shall be required for approval of a Conditional Use Permit.
 2. Approval of a Conditional Use Permit shall be deemed to authorize only the particular use for which the permit is issued.
 3. No use authorized by a conditional use permit shall be enlarged, extended, increased in intensity or relocated unless an application is made for a new conditional use permit in accordance with all of the procedures set forth in this Chapter, for conditional use permit.
 4. Development of the use shall not be carried out until the applicant has secured all of the development approvals required by these Regulations, other appropriate provisions of the City Code or any permits required by local, regional, state or federal agencies.
- C. *Application for Conditional Use Permit.*
1. An application for a conditional use permit may be submitted by the property owner or by the property owner's designated representative. It shall comply with the requirements of Citizen Participation, Concept Plan approval and Site Plan Approval of these Regulations.
 2. The application shall be submitted to the Zoning Administrator for a determination of completeness. If a zoning amendment is required or requested, such application shall accompany the application for a conditional use permit, meeting all of the requirements for a Zoning Amendment pursuant to these Regulations.

3. Upon determination by the Zoning Administrator that the application is complete, the Zoning Administrator shall forward the application to the Planning and Zoning Commission.

D. *Public Hearings.*

1. The Planning and Zoning Commission shall hold a public hearing on the application in accordance with the provisions of these Regulations. At the completion of the hearing, the Planning and Zoning Commission shall make a report and recommendation on the application and forward such recommendation to the Board of Aldermen.
2. The Board of Aldermen shall hold a public hearing on the application, in accordance with the provisions of these Regulations. At the completion of the hearing, the Board of Aldermen may grant permission for the conditional use permit if the proposed use meets the following conditions:
 - (1) The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan, as amended;
 - (2) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations and complies with requirements of these Regulations;
 - (3) The proposed conditional use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity;
 - (4) The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and includes improvements or modifications either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, impacts on environmental sensitive areas or other similar adverse effects to adjacent development and neighborhoods. These improvements, modifications or mitigation may include, but shall not be limited to the placement or orientation of structures and entryways, parking areas, buffer yards, and the addition of landscaping, walls, or both, to ameliorate such impacts;
 - (5) The proposed use does not generate pedestrian and vehicular traffic which will be hazardous to the existing and anticipated traffic in the neighborhood;
 - (6) The proposed use meets all of the conditions set forth in these Regulations for the specific use for which the conditional use permit is requested.

- (7) The proposed use meets all of the requirements set forth in these Regulations; and
 - (8) The site plan has been approved or conditionally approved by the Planning and Zoning Commission.
3. If the proposed use requires a division of land, an application for a subdivision or other land division shall be submitted in conjunction with the application for a conditional use permit. Approval of the conditional use permit shall not become effective until final approval of the subdivision application; provided, that if the land is to be developed in phases, the approval of the conditional use permit shall take effect upon final approval of the phase of the subdivision containing the property on which the conditional use is to be located.
- E. *Decision on Conditional Use Permit and Appeal.* The Board of Aldermen shall render its decision on the conditional use permit application, and may impose conditions. The permit shall set out regulations, restrictions, limitations and termination date so that reasonable control may be exercised over the use. If the appropriateness of the use cannot be assured at the location, the application for conditional use permit shall be denied as being incompatible with existing uses or uses permitted by right in the district. No application will be approved or permit granted that is in violation of or in conflict with any laws of the State of Missouri, or of these Regulations.
- F. *Revocation of Conditional Use Permits.* Any conditional use permit granted under the authority of this Chapter is subject to revocation for any or all of the following reasons:
 1. Non-compliance with any conditions imposed by these Regulations or by the Board of Aldermen at the time of approval of the conditional permit;
 2. Violation of any provision of these Regulations or provisions or limitations pursuant to conditional use approval;
 3. Violation of any other applicable Code provisions or any local, state or federal law or regulation by the permitted or agents of the permitted, provided that such violations relate to the conduct or activity authorized by the conditional use permit or the qualifications of the permitted or its agents to engage in such conduct or activity; and/or
 4. No revocation shall occur until a public hearing is held by the Board of Alderman. Such conditional use permit revocation must be approved by the Board of Alderman and must be accompanied with written findings of fact and conclusions substantiative of the violations.

SECTION 405.31 SITE PLAN REVIEW

- A. *Purpose.* The purpose of requiring Site Plan Review is to ensure that proposed development conforms with these Regulations and includes a compatible arrangement of structures, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, site drainage, and open spaces. Site review shall consider the siting of proposed construction and its impact upon the existing topography and natural vegetation, and the relationship of proposed construction to existing public and private improvements in the immediate area and its conformance to the policies and standards of the Comprehensive Plan, as amended. The design shall encourage the elimination of unnecessary grading, and endeavor to retain the natural character of the site including the preservation of trees and other natural features.
- B. *Applicability.* Except for Major Subdivision Review of residential subdivision, a site plan shall be required for any request for overlay zoning, for an amendment to the Official Zoning Map, development approval for new construction, exterior additions or changes in use or area dimension to any land and/or structure used for multi-family, commercial, industrial or public use, whether such use is a permitted use in the district, authorized by conditional use permit or overlay zoning district or allowed as a planned development. No development approval shall be issued for a development subject to site plan review until such site plan has been approved by the Planning and Zoning Commission.
- C. *Application and Processing.* An applicant may initiate site plan review by filing an application with the Zoning Administrator.
- D. *Contents.* All Site Plans shall be prepared on a tracing cloth, mylar or similar quality material at a scale of one inch equals one hundred feet (1" = 100' or larger), unless specifically waived by the Zoning Administrator, in a size that is a multiple of eight and one-half inches by eleven inches (8½" x 11"), with a maximum size of 22" x 34". The Site Plan shall show or have attached the following information:
1. All information required by any other of these Regulations;
 2. Size, use and location of existing and proposed structures, sidewalks, bicycle and pedestrian paths and drives on the subject property, and existing structures and drives adjacent to the property;
 3. Location of floodplain areas subject to flooding, centerlines of drainage courses, and finished floor elevations of proposed structures;
 4. Location of proposed drives, parking areas, traffic access points, signalization, deceleration lanes and alternative access routes;
 5. Property lines, platted setback lines, and lot dimensions;
 6. Location, number and dimensions of existing and proposed parking spaces;
 7. Final grades;

8. Location of existing trees greater than 8 inches in diameter and proposed landscaping;
 9. Drainage information as to on and off-site flows sufficient to demonstrate compliance with the improvement requirements of these Regulations and other laws and regulations;
 10. Buffers, landscaped areas and fences; and
 11. All environmentally sensitive lands on-site or within five-hundred (500) feet of the site including but not limited to wetlands, habitat areas, hillsides, steep slopes, lakes, treed or forested areas, brownfield sites and streams and stream corridors.
- E. *Review.* The Planning and Zoning Commission may approve, conditionally approve or deny a site plan after consideration of the following:
1. Whether the site is capable of accommodating the structures(s), parking areas, sidewalks, bicycle and pedestrian paths and drives with appropriate open spaces in compliance with these Regulations;
 2. Whether the site provides for safe and easy ingress, egress, internal and external traffic circulation;
 3. Whether the site is consistent with the land planning and site engineering design principles of these Regulations;
 4. The plan represents an overall development pattern that is consistent with the Comprehensive Plan, as amended, and other adopted planning policies;
 5. The site plan meets all other requirements for a development approval pursuant to these Regulations; and
 6. All impact fees, exactions, environmental mitigation, fees host and tipping fees, and dedications shall be paid or tendered prior to filing the site plan with the Zoning Administrator or at such time as shall be specified in a Development Agreement between the Applicant and the City entered into on or before the date of final approval of the Site Plan.
- F. *Approval.*
1. Site plan approval by the Planning and Zoning Commission, Board of Aldermen or Board of Adjustment shall be evidenced by the Zoning Administrator on the site plan. Approval shall become effective immediately upon the filing of the site plan with the City Clerk and the Jackson County Department of Records.
 2. Unless a longer time shall be specifically established as a condition of approval, site plan approval shall lapse and become void twelve (12) months following the date on which such approval became effective, unless prior to the expiration a valid legal building

permit is issued and construction is commenced and diligently pursued toward completion.

3. Site plan approval may be extended upon the applicant's written request for extension and continuance of the plan as approved by the Planning and Zoning Commission, Board of Aldermen or Board of Adjustment prior to expiration. Approval of any such extension request shall be for a period of twelve (12) months. No further extension shall be granted and the applicant shall be required to re-site plan. Subsequent to this extension, the site plan shall be considered valid so long as the plan remains consistent with all applicable City codes and the Comprehensive Plan, as amended.
4. Upon violation of any applicable provision of this Chapter or, if granted subject to conditions, upon failure to comply with conditions, site plan approval shall be suspended by the Zoning Administrator upon notification to the owner of a use or property subject to the site plan, until a public hearing shall be held by the Planning and Zoning Commission, Board of Aldermen or Board of Adjustment as to whether such suspension shall be affirmed, conditionally affirmed or revoked.
5. A site plan approval filed with the Jackson County Department of Records pursuant to these provisions shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the application.

SECTION 405.32 VARIANCES

- A. *Authorized.* The Board of Adjustment may authorize an Area Variance, practical difficulties, which would constitute an unreasonable deprivation of use, provided the spirit of these Regulations shall be observed, public safety and welfare secured, and substantial justice done, or for a Use Variance from the provisions of these Regulations where, owing to unique conditions, a literal enforcement of the provisions of these Regulations will, in an individual case, result in unnecessary hardship.
- B. *Area Variance Requirements.* The applicant must show the following:
 1. The property and all other property in the same ownership was acquired in good faith;
 2. The variance is not for a self-imposed hardship;
 3. By reason of exceptional narrowness, shallowness or shape of the specific piece of property at the time of the effective date of these Regulations, or that by reason of exceptional topographic conditions or other extraordinary or exceptional circumstances, the strict application of the terms of the zoning regulations actually prohibit the practical use of applicant's property in the manner similar to that of other property in the zoning district where it is located.
- C. *Use Variance Requirements.* A request for a use variance may be approved or conditionally approved, upon a finding of the Board of Adjustment that all of the following conditions have been met with respect to the property for which the variance is requested. The Board of

Adjustment shall make a determination on each condition, and the finding shall be entered in the record:

1. The need for variance arises from a condition which is unique to the property for which the variance is requested and which is not ordinarily found in the same zone or district; and is not created by any action or actions of the property owner or applicant;
 2. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
 3. The strict application of the provisions of the zoning regulations will constitute unnecessary hardship;
 4. The variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;
 5. The granting of the variance will not be opposed to the general spirit and intent of these Regulations or the goals, objectives and policies of the Comprehensive Plan;
 6. The variance requested is a minimum variance that will make possible a reasonable use of the land or structure; and
 7. The site plan submitted with the variance application has been approved or conditionally approved subject to the approval of the variance.
- D. *Variance and Site Plan.* The application for a variance and a site plan may be submitted concurrently. The variance may be approved or conditionally approved by the Planning and Zoning Commission subject to approval of the site plan.
- E. *Conditions.* In granting a variance, the Board of Adjustment may impose such conditions, safeguards and restrictions as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these Regulations.
- F. *Procedure.*
1. The applicant for variance shall complete and file the appropriate application form(s) with the Zoning Administrator.
 2. The Zoning Administrator shall determine if the application is complete. Complete applications shall be scheduled for review at the next regularly scheduled meeting of the Board of Adjustment.
 3. Notice. Notice of the variance application shall be published and mailed. Notice shall be provided and notice posted pursuant to the requirements of these Regulations.

- G. *Appeals.* Any person aggrieved by any decision of the Board of Adjustment may file in the Circuit Court of Jackson County, Missouri, a petition in the manner and form and within the limitations period provided by state statute.

- H. *Administrative Variances.* The Zoning Administrator, upon receipt of an application and after making required findings, may grant design exceptions upon a determination that the strict application of landscaping and other design standards cannot be accomplished on the site. Granting an administrative variance may require such reasonable conditions and safeguards (in addition to those expressed in these regulations), as the Zoning Administrator determines is necessary to implement the purpose of these Regulations. These provisions shall not apply to redevelopment of sites involving the removal of existing buildings.
 - 1. Required Findings.
 - (a) The applicant has provided sufficient information to evaluate the necessity of the exception and the impacts of the proposed design alternative;
 - (b) Strict compliance with design and landscaping standards is not physically feasible, due to existing structures on the site, required parking and required setbacks;
 - (c) The proposed exceptions are the minimum required to allow the proposed redevelopment, remodeling or expansion of the site; and
 - (d) The proposed design alternative and exceptions result in greater compliance with the landscape provisions, a more attractive site and greater compatibility with adjacent development than current development.

 - 2. Limitations.
 - (a) Total site landscaping has not been reduced more than 20% below the requirement for development on the site;
 - (b) Total number of parking spaces has not been reduced by more than 10% of the required spaces; and
 - (c) Parking angles, parking space width and traffic flow are sufficient to provide for the safe reduction of parking aisle widths.

SECTION 405.33 VACATION OF STREETS AND RESERVATIONS

- A. *Vacation Generally.* When deemed to be in the public interest, and where no private rights will be injured or endangered and the public will suffer no loss or inconvenience thereby, all or a portion of any street, alley or public reservation, including, but not limited to, public utility or drainage easements, dedicated building setback lines and access control, may be vacated. Applications for vacation of any street, alley or a public reservation may be made by the City or by any owner of property on which the street, alley or public reservation lies or adjoins such applications shall only be considered in conjunction with a site plan or subdivision approval.

- B. *Vacation by Platting or Replatting.* Any street, alley or public reservation, or portion thereof, but not including certain public roads, as governed by RSMo § 228.010 *et seq.*, may be vacated by a site plan, or subdivision in accordance with the provisions of these Regulations. Provided, that whenever a street, alley or public reservation has been vacated by platting or replatting, the following language, or language substantially similar to the following language, shall appear on the face of the plat:

The undersigned proprietor of said property shown on this plat does hereby dedicate for public use and public ways and thoroughfares, all parcels and parts of land indicated on said plat as streets, terraces, places, roads, drives, lanes, avenues and alleys not heretofore dedicated. Where prior fee, leasehold or easement rights have been granted to any person, utility or corporation on said parts of the land so dedicated, and any pipes, lines, poles and wires, conduits, ducts or cables heretofore installed thereupon and therein are required to be relocated, in accordance with proposed improvements as now set forth, the undersigned proprietor hereby absolves and agrees to indemnify Lake Lotawana from any expense incident to the relocation of any such existing utility installations within said prior fee, lease or easement interest.

- C. *Vacation by Ordinance.* Any street, alley or public reservation, or portion thereof, may be vacated by ordinance of the Board of Aldermen, following public notice and hearing as provided in this Chapter. Any application for vacation of any street, alley or public reservation shall be filed in the office of the Zoning Administrator. Following the adoption of any ordinance vacating any street, alley or public reservation, or portion thereof, the City Clerk shall file a copy thereof, certified by the Clerk as a true and correct copy, in the office of the Clerk and with the County Department of Records.
- D. *Reservations.* In vacating any street, alley or public reservation, or portion thereof, either by plat or by ordinance, the Board of Aldermen may reserve for the City and public utilities such rights-of-way, fee simple ownership, leases, covenants running with the land, and other easements as in the judgment of the Board of Aldermen are necessary or desirable for public purpose.
- E. *Reversion of Land Vacated.* Streets, alleys or other public reservations which have been vacated shall revert to the titled owners of adjoining properties as provided by State law.

SECTION 405.34 ADMINISTRATIVE PERMITS

- A. *Purpose.* The purpose of this Section is to provide for the administration and enforcement of these Regulations and the various technical codes adopted by the City.
- B. *Applicability.* This Chapter applies to all properties located within the City except as specifically exempted herein. No development approval, building permit or certificate of occupancy is required for minor repairs and maintenance. Unless specifically exempted, it shall be unlawful for any person, firm, partnership or corporation to:
1. Commence any land use, grade any land, engage in substantial land alteration, erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, use or occupy any structure, including docking structures, or land without first obtaining a valid

development approval including, but not limited to, any building permit or certificate of occupancy;

2. Install any plumbing or gas fitting pipes, fixtures or equipment within or on any building, structure or premises, or make any alteration, changes, or otherwise perform the plumbing or gas fitting work without first obtaining a valid building permit;
 3. Install any electrical wiring, fixtures, or equipment within or on any building, structure, or premises, or otherwise make any alteration, addition, or changes to electrical wiring, fixtures, or equipment, without first obtaining a valid building permit;
 4. Install any heating, ventilating, cooling, refrigeration equipment, or duct work, or make any alteration, addition, or changes to heating, ventilating, cooling, refrigeration equipment, or duct work, without first obtaining a valid building permit;
 5. Locate, construct, alter, place, replace, pave or surface a driveway approach without first obtaining a valid driveway permit;
 6. Install or repair any on-site sewage disposal systems or part thereof without first obtaining the approval of the County Department of Public Works, Environmental Health Division; and
 7. Construct or structurally alter any street, road, sidewalk, curb, gutter, public utility or public facility or cut, grade, clear or fill any property without first obtaining a valid grading and construction permit.
- C. *Application and Processing.* The applicant may apply for the required development approval by completing and filing the appropriate permit application form with the Zoning Administrator. The application form shall be accompanied by all necessary information as listed therein.
- D. *Development Approval and Permit Issuance.*
1. The application, plans, specifications and other data filed by the applicant for any development approval or administrative permitting shall be reviewed by the Zoning Administrator. The plans shall be distributed to and reviewed by other City departments and other applicable federal, or other state, regional, county, city agencies as necessary to ensure compliance with other applicable ordinance requirements of law. If the Zoning Administrator determines that the work described in an application and the required plans, specifications, and other data comply with these Regulations and other applicable rules, statutes and ordinances, and that all fees have been paid, the Zoning Administrator shall issue a certificate of completeness to the applicant. The Zoning Administrator shall then forward the application to the Board of Aldermen, Planning and Zoning Commission or Board of Adjustment, or retain the application if it is for a building permit, certificate of occupancy or other approval, as appropriate, for which no discretionary review is required.

2. When the Zoning Administrator issues a permit where plans or a site plan are required, the approved plans and specifications shall be endorsed or stamped "APPROVED". The approved site plan, plans and specifications shall not be changed, modified, or altered without authorization from the Zoning Administrator. All work shall be done in accordance with the approved site plan and plans.
 3. All permitted work being accomplished on City right-of-way or easements shall be covered by a payment and performance bond in the amount set by the Board of Aldermen for discretionary development approvals and shall be covered by insurance in the categories and amounts set by the respective approving authority.
- E. *Administrative Permits.* The Zoning Administrator shall review and approve or disapprove the following types of administrative permits:
1. Building - Construction, reconstruction, expansion, remodeling or other modifications to a structure;
 2. Demolition - Demolition of a structure;
 3. Construction - Construction and extension of public facilities or utilities, paving, clearing and grading, provided same are in accordance with the site plan or subdivision approval;
 4. Septic - Construction, reconstruction, expansion or repair of an on-site wastewater system, upon proof of approval by the Jackson County Department of Public Works Environment Health Division;
 5. Driveway - Construction, reconstruction or expansion of a driveway in a public right-of-way; and
 6. Grading - Change in the ground or grade level of any land.
- F. *Validity of Development Approvals.* The issuance of a development approval and the approval of plans and specifications is not an approval of any violation of any provision of these Regulations or any other City ordinance. Issuance of a development approval based on plans, specifications, and other data shall not prevent the City from thereafter requiring the correction of errors in the plans, specifications, and other data, or from preventing land use or structural operations being carried on thereunder when in violation of these Regulations or other applicable City ordinances. No development approval presuming to give authority to violate or cancel any requirement or provisions of these Regulations is valid, nor does any development approval issuance create equitable estoppel or vested rights unless such development approval was lawfully issued in good faith and has been followed with substantial land alteration and construction of a structure. No letter, promise, or representation, oral or written, or document of any city official, elected or administrative, shall create any basis for reliance or equitable estoppel unless such letter, promise, document or representation is expressly contained within the terms of the development approval for the property.
- G. *Expiration and Extension of Administrative Permit.*

1. An administrative permit expires if work authorized by the permit is not commenced within six (6) months of issuance of the permit. Extensions of up to six (6) months may be granted by the Zoning Administrator for good cause. Extensions must be requested before the permit expires.
2. An administrative permit expires if work authorized by the permit, once begun, is suspended or abandoned for more than six (6) months. A single extension of up to six (6) months may be granted by the Zoning Administrator for good cause. The extension must be requested before the permit expires.
3. After an administrative permit has expired, no work shall be recommenced until a new permit has been issued by the Zoning Administrator.

SECTION 405.35 DEVELOPMENT APPROVALS/BUILDING PERMITS

- A. *Issued Only If Public Street Access.* No administrative permit or other development approval shall be issued for and no land use shall be commenced, or any structure constructed or erected on any lot within the City, unless there is a public street giving access to the lot upon which the land use or structure is proposed to be placed, which public street conforms to roadway design guidelines pursuant to these Regulations. Private streets may provide access to the lot only if the private street was approved and properly conditioned for ongoing maintenance, repair and replacement as part of a development.
- B. *Improvements to Precede Building Permits.* No land use or erection of any structure shall be commenced until all of the required or conditioned improvements have been constructed, pursuant to the development approval, and have been inspected and approved by the Zoning Administrator. A performance and payment agreement, letter of credit or bond, if specifically authorized by the Board of Aldermen in conjunction with the development approval, may be substituted for the requirement that improvements be completed prior to commencement of a land use or construction of a structure.

SECTION 405.36 CERTIFICATES OF OCCUPANCY

- A. No certificate of occupancy shall be issued unless the building or structure substantially conforms to construction, repair and maintenance standards of the City's technical codes and these Regulations as of the date of issuance. The application for a certificate of occupancy shall contain information concerning the owner or tenant, address of the building, a description of the portions of the building and the use intended, building code verifications for the group and classification of the building or structure, and approval of the Building Inspector. A certificate of occupancy is required when:
 1. An existing building, structure or leasehold interest for occupancy is remodeled, enlarged, or altered where a building permit is required;
 2. Any new use is established or any existing use is changed; and/or
- B. A new building or structure is constructed and occupied;

3. There is a change in use which would place the building, structure or leasehold interest in a different characteristic classification for activity, function structure or site, as referenced in the Land Based Classification Standards (LBCS).
- C. No certificate of occupancy shall be issued until the building or structure is inspected by the Building Inspector and it is found that the building or structure complies with the City's technical codes and these Regulations. Where such compliance is not found, the existing owner shall repair such building or structure to meet the technical codes, the conditions of any Development Approval or Development Agreement and the requirements of these Regulations as certified by the Building Inspector prior to issuance of the Certificate of Occupancy by the Zoning Administrator.
- D. All non-residential uses of land, buildings or structures and all leased residential structures shall be required to post a surety bond or letter of credit, sufficient to meet the cost of repairs to meet the then-existing fire and building codes, including yard cleanup and replacement of required landscaping and fences, as required by the site plan pursuant to these Regulations.

SECTION 405.37 APPEALS FROM ADMINISTRATIVE INTERPRETATIONS OR DETERMINATIONS

- A. *Purpose.* An Applicant, aggrieved citizen or City representative who believes that the City has committed an error in any order, requirement, decision or refusal made by an administrative official or agency may appeal that action within 30 days of the decision or action.
- B. *Requirements for Application.*
 1. Copy of resolution or letter to appellant describing determination;
 2. Statement of reason for appeal.
- C. *Determination of Completeness.* Within 30 working days of submission, the Zoning Administrator shall review the appeal application and determine if the application is complete.
- D. *Staff Action on Application.*
 1. Upon a determination of completeness, the Zoning Administrator shall review the application and prepare a report summarizing the action being appealed. The Zoning Administrator may provide a response to the appeal for Board of Adjustment review.
 2. The Zoning Administrator shall provide published notice of the public hearing to consider the application pursuant to these regulations.
 3. The Zoning Administrator shall forward copies of the application to the Board of Adjustment.

E. *Board Action on Application.*

1. The Board of Adjustment, upon receipt of the Zoning Administrator's report, shall consider the appeal of the administrative determination.
2. If the determination is reasonable in light of the requirements of these Regulations and Missouri law, it shall be upheld.
3. A majority vote of four (4) appointed members of the Board of Adjustment shall be required to reverse an administrative determination or to decide in favor of the appellant.

CHAPTER 410 - ZONING DISTRICTS AND USES

SECTION 410.1 ESTABLISHMENT OF ZONING DISTRICTS

In order to carry out the purpose and intent of these Regulations, the City of Lake Lotawana is hereby divided into the following zoning district classifications:

- A. Estate Residential (“ER”) District
- B. Low Density Residential (“LDR”) District
- C. Medium Density Residential (“MDR”) District
- D. Lakeside Residential (“LR”) District
- E. Townhouse Residential (“THR”) District
- F. Neighborhood Commercial (“NC”) District
- G. Highway Commercial (“HC”) District
- H. Office Technology Center (“OTC”) District
- I. Planned Development (“PD”) District (Ord. No. 883 §1, 3-17-09)

SECTION 410.2 ESTABLISHMENT OF ZONING OVERLAY DISTRICTS

An overlay zoning district may be established addressing special siting, use and compatibility issues which require use and development regulations in addition to those found in the underlying zoning districts. If any regulation in an overlay zoning district requires lower densities, greater setbacks, or otherwise imposes more restrictive requirements than those required by the base zoning district, both the additional and the more restrictive requirement shall apply. The zoning designation of property located within an overlay district shall consist of the regular zone symbol preceded by the overlay district symbol as a prefix. Overlay districts may be created for transportation corridors, floodplains, environmentally-sensitive lands, quarries, sand or gravel excavations, and stream corridors. A Quarry or Sand or Gravel Excavation Overlay District (QSGD) has been created in these Regulations.

SECTION 410.3 ZONING MAP

- A. *Adoption of Official Zoning Map.* The Official Zoning Map (Zoning Map) and the explanatory material thereon is hereby adopted by reference and declared to be a part of these Regulations. Such Zoning Map and all the notations, references and other matters shown on the Map shall be as much a part of these Regulations as if the notations, references and other matters set forth by said Map were all fully described in the Zoning Regulations. The Zoning Map shall be on file in the office of the City Clerk and shall bear the signature of the Mayor attested by the City Clerk under certification as the Official Zoning Map.

- B. *Zoning Map District Boundaries.* The boundaries of zoning districts within these Regulations are as indicated upon the Zoning Map. Whenever the City approves an amendment to the Zoning Map, such amended Zoning Map is made a part of these Regulations by reference.
- C. *Changes in Zoning Map.* No change in the Zoning Map shall be made except in accordance with these Regulations. All such changes, together with the ordinance number and the date of change, shall be promptly recorded on the Zoning Map by the City Clerk, with the signature of the Mayor. No amendment to these Regulations which involves changes to the Zoning Map shall become effective until after such change and entry have been made. In the event that the Zoning Map becomes damaged or destroyed, or for purposes of clarity due to a number of boundary changes, or to correct drafting errors or omissions, the Board of Aldermen may, from time to time, adopt a new Zoning Map which shall supersede the prior Zoning Map, provided, however, that the adoption of a new Zoning Map as set forth above shall not have the effect of amending any district boundary.
- D. *Maintenance of Zoning Map.* The City Clerk shall maintain the Zoning Map.
- E. *Interpretation of the Zoning Map.* Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:
- (1) Boundaries indicated as following streets, highways, alleys or other public rights-of-way shall be construed to follow the centerlines thereof.
 - (2) Boundaries indicated as following platted lot lines shall be construed as following the lot lines.
 - (3) Boundaries indicated as approximately following section lines, quarter lines, quarter section lines, or quarter-quarter section lines shall be construed as following the lines.
 - (4) Boundaries indicated as following corporate limits shall be construed as following corporate limits.
 - (5) Boundaries indicated as following the rivers, streams, creeks or other waterways shall be construed to follow the centerlines.
 - (6) Boundaries not capable of being determined in the previous paragraphs shall be as dimensioned on the Zoning Map or, if not dimensioned, shall be determined by the scale shown on the Zoning Map.
 - (7) Where a district boundary divides a lot of record, the Planning and Zoning Commission may permit, as a conditional use permit, the extension of the district regulations for either portion of the lot to the remaining portion of the lot, provided that the district regulations may not be applied for a distance greater than fifty (50) feet beyond the established district boundary line.

- (8) Where physical features are at variance with those shown on the Zoning Map, or in other circumstances not covered by the foregoing, the Zoning Administrator shall interpret the district boundaries subject to appeal to the Planning and Zoning Commission, consistent with the land use maps, goals, objectives, policies and actions as set forth in the City's adopted Comprehensive Plan.

SECTION 410.4 ZONING DISTRICT PURPOSES

These Regulations are made in accordance with and shall be consistent with the adopted Comprehensive Plan for the City. The City is zoned in districts that are established to achieve the general purposes set forth in these Regulations as defined by each district's purpose set forth below.

- A. *Estate Residential District.* The ER District is designated, for very low density residential living in rural subdivisions. Any land zoned ER shall have adequate access to an approved public road, but should not be located where urban level services, including public facilities, will be provided.
- B. *Low Density Residential District.* The LDR District is designated for low density residential living in exurban subdivisions, and provides a transition between the ER District and the MDR District. No land shall be rezoned to LDR where urban level services, including public facilities are provided. Any land zoned LDR shall have adequate access to an approved public road.
- C. *Medium Density Residential District.* The MDR District is designated for medium density residential suburban living as a transition between Estate Residential and Low Density Residential; and Townhouse Residential, Neighborhood Commercial, Highway Commercial and Office Technology. Land rezoned to MDR shall have adequate public road access, and, if constituting a clustered subdivision or through an approved Planned Unit Development district may be approved for centralized water and wastewater facilities.
- D. *Lakeside Residential District.* The LR District is the equivalent of the City's prior "R-1" Residential District and is intended for higher density single family detached development around Lake Lotawana.
- E. *Townhouse Residential District.* The THR District is designated for attached single-family dwellings, and offers opportunities to provide for a variety of housing needs in the Milton Thompson area. Clustering may be permitted, through subdivision or through an approved Planned Unit Development district. Land designated THR shall have access to arterial roads and adequate community facilities.
- F. *Neighborhood Commercial District.* The NC District is designated to provide for limited office and professional services with accessory retail uses, designed in scale with surrounding residential uses. Land zoned to NC shall have access to adequate public arterial roads and adequate public facilities.
- G. *Highway Commercial District.* The HC District is designated for highway intensive and localized commercial activities serving the community and surrounding areas. Land zoned to HC shall have access to adequate public facilities including arterial roads and sanitary sewer systems.

- H. *Office Technology Center District.* The OTC District is designated for office and high technology land uses located in a park like setting. Land zoned to OTC shall have access to adequate public facilities including arterial roads and sanitary sewer systems.
- I. *Planned Development District.* The PD is a floating zone district intended to provide for mixed use developments with a long term or multiphased buildout. A PD requires an application for rezoning to the “PD” district and other approvals as established in §420.2. Approved PD districts will be designated as “PD” on the Official Zoning Map. (Ord. No. 883 §2, 3-17-09)

SECTION 410.5 ZONING DISTRICT USES

- A. *Uses Authorized in Zoning Districts.* The uses listed in **Exhibit 410-A** are authorized for each zoning district.

P

Permitted Uses. A “P” designates that the listed use is allowed as of-right within the respective zoning district. Permitted uses are subject to all applicable standards of these Regulations.

C

Conditional Uses. A “C” designates that the listed use is allowed within the respective zoning district only after review and approval of a Conditional Use Permit, in accordance with the review procedures of these Regulations. Conditional uses are subject to all applicable standards of these Regulations.

N

Nonauthorized Uses. An “N” designates that the listed use type is not allowed within the respective zoning district.

A

Accessory Uses. An “A” designates that the listed use type is only permitted as an accessory or secondary use incidental to the principal permitted use.

OZ

Overlay Zoning District. An “OZ” designates that an overlay zoning district is required.

- B. *Uses Not Listed in Zoning Districts.* The uses listed in Exhibit 410-A as authorized for each zoning district are general categories. For any use not explicitly listed as authorized in a zoning district, the Zoning Administrator shall make a determination if such non-listed proposed use may or may not be interpreted to be within the general category of a listed use, by reference to the Comprehensive Plan and use categories. Interpretations shall be approved by the Planning and Zoning Commission at the next regularly scheduled meeting, subject to appeal to the Board of Aldermen. An appeal to the Board of Aldermen may be made by the applicant, any contiguous neighborhood association, any aggrieved person with standing or the Planning and Zoning Commission, Zoning Adjustment or the Board of Aldermen certifying the matter for appeal.
- C. *Prohibited Conversions.* Unless expressly provided for in these Regulations, no land shall be used and no structure shall be erected for, or converted to, any use other than those authorized for the district in which the use is located. No structure or portion thereof designed and constructed as a residential structure shall be changed to a non-residential use, except pursuant to a use variance granted by the Board of Adjustment in accordance with these Regulations, or a change in the zoning district pursuant to an amendment to the Zoning Map approved consistent with these Regulations and with the Comprehensive Plan. An amendment to the Comprehensive Plan shall be required prior to the approval of a change in the Zoning Map. Use

variances shall only be granted if consistent with the goals, objectives and policies of the Comprehensive Plan, unless such use variance is constitutionally required to avoid a regulatory taking of the property.

SECTION 410.6 AUTHORIZED USES IN “LAKESIDE RESIDENTIAL” DISTRICTS

In District “Lakeside Residential”, no structure or land shall be used, and no building or structure shall be erected, altered, enlarged or moved, except for one (1) of the following categories:

- A. Dwellings. Designed exclusively for occupancy by and providing living quarters for only one (1) family.
- B. Parks and recreational areas.
- C. Churches and community structures.
- D. Fire stations, Police stations, public schools, libraries, museums or other public structures, or uses owned or controlled and operated exclusively by the City of Lake Lotawana.
- E. Home occupation is subject to the following conditions:
 - (1) Any such occupation must be conducted by a person in the dwelling used by him/her as his/her private residence.
 - (2) Only resident members of the immediate family of the person conducting the home occupation may be employed in such occupation.
 - (3) The residential appearance of the dwelling in which any such occupation is conducted shall not be changed in any way.
 - (4) No window display or window sign shall be allowed, nor shall any sign of any kind be placed on or around the dwelling or on the lot, parcel or tract other than a non-illuminated yard sign not more than two (2) square feet in area which may be used to advertise any such occupation.
 - (5) Adequate off-street parking must be provided.
 - (6) Only electric power shall be used in conducting any such occupation and no electric motor in excess of one (1) horsepower shall be used therein.

Exhibit 410-A: Authorized Uses

Use Category	Definition	Specific Use Type	Zoning Districts							
			ER	LDR	MDR	LR	THR	NC	HC	OTC
RESIDENTIAL:										
Household Living	Residential occupancy of a dwelling unit by a "household"	Single-Family Detached	P	P	P	P	P	N	N	N
		Single-Family Attached	N	N	N	N	P	N	N	N
		Accessory Structure	P	P	P	N	N	N	N	N
Group Living	Residential occupation of a structure by a group of people who do not meet the definition of "Family"	Group Home (10 or fewer residents)	N	C	C	N	C	N	N	N
INSTITUTIONAL & CIVIC:										
Clubs		Fraternal Lodges, Meeting Hall	N	N	N	C	N	C	C	C
College	Colleges & institutions of higher learning	Vocational/Technical Schools	N	N	N	N	N	C	C	C
		All Other Schools	N	N	N	N	N	C	C	C
Community Service	Uses providing a local service to the community	Community Activity Structure	N	N	N	C	N	C	C	C
Home Occupation	Home based businesses that comply with the standards for home occupations.	Home Occupations	A	A	A	A	A	N	N	N
Cultural	Establishments that document the social structures and intellectual and artistic manifestations that characterize a society	Museums, Art Galleries, Opera Houses, Libraries	N	N	N	N	N	C	C	C
		Library	N	N	N	N	N	C	C	C
Day Care	Care, protection & supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day	Day Care Center (more than 6 children (to age 18) or adults)	N	N	N	N	N	C	C	C

Use Category	Definition	Specific Use Type	Zoning Districts							
			ER	LDR	MDR	LR	THR	NC	HC	OTC
		Day Care Home · 1-5 children or adults	P	P	P	P	P	N	N	N
Health Care	Uses providing medical, dental or surgical care to patients and alternative medical care	Clinics/Medical/Dental Offices	N	N	N	N	N	C	C	C
		Counseling Centers (non-resident)	N	N	N	N	N	C	C	C
		Hospital/Mental Hospital, Sanitarium, Nursing Home	N	N	N	N	N	N	C	N
		Physical and Mental Rehabilitation (resident)	N	N	N	N	N	C	C	N
Parks & Open Space	Natural areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, etc.	Cemetery	N	N	N	N	N	N	N	N
		Parks/Lakes/Reservoirs	P	P	P	P	P	C	C	N
Religious Assembly	Meeting area for religious activities	Small (seating capacity no more than 150)	C	C	C	N	C	C	P	P
		Large (seating capacity more than 150)	N	N	C	N	C	C	P	P
Safety Services	Public safety and emergency response services	Fire, Police, EMS and rescue facilities (excluding training towers and firing ranges)	C	C	C	C	C	P	P	P
Schools	Schools at the pre-primary, primary, elementary, middle, junior high, or high school level; other schools of instruction except colleges and vocational schools	Nursery or Pre-School	A*	A*	A*	N	A*	C	C	C
		Dance/Art/Music Schools	N	N	N	N	C	C	C	C
		Elementary Schools	N	N	C	N	C	N	N	N
		Private & Parochial School	N	N	C	N	C	N	N	N
		Secondary Schools	N	N	C	N	C	N	N	C

Use Category	Definition	Specific Use Type	Zoning Districts							
			ER	LDR	MDR	LR	THR	NC	HC	OTC
		All Other Schools	N	N	N	N	C	C	C	C
		<i>* Accessory to a church or school or other permitted principal non-residential use.</i>								
Utilities	Infrastructure services that need to be located in or near the area where the service is provided	Utility Service Lines and appurtenances	P	P	P	P	P	P	P	P
		Water and Sewage Treatment	C	C	C	C	C	C	C	C
		All Other Utility, Basic Public Water Supply	C	C	C	C	C	C	C	C
Utility Corridors	Passageways for transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services including transmission lines	Transmission Lines	C	C	C	C	C	C	N	N
		Utility Treatment Production or Service Facilities such as Commercial Electricity Generating Plants and Sewage Treatment	C	C	C	C	C	C	C	C
Lodging	Hotels, motels and similar establishments	Bed & Breakfast Inn	N	N	N	N	N	C	C	N
		Hotels / Motels	N	N	N	N	N	C	C	C
COMMERCIAL:										
Office	Activities conducted in an office setting and generally focusing on business, government, professional or financial services	General Offices	N	N	N	N	N	C	C	C
		Government Offices / Structures / Facilities	N	N	N	N	N	C	C	C
		Research /Technology Facilities	N	N	N	N	N	C	C	C
Recreation & Entertainment	Generally large commercial uses that provide continuous recreation or entertainment-oriented activities	Bowling Alley, Billiard Parlor	N	N	N	N	N	N	C	N
		Campgrounds & Travel Trailer	N	N	N	N	N	N	C	N

Use Category	Definition	Specific Use Type	Zoning Districts							
			ER	LDR	MDR	LR	THR	NC	HC	OTC
		Park								
		Dance Hall	N	N	N	N	N	N	C	N
		Miniature Golf	N	N	N	N	N	N	C	C
		Gun Clubs · Shooting Ranges (indoor) · Shooting Ranges (outdoor)	N N	N N	N N	N N	N N	N N	C N	N N
		Swimming Pools (Accessory to a dwelling) Swimming Pool as Principal use	P C	P N	P N	P N	P N	C C	C C	N C
		Theater	N	N	N	N	N	C	C	C
Retail Sales & Service		Alcohol Sales, retail	N	N	N	C	N	C	C	N
		Alcohol Sales, by the drink (primary use), Bar, Tavern	N	N	N	C	N	C	C	N
		Alcohol Sales, in restaurant	N	N	N	C	N	C	C	N
		Antique & Art Shops	N	N	N	C	N	C	C	N
		Book, Candle Gift Shops	N	N	N	N	N	P	P	P
		Clothing	N	N	N	N	N	P	P	P
		Contractors and Trade Shops · Indoor operations and storage · Indoor operations and outdoor storage (including heavy vehicles)	N N	N N	N N	N N	N N	N N	P C	P N
		Delivery & Dispatch Services	N	N	N	N	N	C	C	C

Use Category	Definition	Specific Use Type	Zoning Districts							
			ER	LDR	MDR	LR	THR	NC	HC	OTC
		(vehicles on-site)								
		Drive-thru /Drive-in Facility	N	N	N	N	N	C	A	N
		Farm Implement Sales/Service	N	N	N	N	N	N	C	C
		Fertilizer Sales - Outside-open yard fenced	N	N	N	N	N	N	C	N
		Food Service								
		· Sit-down Restaurant	N	N	N	C	N	C	P	C
		· Drive-thru Restaurant	N	N	N	N	N	C	C	N
		· Drive-In Restaurant	N	N	N	N	N	C	C	N
		· Catering	N	N	N	C	N	C	P	C
Retail Sales & Service (cont'd)		General Retail of Goods								
		· Indoor operations, display and storage	N	N	N	N	N	P	P	A
		· Outdoor operations, display or storage	N	N	N	N	N	C	C	N
		Grocery								
		· Neighborhood (less than 50,000 square feet)	N	N	N	N	N	P	P	N
		· "Big Box" (50,000 square feet and larger)	N	N	N	N	N	N	C	N
		Ice Cream, Confectionary, Dairy	N	N	N	N	N	C	C	N
		Landscaping Materials	N	N	N	N	N	N	C	N
Laundry										
· Self-Service	N	N	N	N	N	C	C	N		
· Cleaning, dyeing	N	N	N	N	N	C	C	N		
Nursery, Greenhouse	N	N	N	N	N	N	C	N		
Rental Services										
· Indoor/Outdoor display /	N	N	N	N	N	N	C	N		

Use Category	Definition	Specific Use Type	Zoning Districts							
			ER	LDR	MDR	LR	THR	NC	HC	OTC
		storage								
		Repair Services, Appliances	N	N	N	N	N	C	C	N
		Services · Personal Services · General Services	N N	N N	N N	N N	N N	C C	C C	C C
		All Other Retail Sales and Service	N	N	N	N	N	N	C	N
Self-Service Storage	Uses providing separate storage areas for individual or business uses, including boats	Mini-Warehouse	N	N	N	N	N	N	C	N
Telecommunication		Commercial Microwave, Radio and Television Towers	C	C	C	C	C	C	C	C
Vehicle Service, Limited	Direct service to motor vehicles	Auto Mechanical Repair/Service	N	N	N	N	N	C	C	N
		Body Shop	N	N	N	N	N	C	C	N
		Car Wash	N	N	N	N	N	C	C	N
		Gasoline Sales/No Service	N	N	N	C	N	C	C	N
OTHER:										
Animals		Small Animal Care/Sales · Kennel, Indoor · Kennel, Outdoor · Animal Hospital	N N N	N N N	N N N	N N N	N N N	C C C	C C C	N N N
Temporary Uses		Structure · Construction Office · Trailer	C	C	C	C	C	C	C	C
Agricultural	Raising, producing or keeping of	Agricultural Service	N	N	N	N	N	C	C	N

Use Category	Definition	Specific Use Type	Zoning Districts							
			ER	LDR	MDR	LR	THR	NC	HC	OTC
	plants or animals and related agricultural activities	Establishments								
		Wholesale Nursery, Garden	N	N	N	N	N	C	C	N
		Roadside Stand (sale of goods produced on premises)	P	P	N	N	N	N	N	N
		Farm Dwelling for Agricultural Employees	A	N	N	N	N	N	N	N
Agricultural (cont'd)		Grain & Seed Sales	N	N	N	N	N	C	C	N
		Stables - Private	P	C	N	N	N	N	N	N
		Milling Structures Related to Agriculture	N	N	N	N	N	N	N	N
Excavation Activities		Quarry	OZ	OZ	OZ	N	OZ	OZ	OZ	OZ
		Sand or Gravel Excavation	OZ	OZ	OZ	N	OZ	OZ	OZ	OZ
		Substantial Land Alteration	C	C	C	C	C	C	C	C

(Amended by Ord. 864 §1, 3-18-08)

- F. Garages or carports for the shelter of one (1) or more motor vehicles subject to the following restrictions and limitations:
- (1) Every garage or carport shall be attached to a dwelling, except as provided in this section;
 - (2) A garage may be unattached if all of the following conditions are met:
 - (a) The garage is the only structure on the lot it occupies;
 - (b) The garage is not used as a dwelling;
 - (c) The garage does not have any toilet facilities, septic system, outhouse, privy or a connection to a sewer or sewer line;
 - (d) The garage is not taller than one and one-half stories;
 - (e) The garage is of residential construction and appearance;
 - (f) The garage maintains twenty (20) foot setbacks from street side property lines and right-of-way; and
 - (g) A restrictive covenant, in form and content satisfactory to the City Attorney, is recorded against the property in the office of the County Recorder and provides that the use of the lot on which the garage is located shall be used only as a residential garage for the residents of a lawful dwelling located on a lot of record in the City, and that such lot may not be separated, subdivided or split-off from the lot on which the residential dwelling is located. After the restrictive covenant is recorded, a copy shall be provided to the City.
 - (3) Every garage shall have a minimum size of two hundred forty (240) square feet and a maximum size of one thousand one hundred twenty (1,120) square feet;
 - (4) Every carport shall have a minimum size of two hundred forty (240) square feet and a maximum size of eight hundred forty (840) square feet.
- G. Temporary sheds used in connection with the construction of permitted structures may be maintained on any lot during the course of any such construction on said lot, except that any such shed shall be removed within thirty (30) days after occupancy of the permitted structure.
- H. A "For Sale" or "For Rent" sign not larger than four (4) square feet in area may be placed in the yard of any lot for the purpose of advertising the offering for sale or rent of such lot and any improvements thereon.
- I. No lot or land in the "Lakeside Residential" District shall be used for the construction, maintenance or use of a road, driveway or access way which would provide ingress and egress from areas outside the "two (2) feet reserve" (commonly referred to as the perimeter road or zone) to the private roads designated "Lake Roads" on the recorded plat of "Lake Lotawana".
- J. Docks.
- K. Boathouse.

SECTION 410.7 NON-CONFORMING USES, STRUCTURES AND LOTS

- A. *Purpose, Generally.* Within the City there exist uses of land and structures which were lawful prior to the adoption of these Regulations, but which do not conform with the uses or area requirements of such land or structures permitted by these Regulations, and there exist structures which do not comply with one or more of the applicable district regulations. The purpose and intent of these Regulations is to permit these lawful non-conforming uses and non-complying structures to continue until they are removed or abandoned, but not to encourage their continuation or expansion.
- B. *Continuation of Non-Conforming Uses and Non-Complying Structures.*
- (1) It is the intent of these Regulations that non-conforming uses and non-complying structures may not be enlarged, expanded or extended except under specific limited conditions.
 - (2) Any nonconforming use of land or structure may be changed only to a conforming use, provided that the change complies with minimum lot development standards as identified in Section 415.01 of these Regulations.
 - (3) The existence of a non-conforming use on part of a lot or tract shall not be considered to have established a non-conforming use on the entire lot or tract.
 - (4) The casual, temporary or illegal use of a structure or land, or both, shall not establish the existence of a non-conforming use.
- C. *Completion of Non-Conforming Projects.* For any structure the construction of which was lawfully begun prior to the effective date of adoption of these Regulations or amendment of these Regulations as a result of which the proposed use, area requirement or the design of any structure or the structure or lot becomes non-conforming or non-complying, no change in the plans or construction for or use of such structure or lot shall be required provided that the owner of such lot or structure demonstrates to the Zoning Administrator that actual construction was begun before the adoption or amendment and has been diligently continued.
- D. *Non-Conforming Lots of Record and Use, Generally.*
- (1) A legally established subdivision lot or any other legally established lot of official record which became non-conforming as the result of adoption of these Regulations or which subsequently becomes non-conforming as a result of amendments to these Regulations, may be developed for any permitted, conditional or accessory use identified within the applicable district regulations.
 - (2) All development on non-conforming lots shall comply with all applicable district regulations.
 - (3) If development in accordance with lot development standards is not possible, the property owner shall comply with the area regulations of the closest conforming district whose area regulations would permit development on the lot. If the plat specifies

building setbacks, development of vacant non-conforming lots shall comply with the setbacks set forth in these Regulations to the greatest extent possible. A parcel of land with an area less than that required for the applicable zoning district may be used for any purpose permitted in the zoning district if:

- (4) The owner is able to demonstrate to the satisfaction of the Board of Adjustment that the parcel was lawful at the time it was created;
 - (a) There is no reasonable method by which the non-conforming lot may become conforming, such as the addition of adjoining land under the same ownership;
 - (b) The use meets all other regulations prescribed for the zoning district prior to occupancy or use; and
 - (c) The proposed use can be developed in a safe manner that adequately provides for water and wastewater facilities in conformance with these Regulations.
- (5) Development of non-conforming lots without connection to a sewer system or centralized sewage treatment system will not be authorized unless the applicant can demonstrate compliance with the requirements of the Jackson County Department of Public Works for private on-site wastewater treatment systems. If lot areas are insufficient for on-site sewage disposal systems, the City may approve the use of reserved off-site drain fields, if permitted by applicable County regulations.

E. *Exceptions.*

- (1) *In the Lakeside Residential (LR) Zoning District.* Notwithstanding any other provision of these Regulations, any lot in the Lakeside Residential District lawfully established and existing prior to the effective date of adoption or amendment of these Regulations shall be considered to be a conforming lot of record. Any structure lawfully erected and existing on a conforming lot of record prior to the effective date of adoption or amendment of these Regulations shall be considered to be conforming. In the Lakeside Residential District, a single-family dwelling may be located on a lot of record lawfully established irrespective of the lot area or width.
- (2) *In the Estate Residential (ER) Zoning District.* Notwithstanding any other provision of these Regulations, any lot in the Estate Residential District lawfully established and existing prior to the effective date of adoption or amendment of these Regulations shall be considered to be a conforming lot of record.
- (3) Where a single family residence is a lawful non-conforming use, the owner shall be allowed to construct a private garage or sanitary facility, provided that such garage and/or sanitary facility shall comply with all density and dimensional requirements of the zoning district in which it is located and all other applicable codes of the City and in accord with County Health regulations.

F. *Certificate of Non-Conforming Use.*

- (1) Any property owner who has an existing lawful nonconforming use as of the date of adoption of those Regulations shall apply to the Board of Adjustment for a certificate of non-conformity, within three (3) months after receipt of written notice from the Zoning Administrator. Failure to so apply shall constitute an abandonment of any lawful non-conforming use status under these Regulations. Receipt of a certificate of non-conformity shall be evidence that the use is a lawful non-conforming use which shall be permitted to continue until it has been terminated by non-use for a period of six (6) months or longer, or by abandonment or by other evidence of termination.
- (2) Evidence of the status of a non-conforming use of a structure or land shall be supplied by the owner of the property to the Board of Adjustment. Evidence of non-conformity predating the date of adoption of these Regulations shall be in the form of maps or photographs; repair and maintenance bills and receipts giving proof of the non-conformity's date of existence; remodeling, mechanical and electrical equipment contractors' receipts for installation and construction affecting the non-conformity; bills of sale and contracts; and any other testimonial or documentary evidence that the Board of Adjustment deems appropriate to the non-complying structure, or non-conforming land use or use of a structure. Such evidence shall be provided by the applicant and included with the application, on forms provided by the Zoning Administrator.
- (3) The Board of Adjustment shall review the applicant's evidence of pre-existing, non-conforming status and determine if the non-conforming use was lawfully created under applicable County or City regulations and was not abandoned pursuant to the provisions of these Regulations. When such a determination is made, the Board of Adjustment shall issue a certificate to the applicant verifying the nature of the non-conformity, the date upon which the non-conformity occurred, and the legal description of that portion of the property, in whole or in part, subject to the lawful non-conforming use and detailed maps showing the actual location of the area of non-conformity in relation to the entire area of the property and written findings of facts supporting the determination. An official copy of the certificate of non-conformity shall be filed with the City Clerk.

G. *Remodeling, Repair and Maintenance.*

- (1) Normal maintenance and minor repair of a lawful non-conforming structure shall be permitted.
- (2) If a structure with a lawful non-conforming use is damaged, by any means, to the extent of 50% or less of its fair market value, as determined by an appraiser, the structure may be repaired and the non-conforming use may be restored provided that the work is commenced within six (6) months from the date of the damage and completed within one (1) year thereafter.

- (3) Except for schools and churches, a structure with a lawful non-conforming use that has been destroyed by more than 50% of fair market value shall not be repaired, reconstructed, moved or altered except in conformity with all of the applicable district regulations.
 - (4) If remodeling costs of a structure with a lawful non-conforming use in any continuous twelve (12) month period exceed 50% of the fair market value of the structure, the structure shall be brought into conformance with these Regulations.
- H. *Replacement by Conforming Use.* Any structure, or structure and land in combination, in which a lawful nonconforming use is replaced by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed.
- I. *Abandonment and Discontinuance.* Except for agricultural activities located in the Estate Residential District, whenever a lawful non-conforming use has been (1) discontinued for a continuous period of six (6) months or longer, or (2) was abandoned by the intent, oral or written, of the owner of the property or operator of the use, such use and any other non-conforming use shall not be re-established, but such non-conforming use shall be deemed to be abandoned, and any further use of the property shall be in conformance with all of the applicable district regulations. Evidence of intent to abandon the non-conforming use is not required.

CHAPTER 415 - DESIGN AND PERFORMANCE STANDARDS

SECTION 415.1 DENSITY AND DIMENSIONS GENERALLY

Density and dimensional standards for new lot development in the City are shown in **Exhibit 415-A**, except as provided in other sections of these Regulations.

- A. Every lot shall meet all minimum required yards and setbacks, except for permissible accessory buildings or structures in the rear yard and as further provided in these Regulations
- B. Topography, hydrology or other unusual conditions may require reduced densities, greater setbacks, greater lot sizes or reduced lot coverage.
- C. Minimum zoning district and lot requirements defining lot sizes and dimensions shall be accommodated without creating unusable lot remnants or flag lots.
- D. Adequate building sites suitable to the special needs of the type of land use (residential, commercial or office-technology) proposed for development shall be provided, taking into consideration topographical and drainage features.
- E. Floor Area (All Residential Districts): The minimum main floor area of a dwelling having one (1) story and a full basement shall be nine hundred (900) square feet. One story dwellings without basements shall have a minimum main floor area of one thousand two hundred (1,200) square feet. The minimum main floor area of a two (2) story dwelling shall be nine hundred (900) square feet. No basement only or sod houses shall be constructed at any place in the LR District.

SECTION 415.2 DENSITY

Maximum density is measured as the number of dwelling units per acre of land and is measured by dividing the number of dwelling units on a lot or parcel by the parcel's net area (in acres), except in Townhouse Residential District which shall utilize the gross area of the lot or parcel.

SECTION 415.3 BLOCKS

In general, intersecting streets, determining block lengths, shall be provided at such intervals as to serve cross traffic adequately and shall not exceed six hundred (600) feet in cul-de-sac neighborhood. Pedestrian ways and/or easements through the block may be required to serve nearby public facilities. Such pedestrian ways shall have a minimum width of six (6) feet and paved full width.

Exhibit 415-A: Lot Development Standards

Zoning District	Maximum Density (dwelling units per acre)	Minimum Lot Size (per dwelling unit)		Minimum Setbacks				Maximum Height ⁽¹⁾	Maximum Impervious Surface
		Lot Area	Lot Width	Front	Side	Rear ⁽¹⁾	Side (corner)		
ER	1 DU per 5 acres	5 acres	300'	50'	25'	50' / 20'	50'	35' / 25'	10% / 20% ³
LDR	1 DU per acre	1 acre	200'	50'	25'	50' / 20'	50'	35' / 25'	20%
MDR	2 DUs per acre	.5 acre	100'	35'	25'	35' / 20'	35'	35' / 25'	30%
LR	2 DUs per acre	6,000 s.f.	50'	25' ^{6,8}	5'	20' ⁷	20'	35'	65%
THR Single-family Detached	4 DUs per acre	10,000 s.f.	75'	25'	15'	20'	20'	35'	30%
THR Single-family Attached	8 DUs per acre	5,000 s.f.	100'	25'	25' ^{**}	25' ²	20'	35'	30%
NC	⁽⁴⁾	20,000 s.f.	150'	25'	25'	25'	25'	35'	50%
HC	⁽⁴⁾	50,000 s.f.	150'	50'	25'	25'	25'	35'	80% ⁵
OTC	⁽⁴⁾	100,000 s.f.	300'	50'	50'	50'	50'	35'	50%

Notes: 1 - Principal use/ accessory use
 2 - A minimum of 25' must be provided between multi-family structures.
 3 - Lots 1 to 4.99 acres limited to 20%; Lots 5 acres or more limited to 10%.
 4 - Not applicable.
 5 - The Planning & Zoning Commission and the Board of Alderman may modify the allowable Maximum Impervious Surface for HC Zoning (either up or down)

when considering such proposed features as parking area, landscaping and buffer yards. In any case, storm water detention must be sized to accommodate discharge.

6 - Sundecks may extend into the setback but may not be closer than 15' from the property line (all property tiers).

7 - The following applies to lakefront properties only:

(1) If the paved edge of the roadway is beyond the rear property line, then the rear setback is 20' from the edge of the paved roadway or rear property line, whichever is closer.

(2) If the paved edge of the roadway is inside the rear property line, then the rear setback is 20' from the edge of the roadway.

8 - The following applies to lakefront properties only: The first tier front setback shall be as stated in the Exhibit unless a lesser setback is approved in writing by the Association Lake Improvement Board. (Ord. No. 911 §1, 3-16-10)

SECTION 415.4 LOT AREA

Lot area is measured as the net amount of contiguous land area (except for Townhouse Residential) contained within the property lines of a lot or parcel, not including streets or rights-of-way, floodways, wetlands, ponds or slopes in excess of 20 percent for new lots. No zoning or building permit or development approval shall be issued for a lot that does not meet the minimum lot requirements of these Regulations except that the minimum lot area standards of these Regulations shall not prohibit the construction of a detached dwelling unit on a lot that was legally platted or recorded before the adoption of these Regulations, provided that the dwelling unit is constructed in compliance with all applicable dimensional standards and meets the minimum health and safety standards for water and wastewater facilities and private sewage disposal systems.

SECTION 415.5 LOT WIDTH

Lot width is measured between side lot lines along a line that is parallel to the front lot line at the front setback.

SECTION 415.6 LOT FRONTAGE

Street or lot frontage is measured between side lot lines along the front lot line.

SECTION 415.7 SETBACKS

- A. The Board of Aldermen, upon recommendation of the Planning and Zoning Commission, is authorized and empowered to establish, regulate and limit and amend, by ordinance, building or setback lines from the existing or planned future right-of-way for streets, stream corridors or public improvement as shown on the Major Street plan and to prohibit any new structure being located within such building or setback lines.
- B. Setbacks are measured between the furthestmost projection of a structure and the nearest property line of the lot on which the structure is located. Setbacks must be unobstructed from the ground to the sky except as specified in this Chapter. The setback of the structure from front, side and rear lot lines shall be measured at right angles from the lot line to the nearest point of the adjacent structure wall. The following features may encroach into the required setbacks of residential districts:
 - (1) Flag poles, fire escapes, mail boxes, fences or walls, driveways, curbs and sidewalks;
 - (2) On site sewage disposal (septic) systems, and underground utilities;
 - (3) Signs not greater than four (4) square feet in area and authorized under these regulations;
 - (4) For side setbacks only uncovered, unenclosed terraces or porches, and ornamental features which do not extend more than three feet above the finished ground level.
 - (5) Half court basketball courts pursuant to a Conditional Use Permit to be issued by the Board of Alderman.
- C. Landscaping and light fixtures;

- (6) Easily moveable appliances and furniture.

SECTION 415.8 MERGED LOTS

- A. A structure shall not be constructed across the property line(s) of two or more contiguous lots. However, if the placement of a proposed structure would otherwise cross the property line of two or more contiguous lots held by the same owner, prior to the issuance of a building permit, the property owner must apply for and receive a voluntary lot merger or lot line adjustment to move or eliminate the property line in question. The lot line adjustment process only may be used if the resulting parcels will comply with lot development standards of the land use district in which the parcels are located.
- B. Lots that are adjoining and held in common ownership, or under the control of the same owner, shall be treated so as to conform so far as possible with the minimum area requirement of the zoning district in which they are located. No lot so merged, or portion thereof, may be changed or transferred in any manner that will increase the degree of nonconformity unless a special permit has first been obtained from the Board of Adjustment. No such special permit may create any additional buildable lot(s).

SECTION 415.9 BULK PLANE

For any building on a lot or parcel abutting a single family residence, the building setbacks must be increased by at least 1 foot for each foot of height in excess of 35 feet.

SECTION 415.10 LOT COVERAGE

All structures hereafter designed or erected and existing structures which may be reconstructed, altered, moved or enlarged shall not exceed the maximum structure coverage regulations of the district in which they may be located. Lot coverage is measured as the percentage of the total lot area covered by structures and other impervious surfaces. It is calculated by dividing the square footage of impervious surface by the square footage of the lot.

SECTION 415.11 BUILDING HEIGHT

All buildings or structures shall comply with the height regulations pursuant to these Regulations. Zoning district height limits may be exceeded for belfries, cupolas, church spires, domes, monuments, airway beacons, radio/communication towers, fire towers, water towers, structures for essential services, monuments, stage towers or scenery lots, windmills, flagpoles, chimneys, radio/television receiving antennas or chimney flues subject to a Conditional Use Permit to be issued by the Board of Aldermen and in no event to be higher than twice the legal required height of the principal structure on the lot, tract or parcel; provided however that no such structure shall be permitted to extend into approach zones, clear zones, or other restricted air space for the protection of any public airport.

SECTION 415.12 NOISE

- A. *Noise Levels.*
 - (1) Noise level readings shall be taken at the point of measurement. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness or intensity. The sound pressure level of noise in an octave band frequency radiated continuously from a facility shall not exceed the values indicated in **Exhibit 415-B**.

Exhibit 415-B: Permitted Noise Levels

Duration of Sound	7:00am to 6:00pm (All Districts)	6:00pm to 10:00pm (Residential District) or 6:00pm to 7:00am (Non-Residential Districts)	10:00pm to 7:00am (Residential Districts)
Less than 10 minutes	75 db	70 db	60 db
10 minutes to 2 hours	70db	60 db	50 db
Over 2 hours	60 db	50 db	40 db

- (2) Values in Exhibit 415-B are subject to the correction factors listed in **Exhibit 415-C**. If the noise is not smooth and continuous, one or more of the corrections which follow shall be added or subtracted from the applicable decibel level given in Exhibit 415-B.

Exhibit 415-C: Noise Correction Factors

Type of Operation of Character of Noise	Correction in Decibels
Noise source operates less than 20% of any one hour period	Plus 5*
Noise source operates less than 5% of any one hour period	Plus 10*
Noise source operates less than 1% of any one hour period	Plus 15*
Noise of impulsive character (hammering, etc.)	Minus 5
Noise of periodic character (hum, screech, etc.)	Minus 5
<i>Note: * - Apply one of these corrections only.</i>	

- (3) Sounds in excess of the residential district limitations as measured in a residential district violate this section whether the sound originates in a residential district or any other district.

B. Exceptions to Noise Level Standards. Sounds emerging from the operation of:

- (1) Motor vehicles on a public highway;
- (2) Aircraft;
- (3) Outdoor implements such as power lawn mowers, snowblowers, power hedge clippers and power saws;

- (4) Emergency equipment of any kind;
 - (5) Maintenance equipment operated by a public agency or utility;
 - (6) Pile drivers or jackhammers and other construction equipment; and
 - (7) Sounds emanating from lawful and property activities at schoolgrounds, playgrounds, parks or places wherein athletic contests take place.
- C. *Ambient Noise.* Locations where the ambient noise level generated by daily traffic on an adjacent street exceeds the standards set forth in Exhibit 415-B, control of noise shall not be required to produce a sound level below that of the ambient noise level.

SECTION 415.13 OUTDOOR LIGHTING

To promote, protect, and enhance the lawful nighttime use and enjoyment of any and all property by using appropriate lighting practices and systems. Individual fixtures and lighting systems shall be designed, constructed, and installed to minimize obtrusive light, while maintaining safety and security lighting as furnished by the electrical utility company, but make the owner aware of light trespass in regard to installation.

- A. It shall be unlawful to install or maintain a light fixture that causes:
 - (1) Glare as to make it difficult to operate a motor vehicle or boat
 - (2) Light Trespass on land or water.
- B. No incandescent bulbs over 150 watts will be allowed outside.
- C. It shall be unlawful to install or have a bare incandescent bulb without a deflector.
- D. Dusk-to-dawn lights of either sodium vapor or mercury vapor shall not cause light trespass.
- E. No light standard shall exceed twenty-five (25) feet height.
- F. Flood lights, either alone or used in motion sensor lights must be of shielded construction and installed so as to reflect downward.

CHAPTER 420 - DEVELOPMENT ALTERNATIVES

SECTION 420.1 CLUSTER SUBDIVISION

- A. *Purpose.* Clustering of structures in a development to preserve environmentally-sensitive areas, open space and prime agricultural lands is strongly encouraged. Clustered subdivision shall be permitted in accordance with the provisions of these Regulations.
- B. *Clustering of Single-Family Residential Dwellings Permitted.* In any single-family subdivision in any zone district where clustering is permitted, a developer may create lots that do not meet the width, length and side yard requirement of these Zoning Regulations provided the developer complies with the provisions of this Chapter.
- C. *Application for Cluster Subdivision Development.* Applicants seeking approval of a cluster subdivision development shall comply with the requirements for major subdivision approval, but shall label all submissions "Cluster Subdivision Application".
- D. *Project Density.* Clustered subdivisions shall not exceed the maximum density permitted in the district.
- E. *Amount of Open Space.* A minimum of thirty (30%) percent of the gross land area in each cluster subdivision development shall be preserved as open space. Where possible, open space to be dedicated for public use shall be located so as to provide access to or protect adjacent public lands. Fifty (50%) percent of the open space requirement may consist of environmentally sensitive land or prime agricultural land.
- F. *Ownership and Maintenance of Open Space.* The applicant for cluster subdivision shall: (I) irrevocably offer to dedicate the open space land to the public; (ii) retain open space to be held in common by the owners of lots and parcels in the development; or (iii) where prime agricultural land is to be preserved, create a conservation easement over that portion of the property to be protected.
 - (1) City approval shall be required for any proposed dedication of land for public use.
 - (2) Open space which is to be held in common shall be owned and maintained by an organization established by the applicant/ developer and approved by the City. The applicant shall submit covenants and restrictions regarding permanent maintenance of the open space, including provisions addressing: (I) maintenance duties of the organization, (ii) the manner in which lot owners will be assessed by the organization for maintenance and upkeep of the land, (iii) conditions of default, and (iv) the manner of enforcement by the City.
- G. *Open Space Easement.* Open space is to be preserved by a conservation easement or other preservation method satisfactory to the Planning and Zoning Commission and may include transfer of the property to a non-profit organization approved by the City with conditions of financial assurance for maintenance and upkeep..

- H. *Open Space Phasing.* Open space shall be provided in each phase of a development. A minimum of thirty (30%) percent of the land area of a specific phase is to be preserved as open space. The City may require the developer to post financial assurance or enter into development amount with appropriate conditions to ensure the maintenance and upkeep of the open space lands.
- I. *Open Space Design and Improvements.*
- (1) A project landscape, open space and screening plan shall be prepared by a landscape designer or nurseryman as part of the application.
 - (2) The developer will be required to establish a permanent groundcover in the landscape area to stabilize the soil to prevent erosion.
 - (3) Berms or screening walls shall be approved by the City and completed prior to the issuance of a building permit.
 - (4) Material colors for screening walls shall be limited to earth tone colors. The color shall be uniform for the entire length of the wall.
 - (5) Open space areas shall be arranged to maximize access and use by residents of the cluster development and such open space improvements shall provide, a safe, secure and barrier-free system of trails, paths or walkways. The walkways shall link residences with recreation areas, schools, commercial areas and public facilities except for those portions constituting environmentally sensitive lands or prime agricultural lands.
 - (6) Improvements may include the following: (i) paved pedestrian paths, located in street rights-of-way or pedestrian easements, (ii) paved bikeways, designed in accordance with City standards, (iii) horseback riding trails, surfaced with soft materials such as wood chips or gravel, and (iv) other improvements as required by the City. If the trails, paths or walkways are to be incorporated within the County tract system, they shall also meet applicable County standards.
- J. *Project Landscaping and Compatibility Requirements.* The perimeter of a cluster development shall be buffered from adjacent property pursuant to these Regulations. Project landscaping design shall be established in conjunction with the preliminary plat approval.
- K. *Phasing of Development.* An applicant may propose that a cluster subdivision project be developed in phases, or the City may require the applicant to divide the project into phases in order to meet requirements and standards contained in these Regulations. Each phase must contain a mix of residential uses, densities and open space so as to make the phase self-sufficient, meeting the requirements, standards and conditions applicable to the project as a whole. Each phase of the project shall be supported by adequate public facilities and services, available concurrently with that phase.

SECTION 420.2 PLANNED DEVELOPMENT

- A. *Purpose.* Planned Developments are established to provide for project variety and diversity through the modification of conventional zoning so that maximum long range neighborhood and community benefits can be gained and for the following purposes:
- (1) To encourage innovations in development by allowing a greater variety in building types, development and site designs, and site layouts and by the conservation and more efficient use of open space ancillary to the development.
 - (2) To provide a procedure that relates the type, design, and layout of development to the particular site, thereby encouraging preservation of the site's natural characteristics.
 - (3) To encourage a more efficient use of land and of public or private services, and to reflect changes in land development and service delivery so that there are resulting economies to the public and the developer.
 - (4) To provide for necessary commercial, recreational, cultural, library and educational facilities conveniently located to residential uses.
 - (5) To provide for well located, clean, safe, and pleasant commercial and office-technology sites.
 - (6) To lessen the burden of traffic on streets, roads and highways.
 - (7) To preserve the value of land.
 - (8) To allow flexibility in application of the zoning requirements regarding bulk, density, and open space, while ensuring that such flexibility will not be used in a manner which distorts the objectives of these Regulations.
 - (9) To encourage integrated planning.
 - (10) To encourage the best features of modern design.
 - (11) To allow greater diversity of living environments by allowing a variety of housing types, residential densities, and a mixture of uses;
 - (12) To encourage useful, convenient location of open space and recreation areas for residents, and if permitted as part of the project, more convenience in the location of accessory commercial and industrial uses;
 - (13) To encourage a development pattern which preserves and utilizes natural topographic and geologic features, scenic vistas, and natural resources, and which avoids the disruption of natural drainage patterns;
 - (14) To encourage preservation of environmentally sensitive and productive and agricultural lands; and

- (15) To promote socially desirable objectives by allowing various types of land, housing, commercial, recreational and/or agricultural uses not otherwise feasible under conventional zoning.

B. *Uses allowed in PD District.*

Each planned development application shall contain a list of request uses. The Board of Aldermen may add to, delete, or otherwise modify the list of requested uses. After the PD rezoning is approved, the permitted uses are those allowed in the conditions of PD approval. At the time of building permit approval, the Board of Aldermen may approve other uses which are similar in scope and impact. No person shall initiate or maintain a use unless such use has been approved in accordance with the provisions of these Regulations.

C. *Unified Development.* The PD district shall be planned, developed, operated and maintained as a single entity.

D. *Density, Dimensional, Lot Development, and Design and Performance Standards*

- (1) The density, dimensional, lot development, bulk, height, landscaping, screening, transportation and infrastructure mitigation and impacts, development phasing, open space, or other development, design and performance standards are those included in the conditions of PD approval. These standards supersede any conflicting standards set elsewhere in these Regulations. In addition to any of the standards identified in the conditions of PD approval, all construction within the PD is subject to all of the City's adopted codes and ordinances. Any conditions not addressed in the PD are subject to the following standards (see Exhibit 415-A "Lot Development Standards"):

- (a) The LDR district for residential land use categories, and
- (b) The NC district for non-residential or mixed use land use categories.

(Note: land use categories are designated on the concept plan.)

- (2) In no case shall the requirements of the Building Code be varied through the conditions of PD approval.

E. *Standards.* In exercising its legislative discretion to approve a PD district, the Board of Aldermen will consider:

- (1) Whether the PD district and Concept Plan is consistent with the goals, objectives and policies of the Comprehensive Plan; and
- (2) Whether the PD rezoning serves the public welfare, taking into consideration:

- (a) The character of the neighborhood, and
- (b) The zoning and uses of nearby property, and

- (c) The detrimental effect that a change in zoning would have on other property in the area.
 - (3) Whether public interest served by the PD rezoning is greatly outweighed by the detriment to private interests, taking into consideration:
 - (a) The adaptability of the subject property to its zoned use, and
 - (b) The effect of the zoning on property value.
- F. Transfer of Ownership. No person shall sell, convey, or transfer ownership of any property or any portion thereof within a planned development district until such person has disclosed to the buyer of the property the terms and conditions of the PD rezoning ordinance, Concept Plan and Development Agreement.
- G. *Approval Procedures for Planned Developments.*
 - (1) *Generally.* Subject to the additional requirements set out below, the procedures for a zoning amendment (see § 405.28) apply to a PD district approval.
 - (2) *Application.* An applicant shall file an application with the Zoning Administrator for approval of the PD. The application shall include: a Concept Plan and a proposed development agreement for the entire property of tract.
 - (3) *Concept Plan.*
 - (a) The Concept Plan – does not require in depth site analysis, but serves to generally define the proposal in order to determine whether public or private benefits would be derived through the use of a PD district. Exhibit 402.2-A lists the information that must be provided for the Concept Plan. If there is an inconsistency between a submittal requirement included in this section and another provision of these Regulations, this Section controls. This Concept Plan is in lieu of the concept plan required by § 405.20 and zoning amendment information required by § 405.28-D of these Regulations. A developer may either voluntarily submit more detailed information, or the Planning and Zoning Commission and Board of Aldermen may require more detailed information when necessary to make a decision.
 - (b) The Concept Plan – Shall include the following information:
 - [1] A Concept Plan Map that shows the property boundaries, various existing and proposed types of land uses, and traffic circulation diagrams. The use categories must depict their relationship to each other and to surrounding uses. This site plan should take the form of a “bubble” map, which locates proposed uses in an approximate fashion,

including tentative circulation diagrams and anticipated buffer or screening rather than building footprints or precise street layouts.

[2] A written statement that includes the information required by Exhibit 402.2-A, below.

Exhibit 402.2-A: Concept Plan Submittal Requirements for Planned Development (“PD”)

“B” means that the information is required unless it is waived by the Board of Aldermen by resolution; “Z” means that the information is required unless it is waived by the Zoning Administrator – see subsection (c), below.

Waiver

GENERAL INFORMATION

1	Name, address, phone number, fax, and email address of the developer, record owner, land planner and engineer as applicable	
2	Proposed name of a development or subdivision, if applicable	Z
3	Date the plan or document was prepared and (if applicable) revised	
4	North point indicator and scale on each page	
5	Location map drawn at a scale of 2,000 feet per inch showing the area within a one mile radius of the proposed development site	B
6	Tract boundaries (traverse bearings and distances of the boundaries) and location by section, township, range, City and State, including descriptive boundaries of the development	
7	Maps/plans at a scale of at least 1 inch equals 100 feet (1" = 100') if proposed development is less than 40 acres, or 1 inch equals 200 feet (1" = 200') for 40 acres or more	Z
8	A list of any State, Federal or other public agencies approvals or permits required for the proposed development	Z
9	The signature(s) of the applicant(s) and owner(s) certifying the accuracy of the required information	
10	Preliminary plat for the first 40 acres or phase of development	B
11	Application fees as required by Ordinance No. 855, as amended	
EXISTING CONDITIONS		
12	Legal description of the area subject to the plan or document	
13	A scaled map of the property, correlating with the legal description, that clearly shows the property’s location and its perimeter dimensions. For projects of less than 40 acres, show the floor area ratio of each building and structure proposed for the site	Z
14	A description of the present use of the property and existing zoning	
15	Description of all existing covenants, liens and encumbrances	Z

16	Existing or platted easements, rights-of-way, streets or other public ways	Z
17	Names and addresses of all adjacent (see definition) property owners within 500 feet of all boundaries	B
18	Existing permanent structures and significant man-made features such as railroads, structures, utilities and drainage structures	Z
19	Soil types and their boundaries, based on Soil Conservation Service information	Z
20	Significant drainage features and structures including any 100-year floodplains	Z
21	Identification of environmentally sensitive areas (wetlands, hillsides, streams, habitat, trees and shrubs) on the site and within 250 feet of the site	Z
DEVELOPMENT PLAN		
22	A layout of the entire property, including dimensions and area of all proposed and existing lots and its relationship to adjacent property, existing development and recorded plats	
23	A bubble plan showing general land use categories	
24	The number of acres in each land use category	
25	A list of proposed uses to be permitted by right, conditional uses, and any proposed standards for approval of a use	
26	The total number of dwellings, number of dwelling units by type, and gross density for the overall site and within each land use category	
27	A schedule of development by phases, including the approximate boundaries and projected date for the beginning of construction for each phase	B
28	A statement of how the proposed development is consistent with the most recent version of the Comprehensive Plan	
29	Square footage and floor area ration for all non-residential land uses or vertically mixed use building, by type of use or building type	B
30	Setback, building height, frontage, lot width, and other dimensional standards for each land use category or building and lot type category	B
31	Setback, building height, frontage, lot width, and other dimensional standards for each land use category or building and lot type category	B
32	General building elevations for each building type, by category	B
33	Building elevations for each lot or, for single-family dwelling units, a schematic building elevation for each category	B
34	Landscaping plan, including location, planting standards, maintenance guantees, and irrigation	B
35	Location and size of parking areas, including number of parking spaces	B

INFRASTRUCTURE

36	Location of present and proposed access points	B
37	Approximate location and width of all existing and proposed streets within and abutting the proposed development, by category (local, collector, and arterial)	B
38	Street design standards including geometric design, grading, curbs and gutters, surfacing, signs, and lighting	B
39	Standards for sidewalks, pedestrian walks, trails, and associated structures	B
40	Traffic impact analysis that includes capacity of onsite and offsite roads including all major intersections and arterial roads affected by the proposed development, the projected trip generation and trip distribution, and proposed improvements	B
41	Proposals for connections with existing or proposed water supply and sanitary sewerage systems or for on site sewage disposal systems, including projected demands the capacity of the existing and proposed facilities	B
42	A stormwater management plan, stormwater, calculations showing projected demands and the proposed size, nature and location of all proposed storm drainage improvements	B
43	Proposed open space or common areas, including type, area, and at least a general description of the facility's design	B
44	For proposed infrastructure or increases in capacity (including streets, utilities, and stormwater management), include the method and source of financing, construction guarantees, and statement of when the facilities will be available	B
45	All proposed publicly or commonly owned site improvements (including but not limited to streets, sidewalks, stormwater management, open space, utilities) and proposals guaranteeing the completion of construction (including improvements agreements, improvements guarantees, and development schedules)	B

(c) The Board of Aldermen or the Zoning Administrator may waive certain information requirements where indicated by Exhibit 402.2-A. A waiver may require that the information be deferred to a later point in the development approval process. A waiver by the Board of Aldermen requires a majority vote of those present at any regular or special meeting and written confirmation by the Mayor. A waiver by the Zoning Administrator must be in writing. The Board of Aldermen or Zoning Administrator may waive the requirement only where they find, in their discretion, that:

- [1] The information is not required to make an informed decision about compliance with the standards for the particular type of development or at that stage of the approval process, or
- [2] The applicant has agreed in writing to provide the information at a later point in the approval process, as agreed to between the applicant and the Board of Aldermen or Zoning Administrator.

- (4) The applicant shall file a proposed development agreement with the PD rezoning application. The conditions of PD district approval shall be contained within a Development Agreement filed with the City Clerk and executed by the applicant and the City. The Development Agreement shall cover all requirements for project design, public improvements, payment of fees, dedications, maintenance and upkeep and all conditions of the PD district approval. The development agreement may provide for vesting the entitlement of the development through its various phases. No use of the parcel, construction, modification, or alteration of any use or structures within a PD project shall be permitted unless such construction or use complies with the terms and conditions of the approved Development Agreement. Each subsequent owner and entity created by the development, including property owner's associations shall comply with the terms and conditions of the Development Agreement. A seller of a property which is an approval PD or which is in the process of receiving such zoning approval shall apprise the buyer of the terms and conditions of the development agreement. The City bears no liability for misrepresentation of terms and conditions of the development agreement. The development agreement shall set forth the conditions of approval with covenants running with the land. Such covenants shall be recorded within the Development Agreements with any subsequent approvals, including any site plan or final subdivision plat.
- (5) The applicant may submit a preliminary subdivision plat for all or part of the proposed development with the Concept Plan. The preliminary subdivision plat shall be approved by the Planning and Zoning Commission and the Board of Aldermen, and may be processed concurrent with the Concept Plan and PD rezoning. In the alternative, the applicant may elect to defer the preliminary subdivision plat submittal. In that case, the preliminary subdivision plat must confirm to the conditions of PD approval, and the applicant must initiate the plat approval process from the beginning. The Board of Aldermen may waive the Concept Plan submittal requirement if the applicant submits a Preliminary Plat that includes all of the information required for a Concept Plan.
- (6) *Conditions.* Upon final approval, the PD rezoning ordinance, Concept Plan, and development Agreement shall be recorded with the City Clerk and the Jackson County department of Public Records.
- (7) *Subsequent Approvals.* After the PD rezoning is approved, the applicant must seek subdivision plat and site plan approval. The Preliminary Plat, Final Plat, and Site Plan shall contain all of the information required by Chapter 405 of these Regulations.

H. *Minor Amendments.* No amendments or changes may be made in the approved concept plan without the approval of the Board of Aldermen.

- I. *Recording of Changes and Amendments.* Any changes which are approved for the final plan and/or plat shall be recorded as amendments to the previously recorded plan and/or plat.
- J. *Transfer of Ownership.* No person shall sell, convey, or transfer ownership of any property or any portion thereof within a planned development district until such person has disclosed to the buyer of the property the terms and conditions of the Site plan, Development Agreement and Subdivision Final Plat.
- K. *Density Criteria.* The Board of Alderman may, after considering the recommendation of the Planning and Zoning Commission, allow for a not-to-exceed fifty (50%) percent of net residential density, bonus within a PD residential density it deems justifiable as set forth in these Regulations and submitted data. The criteria used to determine the appropriate density in any PD shall include the following:
 - (1) The compliance of the PD with adopted plans and policies.
 - (2) The compatibility of the proposed density with the development patterns and densities in the vicinity.
 - (3) The distance of the PD from the nearest urban core area, including jobs, shopping and community facilities. In general, PDs in closer proximity to urban core areas shall have higher densities than those which are further removed, or where necessary services are unavailable.
 - (4) The development will accomplish a valid public purpose.
 - (5) The availability to the site of adequate of public services such as sewer, water, schools, roads, parks, fire and police protection.
 - (6) The quality of life of the PD as achieved by means of the design and public/private amenities incorporated into the PD.
 - (7) The elimination or reduction of vehicular congestion on streets and highways or at intersections in the vicinity.
 - (8) Protection of environmentally sensitive lands.
 - (9) The effect of the proposed use on the watershed and on stormwater management.
 - (10) Energy-efficiency of site design.
 - (11) Compliance with the goals and purposes of this Chapter.
- L. *Planning and Design Requirements.* Planning and Design within a PD shall protect the development from potentially adverse surrounding influences and shall also protect surrounding areas from potentially adverse influences of the development. Vehicular, pedestrian and cyclist

circulation shall be designed to permit smooth traffic flow with controlled turning movements and minimum hazards.

- M. *Screening.* Fence, wall and/or vegetative screening shall be provided where needed to protect adjacent owners/occupants from undesirable views, lighting, noise, or off-site influences, and shall also protect occupants of adjoining uses from similar adverse influences of the PD. In either case, screening shall be designed to control the existing or potentially adverse views from existing or future first floor windows in the PD and other adjoining uses or districts. Screening requirements may be waived if terrain makes protection against overview impracticable, but where the requirement is not waived, bulk parking areas and service areas, in particular, shall be screened.
- N. *Landscaping.* The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees, planting additional trees and other flora, and other site features. Additional new plant material shall be added for privacy, shade, beauty of structures and grounds and to screen objectionable features. Existing trees, shrubs and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting, and are useful in protecting slopes.
- (1) Selected plant materials shall be: in scale with the composition of the structures, the site, and its various uses and surroundings; arranged to harmonize in size, color, texture, and year-round characteristics of the structures and the development of the grounds.
 - (2) Plant materials shall be indigenous to this area or be readily adaptable to the climate and soil conditions. They shall not be excessively weedy in habit or growth characteristics or unduly susceptible to noxious pests or plant diseases which would seriously impair their function or permanence or greatly increase maintenance costs. New plant materials which might be injurious to local plants or agricultural products by serving as an intermediate host to pest or plant diseases are specifically prohibited. Plant materials to be installed shall be true to name in accordance with the current issue "Standardized Plant Names" published by the American Joint Committee on Horticultural Nomenclature.
 - (3) Required lawn areas shall consist of a thick stand of permanent grass or other approved ground cover.
 - (4) Landscaping shall be watered, replanted, and permanently maintained or replaced as necessary.
- O. *Circulation.* Circulation (e.g. streets, roads, pedestrian walks, trails, bicycle ways, parking and service areas) shall be designed and constructed as follows:
- (1) Every principal structure shall have safe and convenient access to a public street or road, including access by service and emergency vehicles. Private access may be allowed only where the need for public access is not reasonably anticipated, and it shall have an easement of record for access by emergency and service vehicles. Private streets shall not exceed six hundred (600) feet in length.

- (2) Vehicular, pedestrian and bicycling circulation shall be designed to permit smooth traffic flow, with controlled turning movements and minimum hazards. Streets shall be laid out to discourage outside traffic from traversing minor streets. Consideration shall be given to location of walkways used by substantial numbers of children as play areas or routes to school in order to minimize contact with normal vehicular traffic.
- (3) Streets shall not create unnecessary fragmentation of the PD into small blocks. In general, block size shall be the maximum as is consistent with use, shape of the site, and the convenience of the occupants.

P. *Open Space.*

- (1) Landscaped areas, recreational areas, and those areas retained in natural or quasi-natural condition shall together constitute open space. Open space may also serve to preserve visual separation or buffers between varying uses. Wherever desirable, open space areas shall be integrated with each other and linked by trails, drives and/or pedestrian walkways rather than left existing as isolated unrelated fragments.
- (2) Open space areas and common facilities shall be deeded to a homeowner's association or similar entity, or dedicated to a public body (if acceptable to the Board of Alderman). If not so dedicated, the developer shall include provisions in the final documents to ensure perpetual maintenance. In the event that such areas are not maintained, the City may cause such maintenance to be performed and to assess the cost of same to the property owners within the PD.
- (3) Site planning and design shall preserve, to the maximum extent possible, the existing natural features which enhance the attractiveness of the area (such as vegetation, watercourses and historic features) and shall blend harmoniously with all uses and structures contained within and surrounding the PD.

Q. *Site Characteristics.*

- (1) Structures and site improvements, including the scale, character, and orientation thereof, shall be compatible with present and future neighborhood uses.
- (2) A PD approval may be conditioned on whether or not the PD promotes:
 - (a) solar energy uses;
 - (b) cooling efficiency;
 - (c) underground utility lines;

- (d) streets and roads efficiency;
 - (e) lighting efficiency;
 - (f) economical servicing and maintenance (police, fire, postal, refuse removal, street repair, etc.);
 - (g) alternate modes of transportation (school buses, bicycles, public transportation, etc.); and
 - (h) jobs-housing balance.
- (3) Land which is unsuitable for development because of potential hazards such as steep slopes, flooding, rockfall, subsidence, high water table, air or vehicular traffic hazards, or, if developed, may be detrimental to the health, safety, or general welfare of existing or future residents, shall not be developed unless the hazards are eliminated or mitigated by approved design, construction plans and or off-site mitigation or payment of mitigation fees. Consideration shall be given to preservation of areas of significant natural amenities. Those areas determined undevelopable according to the terms of this Chapter shall be preserved in their natural state.

R. *Administrative Procedures and Requirements.*

- (1) **Application.** An applicant shall file an application with the Zoning Administrator for approval of the PD. The application shall include a Concept Development Plan for the entire property or tract. The applicant shall file a combined Concept Development Plan with a Preliminary Plat. Where a PD application requires a rezoning, the rezoning application and procedures shall be done in conformance with these Regulations. The PD and the rezoning processes may be done simultaneously.
- (2) **Concept Development Plan.** The Concept Development Plan (CDP) does not require in-depth site analysis, but serves to generally define the proposal in order to determine whether public or private benefits would be derived through the use of a PD district. Submittal material for the CDP need not normally exceed the detail requirements listed below. A developer may either voluntarily submit more detailed information, or the Planning and Zoning Commission and Board of Alderman may require more detailed information when necessary to make a decision. The concept plan which shall show the various existing and proposed types of land uses, depicting their relationship to each other and to surrounding uses. This site plan should take the form of a "bubble" map, which locates proposed uses in an approximate fashion, including tentative circulation diagrams and anticipated buffers or screening rather than building footprints or precise street layouts. A written statement which shall contain the following information:
- (a) The approximate number of acres in each proposed land use;

- (b) The density being requested;
 - (c) The character and density of dwellings, structures or uses on each portion of the property;
 - (d) Soil types and their respective boundaries, based on Soil Conservation Service information;
 - (e) Developments of forty (40) acres or more shall indicate whether portions of the total land area will be phased; projects of less than forty acres shall submit the entire area for preliminary review at one time;
 - (f) Proposed schedule of development;
 - (g) Legal description of the area proposed for rezoning;
 - (h) Names and addresses of all adjacent (see definition) property owners within two-hundred-fifty (250) feet of all boundaries of the property.
- (3) Site Plan. A detailed site plan and preliminary subdivision plats as required by these Regulations shall be approved by the Planning and Zoning Commission and the Board of Aldermen.
- (4) A Development Agreement shall be entered into covering all requirements for design, public improvements, payment of fees, dedications, maintenance and upkeep and all conditions attached to the Development Approval. The development agreement may provide for vesting the entitlement of the development through its various phases.
- (5) Conditions. Upon final approval, the Site Plan, Final Subdivision Plat and Development Agreement shall be recorded in accordance with these Regulations with the City Clerk and the Jackson County Department of Public Records. The Final Plat, Site Plan and Development Agreement shall contain all of the following information which is pertinent to the PD:
- (a) The setbacks, a list of approved and/or specifically excluded uses, and any pertinent conditions or stipulations which were previously made or imposed;
 - (b) All proposed publicly- or commonly-owned site improvements such as, but not limited to, those listed below, shall be included in the improvements agreement, improvements guarantee, and development schedule;
 - (c) Road grading, surfacing/signing/lighting;
 - (d) Curbs/gutters;
 - (e) Sidewalks/pedestrian walks/trails/associated structures;

- (f) Sanitary sewers stubbed to each lot;
 - (g) Water lines stubbed to each lot, including fire hydrants;
 - (h) Drainage structures/improvements;
 - (i) Open space and recreational improvements/facilities/landscaping;
 - (j) Structures/parking areas;
 - (k) Irrigation water system for open space;
 - (l) Irrigation water delivery system for all lots;
 - (m) Timing, Phasing and Vesting provisions;
 - (n) Environmental sensitive and agricultural land preservation;
 - (o) The range of affordability of the housing units;
 - (p) The availability of adequate public facilities as shown in the Capital Improvement Program; and
 - (q) All other requirements in these Regulations for Site Plan, Final Plat and Development Agreement Approval.
- (6) Minor Amendments. No changes may be made in the approved final plan without the approval of the Board of Aldermen, except that the following changes may be approved by the Zoning Administrator provided any such change does not exceed the requirements of the zoning district in which the property is located; except upon application to the Zoning Administrator agencies pursuant to the following:
- A change in the floor area of the buildings provided that any such change does not alter the floor area ratio;
 - Changes in location and type of landscaping buffering and/or screening to provide for greater coverage;

Changes in the orientation of portions of parking areas so long as the effectiveness of the overall site circulation and parking is maintained the number of parking spaces shall not be changed by the relocation and the landscaping, buffering and/or screening is maintained or enhanced; or

Changes in the location of sidewalks and pathways, provided that the extent and continuity of pedestrian circulation remains;

- (1) Major Amendments to Plan. All other changes, including changes in the approved Plan, shall be deemed "major" and shall be approved only by the Planning and Zoning Commission or, upon appeal, the Board of Alderman after review of a revised Site Plan and/or Subdivision Plat. No change authorized by this Chapter may allow any change in the use, development or design standards of the underlying district.
- (2) Recording of Changes and Amendments. Any changes which are approved for the final plan and/or plat shall be recorded as amendments to the previously recorded plan and/or plat.
- (3) Administrative Permits. No Administrative Permit shall be issued unless such permit conforms with the adopted Site Plan, Final Subdivision Plat and Development Agreements.
- (4) Construction Improvements or Posting of Bond. No structures may be erected and no uses may occupy any portion of the district until the required adequate off-site improvements are constructed or appropriate security as determined by the Planning and Zoning Commission is provided to ensure construction. If the PD is to be developed in phases, all improvements necessary to the proper operation and functioning of each phase even though same may be located outside of the section, must be constructed and installed or appropriate security as determined by the Administrator must be provided to ensure their construction.
- (5) Time Limitation. If substantial construction or development does not begin within the period of time specified in the adopting ordinance or in resolutions and ordinances thereto, the approved Site Plan, Final Subdivision Plat and Development Agreement shall become voidable unless extended by approval of the Board of Aldermen upon written application. Noticed public hearings before the Board of Aldermen and the Planning and Zoning Commission for its recommendation shall be required prior to any revocation.

CHAPTER 425 - LANDSCAPING AND BUFFERS

SECTION 425.1 LANDSCAPING AND SCREENING, GENERALLY

- A. *Purpose.* The purpose of these bufferyard and screening requirements is to promote the public health, safety and welfare by establishing efficient, effective minimum standards for buffering between land uses of different intensities, screening of land uses and utility and equipment areas that may create a negative impact, for the protection of natural resources, and the installation and continued maintenance of landscaped areas within the City.
- B. *Interpretation of Landscaping Terms.* Where necessary to interpret the precise meaning of technical landscaping terms used in these Regulations, reference shall be made to The American Standard For Nursery Stock, as published by the American Association of Nurserymen (AAN).

SECTION 425.2 LANDSCAPING PLAN REQUIRED

A plan showing required bufferyards and landscaping of the bufferyards shall be submitted together with a site plan or application for a building permit for any development, except for farms, or the development of one single-family dwelling or two-family dwelling. All landscaping plans for bufferyards and related areas shall include the following information:

- A. The locations, varieties, number and size of plants to be planted within required landscaped bufferyard areas;
- B. Topographic information showing the final site grading and drainage for the landscape area, and specifically identified planting for areas needing slope protection;
- C. Impervious surfaces, including sidewalks, pavement areas and building footprints;
- D. Property boundaries;
- E. Mature sizes of plant materials shall be drawn to scale;
- F. Existing trees which shall be preserved, 8" caliper or larger, measured 2 feet above ground level, that are proposed to remain; and
- G. The boundaries and edge treatments of all landscaped and bufferyard areas.

SECTION 425.3 MINIMUM SIZE OF LANDSCAPE MATERIALS

Landscape materials shall have the following minimum sizes at the time of planting:

- A. Trees - 2½ inch caliper measured at 2 feet above ground level.
- B. Shrubs - 24 inches tall from ground level to the top of the shrub.

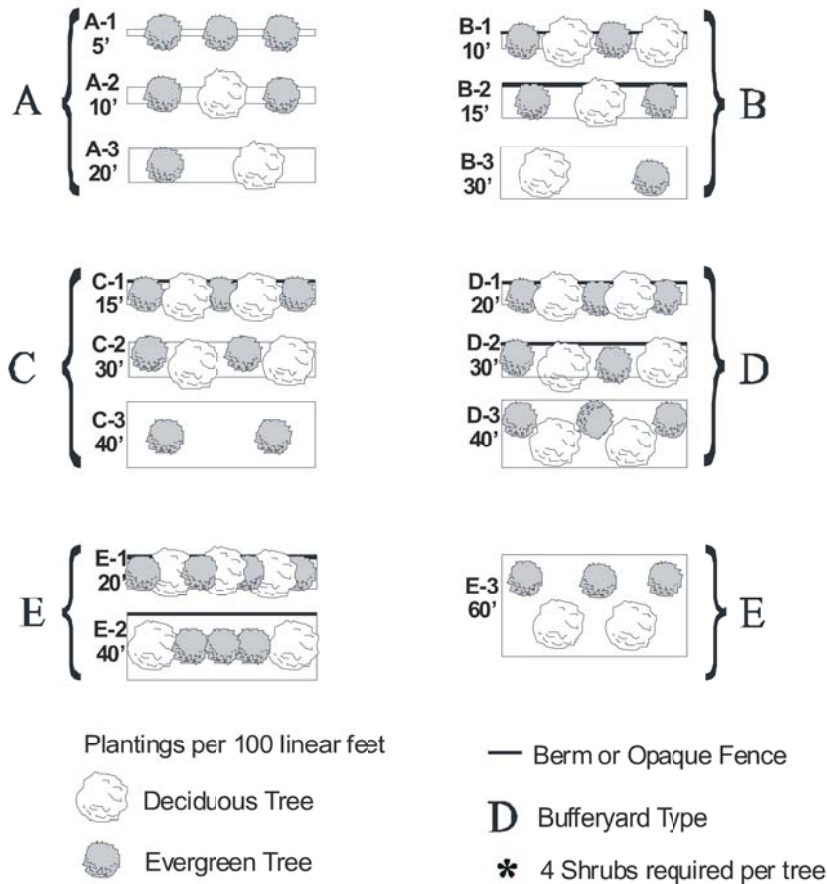
SECTION 425.4 BUFFERYARDS AND SCREENING DEVELOPMENT STANDARDS

The following standards shall apply to all multi-family dwellings and all commercial and industrial projects which site plans also shall include detailed drawings of enclosure and screening methods as provided. The bufferyards required between land uses are shown in **Exhibit 425-A** and diagrams of the bufferyards are shown in **Exhibit 425-B**. Upon a determination of the required bufferyard types, Applicant has the option of selecting a preferred bufferyard type alternative, though the final bufferyard type alternative will be determined pursuant to the development review process.

Exhibit 425-A: Required Bufferyard Types

Adjacent Development	Proposed Development					
	Agriculture	Single-Family	Two-Family; Multi-family	Office	Neighborhood Commercial	Highway Commercial
Agriculture	Not Required	B	B	C	D	E
Single-family	B	Not Required	B	D	E	E
Two-family; Multi-Family	B	B	Not Required	C	D	D
Office	C	D	C	Not Required	C	C
Neighborhood Commercial	D	E	D	C	Not Required	A
Highway Commercial	E	E	D	C	A	Not Required

Exhibit 425-B: Bufferyard Types Alternatives



SECTION 425.5 BUFFERYARD LOCATION

Bufferyards and open spaces shall be provided on the site of the new development, regardless of existing setbacks, bufferyards or open space otherwise provided on the existing developed site unless the Planning and Zoning Commission shall have determined, upon application that provision of the required bufferyard would be a hardship and a satisfactory waiver of the required bufferyard has been executed by all owners of property abutting the portion of the development site on which the bufferyard is required. Bufferyards may be included within required building setbacks and shall be shown as landscape easements on the plat and site plan.

SECTION 425.6 SCREENING OF UTILITY AREAS AND EQUIPMENT

- A. *Solid Waste Collection Areas.* Solid waste receptacles, shipping pallets, bundled cardboard and similar waste materials stored for collection shall be enclosed on all sides and screened from public view of adjoining residential properties or any street right-of-way with a 6-foot solid enclosure with a gate. The enclosure shall be constructed of cedar, redwood, masonry or other material compatible with the structure. The floor of the gated enclosure shall be a concrete pad which shall extend 5 feet beyond the gate. Trash enclosures shall be located a minimum of 50 feet from any residential zoning district.
- B. *Mechanical Equipment.* Roof-mounted equipment, including ventilators and satellite dishes, shall be screened from view or isolated so as not to be visible from any public right-of-way or

residential zoning district within two-hundred-fifty (250) feet of the subject lot. Roof screens and parapet walls shall be coordinated with the structure to present a unified appearance. All electrical and mechanical equipment located at ground level shall be screened from view or isolated so as not to be visible from the right-of-way of an arterial street or residential zoning district within two-hundred-fifty (250) feet of the subject lot. Such screens and enclosures shall be coordinated with the structure to present a unified appearance.

SECTION 425.7 FENCING STANDARDS

- A. *Fences for Non-Agricultural Land Uses.* Opaque or solid fences shall be placed no closer to the front lot line than the front yard setback line established by the structure(s) erected upon said lot. Picket fences and chain link fences not exceeding four (4) feet in height, wrought iron fences and other decorative fences may be located in the front yard, provided that they do not conflict with the sight triangle.
- B. *Fences for Agricultural Land Uses.* The use of property line fences is encouraged to prevent livestock from crossing onto adjacent property. The fencing shall be maintained in good repair.
- C. *Height.* Fences shall not exceed six (6) feet in height in residential districts except where used for public utilities, public or private schools, or public or private recreation facilities. Fences in the LR District shall not exceed forty-two (42) inches in height.
- D. *Electric Fences.* Electric fences shall be permitted only for agricultural land uses.
- E. *Barbed Wire Fencing.* Barbed wire fences or barbed wire assemblies atop fences shall be permitted in the Office / Technology Center District and for agricultural land uses, and may be incorporated into fencing for utility substations, but shall be prohibited in all other districts.

SECTION 425.8 SCREENING FOR COMMERCIAL AND OFFICE USES

The intent of commercial and industrial lot screening is to ensure that items which cannot be enclosed within a structure are screened on all sides from the view of adjacent rights-of-way and more restrictive zoning districts.

SECTION 425.9 OUTSIDE STORAGE

- A. The outside storage of salvage or scrap materials, household goods or furniture, or business equipment or materials for more than 48 hours shall not be allowed except where permitted by these Regulations and shall comply with these screening standards.
- B. Loading, storage and service areas shall be visually screened from view of residentially zoned properties, by use of a fence or wall, dense landscape plantings and/or berms. Such screening shall provide at least 75% overall visual screening of the loading and service area(s) as viewed from vantage points on lines perpendicular to the surfaces of the object(s) being screened.
- C. All commercial and industrial uses shall be screened with a wall, or combination wall and berm, not less than 8 feet in height, which shall be of solid opaque construction. The wall design and construction materials shall be approved by the Planning and Zoning Commission.
- D. No yard or storage lot shall be placed on or maintained with a required yard setback.

- E. Stored items shall not project above the screening.
- F. No dust, fumes, smoke, vibration or odor from any storage site shall be detectable on neighboring properties.
- G. All sites shall be maintained free of vermin infestation and shall be cleaned of litter and loose debris on a regular basis as established by the Administrator based upon the storage use of the property.
- H. All sites shall be secured from unauthorized entry.

SECTION 425.10 TIMING OF INSTALLATION OF REQUIRED LANDSCAPING

All required landscaping materials shall be in place prior to occupancy of a structure, weather permitting. In periods of adverse weather conditions, temporary approval to occupy may be granted, subject to the posting of a cash escrow or irrevocable letter of credit in an amount equal to one and one-half times the estimated cost of the landscaping, with the estimated cost to be certified by the landscape provider. The cash escrow or irrevocable letter of credit shall be forfeited if the landscaping is not completed within one (1) year after the approval of the temporary occupancy, subject to a waiver permitted by these Regulations. Forfeiture of any cash escrow or irrevocable letter of credit shall not relieve the owner of the responsibility to complete the required landscaping.

SECTION 425.11 GENERAL LANDSCAPING AND SITE MAINTENANCE

- A. The applicant, property owner and/or subsequent or successor owners and their agents shall be responsible for maintenance of any required landscaping and any landscaped bufferyard on the property on a continuing basis for the life of the development.
- B. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include, but not be limited to, mowing, edging, pruning, fertilizing, watering, weeding and other activities common to the maintenance of landscaping. Failure to maintain the landscape plantings shall be considered a violation of these Regulations.
- C. Landscaped areas shall be kept free of trash, litter, weeds and other materials or plants not a part of the landscaping.
- D. All required plant material shall be maintained in a healthy, growing condition appropriate for the season. Plant materials which exhibit evidence of insect pests, disease and/or damage shall be appropriately treated, and dead plants promptly removed and replaced with the next planting season.

CHAPTER 426 - SIGNAGE

SECTION 426.1 SCOPE AND APPLICABILITY

The regulations herein set forth shall apply to and govern signs or attention-attracting devices in all zoning districts. No sign or attention-attracting device shall be created unless it is in compliance with the regulations herein, and the required permit has been obtained. Any sign or attention-attracting device already established on the effective date hereof, and which sign or attention-attracting device is rendered nonconforming by the provisions herein, and any sign or attention-attracting device which, as a result of subsequent amendments hereto, shall be rendered nonconforming. Nonconforming signs may remain in place as long as the sign is maintained in good and safe condition and the use of the building or site is not changed. Any change in the use of the sign invokes the requirements of a Conditional Use Permit (Section 405.030 of these Regulations) before such change is implemented. Inadequate maintenance or change in sign use may result in a demand removal of the sign or bringing the sign into full conformance with these regulations.

SECTION 426.2 PURPOSE

The purposes of these sign and attention-attracting device regulations are as follows:

- A. Regulation and control of all advertising and identification signs or attention-attracting devices placed for exterior observation in order to preserve, protect and promote the public health, safety and general welfare of the residents of the City.
- B. Prevent an adverse community appearance from the unrestricted use of signs or attention-attracting devices by providing a flexible, creative, fair, comprehensive and enforceable set of regulations that will foster a high quality, aesthetic, visual environment for Lake Lotawana, enhancing it as a place to live and do business.
- C. Recognition of the business community's need for adequate business identification and advertising communication by improving the readability and, therefore, the effectiveness of signs or attention-attracting devices, by preventing their improper placement, over concentration, excessive height, area and bulk and by limiting such items as illumination or animation.
- D. Ensuring that the public is not endangered or distracted by the unsafe, disorderly, indiscriminate or unnecessary use of signs and attention-attracting devices, including the promotion of traffic safety by reducing the visual distraction of motorists.
- E. Regulating the size, location and content of commercial signage in order to maximize its effectiveness in directing the public to specific buildings and facilities, while, meeting the aesthetic goals of the community.
- F. Protection of property values by enhancement of the harmony between residential, commercial and industrial uses by reducing visual clutter and preventing blighting influences.
- G. Coordination of the type, placement and physical dimensions of signs within the different land use zoning districts.

- H. *Conflict.* When the provisions of this Signage Code appear inconsistent with one another or when the provisions of the Signage Code conflict with provisions found in other adopted ordinances or regulations, the more restrictive Ordinance provision shall govern.
- I. *Interpretation.* The Zoning Administrator shall make interpretations of the provisions of the Sign Code.

SECTION 426.3 PROHIBITED SIGNS & ATTENTION-ATTRACTING DEVICES

Any sign or attention-attracting device not specifically permitted is prohibited. Unless otherwise permitted by this Article, prohibited signs and attention-attracting devices include, but are not limited to:

- A. *Snipe Signs.* Signs or attention-attracting devices attached to trees, shrubs, telephone poles, benches, street lights or placed on any public property or right of way, except warning signs issued by public utility companies, signs erected by public authorities for public purposes, and signs or attention-attracting devices approved by the Zoning Administrator, or their designee, for special events;
- B. *Portable Sign.* Portable signs or attention-attracting devices designed to be transported by means of wheels;
- C. *Signs Posing Traffic Or Pedestrian Hazards.* Any sign which constitutes a traffic hazard or is a detriment to traffic safety by virtue of its size, location, movement, content, coloring or method of illumination. Any sign which obstructs the vision between vehicles and pedestrians using the public right of way, including but not limited to those not meeting the visibility requirements of this Article. Specifically prohibited are signs or attention-attracting devices using:
 - (1) Lights or illuminations that flash, move, rotate, scintillate, blink, flicker or vary in intensity or color, except for time/temperature, date, or similar brief informational displays.
 - (2) Signs that are of such intensity or brilliance as to cause glare or impair the vision of motorists, cyclists or pedestrians.
 - (3) Bare bulbs, except for time/temperature devices using bulbs of up to 25 watts.
 - (4) Words and traffic control symbols so as to interfere with, mislead, confuse traffic, such as “stop”, “look”, “caution”, “slow”.
- D. *Abandoned Signs.* Business signs, attention-attracting devices, or portions thereof, that advertise any activity, business, product or service no longer conducted or available on the premises where the sign is located. Abandoned signs shall be removed within 3 months after meeting the above definition, and any damage to walls, landscaping or other areas shall be repaired to their original condition. Removal shall be the responsibility of the premise owner and any damage to wall, landscaping or other areas shall be at the expense of the owner.

- E. *Moving Signs.* Signs with visible moving, revolving or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic or mechanical means, or with the optical illusion of movement by means of a design that presents a pattern capable of giving the illusion of motion or changing of copy.
- F. *Roof Signs/Projecting Signs.* Roof-mounted signs or attention-attracting devices or projecting signs which are created or constructed as an integral or essentially integral part of normal roof structure of any design.
- G. *Off-Site Signs.* Any sign which directs attention to a business, commodity, service, product or activity not conducted, sold, offered or available on the premises where the sign is erected or to which it is affixed.
- H. *Changeable Copy Signs.* No electronically changeable copy signs are permitted with the exception of time and temperature information when incorporated into allowable sign area.
- I. *Fluorescent Colors.* Signs using in whole or in part any fluorescent color.
- J. *Painted Signs.* Signs or attention-attracting devices painted directly onto facades or walls.
- K. *Attention-Attracting Devices.* Attention-attracting devices in general, unless otherwise approved under this Article or through a temporary permit for special events provided for in Section 426.03A of this Article. Strings of light bulbs may be used for decorative purposes during the holiday season (from Thanksgiving through January), when not in excess of 7 1/2 watts.
- L. *Illegal Signs.* Any sign otherwise prohibited by law.
- M. *Use of Vehicular Signs.*
 - (1) Purpose. The intent of this provision is to prohibit a vehicle with a vehicular sign from being parked, placed, or stored in an area not owned or controlled by the commercial entity represented by that particular vehicular sign, to promote fairness, general welfare, and competitive equality for all commercial entities.
 - (2) Vehicular Sign. A “vehicular sign” includes any name, insignia, logo, or sign displayed, mounted, painted or otherwise placed on a trailer, truck, automobile, or other vehicle that is parked, placed, or stored so that the vehicular sign is visible from a public street or right of way, or that is parked, placed, or stored for the purpose of displaying advertising signage. A company car or vehicle no larger than a one ton pickup bearing one name, insignia, logo, or sign displayed mounted, painted or otherwise placed shall be exempted.
 - (3) Prohibited Uses of Vehicular Signs. The use of a vehicular sign in non-residential districts is regulated in accordance with this subsection. All parking, placement, or storage of a vehicle with a vehicular sign in any non-residential district shall have an appropriate nexus with the commercial entity represented by the vehicular sign; thus,

the parking, placement, or storage of the subject vehicle on the property of any entity (public or private) other than the one represented by that vehicular sign for the purpose of advertising or business promotion is prohibited. This prohibition shall not apply to vehicles, with vehicular signs, that are actively providing a service to any entity located on the property on which the vehicular sign is parked.

SECTION 426.4 SIGNS AND DEVICES NOT REQUIRING PERMITS

Unless otherwise noted, the following types of signs or attention-attracting devices are allowed in any zoning district. These signs and devices are exempt from permit requirements but must be in conformance with all other requirements of this Article:

- A. *Government Traffic-Control Signs.* Government traffic-control signs and devices (pursuant to the Standard Traffic Ordinance, State of Missouri). Traffic-control signs to be installed on private property must meet the requirements of the Manual of Uniform Traffic Control Devices.
- B. *Flags.* An individual business or development shall be permitted to display a maximum of 3 flags which shall be limited to the following types: a government jurisdiction, weather conditions, religious, charitable, public and non-profit organizations, or 1 commercial logo flag, displaying a registered or trademarked corporate logo. No flag shall exceed 40 square feet in area, and no flagpole shall exceed 35 feet in height. All flagpoles shall be ground-mounted and must comply with the setback provisions established in Section 426.06 of this Article.
- C. *Directional/Instructional Signs.* Signs displayed to convey directions to entrance ways, freight/service doors, rest room and telephone locations or other operational facilities, or to convey parking and traffic restrictions or public safety messages. Wall signs of this type shall not exceed 3 square feet in area and may be mounted to buildings, fences, walls or, in the case of parking restrictions, may be painted onto curbs and paved areas.

One free-standing directional/instructional sign of up to 4 square feet in area and 4 feet in height is permitted at each driveway, and additional signs of this size may be placed at internal locations as needed based on their function.
- D. *Public Notice Signs.* Signs bearing notice to the public such as “No Trespassing”, “No Dumping”, “No Swimming”, and “Bad Dog” signs shall not exceed 2 square feet on developed properties. On vacant properties of less than 1 acre, these signs shall not exceed 6 square feet in area or 4 feet in height. On tracts of 1 acre or greater, these signs shall not exceed 16 square feet in area nor 8 feet in height. A minimum distance of 330 feet shall be maintained between such signs on properties within the same ownership.
- E. *Memorial Signs.* Memorial signs or tablets of 6 square feet or less, including names of buildings and date of erection or other remembrances of persons or events that are non-commercial in nature, when cut into any masonry or rock surface or constructed of bronze or similar non-combustible material that is mounted on the building or adjacent to its entrance.
- F. *Art Works.* Works of fine art, when not displayed in conjunction with a commercial enterprise (nor display a commercial message), which enterprise may benefit direct commercial gain from such display.

- G. *Required Notice.* Signs or attention-attracting devices required or specifically authorized for a public purpose by any law, statute or ordinance.
- H. *Address Signs.* Permanent address signs of up to 2 square feet for single residential units or single tenants in multi-tenant buildings, up to 6 square feet for multi-family buildings with a single street address and individual non-residential buildings under 30 feet in height, and up to 12 square feet for individual non-residential buildings over 30 feet in height. A minimum letter and number height of 3 inches is required on residential structures and a 5 inch minimum letter and number height is required on nonresidential structures per Building Code.
- I. *Temporary Signs.* Except as otherwise provided in this code, temporary signs do not require sign permits. Temporary signs that do not require a permit, shall be permitted on any property of the same size as allowed for real estate signs. Temporary signs may be posted for ninety (90) days, at which time they shall be removed or replaced. Temporary signs must be tied to a building permit.
- J. *Official Public Notices.* Official notices by public officers or employees in the performance of their duties.
- K. *Window Sign.* Non-illuminated window signs shall be permitted not to exceed 20 percent of the overall window area per facade and utilizing no greater than 50 percent of an individual window section on which the sign is placed. In lieu of non-illuminated signs, illuminated signs are permitted in area not to exceed 50 percent of the area allowed for non-illuminated signs.
- L. *Real Estate Sign.* "For Sale", "For Lease", and permanent leasing signs as permitted by this Article. Individual houses or single unit dwellings for sale within a multi-unit complex shall have no more than two (2) riders attached. The rider(s) shall be no bigger than 5 "x2". Signs must be removed within 90 calendar days after closing. For rent and for lease signs must be removed within 30 calendar days after lease or rental agreement signing. Signs not removed within this time period will be removed at the agent's expense and will be billed according to the hourly rate of pay of the City employee for every 1/4 hour fraction thereof.
- M. *Construction Site Signs.* Construction, renovation or remodeling site signs as permitted in this Article. Such signs shall be a maximum of six (6) square feet in area and a maximum of four (4) feet in height.
 - (1) Renovation. The act of repairing or making new the interior or exterior after damage or deterioration.
 - (2) Remodeling. The act of making structural changes such as but not limited to a room addition whether it changes the foot print or not, the changing of electrical, plumbing or HVAC or adding windows where there were none.
 - (3) Signs must be removed 90 calendar days after the issuance of an occupancy permit or after the expiration of the appropriate permit. Signs not removed within the specified time will be removed by the City at the contractor's expense and will be billed according

to the hourly rate of pay of the City employee(s) for every ¼ hour or fraction thereof.

- N. *Garage Sale Signs.* Garage sale signs shall be permitted provided they do not exceed 4 square feet in area or 4 feet in overall height. Garage Sale signs shall not be placed earlier than 5:00 P.M. the night before the sale and must be removed by the end of the sale. One sign may be erected at the location of the garage sale, and 1 sign may be erected on private property at a subdivision entrance or adjacent to the intersection with a collector or arterial street nearest the place of the sale. No sign may be erected on private property without the permission of the property owner. No garage sale sign shall be erected on any public property, public utility pole or public right of way.
- O. *Menu-Boards.* Each drive-through restaurant shall be permitted 1 free-standing or wall-mounted menu board per drive-through window, which shall not exceed 32 square feet in area or 8 feet in height and shall be located adjacent to and oriented toward the drive-through lane. An additional menu board may be considered if queuing lane length, location and configuration justifies placement.
- P. *Special Event Sign.* Signs and attention-attracting devices, as approved through special event provisions.
- Q. *Under-Canopy/Awning Sign.* In the case of shopping centers or retail complexes of 5 or more tenants, 1 under-canopy/awning sign shall be permitted for each business with a canopy or awning. Under-canopy/awning signs shall not exceed 4 square feet in area, shall be installed at a right angle to the front building wall and shall be a minimum of 7 feet above the sidewalk.
- R. *Incidental Identification Signs.* Identification signs of 2 square feet or less mounted on or adjacent to an individual tenant entrance.
- S. *Signs On Machinery And Equipment.* Signs customarily incorporated into machinery or equipment by a manufacturer or distributor, which identify or advertise only the product or service dispensed by the machine or equipment, such as signs affixed to vending machines, newspaper racks, telephone booths and gasoline pumps.
- T. *Signs On Vehicles.* Signs on a truck, bus, automobile, boat, trailer or other vehicle (i.e., Vehicular signs) that are not prohibited by this Article including Section 426.03.
- U. *Other Governmental Signs.* Signs not otherwise specifically defined or regulated in this Article, that are approved by the City and erected by the City or other governmental agency for public purposes. These may include, but are not limited to, “welcome” signs, special directional signs, and special cultural or historical markers.
- V. *Home Occupation Signs.* One non-illuminated facade sign not more than 1 square foot in area, mounted on or adjacent to an entrance to the building, indicating a permitted home occupation to those at or approaching the door. The sign color shall be compatible with the house color.

- W. *Now Hiring Signs.* One “now hiring” sign not more than 6 square feet in area and 4 feet in height is permitted per individual freestanding business, shopping center or other multi-tenant facility.

SECTION 426.5 HEIGHT AND SIZE OF SIGNS

- A. *Measurement Of Sign Area.* The area of a sign shall be measured as the area of any cabinet, panel or any visually or architecturally distinct area enclosing the copy, logo and any other graphic component of the sign. Where individual letters or graphics are used, and no enclosing area is present, the sign area shall be considered as the rectangle, box, circle or other regular geometric shape, or combinations thereof, enclosing the letters, logo or other graphic elements.
- B. *Overall Size Of Sign Monument.* The overall size of the sign monument shall not exceed 3 times the sign area for individual business signs, 2 times the sign area for shopping center and business park signs, and 6 times the sign area for freeway frontage signs. The monument shall be constructed in the style of, and using the materials and finished colors of the Primary building.
- C. *Three-Dimensional Sign Monuments.* The City encourages 3-dimensional monuments, particularly at street corners and other high visibility locations. Equilateral triangular signs may have 3 panels of the allowed size, and cubic signs may have 3 or 4 panels of 75 percent of the allowed size. Both 3-dimensional and cubic signs may have a depth or base relief on their surface.
- D. *Use Of Walls For Monument Signs.* A sign may be incorporated into a retaining wall or masonry wall designed to screen parking, loading or service areas. When signs are incorporated into purely decorative walls, the entire wall shall meet the landscape requirements for a sign monument or with not less than one shrub (minimum 3 gallon container per American Association of Nurserymen) for every four feet of linear wall dedicated to signage.
- E. *V-Shaped Signs.* The 2 permitted faces of a standard double faced sign may be utilized in a V-shaped configuration when the 2 faces or their supporting structures are connected at the point of the V. The angle between the 2 faces shall not exceed 60 degrees.
- F. *Dual Single-Faced Signs.* When dual single-faced signs are permitted each sign may be of the permitted size, and shall be located on either side of and oriented toward the entrance to the identified property.
- G. *Sign Height.* The distance from the finished grade at the base of the sign to the top of the highest attached component of the sign. Finished grade elevation shall not include any filling or berming over 2 feet above the adjacent curb line that was solely placed to provide for the sign location.
- H. *Height Of Monument Sign.* The height to the top of the sign area shall be as specified for each individual type of sign. The monument structure may exceed the specified height by up to 1 foot.

SECTION 426.6 SETBACK AND LOCATION OF SIGNS

- A. *Not In Public Right Of Way.* No sign, except government approved traffic-control signs, shall be located within the public right of way.
- B. *Approval Of Location In Easements.* Verification of approval by easement owner may be requested by staff for permanent signs to be located within easements.
- C. *Setback And Location Of Free-Standing Signs.* Political, directional or garage sale signs shall be set back 5 feet from the right-of-way line, with exception to placement within the Lakeside Residential area if deemed impractical therein by the Zoning Administrator. All monument, real estate, construction and other free-standing signs shall be set back a minimum of 10 feet from the right-of-way line. The setback may be reduced to 5 feet on wide rights of way where the distance from the edge of right of way to the outside lane of traffic at ultimate width exceeds 15 feet. Any proposed free-standing signs shall be located on the lot frontage used to comply with the provisions of this Article. Setback from other property lines must provide adequate area for required monument landscape.
- D. *Signs Near Intersections.* All signs at street intersections or driveway entrances to a public or private street shall be properly sited to ensure a permanently safe sight distance. No sign, except approved directional signs, shall be placed within the required sight-distance setback triangle set forth in this Chapter.
- E. *Facade Signs.* For the size, location and placement of facade signs, “facade” shall include the entire building elevation parallel to the wall being considered for the facade sign, which is contiguous with the tenant’s gross leasable floor area. The entire tenant facade area shall be used in determining the size of any facade sign even though the sign cannot be placed in the roof portion of the facade. To address unique architectural circumstances, signs may be located on an exterior wall area that is not contiguous to the lease space for a specific business to be identified. The business must, however, maintain lease area near to the proposed sign location and adjacent to the same exterior wall on which the sign is to be placed. Plans must be submitted, in the context of a sign scheme, to delineate sign area for each tenant sharing the same exterior wall on which the sign is placed. Plans must reflect adequate sign allowances for all tenants and a cumulative total of the sign area that does not exceed that which is allowable for the building elevation that will accommodate such signs. The sign scheme must present an aesthetic quality that is consistent with the intent of this Article.

In situations where a business in a single occupant structure, or an individual business in a multi-tenant structure, requests sign area on a facade that consists of two or more parallel exterior walls off-set from one-another in depth, calculation of allowable sign area will be conducted as follows: If the off-set of the walls exceeds 20 percent of the width of the section of wall on which the sign is to be placed, only that section of wall will be considered in calculating sign area, and letter and logo height.

In calculating allowable sign area on a freestanding canopy facade (i.e., fuel pump island canopies and canopies for drive through facilities), the surface area of the facade on which the sign is to be placed, including but not limited to the support posts and face of the canopy shall be considered. If the canopy is attached to a structure or a parent structure exists under or

behind the canopy, the facade area of the primary structure may be considered in determining the sign area to be utilized on the canopy. Under no circumstances, however, shall the sign area exceed 10 percent of the canopy facade and the sign on the canopy will be allowed only in lieu of a sign on the same side of the building.

Intersecting walls of a building with an interior angle of 135 to 150 degrees may be utilized to accommodate separate facade signs. If each wall is to be considered for a facade sign, only the wall on which a sign is to be placed may be considered in calculating allowable area, and letter and logo height. If the applicant wishes to utilize a sign on only one of the walls, allowable sign area may be determined by using the building dimensions of the two walls as viewed perpendicular to the wall on which the sign will be placed.

Under no circumstances, however, shall the sign area exceed 10 percent of the individual wall area on which the sign is located.

- F. *Signs On Awnings.* A business identification facade sign may be painted or placed upon an awning as permitted in accordance with respective zoning regulations, and if specified in the approved sign scheme for the building. The entire internally illuminated area of an awning will be calculated as sign area and will be subject to code restrictions regulating such area.

SECTION 426.7 SIGN DESIGN, CONSTRUCTION AND MAINTENANCE

- A. *Overall Design Consistency On Individual Buildings.* Signs on individual buildings shall be coordinated with the architecture of the building and with each other so as to present a consistent, planned image.
- B. *Monument Sign Design And Materials.* Monument signs shall incorporate a supporting base that is a minimum of 50 percent of the width of the monument at its widest point. Monument sign structures shall be constructed utilizing the materials and colors of the primary structure on the site. Actual sign letters and panels shall be of colors and materials as specified in the approved sign scheme.
- C. *Alternative Free-Standing Sign Design.* As an alternative to the monument style, free-standing signs may utilize other types of supporting structures as long as they meet the following criteria and adhere to applicable City Building Codes:
 - (1) Landscaping is provided as required for monument signs, based on the area of the sign panel and the area between the bottom of the sign and the ground below it.
 - (2) The sign and its supports shall be of a unified design, either as part of an engineered sign system or as an extension of the building architecture.
 - (3) All sides, edges and other surfaces shall present a finished appearance, including the capping or boxing of open edges and consistent painting or coating of all surfaces.
- D. *Letters On Facade Signs.* All permanent facade signs shall be subject to a maximum letter and logo height. The letter and logo height restriction relates (as a percentage) to the average height of the building face on which the sign is placed. The average height of letters per word of

a facade sign may not exceed 1/8 (12.5 percent) of the facade's average height, and the height of any logo on a facade sign may not exceed 1/4 (25 percent) of the facade's average height. A letter size of 18 inches is permitted regardless of building height, and no letter or logo may exceed a total height of 6 feet.

- E. *Illumination Limited.* All illuminated signs shall conform with the glare (intensity) requirements set forth in this Chapter. Bare neon tube lighting may be utilized in an open channel design to be included in the calculations for allowable sign area.
- F. *Construction.* All permanent signs shall comply with all appropriate design and construction specifications set forth in the latest edition of the uniform Building Code adopted by reference by the City. Signs shall be constructed and installed so that electrical supply, general wiring, support brackets and fasteners are not visible.
- G. *Addresses.* Unless otherwise approved by the Zoning Administrator, address numbers with a minimum height of 3 inches shall be incorporated into all monument signs identifying a single business or group of businesses in one address range.
- H. *Maintenance.* All signs shall be properly maintained and kept in good condition to include:
 - (1) A sign shall be maintained so as to be legible and complete.
 - (2) The sign structure shall be maintained in a vertical position unless originally permitted otherwise, and shall be maintained in safe condition at all times.
 - (3) All parts and surfaces shall be cleaned, painted or replaced as necessary to maintain the original permitted appearance.
 - (4) Electrical systems shall be in a safe condition at all times and adhere to the latest adopted standards of the National Electric Codes (NEC).

SECTION 426.8 SIGN PERMITS

- A. *Permit Required.* It shall be unlawful for any person to erect, construct, alter or relocate any sign within the City without having first obtained a permit therefore, except as provided for in this Article.
- B. *Work To Be Performed By Owner, Lessee Or Licensed Contractor.* The work necessary to construct, install, erect, illuminate, paint or modify signage within the City shall conform with the following:
 - (1) Work which may be performed by a property owner or lessee:
 - (a) Painting the face of any free-standing or wall sign;
 - (b) Installation or attachment of any individual letters, which does not require electrical service or structural modification of the surface or wall to which such letters are being attached; or

- (c) Construction and erection of any temporary free-standing sign 8 feet or less in height, which is non-illuminated.
- (1) Work which shall be performed by a sign contractor, electrical contractor or other contractor licensed with the City to perform such work:
 - (a) Construction, installation, erection or electrical connection of any sign which is internally illuminated;
 - (b) Construction, installation or erection of any permanent free-standing sign requiring wind load calculations;
 - (c) Construction, installation or erection of any sign which is located above a pedestrian walkway or on the front fascia of a canopy over a pedestrian walkway;
 - (d) Construction, installation or erection of any sign not described in subsection B 1 above.

C. *Application For Permit.* All applications for permits under this Section shall be filed by either a contractor licensed to erect signs in the City, or the owner of the property where the sign is to be located or his authorized agent. Such application shall include the following:

- (1) Name, address and telephone number of owner(s) of property;
- (2) Name, address, telephone number and license number or contractor erecting the sign;
- (3) The street address or legal description of the property upon which the proposed sign is to be located;
- (4) The height, size, shape, style, colors, materials and location of the proposed sign. Sign structures 6 feet or greater in height require structural plans certified by a licensed engineer;
- (5) Written authorization of the owner, his lessee or agent, to erect the proposed sign;
- (6) A plan, sketch, blueprint or similar presentation drawn to scale, showing all pertinent structural and electrical details, wind pressure requirements and materials in accordance with this Article; and
- (7) A statement verifying the height, size, shape and location of existing signage on the premises.

D. *Issuance Of Permit.* The procedure for issuing a sign permit shall be as follows:

- (1) Upon receipt of an application for a sign permit, the Department shall review the plans,

specification and other data relating to such sign, and, if considered necessary, inspect the premises upon which the sign is proposed to be erected.

- (2) No new sign permit shall be issued for a free-standing sign or facade identification sign on property upon which any nonconforming sign is located, until such nonconformity is corrected. On multi-tenant sites, this subsection shall apply only to the tenant's signage.
- (3) If the proposed sign is in compliance with this Chapter and all other applicable laws and codes of the City, a sign permit shall be issued upon receipt of the permit fee.

E. *Permit Fees.* Permit fees under this Code shall be adopted by the Governing Body.

F. *Exceptions.* Exemption from the requirement to obtain a sign permit shall be permitted under the following circumstances:

- (1) The erection, construction, installation of any sign described in Section 426.04 of this Article.
- (2) The repair, routine maintenance or repainting of any existing sign which is deemed conforming or allowed to continue as nonconforming under provisions of this Chapter.

G. *Expiration Of Permit.* A sign permit shall expire and become invalid one year from date of permit issuance. There shall be no refunds of fees for unused permits.

SECTION 426.9 PERMITTED MONUMENT SIGNS

- A. *Subdivisions.* Each subdivision will be permitted 1 double-faced sign or dual single-faced signs at each public street entrance. Permanent subdivision signs shall be approved by the Planning Commission, preferably at the time of plat approval. In reviewing the size and design quality of proposed signs, the Planning Commission shall consider the size of the subdivision, functional classification of adjoining roadway(s), adjacent land use, compatibility of proposed colors and materials with the primary buildings, landscape and other subdivision signs in the surrounding area and available resources for on-going maintenance. Such signs will also be evaluated in regard to their relationship to signs previously approved under similar circumstance. Signs proposed for existing subdivisions will be reviewed administratively, following the same design considerations as indicated for Planning Commission review, to be approved by the Planning Director or upon the Director's request, will be submitted for Planning Commission approval.
- B. *Multi-Family Complexes.* Each multi-family complex shall be permitted 1 double-faced sign or dual single-faced signs at each public street entry. An additional sign shall be permitted on an adjacent arterial or collector road frontage from which there is no direct access and is within 500 feet of the use.
- (1) Each sign shall not exceed 24 square feet for complexes of 16 or fewer units, and 36 square feet for complexes of over 16 units. Sign height shall not exceed 5 feet.

- (2) A complex with greater than 400 feet of freeway frontage is permitted one additional monument sign adjacent to that frontage with a maximum sign area of 100 square feet plus 1 square foot for each 8 feet of frontage over 800 feet not to exceed 250 square feet in area. A maximum sign height of 10 feet is permitted for this freeway monument.
 - (3) An additional monument sign may be utilized to identify the clubhouse or leasing office, of no more than 24 square feet in area and no more than 5 feet in height, located adjacent to the internal road system of the complex.
- C. *Public Institutions.* Each public institutional building, including schools, houses of worship, and cultural facilities, may have one 36 square foot monument sign. An additional sign on a secondary street frontage may be permitted as allowed for an individual commercial building. Sign height shall not exceed 5 feet. Up to 75 percent of the sign area may consist of a changeable copy panel.
- D. *Individual Commercial, Industrial And Office Buildings.*
- (1) One monument sign may be located on the primary street frontage of a size as listed below. A second sign is allowed on a secondary street frontage based on 75 percent or the allowable size on an arterial Street; 50 percent of the allowable size on a collector street; and 25 percent of the allowable size on a local street only when sole access is provided from that local street. Sign height shall not exceed 5 feet.
 - (2) A minimum of 200 feet of street frontage shall be required for the use of a monument sign. The maximum monument sign area for properties with over 200 feet but less than 300 feet of primary street frontage shall not exceed 24 square feet. The maximum monument sign area for properties with over 300 feet of primary street frontage shall not exceed 36 square feet.
 - (3) Monument signs for multi-tenant, internal entrance industrial or office buildings shall be allowed two items of identification to be included on the monument sign, the identification of the building and one additional tenant. If the building is identified by address only, two tenants may be included on the monument sign. If the building name is also the name of a tenant, only the building name and one additional tenant may be identified.
- E. *Service Stations.* Each service station or other retail gasoline outlet may have one 36 square foot monument sign, with up to 65 percent of the sign area dedicated to a fuel price panel, including changeable characters. An additional sign on a secondary street frontage may be permitted as allowed for an individual commercial building. Sign height shall not exceed 5 feet.
- F. *Shopping Centers.* One monument sign may be located on the primary street frontage of a size and height as listed below, based on the total gross leasable area (GLA) of the shopping center. A second sign is allowed on a secondary street frontage based on 75 percent of the allowable size on an arterial street; 50 percent of the allowable size on a collector street. Within the allowable sign area, separate tenant identification is also permitted as listed below. No more than 50 percent of the allowable sign area may be utilized for tenant identification.

- (1) Under 25,000 square feet GLA: 36 square feet of sign area, 8 feet in height, may include identification of two tenants
- (2) 21000-75,000 square feet GLA: 48 square feet of sign area, 8 feet in height, may include identification of two tenants
- (3) 75,000-150,000 square feet GLA: 60 square feet of sign area. 8 feet in height, may include identification of two tenants
- (4) 150,000-300,000 square feet GLA: 72 square feet of sign area, 10 feet in height, may include identification of three tenants
- (5) 300,000 square feet GLA or more: 84 square feet of sign area, 12 feet in height, may include identification of five tenants

G. *Business Park Developments.* Each business park will be permitted 1 double-faced monument sign or dual single-faced monument signs at each public street entrance. Permanent business park signs shall be approved by the Planning Commission, preferably at time of Preliminary Plan approval. On evaluation of the size and design quality of the proposed signs, the Planning Commission shall consider the size of the business park, functional classification of adjoining roadway(s), adjacent land use, compatibility of proposed colors and materials with primary structures, landscape and other freestanding signs in the surrounding area and available resources for on-going maintenance. Such signs will also be evaluated in regard to their relationship to signs previously approved under similar circumstance. Signs proposed for existing business parks will be reviewed administratively, following the same design considerations as indicated for Planning Commission review, to be approved by the Zoning Administrator or upon the Administrator's request, will be submitted for Planning Commission approval.

H. *Highway Frontage Monument Signs.* Each shopping center, business park or free-standing commercial or office building with 200 lineal feet or more of highway frontage on US 50 or 400 lineal feet or more of other highway (not to be interpreted as state routes) frontage, shall be permitted one highway frontage sign as described below:

- (1) **Height.** Maximum height shall be 25 feet above the center line height of the nearest through traffic lanes, with a maximum sign height of 35 feet. Where signs are located more than 15 feet above the center line, maximum height shall be 10 feet.
- (2) **Size.** The permitted sign area shall not exceed 100 square feet, plus 1 square foot per 8 highway frontage feet over 800 highway frontage feet, with a maximum size of 250 square feet.
- (3) **Design.** All highway frontage signs shall be of a monument style as defined in the Code, however creative designs are encouraged, including triangular-or cube-shaped signs and other sculptural or architectural elements. The overall size of the monument shall not

exceed 6 times the permitted sign area. Signs shall be designed to present as vertical a cross section as possible when signs exceed 10 feet in height.

- (4) **Restrictions On The Use Of Highway Frontage Signs.** Frontage road properties that utilize a highway sign may not utilize another monument sign on the frontage road. Frontage road buildings utilizing highway signs may not utilize facade signs visible to the highway at a height over 25 feet. Non-frontage road properties that utilize a highway frontage sign may not utilize facade signage oriented toward the freeway. Refer to other monument sign provisions of this Article for limitations related to multiple tenant identification.

SECTION 426.10 PERMITTED FACADE SIGNS

- A. *Multi-Family or Townhouse Complexes.* One facade sign may be utilized to identify the clubhouse or leasing office, if a monument sign is not used for that purpose. The sign shall be no more than 16 square feet in area, and oriented to the internal road system of the complex. Average letter height shall not exceed 1/8 of the height, and logos shall not exceed 1/4 of the height of the facade upon which they are placed. A letter size of 18 inches is permitted regardless of building height, and no letter or logo may exceed a total height of 6 feet.
- B. *Public Institutions.* Each public institutional building, including schools, houses of worship and cultural facilities, may have 1 identification facade sign per public street frontage.

Each sign may be no larger than 5 percent of the total area of the facade upon which it is placed. Average letter height shall not exceed 1/8 of the height, and logos shall not exceed 1/4 of the height of the facade upon which they are placed. A letter size of 18 inches is permitted regardless of building height, and no letter or logo may exceed a total height of 6 feet.

- C. *Individual Commercial, Industrial And Office Buildings.*
- (1) Up to 3 identification facade signs may be utilized, 1 per facade, on facades that are architecturally finished to a degree similar to that of the building front. Facade signs shall not be placed on building sides or rears that are directly adjacent to and face residential areas.
- (2) Each sign may be no larger than 5 percent of the total area of the facade upon which it is placed. Average letter height shall not exceed 1/8 of the height, and logos shall not exceed 1/4 of the height of the facade upon which they are placed. A letter size of 18 inches is permitted regardless of building height and no letter or logo may exceed a total height of 6 feet.
- (3) Facade signs on multi-tenant, internal entrance industrial or office buildings shall all include the same identification, either the name of the building or 1 major tenant in the building.
- D. *Shopping Centers And Other Individual Entrance Buildings.* Each tenant in a shopping center or other multi-tenant, individual entrance building may utilize 1 identification facade sign on its entrance facade. A second identification facade sign may be utilized by corner or end tenants

only if the second facade is architecturally finished to a degree similar to that of the building front.

- (1) Each sign may be no larger than 5 percent of the total area of the facade upon which it is placed, except that on facades of a total area of under 500 square feet, regardless of size, each tenant with its own entrance may utilize a maximum sign area of 25 square feet.
- (2) No sign may exceed 80 percent of the total width of the tenant facade. Average letter height shall not exceed 1/8 of the height, and logos shall not exceed 1/4 of the height of the facade upon which they are placed. A minimum letter size of 18 inches is permitted regardless of building height, and no letter or logo may exceed a total height of 6 feet.

SECTION 426.11 PERMITTED REAL ESTATE AND CONSTRUCTION SIGNS

A. *Real Estate/Initial Leasing Signs.* Real estate/initial leasing signs are permitted on all properties to advertise the availability of the property for sale and/or the availability of a developed property or portion thereof for lease during the first year after completion of development or subsequent sale or lease of a building or land area. This provision is not intended to provide signage for ongoing leases of individual units of a multi-tenant facility. Each parcel shall be permitted 1 freestanding sign (a wall mounted sign of equal size may be utilized if landscape area is not available) for each 1,000 feet of public street frontage or portion thereof, with a minimum spacing of signs on one frontage of 500 feet. There shall be a minimum of 150 feet between signs on separate street frontages. The size and height of a real estate/initial leasing sign shall be as follows:

- (1) On a single-family lot or single duplex or multi-family unit or on a multi-family tract of 1 acre or less, the sign shall not exceed 6 square feet. 4 feet in height. and shall not be illuminated.
- (2) On a multi-family parcel or greater than 1 acre, the sign shall not exceed 16 square feet and 8 feet in height.
- (3) On non-residential parcels with less than 400 feet of public street frontage the sign shall not exceed 20 square feet in area and 8 feet in height.
- (4) On non-residential parcels with 400 feet or more of public street frontage the sign shall not exceed 32 square feet in area and 8 feet in height.
- (5) On parcels with 800 or more feet of street frontage adjacent to highway or frontage road right of way the sign shall not exceed 64 square feet in area and 12 feet in height.

CHAPTER 430 - FLOODPLAIN MANAGEMENT

SECTION 430.1 STATUTORY AUTHORIZATION

The Legislature of the State of Missouri has in RSMO 89.020 delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the City Council of Lake Lotawana, Missouri ordains as follows:

SECTION 430.2 FINDINGS OF FACT

- A. *Flood Losses Resulting from Periodic Inundation.* The special flood hazard areas of Lake Lotawana, Missouri 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 ordinance 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 ordinance is representative of large floods which are characteristic of what can be expected to occur on the particular streams subject to this ordinance. 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 September 29, 2006 for Jackson County, Missouri as amended, and any future revisions thereto.
 - (2) Calculation of water surface profiles 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 flood fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

SECTION 430.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare; to minimize those losses described in Section 430.2; 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) by applying the provisions of this ordinance 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.

SECTION 430.4 LANDS TO WHICH ORDINANCE APPLIES

This ordinance shall apply to all lands within the jurisdiction of the City of Lake Lotawana identified as numbered and unnumbered A zones and AE zones, on the Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) Jackson County Panels 29095C0309 F, 29095C0316 F, 29095C0317 F, 29095C0328 F, 29095C0336 F, 29095C0338 F, 29095C0435 F, 29095C0451 F, 29095C0452 F, dated September 29, 2006 as amended, and any future revisions thereto. In all areas covered by this ordinance, no development shall be permitted except through the issuance of a floodplain development permit, granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council 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 these Regulations.

SECTION 430.5 FLOODPLAIN ADMINISTRATOR

The Building Inspector is hereby designated as the Floodplain Administrator under this ordinance.

SECTION 430.6 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 ordinance and other applicable regulations.

SECTION 430.7 ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

SECTION 430.8 INTERPRETATION

In their interpretation and application, the provisions of this ordinance 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 State statutes.

SECTION 430.9 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance 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 ordinance 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 ordinance shall not create a liability on the part of Lake Lotawana, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION 430.10 SEVERABILITY

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.

SECTION 430.11 FLOODPLAIN DEVELOPMENT PERMIT REQUIRED

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 430.4. 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.

SECTION 430.12 DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Building Inspector is hereby appointed to administer and implement the provisions of this ordinance.

SECTION 430.13 DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR

Duties of the Building Inspector 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 ordinance 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 Missouri State Emergency Management Agency (MO SEMA) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
- F. Ensure that the flood carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse.

- 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 Building Inspector shall require certification from a registered professional engineer or architect.

SECTION 430.14 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;
- G. Give such other information as reasonably may be required by the Building Inspector;
- 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.

SECTION 430.15 GENERAL STANDARDS - FLOOD HAZARD REDUCTION

- 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 and AE 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 ordinance. 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 numbered A zone or AE zone 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.* 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. 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. *Accessory Structures.* Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

SECTION 430.16 SPECIFIC STANDARDS - FLOOD HAZARD REDUCTION

In all areas identified as numbered and unnumbered A zones and AE zones, where base flood elevation data have been provided, as set forth in Section 430.15(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 to one (1) foot above base flood elevation. In all unnumbered and numbered A zones and AE zones, the FEMA, Region VII office recommends elevating to one foot above the base flood elevation to accommodate floodway conditions when the floodplain is fully developed.
- 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 to 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. Such certification shall be provided to the Floodplain Administrator as set forth Section 430.13(l)). The FEMA, Region VII office recommends elevating to one foot above the base flood elevation to qualify for flood insurance rates based upon floodproofing.
- C. *All New Construction.* 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 floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; and
 - (2) The bottom of all opening shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

SECTION 430.17 MANUFACTURED HOMES

- A. All manufactured homes to be placed within all unnumbered and numbered A zones and AE 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 and AE zones, on the community's FIRM on sites:
 - (1) Outside of 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,
 - (5) Be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to 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.

- 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 and AE zones, on the community's FIRM, that are not subject to the provisions of Section 430.17(B) of this ordinance, be elevated so that either:
 - (1) The lowest floor of the manufactured home is at 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. In all unnumbered and numbered A zones and AE zones, the FEMA, Region VII office recommends elevating to one foot above the base flood elevation to accommodate floodway conditions when the floodplain is fully developed.

SECTION 430.18 FLOODWAY

Located within areas of special flood hazard established in Section 430.4 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters 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 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 430.18(B) is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of these Regulations.
- D. In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in Section 430.15(B).

SECTION 430.19 RECREATIONAL VEHICLES

- A. Require that recreational vehicles placed on sites within all unnumbered and numbered A zones and AE zones on the community's FIRM either:
 - (1) be on the site for fewer than 180 consecutive days, or
 - (2) be fully licensed and ready for highway use*; or
 - (3) meet the permitting, elevation, and the anchoring requirements for manufactured homes of this ordinance.
- B. 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.

SECTION 430.20 FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES

- A. *Establishment of Appeal Board.* The Board of Adjustments as established by Lake Lotawana shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.
- B. *Responsibility of Appeal Board.* Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the Building Inspector, the applicant may apply for such floodplain development permit or variance directly to the Appeal Board, as defined in Section 430.20(A). The Board of Adjustments shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Building Inspector in the enforcement or administration of this ordinance.
- C. *Further Appeals.* Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the Jackson County Circuit Court as provided in RSMO 89.110.
- D. *Floodplain Management Variance Criteria.* In passing upon such applications for variances, the Board of Adjustments shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:
 - (1) The danger to life and property due to flood damage;

- (2) The danger that materials may be swept onto other lands to the injury of others;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations, not subject to flood damage, for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
- (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

E. *Conditions for Approving Floodplain Management Variances*

- (1) 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 2 through 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.
- (2) 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 provided the proposed activity will not preclude the structure=s continued historic designation.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:

- (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (6) 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 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 ordinance.

F. *Conditions for Approving Variances for Accessory Structures.* Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Sections 430.20(D) and (E) of this ordinance. In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed.

- (1) Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
- (2) For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 4, Section A (4)(b) of this ordinance.
- (3) The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Article 4, Section A (4)(a) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
- (4) Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Article 4, Section A (4)(d) of this ordinance.
- (5) The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to

the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Article 4, Section B (1)© of this ordinance.

- (6) The accessory structures must comply with the floodplain management floodway encroachment provisions of Article 4, Section D(2) of this ordinance. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
 - (7) Equipment, machinery, or other contents must be protected from any flood damage.
 - (8) No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
 - (9) A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood 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 (2) 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 ordinance.
 - (10) Wet-floodproofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.
- G. *Penalties for Violation.* Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Lake Lotawana or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.
- H. *Amendments.* The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed 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 Lake Lotawana. At least 20 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of the Federal Emergency Management Agency (FEMA). The regulations of this ordinance are in compliance with the National Flood Insurance Program (NFIP) regulations.

CHAPTER 435 - INFRASTRUCTURE STANDARDS

SECTION 435.1 ADEQUATE PUBLIC FACILITIES REQUIRED + APW + BMP

The purpose of these Regulations is to ensure that land proposed for development shall be served by public facilities, at the levels of service established by the City, which are adequate to support and service the area of the proposed development. Land shall not be approved for development unless and until adequate public facilities exist or provision has been made for the following essential public facilities: public safety, water service, wastewater treatment and disposal, stormwater management, electrical service, telecommunications service and transportation facilities. Public facilities shall be provided in a manner that is consistent with the Comprehensive Plan, these Regulations and other standards adopted by the County.

- A. New development shall provide adequate facilities and services to accommodate demands from proposed development in conformance with the minimum standards established by the City;
- B. Improvements shall be constructed in conformance with the provisions of these Regulations;
- C. New development shall be timed and phased at a pace that will ensure the adequate provision of community facilities and services for proposed and future development;
- D. Each phased development project shall be designed so that the project is capable of functioning effectively and independently at completion of each phase;
- E. Adequate roadway facilities shall be provided concurrently with new development and shall be designed and constructed in conformance with applicable City standards; and
- F. All required facilities shall be inspected and approved by the City prior to issuance of a building permit, except sidewalks.
- G. No development shall be approved unless such development has available adequate public facilities and services at the time that development approval is applied for, or such public facilities are contained within a fully funded capital improvement program or plan. Proposed public improvements shall conform to and be properly related to the City's Comprehensive Plan and all applicable capital improvements programs and plans, including the plans for roads, sewer, stormwater management, fire and water districts, school districts and other emergency service providers.
- H. The most current edition of the APWA specifications and the MARC BMP manual for storm water practices are hereby adopted. (Ord. No. 842 §1, 8-21-07)

SECTION 435.2 ADEQUATE PUBLIC FACILITIES

- A. Such development approvals may be timed and phased where partial adequate public facilities are available.

- B. *Water.* All habitable structures and buildable lots shall be connected to a public or private water system capable of providing water for health and emergency purposes, including adequate flows for fire protection.
- C. *Wastewater.* All habitable structures and buildable lots shall be served by an approved means of wastewater collection and treatment as required.
- D. *Stormwater Management.* Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in peaks or velocity of downstream flooding. The City may require the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements to mitigate the impacts of the proposed development.
- E. *Streets.* Proposed streets shall provide a safe, convenient and functional system for vehicular, pedestrian and bicycle circulation, shall be properly related to the Comprehensive Plan; and shall be appropriate for the particular traffic characteristics of each proposed development. Adequate street capacity and street design and construction shall be done in conformance with the design standards in these Regulations. New development shall fund the construction of the transportation facilities needed to meet the demands attributable to the development. Such roadways shall be provided concurrently with new development. The subdivider shall provide the grading of the entire street right-of-way, alley or public place and pave the streets. Dedication of rights-of-way and other access easements necessary for needed transportation facilities for current and future phases shall be required of new development.
- F. *Extension and Oversized Facilities Policies.* All public improvements and required easements shall be extended through the parcel on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, electric lines and telecommunications lines shall be constructed through new development to promote the logical extension of public infrastructure. The City may require the applicant of a subdivision to extend offsite improvements to reach the subdivision or to oversize required public facilities to serve anticipated future development as a condition of map approval. Reimbursements for oversized facilities shall be provided in a Development Agreement entered into between the developer and the City.
- G. *Phasing.* The City may require the timing and phasing of development or improvements to maintain adopted levels of service for existing public services and facilities or for other reasons based upon maintaining the health, safety and general welfare of the City's inhabitants.
- H. *Easements/Rights-of-Way.*
 - (1) Except as otherwise provided in these Regulations, an applicant for a development approval shall ensure that adequate on-site and off-site easements are provided for future roadways, water, wastewater and other public utilities.
 - (2) The property owner shall grant adequate utility easements for all public and private utilities along rear and side property lines as recommended by the Zoning

Administrator. Utility easements shall be shown on the plat and dedicated in conjunction with recordation of the final plat.

- (3) All public utility easements shall be at least ten (10) feet wide. Additional width may be required for unusual topography or for easements needed for multiple utilities to ensure the proper placement and maintenance of utility lines.
 - (4) Except where prohibited by topography, utility easements shall be located on lot lines in the rights of way of streets, or in separate utility easements. The City may require all easements for drainage or sewer to be selectively cleared of undergrowth, trees and other obstructions by the applicant prior to final approval. No buildings or structures, except as necessary for utilities, shall be permitted within or on easements.
 - (5) An applicant shall provide adequate on-site rights-of-way for anticipated traffic demands in a manner consistent with these Regulations, the Comprehensive Plan and project specific traffic impact analysis (TIA), if applicable. If a TIA, shows that a proposed development creates the need for additional off-site right-of-way, the applicant may be required to provide right-of-way proportional to the demand created prior to development approval.
 - (6) Where streams and watercourses are located within a subdivision, the subdivider shall dedicate easements on both sides of the watercourse to permit proper maintenance by the City.
- I. *Construction and Materials.* Except as otherwise provided in these Regulations, the construction and material specifications shall comply with the standards established by the American Public Works Association (APWA Standards), except as modified by policies and codes adopted by the Board of Aldermen.
 - J. *Inspections/Acceptance.* The City will inspect public improvements to ensure that such improvements are constructed to City standards and specifications. City acceptance of required improvements shall be required prior to use or occupancy of a development. The cost of inspection shall be borne by the applicant.
 - K. *Maintenance.* The City shall require performance and payment bonds or letters of credit and/or maintenance guarantees for any street, wastewater line or drainage facility as a condition of accepting such improvement.

SECTION 435.3 INDIVIDUAL WELLS AND CENTRAL WATER SYSTEMS

- A. *Public Water Supply Unavailable.* Where public water is not available, individual wells may be used to provide water to each and every lot within the subdivision. The applicant shall demonstrate the availability of water for domestic use and shall submit samples of the water to the appropriate County Department for its approval. Individual wells shall be approved by the appropriate health authorities and such approvals shall be submitted to the Planning and Zoning Commission for approval prior to final subdivision plat approval.

- B. *Public Water Supply Available in the Future.* If the Planning and Zoning Commission requires that a connection to a public water main be made in the future when the main becomes available, the applicant shall make arrangements to receive future water service prior to approval of the final plat. The Planning and Zoning Commission may require a performance or cash bond to ensure compliance.

SECTION 435.4 FIRE HYDRANTS

All new subdivisions with lots smaller than one (1) acre shall have fire hydrants. The applicant shall be required to show the location of the fire hydrants on the construction plans. The fire hydrants shall be designed as follows:

- A. Fire hydrants shall be located not more than one thousand (1,000) feet apart, but shall be located within five hundred (500) feet, as measured in a straight line, of any structure. The location of the hydrants shall be approved by the City Engineer.
- B. Fire hydrants and underground water lines shall be installed prior to final paving of the streets shown on the construction plans.
- C. Fire Hydrants shall comply with all provisions of the Fire Code of the City of Lake Lotawana.
- D. Fire hydrants shall have sufficient water flow and pressure as determined by the City Engineer, whose determination may be based on recommendations by the applicable water district and fire district.

SECTION 435.5 CENTRAL WASTEWATER SYSTEMS & SEWER REQUIRED

- A. *Generally.* All habitable structures and buildable lots shall be served by an approved means of wastewater collection and treatment. Central wastewater collection and treatment shall be provided when it is required and upon approval by the City of an appropriate pay-as-you-grow financing tool that allocates growth-related costs to new users.
- B. *Design Standards.* All central wastewater systems shall be designed and constructed to comply with state and American Public Works Associations (APWA) Standards as modified by these Regulations. These design standards are not intended to cover extraordinary situations. Deviations will be allowed and may be required in those instances where recommended by the City Engineer. Sanitary sewer systems shall be designed and built for the ultimate tributary population. Sewer capacities shall be adequate to handle the anticipated maximum hourly quantity of sewerage and industrial waste together with an adequate allowance for infiltration and other extraneous flow. Design flows shall be subject to approval of the City Engineer for each particular development.
- C. *Off-Site Improvements.* The developer of a parcel shall provide off-site improvements required to adequately serve a proposed development, provided, however, that the Zoning Administrator may authorize development to proceed if the service provider certifies that the necessary capital improvements have been funded for construction within two (2) years of plat recordation. In no event shall an administrative permit be granted prior to connection to an approved wastewater system unless the Board of Aldermen has approved an interim service plan

- D. *Extension/Oversizing.* Upon recommendation of the City Engineer and the Planning and Zoning Commission, the Board of Aldermen may require that wastewater lines be over-sized to accommodate planned development.

SECTION 435.6 PRIVATE (ON-SITE) SEWAGE DISPOSAL SYSTEMS

- A. *Generally.* All private on-site sewage disposal systems shall be installed, altered, expanded, repaired or operated according to the requirements of the County Department of Public Works Environmental Health Division, state law and regulations.

Note: Also reference Section 700.160 of the City of Lake Lotawana Municipal Code. In the LR zoning, the Home Owners Association rules require that new residences must be connected to the city sewers.

- B. *Permit Required.* Any person who desires to install, add to, alter, expand or repair a private on-site sewage disposal system shall make a written application on forms provided by the County Department of Public Works Environmental Health Division. No person shall install, add to, alter, expand or repair a private waste treatment system without the approval of the County.
- C. *Failure to Comply with Stop Work Order.* Failure to comply with a stop work order or other lawful order of the County Department of Public Works Environmental Health Division is a violation of these Regulations.
- D. *One Residence Per Individual On-Site System.* Only one residence shall be connected to an individual on-site sewage treatment system, except that the City Engineer and County Department of Public Works Environmental Health Division may jointly authorize connection of additional units upon finding that the system can accommodate all uses.
- E. *When Private Waste Treatment System Constitutes a Public Nuisance.* The location and installation of private waste on-site sewage disposal systems shall be such that with reasonable maintenance, the private on-site sewage disposal system will function in a sanitary manner and will not create a nuisance, health hazard or endanger the safety of any domestic water supply. Any private on-site sewage disposal or other waste treatment system installed, added to, altered, expanded or repaired in violation of this Chapter and the rules and regulations of the County or State is a threat to the health, safety and welfare of the County and is a public nuisance.
- F. *Private On-Site Sewage Disposal System Standards.*
 - (1) **Factors Considered.** When reviewing an application for a subdivision with individual on-site sewage treatment systems, consideration shall be given to the size and shape of the lots, slope of natural and finished grade, soil type and classification, depth of ground water bedrock, or any limiting layer, proximity of existing or future water supplies and possible expansion of the system.

- (2) Designed to Receive All Sewage. The systems shall be designed to adequately receive all sewage from the dwelling. Footing or roof drainage shall not enter any part of the systems.

SECTION 435.7 MINIMUM DESIGN STANDARDS, ALLEYS AND STREETS

- A. Arrangement of major streets in the subdivision shall conform as nearly as possible to the Comprehensive Plan, and Major Street Plan as adopted by the City, and provisions shall be made for the extension of major and secondary thoroughfares. Except for courts and cul-de-sacs, streets normally shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts. No development approval shall be granted where adequate off-site transportation capacity is not available at time of development approval or contained within a fully funded capital improvement program or plan.
- B. Minor streets should be so planned as to discourage their use by non-local traffic. "Places", courts or cul-de-sacs will be permitted where topography or other conditions justify their use and provisions shall be made for adequate traffic circulation. Cul-de-sacs shall normally not be longer than five hundred (500) feet, including a turnaround which shall be provided at the closed end, with an outside curb radius of at least forty (40) feet and a right-of-way radius of not less than fifty (50) feet.
- C. Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.
- D. When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels, shall be so arranged as to permit the continuous location and opening of future streets and appropriate resubdivision, with provision for adequate utility connections for such resubdivision.
- E. Under normal conditions, streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. The minimum angle of intersection of streets generally shall be sixty degrees (60°).
- F. Streets entering the opposite sides of a street shall either be directly across from each other or offset by at least one hundred (100) feet from centerline to centerline.
- G. Whenever the proposed subdivision contains or is adjacent to a railroad right-of-way or the right-of-way of a limited access freeway, expressway or major thoroughfare, provision shall be made for a marginal access street approximately parallel and adjacent to the boundary of such right-of-way, or for a street at a distance suitable for the appropriate use of land between such street and the right-of-way. Such distance shall be determined with due consideration of the minimum distance required for approach connections to future grade separations, or for lot depths.
- H. Except where justified by several conditions, such as the continuation of an existing alley in the same block, alleys will not be approved in residential districts. Alleys, where provided, shall not

be less than twenty (20) feet wide. Intersecting alleys shall have corner cutoffs of at least twenty (20) feet on a side. Dead-end alleys shall be avoided whenever possible, but if unavoidable, such dead-end alleys may be approved if adequate turnaround facilities are provided at the closed end.

- I. Dedication of half streets will not be approved except in the public interest.
- J. For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for streets, alleys, or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classification as follows and shall be in accordance with the master plan for streets:
 - (1) Primary or arterial streets - Minimum right-of-way - sixty (60) feet
 - (2) Collector or secondary streets - Minimum right-of-way - sixty (60) feet
 - (3) Residential streets - Minimum right-of-way - fifty (50) feet
 - (4) Marginal access streets - Minimum right-of-way - forty (40) feet
 - (5) Alleys - Twenty (20) feet
- K. Where existing or anticipated traffic on primary and secondary thoroughfares warrants greater widths of rights-of-way, these shall be required. A drainage easement, in addition to the provided right-of-way width, may be required where streets parallel streams or drainage area. The width of such drainage easements shall be determined by the City Engineer. Said Engineer shall notify the developer and the Chairman of the Planning and Zoning Commission, in writing, of his/her determination.
- L. Minimum pavement widths of all streets, measured from the back to back of curb, and for alleys and walks included in any subdivision shall not be less than the minimum dimensions for each classification as follows and in accordance with the master plan for streets:
 - (1) Primary or arterial streets - Forty-four (44) feet wide, back to back of curbs
 - (2) Collector or secondary streets - Thirty-six (36) feet wide, back to back of curbs
 - (3) Residential streets - Twenty-eight (28) feet wide, back to back of curbs
 - (4) Marginal access streets - Minimum twenty-four (24) feet wide, back to back of curbs
- M. *Street Grades.* The grades in all streets, alleys, and pedestrian ways included in any subdivision shall not be greater than the maximum grades for each classification as follows, except where topographical conditions unquestionably justify a departure from this maximum:
 - (1) Major streets - Primary - Five percent (5%)

- (2) Major streets - Secondary - Seven percent (7%)
 - (3) Minor streets - Ten percent (10%)
 - (4) Cul-de-sacs - Ten percent (10%)
 - (5) Alleys - Ten percent (10%)
 - (6) Pedestrian ways - Twelve percent (12%)
 - (7) Minimum grade shall be - One-half of one percent (.05%) (subject to drainage approval)
 - (8) Intersection Grades will be individually reviewed
- N. *Street Alignment.* The horizontal and vertical alignment on all streets, except in unusual cases, shall be as follows:
- (1) Major streets - Primary - Five hundred (500) feet minimum
 - (2) Major streets - Secondary - Three hundred (300) feet minimum
 - (3) Minor streets - One hundred (100) feet minimum
- O. There shall be a tangent between all reversed curves of a length equal to the radii of the curves so as to provide for a smooth flow of traffic.
- P. *Vertical.* All changes in street grade shall be connected by vertical curves of such length as to provide for the minimum sight distances required. The minimum sight distances required are as follows:
- (1) Major streets - Primary - Five hundred (500) feet
 - (2) Major streets - Secondary - Three hundred (300) feet
 - (3) Minor streets - One hundred (100) feet
- Q. *Curb Radii.* Where two (2) minor streets intersect at approximately right angles, so that the smallest angle of intersection is not less than eighty degrees (80°), the curb at each block corner shall be rounded with a radius of fifteen (15) feet. At all intersections where minor streets intersect at an angle of less than eighty degrees (80°), or where a minor street intersects with a major or secondary thoroughfare, or where two (2) or more secondary or major thoroughfares meet, cross or otherwise intersect in any combination, the curb radii at such intersections shall be subject to the approval of the City Engineer.
- R. *Sidewalks.* Where density is 2.5 to 4.0 houses per net acre, sidewalks shall be on one (1) side. Where density is over 4.0 houses per net acre, sidewalks shall be on both sides. No sidewalks are required on cul-de-sacs or streets where residential density is less than 2.5 houses per net

acre. Minimum sidewalk widths shall be four (4) feet. Notwithstanding the prior provisions, sidewalks on both sides of the street will be required on all arterial and collector streets. Sidewalks shall also be required for all non-residential or mixed uses.

- S. *Sight Distance.* No fence, wall, entrance marker, sign, hedge, shrub planting or tree foliage which obstruct sight lines at elevations between two (2) feet and eight (8) feet above roadways shall be located on any corner lot within the triangular area formed by the right-of-way lines and a line connecting them at points twenty-five (25) feet from their point of intersection.
- T. Private streets meeting all of these requirements except for ownership may be constructed and maintained only within a PD or QSGD and only with express provisions requiring one hundred percent (100%) financial assurance that the private street will be perpetually maintained, repaired and reconstructed according to a time table adopted by the City.

SECTION 435.8 STREET CONSTRUCTION

- A. *Curb And Guttering.* All separate curb and gutter used in conjunction with streets other than concrete, and except as hereinafter provided, shall be twenty-four (24) inches wide of concrete construction, and constructed in accordance with the standard detail and specifications as provided by the City. Only integral curb and gutter shall be used with concrete streets.
- B. *Base Coarse And Surface For Class I Streets.* Class I streets shall be constructed of seven (7) inches of compacted cement treated base, or hot asphaltic concrete base, covered with three (3) inches of hot asphaltic concrete surface, or eight (8) inches of concrete.
- C. *Base Coarse And Surface For Class II Streets.* Class II streets shall be constructed of six (6) inches of compacted cement treated base, or hot asphaltic concrete base, covered with two (2) inches of hot asphaltic concrete surface, or six (6) inches of concrete.
- D. *Base Coarse And Surface For Class III Streets.* Class III streets shall be constructed of five (5) inches of compacted cement treated base, or hot asphaltic concrete base, covered with one and one-half (1 ½) inches of hot asphaltic concrete surface, or five (5) inches of concrete.
- E. *Compliance With City Specifications.* All streets must be constructed in accordance with standard details and specifications furnished by the City.
- F. *Widening Of Existing Streets.* In cases of required widening, the widening shall correspond to construction specified above for the applicable type of street. Where future widening is planned or contemplated, a temporary asphalt lip curb will be required if, under good engineering practices, the lip is necessary to control storm damage.
- G. *Phases To Be Inspected, Accepted.* Each phase of construction (including but not limited to subgrade base and formed curbs) shall be inspected and accepted by the City Engineer before starting the succeeding phase of construction.
- H. *Violations And Non-Compliance.* Any violation of this Chapter shall be construed to be a misdemeanor, and may be properly treated as such, and any violation or variance from the terms and specifications recited in this Chapter shall be cause for the City's refusal to accept the

work on any applicable project. Should work not be inspected as required herein, the contractor shall furnish an additional three (3) years maintenance bond.

SECTION 435.9 EASEMENTS

- A. An easement for utilities, at least five (5) feet wide, shall be provided along each side of a side line of lots and/or the rear line of lots where necessary to form a continuous right-of-way, at least ten (10) feet in width. If necessary for the extension of a water main or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots.
- B. Utility easements shall connect with easements established in adjoining properties.
- C. Additional easements for pole guys should be provided at the outset of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall along the side lot lines.
- D. Drainage easements for storm sewers may be required. Easements for open channel drainage may be required where the cost of the installation of storm sewers as shown in bids or other price quotes, is considered by the City Engineer, to be prohibitive. These easements may be along the side lot lines, but usually the design should be such that the drainage will be carried along the rear of the lots. If open channel drainage is to be carried down the rear lot lines, the easement shall be of adequate width for workmen (with trucks if need be) to enter the easement and keep it cleaned out. The size and location of such easements for open channel drainage shall be determined by the City Engineer.

SECTION 435.10 DEDICATIONS FOR PUBLIC SITES AND OPEN SPACES

- A. All areas to be reserved for or dedicated to public use shall be shown on the Concept Plan in order that the City may determine when, if, and in what manner such areas will be dedicated to, or acquired by the City, and shall conform as nearly as possible to the recommendations of the City Comprehensive Plan, Major Street Plan, and Capital Improvements Program.
- B. All streets, alleys, easements and other public sites, when approved by ordinance, shall not thereafter be changed without the approval of the Board of Aldermen, by ordinance, and upon recommendation of the City Planning and Zoning Commission and the City Engineer.

SECTION 435.11 REQUIRED MINIMUM IMPROVEMENTS

- A. *Permanent Markers And Monuments.* Permanent markers shall be placed at points of curvature and points of tangency on street lines, and at each angle point on the boundary of the subdivision. In situations where conditions prohibit the placing of markers in the location prescribed above, offset markers will be permitted. Permanent monuments shall be placed at all quarter section points within the subdivision or on its perimeter.
- B. *Streets.* Street pavement shall conform with the provisions of these Regulations.
- C. *Sanitary Sewers.* A sanitary sewer system shall be constructed by the subdivider in accordance with the requirements of the MoDNR and as recommended by the City Engineer. When public sewers are not available the developer shall construct a sewer collection system to the same

standards as a public sewer. A community disposal system of individual septic systems shall be connected to collection system and discharge in a well defined natural drain. Maintenance bond requirement will be the same for a public sewer or individual collection system.

- D. *Storm Sewers.* Where an existing storm drainage system is reasonably accessible, the subdivider shall connect with such storm drainage system and shall do all grading and provide all drainage structures that are necessary to properly carry the water to locations which are acceptable to the City Engineer. All storm drainage calculations shall be made in accordance with the minimum design criteria of the City.
- E. *Abutting Streets.* Abutting streets shall be improved in accordance with the master plan and the full width shall be constructed as approved by the Board of Aldermen.
- F. *Sewering Adjacent Property.* Sewers shall be extended to the boundary line to serve adjacent property except where adjacent property can be served by future sewer extension through dedicated right-of-way.
- G. *Water.* The developer shall meet City requirements concerning the water system of the City of Lake Lotawana Codes. Building permits will not be issued until these requirements are met.

SECTION 435.12 MAINTENANCE GUARANTEE

An acceptable maintenance bond in the amount of fifty percent (50%) of the contract price of the improvement shall be provided to protect the City against defects in workmanship and materials for a period of two (2) years from the date of acceptance of such improvements. The bond shall be filed with the City Engineer prior to the acceptance of the improvements by the City.

SECTION 435.13 STANDARDS AND SPECIFICATION

All improvements required by these Regulations shall be constructed in accordance with the design standards and plan requirements of these Regulations, all other City requirements and specifications and, where applicable, the requirements and authorization of the appropriate State agency or utility company.

SECTION 435.14 INSPECTION

The City Engineer may inspect the improvements from time to time, during their construction. All of the improvements shall be subject to inspection and approval of the City Engineer who shall be notified, in writing, at least twenty-four (24) hours prior to the start of construction.

SECTION 435.15 CONDITION OF ACCEPTANCE

- A. *Generally.* The City shall not have any responsibility with respect to any street or other improvement, notwithstanding the use of the same by the public, unless the street or other improvements shall have been dedicated to and accepted by the City. Prior to requesting final acceptance of streets, and sanitary and storm sewers, the developer shall furnish as-built drawings in reproducible form. The City shall, within thirty (30) days after the public improvements have been offered for dedication to the City, accept the improvements provided the improvements have been constructed in accordance with the requirements and conditions of this Chapter, all other applicable laws and regulations, and the specifications of the City. The developer shall furnish proof that all improvements are free of lien and debt.

- B. *Inspection Required.* All improvements required by these Regulations shall be inspected by the City Engineer, except for improvements made under the jurisdiction of other public agencies, in which case engineers or inspectors of such agency will make the necessary inspections. Where inspections are made by other agencies, the applicant shall provide the City with written reports of each final inspection.
- C. *Compliance With Standards.* The applicant or the bonded construction contractor shall bear full and final responsibility for the installation and construction of all required improvements according to the provisions of these Regulations all applicable laws, and the standards and specifications of other public agencies.
- D. *Acceptance.* City approval for the installation and construction of improvements shall constitute acceptance by the City for dedication purposes.
- E. *Acceptance by City.*
 - (1) The City shall not accept, improve, grade, pave or light any street, or authorize the installation of water, sewer or other utilities in any street unless:
 - (a) The street has received the legal status of a public street prior to the adoption of a City plan; or
 - (b) The street corresponds in its location and lines with a street shown on an approved and recorded subdivision plat; or
 - (c) The street corresponds in its location and lines with a street shown on a street plan adopted by the Commission.
 - (2) Exception. The City may accept, improve, grade, pave or light any street, or authorize the installation of water, sewer or other utilities in any street not complying with subsection (1), above, if the action is approved by the Planning and Zoning Commission or, if disapproved by the Commission, is passed by the affirmative vote of not less than two-thirds (2/3) of the entire membership of the Board of Alderman.
- F. *Site Cleanup.* The applicant shall remove all equipment, material, and general construction debris from the subdivision and from any lot, street, public way or property therein or adjacent thereto. Dumping of such debris into sewers, adjacent property or other land in the City is prohibited.

SECTION 435.16 ELECTRICAL AND COMMUNICATION LINES AND FACILITIES

- A. *Purpose and Intent.* The purpose of this Section is to ensure that electrical, utility and telecommunication lines and facilities are located and constructed within the City so as to best protect the health, safety and general welfare of its citizens and to ensure the proper operation and availability of such services to all residents and businesses.

B. *Applicability.* This section shall apply to all electrical facilities, utilities, and telecommunications facilities, including but not limited to telephone, telegraph, cable television, fiber optic and electrical communication facilities, within the City. This section shall not apply to the following facilities:

- (1) Electric utility substations, pad- mounted transformers and switching facilities not located on the public right-of-way where site screening is or will be provided in accordance with this Chapter.
- (2) Ornamental street lighting.
- (3) Police and fire sirens, or any similar City equipment, including traffic-control equipment, whether owned and operated by the City or by any fire or ambulance district.
- (4) Replacement or the addition of necessary elements or structures in existing overhead wiring to maintain or augment existing service.
- (5) The installation, replacement or maintenance of live front underground electrical structures shall be prohibited in all floodplains and drainage easements. Where electrical or communication equipment must cross a floodplain or drainage easement they shall be installed as to be reasonably free from flood or storm water runoff drainage.
- (6) House service switch boxes and exposed conduit at buildings may be above ground. The transformers will be pad- mounted or of the submersible type installed below grade back of the walk. All communications enclosed tenninal blocks will be located adjacent to the transformers, but may be spaced otherwise if approved and authorized by the Public Works Director. Gas and electric meters may be above ground.

C. *Underground Lines.*

- (1) All electrical distribution, cable television, and telephone lines constructed or developed after [the effective date of this ordinance] shall be installed underground.
- (2) All electrical distribution, cable television, and telephone lines from an overhead or underground facility to serve any building or other structure, which line is relocated or modified after [the effective date of this ordinance] shall be installed underground except:
 - (a) Those services which would only involve a change in the overhead service line without a change in the corresponding service entrance facilities; and/or
 - (b) Rebuilding or enlarging services feeding overhead lines to existing single- family residences or structures.

- (3) All extensions, relocations or rebuilds of existing overhead electrical distribution, cable television, and telephone lines shall be installed underground from and after the effective date hereof.

D. Aboveground Utility Structures.

- (1) Upon application for the construction or development of utility transmission line structures, the applicant shall provide data pertaining to electromagnetic field radiation (EMF) rates for the structure(s).

- (2) Aboveground electric transmission lines are permitted subject to the following conditions:

- (a) In the ER, LDR, MIDR, LR, THR and NC zoning districts, electric and magnetic radiation shall not exceed 2 milli gasses (mG) as measured from a line which is drawn thirty feet from the outer walls of every dwelling unit. If no dwelling unit has been developed on the tract or lot on which a transmission line is to be erected, but a building permit, special use permit, site plan or other approval from the City has been issued for development of one or more dwelling units, electric and magnetic radiation shall not exceed 2 mG as measured from a line which is drawn thirty feet from the outer walls of all dwelling units shown on the building permit, site plan or other approval. If no dwelling unit has been developed on the tract or lot on which a transmission line is to be erected, and no permit or other approval for residential development on such tract or lot has been obtained from the City, and the tract or lot on which the aboveground utility structure is to be constructed is located adjacent to a tract of land or lot on which a dwelling unit has been developed or for which a building permit, site plan or other development approval has been obtained from the City, the electric and magnetic radiation shall not exceed 2mG as measured from a line drawn 30 feet from the outer walls of all dwelling units shown on the building permit, site plan or other approval for the adjacent lot.

- (b) For corner lots, no aboveground utility structures shall be erected within one-half (½) mile of any highway in the Missouri state highway system.

- (c) No electric transmission lines may be developed or constructed in a state, county or municipal park or on property on which a school facility is located. If a transmission line is proposed to be developed on a lot adjacent to a lot on which a school or park is located, the electric and magnetic radiation shall not exceed 2 mG as measured at the boundary of all school properties and parks.

- (3) Where permitted pursuant to D(2), above, aboveground electric transmission structures shall be permitted only in accordance with the following table showing the permitted transmission line area:

<u>Zoning District</u>	<u>Distance from Side Lot Line</u>	<u>Distance from Rear Lot Line</u>
ER	Prohibited	35'

LDR	Prohibited	35'
MDR	Prohibited	30'
LR	Prohibited	30'
THR	Prohibited	30'
NC	Prohibited	30'
HC	15'	30'
OTC	25'	30'

- (a) The distance from a lot line for electric transmission and other aboveground utility structures shall be measured from the edge of the aboveground utility structure. Buffering and landscaping may be included within the Permitted Transmission Line Area.
- (b) Notwithstanding the provisions of Subsection 3a, above, in no event shall an aboveground utility structure be located so as to produce radiation of 2 mG or greater as measured in accordance with the provisions of Subsection 2a.
- (c) All electric transmission equipment and facilities, other than electrical transmission poles, shall be placed within an enclosure or within the building or structure being served, or be suitably screened in accordance with the landscape requirements of the Lake Lotawana Zoning Code.

E. Applications, Permits and Fees.

- (1) Applicants for Utility Permit approval shall submit a complete application and other required materials and information to the Planning Commission, and is responsible for complying with the requirements of this chapter, and shall make the necessary arrangements with the utility companies involved for the design plans and for the installation of said facilities. The Planning Commission may impose other submittal requirements as necessary.
- (2) Applicants for any above ground structure shall obtain a Utility Permit, issued by the Planning Commission, prior to proceeding with any construction, in accordance with the following requirements.
 - (a) In addition to any requirements of this Section, Utility Permits may be granted only after compliance with Sections 405.01 through 401.09 of this Chapter. The fee for a Utility Permit shall be pursuant to the City's approved fee schedule.
 - (b) A permit for work in the public right-of-way for undergrounding work shall be acquired by the utility from the Public Works Director prior to proceeding with construction of facilities in the public right of-way, or within easements for public facilities, or public property. The fee~ for and terms for such permit for any undergrounding shall be pursuant to the City's approved fee schedule.
- (3) The Application materials shall be in sufficient detail to show the location of the proposed aboveground utility structures, including the distance to all other structures

located within one thousand feet (1,000'), and showing the height, setback, and buffering of such buildings.

- (4) The Application materials shall contain a statement of how the proposed structure complies with the magnetic radiation standards in E(1) and E(2) of this Section.
- (5) The Application materials shall contain a written description of the existing conditions on the tract or lot and the necessary drawings and sketches as required by this Chapter to show the applicant's plan of development. All plats shall be signed by a registered surveyor.
- (6) The Applicant shall provide a statement on the tentative subdivision map indicating the terminal points of the distribution system proposed to be used.
- (7) An overall underground distribution system plan shall be submitted for approval with the final subdivision map to show the proposed installation. The plan will show the location of all underground services with locations to be marked at the walk or the curb and the meters to be so located as to have access from the street side of the buildings. The underground services shall be shown to be covered with a safety guard.
- (8) Plans for all above ground installations, including those excepted hereto shall be submitted to the City for approval of screening and setback requirements prior to the issuance of any permits in connection with such above ground installations in the public rights-of-way or in public utility easements.
- (9) Project "As-Built" Drawings, in a form and scale conforming to generally accepted engineering practices, shall be submitted in duplicate to the City Clerk within thirty (30) days of the completion of any underground project within the City. In addition, each utility shall submit in duplicate "As-Built" drawings of all of its underground facilities within the City on an annual basis, commencing on January 1 following the effective date hereof, provided that, if said drawings are not available at that time, the utility shall be given a reasonable time to prepare and submit such drawings. The requirement to provide the drawings as specified in this Subsection shall not relieve the applicant for a permit from providing preliminary plans in connection with the application for a permit for work in the public right-of-way or otherwise.
- (10) It shall be the responsibility of the Applicant to provide underground utility easements along the front, rear and side lots as may be required.
- (11) After approval the Applicant shall provide the utility companies with an approved copy of the tentative map.

F. Design Standards.

- (1) All conductors, switches, transformers, and regulating devices shall be installed in accordance with applicable national, state and local safety standards. All structural devices shall be designed in accordance with the provisions of, and additions to, the

Uniform Building Code adopted by the City, and all other applicable Ordinances and regulations of the City as its building code.

- (2) All underground facilities provided for herein shall be installed in such manner as to be coordinated with underground water, sewer, and gas pipelines, and with traffic control and other signal systems. Whenever such coordination requires installation practices more restrictive or demanding than the minimum standards required by applicable national, state and local codes and safety standards, the requirements of such coordination shall govern and be controlling.
- (3) All vaults, manholes, ventilation gratings, and access covers and conduits in public rights-of-way shall be strong enough to withstand ten thousand (10,000) pounds wheel load. The utility may, at its option, elect not to comply with the said wheel load requirement as to such facilities not on the traveled portion of the street providing, however, that the utility shall be responsible for up-grading of the said facilities in event of widening of the traveled portion of the street.
- (4) Any equipment and facilities excepted from underground requirements or otherwise permitted to be installed above ground except for poles, pole-mounted equipment, and aerial lines, shall be:
 - (a) Placed within an enclosure or within the building or structure being served, or be suitably screened in accordance with the landscape requirements of these Regulations.
 - (b) The utility shall be responsible for the installation, maintenance, repair, and replacement of the sight screening materials and barrier when the real property on which the above ground facility is located is owned by the utility.
- (5) When the above ground facility is located on real property not owned by the utility, the owner of such real property shall be responsible for the installation, maintenance, repair, and replacement of the aforementioned screening materials and sight barrier.
- (6) Space frames and structural arrangements for holding equipment or facilities shall be designed to have an uncluttered and neat appearance.
- (7) Streets shall be excavated to subgrade prior to the installation of underground facilities as determined by the Public Works Director.

G. Joint Trenches.

- (1) In requiring undergrounding of electric and communications facilities, it is the City's intent to authorize and encourage establishment of joint or common trenches, as follows:
 - (a) Utilization of a single trench where feasible by all utilities and rights-of-way franchise holders is hereby encouraged and shall be required where ever

feasible. Upon application for an underground right-of-way use permit, the Public Works Director shall determine whether other utilities and franchise holders have applied, or may be likely to apply on a timely basis, for undergrounding along the same right-of-way and whether the permit, if issued, should require joint use of a common trench. If at the time of application for an underground permit it does not appear that all utilities involved in the undergrounding project have made appropriate arrangements for the use of the common trenches, the Public Works Director may delay the issuance of such permit until all utilities involved in such relocation shall have been given the opportunity to be heard upon two (2) weeks' notice.

- (b) Where new structures require underground services extending into or across the public right-of-way to existing overhead distribution systems for connection, it shall be the responsibility of the property owner, owner's agent or other persons applying for such underground service from an electrical or communications utility to provide adequate provisions and capacity for joint usage in a trench with conduit or other required facilities for present and future service extensions to the structure. The utility, property owner, owner's, agent, or other person applying for the permit shall notify all other electrical and communications utilities as to the availability of a common trench. The issuance of a permit may be delayed until all utilities involved in a street crossing for underground service connection to a structure have been given the opportunity to be heard upon two (2) weeks' notice.
- (c) Whenever an electrical or communications facility, including but not limited to electrical power, telephone, telegraph, cable television, and fiber optics is required to be placed underground in a joint trench, then the costs of excavation and fill and also the costs of conduit, cable, vaults, and other appurtenant facilities shall be borne on an equal basis, or as agreed, by the utilities, franchise holders, or others participating in the undergrounding project.

H. Temporary Permit.

The Zoning Administrator may grant special permission, in cases where temporary electrical power or communication service ~ necessary because of an emergency, for building construction purposes, or for other temporary purposes, in order to erect, construct, install or maintain poles, wires and other overhead structures for a period not to exceed one hundred twenty (120) days. However, in the event the purpose for which the temporary permission is granted cannot be completed within the period herein provided, because of a shortage of material, a natural disaster, strikes or other circumstances beyond the control of the Applicant, or by unusual hardships, then, upon the written consent of the Zoning Administrator, the time may be extended an additional temporary period or periods necessary to allow completion of such construction. Application for a temporary permit shall be in accordance with procedures adopted by the Zoning Administrator.

CHAPTER 440 - SUPPLEMENTAL CONDITIONS FOR SPECIFIC USES

SECTION 440.1 ACCESSORY BUILDINGS AND STRUCTURES

- A. *Generally.* No permit for an accessory building shall be issued until and unless a permit has been issued for the principal building. An accessory building shall not be occupied for more than one (1) year prior to beginning construction on the principal building.
- B. *Subordinate Use.* An accessory building or structure is a subordinate building or structure, the use of which is secondary to and supports the principal building.
- C. *Home Occupation.* Accessory buildings shall not be used for the conduct of business for a home occupation or storage for a home occupation, except as otherwise allowed by these Regulations.

SECTION 440.2 BOAT DOCKS

- A. *Permit Required.*
 - (1) No boat dock, boat house, boat lift, catwalk, or other docking structure shall be constructed, modified, placed, located, relocated or maintained on Lake Lotawana unless the applicant first obtains a building permit issued by the Building Commissioner, City of Lake Lotawana, Missouri. If construction of any such structure is not completed within ninety (90) days after the issuance of a permit therefor then the permit shall expire and become void
 - (2) Application for such permits shall be made at the City Hall on forms provided by the City and shall be accompanied by the plans for the proposed structure, which must conform to the specifications set forth in this these Regulations, and required fees. If the application is for a new structure or the relocation of an existing structure, and if the Director of Public Works finds that a permit shall be issued therefor, written notice thereof shall be given to the owners of the lot closest to the requested location and the owners of any lake front property contiguous with such lot. Such notice shall be given at least fifteen (15) days prior to the issuance of the permit and may be given by ordinary mail sent to the address of such owners as shown by the real estate tax rolls of the City.
 - (3) No permit shall be issued to any applicant who does not own real estate within the Lakeside Residential District, which real estate is then improved with habitable living quarters containing toilet facilities fully complying with all City ordinances.
- B. *Design and Development Standards.*
 - (1) All boat houses, boat docks or other docking structures shall be rectangular in shape and shall be located as specified in the permit, and placed with the sides at right angles to the shoreline and with boat entrances at right angles to the shoreline.
 - (2) Boat docks, boat houses or other docking structures must not project into the lake more than forty (40) feet from the shoreline, including the catwalk.

- (3) Fifteen (15) feet shall be maintained between adjacent docking structures, unless adjacent docking structures are to be registered to the same improved lot.
- (4) All docks and boat houses and other structures placed on the waters of Lake Lotawana shall be securely fastened or moored at or near the shoreline thereof in such manner as to prevent the same from going adrift or swinging into or colliding with any other object on the lake or in any way becoming a navigation hazard or causing damage to any property or injury to any person.
- (5) All boat docks, boat houses and other docking structures must be of the floating type with suitable anchorings to keep them positioned, and shall be styrofoam type flotation.
- (6) No boat house, boat dock or other structure shall have living facilities, dressing rooms, toilet outlets or sink facilities.
- (7) The maximum dimension for the deck of a boat dock, boat house or other docking structure shall be thirty-six (36) feet wide, as measured side to side parallel with the shoreline and twenty-eight (28) feet long as measured from back to front.
- (8) The minimum dimensions for the deck of a boat dock or boat house shall be eight (8) feet wide (along the shoreline) and eight (8) feet long (measuring from the shoreline side out to the front).
- (9) The maximum width of the roof of an open type boat house shall not exceed two (2) feet on either side more than the width of the deck of the dock.
- (10) The deck of a boat dock or boat house shall have a maximum height of three (3) feet above the water.
- (11) The peak of the roof of any boat house shall not exceed twelve (12) feet in height above the deck. The minimum height of the roof of any open type boat house shall be six (6) feet above the deck.
- (12) No catwalk shall exceed the width of the boat dock, boat house, boat lift or other docking structure to which it is attached.
- (13) Catwalks attached to a boat house, boat dock or other docking structure must approach from, and be attached to, the rear of that docking structure. Catwalks for boat lifts must also approach from the rear, but may attach to the side of the lift.
- (14) Boat lifts are not required to float or have flotation.
- (15) Owners are responsible to provide adequate flotation and anchorage for their boat docks to handle live and dead loads, including wind load and wave action and lake fluctuation levels.

- (16) All flotation devices must be securely attached to the boat dock and the dock secured to the shoreline.
- (17) Flotation shall be of materials which do not become waterlogged, are resistant to damage by animals and will not sink or contaminate the water. No metal covered flotation will be allowed. Foam bead flotation, such as expanded polystyrene (EPS), must be encased in a protective coating which enables it to meet the specification, above. An approved coating is defined as warranted by the manufacturer for a period of at least eight (8) years against cracking, peeling, sloughing and deterioration from ultra violet rays while retaining its resiliency against ice, wave, wake action and bumps by watercraft.
- (18) Acceptable types of flotation material:
 - (a) Encapsulated EPS;
 - (b) Encased EPS;
 - (c) Polyethylene;
 - (d) Extruded Polystyrene; and Fiberglass drums.
- (19) Unacceptable types of flotation material:
Metal drums;
EPS; and
Polyurethane.
- (1) Lumber products treated with pentachlorophenol will not be permitted for the construction of boat docks, connecting walkway ramps or support piers, or for future repairs of existing docks, walkways or piers. Chromated copper arsenate (CCA) treated lumber products is an acceptable alternative.
- (2) Substructure framing for walkways, docks and piers shall be aluminum, or steel with a hot dipped galvanized or epoxy coating.
- (3) Decking for walkways, docks and piers shall be of weather resistant material or have a weather resistant coating.

C. *Maintenance.*

- (1) It is the responsibility of the dock owner to ensure that the dock is properly maintained. The issuance of an administrative permit by the City does not relieve the owner from taking proper steps to ensure the integrity of the structure, the safety of persons using the dock, boats moored thereto and nearby structures.
- (2) All boat docks, boat houses, boat lifts, catwalks or other docking structures must be painted or stained in a suitable manner and must be maintained so as to provide a presentable appearance and shall be identified with the owner's block and lot number in letters and numbers at least three (3) inches in height on a vertical surface of the dock visible from the lake.

- (3) All boat docks, boat houses, boat lifts, catwalks or other docking structures in bad repair which present a safety hazard must be put in safe and presentable condition within thirty (30) days after written notice from the City.
 - (4) Flotation material must be repaired or replaced to maintain a level condition of the deck of all boat docks and boat houses and other docking structures and all wooden members of the structures and/or catwalk shall be a minimum of two (2) inches above the water.
 - (5) Any boat dock, boat house, catwalk or other docking structure which is to be repaired shall require a permit for repairs if the cost of materials exceeds fifty percent (50%) of the value of the structure.
- D. *Removal of Hazardous Docks, Boat Houses, Boat Lifts, Catwalks and Other Docking Structures.* All structures on the lake which are in bad repair and which present a hazard to the safety, health and welfare of the citizens of the City, and which are not repaired within thirty (30) days after written notice thereof is given to the owner, shall be removed from the lake. The owner of the structure must remove the structure, but if he/she fails to do so, it will be removed by the City and the cost of removal will be charged to the owner. No boat licenses will be issued to the owner of such removed structure until any removal charge for such structure removed by the City has been paid by the owner of such structure.
- E. *Violation and Penalty.* Any violation of the provisions of this Chapter is hereby expressly declared and deemed to constitute a public nuisance.

SECTION 440.3 DRIVE-IN ESTABLISHMENTS

- A. *Purpose.* The purpose of these regulations is to provide standards for drive-in establishments to promote compatibility of this use with adjacent land uses and to ensure safe circulation of traffic on and off site. Drive-in establishments/uses include restaurants, banks and other financial facilities, automatic teller machines, cleaners, pharmacies and similar uses.
- B. *Applicability.* Drive-in establishments/uses may be permitted as principal or accessory uses in commercial districts. All drive-in establishments/uses shall be in conformance with the requirements of this Section.
- C. *Site Plan Requirements.* Drive-in establishments/uses shall be shown on site development plans where they are proposed as an accessory use to a principal use. Applicants for drive-in establishments/uses proposed as a principal use shall submit complete site development plans.
- D. *Location.* Drive-in establishments/uses as accessory uses shall not be located within the front yard of the principal building.
- E. *Stacking Space Schedule.* The minimum number of stacking spaces required shall be as shown in **Exhibit 440-A.**
- F. *Stacking Space Layout and Design.*

- (1) Minimum Size: 8 feet by 20 feet per space.
- (2) Minimum Setback from property line: 20 feet.
- (3) Minimum Setback from street line: 40 feet.
- (4) Separation from other internal driveways with raised medians and parking spaces: As determined by the Zoning Administrator.

Exhibit 440-A: Drive-In Establishments/Uses Stacking Space Schedule

Use Type	Minimum Spaces	Measured From
Drive-Through Automatic Teller Machine (ATM)	4 spaces per land	ATM
Bank Teller Window	4 spaces per window	Teller Window
Car Wash, Automatic	6 spaces per stall	Entrance
Car Wash, Self-Service	2 spaces per stall	Entrance
Gasoline Pump Island	2 spaces per pump island	Pump Island
Laundry	4 spaces per window	Order window
Pharmacy	3 spaces per window	Order Window
Restaurant	8 spaces per window	Order Window
Other Uses	As determined by Zoning Administrator based on ITE stacking standards.	

(5) Minimum drive-through lane radius: 45 feet.

- G. *Entrances.* Additional entrances shall not be permitted for drive-in structures unless recommended by the Zoning Administrator.
- H. *Order Box Noise Mitigation.* The order box loudspeaker shall be positioned so that it is directed toward the vehicle and away from any abutting residential zoning district unless mitigated by a sound wall.
- I. *Buffering.* The drive-in establishments/uses, including the stacking lanes, shall be buffered from abutting land uses with a bufferyard in conformance with these Regulations.
- J. *Hours of Operation if Abutting Residential Use or District.* Drive-in establishments/uses employing loudspeakers shall not be operated between 10 p.m. and 6 a.m., if abutting a residential district

SECTION 440.4 HOME OCCUPATIONS

- A. *Purpose.*
 - (1) To permit and regulate the conduct of home occupations as an accessory and secondary use to a dwelling unit, whether owner or renter occupied;
 - (2) To ensure that such home occupations are compatible with, and do not have a harmful effect on nearby residential properties and uses;
 - (3) To adequately protect existing residential neighborhoods from dust, odors, noise, traffic and/or other potentially adverse effects of home occupations;

- (4) To allow residents of the community to use their homes as a work place and a source of livelihood, under certain specified standards, conditions and criteria;
 - (5) To enable the fair and consistent enforcement of these home occupation regulations; and
 - (6) To promote and protect the public health, safety and general welfare.
- B. *Generally.* No home occupation, except as otherwise provided herein, may be initiated, established, or maintained in the City except in conformance with the regulations, administrative procedures and standards set forth in this Section.
- C. *Home Occupation Standards.* Home occupations are authorized if they comply with the performance standards set forth herein and the performance standard established in **Exhibit 440-B**.
- (1) Home occupations may only be operated by a full-time resident of the property.
 - (2) The home in which the occupation occurs shall look like a residential dwelling and not a business establishment.
 - (3) No more than two (2) home occupations shall be permitted within any single dwelling unit.
 - (4) There shall be no exterior displays, no exterior storage of equipment, including unlicensed equipment, and materials, and no open lot storage.
 - (5) Home occupations shall not produce offensive noise, vibration, smoke electrical interference, dust, odors or heat. Any noise, vibration, smoke electrical interference, dust, odors or heat detectable beyond the property lines or beyond the walls of the dwelling unit if the dwelling unit is a multifamily structure shall not be permitted.
 - (6) Home occupations shall not require internal or external structural alterations of the principal residence which may change the outside appearance of the principal residence or change the residential character of the property.
 - (7) Home occupations shall not require the installation of equipment or machinery creating utility demand, noise, fumes or other impacts in excess of equipment or machinery that is customary in a residential area.
 - (8) Signage shall comply with the provisions of these Regulations.
 - (9) Noise levels from the home occupation, detectable at the property line, shall not exceed those generated by the primary use.

- (10) The applicant for a home occupation shall demonstrate that public facilities and utilities are adequate to safely accommodate any equipment used in conjunction with the home occupation.
- (11) Off-street parking spaces shall be provided as required for the residential use, plus one space for each allowed employee and one space for each client allowed to visit at a given time.
- (12) No Equipment or Delivery Vehicles Shall Exceed 8-Ton Capacity.
- (13) Storage of dangerous, hazardous, combustible or volatile materials used in conjunction with the home occupation shall not be permitted in residential dwellings.

Exhibit 440-B: Home Occupation Performance Standards

Performance Standard	ER	LDR	MDR	LR	THR
Located in Residence or Accessory Structure	-	-			
Located in Residence Only			-	-	-
Customers:					
No Visiting Clientele					-
Only One (1) Client Vehicle at a Time			-	-	
No More than Two (2) Client Vehicles at a Time	-	-			
No More than Four (4) Client Visits per Day		-	-	-	
No More than Eight (8) Client Visits per Day	-				
Operations Limited to 7:30am to 5:30pm			-	-	-
Deliveries:					
No Than Two (2) Deliveries per Day		-	-	-	-
Maximum Area for Home Occupation:					
25% Percent of Residential Floor Area		-	-	-	-
2,500 Square Feet	-				
Animals:					
No Animals as Part of Business			-	-	-
Small Animal Grooming/training, No Boarding	-	-			
Non-Resident Employee Limits:					
Non-resident Employees Not Allowed			-	-	-

Performance Standard	ER	LDR	MDR	LR	THR
One (1) Non-resident Employee Allowed	-	-			
<i>Note - Performance Standards Only Apply in Districts Where a _ Occurs.</i>					

- D. *Exempt Home Occupations.* The following home occupations shall be subject to all applicable home occupation regulations and standards of this Section, but shall not be required to obtain a home occupation permit, if all persons engaged in such activities live on the property and the following conditions are met:
- (1) artists, sculptors, composers not selling their artistic product to the public on the premises;
 - (2) craft work, such as jewelry-making and pottery with no sales permitted on the premises;
 - (3) home offices with no client visits to the home permitted; and
 - (4) telephone answering and message services without non-resident employees.
- E. *Non-Conforming Home Occupations.* All existing home occupations which are either expressly prohibited or which are not in conformity with these Regulations shall be removed or modified to become conforming.
- F. *Unsafe Home Occupations.* If, in the opinion of the Zoning Administrator, any home occupation has become dangerous or unsafe, or presents a safety hazard to the public, pedestrians or motorists, or presents a safety hazard to adjacent or nearby properties, residents or businesses, the Zoning Administrator shall issue an order to the dwelling owner and/or tenant on the property on which the home occupation is being undertaken directing that the home occupation be immediately made safe or be terminated. The property owner and/or tenant shall be responsible for taking the necessary corrective steps or measures, but in the event of a failure to do so by the owner and/or tenant, after notice and a reasonable period of time, the Zoning Administrator may take any action to make the home occupation and dwelling safe. Costs incurred by the Zoning Administrator, if forced to take enforcement actions, shall be borne by the property owner and shall be treated as a zoning violation pursuant to these Regulations.

SECTION 440.5 MANUFACTURED HOMES / MANUFACTURED HOME SUBDIVISIONS

A manufactured home subdivision may be allowed pursuant to a Conditional Use Permit, but shall have a maximum density of eight (8) manufactured homes per acre.

- A. *Development Standards.*
- (1) All manufactured homes shall conform to single-family residential design standards established pursuant to these Regulations.

- (2) All manufactured home spaces shall abut on a hard-surfaced roadway of not less than twenty-five (25) feet in width which shall be adequately lighted and drained and shall have unobstructed access to a paved public street or highway.
- (3) Each site shall have a minimum area of 4,000 square feet.
- (4) No manufactured home or structure shall be closer than twenty-five (25) feet to any property line of the manufactured home subdivision, street or highway, nor closer than twenty (20) feet to another manufactured home or any building in the park except where manufactured homes are parked end to end, the end clearance shall be at least fifteen (15) feet.
- (5) No additions shall be built onto any manufactured home other than a porch or entryway, which shall be not less than fifteen (15) feet from the nearest manufactured home and its additions.
- (6) Service buildings or other facilities for laundry, sanitation and other uses, shall be located at least 25 feet from property lines and shall be accessible to each manufactured home by hard-surfaced access roads and walks.
- (7) All buildings and manufactured homes within the subdivision shall be served with community or municipal water supply and sewage disposal systems approved by the County Public Works Department Environmental Health Division. Each habitable structure shall have a separate metered connection to utilities.
- (8) Two (2) off-street parking spaces shall be provided for each manufactured home site and one (1) space for every fifty (50) square feet of floor area in administration and service buildings.
- (9) At a minimum, each manufactured home lot shall have not less than two canopy trees measuring 2-1/2 inches caliper measured at one foot above ground level at the time of planting.
- (10) Playground and recreational park spaces for use of the residents of the subdivision shall be separate in addition to the open space between the habitable structures and shall be a minimum of 400 square feet per manufactured home lot. Streets, sidewalks, parking areas and accessory buildings shall not be included in the computation of the required recreation space area.
- (11) All power and telephone lines shall be installed underground and shall be in compliance with the standards of the utility provider.
- (12) The site shall be graded so that surface water shall not be permitted to accumulate. The proposed drainage system shall be approved by the Public Works Director prior to construction of the streets.

- (13) A Type B landscaped buffer strip, a minimum of 25 feet in width, shall be provided around the perimeter of the subdivision.
- (14) A shelter shall be provided for every park or subdivision with more than 5 manufactured homes. The storm shelter must be constructed to accommodate 15 square feet per manufactured home in the park.

B. *Design Standards.*

- (1) **Foundation.** All manufactured homes shall be attached to a permanent perimeter foundation leaving no uncovered open areas excepting vents and crawl spaces. Anchor design shall be approved by the Public Works Director prior to installation and shall comply with any requirements of the State. All wheels, hitches, axles, transporting lights and removable towing apparatus shall be permanently removed prior to installation of the home.
- (2) **Orientation of Dwelling.** Detached single-family dwellings shall be designed so that the minimum dimension parallel to the street line is 20 feet.
- (3) **Pitched Roof.** Homes shall have a pitched roof, with a slope that rises vertically not less than three (3) inches for each twelve (12) inches of a horizontal run.
- (4) **Exterior Color and Siding.** The exterior material shall be of a color, material and appearance compatible with those of existing single-family dwellings including, but not limited to: residential horizontal aluminum lap siding, residential horizontal vinyl lap siding, cedar or other wood siding, wood grain, weather resistant, press board siding, brick, stucco, stone or masonry siding, or other siding materials which are determined by the Public Works Director to be aesthetically compatible with the above-referenced materials. Flat or corrugated sheet metal shall not be used for exterior siding material. The exterior covering material shall extend to the top of the perimeter foundation.
- (5) **Canopies and Awnings.** Canopies and awnings may be attached to any home and may be enclosed and used for recreation or sun room purposes. A building permit shall be required when enclosed for living purposes.
- (6) **Floor Area.** A dwelling unit shall be not less than 640 square feet and at least 75% of its narrowest dimension shall have a minimum width of 20 feet.

C. *Design Modifications.* Exceptions to these single-family residential design standards may be authorized through a Special Use Permit when the Board of Aldermen finds that the exception will enhance the architectural character of the home and neighborhood and be compatible with adjacent development.

- D. *Approval Criteria.* The Board of Aldermen shall evaluate the manufactured home subdivision based on the approval criteria established for preliminary and final plats and the following:
- (1) The effect of the proposed manufactured home subdivision on adjacent property values.
 - (2) The consistency and compliance of the proposed manufactured home subdivision with the provisions of applicable City and State regulations.
 - (3) The suitability of the site for the proposed use with special attention given to topography, subsurface conditions and the availability of necessary utility service
 - (4) The relationship of the population density resulting from the proposed manufactured home subdivision and the public interest.
 - (5) The use of sound planning and engineering practices regarding transportation, water and sewerage.
 - (6) The availability of access from existing highways and the nature of the altered traffic pattern resulting from the manufactured home subdivision.
 - (7) The availability of adequate public facilities: schools, police protection, fire protection and other public services.
- E. *Conditions of Development.* In the event of approval, the Board of Aldermen shall specify appropriate conditions and safeguards to protect the character of existing and future development of adjoining properties as well as the manufactured home subdivision.

SECTION 440.6 MOBILE HOME COURTS AND TRAVEL TRAILER CAMPS PROHIBITED

It shall be unlawful to maintain or operate a mobile home court or a travel trailer camp within the corporate limits of the City.

SECTION 440.7 PARKING OF TRAVEL TRAILERS PROHIBITED

It shall be unlawful for any person to park any travel trailer of any kind on any road or right-of-way or on the property of another without his/her permission within the corporate limits of the City. When a travel trailer is parked on a road or right-of-way within the City, the Police Department is authorized to have the travel trailer towed away and stored at the owner's expense, after first notifying the owner of the violation and giving the owner three (3) hours to remove the trailer from the road or right-of-way.

SECTION 440.8 PARKING STANDARDS + LR DRIVEWAYS + GRAVEL ROADS

- A. *Parking Required for All Structures.* For all buildings or structures hereafter erected, constructed, reconstructed, moved or altered, off-street parking shall be provided. Such parking spaces shall be located entirely on the same property as the main use with no portion other than the necessary drives extending into any street right-of-way or other public way.

- B. *Number of Spaces.* In all districts, the minimum number of off-street parking spaces shall be provided in accordance with the requirements in **Exhibit 440-C** and **Exhibit 440-D** at the time any building or structure is erected or structurally altered.
- C. *Standards for Unlisted Uses.* The Zoning Administrator shall determine the number of parking spaces required for uses not referenced in Exhibit 440-C by applying the standard for the most similar use or uses as listed in the exhibit. If there is no similar use, the Zoning Administrator shall make a determination based on available parking studies or standards.
- D. *Calculation of Space.* Any fraction of a parking space calculated as required under this Section shall be counted as a full parking space.
- E. *Location.* Parking shall be provided on the same lot with the use except as permitted by this Section.
- F. *Spaces for Persons with Disabilities.* Spaces for persons with disabilities shall be designed and provided as required by the Americans with Disabilities Act (ADA) standards and as shown in Exhibit 440-D.
- G. *Additional Parking Required.* Whenever a building or use constructed or established after the effective date of this Ordinance is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for additional parking, parking requirements shall be met for all uses on the site.
- H. *Existing Parking Facilities Maintained.* Facilities being used for off-street parking on the effective date of these Regulations shall not be reduced in capacity to less than the number of spaces prescribed, or altered in design or function to less than the minimum standards prescribed herein.
- I. *Head-In Parking, When Prohibited.* Head-in parking from any public street that requires the drivers to either back into the parking space or back into the street to enter or exit the space shall not be permitted, except for a single driveway from a detached single-family residence or duplex, and except in the LR zoning district.

Exhibit 440-C: Off-Street Parking Requirements

Use Category	Definition	Specific Use Type	Minimum Parking Requirement
RESIDENTIAL:			
Household Living	residential occupancy of a dwelling unit by a "household"	Single-Family Detached	2 spaces per dwelling unit
		Single-Family Attached	2 spaces per dwelling unit
Group Living	residential	Group Home (8 or fewer	1 space per 4 beds plus 1 space per

Use Category	Definition	Specific Use Type	Minimum Parking Requirement
	occupation of a structure by a group of people who do not meet the definition of "Household Living"	residents)	employee on maximum shift
INSTITUTIONAL & CIVIC:			
Clubs		Fraternal Lodges, Meeting Hall	1 per 250 square feet gross floor area (sf gfa)
College	colleges & institutions of higher learning	Vocational/Technical Schools	1 per 2 students
		All Other Schools	1 per 2 students
Community Service	uses providing a local service to the community	Community Activity Structure	1 per 250 sf gfa
Cultural	establishments that document the social and religious structures and intellectual and artistic manifestations that characterize a society	Museums, Art Galleries, Opera Houses, Libraries Library	1 per 1,000 sf gfa
Day Care	care, protection & supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day	Day Care Center (more than 12 children (to age 18) or adults)	1 per 4 students
		Day Care Home · 1-5 children or adults · 6-12 children or adults	
Health Care	uses providing medical, dental or surgical care to patients and alternative medical care	Clinics/Medical/Dental Offices	1 per 250 sf gfa
		Counseling Centers (non-resident)	
		Hospital/Mental Hospital, Sanitarium, Nursing Home	2 per bed
		Physical and Mental Rehabilitation (resident)	
Parks & Open Space	natural areas	Cemetery	1 per employee

Use Category	Definition	Specific Use Type	Minimum Parking Requirement
	consisting mostly of vegetative landscaping or outdoor recreation, community gardens, etc.	Parks/Lakes/Reservoirs	2 per acre
Religious Assembly	meeting area for religious activities	Small (seating capacity no more than 150)	1 per 4 seats
		Large (seating capacity more than 150)	
Safety Services	public safety and emergency response services	Fire, Police, EMS and rescue facilities (excluding training towers and firing ranges)	1 space per 2 employees
Schools	schools at the pre-primary, primary, elementary, middle, junior high, or high school level; other schools of instruction except colleges and vocational schools	Nursery or Pre-School	1 per 4 students
		Dance/Art/Music Schools	1 per 4 students
		Elementary Schools	1 per 15 classroom seats
		Secondary Schools	1 per 10 classroom seats
		All Other Schools	1 per 4 students
COMMERCIAL:			
Lodging	hotels, motels and similar establishments	Bed & Breakfast Inn	1 per room plus 75% of requirement for other uses
		Hotels / Motels	
Office	activities conducted in an office setting and generally focusing on business, government, professional or financial services	General Offices	1 per 250 sf gfa
		Government Offices / Structures / Facilities	
		Research /Technology Facilities	
Recreation & Entertainment	Generally large commercial uses that provide continuous recreation or entertainment-oriented activities	Swimming Pools	1 per 4 persons
		Theater	1 per 4 seats

Use Category	Definition	Specific Use Type	Minimum Parking Requirement
Retail Sales & Service		less than 50,000 sf gfa	1 per 200 sf gfa
		50,000 - 99,999 sf gfa	1 per 250 sf gfa
		100,000 - 300,000 sf gfa	1 per 300 sf gfa
		over 300,000 sf gfa	1 per 350 sf gfa
Self-Service Storage	uses providing separate storage areas for individual or business uses	Mini-Warehouse	1 per 10 storage units plus 1 per employee on maximum shift
Vehicle Service, Limited	direct service to motor vehicles	Auto Mechanical Repair/Service	1 per 250 sf gfa
		Body Shop	
		Car Wash	4 per stall or bay
		Gasoline Sales/No Service	1 per 4 pumps
OTHER:			
Animals		Small Animal Care/Sales · Kennel, Indoor · Kennel, Outdoor · Animal Hospital	1 per 1,000 sf gfa plus 1 per employee on maximum shift
Agricultural Related	raising, producing or keeping of plants or animals and related agricultural activities	Wholesale Nursery, Garden	1 per 250 sf gfa
		Grain & Seed Sales	1 per 250 sf gfa

- J. Off-Site or Remote Parking. The Zoning Administrator may approve off-site parking when:
- (1) both the primary use and the off-site parking are located in an area zoned for the primary use served by the off-site parking;
 - (2) the required spaces may be located not to exceed 300 feet from a residential building served and not to exceed 500 feet from any non-residential building served,

- (3) the applicant has provided a written agreement that assures the on-going availability of the parking and that has been approved as to form, by the City Attorney; and
- (4) adequate parking is provided on-site for persons with disabilities

K. *Parking for Mixed and Multiple Use Developments.* The Zoning Administrator may authorize a reduction in the total parking requirement for separate uses located on the same site or adjoining sites that are served by a common parking facility. Reductions pursuant to this section shall not be granted for facilities using off-site or remote parking. In determining whether to approve an adjustment for a mixed-use development, the Zoning Administrator shall consider all relevant factors, including:

- (1) the characteristics of each use and the differences in projected peak parking demand, including days and hours of operation;
- (2) the potential reduction in vehicle movements afforded by multi-purpose use of the parking facility by employees, customers or residents of the uses served; and
- (3) the potential improvements in parking facility design, circulation and access afforded by a joint parking facility.

L. *Parking for Persons with Disabilities.* Parking spaces for persons with disabilities shall be provided in all parking lots in accordance with Americans with Disabilities Act Accessibility Guidelines (ADAAG) for Buildings and Facilities. Dimensions for disabled parking are provided in Exhibit 440-D. At least one space shall be van accessible unless all spaces comply with the universal parking design as specified in ADAAG Section A.4.6. Otherwise, 1 of every 8 handicapped accessible spaces shall be van accessible. All handicapped accessible spaces shall be clearly marked.

Exhibit 440-D: Parking for Persons with Disabilities

Parking Capacity	Spaces Required for Persons with Disabilities
Up to 100	4
101 to 200	6
201 or more	9 plus 1 per 100 over 500

M. *Minimum Parking Design Standards.*

- (1) Driveways and surfaced parking areas shall not occupy more than 30% of the front yard of any parcel in a residential district, except for the LDR zoning district.

- (2) In a residential district no recreational vehicle or trailer may park other than on private property and shall not cause a visibility obstruction at the intersection of street right-of-ways. No vehicle or trailer shall be used as a dwelling while parked on private property.
- (3) Trucks and trailers in excess of 12,000 pounds designed and manufactured for or used for specific commercial purposes including but not limited to wreckers, dump trucks, tracked vehicles, buses, construction vehicles, equipment carriers, bottling works delivery trucks, grain trucks, and refrigerated trucks are prohibited from parking in an R District. No vehicle in excess of 12,000 pounds gross vehicle weight, excluding recreational trailers and recreational vehicles, shall be parked in a residential district.
- (4) Inoperable or unlicensed passenger vehicles and inoperable trailers shall be parked within an enclosed structure in a residential district.
- (5) Exceptions: Any type commercial vehicle, regardless of gross vehicle weight, delivering or picking up merchandise for delivery or employed in performing a repair or construction service, may park for the purpose of making such pickup or delivery, or for the duration of the period during which a repair or construction service is being performed on or to property in the area where parked.
- (6) Exhibit 440-E establishes the minimum design standards for parking areas; the Zoning Administrator may require modifications to parking lot design to ensure the safety of pedestrians, bicyclists and motorists. The Zoning Administrator may allow for up to a 10% decrease in aisle widths for redevelopment sites when parking space widths are increased by 12 inches.

Exhibit 440-E: Minimum Parking Facility Design Standards

Parking Angle (degrees)	Maneuvering Lane Width (in feet)		Parking Space Dimensions (in feet)		Total Width of 2 Rows of Spaces and Maneuvering Lane (in feet)	
	One Way	Two Way	Width	Length	One Way	Two Way
30° - 50°	12	20	9	18	48	56
51° - 75°	13	22	9	18	49	58
76° - 90°	N/A	24	9	18	N/A	60

- (7) Landscaping shall be required for any off-street parking lot containing over ten spaces, as required in these Regulations.
- (8) All parking areas and drives shall be ready for use prior to occupancy of a building or site, and shall be approved by the Zoning Administrator. The Zoning Administrator may grant special permission to delay this requirement due to weather conditions not being satisfactory for proper installation of surfacing materials.
- (9) All off-street parking shall be located outside of required landscape area.
- (10) Off-street parking facilities and required parking facilities in any non-residential district may be located in the front yard.
- (11) No part of any parking space shall be closer than five feet to any established highway, road or street right-of-way line. In case a parking lot serving a commercial, industrial or multi-family development adjoins a residential district, a type "D" bufferyard shall separate it from the adjacent lot.
- (12) Off-street parking areas for residential structures requiring more than three (3) parking spaces shall provide excess parking in the rear yard.
- (13) Off-street parking and loading areas may not occupy any part of required open space, but may occupy a part of the required yard area, subject to the provisions of these Regulations.
- (14) LR Zoning: All newly constructed driveways and parking pads shall be hard surfaced or open hard surfaced.

N. *Maintenance of Required Spaces.* All required parking facilities shall be maintained for the duration of the use requiring such facilities. Required parking facilities shall be used exclusively for the temporary parking of passenger automobiles, motor vehicles or light trucks not exceeding one ton in capacity, and shall not be used for the sale, display or storage of merchandise, or for the storage or repair of vehicles or equipment.

- O. *Accessibility.* Each standard parking space shall consist of an independently accessible rectangular or trapezoidal area.
- P. *Vertical Clearance.* Each parking space shall have a vertical clearance of at least eight (8) feet.
- Q. *Circulation.* Each parking and loading area shall have adequate drives, aisles and turning and maneuvering areas for access and usability, and shall at all times have access to a street or alley and provide sidewalk access to buildings.
- R. *Parking Area Paving and Drainage.* Driveways for use in the residential districts shall not be required to be paved, provided the driveway has an all-weather surface to facilitate access by emergency vehicles. However, all parking areas and driveways for uses that are projected to generate 100 or more average daily trips, shall be paved. All commercial and industrial parking lots, access drives and loading areas shall be paved.
- S. *Pavement Materials.* All driveway surfacing may be either 8 inches of gravel or chip and seal. All gravel driveways shall be coated with a dust palliative to prevent airborne dust particles. Where permanent paving is required, the surface shall consist of sufficient asphaltic concrete over a rolled stone base or Portland cement concrete as approved by the Public Works Director.
- T. *Engineered Plans Required.* The Public Works Director shall require engineering design plans, signed by a professional engineer, for commercial and industrial lots of more than one acre. All parking and loading facilities shall be designed, graded, paved and provided with permanent storm drainage facilities that prevent standing water on any parking area, and do not increase the flow of water onto adjacent properties, streets or alleys.

SECTION 440.9 ROADSIDE STANDS

- A. *Applicability.* Roadside stands, as defined in these Regulations, are a permitted accessory use and do not require a permit provided the property owner complies with the Performance Standards listed in this Section.
- B. *Performance Standards.*
 - (1) Roadside stands shall not be operated for more than one hundred eighty (180) days in any one year.
 - (2) The structure shall not have more than one (1) story.
 - (3) The maximum floor area of roadside stand shall be 400 square feet.
 - (4) The roadside stand shall be located no closer than twenty-five (25) feet from the nearest right-of-way.

- (5) The area between the roadside stand and the nearest right-of-way shall be reserved exclusively for parking. There shall be a minimum of five (5) dust-free parking spaces.
- (6) The roadside stand shall be of portable construction, permitting it to be removed from its roadside location during the seasons when it is not in use.
- (7) Signs used in connection with the road side stand shall be temporary, and shall be removed when the stand is not in use. No sign shall be placed within a public right-of-way. Maximum of signage shall be one (1) sign with a face of 16 square feet setback 15 feet from the right-of-way.

SECTION 440.10 USE OF OVERNIGHT TEMPORARY HOUSING UNLAWFUL

- A. It shall be unlawful to use or occupy any garage, tent, travel trailer, pickup camper, motor home or any other device or motor vehicle for living accommodations within the City.
- B. It shall be unlawful to engage in camping on any property not served by public sewers.
- C. *Exception.* Children may use a tent in the yard of an occupied residence.

SECTION 440.11 EXCAVATION AND SUBSTANTIAL LAND ALTERATION ACTIVITIES – OVERLAY DISTRICT – QUARRY/SAND & GRAVEL

- A. *Applicability.* This section applies to specific, intensive land use activities that have unique impacts both on- and off-site, including but not limited to quarries, sand or gravel excavation and other substantial land alteration activities. All three (3) uses are referred to, collectively, as “excavation activities”. Such uses require special regulations to ensure their short and long-term compatibility with the on and off-site environment and adjacent properties and neighborhoods. For purposes of this section, site shall mean all contiguous land holdings in the same ownership.

Permit applications “excavation activities” that are to begin operation subsequent to the enactment of these regulations shall conform with all requirements articulated within this Section. Approval of permit applications for “excavation activities associated the existing Barber Quarry, that has been in continuous operation prior to the enactment of these regulations, shall only require conformance with:

- 1) The requirements stipulated in the June, 2004 Settlement Agreement relative to the “Quarry Operations Area” define in exhibit C of that document.
- 2) SECTION 440.22, Subsections: A. and B., G. through J./L. parts 1-4, 6-8 & 10-16. M. parts 1, 3-8, and 10, N. parts 1-4, R., T. part 1, U. parts 6-9, Y. parts 2-4, Z. parts 1 & 2, AA through GG. (Ord. No. 873 §1, 07-15-08)

- B. *Purpose and Intent.* The purpose and intent of this section is:

- (1) To protect the health, safety and welfare of the citizens of the City of Lake Lotawana and to preserve the quality of life, the economy, infrastructure, environment, natural resources and natural landscapes;
- (2) To protect the environment of the City and to protect its residents from the harmful or hazardous effects of, or nuisances resulting from, substantial land alteration activities, quarrying, and sand or gravel excavation, including, but not limited to, degradation of air quality, stormwater runoff, ground and subsurface water quality, visual quality; erosion of soils; adverse noise and vibration; explosive hazards; adverse traffic and road conditions; and any adverse effects of processing materials;
- (3) To protect the scenic quality of the City its natural landscapes, the environment, environmentally sensitive lands, wildlife and wildlife habitat and to protect its residents from significant adverse effects of excavation activities;
- (4) To ensure the compatibility of the proposed excavation activities with existing and anticipated future development in accordance with the City's adopted Comprehensive Plan;
- (5) To assure that the required reclamation of affected areas which are disturbed by excavation activities meet all environmental, infrastructure and aesthetic needs of the City and of surrounding properties and neighborhoods, consistent with City and MoDNR reclamation requirements;
- (6) To assure that necessary off-site maintenance and improvements to public roads or utilities required as a result of the on-site effects of excavation activities and the off-site effects of traffic and damage to properties are adequately and fully funded and implemented;
- (7) To provide for a fair and efficient system for the engineering, planning, environmental regulation and monitoring of excavation activities, both on and off-site;
- (8) To protect the tax base of the community;
- (9) To protect the current and future use and enjoyment of adjacent properties;
- (10) To ensure the reasonable use of limestone, sand, gravel and other mineral resources excavated or extracted from the site or the excavation activities;
- (11) To establish regulations and performance standards for the excavation, processing, use and transport of earth materials, mined materials, quarried materials and unconsolidated sediments in such a manner as to ensure maximum protection to surrounding properties and to the physical environment through proper siting of activities and structures, and through the use of buffering, setbacks, visual screening,

height limitations, proper access routing, operating times and appropriate noise, vibration, air quality and water quality controls;

- (12) To ensure that all permitted excavation activities are compatible with City, County, regional, state and federal Water Quality Plans and Stormwater Management Plans and adopted drainage or stormwater policies; and
- (13) To ensure that all permitted excavation activities are compatible with all current and applicable neighborhood plans, area or regional plans, public facility and utility plans, City policies, the Comprehensive Plan and the City's budget and Capital Improvements Program.

C. *Substantial Land Alteration.*

- (1) Substantial land alteration is a development activity that meets or exceeds any of the following thresholds:
 - (a) Land disturbing activities designed to occur for more than three (3) months and less than twelve (12) months; or
 - (b) The removal from a site of more than one thousand (1,000) cubic yards of earth material per acre (gross) and less than ten thousand (10,000) cubic yards of material per acre; or
 - (c) The land development activity results at any time, during or following excavation, in an exposed bedrock slope steeper than 3:1 that is less than ten (10) feet in height; or
 - (d) A movement of one hundred (100) cubic yards or more of earth that involves a change in natural or pre-existing grades of five (5) or more vertical feet for any portion of a parcel; or
 - (e) Is undertaken in connection with a subdivision of land and in compliance with all requirements for a Major Subdivision; or
 - (f) Any movement of earth on the entire parcel in excess of one thousand (1,000) cubic yards.
- (2) Substantial land alteration activity shall be permitted in any zoning district upon obtaining a conditional use permit for such activity in accordance with all of the provisions of these Regulations.

D. *Quarry.*

A quarry is a development activity that meets or exceeds a substantial land alteration and meets any of the additional following thresholds:

- (1) Activities principally designed to mine, extract, or remove limestone, minerals or bedrock materials for commercial purposes; or
- (2) Resulting at any time during or following excavation, in an exposed bedrock slope steeper than 3:1; or
- (3) Resulting from one or several cuts made as part of the activity at any time following excavation, in an exposed rock face that is in excess of five (5) foot in height;
- (4) Removal from a site of more than one thousand (1,000) cubic yards of earth material per acre of land being excavated, or ten thousand (10,000) cubic yards of earth for the entire site; or
- (5) The use of a crusher for rocks, limestone or other such materials.
- (6) A quarry shall only be permitted in the Office Technology Center or Estate Residential zoning districts after obtaining a Quarry or Sand and Gravel Overlay zoning district detailed site and grading plans pursuant to these Regulations that shall conform to all general requirements for the overlay and base zone, site plan approval and site location criteria and standards, exterior storage and reclamation standards as set forth in these Regulations.

E. *Sand or Gravel Excavation.*

- (1) Sand or gravel excavation is a development activity that meets or exceeds a substantial land alteration and meets any of the additional following thresholds:
 - (a) Activities principally designed to mine, extract, or remove sand, gravel or unconsolidated sediments for commercial purposes; or
 - (b) Removal from a site of more than one thousand (1,000) cubic yards of sand, gravel or unconsolidated sediments per acre of land being excavated, or more than two thousand five hundred (2,500) cubic yards from a single site;
 - (c) A substantial land alteration designed to occur for more than three (3) months.
- (2) Sand or gravel excavation shall only be permitted in the Office Technology Center or Estate Residential zoning after obtaining a Quarry Overlay zoning district and shall conform to all general requirements for the overlay and base zones, site plan approval and site location criteria and standards, exterior storage and reclamation standards as set forth in these Regulations.

- F. *Exempt Activities.* Except as required for a reclamation plan, which may be imposed on any of the following activities as part of any City development approval, the provisions of this Section shall not apply to the following activities:
- (1) The land area included within 15 feet, or as reasonably defined by the Zoning Administrator to allow soil stabilization, of the identified boundaries of a building submitted for a building permit.
 - (2) Stormwater management facilities or other public infrastructure approved by the City.
 - (3) Excavations or blasting for wells, tunnels or utilities that have received all necessary governmental approvals.
 - (4) Refuse disposal sites controlled by other applicable City, State or federal regulations.
 - (5) On-going cemetery (burial) operations.
 - (6) Construction of one single family residence.
- G. *Conditional Use Permit Required.* All excavation activities defined as substantial land alteration activity pursuant to Substantial Land Alteration shall be required to obtain a conditional use permit.
- H. *Overlay Zoning Required.* All excavation activities defined as a quarry or sand or gravel excavation pursuant to Quarry or Sand or Gravel Excavation shall be required to apply for and obtain an amendment to the zoning map to zone the site as a Quarry or Sand or Gravel Overlay zoning district (QSGD), upon such conditions, including payment of such fees, as the Board of Aldermen shall impose.
- I. *Other Required Permits.* Excavation activities, as defined herein, include a broad range of land-disturbance activities, some of which may require additional City permits and many of which require other local, State and federal permits. It is the sole responsibility of the Applicant to secure all additional permits required by other governmental entities for the proposed use. The City may, at its sole discretion, require that the Applicant obtain all other required permits prior to applying for a conditional use permit or QSGD and to require the Applicant to submit evidence of such other permits to the City as part of the application.
- J. *Other Requirements.* Applicants are not required to submit subdivision plans/plats for "excavation activities" nor are they required to obtain preliminary or final plat approval; provided, however, that if the activity constitutes a subdivision or platting, subdivision and platting shall be required in accordance with these Regulations. Applicants for an excavation activity shall be required to submit a site plan in accordance with the requirements of these Regulations.

K. *Assessment of Existing/Pre-Alteration Conditions.* As part of an application for a QSGD or conditional use permit for land excavation activities, the Applicant shall submit an assessment of existing conditions, which shall include the following additional information:

- (1) Soil types - including soil borings on a maximum 500 foot grid and soils report, depth of overburden, and area to be disturbed;
- (2) Existing topography (at 2 foot contours) of the property and 200 feet beyond the property lines of the site; where there is an existing water body, 2 foot contours for a distance of 20 feet from the waters edge into the water body shall be included;
- (3) Existing roads and rights-of-way, proposed roads as identified in the Comprehensive Plan, including adopted Major Street Plan boundaries;
- (4) An assessment of existing roadway conditions adjacent to the site and proposed to be used for hauling. This assessment is to be prepared in coordination with, and approved by, the City Engineer;
- (5) Existing land use, land cover and structures, including fences and abandoned structures on the site and properties abutting the subject site; identification of the distance to the nearest habitable dwelling;
- (6) Boundaries of any previous excavations or excavation activities on the site or on adjacent properties;
- (7) Wells, abandoned or active, on the subject property. Where blasting is proposed, all wells, abandoned or active, within ½ mile of the property; shall be shown where open water bodies will be created, active or abandoned wells within ¼ mile of the property shall be shown;
- (8) Location of any Floodway, 100 year flood fringe, shoreland areas and wetland delineation;
- (9) The existence and location of any historic sites or native plant communities on the property;
- (10) Existing water and/or sanitary sewer lines crossing the site and any existing water or sanitary sewer facilities on the site or on property adjacent to the site;
- (11) Existing public facilities on the site or on property adjacent to the site;
- (12) Any schools within 2,000 feet of the outer boundaries of any portion of the site;

- (13) Existing land use on all adjacent properties and on properties within 1,000 feet of the boundaries of the site;
- (14) If adjacent and nearby properties are undeveloped, the current zoning of such parcels and the land use description of such parcels as shown on the adopted City Comprehensive Plan;
- (15) Any adopted area or specific plans which include the site and surrounding areas;
- (16) Any public facility or utility plans which indicate the probable future expenditure of public funds for facilities or utilities on or adjacent to the site;
- (17) Any proposed or future public improvements on the site or adjacent to the site as indicated in the City's Annual Budget or current Capital Improvements Program;
- (18) Any traffic studies including the site, areas adjacent to the site, or existing or future roads serving the site or adjacent parcels, including traffic counts, levels of service, demand/capacity ratios, congestion, signalization, safety and other relevant traffic information or analyses.
- (19) The present use of the site, if any;
- (20) Any previous uses of the site, including a description of the use and when the site was utilized for such use; why the previous use was stopped, if known;
- (21) Existing zoning of the site and any previous rezonings;
- (22) Other information as may be deemed relevant by the Zoning Administrator, the City Engineer, the Planning and Zoning Commission or the Board of Alderman.

L. *Necessary Findings for Approval of a QSGD or for a Conditional Use Permit for a Substantial Land Alteration Activity.* The City shall approve a QSGD or a conditional use permit authorizing an excavation activity only if the Board of Aldermen has made all of the following findings with respect to the proposed activity:

- (1) The activity will not result in a danger to life or property due to (a) steep or unstable slopes, (b) unsafe access to the property, (c) excessive traffic, or (d) proximity to existing or planned residential areas, parks and roadways;
- (2) Visual, noise, dust and/or excessive on-or off-site environmental impacts on public parks, roadways and residential areas can be adequately mitigated by the Applicant and a fully detailed plan is submitted by the Applicant to demonstrate the mitigation methods to be used, the cost of such mitigation, the source of funds for such mitigation, and adequate legal assurance that all of such mitigation activities are carried out;

- (3) The use of trucks and heavy equipment will not adversely impact the safety and maintenance or cause excessive congestion of public roads providing access to the site, or such impacts will be mitigated;
- (4) The proposed use will not adversely affect air quality or ground water or surface water quality;
- (5) The proposed use will not adversely affect scenic quality or natural landscapes, environment, wildlife and wildlife habitat; or if such effects are anticipated to occur, the reclamation plan provides for adequate restoration of the site following completion of the excavation activity;
- (6) The activity will be compatible with existing development and development anticipated in the future, including other uses as shown in the Comprehensive Plan, including but not limited to: patterns of land use, recreational uses, existing or planned development, public facilities, open space resources and other natural resources;
- (7) The activity will not substantially adversely affect the use and enjoyment of adjacent properties;
- (8) The site plan provides for buffers and/or screening, as the Board of Aldermen shall determine appropriate, year-round from unsightly features of the excavation operation;
- (9) The activity will not result in the disturbance of a natural habitat community;
- (10) The reclamation plan provides for adequate and appropriate restoration and stabilization of cut and fill areas;
- (11) The excavation activity will not result in negative impacts on drainage patterns or stormwater management facilities;
- (12) The proposed activity will minimize impacts on wetlands and other natural features affecting groundwater or surface water quality;
- (13) The intensity and the anticipated duration of the proposed excavation activity is appropriate for the size and location of the activity;
- (14) Permanent and interim erosion and sediment control plans have been approved by the City;
- (15) Surety has been provided that guarantees the site will be fully restored, after completion of the excavating activity, to a safe condition, and one that permits reuse of the site in a manner compatible with the Comprehensive Plan, and applicable City policies.

- (16) A schedule of appropriate environmental mitigation, tipping and host fees has been established.
- (17) Notification of intent to adjacent property owners.

M. *Required Plans and Information.* An application for a QSGD or for a Conditional Use Permit for substantial land alteration shall include the following information, in addition to all other requirements of these Regulations, which may be submitted in written and/or graphic form:

- (1) Site Plan
- (2) Grading Plan
- (3) Permanent and Interim Erosion and Sediment Control Plan
- (4) Traffic Plan
- (5) Operations Plan
- (6) Reclamation Plan
- (7) Phasing Plan
- (8) Drainage Plan
- (9) Completed Wetland Delineation
- (10) Other plans and/or information, as may be reasonably requested by staff, the Planning and Zoning Commission or the Board of Alderman.

N. *Site Plan.* The site plan shall show the following:

- (1) The area of the site to be disturbed or used as part of an excavation activity with the phases of the excavation or quarrying activities shown;
- (2) The area of the site to remain completely in open space, including bufferyards, with no man-made structures or activities;
- (3) The location and types of buffering and screening to be used;
- (4) The location of access roads, haul roads, storage areas, structures, buildings, crushers, and any other man-made structures;

- (5) The location of storage areas, proposed stockpiles, processing and loading areas and any other areas or portions of the site not kept permanently in open space; and
- (6) A signage plan, both on-site and immediately off-site.

O. *Required Bufferyards.*

During the excavation activity, a minimum bufferyard on the site of 100 feet shall be maintained adjacent to all property boundaries and all existing rights of way and any proposed rights of way for roadways included in the Comprehensive Plan or for which a major street plan has been prepared. Upon completion of the excavation activity, the bufferyard may be discontinued and the bufferyard land area may be used for development purposes;

If the duration of an excavation activity will not exceed 24 months from the date of approval of a QSGD or issuance of a conditional use permit to the date of completion of all activities, bufferyard plantings shall not be required. In all other cases, bufferyard plantings are required to be installed within the first planting season;

No excavation shall occur within the bufferyard and no storage of equipment or materials may be located within the bufferyard;

A vegetated earthen berm for erosion control purposes pursuant to the required stormwater runoff, erosion and sedimentation control plan, may be placed in the bufferyard, where approved;

Such additional screening, including berms, as may be required by the Board of Aldermen, to protect the adjacent property owners from the visual and operational impacts of the excavation activity; and

An excavation activity may be conducted closer than 100 feet from an adjacent platted or planned road right-of-way, only if approved by the Board of Aldermen.

A. *Grading Plan.* A Grading Plan shall be submitted at the time of submission of the application for a QSGD or for a conditional use permit application. The Zoning Administrator, the Planning and Zoning Commission and/or the Board of Alderman may recommend and the Board of Alderman may impose reasonable conditions to mitigate the potential impacts of extensive grading, if deemed to be necessary. The City shall consider the following factors in its review of the Grading Plan:

- (1) Restoration and stabilization of cut and fill areas;
- (2) Impact on drainage patterns and stormwater management facilities, as well as the consistency with the City's adopted drainage or stormwater policies;

- (3) Potential impacts on sinkholes, wells and other features affecting groundwater quality;
- (4) Impact on wetlands;
- (5) The duration of the proposed grading activity;
- (6) The amount and type of material being removed from, or imported to, the site;
- (7) Compliance with erosion and sediment control standards;
- (8) Adequate and appropriate surety, approved by the City Engineer and City Attorney, to ensure that the site will be restored to a safe condition;
- (9) Visual, noise and dust impact upon public parks, major roadways and residential areas;
- (10) Impacts of trucks and heavy equipment on the safety and maintenance of roads providing access to the site and adjacent properties;
- (11) Compliance with the City law and adopted City policies, and all other state and federal requirements.

B. *Operations Plan.* An Operations Plan shall be submitted at the time of submission of the application for a QSGD or for a conditional use permit, and shall include the following information. In all respects, the Operations Plan shall be consistent with, and fulfill all of the standards and requirements of, these Regulations. The Operations Plan shall include a complete description of the following:

- (1) All materials intended to be excavated, quarried, mined or otherwise removed from the site;
- (2) The method of removal of these materials including the type of all equipment to be used;
- (3) The nature, type, use and hazards posed by any chemicals to be used or stored on the site or used in the excavation activity, processing or other activity on the site;
- (4) The nature, type, use and hazards posed by any toxic materials of any kind to be used or stored on the site or used in the excavation activity, processing or other activity on the site;
- (5) The phases (and associated timetable) for excavation of the site;

- (6) The method of removal and disposal of vegetation from the site, including the types of vegetation to be removed, plant communities to be removed or affected, and habitat loss;
- (7) The amount of overburden to be removed in total and per phase;
- (8) The amount of mineral to be removed on a daily basis, in total and per phase;
- (9) The method of land alteration activity and sequence of progression, including phasing and progressive reclamation and site stabilization;
- (10) The proposed hours and days of operation on the site, including hauling and ancillary activities in addition to the excavation activity;
- (11) A dust control plan, including a monitoring method and report schedule;
- (12) A noise control plan, including a map showing the decibel range at various distances from the site, in all directions from the site, including a monitoring method and report schedule;
- (13) A stormwater runoff, erosion and sedimentation control plan, including a monitoring method and report schedule;
- (14) A drainage plan;
- (15) A safety plan including, but not limited to, the location and type of all site security and safety features, including signs, gates and fences;
- (16) An emergency evacuation plan;
- (17) A lighting plan;
- (18) An emergency lighting plan;
- (19) The method of hauling the material to be removed, including the number and types of trucks to be used each day;
- (20) A traffic impact analysis;
- (21) A description of any effects of the anticipated potential excavation activity off site;
- (22) A maintenance schedule and plan for cleaning vehicles, equipment and adjacent off-site public roadways;

- (23) A description of the total anticipated duration (in months or years) of excavation activities on the site;
 - (24) A description of the anticipated extent of use of sewer, water, gas, electricity and other utilities on a monthly basis, and the provider of such utility services;
 - (25) The proximity of the nearest police and fire stations to the site and access for emergency vehicles.
 - (26) A traffic plan showing the movement of the trucks on to the site, within the site, and from the site. The off-site portion of this plan shall show the vehicle movement to the nearest arterial street, the identification of truck movement on collector and local streets, and the land uses along the routes, paying special attention to residential land uses, schools, churches, public parks and other places where the public may gather;
 - (27) Such other information as the Zoning Administrator, the Planning and Zoning Commission or the Board of Alderman deems relevant and necessary.
- C. *Reclamation Plan.* A Reclamation Plan shall be submitted as part of the application for a QSGD or conditional use permit and shall include a Final Site Plan and attached Reclamation Plan Report pursuant to the requirements of Subsection S and T, below.
- D. *Final Site Plan (Reclaimed Land).* The final site plan shall clearly and effectively show the condition of the site after all excavation activities have been completed and after the Applicant has undertaken and completed full reclamation of the site in accordance with State statutes and regulations, and the standards, requirements and conditions set forth herein. If reclamation is proposed to be done in phases, a final post-reclamation site plan shall be submitted for the reclaimed portion of the site after the completion of each phase. The Final Site Plan shall include the following information:
- (1) The area of the site reclaimed;
 - (2) Grading plan, including finished grades of all disturbed areas at 2 foot interval contours. Where a water body is created, the grading plan shall show 2 foot contours to the bottom of the water body;
 - (3) The proposed use of the reclaimed area of the site, including any structures proposed to be built on the site as part of, or subsequent to, reclamation;
 - (4) The grade of the reclaimed area and of the entire site;
 - (5) Public services which need to be provided to the proposed use of the reclaimed area, including the size of water and sewer lines, and the demand for other public facilities and services;

- (6) The compatibility of the proposed use with adjacent properties, with the existing zoning in the area and with the Comprehensive Plan.
- (7) The buffering or screening of the site after reclamation;
- (8) The elimination of on-site haul roads, storage facilities and other site features no longer needed after the excavation activity has been completed;
- (9) Proposed access at a location to be approved by City Engineer, and internal/external roadway system for the site, based on its proposed use after reclamation;
- (10) Any demolition and removal of buildings on the site;
- (11) A vegetation plan for the site after reclamation;
- (12) The timetable for development of the site for the proposed use; and
- (13) A noise assessment of the proposed use, at a level of detail to be determined by the City Engineer.

E. *Reclamation Plan Report.* The Reclamation Plan Report shall include the following:

- (1) Phasing and schedule of reclamation;
- (2) Methods and process of reclamation;
- (3) Erosion control plan;
- (4) Planting/re-vegetation plan including number and size of plants to be used and placement;
- (5) Maintenance and replacement plan for monitoring and ensuring survival of reclamation efforts;
- (6) Conformance with future roadways and ultimate land use as reflected in the City's Comprehensive Plans major street plan and other public utility plans including drainage, stormwater, and transportation;
- (7) Lighting and/or signage plan;
- (8) Schedule for the removal of stockpiles, unneeded signage or lighting, or erosion control devices when excavation or substantial land alteration activities are complete;

- (9) Where open water bodies are created: the normal depth of water bodies at 2 foot contour intervals, cross section views of reclaimed area showing grading of shoreline, depth of lake, sub-surface lake shoreline grading, anticipated design normal pool elevation, anticipated 2-year storm event lake level bounce elevation, depth of soil cover on reclaimed areas and floodplain elevations, and a maintenance plan;
- (10) Where surface alternatives are proposed, above the water table, the method of stabilization of the disturbed areas;
- (11) A narrative examining possible hydrogeologic effects on any existing or proposed bodies of surface water, wetlands and on groundwater, including public and private wells. The report shall also include a description of the controls needed to assure compliance with Federal, State and Local surface water quality, erosion controls, sediment control, stormwater management and other standards applicable to surface waters;
- (12) A description of any proposed uses to be conducted on the site;
- (13) A description of any proposed structures to be built on the site, including the size, scale, height, building footprint and location of such structures and a description including all other requirements necessary for Site Plan Approval and Building Permit issuance.

F. *Performance Standards for Operation of Quarries or Sand or Gravel Excavation.* The following minimum operation/performance standards shall apply to quarries and sand or gravel excavation unless otherwise specified:

- (1) Any topsoil removed from the surface and retained on the site shall be removed carefully and stockpiled in a manner to prevent erosion, for re-application to disturbed areas during reclamation.
- (2) Hours of operation for quarries shall be limited to the hours of 8 a.m. - 6 p.m., Monday through Friday, for operational activities including blasting, excavation, processing and hauling. Hours and days of operation may be restricted by the Board of Aldermen for operations within 1,000 feet of any residential uses or which rely on residential roadways for access.
- (3) To the extent possible, designated truck routes shall be used for all hauling as well as for all access to the site. All other routes and access shall be approved by the City Engineer prior to commencement of quarrying.
- (4) Stormwater runoff, erosion and sedimentation shall be controlled by a Drainage Plan submitted to the City by the Applicant and approved by the City Engineer. The Plan shall address the compatibility of the proposed use with adopted City drainage or stormwater policies applicable to the area.

- (5) The Applicant shall provide signs on the property and along haul routes where deemed necessary to promote the safety and general welfare of the neighborhood and general area. Required signs may include, but shall not be limited to, "No Trespassing," "Trucks Hauling," "Blasting," "Danger," etc. Other signs may be required if necessary.
- (6) Operations shall maintain compliance with local and state standards for noise, dust and vibration. All equipment and machinery shall be operated and maintained in such a manner as to minimize dust, noise, and vibration. Access roads shall be maintained in a dust-free condition by surfacing or other treatment on a regular basis as may be specified by the Board of Aldermen.
- (7) Adequate dust control methods shall be implemented. Roadways adjacent to the property shall be swept and cleaned on an as needed basis and, in addition, when directed by the City Engineer as being necessary. (Ord. No. 888 §1, 5-7-09)
- (8) A performance bond or other financial security in an amount satisfactory to the City Engineer, and in a form approved by the City Attorney shall be provided by the Applicant to ensure that all standards are fully met during operation and to ensure that proper reclamation of the site is completed in a timely manner.
- (9) Adequate perimeter protection shall be provided to restrict unauthorized access by individuals or vehicles to assure public safety. All visitors admitted to the site shall be registered with supervisory personnel with time in and time out notations. Additional specific perimeter safety requirements may be imposed on portions of the site abutting residentially zoned or planned areas, parks, playgrounds, sidewalks, trails, schools, churches and other public facilities and gathering places. (Ord. No. 888 §2, 5-7-09)
- (10) Activities shall be phased to identify the sequence of operation. A new phase shall not begin until at least 50% of an active/current phase is reclaimed as per the reclamation plan, and the City has verified the completion of the reclamation of the phase to the extent that it can be reclaimed.
- (11) Required minimum distance of all quarries, and sand or gravel excavation activities of 24 months or longer from adjacent property zoned residential, commercial and industrial shall be as shown in **Exhibit 440-F**.

**Exhibit 440-F: Setbacks for All Quarries and Sand or Gravel Excavation Activities,
24 Months or Longer**

Required Minimum Distance from Adjacent Property	Residential Zones	Commercial Zones	Industrial Zones
Excavation Area with an Elevation Change of Greater than 10 Feet	500'	100'	50'
To Vegetated Stockpiles	500'	100'	50'

To Any Non-vegetated Stockpiles or Loading Points	750'	200'	50'
To Any Crushing or Processing	1000'	500'	100'
To Any Blasting - from a Developed Property	1000'	500'	400'

- (12) If a six (6) foot high vegetated berm meeting all applicable City standards is constructed to screen the activity, the required distance of all quarry operations, and sand or gravel excavation activities of 24 months or longer, from adjacent property zoned residential, commercial and industrial shall be as shown in **Exhibit 440-G**.

Exhibit 440-G: Alternate Setbacks for All Quarries and Sand or Gravel Excavation Activities, 24 Months or Longer, with Berms

Required Minimum Distance from Adjacent Property:	Residential Zones	Commercial Zones	Industrial Zones
	Excavation Area with an Elevation Change of Greater than 10 Feet	250'	50'
To Vegetated Stockpiles	250'	50'	50'
To Any Non-vegetated Stockpiles or Loading Points	300'	100'	50'
To Any Crushing or Processing	750'	300'	100'
To Any Blasting - from a Developed Property	750'	300'	400'

- (13) If a sound barrier is constructed that is capable of reducing sound levels at the nearest residential lot line to a level meeting the noise performance standards pursuant to these Regulations, required distance from residential zones for crushing, processing, and blasting may be reduced to 500 feet.

- (14) Required minimum distance of sand or gravel excavation activities from adjacent property zoned residential, commercial and industrial, when the proposed sand or gravel excavation activity will not exceed 24 months shall be are shown in **Exhibit 440-H**.

Exhibit 440-H: Setbacks for Sand or Gravel Excavation Activities, Less Than 24 Months

Required Minimum Distance from Adjacent Property Zoned:	Residential	Commercial	Industrial
	Excavation Area with an Elevation Change of Greater than 10 Feet	200'	50'
To Vegetated Stockpiles	200'	50'	50'
To Any Non-vegetated Stockpiles or Loading	450'	100'	50'

Required Minimum Distance from Adjacent Property Zoned:	Residential	Commercial	Industrial
	Points		
To Any Processing - from a Developed Property	750'	250'	100'

- (15) If a six (6) foot high vegetated berm meeting all applicable City standards is constructed to screen the activity, the required distance of sand or gravel excavation activities which do not exceed 24 months from adjacent property zoned residential, commercial and industrial shall be as shown in **Exhibit 440-I**.

**Exhibit 440-I: Alternate Setbacks for Sand or Gravel Excavation Activities,
Less Than 24 Months, with Berms**

Required Minimum Distance from Adjacent Property Zoned:	Residential	Commercial	Industrial
	Excavation Area with an Elevation Change of Greater than 10 Feet	100'	50'
To Vegetated Stockpiles	100'	50'	50'
To Any Non-vegetated Stockpiles or Loading Points	200'	100'	50'
To Any Processing - from a Developed Property	750'	100'	100'

- (16) If a sound barrier is constructed that is capable of reducing sound levels at the nearest residential lot line to a level meeting the noise performance standards pursuant to these Regulations, the required distance from residential zones for crushing, processing, and blasting may be reduced to 500 feet.
- (17) Where a stockpile is visible from an arterial roadway or residential district, the height of a stockpile may be limited by the Board of Aldermen. In any case, the height of a stockpile may not exceed 50 feet for permanent stockpiles and 75 feet for temporary stockpiles in a non-residential district. .
- (18) Any lighting or signage, other than security signage, on the property shall meet the standards for the zoning district in which the activity is located.
- (19) No excavation operation shall be conducted in such a manner as to permanently lower the water table of surrounding properties, except in quaternary deposits, nor shall such excavation activity cause the drainage of a Wetland without the applicant first obtaining an approved Wetland replacement plan.
- (20) A weight scale may be required to be located at the site and, if necessary, other restrictions may be imposed if roadways adjacent to the site and operations are not suitable for heavy truck traffic. A record of all truck load weights exiting the site must

be maintained for no less than two (2) years as evidence of weight limit compliance and such records shall be available for inspection by the City Engineer or the agents of other applicable road authorities.

- (21) Blasting shall not exceed .5 inch peak particle velocity per second. A Blasting Plan shall be submitted to the Fire District, City Engineer and the Planning and Zoning Commission with proof of insurance in an amount and form as approved by the City Attorney. Such activity shall be conducted only by licensed, insured individuals or entities and in conformance with all applicable federal, state and local regulations.
- (22) Where excavation occurs on more than one side of a protected water body, a setback of 50 feet may be maintained on one side when a setback of 200 feet or more is maintained on the other, if approved by the MoDNR and the City Engineer.

G. *Reclamation Standards for Quarries and for Sand or Gravel Excavation Activities.* The following minimum reclamation standards shall apply to quarries and sand or gravel excavation activities unless otherwise specified:

- (1) Topsoil. Topsoil capable of sustaining vegetative growth shall be provided and evenly spread on all disturbed areas.
- (2) Timing. Disturbed areas shall be stabilized and seeded at the earliest possible time or as specified, and any permits issued for the proposed use shall establish a schedule for stabilization and temporary and permanent seeding for the site. Progressive reclamation practices shall be utilized to continue to reclaim and stabilize disturbed areas prior to moving to a new phase. Seeding and planting shall occur during the appropriate seasons and times of year in accordance with published guidelines for this climate and region, including MoDOT and MoDNR guidelines).
- (3) Drainage. Any alteration of the natural drainage system or public waters or jurisdictional Wetlands shall not adversely affect any other adjacent properties or public facilities.
- (4) Slope. No site shall exceed 3 feet horizontal to 1 foot vertical incline over a distance of 30 feet. This angle of repose shall be modified to a flatter angle, but not steeper angle, if it is shown that the site will be unstable at 3:1 ratio or that vegetation cannot be established on the 3:1 slope. This provision may be waived or modified by the Board of Aldermen upon the recommendation of the City Engineer. For all locations where water bodies are created, the slope of the bottom of the lake from water's edge shall not exceed 4:1 for a distance of 20 feet from waters edge and shall not exceed a depth of 10 ft. beyond that point for a distance of 20 ft. The slope above the water's edge shall not exceed 3:1 for a distance of 20 feet from the water's edge.
- (5) Water Bodies - Shaping and Enhancement. Where water bodies are created in commercial and residential zones, only freeform and natural form water bodies will be allowed. All water bodies shall include variation in shoreline and depth and shall include

curvilinear shorelines. Where practical, the minimum size of water bodies fed by groundwater and not connected to streams shall be five (5) acres, with a minimum average depth of 24-30 feet. Shallow water bodies may be considered where the Applicant can provide evidence that such water body will not result in poor water quality and that it will not result in a nuisance to the area.

- (6) Erosion Control. Use of silt fences, bale checks, sediment basins, and other similar structures and methods which require ongoing maintenance will generally not be acceptable for long-term reclamation. The intent of final reclamation is to leave the site in a maintenance free and stable condition. Seeding shall be done in accordance with appropriate technical standards. All exposed area shall be seeded and stabilized with an appropriate seeding mixture so as to prevent erosion. Sodding or other erosion control methods or materials approved by the City Engineer may be required for highly erodible areas or in areas where seed growth cannot be established in a reasonable time period. All equipment, stockpiles, debris, signs, silt fence and other erosion control structures shall be removed from the site after completion of the activity. Adjacent roadways shall be swept and cleared of loose or foreign materials resulting from the reclamation operation. Erosion control measures shall be kept in place until permanent vegetation has been established on site and erosion is controlled.
- (7) Revegetation. In addition to required seeding, the reclaimed site shall be landscaped. The applicant shall have the flexibility to arrange plant material to best suit the ultimate proposed use and design of the property, provided that at least 8 deciduous and 8 evergreen trees from the approved plant list of the City, the County, or any City within the County are planted for each disturbed acre, and at least 25 percent of required trees are planted within 30 feet of the perimeter of the site.
- (8) Final reclamation of each phase of the operation shall be completed within six (6) months of completion of each phase of the operation. Extensions may be granted by the Zoning Administrator should the activity cease after September of any given year. No building permits shall be issued on the property prior to completion of reclamation of the site.
- (9) Post-Reclamation Land Use. Where a development is proposed as part of a post-reclamation plan, all applicable City permits and approvals will be required.

H. *Substantial Land Alteration Activity Operations/Performance Standards.* The following minimum operation/performance standards shall apply to all other substantial land alteration activities unless otherwise specified:

- (1) Any topsoil removed from the surface and retained on the site shall be removed carefully and stockpiled in a manner to prevent erosion, for re-application to disturbed areas during reclamation.
- (2) Hours of operation shall be limited to the hours of 8 a.m. - 6 p.m., Monday through Friday for operational activities including digging, dredging, excavation, processing and

hauling. Hours and days of operation may be restricted by the Board of Aldermen for operations within 1,000 feet of any residential areas or which rely on residential roadways for access.

- (3) To the extent possible, designated truck routes shall be used for all hauling as well as for all access to the site. All other routes and access shall be approved by the City Engineer.
- (4) Stormwater runoff, erosion and sedimentation shall be controlled by a Drainage Plan submitted to the City by the Applicant and approved by the City Engineer. The Plan shall address the compatibility of the proposed use with adopted City drainage or stormwater policies applicable to the area.
- (5) The Applicant shall provide signs on the property and along haul routes where deemed necessary to promote the safety and general welfare of the neighborhood and general area. Required signs may include, but shall not be limited to, "No Trespassing," "Trucks Hauling," "Danger," "Blasting" and others. Other signs may be required if necessary.
- (6) Activities shall be phased to identify the sequence of operation. A new phase shall not begin until at least 50% of an active/current phase is reclaimed as per the reclamation plan and the City has verified the completion of the reclamation of the phase to the extent that it can be reclaimed.
- (7) Operations shall maintain compliance with local and state standards for noise, dust and vibration. All equipment and machinery shall be operated and maintained in such a manner as to minimize dust, noise, and vibration. Access roads shall be maintained in a dust-free condition by surfacing or other treatment on a regular basis and as may be specified by the City Engineer.
- (8) Adequate dust control methods shall be implemented. Roadways adjacent to the property shall be swept and cleaned on a regular basis and, in addition, when directed by the City Engineer as being necessary.
- (9) A performance bond or other financial security in an amount satisfactory to the City Engineer and in a form approved by the City Attorney shall be secured from the Applicant to ensure that all applicable standards are fully met during operation and to ensure proper reclamation of the site is completed in a timely manner.
- (10) A six (6) foot high continuous security fence shall be provided around the entire perimeter of the property on which the substantial land alteration activity will take place. Additional fencing requirements may be imposed on portions of the site abutting residentially zoned or planned areas, parks, playgrounds, sidewalks, trails, schools, churches and other public facilities and gathering places.

- (11) Required minimum distance of sand or gravel excavation activities from adjacent property zoned residential, commercial and industrial, when the proposed sand or gravel excavation activity will not exceed 24 months shall be are shown in **Exhibit 440-J**.

Exhibit 440-J: Setbacks for Substantial Land Alteration Activities

Required Minimum Distance from Adjacent Property Zoned:	Residential	Commercial	Industrial
	Excavation Area with an Elevation Change of Greater than 10 Feet	200'	50'
To Vegetated Stockpiles	200'	50'	50'
To Any Non-vegetated Stockpiles or Loading Points	400'	100'	50'
To Any Processing	750'	250'	100'

- (12) Provided, however, that if a six (6) foot high vegetated berm is constructed to screen the activity, which meets all applicable City standards, the required minimum distance of specific on-site activities from adjacent property zoned residential, commercial and industrial shall be as shown in **Exhibit 440-K**.

Exhibit 440-K: Alternate Setbacks for Substantial Land Alteration Activities, with Berms

Required Minimum Distance from Adjacent Property Zoned:	Residential	Commercial	Industrial
	Excavation Area with an Elevation Change of Greater than 10 Feet	100'	50'
To Vegetated Stockpiles	100'	50'	50'
To Any Non-vegetated Stockpiles or Loading Points	200'	100'	50'
To Any Processing	300'	100'	100'

- (13) If a sound barrier is constructed that is capable of reducing sound levels at the nearest residential lot line to a level meeting the federal performance standards, the required distance from residential zones for crushing, processing, and blasting may be reduced to 500 feet.
- (14) Where a stockpile is visible from an arterial roadway or residential district, the height of a stockpile may be limited by the Board of Aldermen. In any case the height of a stockpile may not exceed 50 feet for permanent stockpiles and 75 feet for temporary stockpiles in a non-residential district.

- (15) Any lighting or signage, other than security signage, on the property shall meet the standards for the zoning district in which the activity is located.
- (16) No excavation operation shall be conducted in such a manner as to permanently lower the water table of surrounding properties, except in quaternary deposits, nor shall such excavation activity cause the drainage of a Wetland without the applicant first obtaining an approved Wetland replacement plan.
- (17) A weight scale may be required to be located at the site, and, if necessary, other restrictions may be imposed if roadways adjacent to the operations are not suitable for heavy truck traffic. A record of all truck load weights exiting the site must be maintained for no less than two (2) years as evidence of weight limit compliance and such records shall be available for inspection by the City Engineer.
- (18) Where applicable, no excavation shall occur within 100 feet of a protected water body unless otherwise permitted by the MoDNR. Where excavation occurs on more than one side of a protected water body, a setback of 50' may be maintained on one side when a setback of 200' or more is maintained on the other, if approved by MoDNR and the City Engineer.

I. *Substantial Land Alteration Activity Reclamation Standards.* The following minimum reclamation standards shall apply to substantial land alteration activities.

- (1) Topsoil. Topsoil capable of sustaining vegetative growth shall be provided and evenly spread on all disturbed areas.
- (2) Timing. Disturbed areas shall be stabilized and seeded at the earliest possible time or, as specified, and any permits issued for the proposed use shall establish a schedule for stabilization and temporary and permanent seeding for the site. Progressive reclamation practices shall be utilized to continue to reclaim and stabilize disturbed areas prior to moving to a new phase. Seeding and planting shall occur during the appropriate seasons and times of year in accordance with published guidelines for this climate and region including MoDOT and DNR guidelines.
- (3) Drainage. Any alteration of the natural drainage system or public waters or jurisdictional Wetlands shall not adversely affect any other adjacent properties or public facilities.
- (4) Slope. No site shall exceed 3 feet horizontal to 1 foot vertical incline over a distance of 30 feet the angle of repose shall be modified to a flatter angle, but not steeper angle, if it is shown that the site will be unstable at 3:1 ratio or that vegetation cannot be established on the 3:1 slope. This provision may be waived or modified by the Council upon the recommendation of the City Engineer. For all locations where water bodies are created, the slope of the bottom of the lake from water's edge shall not exceed 4:1 for a distance of 20 feet from waters edge and shall not exceed a depth of 10 ft. beyond

that point for a distance of 20 feet. The slope above the water's edge shall not exceed 3:1 for a distance of 20 feet from the water's edge.

- (5) **Water Bodies - Shaping and Enhancement.** Where water bodies are created, only freeform and natural form lakes will be allowed. In commercial and residential zones. All water bodies shall include variation of shoreline and depth and shall include curvilinear shorelines. Where practical, the minimum size of water bodies fed by groundwater and not connected to streams shall be 5 acres, with a minimum average depth of 24 feet. Shallow water bodies may be considered where the Applicant can provide evidence that such water body will not result in poor water quality and that it will not result in a nuisance to the area.
- (6) **Erosion Control.** Use of silt fences, bale checks, sediment basins, and other similar structures and methods that require ongoing maintenance will generally not be accepted for long-term reclamation. The intent of final reclamation is to leave the site in a maintenance-free and stable condition. Seeding shall be done in accordance with appropriate technical standards. All exposed areas shall be seeded and stabilized with an appropriate seeding mixture so as to prevent erosion. Sodding or other erosion control methods or materials approved by the City Engineer may be required for highly erodible areas or in areas where seed growth cannot be established in a reasonable time period. An amount and type of vegetation shall be replaced on the site similar to that removed based on aerial photographs, consistent with ultimate proposed land uses. Where land was cropped, it shall be seeded with an appropriate seeding mixture. All equipment, stockpiles, debris, signs, silt fence and other erosion control structures shall be removed from the site after completion of the activity. Adjacent roadways shall be swept and cleared of loose or foreign materials resulting from the reclamation operations. Erosion control measures shall be kept in place until permanent vegetation has been established on site and erosion is controlled.
- (7) **Revegetation.** In addition to required seeding, the reclaimed site shall be landscaped. The applicant shall have the flexibility to arrange plant material to best suit the ultimate proposed use and design of the property, provided that at least 8 deciduous and 8 evergreen trees from the City's approved plant list are planted for each disturbed acre, and at least 25 percent of required trees are planted within 30 feet of the perimeter of the site. Final reclamation of each phase of the operation shall be completed within six (6) months of completion of each phase of the operation. Extensions may be granted by the Zoning Administrator should the activity cease after September of any given year. No building permits shall be issued on the property prior to completion of reclamation of the site.
- (8) **Post-Reclamation Land Use.** If the owner proposes to construct structures on the site as part of the post-reclamation land use activities, all of such uses shall be specified. The owner shall submit all necessary documentation for such proposed uses, including but not limited to a Site Plan, an application for rezoning, an application for a building permit, or other required documentation necessary for approval of the proposed use on the reclaimed site. If an exposed bedrock slope steeper than 3:1 is proposed post-reclamation in a Residential District, the Council may waive the otherwise applicable

height and steepness standards (i) if the slope will be screened by a structure, permitted pursuant to subsections (a) and (b) above, (ii) if safety features will be incorporated into the site to minimize risk and (iii) if sufficient financial assurances are provided by the owner/developer in an amount as determined by the City Engineer, and in a form approved by the City Attorney and the Finance Director, and provided to the City concurrently with the required Reclamation Plan. Financial assurances shall be in the form of surety bonds, irrevocable letters of credit or cash bonds. Other alternatives providing adequate assurances may be considered by the City Attorney and Finance Director and, if approved, may be recommended to the Board of Adjustment.

J. *Permits Required to be Obtained.* In addition to obtaining a QSGD for quarry or sand or gravel excavation or conditional use permit for substantial alteration activity, prior to commencing use of the property the Owner/Applicant shall obtain the following permits.

- (1) Grading permit.
- (2) A final plat, when applicable.
- (3) Building Permit, where necessary, for any structures.
- (4) All other applicable administrative permits

K. *Effect of Approval of Permit for Substantial Land Alteration Activities or QSGD.*

- (1) The original conditional use permit for substantial land alteration activities shall not be approved for more than twelve (12) months. Extension of a permit may be considered in accordance with these Regulations. Approvals of activities shall be valid for the length of time specified in the approval so long as all standards of these Regulations and all conditions of approval are fully complied with.
- (2) The Applicant is responsible to ensure that all persons using the site, whether operators, lessors or others, comply with the standards of these Regulations and all conditions of approval.
- (3) The Board of Aldermen may limit the duration of any quarry operation or sand or gravel excavation activity, and may require the Applicant/operator of any quarry or sand or gravel excavation activity to appear before the Board of Aldermen for the Board of Aldermen to review the operation of such excavation activity at such periods as the Board of Aldermen shall require.

L. *Permit or QSGD Revocation or Suspension.*

- (1) Any conditional use permit issued by the City pursuant to the provisions of these Regulations and any QSGD may be suspended or revoked upon a finding that the operator has failed or is failing to comply with any applicable statute, rule or ordinance

relating to the “excavation activity” or “substantial land alteration activity” or to any provision, standard or requirement of any permit or approval issued by the City to allow the “excavation activity” to occur.

- (2) The Zoning Administrator, in consultation with the City Engineer shall make an initial determination as to whether there is a sufficient basis for the suspension or revocation of a permit or the QSGD. Upon such a determination, the Zoning Administrator shall prepare and issue a Notice of Default which shall be duly served by certified mail, return receipt requested, upon the permitted. Notification of such default shall also be given to the appropriate City officials. Upon receipt of the Notice of Default, the aggrieved permittee or operator shall have ten (10) days to appeal the Zoning Administrator of City Engineer’s decision to the Board of Aldermen by filing said appeal with the City Clerk within ten (10) days following receipt of the Zoning Administrator’s determination of suspension or revocation.
- (3) Upon receipt of an appeal, the Board of Aldermen shall make a preliminary inquiry into the matter to determine whether there is cause to proceed to a public hearing. Whenever it appears to the Board of Aldermen that adequate grounds may exist for the suspension or revocation of a permit, or a QSGD, the Board of Aldermen shall by resolution specify the nature of the basis for the suspension or revocation and order that a hearing on the matter occur at the Board of Aldermen’s next regularly-scheduled meeting.
- (4) No suspension or revocation appealed to the Board of Aldermen shall be effective until the permittee or operator has been afforded an opportunity for a hearing as required by law.
- (5) Upon a finding that the permittee or operator has violated any applicable statute, rule or ordinance, the Board of Aldermen may either suspend the permit for up to 60 days for each violation, or revoke the permit, and/or issue a “Stop Work Order.”

M. *Project Site Expansion or Modification.*

- (1) Changes to the conditional use permit for the “excavation activity” on the site or changes to the conditions imposed on a quarry or sand or gravel excavation activity in a QSGD shall be applied for and reviewed in accordance with these Regulations.
- (2) Changes other than changes to the phasing plan and those expressly permitted in the Operations Plan shall be reviewed and approved in accordance with the process by which the original conditional use permit was approved.
- (3) An expansion of the site on which an “excavation activity” has previously been approved will require a complete review of the proposed new (expanded) site, as if an original application was being made, as well as a review of the relationship and coordination of activities between the original site and the expanded portion of the site. Of principal concern during this review shall be the additional and cumulative impacts that will be

caused by the combined operations on environmental factors, traffic, safety, noise, air pollution, neighborhoods, adjacent land uses, etc.

- (4) Contraction of the site on which the “excavation activity” has been approved will require a review in order to understand how the loss of a portion of the site will affect buffers, land use compatibility, noise, reclamation and reuse of the site and related factors, and determine what will be done on the excised portion of the site. For example, if another land use is proposed, a complete, original review may be required.

N. *Transfer of Permits.*

- (1) No transfer of a conditional use permit by the original Applicant to another party nor a transfer of any other permit or approval issued by the City which was necessary to authorize or allow the “excavation activity” shall be permitted unless the City is notified not less than ninety (90) days prior to such transfer and has an opportunity to assure (a) that all conditions, standards and requirements imposed on the original Applicant will continue to be met, and (b) that all security instruments remain in full effect, and, if also transferred, that the new permit holder agrees to comply in full and has the necessary financial security to hold the City harmless.
- (2) If the subject property is sold, the permits and all of the conditions, standards and requirements run with the land, and the new property owner is fully bound as if he were the original owner.
- (3) When an operator succeeds to the interest of another on an uncompleted site, the Zoning Administrator shall release the first operator of the responsibilities imposed by the development approvals only if both operators are in full compliance with the requirements and standards of these Regulations and all permits and approvals, the new operator assumes all responsibilities of the former operator including operations, maintenance and reclamation and provides a written, witnessed, notarized document asserting, *inter alia*, that reclamation of the entire site will be completed as planned, and the new operator provides the City with all appropriate financial assurances, approved by the City Attorney, to ensure completion of the project.

O. *Extension of Development Approval.*

- (1) Requests for extensions of development approval must be submitted in writing to the Planning Department at least three (3) months prior to the expiration date of the existing Development Approval.
- (2) The Board of Aldermen may grant an extension of a development approval for not more than one-half the duration of the original permit development approval.
- (3) No extension of a development approval shall be granted unless the project is in full compliance with the terms of the existing permit or development approval or a

compliance plan and schedule has been submitted and approved by the Board of Aldermen. If there have been any Notices of Default issued by the City, these shall be reviewed and may be taken into consideration by the City on the extension request.

- (4) Extension of a development approval may include the addition of conditions to address conflicts with adjacent properties or other circumstances unforeseen at the time of original approval.
- (5) The extension of the development approval shall not be unreasonably denied, provided that the permitted has complied with all of the conditions of the permit and the standards and requirements for “excavation activities” and has not been issued a Notice of Default nor cited for a violation of the City Code or state or federal regulations.

P. *Financial Assurances.*

- (1) Financial assurances shall be required in an amount as determined by the City Engineer, but in no event to be less than \$10,000, and in a form approved by the City Attorney and the Finance Director, prior to commencement of any Substantial Land Alteration, Quarry or Sand or Gravel Excavation activity.
- (2) Financial assurances may be in the form of Surety Bonds, irrevocable Letters of Credit or Cash Bonds. Other alternatives providing adequate assurance may be considered by the City Attorney and Finance Director and, if approved by them, may be recommended to the Board of Aldermen.
- (3) Failure to stabilize the site, to make necessary corrections and improvements to roadways caused by the excavation activity, failure to reclaim the property as specified in the approved reclamation plan and other inconsistencies between the approved Operations and Reclamation Plans and actual activities shall, at the discretion of the City, be cause for the City to redeem the financial assurance to make the necessary corrections.

Q. *Annual Inspection and Report.*

- (1) At the discretion of the Zoning Administrator, but not less frequently than once per year, the appropriate City officials may undertake and conduct a detailed inspection of the site, using the Required Plans and Information, the appropriate Standards for the Activity, the Permits Approved, with or without conditions and other relevant information and commitments as the compliance checklist
- (2) Based on the annual inspection and the compliance checklist, the City may identify any and all violations of the terms and conditions of the plans and permit approvals.

- (3) In addition to the annual inspection, the City may make “spot” inspections at any time during the year, and multiple times as may be deemed appropriate utilizing the compliance checklist, and shall report such findings to the appropriate City officials.
 - (4) The Zoning Administrator may prepare a “Project Compliance Sheet” for each Quarry, Sand or Gravel Excavation and Substantial Land Alteration Activity as defined herein and may compile the individual Project Compliance Sheets into an Annual Report for presentation to the Board of Aldermen.
- R. *Monitoring.* At the discretion of the Zoning Administrator, the City may, in addition to site inspections, monitor compliance with permits for the above-described “excavation activities” on a broader level, considering such issues as: the concentration of such activities and the effect of such concentration on particular neighborhoods and areas of the City; the effect of such activities on the transportation system and the provision of other required public facilities and services; the effect of numerous “excavation activities” on air and water quality and the environment; the effect of such activities on the land values of adjacent and nearby properties; the extra expenses incurred by the City relative to the operation and/or reclamation of such activities; the actual usability of the sites after reclamation; the average duration of “excavation activities”; the average time it takes to fully reclaim a site and make it available for an alternative use; etc. Based on the information collected, the Zoning Administrator may prepare an annual Monitoring Report for review by the Board of Aldermen.

CHAPTER 445 - DEFINITIONS

SECTION 445.1 RULES OF INTERPRETATION

The provisions of these Regulations shall be held to be the minimum requirements necessary for the promotion of public health, safety, order or the general welfare. Minimum values are not intended to be target values. In some instances, topography or other conditions may create the need to exceed stated minimum standards.

Words defined in this Chapter are those having a special meaning relative to the purposes of these Regulations. Words and terms not defined in these Regulations but defined elsewhere in the City Code shall be given the meanings set forth therein. Words not defined in the City Code shall be defined by reference to Webster's Third New International Dictionary, unabridged, 1993 or, if not defined therein, by reference to the Missouri Revised Statutes, which documents are hereby incorporated by reference as if set forth in their entirety herein.

All provisions of these Regulations shall be construed to be in addition to all other applicable laws, ordinances and rules of the federal government, the State of Missouri and the City of Lake Lotawana, and in case of any conflict between these Regulations and any such other law, ordinance or rule, the more restrictive shall prevail.

In the interpretation of these Regulations, the provisions and rules of this section shall be observed and applied, except when the context clearly requires otherwise:

Words used or defined in one tense or form shall include other tenses and derivative forms;

More specific standards or regulations shall supersede more general standards or regulations;

Words in the singular number shall include the plural number, and words in the plural number shall include the singular number;

The masculine gender shall include the feminine, and the feminine gender shall include the masculine;

The words "shall" and "must" are mandatory;

The word "may" is permissive;

The words "include" and "including" mean include or including by way of illustration and not by way of limitation.

The word "person" includes individuals, firms, corporations, associations, trusts and any other similar entities;

In case of any difference of meaning or implication between the text of these Regulations and any caption, illustration, or table, the text shall control.

The phrase "use for" includes arranged for, designed for, intended for, maintained for and occupied for.

The phrase "land use" and "use of land" shall be deemed also to include building and use of building.

SECTION 445.2 TERMS DEFINED

100-YEAR FLOOD: See "base flood."

ABOVE GROUND UTILITY STRUCTURES: Poles, towers, supports, wires, conductors, guys, stubs, platforms, cross-arms, braces, line transformers, insulators, cut-outs, switches, communication circuits, appliances and similar structures, attachments and appurtenances located above ground, upon, along, across or over any property in the City, including the streets, alleys and easements, and used in supplying electricity, communications or similar or related services.

ACCESSORY STRUCTURE: A structure detached from the principal building located on the same lot and customarily incidental and subordinate to the principal building or use. An accessory structure does not permit living quarters. See also "appurtenant structure."

ACTUAL CONSTRUCTION: Includes the placing of construction materials in permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building is required, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

ACTUARIAL RATE: See "risk premium rates."

ADEQUATE PUBLIC FACILITIES: Facilities determined to be capable of supporting and servicing the physical area and designated intensity of the proposed subdivision as determined by the Governing Body based upon specific levels of service.

ADJACENT: Next to or within 100 feet. Adjacent properties include those properties which abut a property, as well as properties with any portion being located within 100 feet of any boundary of the subject property. If right-of-way abutting the property exceeds 100 feet in width, then land directly across the right-of-way from the subject tract shall be considered adjacent.

ADMINISTRATOR: The Federal Insurance Administrator.

ADULT USES: Adult uses are those which are not open to the public generally but only to one or more classes of the public and excluding any minor by reason of age, a minor being a person under the age of eighteen years. Adult uses involve specified sexual activities including, but not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult rap/conversation parlors, adult health clubs, juice bars and adult cabarets, or similar adult uses.

AGENCY: The Federal Emergency Management Agency (FEMA).

ANTIQUATED PLATS: Subdivisions which, when approved, met all then-existing regulations, but are inadequate by current market, land use or environmental standards.

APPEAL: A request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

APPLICANT: Any person requesting approval of any development application pursuant to these Regulations, and shall include the owner of land proposed to be subdivided or its representative who shall have express written authority to act on behalf of the owner. Where the Applicant is not the owner of the property which is the subject of the development application, written consent shall be required from the legal owner of the property.

APPLICATION: A request for any development approval including all supplementary information specified in the application.

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. See also "accessory structure".

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.

ATTACHED: Refers to buildings or structures that either, a) share one (1) or more walls and/or roof lines with an adjoining building or structure.

BARN: A farm building used for storing farm products, farm equipment, or sheltering livestock.

BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT: The lowest story of a building, located totally or partially underground, and having the foundation of the building as all or part of its walls.

BASEMENT: Any area of the structure having its floor subgrade (below ground level) on all sides.

BLOCK: A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.

BOARD OF ADJUSTMENT: The Lake Lotawana Board of Adjustment.

BOARD OF ALDERMAN: The duly elected Board of Aldermen, the Chief legislative body of the municipality.

BOARD: See Board of Alderman.

BOAT DOCK: A structure projecting into the water for the purpose of boat mooring or swimmers' use. Mooring may be to the sides, front, or in a well recessed into the dock.

BOAT HOUSE: Similar to a boat dock, but including a roof, with or without enclosures such as wells or storage lockers.

BOAT LIFT: An apparatus projecting into the water for the purpose of cradling and lifting a boat above the water.

BOND: Any form of a surety bond in an amount and form satisfactory to the Governing Body. All bonds shall be approved by the Governing Body whenever a bond is required by these Regulations.

BUILDING AND ZONING INSPECTOR: The person designated by the local government to enforce these Regulations. If no separate Building and Zoning Inspector is appointed by the Board of Aldermen, the Zoning Administrator shall function as the Building and Zoning Inspector.

BUILDING CODE: The International Building Code, as amended, updated and supplemented, and the Performance Code for Buildings and facilities, as amended, updated and supplemented, both published by the International Conference of Building Officials, are hereby adopted as the Building Code of the City of Lake Lotawana.

BUILDING: Any structure having a roof supported by a column or a wall or walls for the housing or enclosure of persons, animals or chattels.

BUILDING: See "structure."

CAMPING: Any activity which enables a person or group of persons to remain overnight on a piece of property for a temporary period, either without a structure or in a tent or similar temporary structure.

CAPITAL IMPROVEMENTS PROGRAM: A plan setting forth, by category of public facilities, those capital improvements and that portion of their costs which are attributable to serving new development within designated service areas for such public facilities over a period of specified years (10-20). Capital improvements program may refer either to the plan for a particular service area or to the aggregation of capital improvements and the associated costs programmed for all service areas for a particular category of public facilities.

CAPITAL IMPROVEMENTS: A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the local government.

CARPOR: A roofed structure without walls or doors for the storage of motor vehicles.

CATWALK: The suspended or floating walkway that leads from the shore or sea wall to the boat dock, boat house, boat lift or other docking structure.

CENTRAL SEWERAGE SYSTEM: A community sewer system including collection and treatment facilities established by the developer to serve a new subdivision in an outlying area.

CHIEF EXECUTIVE OFFICER OR "CHIEF ELECTED OFFICIAL": The official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

CITY ATTORNEY: The licensed attorney designated by the Board of Alderman to furnish legal assistance for the administration of these Regulations.

CITY ENGINEER: The licensed engineer designated by the Board of Alderman to provide engineering consultation services on policy and day-to-day operations for the administration of these Regulations.

CITY: The City of Lake Lotawana, Missouri.

CLUSTER ZONING: A technique which allows lots to be reduced in size and buildings to be sited closer together provided the total development density does not exceed that which could be constructed on the site under conventional zoning, with the remaining land is utilized for open space or public purposes.

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.

COMPREHENSIVE PLAN: The Comprehensive Plan of the City of Lake Lotawana, Missouri; a comprehensive plan for development of the local government prepared and adopted by the Planning and Zoning Commission, pursuant to State law, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

CONCEPT PLAN: An informal map or drawing of a proposed subdivision or site plan sufficient for the purpose of general discussion and review but which carries no vesting rights or obligations on any party.

CONCURRENCY: Requirement that development applications demonstrate that adequate public facilities be available at prescribed levels of service concurrent with the impact or occupancy of development units.

CONDITIONAL USE: A use permitted in a zoning district upon a showing that such use in a specified location will comply with all conditions and standards as designated by the reviewing and approving authority.

CONSTRUCTION PLAN: The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Planning and Zoning Commission as a condition of the approval of the plat. Improvements may include, but are not limited to, road plans and profiles, drainage plans and utility plans.

CONTIGUOUS: Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot.

COUNTY: Jackson County, Missouri.

DEFLECTOR: A cover on a fixture that keeps light from going uselessly up or sideways.

DEVELOPER: Any person, group, firm, corporation, partnership, association or other entity which is the owner of land which is the subject of any application for development approval or is responsible for any undertaking that requires review and/or approval under these Regulations.

DEVELOPMENT AGREEMENT: Agreement between the City, through the Board of Aldermen, and developer through which the Board of Aldermen agrees to vest development use or intensity or refrain from interfering with subsequent phases of development through new legislation in exchange for the provision of public facilities or amenities by the developer in excess of those required under current community regulations.

DEVELOPMENT APPROVAL: Any approval or permit or order authorizing or relating to the development of land issued by the City, or any agency of the City, in connection with the use of land.

DEVELOPMENT REGULATIONS: The Zoning and Subdivision Regulations of the City of Lake Lotawana, as amended.

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.

DEVELOPMENT: The division of land into two or more parcels; the construction, reconstruction, structural alteration, relocation or enlargement of any structure; any quarry, sand or gravel excavation or substantial land alteration; or the use or extension of the use of land.

DOCKING STRUCTURE: Any structure not described as a boat dock, boat house, boat lift or cat walk that is anchored or cabled, and used as a dock.

DRAINAGE: The removal of surface water or groundwater from land by drains, grading or other means.

DWELLING UNIT: One (1) or more connecting rooms, designed, occupied or intended for occupancy as a separate living quarter for occupancy by a single household, which have direct access to the outside or to a common hall, with lawful cooking, sleeping and sanitary facilities provided within the dwelling unit. Dwelling units are usually located in dwelling, but may be included as a mixed or accessory use in buildings or in group quarters.

DWELLING: A building designed exclusively for residential occupancy.

EASEMENT: Authorization by a property owner for another to use all or a specified portion of the owner's property for a specified purpose.

ELECTRICAL CODE: The National Electrical Code, as amended, updated and supplemented, published by the National Fire Protection Association, is hereby adopted as the Electrical Code of the City of Lake Lotawana.

ELECTRICAL TRANSMISSION LINES: Electrical power lines or networks designed to transmit electrical power for regional use.

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.

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).

ENVIRONMENTAL HEALTH DIVISION: Division of the Public Works Department responsible for regulation of on-site disposal waste treatment systems.

ESCROW: A deposit of cash with the local government or escrow agent to secure the promise to perform some act.

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."

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.

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).

FAMILY: An individual or two (2) or more persons related by blood, marriage or adoption, or a group of not more than five (5) persons who need not be related by blood, marriage or adoption, living together and subsisting in common in a dwelling unit as a separate, non-profit housekeeping unit, which provides only one (1) kitchen.

FINAL PLAT: A map or drawing of all or a portion of a subdivision or site plan that is presented for development approval to the approving authorities for final approval.

FINAL SUBDIVISION PLAT: The map of a subdivision to be recorded after approval by the Planning and Zoning Commission and any accompanying material as described in these Regulations.

FIRE CODE: The International Fire Code, as amended, updated and supplemented, published by the International Fire Code Institute, is hereby adopted as the Fire Code of the City of Lake Lotawana.

FIRST TIER LOTS: Lots within platted blocks situated closest to the Lake.

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.

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.

FLOOD ELEVATION STUDY: An examination, evaluation and determination of flood hazards.

FLOOD FRINGE: The area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

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.

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.

FLOOD INSURANCE STUDY (FIS): An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOOD OR "FLOODING": A general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPLAIN MANAGEMENT REGULATIONS: Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) 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.

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.

FLOODPLAIN OR "FLOOD-PRONE AREA": Any land area susceptible to being inundated by water from any source (see "flooding").

FLOODPLAIN: The channel and adjoining lands of a natural river or stream which has been or may be inundated partially or completely by floodwater identified by the United States Corps of Engineers as a 100-year flood.

FLOOD-PROOFING: 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.

FLOODWAY ENCROACHMENT LINES: The lines marking the limits of floodways on Federal, State and local floodplain maps.

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.

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.

FRONT LOT LINE: The boundary line of a lot nearest to the Lake with respect to first tier lots, and the boundary line of a lot nearest to a road with respect to all other lots, except that in the case of lots abutting on more than one (1) road and in the case of ambiguity or uncertainty the Zoning Administrator shall determine and designate the front lot line.

FRONT YARD: An open space unoccupied by buildings or structures (other than a garage) on the same lot with a building, between the side lot lines, the front lot line and the wall of the building (other than a garage) closest to the front lot line and the line of that wall extended. The minimum depth of the front yard shall be the distance between the front lot line and the nearest point of a building (other than a garage).

FRONTAGE: That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot; but it shall not be considered as the ordinary side of a corner lot.

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.

GARAGE: A building or wing of a building in which to park or store vehicles.

GLARE: Light that beams directly from the bulb into the eye, causing annoyance, discomfort, or loss of visual performance.

GOVERNING BODY: The Board of Aldermen.

GRADE: The slope of a road, street, or other public way specified in percentage terms.

GROUNDWATER: Water below the ground surface in a zone of saturation.

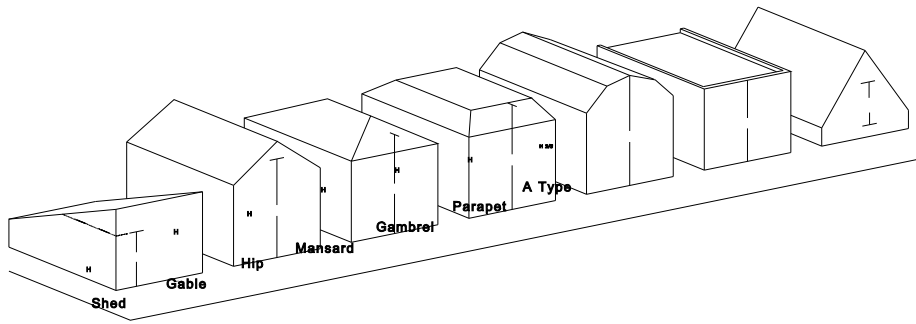
GROUP HOME: A single family residence which is sponsored by a public, private or not-for-profit entity for the residence and care of physically or mentally disabled persons, abandoned or neglected children, or juvenile offenders, in which not more than eight (8) unrelated people reside, not on a temporary basis, and which functions as a single housekeeping unit.

H.P.S.: High pressure sodium.

HALF STORY: The top story of a building with living space equal to or less than 60% of the floor below whether the floor below consists of living space, storage space, or garage area. Living space in the "half story" is defined as that area having a minimum ceiling height of seven (7) feet.

HEALTH DEPARTMENT and HEALTH OFFICER: The agency and person designated by the Governing Body to administer the health regulations of the local government or of the County.

HEIGHT OF BUILDING: The height of a building is the vertical distance between ground level at the time of permit application and: (i) the highest point of the roof beams of flat roofs or roofs not inclining not more than one (1) inch to the foot; or (ii) the mean height level of the highest main plate on which the rafters rest and highest ridge for other roofs except A Type roofs; or (iii) two-thirds (2/3) the height between the top plate on which the rafters rest and highest roof ridge for A type roofs. A type roofs include any roof with a pitch of 12:12 or steeper.



HIGHEST ADJACENT GRADE: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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; © 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.

HOUSE ADDITION: Any construction that results in an increase in living space or storage space to an existing structure.

IMPROVEMENTS. See Lot Improvement or Public Improvement.

LAKE: The body of water identified as Lake Lotawana as shown on the plat of Lake Lotawana as recorded in the office of the Recorder of Deeds for Jackson County, Missouri, at Independence.

LANDSCAPING: Acting with the purpose of meeting specific criteria regarding uses of outside space, including groundcover, buffers, and shade trees.

LIGHT POLLUTION: Light beamed upward into the sky.

LIGHT STANDARDS: Height at which a light fixture on a pole is to be placed for maximum usage with the least trespass.

LIGHT TRESPASS: Any light that shines on neighboring property.

LOT AREA: The area of the lot shall be the net horizontal area of the lot and shall not include portions of streets, alleys and water bodies.

LOT DEPTH: The horizontal distance from the front property line to the rear property line. If front and rear property lines are not parallel, the lot depth is the shortest distance between the front and rear property lines.

LOT FRONTAGE: The distance for which a zoning lot abuts on a street. In case of two or more frontages, the Director shall define lot frontage.

LOT IMPROVEMENT: Any building, structure, place, work of art, or other object situated on a lot.

LOT LINE: A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

LOT, CORNER: A lot abutting upon two (2) or more intersecting streets. A corner lot shall be deemed to front on that street on which it has its least dimension.

LOT, DOUBLE FRONTAGE (THROUGH LOT): An interior lot having frontage on two (2) non-intersecting streets.

LOT, FLAG: A lot having no frontage or access to a street or place except by a narrow strip of land.

LOT, INTERIOR: A lot whose side lines do not abut on any street.

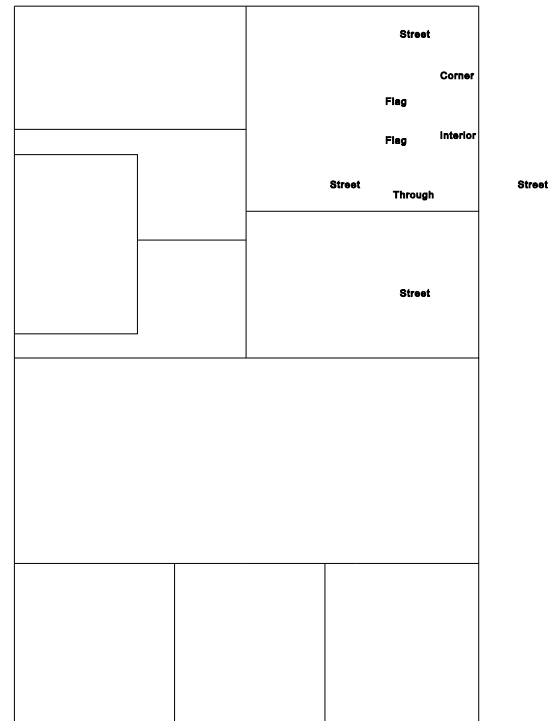
LOT, WIDTH: The horizontal distance between side property lines measured parallel to the street said property lines or to the tangent of a curved street property line.

LOT: A parcel of land occupied or to be occupied by a building, and including such open spaces as are required under these Regulations, and having its principal frontage at its front lot line. A parcel of land that is defined on a subdivision plat of record, which is intended to be occupied by a principal building(s) or building(s) and open space. Streets are not included in this definition.

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 ordinance.

MAJOR STREET PLAN: A planning document, with associated maps and exhibits, as well as supporting goals and policies, identifying a transportation network of vehicular circulation and pedestrian access, a functional classification of streets and present and proposed major streets of the City.

MAJOR SUBDIVISION: All subdivisions not classified as minor subdivisions, including, but not limited to, subdivisions of three (3) or more lots, or any size subdivision requiring any new street or extension of the local



government facilities or the creation of any public improvements, and not in conflict with any provision or portion of the Comprehensive Plan, Official Map or these Regulations.

MANUFACTURED HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MANUFACTURED HOME: A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

MANUFACTURED HOME: Factory-built, single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 USC §5401). A manufactured home has a structural frame or chassis that supports the complete unit of walls, floor, and roof. Underneath is a running gear consisting of wheels, axles, and brakes for transportation to the homesite. Manufactured homes are built to be a permanent residence; they are not built for traveling, but can be transported to different sites by professional movers.

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).

MARKET VALUE OR "FAIR MARKET VALUE": An estimate of what is fair, economic, just and equitable value under normal local market conditions.

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.

MECHANICAL CODE: The Uniform Mechanical Code, as amended, updated and supplemented, published by the International Association of Plumbing and Mechanical Officials, is hereby adopted as the Mechanical Code of the City of Lake Lotawana, Missouri.

MERCURY VAPOR LIGHTS: Those lights which are designed for dusk to dawn usage and furnished by the electrical utility company on a contractual basis.

MINOR REPAIRS AND MAINTENANCE: Those improvements made to existing buildings, signs, walls, fences or other structures, which are non-structural in nature and which are identified in the City's Administrative Regulations, as amended.

MINOR SUBDIVISION: Any subdivision containing not more than three (3) lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Comprehensive Plan, Official Map or these Regulations.

MOBILE HOME: A moveable, detached, single-family dwelling unit, constructed or fabricated within a factory complete with an integral utility system capable of being connected to an outside system; which can be transported over the road on its own chassis and wheels to the site where it is to be connected semi-permanently to a separate utility system, and is not permanently attached to any foundation as required for a permanent conventional structure. The term "mobile home" shall include mobile homes made of two (2)

or more separately towable components designed to be joined into one (1) single residential unit which is kept on a separate chassis for repeated hauling.

MODULAR HOME: Modular homes are constructed to the same state and local building codes and are subject to the same zoning regulations as site-built homes. Modular homes must conform to the requirements of the Uniform Building Code and be inspected at the factory where they are assembled. In contrast, manufactured Homes comply with the National Manufactured Home Construction and Safety Standards Act, which requires homes to be constructed on a non-removable steel chassis.

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.

NEW DEVELOPMENT: A project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any change in the use commencement of land; and which requires either the approval of a plat or the issuance of a permit pursuant to these Regulations. To develop is to create a new development.

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.

NFIP: The National Flood Insurance Program.

NON-CONFORMING USE, BUILDING OR YARD: One that does not, by reason of use, design or size, comply with the regulations of the district in which it is situated.

OFFICIAL MAP: The map established by the Board of Aldermen pursuant to law showing the streets, highways, parks, drainage systems and setback lines laid out, adopted, and established by law, and any amendments or additions to adopted by the Governing Body resulting from the approval of subdivision plats by the Planning and Zoning Commission and the subsequent filing of approved plats.

ON SITE SEWAGE DISPOSAL SYSTEM: A septic tank, seepage tile sewage disposal system, or any other approved individual wastewater disposal system

ORDINANCE: Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

OVERLAY DISTRICT: A zoning district that encompasses one or more underlying base zoning districts and that imposes additional development, design and performance standards beyond what is required in the underlying base zone.

PARCEL: A contiguous lot or tract of land owned and recorded as the property of the same persons or controlled by a single entity.

PARTICIPATING COMMUNITY ALSO KNOWN AS AN "ELIGIBLE COMMUNITY,": A community in which the Administrator has authorized the sale of flood insurance.

PERSON: Any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

PLANNED DEVELOPMENT: An area to be planned, developed, operated and maintained according to a master development plan as a single entity and containing one or more structures with appurtenant common areas.

PLANNED UNIT DEVELOPMENT (PUD): A development constructed on a tract of minimum size, under single ownership and control, planned and developed as an integral unit and consisting of a combination of residential and/or nonresidential uses on the land. See also Planned Development.

Planning and Zoning Commission: The Planning and Zoning Commission of the City of Lake Lotawana, Missouri.

PLAT: A map or drawing representing a tract of land showing the boundaries and location of individual lots and streets; a map or drawing of a subdivision or site plan.

PLUMBING CODE: The Uniform Plumbing Code, as amended, updated and supplemented, published by the International Association of Plumbing and Mechanical Officials, is hereby adopted as the Plumbing Code of the City of Lake Lotawana.

PREFABRICATED OR MODULAR HOMES: A dwelling unit constructed or fabricated in one (1) or more units, in a factory, complete with an integral utility system capable of being connected to an outside system, and can be transported over the road to the site where it is to be permanently attached to a foundation, as required for permanent conventional structure and so as to become an integral part of the real estate.

PRELIMINARY PLAN: That portion of a preliminary plat submitted in connection with a multiphase or phased subdivision application which provides the information and graphics meeting the requirements of this ordinance for the purpose of implementing an integrated development scheme for all phases of the proposed subdivision.

PRELIMINARY PLAT: The preliminary drawing or drawings, described in these Regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning and Zoning Commission for approval.

PRINCIPAL STRUCTURE: A structure in which is conducted the primary or predominant use of the lot.

PRINCIPALLY ABOVE GROUND: At least 51 percent of the actual cash value of the structure, less land value, is above ground.

PUBLIC HEARING: A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate. A public hearing held in a contested case (as defined pursuant to Ch. 536 RSMo) or in connection with a quasi-judicial determination, may be referred to as an adjudicatory public hearing and shall be conducted in accordance with law and in a manner which permits persons, including the applicant

and any opponents, may call witnesses and introduce evidence for the purpose of demonstrating that the requested development approval should or should not be granted. Witnesses in such adjudicatory public hearing shall be sworn and subject to cross-examination. The rules of civil procedure binding on the courts shall not, however, be applicable.

PUBLIC IMPROVEMENT: Any improvement, facility or service together with its associated site or right-of-way necessary to provide transportation, drainage, utilities or similar essential services and facilities and that are usually and customarily owned and operated by a governmental agency.

PUBLIC MEETING: A meeting of the Planning and Zoning Commission or Governing Body preceded by notice, open to the public and at which the public may, at the discretion of the body holding the public meeting, is heard.

REAR LOT LINE: The boundary line of a lot which is opposite and most distant from the front lot line of the lot. In case of uncertainty the Zoning Engineer shall determine and designate the rear lot line.

REAR YARD: An open space, unoccupied by buildings or structures (other than a garage) on the same lot with a building, between the side lot lines, the rear lot line and the wall of the building (other than a garage) closest to the rear lot line and the line of that wall extended. The minimum depth of the rear yard shall be in the distance between the rear lot line and the nearest point of a building (other than a garage).

REBUILDS: The placement of overhead facilities for a distance of three (3) or more spans (four poles) or five hundred (500) feet or less, exclusive of replacements due to casualty damage.

RECORD: Any reasonable means of providing an account of some act, proceeding or hearing designed to remain as a memorial or permanent evidence of the matter to which it relates, including but not limited to written or audio and/or video format.

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 towable by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

RELOCATE: Removal of existing facilities with subsequent reinstallation at an adjacent location, generally necessitated by roadway improvements or widening projects.

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.

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.

ROAD: A thoroughfare or way which affords principal means of access to property abutting thereon, which includes streets, bridges and roadways.

ROADSIDE STANDS: A temporary use of property or facilities for the selling of produce when such produce has not been grown on the premises by the owner of the property concerned.

ROADWAY: The improved portion of a thoroughfare, exclusive of berm or shoulder, used for vehicular travel.

SAME OWNERSHIP: Ownership by the same person, corporation, firm, entity, partnership or unincorporated association; or ownership by different corporations, firms, entities or unincorporated associations in which a partner, owner, stockholder, associate or a member of the family owns an interest in each corporation, firm, partnership, entity or unincorporated association.

SCREENING: Various combinations of walls, fences, earthen berms, trees, shrubbery, and landscape materials which comprise a screening plan to fulfill the requirements and serve the purposes of these regulations.

SERVICES: Facilities located on private property and/or for the specific purpose of servicing one customer.

SETBACK: Lines that roughly parallel to the front, side or rear lot line establishing the minimum space to be provided as the front, side or rear yard.

SHED: A small building or structure used for storage. Can be free standing and open on one side.

SHOP: A building used for manufacture or repair.

SIDE LOT LINE: Any boundary line of a lot which is neither a front lot line nor a rear lot line.

SKETCH PLAT: A sketch preparatory to the preliminary plat (or final plat in the case of minor subdivisions) to enable the Applicant to save time and expense in reaching general agreement with the Planning and Zoning Commission as to the form of the plat and the objectives of these Regulations.

SPECIAL FLOOD HAZARD AREA: See "area of special flood hazard."

SPECIAL HAZARD AREA: An area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A and AE.

SPECIFIC PLAN: A document encompassing a specific geographic area of the local government which is prepared for the purpose of specifically implementing the local government comprehensive plan by (1) refining the policies of the comprehensive plan to a specific geographic area; (2) containing specific recommendation as to the detailed policies and regulations applicable to a focused development scheme. The specific plan shall consist of goals, objectives and policies; requirements for capital improvements; the level of service required for public facilities; physical and environmental conditions; housing and land use characteristics of the area; and maps, diagrams, and other appropriate materials show in existing and future conditions.

SQUARE FOOT - GROSS FLOOR AREA (SF GFA): The total floor area of a structure measured in square feet, including multiple floors.

STABLE: A covered area used to shelter horses.

START OF CONSTRUCTION: 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. Includes substantial-improvements.

STATE COORDINATING AGENCY: That agency of the state government, 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.

STORY: That part of a building included between the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the highest floor thereof. A top story attic is a half (½) story when the mean line of the eaves is not above the middle of the height of such story measured at its highest point.

STREETS: Any public ways.

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 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.

STRUCTURE: Anything constructed or erected, which is stationary on the ground, or attached to something that is stationary, including but not limited to advertising signs, billboards, and poster panels; but exclusive of customary fences or boundary retaining walls, and A/C Units. .

SUBDIVISION: Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, condominiums, tracts, or interests for the purpose of offer, sale, lease, or development whether immediate or future, either on the installment plan or upon any and all other plans, terms, and conditions. Subdivision includes the division or development of residentially and nonresidential zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument. Subdivision includes resubdivision and condominium creation or conversion.

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.

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."

SUNDECK: A deck open from the deck floor to the sky and totally unenclosed from the ground up except for required railings. Patios and the like over 3' above the finished ground level are defined as a sundeck.

TENT: Any structure of fabric, plastic, canvas or like material so arranged as to provide shelter for animals, persons or equipment.

TRACT: A lot. The term "tract" is used interchangeably with the term "lot," particularly in the context or subdivision, where a "tract" is subdivided into several lots, parcels, sites, units, plots, condominiums or interests.

TRAVEL TRAILER CAMP: A site maintained or intended to be used for the purpose of providing short term accommodation for travel affairs.

TRAVEL TRAILER OR RECREATIONAL VEHICLE: A portable vehicular unit designed and intended to be used for temporary short term occupancy and for frequent and extensive travel use. Such units commonly described as travel trailers, campers, motor homes, converted buses and other similar units, whether they are self-propelled, pulled or can be hauled without special permit, would be considered examples of travel trailers.

USE: The purpose or activity for which land, buildings or structures are designed, arranged or intended or for which land, buildings or structures are occupied or maintained.

UTILITIES: Water, gas, electrical, telephone, cable television and sewer services.

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.

VARIANCE: Permission to depart from the literal requirements of these Regulations in accordance with the provisions of these Regulations.

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 ordinance is presumed to be in violation until such time as that documentation is provided.

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.

WETLAND: An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. A wetland generally includes swamps, marshes, bogs and similar areas. A wetland is not an area that is artificially created on dry land and maintained for the treatment of mine drainage, stormwater control, and drainage associated with road construction. This definition is consistent with both the United States Army Corps of Engineers 33 CFR 328.3(b) and the United States Environmental Protection Agency 40 CFR 232.2®.

YARD, FRONT DEPTH: The minimum horizontal distance from the front line of the building to the front property line of the lot or parcel.

YARD, FRONT: An open space unoccupied by buildings or structures (except as hereafter provided) across the full width of the lot extending from the front line of the building to the front property line of the lot or parcel.

YARD, REAR DEPTH: The minimum horizontal distance from the rear line of the principal building to the rear-lot line.

YARD, REAR: An open space, unoccupied (except as hereafter provided) between the rear lot line and rear line of the principal building and the side property lines.

YARD, SIDE: An open unoccupied space on the same lot with the building between the main building and the adjacent side line of the lot, and extending from the front yard to the rear yard.

ZONING ADMINISTRATOR: The planner or administrator designated by the Board of Alderman to provide planning consultation services on policy and day-to-day operations for the administration of these Regulations. The Zoning Administrator, for purposes of receiving applications and other documents, shall be the City Clerk. The Director of Public Works shall be the Deputy Zoning Administrator, and shall act as Zoning Administration for all purposes other than receiving documents until the Board of Aldermen shall have designated a different person.

