

HAYSVILLE PLANNING COMMISSION & BOARD OF ZONING APPEALS

Agenda

August 28, 2025

6:00 p.m., Municipal Building, 200 W. Grand

- I. Call to Order
- II. Roll Call
- III. Presentation and Approval of Minutes
 - A. Minutes of July 10, 2025
- IV. Public Forum
- V. New Business
 - A. Public Hearing for a Zone Change request from “SF” Single-Family Residential to “MF4” Multi-Family Four Residential for property generally located at 6401 South Sunnyside Road
 - B. Review of a Text Amendment to the Zoning Regulations: Changes to Article 1. Title Purpose, Authority and Jurisdiction; Article 2. Interpretation, Construction and Definitions; and **Article 7. Administration and Enforcement**
 - C. Review of the Planning Commission Bylaws
- VI. Old Business
- VII. Correspondence
- VIII. Off Agenda
 - A. Next Meeting Date
- IX. Adjournment

HAYSVILLE PLANNING COMMISSION/BOARD OF ZONING APPEALS

Minutes

July 10, 2025

The regular Planning Commission Meeting was called to order by Chairperson Tim Aziere at 6:00 p.m. in the Council Chambers at the Haysville Municipal Building, 200 W. Grand Ave., Haysville, KS 67060.

The members present were Mark Williams, Brandon Trube, Debbie Coleman, Tim Aziere, Dan Rinke, and Jeff Blood. Jimmy Wallis was in attendance virtually. Also present was Planning and Zoning Administrator Kailyn Hogan.

The first item of business was the Minutes of June 12, 2025.

Motion by Trube, Second by Williams.

To approve the minutes as presented.

Williams aye, Trube aye, Coleman aye, Aziere aye, Rinke aye, Blood aye.

Wallis abstain.

Motion carried.

There was no one to speak under Public Forum.

Under new business was Election of Officers.

Motion by Coleman, Second by Williams.

To nominate Tim Aziere as Chairperson.

Williams aye, Trube aye, Coleman aye, Aziere aye, Wallis aye, Rinke aye, Blood aye.

Motion carried.

Motion by Trube, Second by Williams.

To nominate Debbie Coleman as Vice Chairperson.

Williams aye, Trube aye, Coleman aye, Aziere aye, Wallis aye, Rinke aye, Blood aye.

Motion carried.

Motion by Coleman, Second by Williams.

To nominate Kailyn Hogan as Secretary.

Williams aye, Trube aye, Coleman aye, Aziere aye, Wallis aye, Rinke aye, Blood aye.

Motion carried.

Under New Business was a One-Step Final Plat: A&K Addition; generally located east along South West Street and 750 feet north of West 87th Street South.

HOGAN presented the staff report. She stated that staff recommends this plat be approved subject to the comments from Sedgwick County Stormwater Management be addressed before the plat is presented to City Council.

TRUBE: Has the Sedgwick County Stormwater comments been addressed?

July 10, 2025

Haysville Planning Commission Meeting Minutes

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DAN GARBER: Hi, my name is Dan Garber with Garber Surveying Service. The county stormwater had requested a response email from the developer for comments provided on June 4th. I have gone back to June 4th to look for comments. I don't have any. They may have gone to the drainage engineer. The drainage engineer's drainage plan was stamped June 6th, so I am thinking that those comments were probably addressed between them onto the drainage plan for June 6th. But I don't have assurance of that for you tonight, so we are comfortable with the motion to approve the plat subject to that being taken care of. The plan that I have says, basically, that one house on that many acres has no major impact. So there is no need for detention or anything like that. No drainage structures or easements. It's just a matter probably of making sure that county public works has a response. Thank you.

Motion by Trube, Second by Rinke.

To recommend approval of the plat as presented subject to Sedgwick County Stormwater Managements comments being addressed.

Williams aye, Trube aye, Coleman aye, Aziere aye, Wallis aye, Rinke aye, Blood aye.

Motion carried.

There was no Old Business.

There was no Correspondence.

Under off agenda:

HOGAN: The next meeting date is August 14th. We will be going over the zoning code updates. It is just a review at this time.

Motion by Coleman, Second by Williams.

To adjourn tonight's meeting.

Williams aye, Trube aye, Coleman aye, Aziere aye, Wallis aye, Rinke aye, Blood aye.

The meeting adjourned at 6:04 p.m.



Haysville Planning Commission Staff Report

ZON 2025-004

CASE SUMMARY

Property Location: Generally located south of East 63rd Street and approximately 500 feet west of South Broadway Avenue (6401 South Sunnyside Road)

Applicant: Daniel Schmeidler (property owner) | K.E. Miller Engineering (agent)

Request: Zone Change from “SF” Single-Family Residential to “MF4” Multi-Family Four Residential

Prepared By: Kailyn Hogan, Planning and Zoning Administrator

Meeting Date: August 28, 2025

Public Hearing: Required, to be held by the Planning Commission

ANTICIPATED MEETING SCHEDULE

Body	Meeting Date	Action
Planning Commission	August 28, 2025	Hold required public hearing. Make a recommendation for approval, approval with modifications, or denial of the request. Recommendation is forwarded to City Council.
City Council	October 14, 2025	Adopt the recommendation of the Planning Commission as presented, override the recommendation, or return the recommendation to the Planning Commission.

SITE DATA

Legal Description	LOT 1, BLOCK 1, WARD’S 4 TH ADDITION to Sedgwick County, Kansas
Existing Zoning	“SF” Single-Family Residential
Lot Area	14,784 square feet / 0.339 acres
Future Land Use	Residential
Built Form	Undeveloped

BACKGROUND

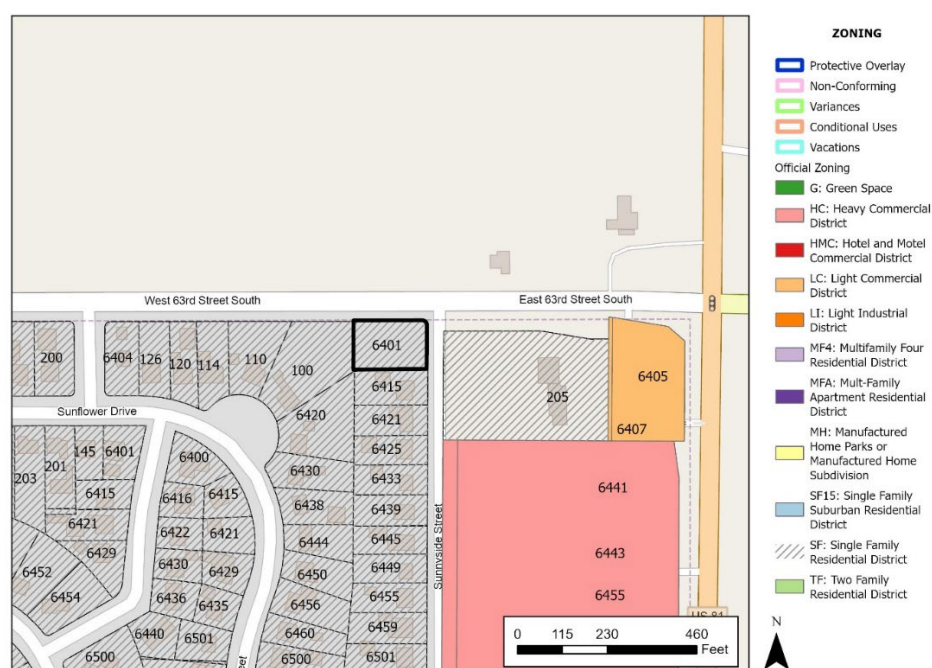
SITE DESCRIPTION AND PRESENT USE. The applicant is requesting a zone change from “SF” Single-Family Residential to “MF4” Multi-Family Four Residential for property generally located at 6401 South Sunnyside Road. The property is 0.339 acres and is located at the intersection of 63rd Street South and South Sunnyside Road. The property has access to South Sunnyside Road, a paved one-way local street. The property is currently undeveloped. It has access to city water and sewer.

The property was platted in 1951 as Lot 1, Block 1, Ward’s 4th Addition to Sedgwick County and later annexed into the City of Haysville. At the time of annexation, the property was designated as park land on the Land Use Map. The current land use designation is residential. The property was sold to the current property owner by the City of Haysville in June 2023.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The predominant land use of the neighborhood is single-family residential. Properties to the north are zoned RR Rural Residential and are used primarily for agricultural purposes and contain two single-family dwelling units. Property to the east is zoned “SF” Single-Family Residential and contains a large-lot single-family dwelling. Properties to the south and west are zoned “SF” Single-Family Residential and contain single-family dwellings. Properties to the southeast are zoned “HC” Heavy Commercial and contain an auction house, truck and trailer rental, and shed sales. Such heavy commercial activities are buffered from the single-family dwellings by a tree-covered section of the property.

ADJACENT ZONING AND LAND USE.

NORTH:	RR Rural Residential	Agriculture and single-family dwelling
SOUTH:	“SF” Single-Family Residential and “HC” Heavy Commercial	Single-family dwellings, auction house, truck and trailer rental, and shed sales
EAST:	“SF” Single-Family Residential	Single-family dwellings
WEST:	“SF” Single-Family Residential	Single-family dwellings



PROJECT DESCRIPTION. The property owner may address any questions related to the development of the site, but such proposed development is not a criteria in the consideration of this zone change. This review is only on evaluating the suitability of the property for the “MF4” Multi-Family Four Residential district. Future development could include any use permitted under the “MF4” district regulations.

PUBLIC COMMENTS. The public hearing notice was published on August 7, 2025. At the time of publication of this staff report, staff had not received any comment on the zone change request. Comments received after the publication of this staff report will be distributed at the meeting.

ANALYSIS

The current zoning, “SF” Single-Family Residential, allows for low-density, single-family residential development while the requested zoning, “MF4” Multi-Family Four Residential, allows for medium-density, multi-family development. Both districts allow a limited number of public and civic uses aimed to serve the needs of those living in nearby neighborhoods. The table below compares the development standards from the City of Haysville Zoning Regulations for both zoning districts.

Development Standards	“SF” Single-Family	“MF4” Multi-Family Four
Minimum lot area	6,000 square feet	6,000 square feet
Minimum lot width	50 feet	50 feet
Minimum lot depth	90 feet	90 feet
Front setback	25 feet, corner lots must have at least a minimum front yard setback on the primary street frontage and at least 15 feet minimum on the other	25 feet, corner lots must have at least a minimum front yard setback on the primary street frontage and at least 15 feet minimum on the other
Rear setback	20 feet	20 feet
Side setback	6 feet	6 feet
Maximum height	45 feet	35 feet
Minimum Area of Dwelling	600 square feet	600 square feet

The subject property meets the minimum lot area, lot width, and lot depth requirements with a 14,784 square foot lot area, 99.5 foot lot width and 150 foot lot depth, respectively.

FINDINGS. The following criteria shall be evaluated as they relate to the specific case being considered, and such stipulation as deemed appropriate in relation to any request for a zone change may be developed by the commission and incorporated into any recommendation in support of the requested zone change.

1. Zoning uses and character of the neighborhood.

The predominant land use of the neighborhood is single-family residential.

Properties to the north are zoned RR Rural Residential and are used primarily for agricultural purposes and contain two single-family dwelling units. Property to the east is zoned “SF” Single-Family Residential and contains a large-lot single-family dwelling. Properties to the south and west are zoned “SF” Single-Family Residential and contain single-family dwellings. Properties to the southeast are zoned “HC” Heavy Commercial and contain an auction house, truck and trailer rental, and shed sales. Such heavy

commercial activities are buffered from the single-family dwellings by a tree-covered section of the property.

All properties are in fine to good condition.

2. Suitability of the subject property for the uses to which it has been restricted.

The subject property is currently zoned “SF” Single-Family Residential and is suitable for low density, single-family residential development and a limited number of public and civic uses aimed to serve the needs of those living in nearby neighborhoods. Such uses are appropriate given the context of the surrounding zoning being primarily “SF” Single-Family Residential.

3. Extent to which removal of the restrictions will detrimentally affect nearby property.

The following uses are permitted, conditionally or by right, in the “MF4” Multi-Family Four Residential District that are not allowed in the “SF” Single-Family Residential District. Uses permitted conditionally are designated by a (C) behind the use.

- Two-Family
- Three- and Four-Family
- Multi-Family (C)
- Day Care, General (C)
- Hospital
- Nursing Facility (C)

Removing the restrictions of the “SF” Single-Family Residential zoning district may detrimentally affect nearby property if special considerations are not taken to ensure development occurs at “house-scale.”

If special considerations are taken, Two-Family and Three- and Four-Family developments can seamlessly blend into the fabric of an existing neighborhood and avoid detrimentally affecting nearby property. “House-scale” typically means smaller building footprints, lower perceived density, activated building fronts with street orientation and front porches, and hidden parking. Below are some examples of this type of development from Missing Middle Housing, a movement dedicated to building multi-unit development that blends with single-family development.

Duplex	Triplex	Fourplex
		
Gross Building SF 3,264	Gross Building SF 3,264	Gross Building SF 3,338
Number of Units 2	Number of Units 3	Number of Units 4
Price \$4,000 per unit	Price \$4,000 per unit	Price \$4,000 per unit

Additionally, the City has previously established provisions to protect single-family and two-family development from potential adverse effects on aesthetics from multi-family development.

Section 501-E. of the Landscaping Regulations requires all multi-family development above two-family to provide a landscaped buffer of 15 feet between all abutting single-family or two-family development.

A minimum of 1 shade tree, or their equivalent must be placed in the buffer for every 50 feet of common property line. At least 1/3 of all required plantings in the buffer must be evergreen.

This regulation also requires all parking to be screened from the abutting single-family or two-family development. Such screening shall be to a minimum of 3 feet above the parking surface. Walls and fences may be used in combination with plantings, but may not be the sole means of screening.

Staff does not recommend any use outside of residential be allowed on this property. The only access to the property is via South Sunnyside Road, a paved, one-way local street. The width of the street does not meet the City's minimum standards for local streets and has no available on-street parking. Thus, establishments that would generate traffic would detrimentally affect nearby properties and potentially cause issues with public safety. Non-residential uses could be considered if South Sunnyside Road was a two-way road or if other modes of transportation were accommodated for in the neighborhood.

4. *Length of time subject property has remained vacant as zoned.*

The subject property is undeveloped. It was platted in 1951.

5. *Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant.*

Staff foresees negative affects to the public safety as a result of the approval of this zone change. The subject property only has access to South Sunnyside Road, which is a paved one-way local street. The applicant requested access to 63rd Street but was denied by Sedgwick County Public Works. Depending on the location of the driveway, those exiting the property may be encouraged to drive the wrong way on South Sunnyside Road to exit onto 63rd Street. Staff did not witness any current residents driving the wrong way on South Sunnyside Road.

Approval of the zone change request would allow the applicant to use the property to the full extent of their intended use. Denial of the zone change would not limit the property owner's ability to use the subject property for a different approved use in the "SF" Single-Family Residential district, nor limit the property owner's ability to apply for a different zoning designation.

6. *Conformance of the requested change to the adopted or recognized comprehensive plan.*

The requested zone change is in conformance with the City of Haysville's Comprehensive Plan. The requested zone change supports Population Objective 3 "to increase housing diversification within the community," and the Housing Goal to "provide a variety of housing choices to current and future populations."

The City of Haysville's Comprehensive Plan includes the 2023 Land Use Plan Map. The Map identifies the area in which the subject site is located to be appropriate for Residential uses. The requested zoning district is "MF4" Multi-Family Four Residential, making the change in conformance with the City's Land Use Plan Map.

7. *Impact of the proposed development on the community facilities.*

Staff does not anticipate the proposed development to have any significant negative impact on community facilities.

8. *Opposition or support of neighborhood residents.*

At the time of publication of this staff report, staff had not received any comment on the zone change request.

RECOMMENDATION

Based upon information available prior to the public hearings, planning staff recommends that the request for a zone change from “SF” Single-Family Residential District to “MF4” Multi-Family Four Residential District be **APPROVED** with the addition of a protective overlay. This recommendation is based on the above listed findings.

The protective overlay shall read as follows:

- **PERMITTED USES:** The following uses shall be permitted by right:
 - Single-Family
 - Two-Family
 - Three- and Four-Family
 - Group Home
 - Home occupations that typically do not generate additional vehicular traffic. Examples of such uses and occupations include offices for sales persons, sales representatives, manufacturer’s representatives, etc. when no retailing or wholesaling is made or transacted on the premises; offices for architects, engineers, lawyers, doctors, dentists and members of similar professions; offices for service type businesses such as insurance agents, brokers, decorators, painters, business consultants, tax advisors, and photographers; home crafts, such as model making, rug weaving, etc.; and ministers, rabbis, and priests for counseling purposes only.
 - Short-Term Residential Rental
- **SITE DEVELOPMENT STANDARDS:** In keeping with the spirit and intent of the Zoning Regulations and the character of the existing neighborhood, the following site development standards shall be applied to the property:
 - The principal structure shall be oriented to face South Sunnyside Road;
 - The maximum height of all structures shall be 25 feet or two stories, whichever is lesser;
 - A covered porch shall be erected at the front entrance(s) of the principal structure. Such porch shall be built at the building setback line or encroaching upon the building setback line; and
 - The exterior of all structures shall be either brick or vinyl siding.
- **PARKING:** All required off-street parking spaces shall be located in the rear of the property behind the principal structure, other than those located on hard surface drives.
- **ACCESS:** Complete access control shall be dedicated for the north 30 feet of street frontage along South Sunnyside Road.

It should be known that the Planning Commission has the authority to recommend a zone change to a lesser zoning district (“TF” Two-Family Residential) than what has been proposed without republication of a notice. The Planning Commission is granted this authority by K.S.A. 12-757. The City’s zoning district classification chart can be found at www.haysvilleks.gov/planning-zoning.

Staff has prepared an alternative recommendation with that authority in mind. If the Planning Commission chooses to recommend approval of a zone change from “SF” Single-Family Residential to “TF” Two-Family

Residential, staff recommends **APPROVAL** with the addition of a protective overlay. This recommendation is based on the above finds.

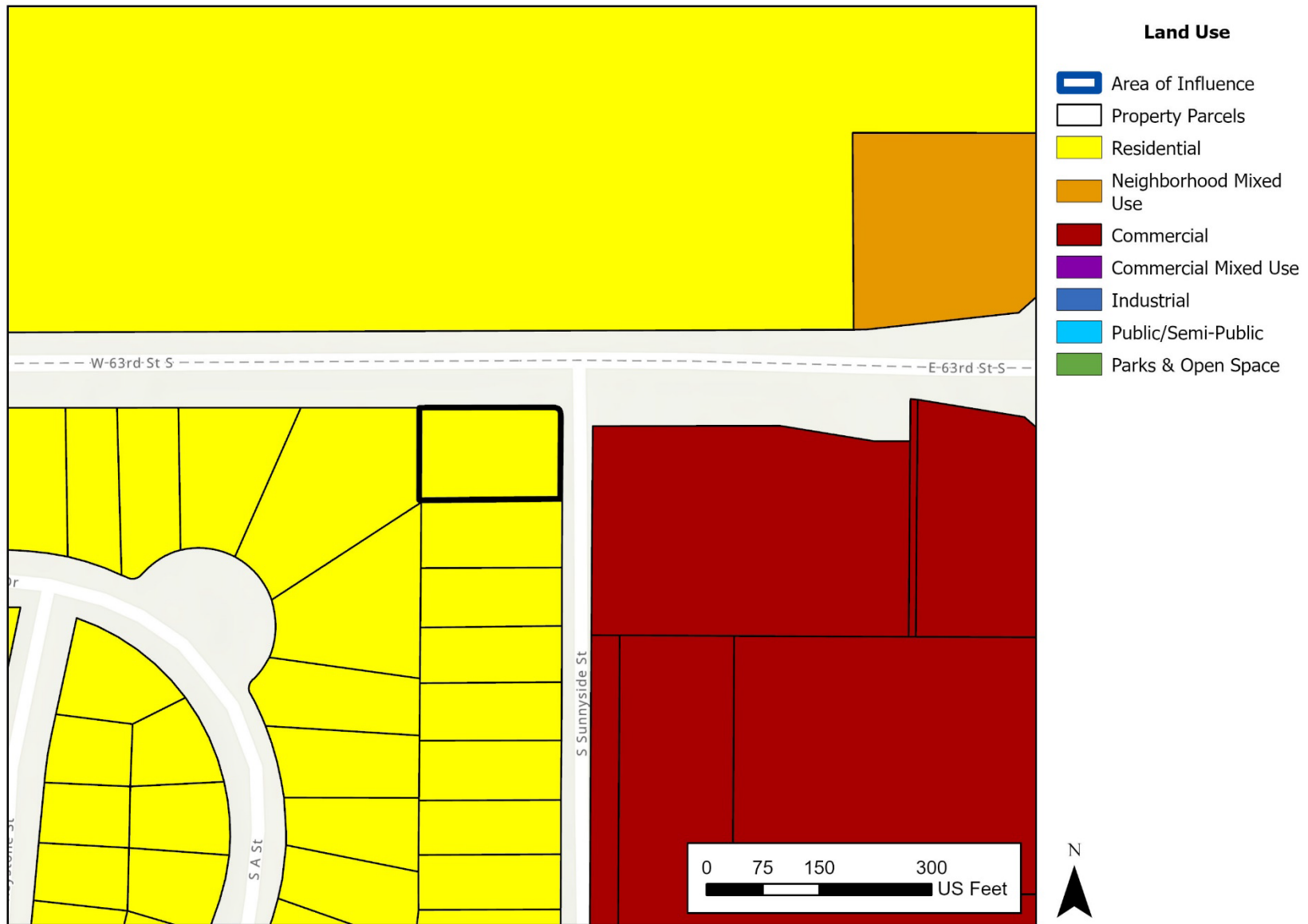
The protective overlay shall read as follows:

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 - Group Home
 - Home occupations that typically do not generate additional vehicular traffic. Examples of such uses and occupations include offices for sales persons, sales representatives, manufacturer's representatives, etc. when no retailing or wholesaling is made or transacted on the premises; offices for architects, engineers, lawyers, doctors, dentists and members of similar professions; offices for service type businesses such as insurance agents, brokers, decorators, painters, business consultants, tax advisors, and photographers; home crafts, such as model making, rug weaving, etc.; and ministers, rabbis, and priests for counseling purposes only.
 - Short-Term Residential Rental
- **SITE DEVELOPMENT STANDARDS:** In keeping with the spirit and intent of the Zoning Regulations and the character of the existing neighborhood, the following site development standards shall be applied to the property:
 - The principal structure shall be oriented to face South Sunnyside Road;
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 - A covered porch shall be erected at the front entrance(s) of the principal structure. Such porch shall be built at the building setback line or encroaching upon the building setback line; and
 - The exterior of all structures shall be either brick or vinyl siding.
- **PARKING:** All required off-street parking spaces shall be located in the rear of the property behind the principal structure, other than those located on hard surface drives.
- **ACCESS:** Complete access control shall be dedicated for the north 30 feet of street frontage along South Sunnyside Road.

ATTACHMENTS

1. Aerial Map
2. Land Use Map
3. Site Photos
4. Neighboring Property Photos
5. Copy of the Public Hearing Notice





Looking north away from property



Looking south away from property



Looking east away from property



Looking west towards property









AFFIDAVIT

STATE OF KANSAS)
) SS.
SEDGWICK COUNTY)

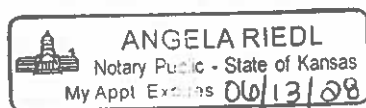
Undersigned, the duly appointed and serving City Clerk for the City of Haysville, Kansas, pursuant to the laws of Kansas and the ordinances, resolutions and Code of the City of Haysville, being of lawful age, first being duly sworn, on oath states:

1. On August 7th 20 05 the attached was first posted by undersigned or designee on the City of Haysville, Kansas website City of Haysville-Home (haysville-ks.com) and this Affidavit constitutes proof thereof.

FURTHER AFFIANT SAYETH NOT.

Angela Fulton
Angela Fulton, City Clerk

The foregoing instrument was subscribed and sworn to or affirmed before me this 20th day of the August, 20 05, by Angela Fulton, City Clerk, City of Haysville, Kansas.



Angela Riedl
Notary Public

NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN: At 6:00 p.m. on Thursday, August 28, 2025, in the Council Chambers at City Hall, 200 W Grand, Haysville, Kansas, the Haysville Planning Commission will hold a public hearing to consider a request for a zone change from **“SF” Single-Family Residential** to **“MF4” Multi-Family Four Residential**. The property under consideration is generally located at **6401 South Sunnyside Road, Haysville, KS 67217**, and is legally described as follows:

LOT 1, BLOCK 1, WARD’S 4TH ADDITION to Haysville, Sedgwick County, Kansas.

Comments, both written and oral, will be heard by the Planning Commission at the time of the hearing. Comments can be submitted to: City of Haysville, Attn: Planning Department, 200 W Grand Ave, P.O. Box 404, Haysville, Kansas 67060 or by email to khogan@haysvilleks.gov. Written comments will be accepted up to 4:00 p.m. on the day of the meeting.

For additional information call (316) 529-5900 or visit the City’s website at www.haysvilleks.gov.

(to be published August 7, 2025)



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Sedgwick County, Kansas

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NOTICE OF PUBLIC HEARING

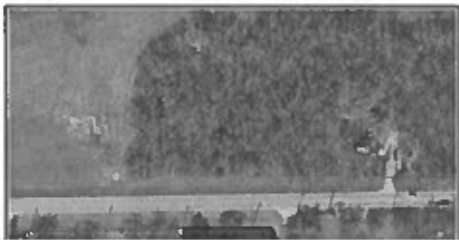
TO WHOM IT MAY CONCERN: At 6:00 p.m. on Thursday, August 28, 2025, in the Council Chambers at City Hall, 200 W. Grand, Hayville, Kansas, the Hayville Planning Commission will hold a public hearing to consider a request for a zone change from "SF" Single-Family Residential to "MF4" Multi-Family Four Residential. The property under consideration is generally located at 6481 South Sunnyside Road, Hayville, KS 67117, and is legally described as follows:

LOT 1, BLOCK 1, WARD'S 4TH ADDITION to Hayville, Sedgwick County, Kansas

Comments, both written and oral, will be heard by the Planning Commission at the time of the hearing. Comments can be submitted to: City of Hayville, Ann, Planning Department, 200 W. Grand Ave., P.O. Box 404, Hayville, Kansas 67060 or by email to kayec@hayvillks.gov. Written comments will be accepted up to 4:00 p.m. on the day of the meeting.

For additional information call (316) 529-3900 or visit the City's website at www.hayvillks.gov.

(to be published August 7, 2025)



Simplify this document for me

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LEGAL FRAMEWORK

SECTION 100. TITLE, PURPOSE, AUTHORITY AND JURISDICTION

100.A. TITLE. These regulations shall be known and may be cited as the *City of Haysville Zoning Regulations*, and shall hereinafter be referred to as “these regulations.”

100.B. PURPOSE. These regulations are intended to serve the following purposes:

1. To promote the public health, safety, morals, comfort and general welfare;
2. To establish a variety of zoning district classifications according to the use of land and buildings with varying intensities of uses and standards whose interrelationships of boundary zones form a compatible pattern of land uses and buffer areas which enhance the value of each zone;
3. To regulate and restrict the location, use and appearance of buildings, structures and land within each district and to zone for residential, commercial, industrial and other purposes, including flood plains;
4. To regulate and restrict the height, number of stories and size of buildings and structures including their distance from any street or highway; the percentage of each lot that may be occupied by buildings and other structures; and size of yards, courts and other open spaces;
5. To protect property values and conserve energy and natural resources;
6. To provide for adequate light and air and acceptable noise levels;
7. To avoid the undue concentration of population and vehicular traffic and to prevent overcrowding the use of land and public facilities;
8. To facilitate the adequate provision of transportation, water supply, sewage disposal, schools, parks and other public improvements;
9. To provide adequate public notice on proposed changes in these regulations and zoning maps and an opportunity to be heard on such zoning matters;
10. To establish and provide procedures for the Board of Zoning Appeals to consider appeals, variances and exceptions; and
11. To implement the goals, policies and proposals of the comprehensive plan for the zoning jurisdiction.

100.C. AUTHORITY. These regulations are adopted under authority established by K.S.A., 12-741 et seq., as amended, 12-736, 12-753 to 12-761 inclusive, 12-763, 12-764, 12-766, 12-3009 to 12-3012 inclusive, 12-3301 and 12-3302.

100.D. JURISDICTION. These regulations shall apply to the construction, addition, alteration, moving, repair and use of any building, structure, parcel of land within the corporate limits of the City of Haysville, Kansas, as presently exist or are hereafter established by annexation.

100.E. EFFECTIVE DATE. The City of Haysville governing body adopted these regulations on ____, 2026 and they became effective on ____, 2026. Upon taking effect, these regulations replaced any prior zoning regulations.

100.F. AMENDMENT OR REPEAL. These regulations may be amended or repealed at any time in accordance with state law.

100.G. SEVERABILITY. If any portion of these regulations is held invalid for any reason, the remaining herein shall not be affected. In addition, in fulfilling these purposes, this ordinance is intended to benefit the public as a whole and not any specific person or class of persons. Although, through the implementation, administration and enforcement of these regulations, benefits and detriments will be enjoyed or suffered by specific individuals, such is merely a byproduct of the overall benefit to the whole community. Therefore, unintentional breaches of the obligations of administration and enforcement imposed on the jurisdiction hereby shall not be enforceable in tort.

SECTION 101. RULES OF INTERPRETATION

101.A. MINIMUM REQUIREMENTS. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals, comfort and general welfare.

101.B. OVERLAPPING OR CONTRADICTORY REGULATIONS. Where the conditions imposed by the provisions of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

101.C. PRIVATE AGREEMENTS. The provisions of these regulations are not intended to abrogate any easement, deed restriction, covenant or other private agreement of legal relationship; provided, that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such private agreements, the requirements of these regulations shall govern. The City does not have a responsibility to enforce such private agreements.

101.D. NOT A LICENSING REGULATION. Nothing contained in these regulations shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any structure or facility or to carry on any trade, industry, occupation or activity.

SECTION 102. RULES OF CONSTRUCTION

300.A. GENERAL. In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise:

1. The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
2. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
3. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows:
 - a. “And” indicates that all connected items, conditions, provisions or events shall apply; and
 - b. “Or” indicates that one or more of the connected items, conditions, provisions or events shall apply.
4. The word “shall” is mandatory; the word “may” is permissive.
5. The words “used” or “occupied” include words “intended, designed or arranged to be used or occupied.”
6. The word “lot” includes the words “plot,” “tract” or “parcel.”
7. Unless otherwise specified, all distances shall be measured horizontally.

300.B. TERMS NOT DEFINED. In all other cases, all words and phrases not defined in these regulations shall be defined by the Board of Zoning Appeals as necessary, utilizing a dictionary to limit possible definitions, and using the spirit and intent of these regulations as a guide.

300.C. TERMS DEFINED IN OTHER CHAPTERS. Where terms are not defined in these regulations and are defined in other chapters of the City Code, such terms shall have the meanings ascribed to them as in those chapters.

300.D. TERMS DEFINED BY STATE STATUTE. The definitions identified as being from state statute are intended to be consistent with that statute.

300.E. ILLUSTRATIONS. There are illustrations provided throughout these regulations that are intended to provide guidance to readers. In the case of a conflict between an illustration (including any associated descriptive text) and a regulatory provision of these regulations, the regulatory provision will take precedence.

SECTION 103. VESTED RIGHTS AND PRE-EXISTING DEVELOPMENT

103.A. GENERAL. Lawfully established buildings and uses in existence prior to the adoption of these regulations shall be permitted to have their existing use or occupancy continued, provided that such continued use is not dangerous to life.

103.B. EFFECT ON EXISTING PERMITS. For all purposes, except single-family residential developments platted and recorded after January 1, 1992, nothing in these regulations shall be deemed to require any change in plans, construction or designated use of any land or structure in the event that:

1. A permit for such use of land or structure was lawfully issued prior to the effective date of these regulations or the effective date of any amendment thereof; and
2. Such permit had not by its own terms expired prior to such effective date; and
3. Such permit was issued on the basis of an application showing complete plans for proposed construction and/or use; and
4. There has been a substantial change of position, substantial expenditure, substantial work performed or incurrence of substantial obligations by the permit holder in reliance on such permit other than purchase of land or preparation of design plans; and
5. Such issuance of a permit and change of position, expenditures, work or incurrence of obligations were made prior to the effective date of an amendment of these regulations which amendments would have made illegal the issuance of such permit; and
6. Construction pursuant to such permit is completed prior to the expiration of such permit; and
7. When the use of land or a structure is completed under a permit to which this section applies, an occupancy certificate shall be issued in accordance with the zoning regulations in effect at the time the zoning permit was issued.

103.C. ADDITIONS, ALTERATIONS, OR REPAIRS. Additions, alterations, or repairs shall be permitted to be made to any building or use without requiring the existing building or use to comply with the requirements of these regulations, provided that the addition, alteration, or repair conforms to that required for a new building or use.

103.D. MAINTENANCE. Buildings or uses, both existing and new, and all parts thereof, shall be maintained. The owner or owner's authorized agent shall be responsible for the maintenance of buildings and parcels of land. To determine compliance with this section, the Zoning Administrator shall be permitted to cause any structure or use to be inspected.

103.E. MOVED BUILDINGS, STRUCTURES, AND USES. Buildings or structures moved into or within the jurisdiction shall comply with the provisions of these regulations for new buildings, structures, and uses.

103.F. ILLEGAL USES AND STRUCTURES. Uses or structures that were illegally established prior to the adoption of these regulations shall not become or be made legal solely by reason of the adoption of these regulations; and to the extent that, and in any respect that, said illegal use or structure is in conflict with the requirements of these regulations, said use or structure remains illegal hereunder.

103.G. VESTING OF DEVELOPMENT RIGHTS. Vesting of development rights shall be as described in K.S.A. 12-764, as amended.

1. For development rights vested prior to July 1, 2009:
 - a. For the purpose of single-family residential developments, development rights in such land shall vest upon recording of a plat of such land. If construction is not commenced on such land within five years of recording a plat, the development rights in such shall expire.
 - b. For all purposes other than single-family developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by the City and construction has begun and substantial amounts of work have been completed under a validly issued permit.
2. For development rights vested on and after July 1, 2009:
 - a. For the purpose of residential developments, development rights in such land use shall vest upon recording of a plat of such land. If construction is not commenced on such land within 10 years of recording of a plat, the development rights in such shall expire. For purposes of this section, residential developments may include single-family housing; multiple-family housing such as apartments, duplexes, townhomes and similar configurations; condominiums; and manufactured and modular homes.
 - b. For all purposes other than residential developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by the City and construction has begun and substantial amounts of work have been completed. If substantial amounts of the work have not been completed within 10 years of the issuance of such permits, the development rights shall expire.

ARTICLE 1

~~—TITLE, PURPOSE, AUTHORITY AND JURISDICTION~~ LEGAL FRAMEWORK

SECTION 100. TITLE, PURPOSE, AUTHORITY AND JURISDICTION

100.A. TITLE.

These regulations, ~~including the zoning district maps, made a part hereof,~~ shall be known and may be cited as ~~the~~ “The City of Haysville Zoning Regulations, (February 2023) Edition” and shall hereinafter be referred to as “these regulations.”

100.B. PURPOSE. Section 101

Purpose

These regulations are intended to serve the following purposes:

- ~~A.1.~~ To promote the public health, safety, morals, comfort and general welfare;
- ~~B.2.~~ To establish a variety of zoning district classifications according to the use of land and buildings with varying intensities of uses and standards whose interrelationships of boundary zones form a compatible pattern of land uses and buffer areas which enhance the value of each zone;
- ~~C.3.~~ To regulate and restrict the location, use and appearance of buildings, structures and land within each district and to zone for residential, commercial, industrial and other purposes, including flood plains;
- ~~D.4.~~ To regulate and restrict the height, number of stories and size of buildings and structures including their distance from any street or highway; the percentage of each lot that may be occupied by buildings and other structures; and size of yards, courts and other open spaces;
- ~~E.5.~~ To protect property values and conserve energy and natural resources;
- ~~F.6.~~ To provide for adequate light and air and acceptable noise levels;
- ~~G.7.~~ To avoid the undue concentration of population and vehicular traffic and to prevent overcrowding the use of land and public facilities;
- ~~H.8.~~ To facilitate the adequate provision of transportation, water supply, sewage disposal, schools, parks and other public improvements;
- ~~I.9.~~ To provide adequate public notice on proposed changes in these regulations and zoning maps and an opportunity to be heard on such zoning matters;
- ~~J.10.~~ To establish and provide procedures for the Board of Zoning Appeals to consider appeals, variances and exceptions; and
- ~~K.11.~~ To implement the goals, policies and proposals of the comprehensive plan for the zoning jurisdiction.

100.C. AUTHORITY. Section 102

Authority

These regulations are adopted under authority established by K.S.A., 12-741 et seq., as amended, 12-736, 12-753 to 12-761 inclusive, 12-763, 12-764, 12-766, 12-3009 to 12-3012 inclusive, 12-3301 and 12-3302.

100.D. JURISDICTION. Section 103

Zoning Jurisdiction

These regulations shall apply to the construction, addition, alteration, moving, repair and use of any all buildings, structures, parcel of ~~and~~ land within the corporate limits of the Ccity of Haysville, Kansas, as presently exist or are hereafter established by annexation.

100.E. EFFECTIVE DATE. The City of Haysville governing body adopted these regulations on _____, 2026 and they became effective on _____, 2026. Upon taking effect, these regulations replaced any prior zoning regulations.

100.F. AMENDMENT OR REPEAL. These regulations may be amended or repealed at any time in accordance with state law.

100.G. SEVERABILITY. If any portion of these regulations is held invalid for any reason, the remaining herein shall not be affected. In addition, in fulfilling these purposes, this ordinance is intended to benefit the public as a whole and not any specific person or class of persons. Although, through the implementation, administration and enforcement of these regulations, benefits and detriments will be enjoyed or suffered by specific individuals, such is merely a byproduct of the overall benefit to the whole community. Therefore, unintentional breaches of the obligations of administration and enforcement imposed on the jurisdiction hereby shall not be enforceable in tort.

SECTION 101. RULES OF INTERPRETATION

200 — RULES OF INTERPRETATION

101.A. A. — MINIMUM REQUIREMENTS. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals, comfort and general welfare.

101.B. B. — OVERLAPPING OR CONTRADICTORY REGULATIONS. Where the conditions imposed by the provisions of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

101.C. C. — PRIVATE AGREEMENTS. The provisions of these regulations are not intended to abrogate any easement, deed restriction, covenant or other private agreement of legal relationship; provided, that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such private agreements, the requirements of these regulations shall govern. The Ccity does not have a responsibility to enforce such private agreements.

~~**D. — Unlawful Uses.** No use of land or structure which was not lawfully existing at the time of the adoption of these regulations shall become or be made lawful solely by reason of the adoption of these regulations; and to the extent that, and in any respect that, said unlawful use or structure is in conflict with the requirements of these regulations, said use or structure remains unlawful hereunder.~~

101.D. E. — NOT A LICENSING REGULATION. Nothing contained in these regulations shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any structure or facility or to carry on any trade, industry, occupation or activity.

SECTION 102. RULES OF CONSTRUCTION

300.A. GENERAL. In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise:

1. The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
2. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
3. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows:
 - a. “And” indicates that all connected items, conditions, provisions or events shall apply; and
 - b. “Or” indicates that one or more of the connected items, conditions, provisions or events shall apply.
4. The word “shall” is mandatory; the word “may” is permissive.
5. The words “used” or “occupied” include words “intended, designed or arranged to be used or occupied.”
6. The word “lot” includes the words “plot,” “tract” or “parcel.”
7. Unless otherwise specified, all distances shall be measured horizontally.

300.B. TERMS NOT DEFINED. In all other cases, all words and phrases not defined in ~~these regulations~~is article shall be defined by the ~~Planning Commission~~Board of Zoning Appeals as necessary, utilizing a dictionary to limit possible definitions, and using the spirit and intent of ~~these regulations~~is chapter as a guide.

300.C. TERMS DEFINED IN OTHER CHAPTERS. Where terms are not defined in these regulations and are defined in other chapters of the City Code, such terms shall have the meanings ascribed to them as in those chapters.

300.D. TERMS DEFINED BY STATE STATUTE. The definitions identified as being from state statute are intended to be consistent with that statute.

300.E. ILLUSTRATIONS. There are illustrations provided throughout these regulations that are intended to provide guidance to readers. In the case of a conflict between an illustration (including any associated descriptive text) and a regulatory provision of these regulations, the regulatory provision will take precedence.

SECTION 103. VESTED RIGHTS AND PRE-EXISTING DEVELOPMENT

103.A. GENERAL. Lawfully established buildings and uses in existence prior to the adoption of these regulations shall be permitted to have their existing use or occupancy continued, provided that such continued use is not dangerous to life.

103.B. EFFECT ON EXISTING PERMITS. For all purposes, except single-family residential developments platted and recorded after January 1, 1992, nothing in these regulations shall be deemed to require any change in plans, construction or designated use of any land or structure in the event that:

1. A ~~zoning~~ permit for such use of land or structure was lawfully issued prior to the effective date of these regulations or the effective date of any amendment thereof; and
2. Such permit had not by its own terms expired prior to such effective date; and
3. Such permit was issued on the basis of an application showing complete plans for proposed construction and/or use; and
4. There has been a substantial change of position, substantial expenditure, substantial work performed or incurrence of substantial obligations by the permit holder in reliance on such permit other than purchase of land or preparation of design plans; and
5. Such issuance of a permit and change of position, expenditures, work or incurrence of obligations were made prior to the effective date of an amendment of these regulations which amendments would have made illegal the issuance of such permit; and
6. Construction pursuant to such permit is completed prior to the expiration of such permit; and
7. When the use of land or a structure is completed under a permit to which this section applies, an occupancy certificate shall be issued in accordance with the zoning regulations in effect at the time the zoning permit was issued.

103.C. ADDITIONS, ALTERATIONS, OR REPAIRS. Additions, alterations, or repairs shall be permitted to be made to any building or use without requiring the existing building or use to comply with the requirements of these regulations, provided that the addition, alteration, or repair conforms to that required for a new building or use.

103.D. MAINTENANCE. Buildings or uses, both existing and new, and all parts thereof, shall be maintained. The owner or owner's authorized agent shall be responsible for the maintenance of buildings and parcels of land. To determine compliance with this section, the Zoning Administrator shall be permitted to cause any structure or use to be inspected.

103.E. MOVED BUILDINGS, STRUCTURES, AND USES. Buildings or structures moved into or within the jurisdiction shall comply with the provisions of these regulations for new buildings, structures, and uses.

103.F. ILLEGAL USES AND STRUCTURES. Uses or structures that were illegally established prior to the adoption of these regulations shall not become or be made legal solely by reason of the adoption of these regulations; and to the extent that, and in any respect that, said illegal use or structure is in conflict with the requirements of these regulations, said use or structure remains illegal hereunder.

103.G. VESTING OF DEVELOPMENT RIGHTS. Vesting of development rights shall be as described in ~~For single-family residential development, if construction of a principal structure does not begin on the land within ten (10) years after the date the final plat is recorded, the development rights in the land expire, and all revisions to zoning or subdivision regulations that became effective during the vested period apply to the platted land (see K.S.A. 12-764, as amended).~~

1. For development rights vested prior to July 1, 2009:

- a. For the purpose of single-family residential developments, development rights in such land shall vest upon recording of a plat of such land. If construction is not commenced on such land within five years of recording a plat, the development rights in such shall expire.
- b. For all purposes other than single-family developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by the City and construction has begun and substantial amounts of work have been completed under a validly issued permit.

2. For development rights vested on and after July 1, 2009:

- a. For the purpose of residential developments, development rights in such land use shall vest upon recording of a plat of such land. If construction is not commenced on such land within 10 years of recording of a plat, the development rights in such shall expire. For purposes of this section, residential developments may include single-family housing; multiple-family housing such as apartments, duplexes, townhomes and similar configurations; condominiums; and manufactured and modular homes.
- b. For all purposes other than residential developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by the City and construction has begun and substantial amounts of work have been completed. If substantial amounts of the work have not been completed within 10 years of the issuance of such permits, the development rights shall expire.

ARTICLE 2

ADMINISTRATION AND PROCEDURES

SECTION 200. ZONING ADMINISTRATOR

200.A. GENERAL. This section establishes the duties and responsibilities of the Zoning Administrator with respect to the administration of these regulations.

200.B. REVIEWS AND APPROVALS. The Zoning Administrator shall be authorized to undertake reviews, make recommendations, and grant approvals as set forth in these regulations.

200.C. COMPREHENSIVE PLAN. The Zoning Administrator shall assist the Planning Commission in the development and implementation of the comprehensive plan.

200.D. ADMINISTRATIVE REVIEWS AND PERMITS. Administrative reviews and permits shall be in accordance with Sections 200.D.1 through 200.D.5.

1. **Review of building permits.** Applications for building permits and amendments thereto shall be submitted to the Zoning Administrator for review and approved prior to permit issuance. Each application shall include a set of building plans and all data necessary to show that the requirements of these regulations are met.
2. **Site plan reviews.** The Zoning Administrator shall receive all applications for site plan review, review for completeness, and prepare submittals for review by the appropriate body.
3. **Zoning permits and variances.** The Zoning Administrator shall receive all applications for zone changes, conditional uses, other zoning permits, and variances as shall be permitted and approved by these regulations, review for completeness and prepare submittals for review by the appropriate body.
4. **Administrative adjustments.** The Zoning Administrator shall receive all applications for Administrative Adjustments, review for completeness, and render a written decision.
5. **Amendments.** Requests for amendments or changes to the comprehensive plan or these regulations or map shall be submitted to the Zoning Administrator for processing.

200.E. INTERPRETATIONS. The interpretation and application of the provisions of these regulations shall be by the Zoning Administrator.

1. Specific uses are permitted within the various zoning districts as described in these regulations and as otherwise provided herein and are thus not subject to interpretation.
2. It is recognized that all possible uses and variations of uses that might arise cannot reasonably be listed or categorized. Mixed uses/sites or any use not specifically mentioned or about which there is a question shall be administratively classified by comparison with other uses identified in the zoning districts described in these regulations. If the proposed use resembles identified uses in terms of intensity and character, and is consistent with the purpose of these regulations and the individual zoning district, it shall be considered as a permitted/nonpermitted use and

subject to the regulations for the use it most nearly resembles. If a use does not resemble other identified allowable uses within a zone, it may be permitted as determined by the Board of Zoning Appeals in a public hearing as an amendment to these regulations.

200.E. APPEALS. Any person aggrieved by any decision of the Zoning Administrator shall have the right to make such appeals as shall be permitted to be provided by these regulations or state law. Appeal procedures may be found in Section 203.G.

SECTION 201. PLANNING COMMISSION

201.A. GENERAL. This section addresses the duties and responsibilities of the Planning Commission, hereafter referred to as “the commission,” with respect to the administration of these regulations.

201.B. MEMBERSHIP COMPOSITION. The commission shall consist of seven members who shall be appointed by the Mayor, by and with the consent of the governing body, in all respects as required by law. Five members must reside within city limits, and two members must reside outside of the city limits, but within the City’s Urban Area of Influence as determined by Sedgwick County’s Urban Growth Area Map.

201.C. TERMS OF OFFICE. Members shall serve staggered three year terms which shall expire on June 30 of the third year of appointment. Members may serve successive terms. At the end of the three year term, the member may be reappointed with the approval of the governing body. The terms of the two members residing outside of the corporate limits of the City of Haysville must not expire within the same year. Members shall take office on the first meeting of the commission in July.

201.D. VACANCIES. Vacancies occurring other than through the expiration of a member’s term shall be filled by appointment for the departing member’s unexpired term.

201.E. OFFICERS. The officers of the commission shall be a Chairperson, a Vice-Chairperson, and a Secretary. The officers shall be elected by the commission annually at its first meeting in July. Their term of office shall be one year. The Zoning Administrator or his/her selected representative may serve as Secretary of the commission.

201.F. REGULAR MEETINGS. The commission shall meet at 6:00 p.m. on the second and fourth Thursday of every month at the Haysville City Hall when needed. The Chairperson and Secretary may cancel a regular meeting with at least three days prior notice for the following reasons:

1. It is determined that a quorum will not be present;
2. No subjects are scheduled for the agenda; or
3. Other reasonable circumstances.

201.G. DUTIES AND POWERS. The duties and powers of the commission shall be in accordance with sections 201.G.1 through 201.G.4.

1. **Zone change and conditional use requests.** The commission shall review and make recommendations on all zone change and conditional use requests.
2. **Comprehensive plan.** The commission shall create a comprehensive plan for the development of the City and amend such comprehensive plan as needed. In the creation of such plan, the commission shall employ the use of comprehensive surveys and studies of past and present conditions and trends relating to land use, population and building intensity, public facilities, transportation and transportation facilities, economic conditions, natural resources and any other element deemed necessary. The comprehensive plan shall include the commission’s recommendations for the development or redevelopment of the City, including:

- a. The general location, extent and relationship of the use of land for agriculture, residence, business, industry, recreation, education, public buildings and other community facilities, major utility facilities both public and private and any other use deemed necessary;
 - b. Population and building intensity standards and restrictions and the application of the same;
 - c. Public facilities including transportation facilities of all types whether publicly or privately owned which relate to the transportation of persons or goods;
 - d. Public improvement programming based upon a determination of relative urgency;
 - e. The major sources and expenditure of public revenue including long range financial plans for the financing of public facilities and capital improvements, based upon a projection of the economic and fiscal activity of the community, both public and private;
 - f. Utilization and conservation of natural resources; and
 - g. Any other element deemed necessary to the proper development or redevelopment of the area.
3. **Amendments to the Zoning Regulations.** The commission shall review these regulations annually and make recommendations for amendments as deemed appropriate.
4. **Capital improvements plans.** The commission shall review and make recommendations on the capital improvements plan annually.

201.H. APPEALS. Any person aggrieved by any decision of the commission shall have the right to make such appeals as shall be permitted to be provided by these regulations or state law. Appeal procedures may be found in Section 203.G.

SECTION 202. BOARD OF ZONING APPEALS

202.A. GENERAL. This section addresses the duties and responsibilities of the Board of Zoning Appeals, hereafter referred to as “the board,” with respect to the administration of these regulations.

202.B. ESTABLISHMENT OF THE BOARD. The establishment of the board shall be in accordance with the procedures and policies set forth in state law. The board shall consist of the number of members as specified in state law.

202.C. DUTIES AND POWERS. The duties and powers of the board shall be in accordance with Sections 202.C.1 through 202.C.4.

1. **Appeals.** The board shall have the power to hear appeals (of, where, or when) it is alleged there is an error in any order, requirement, decision or determination made by an administrative officer, department, board or bureau in the enforcement of these regulations.

2. **Variances.** The board shall be permitted to make decisions on requests for a variance from the specific terms of these regulations.

3. **Special exceptions.** The board is authorized to grant exceptions to the provisions of the zoning ordinance in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning ordinance.

4. **Definitions and use classifications.** The board shall have the power to, in cases of uncertainty, classify any use or define any word not specifically identified in these regulations. Such use or definition shall be defined and may be permitted as determined by the Board of Zoning Appeals in a public hearing as an amendment to these regulations.

202.D. APPEALS. Decisions of the board shall be the final local action. Appeals of such final local action shall be taken to district court.

SECTION 203. PROCEDURES

203.A. ZONE CHANGE.

1. **General.** The intent and purpose of this section is to outline the procedures for Zone Change requests under these regulations.
2. **Application.** An application for a Zone Change may be proposed by the owner(s), the authorized agent(s) of such owner(s), or the contract purchaser(s)/lessee(s) of the subject property.
 - a. **Pre-application meeting.** All applicants are encouraged to meet with applicable City staff prior to submitting an application. The purpose of the pre-application meeting is to provide staff and the applicant an opportunity to discuss the steps and any other applications that may be necessary prior to the commencement of a specific building project.
3. **Submittal.** An application, in writing, for such Zone Change shall be filed with Office of the City Clerk and accompanied by such data and information as may be prescribed by the Zoning Administrator so as to assure the fullest possible presentation of facts for the permanent record. No application shall be processed until the application is complete and the required fee paid. The application shall include the following:
 - a. The complete legal description and general street location of the subject property;
 - b. Site plan;
 - c. A certified list of the names and addresses of all property owners within 200 feet of the designated property (excepting public streets and ways) shall be obtained from an abstract company and is to be provided by the petitioner. If the proposed designated property is located adjacent to or outside the City's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area;
 - d. A copy of restrictive covenants, if any; and
 - e. Filing fees paid to the City Clerk, as determined in Chapter 17 of the City Code.
4. **Hearing.** Prior to making the final decision on a Zone Change, a public hearing shall be held. The Zoning Administrator shall establish the time and place of the public hearing. At least 20 days' notice of the time and place of the public hearing shall be published in the official paper of the City of Haysville.
 - a. In addition to such public notice, written notice of such Zone Change shall be mailed to all property owners and applicable addresses included in the certified list submitted by the applicant and an opportunity granted to interested parties to be heard at the public hearing.
5. **Authority.** The Planning Commission shall have the authority to make recommendations on Zone Change requests and recommend protective overlays and safeguards as deemed necessary to protect and enhance the health, safety, and welfare of the surrounding area. The governing body shall have the authority to make the final decision on Zone Change requests.

6. **Action by the Planning Commission.** An accurate written summary of the public hearing held by the commission shall be made. The public hearing may be adjourned from time to time. Within 60 days following the conclusion of the public hearing, the commission shall prepare its recommendations, and by an affirmative vote of a majority of the entire membership of the commission may (1) recommend approval of the Zone Change; (2) recommend approval with the addition of a protective overlay; or (3) recommend denial of the Zone Change including a statement of the reason(s) for such denial. The recommendation, together with the written summary of the public hearing thereon, shall be submitted to the governing body. If the commission fails to make a recommendation on a Zone Change within the allotted timeframe, the commission shall be deemed to have made a recommendation of disapproval, and such default recommendation and written summary of the public hearing shall be submitted to the governing body for further action.
7. **Action by the governing body.** Upon receipt of the recommendation from the commission and the reasons therefor, the governing body may (1) approve such recommendation by the adoption of an ordinance; (2) override the commission's recommendations by a 2/3 majority vote of the membership of the governing body, and adopt an ordinance setting forth the action determined appropriate by such majority of that body; or (3) return the recommendation to the commission for further consideration, together with a statement specifying the basis for the governing body's failure to approve or disapprove.
 - a. If the governing body returns the commission's recommendation for further consideration, the commission, at its next regularly scheduled meeting, shall consider the same and, after consideration, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation. Upon the receipt of such recommendation, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt, such recommendation by an ordinance, or it need take no further action thereon. If the commission fails to deliver its recommendation to the governing body following the commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the commission as a resubmission of the original recommendation and proceed accordingly.
8. **Protest.** Regardless of the commission's decision on a Zone Change, if a protest petition against such Zone Change is filed in the Office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record of 20% or more of the total real property within the area required to be notified by the Zone Change, excluding streets and public ways, the ordinance adopting such Zone Change shall not be passed except by at least 3/4 majority vote of all the members of the governing body. Protest petition procedures may be found in Section 203.H.
9. **Appeals.** The governing body's decision on a Zone Change shall be the final local action. Appeals of such final local action shall be taken to district court.
10. **Amendments to Zone Changes.** Zone Changes approved with the addition of a protective overlay may be amended by following the same procedures as required for consideration and approval of the original Zone Change application.

11. **Review criteria for Zone Changes.** The following criteria shall be evaluated as they relate to the specific case being considered, and such stipulation as deemed appropriate in relation to any request for a Zone Change may be developed by the commission and incorporated into any recommendation in support of the requested Zone Change.

- a. Zoning uses and character of the neighborhood;
- b. Suitability of the subject property for the uses to which it has been restricted;
- c. Extent to which removal of the restrictions will detrimentally affect nearby property;
- d. Length of time the subject property has remained vacant as zoned;
- e. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant;
- f. Conformance of the requested change to the adopted or recognized comprehensive plan;
- g. Impact of the imposed development on community facilities;
- h. Opposition or support of neighborhood residents.

203.B. CONDITIONAL USE PERMIT.

1. **General.** A Conditional Use permit shall be obtained for certain uses, which would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions and located in specific locations within a district, but shall not be allowed under the general conditions of the district as stated in these regulations.
2. **Application.** An application for a Conditional Use permit may be proposed by the owner(s), the authorized agent(s) of such owner(s), or the contract purchaser(s)/lessee(s) of the subject property.
 - a. **Pre-application meeting.** All applicants are encouraged to meet with applicable City staff prior to submitting an application. The purpose of the pre-application meeting is to provide staff and the applicant an opportunity to discuss the steps and any other applications that may be necessary prior to the commencement of a specific building project.
3. **Submittal.** An application, in writing, for such Conditional Use permit shall be filed with Office of the City Clerk and accompanied by such data and information as may be prescribed by the Zoning Administrator so as to assure the fullest possible presentation of facts for the permanent record. No application shall be processed until the application is complete and the required fee paid. The application shall include the following:
 - a. The complete legal description and general street location of the subject property;
 - b. Site plan;

- c. A certified list of the names and addresses of all property owners within 200 feet of the designated property (excepting public streets and ways) shall be obtained from an abstract company and is to be provided by the petitioner. If the proposed designated property is located adjacent to or outside the City's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area; and
 - d. Filing fees paid to the City Clerk, as determined in Chapter 17 of the City Code.
- 4. **Hearing.** Prior to making the final decision on a Conditional Use permit, a public hearing shall be held. The Zoning Administrator shall establish the time and place of the public hearing. At least 20 days' notice of the time and place of the public hearing shall be published in the official paper of the City of Haysville.
 - a. In addition to such public notice, written notice of such Conditional Use permit shall be mailed to all property owners and applicable addresses included in the certified list submitted by the applicant and an opportunity granted to interested parties to be heard at the public hearing.
- 5. **Authority.** The Planning Commission shall have the authority to make recommendations on Conditional Use permit requests and recommend conditions and safeguards as deemed necessary to protect and enhance the health, safety, and welfare of the surrounding area. The governing body shall have the authority to make the final decision on Conditional Use permit requests. The authorization of the Conditional Use permit shall not be made unless the evidence presented is such to establish:
 - a. That proposed uses will not be contrary to the public interest.
 - b. That the spirit of these regulations is observed.
 - c. That public safety and welfare is secured.
 - d. That substantially equal treatment under the law is preserved.
- 6. **Action by the Planning Commission.** An accurate written summary of the public hearing held by the commission shall be made. The public hearing may be adjourned from time to time. Within 60 days following the conclusion of the public hearing, the commission shall prepare its recommendations, and by an affirmative vote of a majority of the entire membership of the commission may (1) recommend approval including any conditions to be met in allowing the Conditional Use permit, or (2) recommend denial of the application including a statement of the reason(s) for such denial. The recommendation, together with the written summary of the public hearing thereon, shall be submitted to the governing body. If the commission fails to make a recommendation on a Conditional Use permit within the allotted timeframe, the commission shall be deemed to have made a recommendation of disapproval, and such default recommendation and written summary of the public hearing shall be submitted to the governing body for further action.
- 7. **Action by the governing body.** Upon receipt of the recommendation from the commission and the reasons therefor, the governing body may (1) approve such recommendation by the adoption of a resolution; (2) override the commission's recommendations by a 2/3 majority vote of the membership of the governing body, and adopt a resolution setting forth the action

determined appropriate by such majority of that body; or (3) return the recommendation to the commission for further consideration, together with a statement specifying the basis for the governing body's failure to approve or disapprove.

- a. If the governing body returns the commission's recommendation for further consideration, the commission, at its next regularly scheduled meeting, shall consider the same and, after consideration, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation. Upon the receipt of such recommendation, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt, such recommendation by resolution, or it need take no further action thereon. If the commission fails to deliver its recommendation to the governing body following the commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the commission as a resubmission of the original recommendation and proceed accordingly.
8. **Protest.** Whether or not the commission recommends approval or disapproval of a Conditional Use permit, if a protest petition against such permit is filed in the Office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record of 20% or more of the total real property within the area required to be notified by the Conditional Use permit, excluding streets and public ways, the resolution adopting such permit shall not be passed except by at least 3/4 majority vote of all the members of the governing body. Protest petition procedures may be found in Section 203.H.
9. **Successive applications.** In the event that the final action on a Conditional Use permit is that it be denied, a similar application shall not be refiled for one year from the latest advertised public hearing date on said application. The Zoning Administrator may permit a refiling of said application after six months of the latest advertised public hearing date when it determines that significant physical, economic, or land use changes have taken place within the immediate vicinity, or a significant zoning regulation text change has been adopted, or when the application is for a different use than the original request. The applicant shall submit a statement in detail setting out those changes that the applicant deems significant and upon which the applicant relies for rifling the original application.
10. **Appeals of final action.** The governing body's decision on a Conditional Use permit shall be the final local action. Appeals of such final local action shall be taken to district court.
11. **Exercising of permit.** A Conditional Use permit shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished. When such permit is abandoned or discontinued for a period of 1 year, it shall not be reestablished, unless authorized by the commission upon written application.
12. **Failure of conditions.** If the Zoning Administrator finds that there is a violation of any of the conditions of a Conditional Use permit, the Zoning Administrator, in addition to reinforcing the other remedies, may, with the concurrence of the Deputy Administrative Officer, declare that the Conditional Use is null and void. Such finding and declaration shall be made in writing and mailed to the owner of the real property affected by the Conditional Use restrictions. A copy

shall be sent to the Deputy Administrative Officer. The Zoning Administrator's declaration shall be final unless appealed in accordance with Section 203.G of these regulations.

13. **Amendments to Conditional Uses.** Approved Conditional Uses may be amended by following the same procedures as required for consideration and approval of the original Conditional Use application.
14. **Minor adjustments to Conditional Uses.** The Zoning Administrator, with the concurrence of the Deputy Administrative Officer, may approve minor adjustments to approved Conditional Use permit site plans, unless finding that the proposed development would have one or more negative impacts as determined in 203.B.15.
15. **Conditional Use review criteria.** The following criteria shall be evaluated as they relate to the specific case being considered, and such stipulation as deemed appropriate in relation to any request for a Conditional Use permit may be developed by the commission and incorporated into any recommendation in support of the requested Conditional Use permit.
 - a. Access and traffic load and/or flow;
 - b. Noise, light and odor;
 - c. Screening;
 - d. Parking, refer to parking section;
 - e. Access and affect to services (public utilities);
 - f. Public health and safety;
 - g. Adequacy of facility and lot size;
 - h. Signs;
 - i. Review by fire marshal for designation;
 - j. Time limitations for exercising the Conditional Use permit may be incorporated within the conditions of the permit when appropriate to ensure that when the use has been established the criteria upon which the permit was approved remains essentially the same; and
 - k. Other considerations as appropriate.
16. **Existing conditions.** Uses which were legal prior to the adoption of these regulations that would be Conditional Uses under these regulations shall be considered nonconforming uses and shall be continued and maintained in conformance with the provisions of Article 10.

203.C. PLANNED UNIT DEVELOPMENT (PUD).

1. **Purpose.** The purpose of Planned Unit Development (PUD) is to encourage innovation in residential, commercial, and industrial development; to gain a more efficient use of land; to utilize new technologies in urban land development; and to provide for a greater variety and flexibility in type, design, and layout of buildings.

2. **General provisions.** Applications for a PUD may be made for land located in any of the established Haysville zoning districts.
 - a. A PUD shall be in general conformity with the provisions of the adopted comprehensive plan.
 - b. Whenever there is a conflict or difference between the provisions of this article and those of the other articles of these regulations or the Subdivision Regulations, the provisions of this article shall prevail for the development of land for PUDs. Subjects not covered by this article shall be governed by the respective provisions found elsewhere in these regulations.
 - c. A successful PUD application shall constitute an amendment to these regulations for the addition of a Planned Unit Development district. The Zone Change requirements for notice to property owners, advertisement of the public hearing, protest petitions, and adoption by the governing body shall apply to PUD applications.
3. **Types of PUDs.** The following types of planned unit developments may be established. PUD requests may combine two or more types into a single plan.
 - a. PUD-R Planned Residential District
 - b. PUD-C Planned Commercial District
 - c. PUD-I Planned Industrial District
4. **Standards and conditions.** The following provisions shall apply to all PUD requests:
 - a. The subject property must be a continuous parcel under one ownership or held jointly by two or more owners.
 - b. The applicant shall satisfy the Planning Commission that he or she has the ability to carry out the proposed plan and shall prepare and submit a schedule of construction. The proposed construction shall begin within 18 months following approval of the final application by the governing body, and a minimum of 50 percent of the total planned construction shall be completed within a period of six years following such approval or the approval of the plan shall expire. The period of time established for the completion of the development may be modified from time to time by the Planning Commission upon the showing of good cause by the developer.
5. **Application.** An application for a PUD may be proposed by the owner(s), the authorized agent(s) of such owner(s), or the contract purchaser(s)/lessee(s) of the subject property.
 - a. **Pre-application meeting.** All applicants are encouraged to meet with applicable City staff prior to submitting an application. The purpose of the pre-application meeting is to provide staff and the applicant an opportunity to discuss the steps and any other applications that may be necessary prior to the commencement of a specific project.
6. **Submittal.** An application, in writing, for such PUD shall be filed with Office of the City Clerk and accompanied by such data and information as may be prescribed by the Zoning Administrator so as to assure the fullest possible presentation of facts for the permanent record. No

application shall be processed until the application is complete and the required fee paid. The application shall include the following:

- a. Complete legal description and common street location of the subject property;
- b. Nine copies of a Planned Unit Development site plan or map which shall contain the following information:
 - i. Existing topography with contours at two-foot intervals;
 - ii. Areas subject to one-hundred-year flooding;
 - iii. Proposed location of buildings and other structures, parking area, drives, walks, screening, drainage patterns and plan, public streets, and any existing/proposed easements;
 - iv. Internal traffic circulation systems, off-street parking areas, service areas, loading areas, and major points of access to public rights-of-way;
 - v. Proposed screening and landscaping features;
 - vi. Areas that are to be conveyed, dedicated, or reserved as common open space.
 - vii. Relationship of abutting land uses and zoning districts;
- c. Nine copies of a written statement to accompany the site plan or map which shall contain the following information:
 - i. An explanation of the character of the PUD;
 - ii. A statement of the present ownership and legal description of all the land included within the PUD;
 - iii. Copies of any special agreements, conveyances, restrictions, or covenants that will govern the use, maintenance, and continued protection of the PUD and any of its common open space areas;
 - iv. A statement of the anticipated residential density, the proposed total gross floor area, and the percentage of the development that is to be occupied by structures;
 - v. As appropriate, a statement identifying the principal types of business and/or industrial uses that are to be included in the proposed development; and
 - vi. Maximum height of all buildings.
- d. Nine copies of a written statement of the objectives showing the relationship of the PUD to the Comprehensive Plan with respect to land use for various purposes, density of population, direction of growth, location and function of streets and other public facilities, and common open space for recreation or visual benefit or both. Such written statement shall also include a time schedule for completion of the project or each phase thereof and improvements to be requested of the City and improvements to be made by the developer;
- e. A certified list of the names and addresses of all property owners within 200 feet of the designated property (excepting public streets and ways) shall be obtained from an abstract company and is to be provided by the petitioner. If the proposed designated

property is located adjacent to or outside the City's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area;

- f. Any other information or exhibits the applicant deems pertinent in evaluation of the proposed PUD; and
 - g. Filing fees paid to the City Clerk, as determined in Chapter 17 of the City Code.
- 7. **Hearing.** Prior to making the final decision on a PUD, a public hearing shall be held. The Zoning Administrator shall establish the time and place of the public hearing. At least 20 days' notice of the time and place of the public hearing shall be published in the official paper of the City of Haysville.
 - a. In addition to such public notice, written notice of such PUD shall be mailed to all property owners and applicable addresses included in the certified list submitted by the applicant and an opportunity granted to interested parties to be heard at the public hearing.
- 8. **Action on a preliminary PUD plan.** Within sixty days after receiving the application, the Planning Commission shall review the application and hold a public hearing in accordance with state statute.
 - a. Within thirty days after the public hearing the commission shall prepare findings of fact with respect to the extent to which the preliminary plan complies with the standards and conditions established, together with its recommendations to the governing body with respect to the action to be taken on the preliminary plan. The commission may (1) recommend approval, (2) recommend approval with conditions, or (3) recommend disapproval of the preliminary plan.
 - b. The governing body, after a 14-day protest period, shall consider the commission's recommendation on the preliminary plan. The governing body may (1) approve such recommendation, (2) override the commission's recommendation by a 2/3 majority vote of the membership of the governing body, or (3) return the recommendation to the commission for further consideration, together with a statement specifying the basis for the governing body's failure to approve or disapprove.
 - i. If the preliminary plan is approved, the governing body shall adopt an ordinance approving the preliminary plan and establishing a Planned Unit Development district within these regulations for the subject property included in the preliminary plan. The applicant, within 15 days after receiving notification of the approval of the preliminary plan, shall file with the Sedgwick County Register of Deeds a statement that such plan has been filed with the approving authority and has been approved and that such Planned Unit Development district is applicable to certain specifically legally-described land and that copies of said are on file with the City.
 - ii. If the preliminary plan is disapproved by the governing body, after following the necessary procedures as established by state statute, the applicant shall be furnished with a written statement of the reasons for disapproval of the plan.

9. **Action on a final PUD plan.** Within six months after approval of the preliminary plan, the applicant shall have the final plan prepared in conformance with the preliminary plan and submitted with the Office of the City Clerk.
- a. Such final plan shall include the following:
 - i. Construction drawings of all buildings to include elevations, grading, and floor plans;
 - ii. Site plan;
 - iii. Drainage Plan;
 - iv. Landscape and screening plan showing species and size of all plant material, areas to be seeded, etc.;
 - v. Copies of any dedications for easements or rights-of-way and restrictive covenants;
 - vi. Evidence that no lots, parcel or tract or dwelling unit in such development have been conveyed or leased prior to the recording of any restrictive covenants applicable to such PUD; and
 - vii. Such bonds or guarantees and other documents that may have been required by the preliminary plan pursuant to the provisions and procedures of the Subdivision Regulations.
 - b. The final plan shall be deemed to be in substantial compliance with the preliminary plan given tentative approval, provided any modification from the preliminary plan does not:
 - i. Vary the proposed gross residential density or intensity of use by more than five percent or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area; nor
 - ii. Increase by more than ten percent the floor area proposed for non-residential use; nor
 - iii. Increase by more than five percent the total ground area covered by buildings; nor
 - iv. Involve a substantial change in the height of buildings; nor
 - v. Substantially change the design of the plan so as to significantly alter, as determined by the Planning Commission:
 - a. Pedestrian or vehicular traffic flow.
 - b. The juxtaposition of different land uses.
 - c. The relation of open space to residential development.
 - d. The proposed phasing of construction.
 - c. A public hearing need not be held for the final action of a final plan if it is in substantial compliance with the approved preliminary plan, and a public hearing need not be held to consider modifications on location and design of streets or facilitates for water, storm water, sanitary sewers or other public facilities.

- d. In the event a public hearing is not required for final action and the application of final plan has been filed, together with all drawings, specifications and other documents in support thereof, the commission shall, within a reasonable period of time of such filing, recommend that such plan be given final approval and forward its recommendation to the governing body for final action.
 - e. In the event the final plan submitted contains substantial changes from the approved preliminary plan, the applicant shall resubmit the original plan. This preliminary development plan shall be modified in the same manner prescribed in this article for original approval.
- 10. **Protest.** Whether or not the commission recommends approval or disapproval of a preliminary plan, if a protest petition against such preliminary plan is filed in the Office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record of 20% or more of the total real property within the area required to be notified by the preliminary plan, excluding streets and public ways, the ordinance adopting such preliminary plan shall not be passed except by at least 3/4 majority vote of all the members of the governing body. Protest petition procedures may be found in Section 203.H.
- 11. **Appeals.** The governing body's decision on a PUD shall be the final local action. Appeals of such final local action shall be taken to district court.
- 12. **Period of validity.** The proposed construction shall begin within 18 months following approval of the final application by the governing body, and a minimum of 50 percent of the total planned construction shall be completed within a period of six years following such approval or the approval of the plan shall expire. The period of time established for the completion of the development may be modified from time to time by the Planning Commission upon the showing of good cause by the developer. In the event the landowner shall fail to commence the PUD within 18 months after final approval has been granted, such final approval shall terminate and shall be deemed null and void unless such time period is extended by the commission upon written application by the landowner.
- 13. **Enforcement of plan.** To ensure the mutual interest of the resident and owners of the PUD and of the general public, the enforcement of the provisions of the PUD, as finally approved—whether recorded by plan, covenant, easement or otherwise, shall be subject to the following provisions:
 - a. Enforcement by the City covers the provisions of the plan relating to:
 - i. The use of land and the use, bulk and location of buildings and structures.
 - ii. The quality and location of common space.
 - iii. The intensity of use or the density of residential units.
 - b. Enforcement by the residents and owners cover any additional items not listed in item (a) above.
 - c. All enforcement proceedings shall be subject to the provisions provided for by state statute.

14. **Amendments to PUDs.** A Planned Unit Development District adopted via ordinance or an approved preliminary or final PUD plan may be amended by the governing body after public hearing as outlined in **Section 416**.

- a. In the event that a plan or section hereof is given final approval and thereafter the landowner shall abandon said plan or section, he or she shall so notify the City thereof in writing.
- b. No changes in the development plan that are approved under these regulations are to be considered as a waiver of the covenants limiting the use of the land, buildings, structures, and improvements within the area of the PUD, and all rights to enforce these covenants against any changes permitted are expressly reserved.
- c. All modification proceedings shall be subject to the provisions provided for by state statute.

15. Review criteria for PUDs.

16. Platting. For unplatted tracts or tracts being replatted, the approval of the preliminary plan shall be considered as the approval of a preliminary plat. To complete the platting process, the applicant need only submit a final plat. The final plat shall be in accordance with the Subdivision Regulations and may be submitted with or incorporated with the final plan. The final plan and the final plat may be reviewed by the commission concurrently and recommended to the governing body for final action.

203.D. ADMINISTRATIVE ADJUSTMENT.

- 1. **General.** The intent and purpose of this section is to allow for administrative action on requests for minor modifications or adjustments to certain provisions of these regulations.
- 2. **Authority.** The Zoning Administrator, with the concurrence of the Deputy Administrative Officer, shall have the authority to approve applications for Administrative Adjustments.
- 3. **Authorized Administrative Adjustments.** Administrative Adjustments shall be limited to the following:
 - a. Reducing the minimum lot area, width, or depth by up to 10 percent.
 - b. Increasing the maximum structure height by up to 20 percent.
 - c. Reducing the minimum front, rear, or side yard by up to 20 percent.
 - d. Increasing the maximum lot coverage by up to 10 percent.
 - e. Reducing off-street parking and loading requirements, the required depth of parking stalls and the required width of circulation aisles by up to 25 percent.
- 4. **Application.** An application for an Administrative Adjustment may be proposed by the owner(s), the authorized agent(s) of such owner(s), or the contract purchaser(s)/lessee(s) of the subject property.

- a. **Pre-application meeting.** All applicants are encouraged to meet with applicable City staff prior to submitting an application. The purpose of the pre-application meeting is to provide staff and the applicant an opportunity to discuss the steps and any other applications that may be necessary prior to the commencement of a specific building project.
5. **Submittal.** An application, in writing, for such Administrative Adjustment shall be filed with Office of the City Clerk and accompanied by such data and information as may be prescribed by the Zoning Administrator so as to assure the fullest possible presentation of facts for the permanent record. No application shall be processed until the application is complete and the required fee paid. The following shall be included with the application:
 - a. The complete legal description and general street location of the subject property;
 - b. Written statements, diagrams or exhibits explaining the following:
 - i. How strict compliance with the limitations and/or special conditions or requirements imposed by these regulations prevent the proposed use or construction;
 - ii. Why the proposed Administrative Adjustment will not cause substantial injury to the value of other property in the neighborhood; and
 - iii. How the proposed Administrative Adjustment is to be designed, arranged, and operated in order to permit the development and use of the neighboring property in accordance with these regulations.
 - c. A site plan demonstrating how the subject property will be developed if the requested Administrative Adjustment is approved, drawn to scale, and indicating how the proposed adjustment will meet the requirements of these regulations;
 - d. Other information, such as photographs, renderings, landscaping or screening plans, or other reports as may be required by the Zoning Administrator. Such materials will be made part of the case file and become public record; and
 - e. Filing fees paid to the City Clerk, as determined in Chapter 17 of the City Code.
6. **Action by the Zoning Administrator.** Upon submission of the Administrative Adjustment application, the Zoning Administrator shall render and issue a written decision to the applicant in the form of an Administrative Adjustment to be filed with the Sedgwick County Register of Deeds Office or a written denial of the requested Administrative Adjustment containing specific findings of fact to be filed with the application.
7. **Conditions.** In granting an Administrative Adjustment, the Zoning Administrator may attach such conditions upon the property and/or the applicant benefited by the Administrative Adjustment deemed necessary to address issues raised during the application process. Such conditions may include, but are not be limited to:
 - a. Length and time of operation and ownership limitations;
 - b. Screening, landscaping and fencing;
 - c. Provision of utilities, drainage, sidewalks and other public improvements;

- d. Additional access or access control;
 - e. Off-street parking and loading requirements; and
 - f. Platting, dedications and/or guarantees.
- 8. **Appeals.** The applicant may appeal the final decision on an Administrative Adjustment made by the Zoning Administrator. Appeal procedures may be found in Section 203.G.
- 9. **Exercising of Administrative Adjustment.** An Administrative Adjustment shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished.
- 10. **Period of Validity.** An Administrative Adjustment issued pursuant to these regulations shall lapse and become ineffective if the Administrative Adjustment is not exercised upon the property within 180 days and/or continuously maintained on the property thereafter; provided, that the Zoning Administrator may grant additional extensions, not exceeding 180 days each, upon written application.
- 11. **Failure of conditions.** If the Zoning Administrator finds that there is a violation of any of the conditions of an Administrative Adjustment, the Zoning Administrator, in addition to reinforcing the other remedies, may, with the concurrence of the Deputy Administrative Officer, declare that the Administrative Adjustment is null and void. Such finding and declaration shall be made in writing and mailed to the owner of the real property affected by the Administrative Adjustment. A copy shall be sent to the Deputy Administrative Officer. The Zoning Administrator's declaration shall be final unless appealed in accordance with Section 203.G of these regulations.
- 12. **Amendments to Administrative Adjustments.** Approved Administrative Adjustments may be amended by following the same procedures as required for consideration and approval of the original Administrative Adjustment application.

203.E. VARIANCE.

- 1. **General.** The Board of Zoning Appeals may authorize, in certain cases, a Variance from the specific terms of these regulations.
- 2. **Application.** An application for a Variance may be proposed by the owner(s), the authorized agent(s) of such owner(s), or the contract purchaser(s)/lessee(s) of the subject property.
 - a. **Pre-application meeting.** All applicants are encouraged to meet with applicable City staff prior to submitting an application. The purpose of the pre-application meeting is to provide staff and the applicant an opportunity to discuss the steps and any other applications that may be necessary prior to the commencement of a specific building project.
- 3. **Submittal.** An application, in writing, for such Variance shall be filed with Office of the City Clerk and accompanied by such data and information as may be prescribed by the Zoning

Administrator so as to assure the fullest possible presentation of facts for the permanent record. No application shall be processed until the application is complete and the required fee paid. The following shall be included with the application:

- a. The complete legal description and general street location of the subject property;
 - b. Eight copies of a site plan of the subject property demonstrating the condition for which the Variance is being requested;
 - c. A certified list of the names and addresses of all property owners within 200 feet of the subject property (excepting public streets and ways) and obtained from an abstract company. If the subject property is located adjacent to or outside the City's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area; and
 - d. Filing fees paid to the City Clerk, as determined in Chapter 17 of the City Code.
4. **Hearing.** Prior to making the final decision on a Variance, a public hearing shall be held. The Zoning Administrator shall establish the time and place of the public hearing. At least 20 days' notice of the time and place of the public hearing shall be published in the official paper of the City of Haysville.
 - a. In addition to such public notice, written notice of such Variance shall be mailed to all property owners and applicable addresses included in the certified list submitted by the applicant and an opportunity granted to interested parties to be heard at the public hearing.
5. **Authority.** The Board of Zoning Appeals shall be permitted to approve, approve with conditions, or deny a request for a Variance from the specific terms of these regulations. Such variance will not be contrary to the public interest and, where owing to special conditions, a literal enforcement of the provisions of these regulations will in an individual case result in unnecessary hardship (total deprivation of use), and provided that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not allow the establishment of a use in a zoning district where such use is not permitted.
6. **Action by the Board of Zoning Appeals.** After testimony and discussion, the board shall render a final decision on the Variance. The board may adjourn to a specific time and location in order to obtain additional information before making a final decision. If the board fails to make a decision within 60 days following the conclusion of the public hearing, the board shall be deemed to have made a decision of denial, and such default decision shall be final.
7. **Appeals.** The board's decision on a Variance shall be the final local action. Appeals of such final local action shall be taken to district court.
8. **Exercising the Variance.** A Variance shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished. When such Variance is abandoned or discontinued for a period of 1 year, it shall not be reestablished, unless authorized by the commission upon written application.

9. **Failure of conditions.** If the Zoning Administrator finds that there is a violation of any of the conditions of a Variance, the Zoning Administrator, in addition to reinforcing the other remedies, may, with the concurrence of the Deputy Administrative Officer, declare that the Variance is null and void. Such finding and declaration shall be made in writing and mailed to the owner of the real property affected by the Variance. A copy shall be sent to the Deputy Administrative Officer. The Zoning Administrator's declaration shall be final unless appealed in accordance with Section 203.G of these regulations.
10. **Amendments to Variances.** Approved Variances may be amended by following the same procedures as required for consideration and approval of the original Variance application.
11. **Review criteria for Variances.** A request for Variance may be granted in such case upon finding by the board that **ALL** of the below conditions have been met.
 - a. That the Variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and that it is not created by an action or actions of the property owner represented in the application;
 - b. That the granting of the Variance will not adversely affect the rights of adjacent property owner represented in the application;
 - c. That the strict application of the provisions of these regulations of which Variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
 - d. That the Variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
 - e. That granting of the Variance desired will not be opposed to the general spirit and intent of these regulations.

203.F. SPECIAL EXCEPTIONS.

1. **General.** The intent and purpose of this section is to outline the procedures for the authorization of a Special Exception to the provisions of these regulations.
2. **Authority.** The Board of Zoning appeals shall have the authority to grant exceptions to the provisions of these regulations in those instances where the board is specifically authorized to grant such exceptions and only under the terms of these regulations. In no event shall exceptions to the provisions of these regulations be granted where the use or exception contemplated is not specifically listed as an exception in these regulations. Further, under no conditions shall the board have the power to grant exceptions when conditions of this exception, as established in these regulations, are not found to be present.
3. **Types of Special Exceptions.** The board shall have the power to authorize the following special exceptions:

- a. To grant a permit for a temporary building for commerce or industry in a dwelling district which is incidental to the dwelling development, which temporary building shall be located in the platted development area. No such permit shall be issued for more than 24 months or beyond completion of the project, whichever is shorter.
 - b. To grant a permit for the extension of a use or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership at the time of the adoption of these regulations, or at the time of annexation, whichever is later.
4. **Application.** An application for a Special Exception may be proposed by the owner(s), the authorized agent(s) of such owner(s), or the contract purchaser(s)/lessee(s) of the subject property.
 - a. **Pre-application meeting.** All applicants are encouraged to meet with applicable City staff prior to submitting an application. The purpose of the pre-application meeting is to provide staff and the applicant an opportunity to discuss the steps and any other applications that may be necessary prior to the commencement of a specific building project.
3. **Submittal.** An application, in writing, for such Special Exception shall be filed with Office of the City Clerk and accompanied by such data and information as may be prescribed by the Zoning Administrator so as to assure the fullest possible presentation of facts for the permanent record. No application shall be processed until the application is complete and the required fee paid. The following shall be included with the application:
 - a. The complete legal description and general street location of the subject property;
 - b. Site plan of the subject property demonstrating the condition for which the Special Exception is being requested;
 - c. Protective covenants, if any;
 - d. Filing fees paid to the City Clerk, as determined in Chapter 17 of the City Code.
5. **Action by the Board of Zoning Appeals.** After testimony and discussion, the board shall approve, approve with conditions, or deny the Special Exception request. Failure of the board to make a decision on a Special Exception request after a period of 30 days shall deem the request denied by the board.
6. **Appeals.** The board's decision on Special Exceptions shall be the final local action. Appeals of such final local action shall be taken to district court.
7. **Exercising the Special Exception.** A Special Exception shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished.
8. **Failure of conditions.** If the Zoning Administrator finds that there is a violation of any of the conditions of a Special Exception, the Zoning Administrator, in addition to reinforcing the other remedies, may, with the concurrence of the Deputy Administrative Officer, declare that the Special Exception is null and void. Such finding and declaration shall be made in writing and

mailed to the owner of the real property affected by the Special Exception. A copy shall be sent to the Deputy Administrative Officer. The Zoning Administrator's declaration shall be final unless appealed in accordance with Section 203.G.

9. Review criteria for Special Exceptions. A request for a Special Exception may be granted in such case upon finding by the board that ALL of the below conditions have been met:

- a. The proposed Special Exception will not be contrary to the public interest;
- b. The spirit of these regulations shall be observed;
- c. The public safety and welfare is secured;
- d. Substantial justice is done.

203.G. APPEALS.

1. **General.** Any person aggrieved by any officer, department, board or bureau of the municipality during the enforcement of these regulations or affected by any decision of the Zoning Administrator regarding the applicability of such restrictions and/or requirements imposed by these regulations may appeal such decision to the Board of Zoning Appeals. Such grievance shall be taken within a reasonable amount of time to the board for consideration and/or action by filing an appeal within 14 days of the decision specifying the grounds thereof and paying the fee required. The officer, department, board or bureau from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed was taken.
2. **Application.** The following shall be included in any application for appeal:
 - a. A written statement shall be filed with the Board of Zoning Appeals accompanied by such data and information as may be prescribed by the board as to assure the fullest possible presentation of facts for the permanent record;
 - b. The property for which review and consideration is sought shall be designated by legal description and general street location;
 - c. A certified list of the names and addresses of all property owners within 200 feet of the designated property (excepting public streets and ways) shall be provided by the petitioner. If a proposed appeal to property for which review and consideration is sought is located adjacent to or outside the City's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area; and
 - d. Filing fees paid to the City Clerk, as determined in Chapter 17 of the City Code.
3. **Stay proceedings.** An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board after the notice of appeal shall have been filed with him or her that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application or notice to the officer from the appeal of which is taken and on due cause shown.

4. **Action by the Board of Zoning Appeals.** In exercising the powers set out in this article, such board may reverse or affirm wholly or partially, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and that end shall have all powers of the officer from whom the appeal is taken.
5. **Vote required to reverse.** The concurring vote of a majority of the members appointed to the board shall be required to reverse any order, requirement, decision, or determination of any such administrative officer, department, board or bureau of the municipality or to decide in favor of the applicant on any matter upon which it is required, or to affect any variation of the zoning regulations.
6. **Expiration of authority to appeal.** If no interested person appeals an action or decision to the Board of Zoning Appeals within 14 days, all interested persons will be bound by that action or decision and will not be able to contest at a later time.
7. **Appeals.** The board's decision on an appeal shall be the final local action. Appeals of such final local action shall be taken to district court.

203.H. PROTEST PETITIONS.

1. **General.** The intent and purpose of this section shall be to outline the procedures in protesting a Zone Change, Conditional Use permit, Variance or any other request reviewed by the Planning Commission during a required public hearing.
2. **Application.** Any owners of record within the required notification area of a public hearing may submit a protest petition. A protest petition may be submitted regardless of whether the commission recommended approval or denial of a request.
3. **Submittal.** A protest petition, in writing, shall be submitted to the Office of the City Clerk within 14 days of the public hearing. Such petition shall include the following:
 - e. Information about the request for which the protest is submitted;
 - f. Contact information, address, and full legal description and general street location of the protestor's property;
 - i. If the protester's property has more than one owner, all owners of the property must sign the protest petition to ensure that it will be found valid; and
 - g. Acknowledgement by a notary public.
4. **Valid Protest Petition.** A protest petition must be signed by the owners of record of at least 20% of the land within the required notification area of a request to be considered valid. Notification areas are dependent on the request type. Please refer to the specific procedures for each request for the extent of the notification area.
 - a. If the ownership of the protestor's property is different from that shown on the certified ownership list submitted with the request, it is the responsibility of the protestor(s) to provide proof of ownership.

- b. If a protestor is signing on behalf of a property owner, the protestor must provide proof of legal authority to do so and specify the formal capacity in which they are signing (e.g., as a legal guardian, power of attorney, etc.).
- c. Protest petitions must be submitted within 14 days following the conclusion of a public hearing.
- d. Protest petitions submitted prior to the conclusion of a public hearing will not be considered valid.

Effect of valid Protest Petition. If a valid and sufficient protest petition is submitted, approval of the request requires an affirmative vote by at least a $\frac{3}{4}$ majority of the members of the governing body.

ARTICLE 2

~~—INTERPRETATION, CONSTRUCTION AND~~ DEFINITIONSADMINISTRATION AND PROCEDURES

SECTION

200. ZONING ADMINISTRATOR

200.A. GENERAL. This section establishes the duties and responsibilities of the Zoning Administrator with respect to the administration of these regulations.

200.B. REVIEWS AND APPROVALS. The Zoning Administrator shall be authorized to undertake reviews, make recommendations, and grant approvals as set forth in these regulations.

200.C. COMPREHENSIVE PLAN. The Zoning Administrator shall assist the Planning Commission in the development and implementation of the comprehensive plan.

200.D. ADMINISTRATIVE REVIEWS AND PERMITS. Administrative reviews and permits shall be in accordance with Sections 200.D.1 through 200.D.5.

1. Review of building permits. Applications for building permits and amendments thereto shall be submitted to the Zoning Administrator for review and approved prior to permit issuance. Each application shall include a set of building plans and all data necessary to show that the requirements of these regulations are met.
2. Site plan reviews. The Zoning Administrator shall receive all applications for site plan review, review for completeness, and prepare submittals for review by the appropriate body.
3. Zoning permits and variances. The Zoning Administrator shall receive all applications for zone changes, conditional uses, other zoning permits, and variances as shall be permitted and approved by these regulations, review for completeness and prepare submittals for review by the appropriate body.
4. Administrative adjustments. The Zoning Administrator shall receive all applications for Administrative Adjustments, review for completeness, and render a written decision.
5. Amendments. Requests for amendments or changes to the comprehensive plan or these regulations or map shall be submitted to the Zoning Administrator for processing.

200.E. INTERPRETATIONS. The interpretation and application of the provisions of these regulations shall be by the Zoning Administrator.

1. Specific uses are permitted within the various zoning districts as described in these regulations and as otherwise provided herein and are thus not subject to interpretation.
2. It is recognized that all possible uses and variations of uses that might arise cannot reasonably be listed or categorized. Mixed uses/sites or any use not specifically mentioned or about which there is a question shall be administratively classified by comparison with other uses identified in the zoning districts described in these regulations. If the proposed use resembles identified uses in terms of intensity and character, and is consistent with the purpose of these regulations and the individual zoning district, it shall be considered as a permitted/nonpermitted use and subject to the regulations for the use it most nearly resembles. If a use does not resemble other identified allowable uses within a zone, it may be permitted as determined by the Board of Zoning Appeals in a public hearing as an amendment to these regulations.

200.E. APPEALS. Any person aggrieved by any decision of the Zoning Administrator shall have the right to make such appeals as shall be permitted to be provided by these regulations or state law. Appeal procedures may be found in Section 203.G.

SECTION 201. PLANNING COMMISSION

201.A. GENERAL. This section addresses the duties and responsibilities of the Planning Commission, hereafter referred to as “the commission,” with respect to the administration of these regulations.

201.B. MEMBERSHIP COMPOSITION. The commission shall consist of seven members who shall be appointed by the Mayor, by and with the consent of the governing body, in all respects as required by law. Five members must reside within city limits, and two members must reside outside of the city limits, but within the City’s Urban Area of Influence as determined by Sedgwick County’s Urban Growth Area Map.

201.C. TERMS OF OFFICE. Members shall serve staggered three year terms which shall expire on June 30 of the third year of appointment. Members may serve successive terms. At the end of the three year term, the member may be reappointed with the approval of the governing body. The terms of the two members residing outside of the corporate limits of the City of Haysville must not expire within the same year. Members shall take office on the first meeting of the commission in July.

201.D. VACANCIES. Vacancies occurring other than through the expiration of a member’s term shall be filled by appointment for the departing member’s unexpired term.

201.E. OFFICERS. The officers of the commission shall be a Chairperson, a Vice-Chairperson, and a Secretary. The officers shall be elected by the commission annually at its first meeting in July. Their term of office shall be one year. The Zoning Administrator or his/her selected representative may serve as Secretary of the commission.

201.F. REGULAR MEETINGS. The commission shall meet at 6:00 p.m. on the second and fourth Thursday of every month at the Haysville City Hall when needed. The Chairperson and Secretary may cancel a regular meeting with at least three days prior notice for the following reasons:

1. It is determined that a quorum will not be present;
2. No subjects are scheduled for the agenda; or
3. Other reasonable circumstances.

201.G. DUTIES AND POWERS. The duties and powers of the commission shall be in accordance with sections 201.G.1 through 201.G.4.

1. **Zone change and conditional use requests.** The commission shall review and make recommendations on all zone change and conditional use requests.
2. **Comprehensive plan.** The commission shall create a comprehensive plan for the development of the City and amend such comprehensive plan as needed. In the creation of such plan, the commission shall employ the use of comprehensive surveys and studies of past and present conditions and trends relating to land use, population and building intensity, public facilities, transportation and transportation facilities, economic conditions, natural resources and any other element deemed necessary. The comprehensive plan shall include the commission’s recommendations for the development or redevelopment of the City, including:

- a. The general location, extent and relationship of the use of land for agriculture, residence, business, industry, recreation, education, public buildings and other community facilities, major utility facilities both public and private and any other use deemed necessary;
 - b. Population and building intensity standards and restrictions and the application of the same;
 - c. Public facilities including transportation facilities of all types whether publicly or privately owned which relate to the transportation of persons or goods;
 - d. Public improvement programming based upon a determination of relative urgency;
 - e. The major sources and expenditure of public revenue including long range financial plans for the financing of public facilities and capital improvements, based upon a projection of the economic and fiscal activity of the community, both public and private;
 - f. Utilization and conservation of natural resources; and
 - g. Any other element deemed necessary to the proper development or redevelopment of the area.
3. **Amendments to the Zoning Regulations.** The commission shall review these regulations annually and make recommendations for amendments as deemed appropriate.
 4. **Capital improvements plans.** The commission shall review and make recommendations on the capital improvements plan annually.

201.H. APPEALS. Any person aggrieved by any decision of the commission shall have the right to make such appeals as shall be permitted to be provided by these regulations or state law. Appeal procedures may be found in Section 203.G.

901. Jurisdiction

Jurisdictional boundaries of planning commission are hereby established as shown on the map designated as the "Zoning Jurisdiction Map," which such map shall include:

- A. ~~Total jurisdiction within city limits;~~
- B. ~~Primary recommendation within zone of influence, three-mile ring, where overlap occurs within the city's zone of influence.~~
- C. ~~Secondary recommendation within zone influence, three-mile ring, where overlap occurs within the city's zone of influence.~~

Such map and all notations, references and the information shown thereon are hereby made a part of this chapter as if the same were set forth in full herein. It shall be the duty of the Planning Commission Secretary to keep on file in his or her office an authentic copy of the map, all changes, amendments or additions thereto and duplicate copies thereof shall be kept on file in the office of the Planning Commission and building inspector.

SECTION 202. BOARD OF ZONING APPEALS

Article 10. Board of Zoning Appeals 1001

202.A. GENERAL. This section addresses the duties and responsibilities of the Board of Zoning Appeals, hereafter referred to as “the board,” with respect to the administration of these regulations.

202.B. ESTABLISHMENT OF THE BOARD. The establishment of the board shall be in accordance with the procedures and policies set forth in state law. The board shall consist of the number of members as specified in state law.

202.C. DUTIES AND POWERS. The duties and powers of the board shall be in accordance with Sections 202.C.1 through 202.C.4.

1. Appeals. The board shall have the power to hear appeals (of, where, or when) it is alleged there is an error in any order, requirement, decision or determination made by an administrative officer, department, board or bureau in the enforcement of these regulations.

2. Variances. The board shall be permitted to make decisions on requests for ~~The board is empowered to authorize in specific cases a variance from the specific terms of the~~ **these regulations.** ~~e zoning ordinance which will not be contrary to the public interest and where owing to special conditions, a literal enforcement of the provisions of the zoning ordinance will in an individual case result in unnecessary hardship (total deprivation of use), and provided that the spirit of the zoning ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning ordinance in such district.~~

~~— A request for variance may be granted in such case upon finding by the board that all of the following conditions have been met:~~

~~— That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and that it is not created by an action or actions of the property owner represented in the application;~~

~~— That the granting of the permit for the variance will not adversely affect the rights of adjacent property owner represented in the application;~~

~~— That the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.~~

~~— Permit fees shall be as established in Chapter 17 of the Municipal Code of Haysville, Kansas. (Code 2023). The fee shall be paid to the city clerk upon the filing of the variance, for the purpose of defraying the costs of the proceedings prescribed herein. A written receipt shall be issued to the persons making such payment and records thereof shall be kept in such a manner as prescribed by law.~~

~~— That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.~~

~~That granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinances.~~

3. Special exceptions. ~~The board is authorized to grant exceptions to the provisions of the zoning ordinance in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning ordinance. In no event shall exceptions to the provisions of the zoning ordinance be granted where the use or exception contemplated is not specifically listed as an exception in the zoning ordinance. Further, under no conditions shall the board have the power to grant exceptions when conditions of this exception, as established in the zoning ordinance, are not found to be present. The board is authorized:~~

~~To grant a permit for a temporary building for commerce or industry in a dwelling district which is incidental to the dwelling development, which temporary building shall be located in the platted development area. No such permit shall be issued for more than 24 months or beyond completion of the project, whichever is shorter.~~

~~To grant a permit for the extension of a use or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership at the time of the adoption of the zoning ordinance, or at the time of annexation, whichever is later.~~

~~To determine in cases of uncertainty, the classification of any use not specifically enumerated in the zoning regulations.~~

4. Definitions and use classifications. ~~The board shall have the power to, in cases of uncertainty, classify any use or define any word not specifically identified in these regulations. Such use or definition shall be defined and may be permitted as determined by the Board of Zoning Appeals in a public hearing as an amendment to these regulations.~~

202.D. APPEALS. ~~Decisions of the board shall be the final local action. Appeals of such final local action shall be taken to district court.~~

SECTION 203. PROCEDURES

203.A. ZONE CHANGE.

- 1. General.** The intent and purpose of this section is to outline the procedures for Zone Change requests under these regulations.
- 2. Application.** An application for a Zone Change may be proposed by the owner(s), the authorized agent(s) of such owner(s), or the contract purchaser(s)/lessee(s) of the subject property.

 - a. Pre-application meeting.** All applicants are encouraged to meet with applicable City staff prior to submitting an application. The purpose of the pre-application meeting is to provide staff and the applicant an opportunity to discuss the steps and any other applications that may be necessary prior to the commencement of a specific building project.
- 3. Submittal.** An application, in writing, for such Zone Change shall be filed with Office of the City Clerk and accompanied by such data and information as may be prescribed by the Zoning Administrator so as to assure the fullest possible presentation of facts for the permanent record. No application shall be processed until the application is complete and the required fee paid. The application shall include the following:

 - a.** The complete legal description and general street location of the subject property;
 - b.** Site plan;
 - c.** A certified list of the names and addresses of all property owners within 200 feet of the designated property (excepting public streets and ways) shall be obtained from an abstract company and is to be provided by the petitioner. If the proposed designated property is located adjacent to or outside the City's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area;
 - d.** A copy of restrictive covenants, if any; and
 - e.** Filing fees paid to the City Clerk, as determined in Chapter 17 of the City Code.
- 4. Hearing.** Prior to making the final decision on a Zone Change, a public hearing shall be held. The Zoning Administrator shall establish the time and place of the public hearing. At least 20 days' notice of the time and place of the public hearing shall be published in the official paper of the City of Haysville.

 - a.** In addition to such public notice, written notice of such Zone Change shall be mailed to all property owners and applicable addresses included in the certified list submitted by the applicant and an opportunity granted to interested parties to be heard at the public hearing.
- 5. Authority.** The Planning Commission shall have the authority to make recommendations on Zone Change requests and recommend protective overlays and safeguards as deemed necessary to protect and enhance the health, safety, and welfare of the surrounding area. The governing body shall have the authority to make the final decision on Zone Change requests.

6. **Action by the Planning Commission.** An accurate written summary of the ~~Public Hearing~~public hearing held by the ~~planning commission~~commission shall be made. The ~~Public Hearing~~public hearing may be adjourned from time to time. Within 60 days following the conclusion of the public hearing, the ~~planning commission~~commission shall prepare its recommendations, and by an affirmative vote of a majority of the entire membership of the ~~Commission~~commission either may (1) recommend approval of the Zone Change; (2) recommend approval with the addition of a protective overlay; or (3) recommend denial of the Zone Change including a statement of the reason(s) for such denial. ~~and~~The recommendation, together with the written summary of the public hearing thereon, shall be submitted to the governing body. If the ~~Planning Commission~~commission fails to make a recommendation on a Zone Change within the allotted timeframe, the ~~Planning Commission~~commission shall be deemed to have made a recommendation of disapproval, and such default recommendation and written summary of the public hearing, shall be submitted to the governing body for further action.
7. **Action by the governing body.** Upon receipt of the recommendation from the commission and the reasons therefor, the governing body may (1) approve such recommendation by the adoption of an ordinance; (2) override the commission's recommendations by a 2/3 majority vote of the membership of the governing body, and adopt an ordinance setting forth the action determined appropriate by such majority of that body; or (3) return the recommendation to the commission for further consideration, together with a statement specifying the basis for the governing body's failure to approve or disapprove.
 - a. If the governing body returns the commission's recommendation for further consideration, the commission, at its next regularly scheduled meeting, shall consider the same and, after consideration, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation. Upon the receipt of such recommendation, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt, such recommendation by an ordinance, or it need take no further action thereon. If the commission fails to deliver its recommendation to the governing body following the commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the commission as a resubmission of the original recommendation and proceed accordingly.
8. **Protest.** Regardless of the commission's decision on a Zone Change, if a protest petition against such Zone Change is filed in the Office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record of 20% or more of the total real property within the area required to be notified by the Zone Change, excluding streets and public ways, the ordinance adopting such Zone Change shall not be passed except by at least 3/4 majority vote of all the members of the governing body. Protest petition procedures may be found in Section 203.H.
9. **Appeals.** The governing body's decision on a Zone Change shall be the final local action. Appeals of such final local action shall be taken to district court.

10. **Amendments to Zone Changes.** Zone Changes approved with the addition of a protective overlay may be amended by following the same procedures as required for consideration and approval of the original Zone Change application.

11. **Review criteria for Zone Changes.** The following criteria shall be evaluated as they relate to the specific case being considered, and such stipulation as deemed appropriate in relation to any request for a Zone Change may be developed by the ~~Planning Commission~~commission and incorporated into any recommendation in support of the requested Zone Change.

- a. Zoning uses and character of the neighborhood;
- b. Suitability of the subject property for the uses to which it has been restricted;
- c. Extent to which removal of the restrictions will detrimentally affect nearby property;
- d. Length of time the subject property has remained vacant as zoned;
- e. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant;
- f. Conformance of the requested change to the adopted or recognized comprehensive plan;
- g. Impact of the imposed development on community facilities;
- h. Opposition or support of neighborhood residents.

203.B. CONDITIONAL USE PERMIT.

1. **General.** A Conditional Use permit shall be obtained for certain uses, which would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions and located in specific locations within a district, but shall not be allowed under the general conditions of the district as stated in these regulations.

2. **Application.** An application for a Conditional Use permit may be proposed by the owner(s), the authorized agent(s) of such owner(s), or the contract purchaser(s)/lessee(s) of the subject property.

- a. **Pre-application meeting.** All applicants are encouraged to meet with applicable City staff prior to submitting an application. The purpose of the pre-application meeting is to provide staff and the applicant an opportunity to discuss the steps and any other applications that may be necessary prior to the commencement of a specific building project.

~~—Submittal. 702-CONDITIONAL USES~~

~~—The governing body may, from time to time, on its own motion or on petition, in the manner provided for herein, authorize in specific cases such conditional uses as are expressly allowed in the various districts.~~

~~A. —Application.~~ An application, in writing, for such Conditional Use permit shall be filed with Office of the Planning CommissionCity Clerk and, accompanied by such data and information as may be prescribed by the CommissionZoning Administrator so as to assure the

fullest possible presentation of facts for the permanent record. No application shall be processed until the application is complete and the required fee paid. The application shall include the following:

3.

a. 1. ~~On the application, the property for which the conditional use is sought shall be designated by~~The complete legal description and general street location of the subject property;

~~Site plan;~~

b.

~~2.~~ A ~~ccompanying the application, a c~~ertified list of the names and addresses of all property owners within 200 feet of the designated property (excepting public streets and ways) shall be obtained from an abstract company and is to be provided by the petitioner. ~~If the proposed designated property is located in the "SF15" Residential District, or adjacent to the "SF15" Residential District, the area of notification of the action shall be extended to at least 1,000 feet in the "SF15" Residential District. If the proposed designated property is located adjacent to~~ or outside the ~~city~~City's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area; ~~and;~~

c.

d. 3. Filing fees paid to the City Clerk, as determined in Chapter 17 of the City Code. Permit fees shall be as established in Chapter 17 of the Municipal Code of Haysville, Kansas. (Code 2023). The permit fee shall be paid to the city clerk upon the filing of each application for each lot, tract, or parcel included in the application for the purpose of defraying the costs of the proceedings prescribed herein. A written receipt shall be issued to the person making such payment and the records thereof shall be kept in such a manner prescribed by law.

~~B.~~ Public Hearing. Prior to making the final decision on a Conditional Use permit, a public hearing shall be held. The Planning CommissionZoning Administrator shall establish the time and place of the public hearing.

1. At least 20 days' notice of the time and place of the public hearing shall be published in the official paper of the City of Haysville.

4.

a. 2. In addition to such public notice, written notice of such Conditional Use permit shall be mailed to all property owners and applicable addresses ~~within 200 feet of the property (excepting public streets and ways)~~included in the certified list

submitted by the applicant and an opportunity granted to interested parties to be heard at the public hearing.

5. **Authority.** The Planning Commission shall have the authority to make recommendations on Conditional Use permit requests and recommend conditions and safeguards as deemed necessary to protect and enhance the health, safety, and welfare of the surrounding area. The governing body shall have the authority to make the final decision on Conditional Use permit requests. The authorization of the Conditional Use permit shall not be made unless the evidence presented is such to establish:

~~If the proposed designated property is located in the "SF15" Single Family Suburban Residential District, or adjacent to the "SF15", the area of notification of the action shall be extended to at least 1,000 feet in the "SF15". If the proposed designated property is located adjacent to the city's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area.~~

~~C. Consideration. The objective of permitting specific conditional uses within a district is to provide adequate consideration of the conditions in terms of this Code to assure:~~

~~a. 1. That proposed uses will not be contrary to the public interest.~~

~~b. 2. That the spirit of the se regulations ~~Code~~ is observed.~~

~~c. 3. That public safety and welfare is secured.~~

~~d. 4. That substantially equal treatment under the law is preserved.~~

6. **Action by the Planning Commission.** An accurate written summary of the ~~Public Hearing~~ public hearing held by the ~~planning commission~~ commission shall be made. The ~~Public Hearing~~ public hearing may be adjourned from time to time. Within 60 days following the conclusion of the public hearing, the ~~planning commission~~ commission shall prepare its recommendations, and by an affirmative vote of a majority of the entire membership of the ~~Commission~~ commission either ~~may~~ (1) ~~adopt the recommendation~~ recommend approval including any conditions to be met in allowing the ~~C~~conditional ~~U~~use permit, or (2) ~~deny~~ recommend denial of the application including a statement of the reason(s) for such denial. ~~and T~~the recommendation, together with the written summary of the public hearing thereon, shall be submitted to the governing body. If the ~~Planning Commission~~ commission fails to make a recommendation on a ~~C~~conditional ~~U~~use request ~~permit~~ within the allotted timeframe, the ~~Planning Commission~~ commission shall be deemed to have made a recommendation of disapproval, and such default recommendation and written summary of the public hearing, shall be submitted to the governing body for further action.

7. **Action by the governing body.** Upon receipt of the recommendation from the ~~Planning Commission~~ commission and the reasons therefor, the governing body either may: (1) ~~a~~Approve such recommendation by the adoption of a ~~resolution~~ n-Order; (2) override the ~~Planning Commission~~ commission's recommendations by a 2/3 majority vote of the membership of the governing body, and adopt a ~~resolution~~ n-Order setting forth the action determined appropriate by such majority of that body; or (3) ~~may~~ return the recommendation to the ~~Planning Commission~~ commission for further consideration, together with a statement specifying the basis for the governing body's failure to approve or disapprove.

- a. If the governing body returns the ~~Planning Commission~~commission's recommendation for further consideration, the ~~Planning Commission~~commission, shall at its next regularly scheduled meeting, shall consider the same; and, after consideration, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation. ~~Except as otherwise required by 700(E) above, upon~~Upon the receipt of such recommendation, the governing body, by a simple majority thereof, may adopt, or may revise or amend and adopt, such recommendation by ~~order~~resolution, or it need take no further action thereon. If the ~~Planning Commission~~commission fails to deliver its recommendation to the governing body following the ~~Planning Commission~~commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the ~~Planning Commission~~commission as a resubmission of the original recommendation and proceed accordingly.
8. **Protest.** Whether or not the commission recommends approval or disapproval of a Conditional Use permit, if a protest petition against such permit is filed in the Office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record of 20% or more of the total real property within the area required to be notified by the Conditional Use permit, excluding streets and public ways, the resolution adopting such permit shall not be passed except by at least 3/4 majority vote of all the members of the governing body. Protest petition procedures may be found in Section 203.H.
9. **Successive applications.** In the event that the final action on a Conditional Use permit is that it be denied, a similar application shall not be refiled for one year from the latest advertised public hearing date on said application. The Zoning Administrator may permit a refiling of said application after six months of the latest advertised public hearing date when it determines that significant physical, economic, or land use changes have taken place within the immediate vicinity, or a significant zoning regulation text change has been adopted, or when the application is for a different use than the original request. The applicant shall submit a statement in detail setting out those changes that the applicant deems significant and upon which the applicant relies for rifling the original application.
10. **Appeals of final action.** The governing body's decision on a Conditional Use permit shall be the final local action. Appeals of such final local action shall be taken to district court.
11. **Exercising of permit.** A Conditional Use permit shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished. When such permit is abandoned or discontinued for a period of 1 year, it shall not be reestablished, unless authorized by the commission upon written application.
12. **Failure of conditions.** If the Zoning Administrator finds that there is a violation of any of the conditions of a Conditional Use permit, the Zoning Administrator, in addition to reinforcing the other remedies, may, with the concurrence of the Deputy Administrative Officer, declare that the Conditional Use is null and void. Such finding and declaration shall be made in writing and mailed to the owner of the real property affected by the Conditional Use restrictions. A copy

shall be sent to the Deputy Administrative Officer. The Zoning Administrator's declaration shall be final unless appealed in accordance with Section 203.G of these regulations.

13. **Amendments to Conditional Uses.** Approved Conditional Uses may be amended by following the same procedures as required for consideration and approval of the original Conditional Use application.

14. **Minor adjustments to Conditional Uses.** The Zoning Administrator, with the concurrence of the Deputy Administrative Officer, may approve minor adjustments to approved Conditional Use permit site plans, unless finding that the proposed development would have one or more negative impacts as determined in 203.B.15.

15. **Conditional Use review criteria.** The following criteria shall be evaluated as they relate to the specific case being considered, and such stipulation as deemed appropriate in relation to any request for a conditional use Conditional Use permit may be developed by the Planning Commission commission and incorporated into any recommendation in support of the requested conditional use Conditional Use permit.

- a. Access and traffic load and/or flow;
- b. Noise, light and odor;
- c. Screening;
- d. Parking, refer to parking section;
- e. Access and affect to services (public utilities);
- f. Public health and safety;
- g. Adequacy of facility and lot size;
- h. Signs;
- i. Review by fire marshal for designation;
- j. Time limitations for exercising the Conditional Use permit may be incorporated within the conditions of the permit when appropriate to ensure that when the use has been established the criteria upon which the permit was approved remains essentially the same; and
- k. Other considerations as appropriate.

— **Existing conditions.**

~~D. Criteria. The following criteria shall be evaluated as they relate to the specific case being considered, and such stipulation as deemed appropriate in relation to any request for a conditional use may be developed by the Planning Commission and incorporated into any recommendation in support of the requested conditional use.~~

- ~~1. Access and traffic load and/or flow.~~
- ~~2. Noise, light and odor.~~
- ~~3. Screening.~~
- ~~4. Parking, refer to parking section.~~

- ~~5. Services (public utilities).~~
- ~~6. Public health and safety.~~
- ~~7. Adequacy of facility and lot size.~~
- ~~8. Signs.~~
- ~~9. Review by fire marshal for designation.~~
- ~~10. Time limitations for implementing/beginning the use upon the property may be incorporated within the conditions of the conditional use when appropriate to ensure that when the use is begun the criteria upon which the conditional use was approved remains essentially the same.~~
- ~~11. Sunset provisions may be incorporated within the terms of the conditional use in accordance with the same standards set forth in Article 6 regarding abandonment of use.~~
- ~~12. Other considerations as appropriate.~~

~~E. Action. An accurate written summary of the Public Hearing held by the planning commission shall be made. The Public Hearing may be adjourned from time to time. Within 60 days following the conclusion of the public hearing, the planning commission shall prepare its recommendations, and by an affirmative vote of a majority of the entire membership of the Commission either 1) adopt the recommendation including any conditions to be met in allowing the conditional use, or 2) deny the application including a statement of the reason(s) for such denial, and the recommendation, together with the written summary of the public hearing thereon, shall be submitted to the governing body. If the Planning Commission fails to make a recommendation on a conditional use request within the allotted timeframe, the Planning Commission shall be deemed to have made a recommendation of disapproval, and such default recommendation and written summary of the public hearing, shall be submitted to the governing body for further action.~~

~~F. Upon receipt of the recommendation from the Planning Commission, the governing body either may: (1) Approve such recommendation by the adoption of an Order; (2) override the Planning Commission's recommendations by a 2/3 majority vote of the membership of the governing body, and adopt an Order setting forth the action determined appropriate by such majority of that body; or (3) may return the recommendation to the Planning Commission for further consideration, together with a statement specifying the basis for the governing body's failure to approve or disapprove.~~

~~G. If the governing body returns the Planning Commission's recommendation for further consideration, the Planning Commission, shall at its next regularly scheduled meeting consider the same, and after consideration, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation. Except as otherwise required by 700(E) above, upon the receipt of such recommendation, the governing body, by a simple majority thereof, may adopt, or may revise or amend and adopt, such recommendation by order, or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the governing body following the Planning Commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.~~

~~H. Protest. The same protest provisions set forth in Section 701 above shall apply to this conditional use process.~~

16. ~~1. Existing Conditions.~~ Uses which were legal ~~at the time prior to of~~ the adoption of ~~these regulations is zoning ordinance~~ that would be ~~C~~conditional ~~U~~uses under ~~these regulations e zoning ordinance~~ shall be considered nonconforming uses and shall be continued and maintained in conformance with the provisions of ~~Section 600~~ **Article 10**.

203.C. PLANNED UNIT DEVELOPMENT (PUD).

1. **Purpose. PURPOSE.** ~~The purpose of the~~ Planned Unit Development (PUD) ~~Districts~~ is to encourage innovation in residential, commercial, and industrial development; to gain a more efficient use of land; to utilize new technologies in urban land development; and to provide for a greater variety and flexibility in type, design, and layout of buildings.
2. **General provisions. GENERAL PROVISIONS.** Applications ~~s~~ for a PUD may be made for land located in any of the established Haysville zoning districts.
 - a. A PUD shall be in general conformity with the provisions of the adopted comprehensive plan.
 - b. Whenever there is a conflict or difference between the provisions of this article and those of the other articles of the ~~ese regulations is Ordinance~~ or the Subdivision Regulations, the provisions of this article shall prevail for the development of land for PUDs. Subjects not covered by this article shall be governed by the respective provisions found elsewhere in the ~~ese regulations is ordinance~~.
 - c. A successful PUD application shall constitute an amendment to these regulations for the addition of a Planned Unit Development district. The Zone Change requirements for notice to property owners, advertisement of the public hearing, protest petitions, and adoption by the governing body shall apply to PUD applications.
3. **Types of PUDs. TYPE OF PLANNED UNIT DEVELOPMENTS.** The following types of planned unit developments may be established. PUD requests may combine two or more types of uses into a single plan.
3. ~~4.~~
 - a. PUD-R Planned Residential District
 - b. PUD-C Planned Commercial District
 - c. PUD-I Planned Industrial District

~~PUDs may combine two or more types of uses into a single plan.~~
4. **Standards and conditions. STANDARDS AND CONDITIONS.** The following provisions shall apply to all PUD ~~districts~~ requests:
 5. ~~6.~~
 - a. The ~~tract~~ subject property must be a continuous parcel under one ownership or held jointly by two or more owners.
 - b. The applicant shall satisfy the Planning Commission that he or she has the ability to carry out the proposed plan and shall prepare and submit a schedule of construction.

The proposed construction shall begin within 18 months following approval of the final application by the governing body, and a minimum of 50 percent of the total planned construction shall be completed within a period of six years following such approval or the approval of the plan shall expire. The period of time established for the completion of the development may be modified from time to time by the Planning Commission upon the showing of good cause by the developer.

5. Application. ~~PLANNED-UNIT DEVELOPMENT APPLICATION PROCEDURE.~~ An application for a PUD may be proposed by the owner(s), the authorized agent(s) of such owner(s), or the contract purchaser(s)/lessee(s) of the subject property. An application for a PUD shall constitute the filing of an application for a PUD District and shall be processed in the same manner prescribed for amending these zoning regulations. The same requirements for notice to property owners, advertisement of public hearing, protest petitions, and adoption by the governing body shall be required as in conventional zoning.

a. Pre-application meeting. ~~PRE-APPLICATION CONFERENCE.~~ All applicants are encouraged to meet with applicable City staff prior to submitting an application. The purpose of the pre-application meeting is to provide staff and the applicant an opportunity to discuss the steps and any other applications that may be necessary prior to the commencement of a specific project. A pre-application conference shall be held with the PUD subcommittee of the Planning Commission in order for the applicant to become acquainted with the planned unit procedures and related city requirements.

6. Submittal. An application, in writing, for such PUD shall be filed with Office of the City Clerk and accompanied by such data and information as may be prescribed by the Zoning Administrator so as to assure the fullest possible presentation of facts for the permanent record. No application shall be processed until the application is complete and the required fee paid. The application shall include the following:

~~6. SUBMISSION AND REVIEW OF THE APPLICATION.~~

~~a. An applicant shall make application for the approval of the PUD to the Planning Commission. The applicant shall include, as part of the application, a preliminary development plan for the PUD.~~

~~b. The preliminary development plan shall include both, a development plan map and written statement, 9 copies of each.~~

~~a. The Complete legal description and common street location of the subject property;~~

~~e.b. Nine copies of a Planned Unit Development map-site plan or map which~~ shall contain the following information:

- ~~i. Existing topography with contours at two-foot intervals;~~
- ~~ii. Areas subject to one-hundred-year flooding;~~
- ~~iii. Proposed location of buildings and other structures, parking area, drives, walks, screening, drainage patterns and plan, public streets, and any existing/proposed easements;~~
- ~~iv. Internal traffic circulation systems, off-street parking areas, service areas, loading areas, and major points of access to public rights-of-way;~~
- ~~v. Proposed screening and landscaping features;~~

- vi. Areas that are to be conveyed, dedicated, or reserved as common open space.
- vii. Relationship of abutting land uses and zoning districts;~~;~~

~~viii.c.~~ Nine copies of a The-written PUD statement to accompany the ~~map-site plan or map which~~ shall contain the following information:

~~ix.i.~~ An explanation of the character of the PUD;

~~x.ii.~~ A statement of the present ownership and legal description of all the land included within the PUD;

~~xi.iii.~~ Copies of any special agreements, conveyances, restrictions, or covenants that will govern the use, maintenance, and continued protection of the PUD and any of its common open space areas;

~~xii.iv.~~ A statement of the anticipated residential density, the proposed total gross floor area, and the percentage of the development that is to be occupied by structures;

~~xiii.v.~~ As appropriate, a statement identifying the principal types of business and/or industrial uses that are to be included in the proposed development; and-

~~xiv.vi.~~ Maximum height of all buildings.

~~d.~~ Nine copies of a writtenA statement of the objectives showing the relationship of the PUD to the Comprehensive Plan with respect to land use for various purposes, density of population, direction of growth, location and function of streets and other public facilities, and common open space for recreation or visual benefit or both.

~~d.~~ Such written statement shall also include aA time schedule for completion of the project or each phase thereof and improvements to be requested of the ~~city~~City and improvements to be made by the developer;~~;~~

~~i.e.~~ A certified list of the names and addresses of all property owners within 200 feet of the designated property (excepting public streets and ways) shall be obtained from an abstract company and is to be provided by the petitioner. If the proposed designated property is located adjacent to or outside the City's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area;

~~e.f.~~ The applicant may submit any other information or exhibits the applicant deems pertinent in evaluation of the proposed PUD; ~~and-~~

~~f.g.~~ Permit fees shall be as established in Chapter 17 of the Municipal Code of Haysville, Kansas and shall be paid at the time of the application. (Code 2023) Filing fees paid to the City Clerk, as determined in Chapter 17 of the City Code.

7. Hearing. Prior to making the final decision on a PUD, a public hearing shall be held. The Zoning Administrator shall establish the time and place of the public hearing. At least 20 days' notice of the time and place of the public hearing shall be published in the official paper of the City of Haysville.

a. In addition to such public notice, written notice of such PUD shall be mailed to all property owners and applicable addresses included in the certified list submitted by the

applicant and an opportunity granted to interested parties to be heard at the public hearing.

~~7.8. Action on a preliminary PUD plan. ACTION ON PRELIMINARY PUD PLAN.~~ Within sixty days after receiving the application, the Planning Commission shall review the application and hold a public hearing in accordance with state statute.

- a. Within thirty days after the public hearing the ~~Planning Commission~~commission shall prepare findings of fact with respect to the extent to which the preliminary ~~PUD~~-plan complies with the standards and conditions established, together with its recommendations to the governing body with respect to the action to be taken on the ~~preliminary PUD~~-plan. The ~~Planning Commission~~commission may (1) recommend approval, (2) ~~recommend~~ approval with ~~contingencies~~conditions, or (3) ~~recommend~~ disapproval of the preliminary plan.

- b. The governing body, after a 14-day protest period, shall consider the ~~Planning Commission's commission's~~ recommendation on the preliminary ~~PUD~~-plan. The governing body may (1) approve such recommendation, (2) override the commission's recommendation by a 2/3 majority vote of the membership of the governing body, or (3) return the recommendation to the commission for further consideration, together with a statement specifying the basis for the governing body's failure to approve or disapprove.

~~e.i.~~ If the preliminary ~~PUD~~-plan is approved, the governing body shall adopt an ordinance approving the preliminary ~~PUD~~-plan and establishing a Planned Unit Development ~~d~~District within these regulations for the ~~parcel or tract of~~ land subject property included in the preliminary ~~PUD~~-plan. The applicant, within 15 days after receiving notification of the approval of the preliminary plan, shall file with the Sedgwick County Register of Deeds a statement that such plan has been filed with the approving authority and has been approved and that such Planned Unit Development district is applicable to certain specifically legally-described land and that copies of said are on file with the City.

~~d.~~ If the preliminary ~~PUD~~-plan is disapproved by the governing body, after following the necessary procedures as established by state statute, the applicant shall be furnished with a written statement of the reasons for disapproval of the plan.

~~e.ii.~~ In the case of approval, the applicant, within 15 days after receiving notification of the approval of the preliminary PUD plan, shall file with the County Register of Deeds a statement that such plan has been filed with the approving authority and has been approved and that such PUD is applicable to certain specifically legally-described land and that copies of said are on file with the city.

~~8.—Action on a final PUD plan. FINAL PUD PLAN CONTENTS AND APPROVAL.~~

~~9.~~ Within six ~~(6)~~ months after approval of the preliminary ~~plan~~, the applicant shall have the final plan prepared in conformance with the preliminary ~~development~~ plan and submitted with the Office of the City Clerk.

~~9.a.~~ Such The final plan shall include the following:

a.i. Construction drawings of all buildings to include elevations, grading, and floor plans;

b.ii. Site plan;

c.iii. Drainage Plan;

d.iv. Landscape and screening plan showing species and size of all plant material, areas to be seeded, etc.;

e.v. Copies of any dedications for easements or rights-of-way and restrictive covenants;

f.vi. Evidence that no lots, parcel or tract or dwelling unit in such development have been conveyed or leased prior to the recording of any restrictive covenants applicable to such PUD; and

g.vii. Such bonds or guarantees and other documents that may have been required by the preliminary PUD plan pursuant to the provisions and procedures of the Subdivision Regulations.

10.b. The final plan shall be deemed to be in substantial compliance with the preliminary plan previously given tentative approval, provided any modification by the landowner from the preliminary plan of the plan as tentatively approved does not:

a.i. Vary the proposed gross residential density or intensity of use by more than five percent or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area; nor

b.ii. Increase by more than 10 ten percent the floor area proposed for non-residential use; nor

iii. Increase by more than five percent the total ground area covered by buildings; nor

c.iv. Involve a substantial change in the height of buildings; nor

d.v. Substantially change the design of the plan so as to significantly alter, as determined by the Planning Commission:

i.a. Pedestrian or vehicular traffic flow.

ii.b. The juxtaposition of different land uses.

iii.c. The relation of open space to residential development.

iv.d. The proposed phasing of construction.

11.c. A public hearing need not be held for the approval-final action of a final plan if it is in substantial compliance with the approved preliminary plan, and a public hearing need not be held to consider modifications on location and design of streets or facilitates for water, storm water, sanitary sewers or other public facilities.

12.d. In the event a public hearing is not required for final approval-action and the application of final approval-plan has been filed, together with all drawings, specifications and other documents in support thereof, the Planning Commission shall, within a reasonable period of time of such filing,

recommend that such plan be given final approval and forward its recommendation to the governing body for final action~~its final approval~~.

~~13.e.~~ In the event the final plan submitted contains substantial changes from the approved preliminary plan, the applicant shall resubmit the original plan. This preliminary development plan shall be modified in the same manner prescribed in this article for original approval.

~~14. In the event that a plan or section hereof is given final approval and thereafter the landowner shall abandon said plan or section, he shall so notify the city thereof in writing. In the event the landowner shall fail to commence the PUD within 18 months after final approval has been granted, such final approval shall terminate and shall be deemed null and void unless such time period is extended by the Planning Commission upon written application by the landowner.~~

10. Protest. Whether or not the commission recommends approval or disapproval of a preliminary plan, if a protest petition against such preliminary plan is filed in the Office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record of 20% or more of the total real property within the area required to be notified by the preliminary plan, excluding streets and public ways, the ordinance adopting such preliminary plan shall not be passed except by at least 3/4 majority vote of all the members of the governing body. Protest petition procedures may be found in Section 203.H.

— **Appeals.** The governing body's decision on a PUD shall be the final local action. Appeals of such final local action shall be taken to district court.

~~11.~~

12. Period of validity. ~~In the event the landowner shall fail to commence the PUD within 18 months after final approval has been granted, such final approval shall terminate and shall be deemed null and void unless such time period is extended by the Planning Commission upon written application by the landowner.~~ The proposed construction shall begin within 18 months following approval of the final application by the governing body, and a minimum of 50 percent of the total planned construction shall be completed within a period of six years following such approval or the approval of the plan shall expire. The period of time established for the completion of the development may be modified from time to time by the Planning Commission upon the showing of good cause by the developer. In the event the landowner shall fail to commence the PUD within 18 months after final approval has been granted, such final approval shall terminate and shall be deemed null and void unless such time period is extended by the commission upon written application by the landowner.

~~15-13.~~ **Enforcement of plan.** ~~ENFORCEMENT AND MODIFICATION.~~ To ensure the mutual interest of the resident and owners of the PUD and of the general public, the enforcement ~~and modification~~ of the provisions of the ~~Plan~~PUD, as finally approved—whether recorded by plan, covenant, easement or otherwise, shall be subject to the following provisions:-

- a. Enforcement by the ~~city~~City covers the provisions of the plan relating to:
 - i. The use of land and the use, bulk and location of buildings and structures.

- ii. The quality and location of common space.
- iii. The intensity of use or the density of residential units.

b. Enforcement by the ~~r~~Residents and ~~o~~Owners cover any additional items not listed in item (a) above.

~~b-c.~~ All enforcement proceedings shall be subject to the provisions provided for by state statute.

~~16.14.~~ **Amendments to PUDs.** ~~Modification:~~ A Planned Unit Development District adopted via ordinance or an approved preliminary or final PUD plan may be amended by the governing body after public hearing as outlined in **Section 416.**

a. In the event that a plan or section hereof is given final approval and thereafter the landowner shall abandon said plan or section, he or she shall so notify the City thereof in writing.

~~a-b.~~ No changes in the development plan that are approved under the ese regulations ~~is ordinance~~ are to be considered as a waiver of the covenants limiting the use of the land, buildings, structures, and improvements within the area of the PUD, and all rights to enforce these covenants against any changes permitted are expressly reserved.

~~b-c.~~ All ~~enforcement and~~ modification proceedings shall be subject to the provisions provided for by state statute.

15. Review criteria for PUDs.

16. ~~K.~~ **Platting** ~~PLATTING~~. For unplatted tracts or tracts being replatted, the approval of the preliminary ~~PUD plan~~ shall be considered as the approval of a preliminary plat. To complete the platting process, the applicant need only submit a final plat. The final plat shall be in accordance with the Subdivision Regulations and may be submitted with or incorporated with the final ~~development~~ plan. The final ~~development~~ plan and the final plat may be reviewed by the ~~Planning Commission~~ commission concurrently and recommended to the governing body for final ~~approval~~ action.

203.D. ADMINISTRATIVE ADJUSTMENT.

1. General. The intent and purpose of this section is to allow for administrative action on requests for minor modifications or adjustments to certain provisions of these regulations.

2. Authority. The Zoning Administrator, with the concurrence of the Deputy Administrative Officer, shall have the authority to approve applications for Administrative Adjustments.

3. Authorized Administrative Adjustments. Administrative Adjustments shall be limited to the following:

- a. Reducing the minimum lot area, width, or depth by up to 10 percent.
- b. Increasing the maximum structure height by up to 20 percent.

- c. Reducing the minimum front, rear, or side yard by up to 20 percent.
 - d. Increasing the maximum lot coverage by up to 10 percent.
 - e. Reducing off-street parking and loading requirements, the required depth of parking stalls and the required width of circulation aisles by up to 25 percent.
- 4. Application.** An application for an Administrative Adjustment may be proposed by the owner(s), the authorized agent(s) of such owner(s), or the contract purchaser(s)/lessee(s) of the subject property.
 - a. Pre-application meeting.** All applicants are encouraged to meet with applicable City staff prior to submitting an application. The purpose of the pre-application meeting is to provide staff and the applicant an opportunity to discuss the steps and any other applications that may be necessary prior to the commencement of a specific building project.
- 5. Submittal.** An application, in writing, for such Administrative Adjustment shall be filed with Office of the City Clerk and accompanied by such data and information as may be prescribed by the Zoning Administrator so as to assure the fullest possible presentation of facts for the permanent record. No application shall be processed until the application is complete and the required fee paid. The following shall be included with the application:
 - a. The complete legal description and general street location of the subject property;
 - b. Written statements, diagrams or exhibits explaining the following:
 - i. How strict compliance with the limitations and/or special conditions or requirements imposed by these regulations prevent the proposed use or construction;
 - ii. Why the proposed Administrative Adjustment will not cause substantial injury to the value of other property in the neighborhood; and
 - iii. How the proposed Administrative Adjustment is to be designed, arranged, and operated in order to permit the development and use of the neighboring property in accordance with these regulations.
 - c. A site plan demonstrating how the subject property will be developed if the requested Administrative Adjustment is approved, drawn to scale, and indicating how the proposed adjustment will meet the requirements of these regulations;
 - d. Other information, such as photographs, renderings, landscaping or screening plans, or other reports as may be required by the Zoning Administrator. Such materials will be made part of the case file and become public record; and
 - e. Filing fees paid to the City Clerk, as determined in Chapter 17 of the City Code.
- 6. Action by the Zoning Administrator.** Upon submission of the Administrative Adjustment application, the Zoning Administrator shall render and issue a written decision to the applicant in the form of an Administrative Adjustment to be filed with the Sedgwick County Register of Deeds Office or a written denial of the requested Administrative Adjustment containing specific findings of fact to be filed with the application.

7. Conditions. In granting an Administrative Adjustment, the Zoning Administrator may attach such conditions upon the property and/or the applicant benefited by the Administrative Adjustment deemed necessary to address issues raised during the application process. Such conditions may include, but are not be limited to:

- a. Length and time of operation and ownership limitations;
- b. Screening, landscaping and fencing;
- c. Provision of utilities, drainage, sidewalks and other public improvements;
- d. Additional access or access control;
- e. Off-street parking and loading requirements; and
- f. Platting, dedications and/or guarantees.

8. Appeals. The applicant may appeal the final decision on an Administrative Adjustment made by the Zoning Administrator. Appeal procedures may be found in Section 203.G.

9. Exercising of Administrative Adjustment. An Administrative Adjustment shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished.

10. Period of Validity. An Administrative Adjustment issued pursuant to these regulations shall lapse and become ineffective if the Administrative Adjustment is not exercised upon the property within 180 days and/or continuously maintained on the property thereafter; provided, that the Zoning Administrator may grant additional extensions, not exceeding 180 days each, upon written application.

11. Failure of conditions. If the Zoning Administrator finds that there is a violation of any of the conditions of an Administrative Adjustment, the Zoning Administrator, in addition to reinforcing the other remedies, may, with the concurrence of the Deputy Administrative Officer, declare that the Administrative Adjustment is null and void. Such finding and declaration shall be made in writing and mailed to the owner of the real property affected by the Administrative Adjustment. A copy shall be sent to the Deputy Administrative Officer. The Zoning Administrator's declaration shall be final unless appealed in accordance with Section 203.G of these regulations.

12. Amendments to Administrative Adjustments. Approved Administrative Adjustments may be amended by following the same procedures as required for consideration and approval of the original Administrative Adjustment application.

203.E. VARIANCE.

1. General. The Board of Zoning Appeals may authorize, in certain cases, a Variance from the specific terms of these regulations.

2. **Application.** An application for a Variance may be proposed by the owner(s), the authorized agent(s) of such owner(s), or the contract purchaser(s)/lessee(s) of the subject property.
 - a. **Pre-application meeting.** All applicants are encouraged to meet with applicable City staff prior to submitting an application. The purpose of the pre-application meeting is to provide staff and the applicant an opportunity to discuss the steps and any other applications that may be necessary prior to the commencement of a specific building project.
3. **Submittal.** An application, in writing, for such Variance shall be filed with Office of the City Clerk and accompanied by such data and information as may be prescribed by the Zoning Administrator so as to assure the fullest possible presentation of facts for the permanent record. No application shall be processed until the application is complete and the required fee paid. The following shall be included with the application:
 - a. The complete legal description and general street location of the subject property;
 - b. Eight copies of a site plan of the subject property demonstrating the condition for which the Variance is being requested;
 - c. A certified list of the names and addresses of all property owners within 200 feet of the subject property (excepting public streets and ways) and obtained from an abstract company. If the subject property is located adjacent to or outside the City's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area; and
 - d. Filing fees paid to the City Clerk, as determined in Chapter 17 of the City Code.
4. **Hearing.** Prior to making the final decision on a Variance, a public hearing shall be held. The Zoning Administrator shall establish the time and place of the public hearing. At least 20 days' notice of the time and place of the public hearing shall be published in the official paper of the City of Haysville.
 - a. In addition to such public notice, written notice of such Variance shall be mailed to all property owners and applicable addresses included in the certified list submitted by the applicant and an opportunity granted to interested parties to be heard at the public hearing.
5. **Authority.** The Board of Zoning Appeals shall be permitted to approve, approve with conditions, or deny a request for a Variance from the specific terms of these regulations. Such variance will not be contrary to the public interest and, where owing to special conditions, a literal enforcement of the provisions of these regulations will in an individual case result in unnecessary hardship (total deprivation of use), and provided that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not allow the establishment of a use in a zoning district where such use is not permitted.
6. **Action by the Board of Zoning Appeals.** After testimony and discussion, the board shall render a final decision on the Variance. The board may adjourn to a specific time and location in order to obtain additional information before making a final decision. If the board fails to make a

decision within 60 days following the conclusion of the public hearing, the board shall be deemed to have made a decision of denial, and such default decision shall be final.

7. **Appeals.** The board's decision on a Variance shall be the final local action. Appeals of such final local action shall be taken to district court.

8. **Exercising the Variance.** A Variance shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished. When such Variance is abandoned or discontinued for a period of 1 year, it shall not be reestablished, unless authorized by the commission upon written application.

9. **Failure of conditions.** If the Zoning Administrator finds that there is a violation of any of the conditions of a Variance, the Zoning Administrator, in addition to reinforcing the other remedies, may, with the concurrence of the Deputy Administrative Officer, declare that the Variance is null and void. Such finding and declaration shall be made in writing and mailed to the owner of the real property affected by the Variance. A copy shall be sent to the Deputy Administrative Officer. The Zoning Administrator's declaration shall be final unless appealed in accordance with Section 203.G of these regulations.

10. **Amendments to Variances.** Approved Variances may be amended by following the same procedures as required for consideration and approval of the original Variance application.

11. **Review criteria for Variances.** A request for Variance may be granted in such case upon finding by the board that **ALL** of the below conditions have been met.

- a. That the Variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and that it is not created by an action or actions of the property owner represented in the application;
- b. That the granting of the Variance will not adversely affect the rights of adjacent property owner represented in the application;
- c. That the strict application of the provisions of these regulations of which Variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
- d. That the Variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
- e. That granting of the Variance desired will not be opposed to the general spirit and intent of these regulations.

203.F. SPECIAL EXCEPTIONS.

1. **General.** The intent and purpose of this section is to outline the procedures for the authorization of a Special Exception to the provisions of these regulations.

2. **Authority.** The Board of Zoning appeals shall have the authority to grant exceptions to the provisions of these regulations in those instances where the board is specifically authorized to

grant such exceptions and only under the terms of these regulations. In no event shall exceptions to the provisions of these regulations be granted where the use or exception contemplated is not specifically listed as an exception in these regulations. Further, under no conditions shall the board have the power to grant exceptions when conditions of this exception, as established in these regulations, are not found to be present.

3. Types of Special Exceptions. The board shall have the power to authorize the following special exceptions:

- a. To grant a permit for a temporary building for commerce or industry in a dwelling district which is incidental to the dwelling development, which temporary building shall be located in the platted development area. No such permit shall be issued for more than 24 months or beyond completion of the project, whichever is shorter.
- b. To grant a permit for the extension of a use or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership at the time of the adoption of these regulations, or at the time of annexation, whichever is later.

4. Application. An application for a Special Exception may be proposed by the owner(s), the authorized agent(s) of such owner(s), or the contract purchaser(s)/lessee(s) of the subject property.

- a. **Pre-application meeting.** All applicants are encouraged to meet with applicable City staff prior to submitting an application. The purpose of the pre-application meeting is to provide staff and the applicant an opportunity to discuss the steps and any other applications that may be necessary prior to the commencement of a specific building project.

3. Submittal. An application, in writing, for such Special Exception shall be filed with Office of the City Clerk and accompanied by such data and information as may be prescribed by the Zoning Administrator so as to assure the fullest possible presentation of facts for the permanent record. No application shall be processed until the application is complete and the required fee paid. The following shall be included with the application:

- a. The complete legal description and general street location of the subject property;
- b. Site plan of the subject property demonstrating the condition for which the Special Exception is being requested;
- c. Protective covenants, if any;
- d. Filing fees paid to the City Clerk, as determined in Chapter 17 of the City Code.

5. Action by the Board of Zoning Appeals. After testimony and discussion, the board shall approve, approve with conditions, or deny the Special Exception request. Failure of the board to make a decision on a Special Exception request after a period of 30 days shall deem the request denied by the board.

6. Appeals. The board's decision on Special Exceptions shall be the final local action. Appeals of such final local action shall be taken to district court.

7. **Exercising the Special Exception.** A Special Exception shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished.
8. **Failure of conditions.** If the Zoning Administrator finds that there is a violation of any of the conditions of a Special Exception, the Zoning Administrator, in addition to reinforcing the other remedies, may, with the concurrence of the Deputy Administrative Officer, declare that the Special Exception is null and void. Such finding and declaration shall be made in writing and mailed to the owner of the real property affected by the Special Exception. A copy shall be sent to the Deputy Administrative Officer. The Zoning Administrator's declaration shall be final unless appealed in accordance with Section 203.G.
9. **Review criteria for Special Exceptions.** A request for a Special Exception may be granted in such case upon finding by the board that ALL of the below conditions have been met:
 - a. The proposed Special Exception will not be contrary to the public interest;
 - b. The spirit of these regulations shall be observed;
 - c. The public safety and welfare is secured;
 - d. Substantial justice is done.

203.G. APPEALS.

1. **General.** Any person aggrieved by any officer, department, board or bureau of the municipality during the enforcement of these regulations or affected by any decision of the Zoning Administrator regarding the applicability of such restrictions and/or requirements imposed by these regulations may appeal such decision to the Board of Zoning Appeals. Such grievance shall be taken within a reasonable amount of time to the board for consideration and/or action by filing an appeal within 14 days of the decision specifying the grounds thereof and paying the fee required. The officer, department, board or bureau from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed was taken.
2. **Application.** The following shall be included in any application for appeal:
 - a. A written statement shall be filed with the Board of Zoning Appeals accompanied by such data and information as may be prescribed by the board as to assure the fullest possible presentation of facts for the permanent record;
 - b. The property for which review and consideration is sought shall be designated by legal description and general street location;
 - c. A certified list of the names and addresses of all property owners within 200 feet of the designated property (excepting public streets and ways) shall be provided by the petitioner. If a proposed appeal to property for which review and consideration is sought is located adjacent to or outside the City's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area; and
 - d. Filing fees paid to the City Clerk, as determined in Chapter 17 of the City Code.

3. **Stay proceedings.** An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board after the notice of appeal shall have been filed with him or her that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application or notice to the officer from the appeal of which is taken and on due cause shown.
4. **Action by the Board of Zoning Appeals.** In exercising the powers set out in this article, such board may reverse or affirm wholly or partially, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and that end shall have all powers of the officer from whom the appeal is taken.
5. **Vote required to reverse.** The concurring vote of a majority of the members appointed to the board shall be required to reverse any order, requirement, decision, or determination of any such administrative officer, department, board or bureau of the municipality or to decide in favor of the applicant on any matter upon which it is required, or to affect any variation of the zoning regulations.
6. **Expiration of authority to appeal.** If no interested person appeals an action or decision to the Board of Zoning Appeals within 14 days, all interested persons will be bound by that action or decision and will not be able to contest at a later time.
7. **Appeals.** The board's decision on an appeal shall be the final local action. Appeals of such final local action shall be taken to district court.

203.H. PROTEST PETITIONS.

1. **General.** The intent and purpose of this section shall be to outline the procedures in protesting a Zone Change, Conditional Use permit, Variance or any other request reviewed by the Planning Commission during a required public hearing.
2. **Application.** Any owners of record within the required notification area of a public hearing may submit a protest petition. A protest petition may be submitted regardless of whether the commission recommended approval or denial of a request.
3. **Submittal.** A protest petition, in writing, shall be submitted to the Office of the City Clerk within 14 days of the public hearing. Such petition shall include the following:
 - e. Information about the request for which the protest is submitted;
 - f. Contact information, address, and full legal description and general street location of the protestor's property;
 - i. If the protestor's property has more than one owner, all owners of the property must sign the protest petition to ensure that it will be found valid; and
 - g. Acknowledgement by a notary public.

4. **Valid Protest Petition.** A protest petition must be signed by the owners of record of at least 20% of the land within the required notification area of a request to be considered valid. Notification areas are dependent on the request type. Please refer to the specific procedures for each request for the extent of the notification area.

- a. If the ownership of the protestor's property is different from that shown on the certified ownership list submitted with the request, it is the responsibility of the protestor(s) to provide proof of ownership.
- b. If a protestor is signing on behalf of a property owner, the protestor must provide proof of legal authority to do so and specify the formal capacity in which they are signing (e.g., as a legal guardian, power of attorney, etc.).
- c. Protest petitions must be submitted within 14 days following the conclusion of a public hearing.
- d. Protest petitions submitted prior to the conclusion of a public hearing will not be considered valid.

~~Effect of valid Protest Petition.~~ If a valid and sufficient protest petition is submitted, approval of the request requires an affirmative vote by at least a ¾ majority of the members of the governing body.**1003 HEARING**

~~The board shall fix a reasonable time for the hearing of any appeal, variance or exception, give public notice thereof as well as due notice to the parties of interest, and decide same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.~~

~~Hearing: The board shall establish the time and place of the public hearing.~~

~~At least 20 days' notice of the time and place of the public hearing shall be published in the official paper of the city of Haysville.~~

~~In addition to such public notice, written notice of such appeal shall be mailed to all property owners and applicable addresses, within 200 feet of the property (excepting public streets and ways), each party to the appeal and the appropriate Planning Commission and an opportunity granted to interested parties to be heard at the public hearing. If the proposed property for which appeal, variance, or exception is located adjacent to the city's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area.~~

~~APPEALS~~

~~Appeals to the board may be taken by any person aggrieved by any officer, department, board or bureau of the municipality during the enforcement of the Zoning Regulations or affected by any decision of the administrative officer regarding the applicability of such restrictions and/or requirements imposed by the Zoning Regulations. Such grievance shall be taken within a reasonable amount of time to the board for consideration and/or action, by filing an appeal within 14 days of the decision specifying the grounds thereof and paying the fee required. The officer from whom the appeal is taken shall forthwith transmit to the board, all papers constituting the record upon which the action appealed was taken. The board shall have the power to hear appeals (of, where, or when) it is alleged there is an error in any order,~~

~~requirement, decision or determination made by an administrative officer in the enforcement of the Zoning Regulations.~~

~~A. Appeal: An appeal in writing shall be filed with the board accompanied by such data and information as may be prescribed by the board as to assure the fullest possible presentation of facts for the permanent record.~~

~~B. On the appeal, the property for which review and consideration is sought shall be designated by legal description and general street location.~~

~~C. Accompanying the appeal, a certified list of the names and addresses of all property owners within 200 feet of the designated property (excepting public streets and ways) shall be provided by the petitioner. If a proposed appeal to property for which review and consideration is sought is located adjacent to the city's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area.~~

~~D. Permit fees shall be as established in Chapter 17 of the Municipal Code of Haysville, Kansas. (Code 2023). The fee shall be paid to the city clerk upon the filing of each appeal, for the purpose of defraying the costs of the proceedings prescribed herein. A written receipt shall be issued to the persons making such payment and records thereof shall be kept in such a manner as prescribed by law.~~

~~1002 STAY PROCEEDINGS~~

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

~~1007 FURTHER POWERS OF THE BOARD~~

~~In exercising the powers set out in this article, such board may reverse or affirm wholly or partially, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and that end shall have all powers of the officer from whom the appeal is taken.~~

~~1008 VOTE REQUIRED~~

~~The concurring vote of a majority of the members appointed to the board shall be required to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required, or to affect any variation of the zoning regulations.~~

~~1003 HEARING~~

~~—The board shall fix a reasonable time for the hearing of any appeal, variance or exception, give public notice thereof as well as due notice to the parties of interest, and decide same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.~~

~~A. Hearing: The board shall establish the time and place of the public hearing.~~

~~B. At least 20 days' notice of the time and place of the public hearing shall be published in the official paper of the city of Haysville.~~

~~C. In addition to such public notice, written notice of such appeal shall be mailed to all property owners and applicable addresses, within 200 feet of the property (excepting public streets and ways), each party to the appeal and the appropriate Planning Commission and an opportunity granted to interested parties to be heard at the public hearing. If the proposed property for which appeal, variance, or exception is located adjacent to the city's limits, the area of notification of the action shall be extended to at least 1,000 feet in the unincorporated area.~~

~~—1004—~~ VARIANCES

~~—The board is empowered to authorize in specific cases a variance from the specific terms of the zoning ordinance which will not be contrary to the public interest and where owing to special conditions, a literal enforcement of the provisions of the zoning ordinance will in an individual case result in unnecessary hardship (total deprivation of use), and provided that the spirit of the zoning ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning ordinance in such district. A request for variance may be granted in such case upon finding by the board that all of the following conditions have been met:~~

~~A. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and that it is not created by an action or actions of the property owner represented in the application;~~

~~B. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owner represented in the application;~~

~~C. That the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;~~

~~D. Permit fees shall be as established in Chapter 17 of the Municipal Code of Haysville, Kansas. (Code 2023). The fee shall be paid to the city clerk upon the filing of the variance, for the purpose of defraying the costs of the proceedings prescribed herein. A written receipt shall be issued to the persons making such payment and records thereof shall be kept in such a manner as prescribed by law.~~

~~E. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.~~

~~F. That granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinances.~~

~~—1005—~~ EXCEPTIONS

~~The board is authorized to grant exceptions to the provisions of the zoning ordinance in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning ordinance. In no event shall exceptions to the provisions of the zoning ordinance be granted where the use or exception contemplated is not specifically listed as an exception in the zoning ordinance. Further, under no conditions shall the board have the power to grant exceptions when conditions of this exception, as established in the zoning ordinance, are not found to be present.~~

700 — PERMITS

~~A. — The existing character of structures and the use and occupancy of premises shall not be changed, nor shall any building, the use of which is proposed to be altered or changed, be hereafter erected or altered until a permit shall have been approved by the Planning and Zoning Administrator, or designee, and issued by the city clerk stating that the proposed uses of such building or premises complies with all the provisions of this Code.~~

~~B. — Application for permits shall be on forms approved by the Planning and Zoning Administrator, or designee, and shall be filed with the city clerk. A record of all applications and permits shall be kept on file in the office of the city Clerk. If an application for a permit is made after the work for which the permit is sought has begun, then the cost of the permit shall be double the cost of a permit that is obtained prior to the time work has begun.~~

~~C. — No permit shall be issued unless the application shows that the proposed structure and use will conform to the provisions of this Code.~~

~~D. — Permits must meet the requirements of the city Subdivision Regulations and, thus, shall not be issued on land which is not shown on a recorded plat or replat, or a lot split, except for a continuation of an existing use or occupancy, accessory structures or uses, or additions to existing structures or uses. If platting is not required, all of the public improvements necessary to carry out the requested permit nevertheless may be required at the applicants' expense, including, but not limited to, dedications in lieu of platting such as for easements and additional rights of way.~~

~~E. — An appeal may be taken to the governing body from the action of the Director of Public Works, or designee, denying any permit by filing a notice of appeal, specifying the grounds therefore, with the city Clerk. The city Clerk shall schedule a hearing for the applicant before the governing body within thirty (30) days of receipt of such notice of appeal. If the Planning and Zoning Administrator, or such designee's, action is determined to be justified because of noncompliance to this Code, the applicant shall be directed to the Planning Commission, as appropriate, to comply prior to issuance of any permit.~~

1006 — SPECIAL EXCEPTIONS

~~The board is authorized:~~

~~A. — To grant a permit for a temporary building for commerce or industry in a dwelling district which is incidental to the dwelling development, which temporary building shall be located in the platted development area. No such permit shall be issued for more than 24 months or beyond completion of the project, whichever is shorter.~~

~~B. To grant a permit for the extension of a use or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership at the time of the adoption of the zoning ordinance, or at the time of annexation, whichever is later.~~

~~C. To determine in cases of uncertainty, the classification of any use not specifically enumerated in the zoning regulations.~~

~~1007 FURTHER POWERS OF THE BOARD~~

~~In exercising the powers set out in this article, such board may reverse or affirm wholly or partially, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and that end shall have all powers of the officer from whom the appeal is taken.~~

~~1008 VOTE REQUIRED~~

~~The concurring vote of a majority of the members appointed to the board shall be required to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required, or to affect any variation of the zoning regulations.~~

~~1009 ADMINISTRATIVE ADJUSTMENTS.~~

~~The intent and purpose of this section is to allow for administrative action on requests for minor modifications or adjustments to certain provisions of these regulations.~~

~~**Authority.** The Planning and Zoning Administrator, with the concurrence of the Deputy Administrative Officer shall have the authority to approve applications for administrative adjustments.~~

~~**Authorized Administrative Adjustments.** Administrative adjustments shall be limited to the following:~~

- ~~1. Reducing the minimum lot area, width, or depth by up to 10 percent.~~
- ~~2. Increasing the maximum structure height by up to 20 percent.~~
- ~~3. Reducing the minimum front, rear, or side yard by up to 20 percent.~~
- ~~4. Increasing the maximum lot coverage by up to 10 percent.~~
- ~~5. Reducing off-street parking and loading requirements, the required depth of parking stalls and the required width of circulation aisles by up to 25 percent~~

~~**Standards.** The Planning and Zoning Administrator may grant an administrative adjustment based upon specific written findings of fact made after consideration of the request and any comments and/or evidence presented in light of relevant factors, including but not limited to the standards in Section 1009 of these regulations.~~

~~**Conditions.** In granting an administrative adjustment, the Planning and Zoning Administrator may attach such conditions upon the property and/or the applicant benefited by the administrative adjustment deemed necessary to address issues raised during the application process. The administrative adjustment is subject to ongoing compliance with these conditions and shall lapse and become ineffective if such conditions are not continually complied with. Such conditions may include, but not be limited to, length and time~~

~~of operation and ownership limitations; screening, landscaping and fencing; provision of utilities, drainage, sidewalks and other public improvements; additional access or access control; off-street parking and loading requirements; and platting, dedications and/or guarantees. In addition to the guarantees referred to below for parking and/or screening, covenants which run with the land or the property to guarantee that conditions will be carried out at a future date may be required to be filed with the Sedgwick County Register of Deeds.~~

~~Decisions and Records.~~ The Planning and Zoning Administrator shall render and issue a written decision to the applicant in the form of an administrative adjustment to be filed with the Sedgwick County Register of Deeds Office or a written denial of the requested administrative adjustment containing specific findings of fact to be filed with the application.

~~Period of Validity.~~ An administrative adjustment issued pursuant to these regulations shall lapse and become ineffective if the administrative adjustment is not commenced upon the property within 180 days and/or continuously maintained on the property thereafter; provided, that the Planning and Zoning Administrator may grant additional extensions not exceeding 180 days each, upon written application.

~~PENALTY~~ Any violation of the provisions of these regulations shall be a misdemeanor and shall be punishable by a fine or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense. Fees shall be as established in Chapter 17 of the Municipal Code of Haysville, Kansas. (Code 2023).

ARTICLE 3

DEFINITIONS

SECTION 300. LAND USE DEFINITIONS

300.A. RESIDENTIAL. The following terms define the residential uses listed in Article 5 as permitted or conditional in each zoning district.

Accessory apartment. Means an accessory *dwelling unit* that may be wholly within, or may be detached from, a *principal structure*.

Assisted living. Means *dwelling units* used by adult persons needing or desiring assistance with day-to-day living matters, and may include supervised nursing care, and where skilled nursing care is not prohibited but is provided on an intermittent or limited term basis, or if limited in scope, a regular basis. Typical uses include retirement communities in which housekeeping services, common dining facilities and recreational and social activities are offered to residents, state-licensed residential health care facilities not attached to a *nursing facility* and state-licensed intermediate care facility for the mentally retarded. The term *assisted living* does not include *group home*, *group residence*, *hospital* or *nursing facility*.

Group home (as defined by K.S.A. 12-736). Means any *dwelling unit* occupied by not more than ten persons, including eight or fewer persons with a disability who need not be related by blood or marriage and not to exceed two staff residents who need not be related by blood or marriage to each other or the residents of the home, which dwelling unit is licensed by a regulatory agency of the state, including the Kansas Department of Social and Rehabilitation Services, the Kansas Department of Health and Environment or the Kansas Department of Aging. *Group home* also includes state licensed “Home Plus” adult care residences.

Group residence. Means a residential facility providing cooking, sleeping and sanitary accommodations for a group of people, not defined as a family, on a weekly or longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, boarding or lodging houses, children’s homes, children in need of care under the Code for Care of Children and emergency shelters for the homeless and for victims of crime, abuse or neglect and include establishments providing guidance services for persons receiving non-court ordered alcohol or chemical dependence treatment which will comply with all applicable regulatory requirements of federal, state or local government agencies. The term *group residence* does not include *group home*, *correctional placement residence*, or *short-term residential rental*.

Group residence, limited. Means a *group residence* that is occupied by six to fifteen persons, including staff members who reside in the facility.

Group residence, general. Means a *group residence* that is occupied by more than fifteen persons, including staff members who reside in the facility.

Manufactured home (as defined by K.S.A. 12-742). Means a structure consisting of one or more mobile components manufactured to the standards embodied in the federal Manufactured Home Construction and Safety Standards Act generally known as the HUD Code, established pursuant to 42 U.S.C. 5403. Such units shall provide all the accommodations necessary to be a *dwelling unit* and shall be connected to all utilities in conformance with applicable regulations. For purposes of these regulations, the term *manufactured home*, when used by itself, shall not include a *residential design manufactured home* as defined in these regulations.

Manufactured home subdivision. Means a *subdivision* that is platted for *development* as individual lots for *manufactured homes*, modular homes, *residential-design manufactured homes*, and site-built *single-family dwelling units*.

Multi-family. Means the use of a site for five or more *dwelling units* within a single building. Typical uses include apartments, residential condominiums, and townhouses.

Residential-design manufactured home (as defined by K.S.A. 12-742). Means a *manufactured home* on permanent foundation which has:

- (1) Minimum dimensions of 22 body feet in width,
- (2) A pitched roof, and
- (3) Siding and roofing materials which are customarily used on site-built homes.

Single-family. Means the use of a lot for only one detached principal *dwelling unit*, excluding a structure used as a *group residence*, which may be a *residential design manufactured home* but shall not be a *mobile home*.

Three- and four-family. Means the use of a lot for three or four principal *dwelling units* within a single building. For the purposes of these regulations, *three- and four-family* shall also mean triplex and quadraplex.

Two-family. Means the use of a lot for two principal *dwelling units* within a single building. For the purposes of these regulations, *two-family* shall also mean a duplex.

300.B. PUBLIC AND CIVIC. The following terms define the public and civic uses listed in Article 5 as permitted or conditional in each zoning district.

Auditorium or stadium. Means an open, partially enclosed or fully enclosed facility used or intended to be used primarily for spectator sports, entertainment events, expositions and other public gatherings. Typical uses include convention and exhibition halls, sports arenas and amphitheaters.

Cemetery. Means land used or intended to be used for burial of the dead, whether human or animal, including a mausoleum or columbarium. A *funeral home* may be included as an *accessory* use to a *cemetery*.



cemetery

Church or place of worship. Means a premise or site used primarily or exclusively for religious worship and related religious services or established place of worship, convent, seminary, or similar facility owned or operated by a bona fide religious group for religious activities.

Community assembly. Means an establishment providing meeting, recreational, educational, cultural, or social facilities for a private membership or non-profit association, primarily for use by members and guests. Typical uses include fraternal organizations, *Class A Clubs*, philanthropic and charitable institutions, private museums, art galleries, observatories, planetariums, botanical gardens, arboretums, zoos, and aquariums.

Correctional facility. Means a facility providing housing and care for individuals confined for violations of law. Typical uses include jails, prisons, and juvenile detention centers.

Correctional placement residence. Means a facility for individuals or offenders that provides residential and/or rehabilitation services for those who reside or have been placed in such facilities due to any one of the following situations:

- (1) Prior to, or instead of, being sent to prison;
- (2) Received a conditional release prior to a hearing;
- (3) As a part of a local sentence of not more than one year;
- (4) At or near the end of a prison sentence, such as a state operated or franchised work release program, or a privately operated facility housing parolees;
- (5) Received a deferred sentence and placed in facilities operated by a community corrections; or

(6) Require court ordered guidance services for alcohol or chemical dependence. Such facilities will comply with the regulatory requirements of a federal, state, or local government agency; and if such facilities are not directly operated by a unit of government, they will meet licensure requirements that further specify minimum service standards.

Correctional placement residence, limited. Means a *correctional placement residence* occupied by three to fifteen individuals, including staff members who may reside there.

Correctional placement residence, general. Means a *correctional placement residence* occupied by more than fifteen individuals, including staff members who may reside there.

Day care. Means an establishment that provides care, protection, and supervision for individuals on a regular basis away from their primary residence for less than 24 hours per day. The term does **NOT** include the following:

- (1) Kindergartens or nursery schools or other daytime programs operated by public or private *Elementary, Middle and High Schools* or institutions of higher learning;
- (2) Facilities operated in connection with a shopping center or other principal activity, where individuals are cared for temporarily while parents or custodians are occupied on the premises, or are in the immediate vicinity and readily available;
- (3) Special activity programs, including athletics, crafts instruction and similar activities conducted on a periodic basis by civic, charitable and governmental organizations; or
- (4) A "preschool" operated by a *church* or *place of worship* as an *accessory* use and that is not leased to another group to operate and that meets the Kansas Department of Health and Environment regulations as a "preschool."

Day care, limited. Means a *day care* center operated as a *home occupation* that provides care, protection, and supervision for no more than ten individuals at any one time, including those under the supervision or custody of the day care provider and those under the supervision or custody of employees.

Day care, general. Means a *day care* center that provides care, protection, and supervision for more than ten individuals at any one time, including those under the supervision or custody of the day care provider and those under the supervision or custody of employees, or a day care center for ten or fewer individuals at any one time that is not operated as a *home occupation*.

Day reporting center. Means a facility that provides nonresidential community supervision services to individuals or offenders who are under supervision of a court and any of whom are required to report to the facility for three or more days per week for six or more hours per day.

Golf course. Means a tract of land developed for the purpose of providing private golf recreation services and support facilities. Included within this definition shall be regulation golf courses, executive golf courses, par-three golf courses, and any combination thereof on a common tract of land. Specifically excluded shall be pitch and putt courses, independent driving ranges and miniature golf courses.



golf course

Government service. Means buildings or facilities owned or operated by a government entity and providing services for the public, including utilities and recreational services. Typical uses include administrative offices of government agencies and utility billing offices.

Hospital. Means an institution that:

- (1) Offers services more intensive than those required for room, board, personal services and general nursing care;
- (2) Offers facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease or pregnancy; and
- (3) Regularly makes available at least clinical laboratory services, diagnostic X-ray services and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent. *Hospitals* may include offices for medical and dental personnel, central service facilities such as pharmacies, medical laboratories, and other related uses.



hospital

Library. Means a publicly operated facility housing a collection of books, magazines, audio and video tapes, or other material for borrowing and use by the general public.

Neighborhood swimming pool. Means any non-publicly owned swimming pool that is not located on the same lot as a residential *dwelling unit* but that is intended as an amenity for use by the residents and their guests of that subdivision or by a group of subdivisions in the immediate vicinity.

Nursing facility. Means any state licensed place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to function impairments, need skilled nursing care to compensate for activities of daily living limitations and includes state licensed “nursing facility for mental health; and a state licensed “residential health care facility” when it is attached to a state licensed Nursing Facility. The term nursing facility does not include *assisted living, group home, group residence* or *hospital*.

Parks and recreation. Means a park, playground, or community facility that is owned by or under the control of a public agency or homeowners' association and that provides opportunities for active or passive recreational activities, and a cultural facility that provides cultural services to the public, including a museum, art gallery, observatory, planetarium, botanical garden, arboretum, zoo, or aquarium that is owned by or under the control of a public agency. For purposes of this definition, parks and recreation shall include those parks, community facilities, and cultural facilities that are owned by or under the control of a public agency and leased to private entities for recreational activities, including recreational and cultural uses that involve paid admission or that allow the sale of cereal malt beverages or alcoholic beverages for consumption on the premises.

Recycling collection station, private. Means outdoor freestanding containers that are designed to receive, and store pre-sorted recyclable materials not intended for disposal and that are available only to those members or employees of the *church*, school, office building, or other *principal* use located on the same property as the station. This definition shall not include containers used for curbside recycling or containers used by a commercial or industrial enterprise for collection and/or compression of materials that are a byproduct or integral part of such enterprise.

Recycling Collection Station, public. Means outdoor freestanding containers not occupying an area greater than 400 square feet (exclusive of area required for vehicular access) that are designed to receive and stored pre-sorted recyclable materials not intended for disposal and that are available to the general public.

Recycling processing center. Means a building or land use in excess of 400 square feet devoted to the receipt, separation, storage, baling, conversion, and/or processing of recyclable materials, but not including *wrecking/salvage yard*.

Renewable energy systems. Means either a *Wind Energy Conversion System (WECS)* or a *Solar Energy Conversion System (SECS)*. Those terms shall mean the following:

- (a) Solar Energy Conversion System (SECS). Means a commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other

conversion technology, for the primary purpose of wholesale sales of generated electricity and includes all associated support facilities including but not limited to, roads, substations, operation and maintenance buildings, as specified in the application.

- (b) Wind Energy Conversion System (WECS). Means the combination of mechanical and structural elements used to produce electricity by converting the kinetic energy of wind to electrical energy. Wind Energy Conversion Systems consist of the turbine apparatus and any other buildings, support structures and other related improvements necessary for the generation of electric power from wind and intended for wholesale sales of generated electricity.

Reverse vending machine. Means an automated mechanical device that accepts one or more types of recyclable materials and issues a cash refund or a redeemable credit slip. A *reverse vending machine* may sort and reduce materials mechanically, provided the entire process is enclosed within the machine.

Safety services. Means a facility for conduct of public safety and emergency services, including fire and police protection services and emergency medical and ambulance services.

School, elementary, middle, & high. Means the use of a site for instructional purposes on an elementary or secondary level, including both public schools as well as private schools that have curricula similar to those in public schools.

University or college. Means an institution of higher education offering undergraduate or graduate degrees in higher learning, including seminaries.

Utility, major. Means generating plants; electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; and radio, television and microwave transmission towers; and similar facilities of agencies that are under public franchise or ownership to provide the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service. The term *major utility* shall not be construed to include corporate or general offices; gas or oil processing; manufacturing facilities; postal facilities, communication switching facilities that are accompanied by office uses, telecommunication carrier with transmission equipment for long-distance call and high-speed Internet connections with one or more telecommunication carrier located within a building.

Utility, minor. Means services and facilities of agencies that are under public franchise or ownership to provide services that are essential to support development and that involve only minor structures, such as poles and lines, and structures not exceeding 150 cubic feet in size and six feet in height that do not generate discernable noise, odor or vibration within any nearby residential district, and that comply with the *setback* requirements of the district in which they are located.

300.C. COMMERCIAL. The following terms define the commercial uses listed in Article 5 as permitted or conditional in each zoning district.

Adult entertainment establishment. Means any commercial establishment which is an adult bookstore, adult motion picture theater, adult hotel, adult motion picture arcade, or escort service as defined in Chapter 5, Article 7, Haysville Municipal Code, and includes any businesses involving *adult entertainment*, as defined herein.

Airport or airstrip. Means any landing area, runway or other facility designed, used, or intended to be used either publicly or by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage, and tie-down areas, hangars, and other necessary buildings and open spaces. The term *airport or airstrip* does not include *heliport*.

Animal care, general. Means a use providing veterinary services for large animals, and that may include small animals or household pets, and for which boarding facilities may also be provided.

Animal care, limited. Means a use providing veterinary services for small animals or household pets for which there are no outside animal runs, and for which boarding facilities may also be provided.

Automated teller machine ("ATM"). Means a mechanized consumer banking device operated by a *financial institution* for the convenience of its customers, whether outside or in an access-controlled facility. *ATMs* located within a building shall be considered accessory to the *principal use* unless the ATM is likely to be an independent traffic generator.



automated teller machine

Bank or financial institution. Means an establishment engaged in deposit banking. Typical uses include commercial banks, savings institutions, and credit unions. The term *bank or financial institution* also includes *ATMs*.



bank

Bed and breakfast inn. Means the use of an owner-occupied or manager-occupied residential structure to provide rooms for temporary lodging or lodging and meals for not more than fifteen *transient guests* on a paying basis.

Broadcasting/recording studio. Means an establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, including radio, television, film, or sound recording studios.

Car wash. Means an establishment engaged in cleaning or detailing *motor vehicles*, whether self-service or automated.

Construction sales and service. Means an establishment engaged in the retail or wholesale sale of materials used in the construction and/or maintenance of buildings or other structures and/or grounds, as well as the outdoor storage of construction equipment or materials on lots other than construction sites. Typical uses include lumberyards, home improvements centers, lawn and garden supply stores, electrical, plumbing, air conditioning, and heating supply stores, swimming pool sales, construction and trade contractors' storage yards, landscape installation and/or maintenance services and pest extermination services.

Convenience store. Means an establishment engaged in the retail sale of food, beverages, gasoline and other frequently or recurrently needed merchandise for household or automotive use and which may specifically include a *car wash* as an *accessory* use, but shall not include *vehicle repair*.

Entertainment establishment. Means any *event center* or any person or entity that provides entertainment, excluding *adult entertainment*, as defined herein.

Event center. Means premises that are frequently rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is scheduled.

Farmer's market. Means an outdoor place or market area with a formalized location where more than one Kansas farmer or grower gathers to sell agricultural products they have grown or raised. Other activities and other sellers may be accommodated at the market, but the sale of agricultural products shall be the focal point of the market activity. Other products that may be sold would typically include dried flowers, crafts and handicrafts that are made in the home, original artwork, and certain prepared foods.

Funeral home. Means an establishment engaged in preparing the human deceased for burial or cremation and arranging and managing funerals.

Heliport. Means the area of land, water, or structure, including any building or facilities thereon, used or intended to be used for the landing and takeoff of helicopters.

Hotel or motel. Means an establishment used, maintained or advertised as a place where sleeping accommodations are supplied for short term use by *transient guests*, usually for less than a week, in which rooms are furnished for the accommodation of such transient guests, which may have as an *accessory* use one or more dining rooms, and may include individual kitchen facilities. Typical uses include hotels, motels, tourist courts and emergency shelters for the homeless and for victims of crime, abuse or neglect.

Kennel, hobby. Means premises housing five to ten *adult dogs* owned by the property resident.

Kennel, boarding/breeding/training. Means premises housing five or more *adult dogs*, three or more of which are owned by someone other than the business owner, and premises housing over ten adult dogs.

Medical service. Means an establishment providing therapeutic, preventive, or corrective personal treatment services on an out-patient basis by physicians, dentists, and other practitioners of the medical or healing arts, as well as the provision of medical testing and analysis services. Typical uses include medical and dental offices and clinics, blood banks and medical laboratories.

Microbrewery. Means a brewery that:

- (1) Is licensed by the Director of Alcohol Beverage Control of the state Department of Revenue;
- (2) Produces no more than 5,000 barrels of beer per year; and
- (3) Does so in a completely enclosed building.

Mobile food unit. Means any self-contained vehicle, trailer, cart, wagon, or other type of conveyance from which any food and/or beverage is offered for sale.

Monument sales. Means an establishment primarily engaged in the retail sale of *monuments*, including, but not limited to, headstones, footstones, markers, statues, obelisks, cornerstones, and ledges for the placement on graves, including indoor or *outdoor storage*.

Nightclub. Means an establishment that provides entertainment, which may include the provision of dancing by employees or patrons, and which may or may not serve food.

Nurseries and garden centers. Means a place of business where retail and wholesale products and produce are sold to the customer. These centers, which may include a nursery and/or greenhouses, and may include plants, nursery products and stock, and other garden and farm variety tools and utensils.

Office, general. Means an establishment providing executive, management, administrative or professional services, but not involving medical or dental services or the sale of merchandise, except as incidental to a permitted use. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting and the teaching of these and similar activities, and communication switching facilities and telecommunication carriers that are accompanied by office uses and with all facilities within the building or underground.

Parking area, accessory. Means an area other than a *private parking area* or *commercial parking area*, *street* or *alley* that is used for the parking of passenger vehicles as accessory parking to a *principal use*, and that requires the same or a more intensive district than the district in which the principal use is located.

Parking area, commercial. Means an area or structure used or intended to be used for the off-street parking of operable *motor vehicles* on a temporary basis of not more than 72 consecutive hours, other than as an *accessory parking area* to a *principal use*.

Pawnshop. Means an establishment primarily engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker, and the sale of such property.

Personal care service. Means an establishment primarily engaged in the provision of frequently or recurrently needed services involving the care of a person or his personal goods or apparel. Typical uses include beauty and barber shops, electrolysis studios, shoe shining and/or repair operations, tailors and neighborhood laundry and dry cleaning operations.

Personal improvement service. Means an establishment primarily engaged in the provision or informational, instructional, personal improvement, and similar services of a nonprofessional nature. Typical uses include portrait shops, photography studios, art and music schools, licensed massage therapists, health and fitness studios, swimming clubs, tattooing and body piercing, and handicraft or hobby instruction.

Post office substation. Means a facility or structure owned by the U.S. Postal Service that is used for the collection, sorting, and distribution of mail within several zip code areas and having limited retail services for the general public, such as the sale of stamps, postcards and postal insurance.

Printing and publishing. Means the production of books, magazines, newspapers, and other printed matter, as well as record pressing and publishing, and engraving and photoengraving.

Recreation and entertainment, indoor. Means a privately-owned establishment offering recreation, entertainment, or games of skill to the general public or members that is wholly enclosed in a building. Typical uses include bowling alleys, indoor theaters, bingo parlors, pool halls, billiard parlors, video game arcades, racquetball, and handball courts, and amusement rides. It does not include buildings typically accessory to a subdivision that are for use by the subdivision's residents and their guests.

Recreation and entertainment, outdoor. Means a privately-owned establishment offering recreation, entertainment, or games of skill to the general public or members wherein any portion of the activity takes place in the open. Typical uses include archery ranges, batting cages, golf driving ranges, drive-in theaters, miniature golf courses, "pitch and putt" facilities, tennis courts, and amusement rides. It does not include *golf courses*, parks, open space, and recreational facilities typically accessory to a subdivision that are for use by the subdivision's residents and their guests.

Recreational vehicle campground. Means the use of land designated for occupancy by *recreational vehicles* for temporary or transient living purposes, including the use of camping spaces for tents.

Restaurant. Means an establishment where the principal business is the sale of food and beverages for consumption, including the retail sale of alcoholic liquor or cereal malt beverages for consumption on the premises. *Restaurants* are classified as follows:

Restaurant, fast food. Means an establishment that sells food already prepared for consumption, packaged in paper, Styrofoam or similar materials, and may include drive-in or drive-up facilities for ordering.

Restaurant, general. Means an establishment that sells food for consumption on or off the premises.

Restaurant, take-out. Means an establishment that sells food only for consumption off the premises.

Retail, general. Means the sale or rental of commonly used goods and merchandise for personal or household use, but excludes those classified more specifically in this section. Typical uses include grocery stores, department stores, furniture stores, clothing stores and establishments providing the following products or services: household electronic equipment, sporting goods, bicycles, office supplies, home furnishings, household appliances, wallpaper, carpeting and floor-covering, art supplies, kitchen utensils, jewelry, drugs, cosmetics, books, notions, antiques or automotive parts and accessories.

Riding academy or stable. Means a commercial establishment for boarding, breeding, training, or raising of horses not owned by the owners or operators of the establishment, rental of horses for riding, or other equestrian activities. The term *riding academy or stable* shall not include *rodeo*.

Rodeo. Means a competition, exhibition, or demonstration involving persons, equines, and/or bovines in which participants display various skills in one more events such as, but not limited to, bareback riding, saddle bronco riding, street wrestling, roping, team roping, tie-down roping, barrel racing, bull riding, or similar events.

Secondhand store. Means a retail establishment other than an antique store that engages in the purchase and resale of used goods such as clothing, furniture, appliances, books, and other household items.

Service station. Means an establishment primarily engaged in the retail sale of gasoline or other motor fuels that may include accessory activities, such as the sale of lubricants, automotive accessories, or supplies, the lubrication or washing of *motor vehicles*, the minor adjustment or repair of motor vehicles and may specifically include a *car wash*.

Short-term residential rental. Means any non-owner-occupied *dwelling unit* which:

- (1) Contains rooms furnished for the purposes of providing lodging to *transient guests*;
- (2) Is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are available for pay or compensation by transient guests; and
- (3) Rental is less than 28 days.

Tavern and drinking establishment. Means an establishment engaged in the preparation and retail sale of alcoholic liquor or cereal malt beverage for consumption on the premises that derives, in a six-month period, less than fifty percent (50%) of its gross revenues from the sale of food and beverages for consumption on the premises. For the purposes of these regulations, the term *tavern and drinking establishment* shall include *Class B Club*.

Teen club. Means any building or part or other enclosed place where a teen dance is held or teen dancing is permitted.

Vehicle and equipment sales, outdoor. Means an establishment engaged in the retail or wholesale sale or rental, from the premises, of motor vehicles or equipment, along with incidental service or maintenance. Typical uses include new and used automobile and truck sales, automobile rental, boat sales, motorcycle sales, construction equipment rental yards, trailers and/or moving trailer rental.

Vehicle repair, limited. Means a use providing repair of *motor vehicles* or maintenance services within completely enclosed buildings, but not including paint and body shops or other general vehicle repair services. Typical uses include businesses engaged in the following activities:

- (1) Electronic tune-ups;
- (2) Brake repairs (including drum turning);
- (3) Air conditioning repairs;

- (4) Transmission and engine repairs;
- (5) Generator and starter repairs;
- (6) Tire repairs;
- (7) Front-end alignments;
- (8) Battery recharging;
- (9) Lubrication; and/or
- (10) Sales, repair and installation of minor parts and accessories, such as tires, batteries, windshield wipers, hoses, windows, etc.

Vehicle repair, general. Means an establishment primarily engaged in painting of or body work to *motor vehicles* or heavy equipment. Typical uses include paint and body shops.

Vocational school. Means a use providing education or training in business, commercial trades, language, arts or other similar activity or occupational pursuit, and not otherwise defined as a *university, college, or elementary, middle, and high school.*

Warehouse, self-service storage. Means an enclosed storage facility of a commercial nature containing independent, fully enclosed bays that are leased to persons exclusively for dead storage of their household goods or personal property.



self-storage facility

Wireless communication facility. Means a lot containing equipment at a fixed location that enables wireless communications between user equipment and a communications network, including, but not limited to:

- (a) A wireless support structure consisting of a freestanding support structure, such as a monopole, guyed, or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities;
- (b) A base station that supports or houses an antenna, transceiver, coaxial cables, power cables or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics;
- (c) Equipment associated with wireless services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and/or

- (d) Radio transceivers, antennas, coaxial or fiber- optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration.

300.D. INDUSTRIAL, MANUFACTURING, AND EXTRACTIVE. The following terms define the industrial, manufacturing, and extractive uses listed in Article 5 as permitted or conditional in each zoning district.

Asphalt or concrete plant, general. Means an establishment engaged in the manufacture, mixing, batching or recycling of asphalt, asphaltic cement, cement or concrete products.

Asphalt or concrete plant, limited. Means a temporary establishment engaged in the manufacture, mixing, batching or recycling of asphalt, asphaltic cement, cement or concrete products for use on a government funded construction project.

Basic industry. Means an establishment engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage or manufacturing processes that involve or have the potential to involve commonly recognized offensive conditions. Typical uses include fat rendering plants; poultry and rabbit dressing; pulp processing and paper products manufacturing; stockyards; slaughterhouses; steel works; tanneries; acid manufacture; cement, lime, gypsum, or plaster of Paris manufacture; distillation of bones; fertilizer manufacture; garbage, offal or dead animals' incineration, reduction or dumping; glue manufacture; gas manufacture; and petroleum refineries.

Construction burn site, limited. Means a location where clean tree waste that is created as a result of accepted construction industry practices of clearing a property prior to development, or as a result of a construction project, such as the installation, replacement or repair of sewer, water, drainage, paving, or other similar development activities, is permitted to be burned under controlled circumstances three or less times a year. Clean tree waste is defined as trunks, branches and attached leaves of woody perennial plants typically characterized by a main or multiple trunks that support branches and leaves. Lumber, sheet rock, yard waste, insulation, or other material normally disposed of at a construction and demolition or municipal solid waste *landfill* is not permitted to be burned or disposed of at a *construction burn site*.

Construction burn site, general. Means a location where clean tree waste that is created as a result of accepted construction industry practices of clearing a property prior to development, or as a result of a construction project, such as the installation, replacement, or repair of sewer, water, drainage, paving, or other similar development activities, is permitted to be burned under controlled circumstances four or more times a year. Clean tree waste is defined as trunks, branches and attached leaves of woody perennial plants typically characterized by a main or multiple trunks that support branches and leaves. Lumber, sheet rock, yard waste, insulation, or other material normally disposed of at a construction and demolition, or municipal solid waste *landfill* is not permitted to be burned or disposed of at a construction burn site. The term *construction burn site, general* does not include a construction and demolition or a municipal solid waste landfill.

Freight terminal. Means a building or area in which freight brought by motor trucks or rail is assembled and/or stored for routing in intrastate or interstate shipment by motor truck or rail.

Gas and/or fuel storage and sales. Means the use of a site for bulk storage and wholesale distribution of flammable liquid, gas, or solid fuel, excluding below-ground storage that is clearly ancillary to an allowed *principal* use on the site.

Hazardous operations. Means activities that present serious hazards to human life and health. Typical uses include arsenals, atomic reactors, explosives and fireworks manufacture, hazardous waste disposal, medical waste disposal, and radioactive waste handling.

Landfill. Means a disposal facility employing an engineered method of disposing of solid waste, including demolition and construction debris.

Manufacturing, light. Means the manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment, including research activities, conducted entirely within an enclosed structure, with no outside storage, serviced by a modest volume of trucks or vans and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants. Typical uses include ceramic shops, candle-making shops, custom jewelry manufacturing, electronic and computer products assembly, production of instruments and lenses for medical, dental, optical, scientific, and other professional purposes, and upholstery shops.

Manufacturing, medium. Means the manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment within an enclosed structure or an open yard that is capable of being screened from neighboring properties, serviced by a modest volume of trucks or other vehicles. Typical uses include ice cream manufacturing, millwork and cabinetry, monument and grave marker manufacturing, precision machining of tools, dies and jigs, and other professional purposes.

Manufacturing, heavy. Means other types of manufacturing not included in the definitions of *light manufacturing* and *medium manufacturing*.

Mining or quarrying. Means the extraction of metallic and nonmetallic minerals, excluding oil or natural gas. Typical uses include sand, soil and gravel pit operations, quarries, and mines.

Oil and gas drilling. Means the subsurface extraction of oil or natural gas.

Research services. Means an establishment engaged in conducting basic and applied research, including production of prototype products when limits to the minimum scale necessary for full investigation of the merits of a product, excluding production of products used primarily or customarily for sale or for use in non-prototype production operations.

Rock crushing. Means an establishment engaged in crushing rock or stone milling.

Solid waste incinerator. Means a permanent facility operated alone or in conjunction with a *recycling processing center* or *landfill* for the purpose of burning solid waste or trash and converting it to ash.

Storage, outdoor. Means the keeping, storing, placing or locating outside of an enclosed structure for more than 72 consecutive hours any property, goods, products, equipment, cargo containers, or other similar items not considered *accessory* uses as listed in these regulations. The term *outdoor storage* does not include *vehicle storage yard*.

Transfer station. Means any enclosed facility where solid wastes are transferred from one vehicle or rail car to another or where solid wastes are stored and consolidated before being transported for disposal elsewhere.

Vehicle storage yard. Means the keeping outside of an enclosed building for more than 72 consecutive hours of one or more *motor vehicles* (except *inoperable vehicles*), boats, trailers, or unoccupied recreational vehicles. The term *vehicle storage yard* does not include *wrecking/salvage yard*.

Warehousing. Means the storage of materials, equipment, or products within a building for manufacturing use or for distribution to wholesalers or retailers, as well as activities involving significant movement and storage of products or equipment. Typical uses include major mail distribution centers, frozen food lockers, and moving and storage firms, but excluding *self-service storage warehouses*.

Welding or machine shop. Means a workshop where machines, machine parts, or other metal products are fabricated. Typical uses include machine shops, welding shops, and sheet metal shops.

Wholesale or business services. Means an establishment primarily engaged in the display, storage, and sale of bulk goods or services to other businesses, typically retailers, for resale or further distribution. It may also include the sale of bulk goods and services directly to individual consumers

Wrecking/salvage yard. Means a lot, land, or structure, or part thereof, used for the collecting, dismantling, storing, and/or salvaging of machinery, equipment, appliances, inoperable vehicles, vehicle parts, bulky waste, salvage material, junk, or discarded materials; and/or for the sale of parts thereof. Typical uses include *motor vehicle* salvage yards and junkyards.

300.E. AGRICULTURAL. The following terms define the agricultural uses listed in Article 5 as permitted or conditional in each zoning district.

Agriculture. Means a use of any land for the purpose of growing plants, crops, trees and other agricultural or forestry products or for the purpose of raising livestock. The term *agriculture* also includes the roadside selling of products produced on land owned, leased, or legally controlled by the producer (farmer, rancher, horticulturalist, viticulture, apiary, or similar agricultural pursuits). The definition shall include, as a permitted *accessory* use, the sale of nursery stock, firewood, Christmas trees and other plants and produce raised on-site. Typical activities include, but are not limited to: *Farmer's market* which permits the sale of agricultural products by other producers; U-pick-it activities; flower arranging; canning/cooking; gardening demonstrations; winery tours and tastings; corn mazes;

agriculture related interpretive facilities; agricultural exhibits and tours; agriculturally related educational and learning workshops or experiences; horseback riding; non-commercial camping; bonfire/campfire themed events; service of food and beverages; hayrides; pumpkin patch sales and any other uses determined by the Zoning Administrator to be similar.

Agricultural processing. Means initial processing of agricultural products that is reasonably required to take place in close proximity to the site where they are produced. Typical uses include sawmills and packinghouses. Slaughterhouses are specifically excluded from this definition.

Agricultural research. Means the use of land and buildings for agricultural research and the cultivation of new agricultural products. This shall include greenhouses that are used for research purposes only.

Agricultural sales and service. Means an establishment primarily engaged in the sale or rental of farm tools and implements, feed and grain, tack, animal care products, propane, butane, anhydrous ammonia, farm supplies and the like, and including accessory food sales and machinery repair services. This definition shall also include greenhouses that are used for wholesale and/or retail purposes.

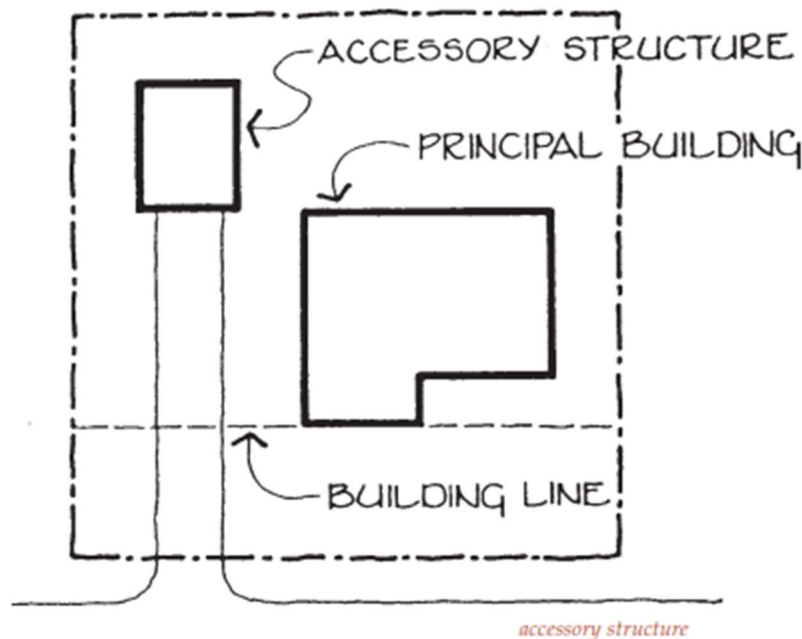
Grain storage. Means facilities for the warehousing of agricultural products. Typical uses include grain elevators.

SECTION 301. GENERAL DEFINITIONS

301.A.

Abut. Means touching, adjoining, or contiguous; as distinguished from lying near to or *adjacent*.

Accessory structure. Means a structure that is subordinate to and serves a *principal structure*; is subordinate in purpose to the principal structure served; contributes to the comfort, convenience or necessity of occupants of the principal structure served; and is located on the same zoning lot as the principal structure.



Accessory use. Means a use conducted on the same lot as the *principal* use to which it is related; a use that is clearly incidental to, and customarily found in connection with, such principal use.

Adjacent. Means lying near or close to, neighboring, but not necessarily touching or *abutting*.

Adult entertainment. Means any exhibition, performance, interaction, display or dance of any type, including but not limited to, talking, singing, reading, listening, posing, computer internet activities, computer programs with sex based content, serving food or beverages, soliciting the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered on a premises where such action is intended to arouse or excite the sexual desires of the entertainer, other entertainers, or the patron(s), or if the interaction is characterized by an emphasis on the exposure,

depiction or description of “specified anatomical areas” or the conduct or stimulation of “specified sexual activities,” as defined in Chapter 5, Article 7, Haysville Municipal Code.

Alley. Means a public right-of-way along the side of or in the rear of a lot intended to provide a secondary means of access to and from the *street* and such lot.



alley

All-weather surface. Means a surface of either:

- 1) Asphalt, a minimum of 2” inches deep, and placed over base material a minimum of 4” inches deep;
- 2) Concrete, a minimum of 4” inches deep;
- 3) Compacted rock or crushed concrete, a minimum of 4” inches deep, utilizing a minimum of 1” inch diameter rock with not more than 10% fines for a binder. Utilization of the compacted rock or crushed concrete option shall require borders installed around all four sides, extending 2” to 3” inches above ground and not to impede drainage;
- 4) Brick paver stone, minimum 2 3/8” inches thick shall be placed over base material of a minimum 5” inches deep.

Base material shall consist of a minimum 4” inch deep crushed stone or gravel, topped with sand a minimum of 1” inch deep. Every all-weather surface must be properly maintained and kept free of potholes, weeds, grass, dust, trash, and miscellaneous scattered objects (debris) to qualify as an all-weather surface. A surface that is not maintained free of weeds and debris is not an all-weather surface as an improperly developed or maintained surface does not meet the goals or the intent of this definition.

Alteration. Means any change, addition or modification in construction, occupancy or use.

301.B.

Base flood (as defined by K.S.A. 12-742). Means a flood having a 1% chance of being equaled or exceeded in any one year.

Basement. Means any floor level below the first *story* in a building, except that a floor level in a building having only one floor level shall be classified as a *basement* unless such floor level qualifies as a first story as defined herein.

Block. Means a tract of land bounded by *streets*, or by a combination of streets, railway right-of-way or waterways.

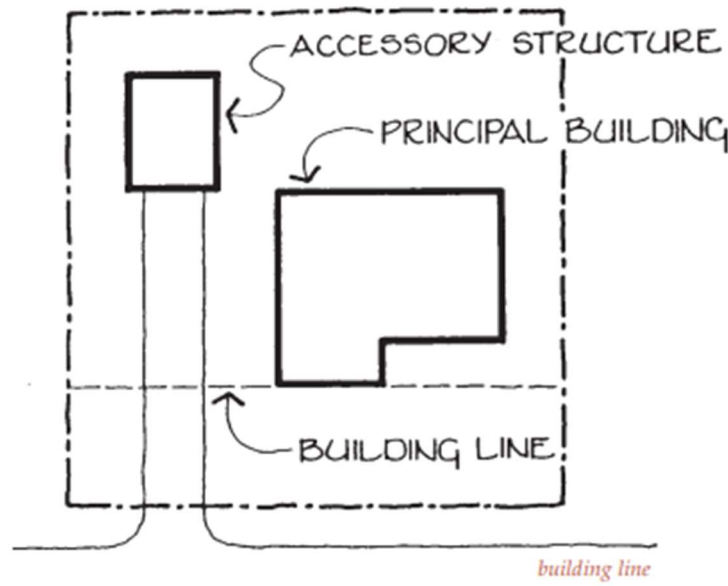
Board. Means the Board of Zoning Appeals.

Building. Means any structure used or intended for supporting or sheltering any use or occupancy.

Building, auxiliary. Means a structure on the same lot as the principal structure or *principal* use which may be on a substandard permanent foundation and of a nature customarily incidental and subordinate to the principal structure or principal use and does not exceed 99 square feet. For example, a portable metal storage shed on a concrete slab with modified footings is an auxiliary building

Building height. Means the vertical distance above the average existing grade to the highest point of the building. The height of a stepped or terraced building shall be the maximum height of any segment of the building.

Building line. Means the perimeter of that portion of a building or structure nearest a property line, but excluding open steps, terraces, cornices and other ornamental features projecting from the walls of a building or structure.



Building, principal. Means a building in which the principal use of the site is conducted. See also *principal structure*.

Building, temporary. Means a building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction of utilities, or other community facilities, or used temporarily in conjunction with the sale of the property within a subdivision under construction.

301.C.

Code. Means the City of Haysville, Kansas Municipal Code.

Cargo container. Means any portable, weather-resistant receptacle, container or other structure that is designed or used for the storage or shipment of household goods, commodities, building materials, furniture, or merchandise.

Class "A" club. Means a premises owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the Director of Alcoholic Beverage Control of the Kansas Department of Revenue, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members) and their families and guests accompanying them. Membership is required.

Class "B" club. Means a premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment. Membership is not required.

Commission. Means the City of Haysville Planning Commission.

Community building. Means a structure for social, educational, and recreational activities of a neighborhood or community, provided, that any such use is not operated for commercial gain.

Comprehensive plan. Means any plan or map adopted by the City for guidance of growth and improvement of the City and its environs including modifications or refinements that may be made from time to time.

Conditional use. Means a use allowed in accordance with certain procedures and standards of these regulations.

Condominium. Means a single *dwelling unit* in a multi-unit dwelling or structure that is separately owned and may be combined with an undivided interest in the common areas and facilities of the property.

Construction equipment. Means equipment used in the construction, improvement, and/or maintenance of buildings or other structures and/or grounds.

Court. Means an open, unoccupied space other than a *yard* on the same lot with a building or group of buildings, and which is bounded on two or more sides by such building or buildings.

Court, inner. Means a *court* other than an *outer court*. The length of an inner court is the minimum horizontal dimension measured parallel to its longest side. The width of an inner court is the minimum horizontal dimension measured at right angles to its length.

Court, outer. Means a *court* which opens onto a required *yard*, or *street* or *alley*. The width of an outer court is the minimum horizontal dimension measured in the same general direction as the yard, street or alley upon which the court opens. The depth of an outer court is the minimum dimension measured at right angles to its width.

301.D.

Development. Means any activity for which a permit is required to be obtained.

District. Means any section of the City for which the regulations governing the use of buildings and premises and the height and area of buildings are uniform.

Dwelling unit. Means a building, or a portion of a building, that contains living facilities for not more than one family and that includes provisions for sleeping, cooking, eating and sanitation.

301.E.

Easement. Means a grant of specific property rights to land for the use of the public, a corporation or another person or entity.

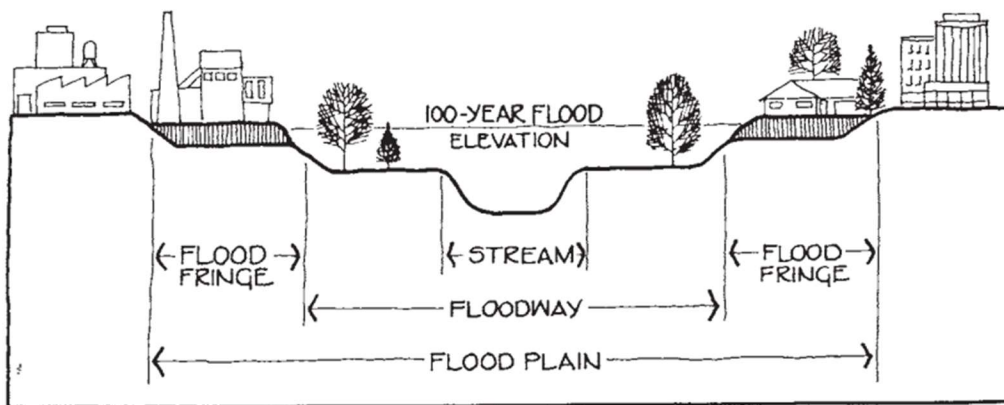
301.F.

Fence. Means an artificially constructed barrier erected to enclose, screen, or separate areas; constructed of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials intended for fencing purposes. See also *screening* and *solid screening*.

Financial institution. Means an establishment engaged in deposit banking. Typical uses include commercial banks, savings institutions, and credit unions. Financial institutions also include *ATMs*.

Floodway fringe (as defined in K.S.A. 12-742). Means those portions of a flood plain outside the boundaries of a regulatory floodway and within stream reaches where such a floodway has been established.

Floodplain (as defined by K.S.A. 12-742). Means land adjacent to a watercourse subject to inundation from a flood having a chance occurrence in any one year of 1%.



floodplain

Frontage. Means the width of a lot or parcel abutting a public right-of-way measured at the front property line.

301.G.

Garage, private. Means an *accessory* structure or portion of a *principal* structure for the parking and temporary storage of automobiles of the occupants of the premises, and wherein:

- (a) Not more than one space is rented for parking to persons not occupants of the premises;
- (b) Not more than one commercial vehicle per *dwelling unit* is parked or stored; and
- (c) The commercial vehicles permitted do not exceed 26,000 pounds gross vehicle weight rating.



garage

Garage, public. Means a building other than a *private garage* used for housing, care or repair of automobiles, or where such vehicles are equipped for operation, repaired, parked or stored for remuneration, hire, or sale.

Grade. Means the lowest point of elevation of the existing surface of the ground, within the area between the building and a line 5 feet from the building.

Governing body. Means the mayor and city council of the City of Haysville.

Green area. Means a landscape area set aside and maintained by the owner for the aesthetic enjoyment of the public.

301.H.

Hard surface. Means a concrete or other similar surface impervious to water and strong enough for the intended use. A *hard surface* differs from an *all-weather surface* in that a hard surface does not include gravel or rock.

Home occupation. Means a business, profession, occupation or trade conducted in a *dwelling unit* for gain or support by a resident of the dwelling unit and which is accessory to the use of the dwelling unit as a residence.

301.I.

Improvements. Means all facilities constructed or erected by a subdivider within a subdivision to permit and facilitate the use of lots or blocks for residential, commercial or industrial purposes. Improvements shall include all facilities listed in Article VII of the subdivision regulations adopted by the city.

Incidental use. ?

301.J.

301.K.

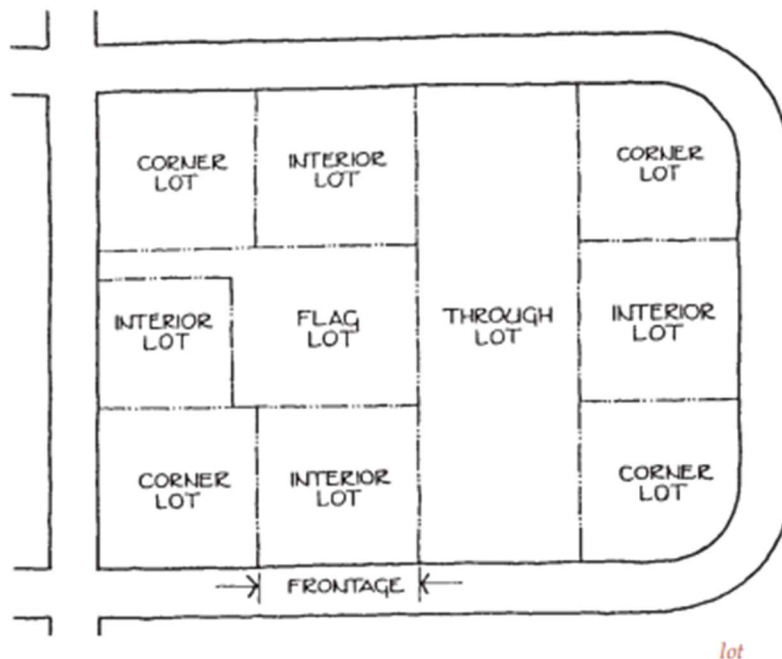
301.L.

Landscaping. Means the *improvement* of a lot, parcel, or tract of land with grass and shrubs and/or trees. Landscaping may include pedestrian walks, flower beds, ornamental objects, such as fountains, statuary and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.

Line of sight. Means a visual path emanating from an average eye level adjudged to be between three and eight feet above ground level.

Livable area. The total contiguous area of a *dwelling unit*.

Lot. Means a portion or basic parcel of a subdivision or other tract of land intended to be the parcel by which such land would be individually developed and transferred. A building site or parcel of land occupied or intended to be occupied by a building and accessory buildings, and including such open spaces as are required under this article and having its principal *frontage* upon a public *street* or officially approved place.



Lot area. Means the total area within the lot lines of a lot.

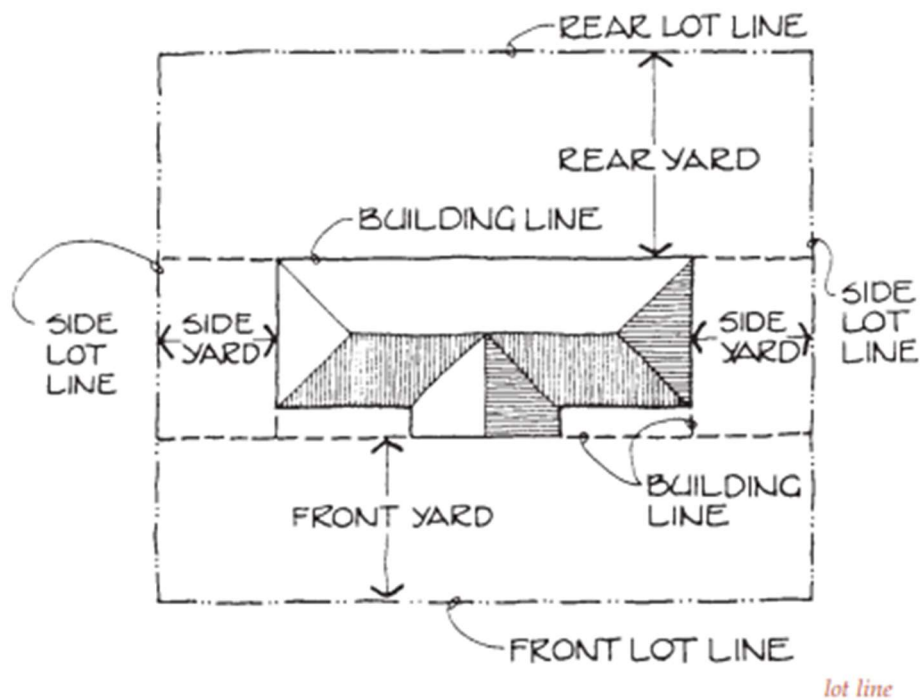
Lot, corner. Means a lot *abutting* two or more *streets* at their intersection. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

Lot depth. Means the horizontal distance between the front and rear lot *lines* measured along the median between the two side lot lines.

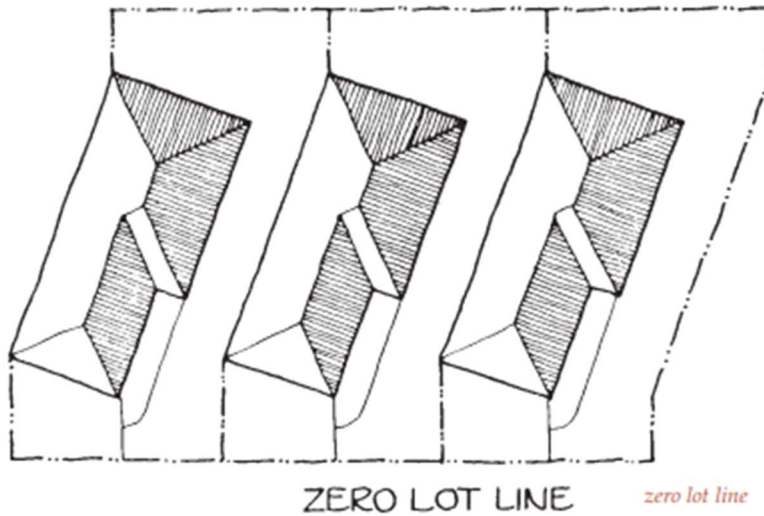
Lot, flag. Means a lot not meeting minimum lot width requirements and where access to a public or private street is provided by means of a long, narrow driveway between *abutting* lots.

Lot, interior. Means a lot other than a *corner* lot or a *through* lot.

Lot lines. Means the lines bounding a lot as defined herein.



Lot line, zero. Means the location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot *line*.



Lot of record. Means a lot or portions of one or more lots which are a part of a subdivision, or a plot described by metes and bounds, the map and/or description of which has been recorded in the Office of the Register of Deeds of Sedgwick County.

Lot split. Means the dividing or redividing of a lot into two or more lots.

Lot, through. Means a lot, other than a *corner* lot, with *frontage* on two parallel or approximately parallel *streets*.

Lot width. Means the horizontal distance between the side lot *lines* measured at right angles to *the* lot *depth* at a point midway between the front and rear lot lines measured along lot depth.

301.M.

Metes and bounds. Means a system of describing and identifying a parcel of land by measures (metes) and direction (bounds) from an identifiable point of reference.

Mobile home. Means a movable detached single-family *dwelling unit* that was manufactured according to standards prior to 1976 or that does not conform to the Manufactured Home Construction and Safety Standards Act (HUD Code). Such units shall provide all of the accommodations necessary to be a dwelling unit and be connected to utilities in conformance with all applicable regulations. The term mobile home does not include a *recreational vehicle*.

Monument. Means a statue, pillar, or other non-habitable structure erected in memory of the dead or of a person, event, etc.

301.N.

Nonconforming lot. Means a lot lawfully existing at the time this zoning ordinance became effective, or as amended, which does not conform with the *setback*, lot size or other dimensional or property development standards applicable to the zoning district in which the lot is located.

Nonconforming structure. Means a structure lawfully existing at the time this zoning ordinance became effective, or as amended, which does not conform with the *setback*, height, or other dimensional or property development standards applicable to the zoning district in which the structure is located.

Nonconforming use. Means the *use* of any land, building or structure which does not comply with the use regulations of the zoning district in which such use is located but which complied with the use regulations in effect at the time the use was established.

301.O.

Obstruction. Means any object within the *sight triangle* that is between three and eight feet above ground level and would therefor obstruct the driver's view of an approaching vehicle. Obstructions in sight triangles may include, but are not limited to, buildings, vehicles, *signs*, hedges, trees, bushes, tall crops, walls, or *fences*.

Owner. Means any person or persons, firm or firms, corporation or corporations, or any other legal entity having legal title to land.

301.P.

Parking. Means the temporary location of *motor vehicles* (except for *inoperable vehicles*), boats, *trailers*, and unoccupied *recreational vehicles* for not more than 72 consecutive hours.

Parking area, private. Means an area, other than a *street* or *alley*, used or intended to be used for the *parking* of operable *motor vehicles*, boats, *trailers* that are exempt from motor vehicle registration by the state or are registered or are required by law to be registered with a 2M+ Kansas license plate in the city or 8M in the County, and unoccupied *recreational vehicles*, any of which shall be owned, leased, borrowed, etc. by the occupants of a *dwelling unit* that is located on the same *lot*, and wherein not more than one commercial vehicle per dwelling unit is parked and the permitted commercial vehicle does not exceed 26,000 pounds gross vehicle weight rating.

Parking space. Means an area on privately owned property within or without a building or on a private or public parking area and sufficient in size for the parking of one automobile.

Parts car. Means an inoperable *motor vehicle*, including any vehicle without current registration, which is owned by a collector to furnish parts which will enable the collector to restore, preserve and maintain a special interest vehicle, street rod vehicle or antique.

Pawnshop. Means an establishment primarily engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker, and the sale of such property.

Pedestrian way. Means a right-of-way for pedestrian traffic.

Place of worship. Means a premises or *site* used primarily or exclusively for religious worship and related religious services or established place of worship, convent, seminary, or similar facility owned or operated by a bona fide religious group for religious activities.

Planned Unit Development. Means a development guided by a total design plan in which one or more of the zoning or subdivision regulations, other than use regulations, shall be permitted to be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with general guidelines.

Plat. Means a drawing/map by a professional surveyor of a tract of land that has been lawfully subdivided and duly recorded in the Office of the Register of Deeds of Sedgwick County.

Principal structure. ?

Porch. Means a roofed structure projecting from a building and separated from the building by the walls thereof and having no enclosing features except roof supports, railing, and screen wire.

Public way. Means any parcel of land unobstructed from the ground to the sky, more than 10 feet in width, appropriated to the free passage of the general public.

301.Q.

301.R.

Regulations. Means the City of Haysville Planning and Zoning Regulations.

Replat. Means the re-subdivision of a tract of land that has previously been lawfully subdivided and a plat of such prior subdivision duly recorded.

Residential-design manufactured home. Means a *manufactured home* on a permanent foundation that is a minimum of 22 feet in width; has a pitched roof, siding and roofing materials that are customarily used on site-built homes; and that complies with the architectural and aesthetic standards specified in these regulations. A residential-design manufactured home shall be considered a single-family *dwelling unit* in accordance with K.S.A. 12-742.

301.S.

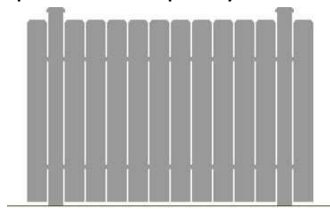
Salvage material. Means material, including but not limited to, scrap brass, scrap copper, scrap iron, scrap lead, scrap tin, scrap zinc and all other scrap metals and alloys, bones, rags, used cloth, used rope, used rubber, used tinfoil, used bottles, playground equipment, old or used machinery of any type, used tools, used appliances, used fixtures, used furniture, used utensils, used lumber, used boxes or crates

(fabricated of any material), used pipe or pipe fittings, used conduit or conduit fittings, used automotive parts, used tires, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

Screening. Means fencing, evergreen vegetation or landscaped earth berms maintained for the purpose of concealing from view the area behind such fences, evergreen vegetation or berms.

Screening, solid. Means a solid barrier of 90 to 100 percent opacity made from wood, vinyl, landscaped earth berms, masonry, or other similar materials, including brick, stone, architectural tile, or a combination of these materials erected to enclose, screen, or separate areas from adjacent views. Appropriate materials do not include mesh privacy screens.

Example of 90% Opacity of Screening



Setback. Means the minimum distance that is required by these regulations between a structure and the lot *line* of the *lot* on which the structure is located.

Setback, front. Means a *setback* that is to extend across the full width of the *lot*, the required depth of which is measured as the minimum horizontal distance between the street right-of-way line and a line parallel thereto on the lot.

Setback, interior side. Means a *setback* that is to extend from the street right-of-way line to the rear *lot line* along the side of a *lot* that is contiguous or *abutting* another lot, the required depth of which is measured as the minimum horizontal distance between the side lot line and a line parallel thereto on the lot.

Setback, rear. Means a *setback* that is to extend across the full width of a *lot*, the required depth of which is measured as the minimum horizontal distance between the rear *lot line* and a line parallel thereto on the lot.

Setback, street side. Means a *setback* that is to extend from the front *lot line* to the rear lot line along the side of a *lot* that is *abutting* a *street* or street right-of-way line, the required depth of which is measured as the minimum horizontal distance between the side lot line and a line parallel thereto on the lot.

Sexually oriented business. See *adult entertainment establishment*.

Signs. As defined in Appendix D of these regulations.

Sight triangle. Means the unobstructed, triangular area located at the intersection of two streets, a street and a railroad, or a street and a driveway; two sides of which are measured from their corner intersection for a distance specified based on roadway speed. The third side is a line across the corner of the lot adjoining the ends of the two sides.

Example of a *sight triangle* at the intersection of two streets.



Sight triangle, approach. Means a *sight triangle* used for intersection with no control requiring adequate distance for an approaching *motor vehicle* to identify any conflicts in or approaching the intersection before entering.

Sight triangle, departure. Means a *sight triangle* used for controlled intersections requiring drivers to stop or yield at intersections, check for approaching *motor vehicles* in the intersection, and then depart.

Site plan. Means a plan that outlines the use and development of any tract of land.

Story. Means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet above *grade* as defined here in for more than 50 percent of the total perimeter or is more than 12 feet above *grade* as defined herein at any point, such useable or unused under-floor space shall be considered to be a story.

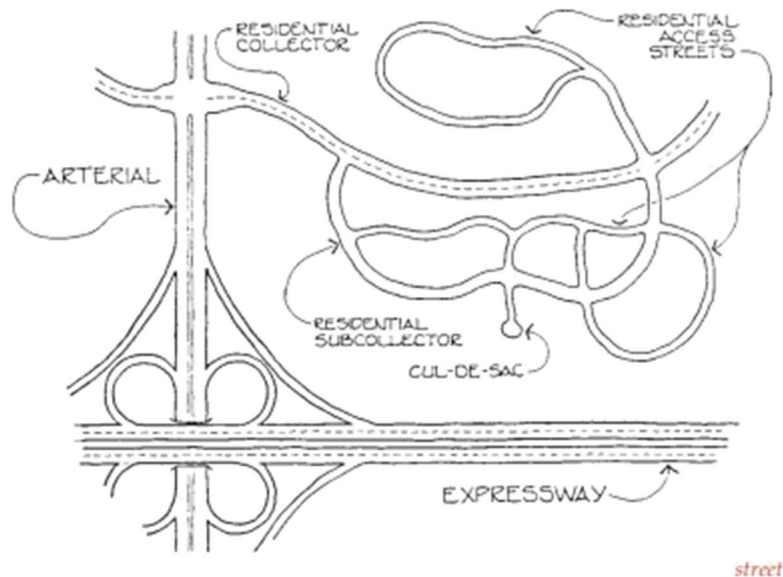
Street. Means a thoroughfare, whether public or private, of such width to conform to the adopted Subdivision Regulations. For the purpose of this chapter, the word street shall include the words road, highway, boulevard, and avenue.

Street, local. Means any *street* designed primarily to provide access to *abutting* property to include lanes, drives, circles, boulevards, or any other designation that might be given to such streets.

Street, sub collector. Means any *street* designed to provide passage to *local streets* and convey traffic to *collector streets* or through traffic to lower order streets.

Street, collector. Means any

Street, arterial. Means any



Street line. Means a lot *line* identified between a parcel of land and the street right of way.

Structure. Means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, *mobile homes*, walls, billboards and poster panels.

Structure, accessory. See *accessory* structure.

Structure, attached. Means any building or structure that is physically connected to another by means of the walls or roof touching.

Structure, principal. See *principal* structure.

Subdivider. Means the *owner*, or any other person, firm or corporation authorized by the owner, undertaking proceedings under the provisions of the Subdivision Regulations for the purpose of subdividing land.

Subdivision (as defined by K.S.A. 12-742). Means the division of a lot, tract or parcel into two or more parts for the purpose, whether immediate or future, of sale or building development, including resubdivision.

Subdivision regulations (as defined by K.S.A. 12-742). Means the lawfully adopted subdivision ordinances of the City.

301.T.

Trailer. Means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a *motor vehicle*.

Transient guest. Means a person who occupies a short-term residential rental for not more than twenty-eight consecutive days.

301.U.

Use. Means the purpose for which land or a building or structure is designed, arranged or intended, or for which either land or a building or structure may be occupied or maintained under these regulations.

Use, accessory. Means a use that is subordinate to and serves a *principal* use; is subordinate in purpose to the principal use served; contributes to the comfort, convenience, or necessity of occupants of the principal use served; and is located on the same zoning lot as the principal use.

Use, principal. Means the main and primary use of land, a building or structure.

301.V.

Variance. Means authorization by the Board of Zoning Appeals, in specific cases, a deviation from the specific terms of these regulations, which will not be contrary to the public interest and where owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, and provided the spirit of these regulations shall be observed, public safety and welfare secured and substantial justice done.

Vehicle, commercial. Means any truck, van, panel truck, delivery van, *trailer*, semitrailer or pole trailer drawn or designed to be drawn by a *motor vehicle*, which vehicle was designed, used and/or maintained for the transportation of more than ten persons or the delivery of property for hire, compensation, profit or in the furtherance of any commercial enterprise.

Vehicle, inoperable. Means any vehicle that is unable to operate or move under its own power. It shall also mean any *motor vehicle* that is in an abandoned, wrecked, dismantled, scrapped, junked or partially dismantled condition that includes having no wheels, or lacking other parts necessary for the normal operation of the vehicle. It shall also mean any vehicle that because of mechanical defects, a wrecked or partially wrecked frame or body or dismantled parts, cannot be operated in a normal, and safe manner. It shall also mean any vehicle with an absence of display of current registration. An inoperable vehicle shall not include vehicles needing only the inflation of tires, the installation of a battery or the addition of fuel in order to operate. An inoperable vehicle shall also include any vehicle with uninflated tires, or

otherwise meeting the definition of nuisance automobile in Chapter 8 of the Code of the City of Haysville.

Vehicle, motor. Means every motorized vehicle, other than a motorized bicycle or a motorized wheelchair, that is self-propelled, and every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

Vehicle, passenger. Means a *motor vehicle* that is designed primarily to carry ten or fewer passengers, and that is not used as a *commercial vehicle*.

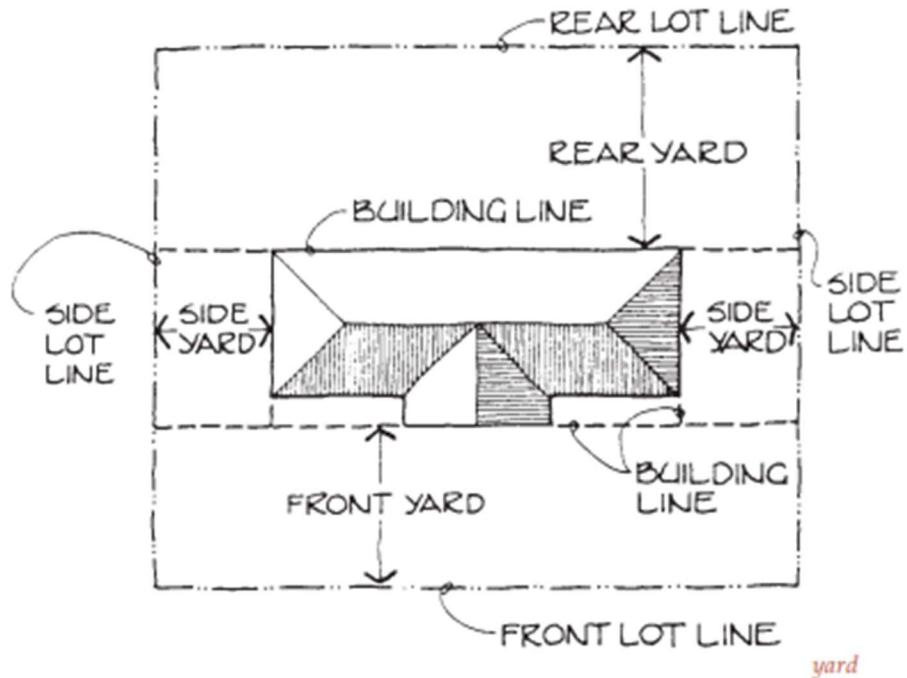
Vehicle, recreational. Means a unit designed as temporary living quarters for recreational, camping or travel use that has a body width not exceeding eight feet and a body length not exceeding 40 feet. Units may have their own power, or designed to be drawn or mounted on a *motor vehicle*. Recreational vehicle shall include travel trailers, truck campers, camping trailers, converted buses, houseboats or other similar units as determined by the Zoning Administrator. A recreational vehicle may or may not include individual toilet and bath.

301.W.

301.X.

301.Y.

Yard. Means an open space, other than a *court*, on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot *line*, is unoccupied and unobstructed from the ground upward, except as provided in these regulations.



Yard, front. Means a *yard* extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot *line* and the building *line*. On *corner* lots, the street address shall determine the primary front yard requirement which shall have the required front yard depth.

Yard, rear. Means a *yard* extending across the full width of the lot between the nearest rear main building and the rear lot *lines*. The depth of the required rear yard shall be measured horizontally from the nearest part of a main building toward the nearest point of the rear lot lines. In case of *through* lots and *corner* lots there will be no rear yards, but only *front yards* and *side yards*.

Yard, side. Means a *yard* extending from the *front yard* to the point of intersection of the *rear yard* or lot *line* when no rear yard exists.

Yard, street. Means the area of a lot which lies between the lot *line* abutting a *street* and the building *line*. If a building has a rounded building line or if the building is on an irregular-shaped lot, wall lines extending parallel to the street wall from the points of the wall closest to the side lot lines shall be used to define the limits of the street yard.

301.Z.

Zoning (as defined by K.S.A. 12-742). Means the regulation or restriction of the location and uses of buildings and uses of land.

202 DEFINITIONS ARTICLE 3 DEFINITIONS

SECTION 300. LAND USE DEFINITIONS

~~The following definition shall be used in the interpretation and construction of these regulations.~~

300.A. RESIDENTIAL. The following terms define the residential uses listed in Article 5 as permitted or conditional in each zoning district.

Accessory apartment. Means an accessory *dwelling unit* that may be wholly within, or may be detached from, a *principal structure*.

Assisted living. Means *dwelling units* used by adult persons needing or desiring assistance with day-to-day living matters, and may include supervised nursing care, and where skilled nursing care is not prohibited but is provided on an intermittent or limited term basis, or if limited in scope, a regular basis. Typical ~~use~~*uses* include retirement communities in which housekeeping services, common dining facilities and recreational and social activities are offered to residents, state-licensed residential health care facilities not attached to a *nursing facility* and state-licensed intermediate care facility for the mentally retarded. The term ~~assisted living~~*assisted living* does not include *group home*, *group residence*, *hospital* or *nursing facility*.

~~Single-family.~~ Means the ~~use of a lot for only one detached principal dwelling unit, excluding a structure used as a group residence, that may be a residential design manufactured home but shall not be a mobile home.~~ Tiny home. Means the use of a lot for one detached principal *dwelling unit* not to exceed 599-square feet in size.

~~Two-family.~~ Means the ~~use of a lot for two principal dwelling units within a single building.~~

~~Three-Four Family.~~ Means the ~~use of a lot for three or four principal dwelling units within a single building.~~

~~Multi-family.~~ Means the ~~use of a site for three or more dwelling units within a single building.~~ Typical uses include triplexes, fourplexes, apartments, residential condominiums, and townhouses.

~~Manufactured home.~~ Means a structure consisting of one or more mobile components manufactured to the standards embodied in the federal Manufactured Home Construction and Safety Standards Act generally known as the HUD Code, established pursuant to 42 U.S.C. 5403. Such units shall provide all the accommodations necessary to be a *dwelling unit* and shall be connected to all utilities in conformance with applicable regulations. For purposes of these regulations, the term *manufactured home*, when used by itself, shall not include a *residential design manufactured home* as defined in these regulations.

~~Manufactured home subdivision. Means a subdivision that is platted for development as individual lots for manufactured homes, modular homes, residential design manufactured homes, and site-built single-family dwelling units, all of which are required to be placed on permanent foundations.~~

~~Manufactured home park.~~

~~Accessory apartment. n accessory dwelling unit that may be wholly within, or may be detached from, a principal single-family dwelling unit. Commercial or industrial district, security only, not as a primary residence.~~

~~Assisted living. Means dwelling units used by adult persons needing or desiring assistance with day-to-day living matters, and may include supervised nursing care, and where skilled nursing care is not prohibited but is provided on an intermittent or limited term basis, or if limited in scope, a regular basis. Typical uses include retirement communities in which housekeeping services, common dining facilities and recreational and social activities are offered to residents, state-licensed residential health care facilities not attached to a nursing facility and state-licensed intermediate care facility for the mentally retarded. The term assisted living does not include group home, group residence, hospital or nursing facility.~~

Group home (as defined by K.S.A. 12-736). Means any dwelling unit as defined by K.S.A. 12-736 as amended, occupied by not more than ten persons, including eight or fewer persons with a disability who need not be related by blood or marriage and not to exceed two staff residents who need not be related by blood or marriage to each other or the residents of the home, which dwelling unit is licensed by a regulatory agency of the state, including the Kansas Department of Social and Rehabilitation Services, the Kansas Department of Health and Environment or the Kansas Department of Aging. ~~Group Home~~Group home also includes state licensed "Home Plus" adult care residences.

Group residence. Means a residential facility providing cooking, sleeping and sanitary accommodations for a group of people, not defined as a family, on a weekly or longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, boarding or lodging houses, children's homes, children in need of care under the Code for Care of Children and emergency shelters for the homeless and for victims of crime, abuse or neglect and include establishments providing guidance services for persons receiving non-court ordered alcohol or chemical dependence treatment which will comply with all applicable regulatory requirements of federal, state or local government agencies. The term *group residence* does not include *group home*, *correctional placement residence*, or *short-term residential rental*.

Group residence, limited. Means a *group residence* that is occupied by six to fifteen persons, including staff members who reside in the facility.

Group residence, general. Means a *group residence* that is occupied by more than fifteen persons, including staff members who reside in the facility.

Manufactured home (as defined by K.S.A. 12-742). Means a structure consisting of one or more mobile components manufactured to the standards embodied in the federal Manufactured Home Construction and Safety Standards Act generally known as the HUD Code, established pursuant to 42 U.S.C. 5403. Such units shall provide all the accommodations necessary to be a *dwelling unit* and shall be connected to all utilities in conformance with applicable regulations. For purposes of these regulations, the term *manufactured home*, when used by itself, shall not include a *residential design manufactured home* as defined in these regulations.

Manufactured home subdivision. Means a *subdivision* that is platted for *development* as individual lots for *manufactured homes*, modular homes, *residential-design manufactured homes*, and site-built *single-family dwelling units*.

Multi-family. Means the use of a site for five or more *dwelling units* within a single building. Typical uses include apartments, residential condominiums, and townhouses.

Residential-design manufactured home (as defined by K.S.A. 12-742). Means a *manufactured home* on permanent foundation which has:

- (1) Minimum dimensions of 22 body feet in width,
- (2) A pitched roof, and
- (3) Siding and roofing materials which are customarily used on site-built homes.

Single-family. Means the use of a lot for only one detached principal *dwelling unit*, excluding a structure used as a *group residence*, which may be a *residential design manufactured home* but shall not be a *mobile home*.

Three- and four-family. Means the use of a lot for three or four principal *dwelling units* within a single building. For the purposes of these regulations, *three- and four-family* shall also mean triplex and quadraplex.

Two-family. Means the use of a lot for two principal *dwelling units* within a single building. For the purposes of these regulations, *two-family* shall also mean a duplex.

300.B. PUBLIC AND CIVIC. The following terms define the public and civic uses listed in Article 5 as permitted or conditional in each zoning district.

Auditorium or stadium. Means an open, partially enclosed or fully enclosed facility used or intended to be used primarily for spectator sports, entertainment events, expositions and other public gatherings. Typical ~~use~~uses include convention and exhibition halls, sports arenas and amphitheaters.

Cemetery. Means land used or intended to be used for burial of the dead, whether human or animal, including a mausoleum or columbarium. A *funeral home* may be included as an accessory ~~use~~use to a ~~cemetery~~cemetery.



cemetery

Church or place of worship. Means a premises or sSite used primarily or exclusively for religious worship and related religious services or established pPlace of wWorship, convent, seminary, or similar facility owned or operated by a bona fide religious group for religious activities.

Community assembly. Means an establishment providing meeting, recreational, educational, cultural, or social facilities for a private membership or non-profit association, primarily for use by members and guests. Typical uses include fraternal organizations, *Class A Clubs*, philanthropic and charitable institutions, private museums, art galleries, observatories, planetariums, botanical gardens, arboretums, zoos, and aquariums.

Community building. Means a *structure for social, educational, and recreational activities of a neighborhood or community, provided, that any such use is not operated for commercial gain.*

Correctional facility. Means a facility providing housing and care for individuals confined for violations of law. Typical uses include jails, prisons, and juvenile detention centers.

Correctional placement residence. Means a facility for individuals or offenders that provides residential and/or rehabilitation services for those who reside or have been placed in such facilities due to any one of the following situations:

- (1) Prior to, or instead of, being sent to prison;
- (2) Received a conditional release prior to a hearing;
- (3) As a part of a local sentence of not more than one year;
- (4) At or near the end of a prison sentence, such as a state operated or franchised work release program, or a privately operated facility housing parolees;
- (5) Received a deferred sentence and placed in facilities operated by a community corrections; or
- (6) Require court ordered guidance services for alcohol or chemical dependence.

Such facilities will comply with the regulatory requirements of a federal, state, or local government agency; and if such facilities are not directly operated by a unit of government, they will meet licensure requirements that further specify minimum service standards.

Correctional placement residence, limited. Means a *correctional placement residence* occupied by three to fifteen individuals, including staff members who may reside there.

Correctional placement residence, general. Means a *correctional placement residence* occupied by more than fifteen individuals, including staff members who may reside there.

Day care. Means an establishment that provides care, protection, and supervision for individuals on a regular basis away from their primary residence for less than 24 hours per day. The term does **NOT** include the following:

- (1) Kindergartens or nursery schools or other daytime programs operated by public or private *Elementary, Middle and High Schools* or institutions of higher learning;
- (2) Facilities operated in connection with a shopping center or other principal activity, where individuals are cared for temporarily while parents or custodians are occupied on the premises, or are in the immediate vicinity and readily available;
- (3) Special activity programs, including athletics, crafts instruction and similar activities conducted on a periodic basis by civic, charitable and governmental organizations; or
- (4) A "preschool" operated by a *church or place of worship* as an *accessory use* and that is not leased to another group to operate and that meets the Kansas Department of Health and Environment regulations as a "preschool."

Day care, limited. Means a *day care* center operated as a *home occupation* that provides care, protection, and supervision for no more than ten individuals at any one time, including those under the supervision or custody of the day care provider and those under the supervision or custody of employees.

Day care, general. Means a *day care* center that provides care, protection, and supervision for more than ten individuals at any one time, including those under the supervision or custody of the day care provider and those under the supervision or custody of employees, or a day care center for ten or fewer individuals at any one time that is not operated as a *home occupation*.

Day reporting center. Means a facility that provides nonresidential community supervision services to individuals or offenders who are under supervision of a court and any of whom are required to report to the facility for three or more days per week for six or more hours per day.

Golf course. Means a tract of land developed for the purpose of providing private golf recreation services and support facilities. Included within this definition shall be regulation golf courses, executive golf courses, par-three golf courses, and any combination thereof on a common tract of land. Specifically excluded shall be pitch and putt courses, independent driving ranges and miniature golf courses.



golf course

Government service. Means ~~building~~**buildings** or facilities owned or operated by a government entity and providing services for the public, including utilities and recreational services. Typical ~~use~~**uses** include administrative offices of government agencies and utility billing offices.

Hospital. Means an institution that:

- (1) Offers services more intensive than those required for room, board, personal services and general nursing care;
- (2) Offers facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease or pregnancy; and
- (3) Regularly makes available at least clinical laboratory services, diagnostic X-ray services and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent. *Hospitals* may include offices for medical and dental personnel, central service facilities such as pharmacies, medical laboratories, and other related uses.



hospital

Library. Means a publicly operated facility housing a collection of books, magazines, audio and video tapes, or other material for borrowing and use by the general public.

Neighborhood swimming pool. Means any non-publicly owned swimming pool that is not located on the same ~~lot~~ as a residential *dwelling unit* but that is intended as an amenity for use by the residents and their guests of that subdivision or by a group of subdivisions in the immediate vicinity.

Nursing facility. Means any state licensed place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to function impairments, need skilled nursing care to compensate for activities of daily living limitations and includes state licensed “nursing facility for mental health; and a state licensed “residential health care facility” when it is attached to a state licensed Nursing Facility. The term nursing facility does not include ~~assisted living~~*assisted living*, *group home*, *group residence* or *hospital*.

Parks and recreation. Means a park, playground, or community facility that is owned by or under the control of a public agency or homeowners' association and that provides opportunities for active or passive recreational activities, and a cultural facility that provides cultural services to the public, including a museum, art gallery, observatory, planetarium, botanical garden, arboretum, zoo, or aquarium that is owned by or under the control of a public agency. For purposes of this definition, parks and recreation shall include those parks, community facilities, and cultural facilities that are owned by or under the control of a public agency and leased to private entities for recreational activities, including recreational and cultural uses that involve paid admission or that allow the sale of cereal malt beverages or alcoholic beverages for consumption on the premises.

Recycling collection station, private. Means outdoor freestanding containers that are designed to receive, and store pre-sorted recyclable materials not intended for disposal and that are available only to those members or employees of the ~~church~~*church*, school, office building, or other *principal use* located on the same property as the station. ~~Containers shall be constructed and maintained with durable waterproof and rust-resistant materials and shall be equipped with lids or doors to prevent access to stored materials by animals or vermin and to preclude stored materials from being scattered by wind.~~ This definition shall not include containers used for curbside recycling or containers used by a commercial or industrial enterprise for collection and/or compression of materials that are a byproduct or integral part of such enterprise.

Recycling Collection Station, pPublic. Means outdoor freestanding containers not occupying an area greater than 400 square feet (exclusive of area required for vehicular access) that are designed to receive and stored pre-sorted recyclable materials not intended for disposal and that are available to the general public. ~~Containers shall be constructed and maintained with durable waterproof and rust-resistant materials and shall be equipped with lids or doors to prevent access to stored materials by animals or vermin and to preclude stored materials from being scattered by wind.~~

Recycling processing center. Means a ~~building~~*building* or land use in excess of 400 square feet devoted to the receipt, separation, storage, baling, conversion, and/or processing of recyclable materials, but not including *wrecking/salvage yard*.

Renewable eEnergy sSystems. Means either a *Wind Energy Conversion System (WECS)* or a *Solar Energy Conversion System (SECS)*. Those terms shall mean the following:

- (a) Solar Energy Conversion System (SECS). Means a commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity and includes all associated support facilities including but not limited to, roads, substations, operation and maintenance buildings, as specified in the application.
- (b) Wind Energy Conversion System (WECS). Means the combination of mechanical and structural elements used to produce electricity by converting the kinetic energy of wind to electrical energy. Wind Energy Conversion Systems consist of the turbine apparatus and any other buildings, support structures and other related improvements necessary for the generation of electric power from wind and intended for wholesale sales of generated electricity.

Reverse vending machine. Means an automated mechanical device that accepts one or more types of recyclable materials and issues a cash refund or a redeemable credit slip. A *reverse vending machine* may sort and reduce materials mechanically, provided the entire process is enclosed within the machine.

Safety services. Means a facility for conduct of public safety and emergency services, including fire and police protection services and emergency medical and ambulance services.

School, elementary, middle, & high. Means the ~~use~~ of a site for instructional purposes on an elementary or secondary level, including both public schools as well as private schools that have curricula similar to those in public schools.

University or cCollege. Means an institution of higher education (~~post-high school~~) offering undergraduate or graduate degrees in higher learning, including seminaries.

Utility, major. Means generating plants; electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; and radio, television and microwave transmission towers; and similar facilities of agencies that are under public franchise or ownership to provide the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service. The term *major utility* shall not be construed to include corporate or general offices; gas or oil processing; manufacturing facilities; postal facilities, communication switching facilities that are accompanied by office uses, telecommunication carrier with transmission equipment for long-distance call and high-speed Internet connections with one or more telecommunication carrier located within a ~~buildingbuilding, or other uses defined in this section~~.

Utility, minor. Means services and facilities of agencies that are under public franchise or ownership to provide services that are essential to support development and that involve only minor structures, such as poles and lines, and structures not exceeding 150 cubic feet in size and six feet in height that do not

generate discernable noise, odor or vibration within any nearby residential district, and that comply with the *setback* requirements of the district in which they are located.

300.C. COMMERCIAL. The following terms define the commercial uses listed in Article 5 as permitted or conditional in each zoning district.

Adult entertainment establishment. Means any commercial establishment which is an adult bookstore, adult motion picture theater, adult hotel, adult motion picture arcade, or escort service as defined in Chapter 5, Article 7, Haysville Municipal Code, and includes any businesses involving *adult entertainment*, as defined herein.

Airport or airstrip. Means any landing area, runway or other facility designed, used, or intended to be used either publicly or by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage, and tie-down areas, hangars, and other necessary buildings and open spaces. The term *airport or airstrip* does not include *heliport*.

Animal care, general. Means a ~~use~~ providing veterinary services for large animals, and that may include small animals or household pets, and for which boarding facilities may also be provided.

Animal care, limited. Means a ~~use~~ providing veterinary services for small animals or household pets for which there are no outside animal runs, and for which boarding facilities may also be provided.

Automated teller machine ("ATM"). Means a mechanized consumer banking device operated by a *financial institution* for the convenience of its customers, whether outside or in an access-controlled facility. *ATMs* located within a ~~building~~ shall be considered accessory to the *principal use* unless the ATM is likely to be an independent traffic generator.



automated teller machine

Bank or financial institution. Means an establishment engaged in deposit banking. Typical ~~uses~~ include commercial banks, savings institutions, and credit unions. The term ~~b~~Bank or ~~f~~Financial ~~i~~nstitution also includes *ATMs*.



bank

Bed and breakfast inn. Means the ~~use~~use of an owner-occupied or manager-occupied residential ~~structure~~structure to provide rooms for temporary lodging or lodging and meals for not more than fifteen ~~transient~~ guests on a paying basis.

Broadcasting/recording studio. Means an establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, including radio, television, film, or sound recording studios.

Car wash. Means an establishment engaged in cleaning or detailing *motor vehicles*, whether self-service or automated.

Construction sales and service. Means an establishment engaged in the retail or wholesale sale of materials used in the construction and/or maintenance of ~~building~~buildings or other ~~structure~~structures and/or grounds, as well as the outdoor storage of construction equipment or materials on ~~lot~~lots other than construction sites. Typical ~~use~~uses include lumberyards, home improvements centers, lawn and garden supply stores, electrical, plumbing, air conditioning, and heating supply stores, swimming pool sales, construction and trade contractors' storage yards, landscape installation and/or maintenance services and pest extermination services.

Convenience store. Means an establishment engaged in the retail sale of food, beverages, gasoline and other frequently or recurrently needed merchandise for household or automotive use and which may specifically include a *car wash* as an *accessory use*, but shall not include *vehicle repair*.

Entertainment establishment. Means any *event center* or any person or entity that provides entertainment, excluding *adult entertainment*, as defined herein.

Event center. Means premises that are frequently rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is scheduled.

Farmer's market. Means an outdoor place or market area with a formalized location where more than one Kansas farmer or grower gathers to sell agricultural products they have grown or raised. Other activities and other sellers may be accommodated at the market, but the sale of agricultural products shall be the focal point of the market activity. Other products that may be sold would typically include dried flowers, crafts and handicrafts that are made in the home, original artwork, and certain prepared foods.

Funeral home. Means an establishment engaged in preparing the human deceased for burial or cremation and arranging and managing funerals.

Heliport. Means the area of land, water, or structure, including any ~~building~~ or facilities thereon, used or intended to be used for the landing and takeoff of helicopters.

Hotel or /motel. Means an establishment used, maintained or advertised as a place where sleeping accommodations are supplied for short term use by *transient guests*, usually for less than a week, in which rooms are furnished for the accommodation of such transient guests, which may have as an accessory ~~use~~ one or more dining rooms, and may include individual kitchen facilities. Typical ~~uses~~ include hotels, motels, tourist courts and emergency shelters for the homeless and for victims of crime, abuse or neglect.

Kennel, hobby. Means premises housing five to ten *adult dogs* owned by the property resident.

Kennel, boarding/breeding/training. Means premises housing five or more *adult dogs*, three or more of which are owned by someone other than the business owner, and premises housing over ten adult dogs.

~~Marine facility, recreational.~~

Medical service. Means an establishment providing therapeutic, preventive, or corrective personal treatment services on an out-patient basis by physicians, dentists, and other practitioners of the medical or healing arts, as well as the provision of medical testing and analysis services. Typical ~~uses~~ include medical and dental offices and clinics, blood banks and medical laboratories.

Microbrewery. Means a brewery that:

- (1) Is licensed by the Director of Alcohol Beverage Control of the state Department of Revenue;
- (2) Produces no more than 5,000 barrels of beer per year; and
- (3) Does so in a completely enclosed building.

Mobile food unit. Means any self-contained vehicle, trailer, cart, wagon, or other type of conveyance from which any food and/or beverage is offered for sale.

Monument sales. Means an establishment primarily engaged in the retail sale of *monuments*, ~~including, but not limited to, such as~~ headstones, footstones, markers, statues, obelisks, cornerstones, and ledges for the placement on graves, including indoor or *outdoor storage*.

Nightclub. Means an establishment that provides entertainment, which may include the provision of dancing by employees or patrons, and which may or may not serve food.

Nurseries and garden centers. Means a place of business where retail and wholesale products and produce are sold to the customer. These centers, which may include a nursery and/or greenhouses, and may include plants, nursery products and stock, and other garden and farm variety tools and utensils.

Office, general. Means an establishment providing executive, management, administrative or professional services, but not involving medical or dental services or the sale of merchandise, except as incidental to a permitted ~~use~~. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting and the teaching of these and similar activities, and communication switching facilities and telecommunication carriers that are accompanied by office uses and with all facilities within the building or underground.

Parking area, ~~and/or accessory drive, ancillary.~~ Means an area other than a *private parking area* or *commercial parking area*, street or alley ~~that is located in any district from the most restrictive through NO inclusive, and~~ that is used for the parking of passenger vehicles as accessory parking to a *principal use*, ~~and~~ that requires the same or a more intensive district than the district in which the ~~ancillary parking area principal use~~ is located. ~~Parking areas public or customer improved in accordance with the parking appendix.~~

Parking area, commercial. Means an area or ~~structure~~ used or intended to be used for the off-street parking of operable *motor vehicles* on a temporary basis of not more than 72 consecutive hours, other than as an accessory parking area to a *principal nonresidential use*.

Pawnshop. Means an establishment primarily engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker, and the sale of such property. ~~Temporary outdoor display of merchandise for sale is permitted. No other outdoor storage is permitted.~~

Personal care service. Means an establishment primarily engaged in the provision of frequently or recurrently needed services involving the care of a person or his personal goods or apparel. Typical ~~uses~~ include beauty and barber shops, electrolysis studios, shoe shining and/or repair operations, tailors and neighborhood laundry and dry cleaning operations.

Personal improvement service. Means an establishment primarily engaged in the provision or informational, instructional, personal improvement, and similar services of a nonprofessional nature. Typical ~~uses~~ include portrait shops, photography studios, art and music schools, licensed massage therapists, health and fitness studios, swimming clubs, tattooing and body piercing, and handicraft or hobby instruction.

Post office substation. Means a facility or structure owned by the U.S. Postal Service that is used for the collection, sorting, and distribution of mail within several zip code areas and having limited retail services for the general public, such as the sale of stamps, postcards and postal insurance.

~~Printing and Copying, Limited. Means an establishment engaged in retail photocopying, reproduction, photo-developing or blueprinting services.~~

~~Printing and publishing, general. Means the production of books, magazines, newspapers, and other printed matter, as well as record pressing and publishing, and engraving and photoengraving, but excluding printing and copying, limited.~~

Recreation and entertainment, indoor. Means a privately-owned establishment offering recreation, entertainment, or games of skill to the general public or members that is wholly enclosed in a ~~building~~building. Typically ~~use~~uses include bowling alleys, indoor theaters, bingo parlors, pool halls, billiard parlors, video game arcades, racquetball, and handball courts, and amusement rides. It does not include buildings typically accessory to a subdivision that are for use by the subdivision's residents and their guests.

Recreation and entertainment, outdoor. Means a privately-owned establishment offering recreation, entertainment, or games of skill to the general public or members wherein any portion of the activity takes place in the open. Typical ~~use~~uses include archery ranges, batting cages, golf driving ranges, drive-in theaters, miniature golf courses, "pitch and putt" facilities, tennis courts, and amusement rides. It does not include ~~golf courses~~golf courses, parks, open space, and recreational facilities typically accessory to a subdivision that are for use by the subdivision's residents and their guests.

Recreational vehicle campground. Means the ~~use~~use of land designated for occupancy by *recreational vehicles* for temporary or transient living purposes, including the use of camping spaces for tents.

Restaurant. Means an establishment where the principal business is the sale of food and beverages for consumption, including the retail sale of alcoholic liquor or cereal malt beverages for consumption on the premises. Restaurants are classified as follows:

Restaurant, fast food. Means an establishment that sells food already prepared for consumption, packaged in paper, Styrofoam or similar materials, and may include drive-in or drive-up facilities for ordering.

Restaurant, general. Means an establishment that sells food for consumption on or off the premises.

Restaurant, take-out. Means an establishment that sells food only for consumption off the premises.

Retail, general. Means the sale or rental of commonly used goods and merchandise for personal or household use, but excludes those classified more specifically in this section. Typical ~~uses~~ include grocery stores, department stores, furniture stores, clothing stores and establishments providing the following products or services: household electronic equipment, sporting goods, bicycles, office supplies, home furnishings, household appliances, wallpaper, carpeting and floor-covering, art supplies, kitchen utensils, jewelry, drugs, cosmetics, books, notions, antiques or automotive parts and accessories.

Riding academy or stable. Means a commercial establishment for boarding, breeding, training, or raising of horses not owned by the owners or operators of the establishment, rental of horses for riding, or other equestrian activities. ~~Riding academy or stable~~ The term riding academy or stable shall not include rodeo.

Rodeo. Means a competition, exhibition, or demonstration involving persons, equines, and/or bovines in which participants display various skills in one more events such as, but not limited to, bareback riding, saddle bronco riding, street wrestling, roping, team roping, tie-down roping, barrel racing, bull riding, or similar events.

Secondhand store. Means a retail establishment other than an antique store that engages in the purchase and resale of used goods such as clothing, furniture, appliances, books, and other household items. ~~Temporary outdoor display of merchandise for sale is permitted. No other outdoor storage is permitted.~~

Service station. Means an establishment primarily engaged in the retail sale of gasoline or other motor fuels that may include accessory activities, such as the sale of lubricants, automotive accessories, or supplies, the lubrication or washing of *motor vehicles*, the minor adjustment or repair of motor vehicles and may specifically include a *car wash*.

Short-term residential rental. Means any non-owner-occupied *dwelling unit* which:

- (1) Contains rooms furnished for the purposes of providing lodging to *transient guests*;
- (2) Is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are available for pay or compensation by transient guests; and
- (3) Rental is less than 28 days.

Tavern and drinking establishment. Means an establishment engaged in the preparation and retail sale of alcoholic liquor or cereal malt beverage for consumption on the premises that derives in a six--month period, less than fifty percent (50%) of its gross revenues from the sale of food and beverages for consumption on the premises. For the purposes of ~~these regulations~~ is Code, the term *tavern and drinking establishment* shall include *Class B Club*.

Teen club. Means any ~~building~~ building or part or other enclosed place where a teen dance is held or teen dancing is permitted.

Vehicle and equipment sales, outdoor. Means an establishment engaged in the retail or wholesale sale or rental, from the premises, of motor vehicles or equipment, along with incidental service or maintenance. Typical ~~use~~uses include new and used automobile and truck sales, automobile rental, boat sales, motorcycle sales, construction equipment rental yards, trailers and/or moving trailer rental.

Vehicle repair, limited. Means a ~~use~~use providing repair of *motor vehicles* or maintenance services within completely enclosed ~~building~~buildings, but not including paint and body shops or other general vehicle repair services. Typical ~~use~~uses include businesses engaged in the following activities:

- (1) Electronic tune-ups;
- (2) Brake repairs (including drum turning);
- (3) Air conditioning repairs;
- (4) Transmission and engine repairs;
- (5) Generator and starter repairs;
- (6) Tire repairs;
- (7) Front-end alignments;
- (8) Battery recharging;
- (9) Lubrication; and/or
- (10) Sales, repair and installation of minor parts and accessories, such as tires, batteries, windshield wipers, hoses, windows, etc.

Vehicle repair, general. Means an establishment primarily engaged in painting of or body work to *motor vehicles* or heavy equipment. Typical ~~use~~uses include paint and body shops.

Vocational school. Means a ~~use~~use providing education or training in business, commercial trades, language, arts or other similar activity or occupational pursuit, and not otherwise defined as a *university, college, or elementary, middle, and high s*School.

Warehouse, self-service storage. Means an enclosed storage facility of a commercial nature containing independent, fully enclosed bays that are leased to persons exclusively for dead storage of their household goods or personal property.



self-storage facility

Wireless communication facility. Means a lot containing equipment at a fixed location that enables wireless communications between user equipment and a communications network, including, but not limited to:

- (a) A wireless support structure consisting of a freestanding support structure, such as a monopole, guyed, or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities;
- (b) A base station that supports or houses an antenna, transceiver, coaxial cables, power cables or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics;
- (c) Equipment associated with wireless services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and/or
- (d) Radio transceivers, antennas, coaxial or fiber- optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration.

300.D. INDUSTRIAL, MANUFACTURING, AND EXTRACTIVE. The following terms define the industrial, manufacturing, and extractive uses listed in Article 5 as permitted or conditional in each zoning district.

Asphalt or concrete plant, general. Means an establishment engaged in the manufacture, mixing, batching or recycling of asphalt, asphaltic cement, cement or concrete products.

Asphalt or concrete plant, limited. Means a temporary establishment engaged in the manufacture, mixing, batching or recycling of asphalt, asphaltic cement, cement or concrete products for use on a government funded construction project.

Basic industry. Means an establishment engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage or manufacturing processes that involve or have the potential to involve commonly recognized offensive conditions. Typical ~~use~~uses include fat rendering plants; poultry and rabbit dressing; pulp processing and paper products manufacturing; stockyards; slaughterhouses; steel works; tanneries; acid manufacture; cement, lime, gypsum, or plaster of Paris manufacture; distillation of bones; fertilizer manufacture; garbage, offal or dead animals' incineration, reduction or dumping; glue manufacture; gas manufacture; and petroleum refineries.

Construction burn site, limited. Means a location where clean tree waste that is created as a result of accepted construction industry practices of clearing a property prior to development, or as a result of a construction project, such as the installation, replacement or repair of sewer, water, drainage, paving, or other similar development activities, is permitted to be burned under controlled circumstances three or less times a year. Clean tree waste is defined as trunks, branches and attached leaves of woody perennial plants typically characterized by a main or multiple trunks that support branches and leaves. Lumber, sheet rock, yard waste, insulation, or other material normally disposed of at a construction and demolition or municipal solid waste ~~landfill~~landfill is not permitted to be burned or disposed of at a ~~construction burn site~~construction burn site.

Construction burn site, general. Means a location where clean tree waste that is created as a result of accepted construction industry practices of clearing a property prior to development, or as a result of a construction project, such as the installation, replacement, or repair of sewer, water, drainage, paving, or other similar development activities, is permitted to be burned under controlled circumstances four or more times a year. Clean tree waste is defined as trunks, branches and attached leaves of woody perennial plants typically characterized by a main or multiple trunks that support branches and leaves. Lumber, sheet rock, yard waste, insulation, or other material normally disposed of at a construction and demolition, or municipal solid waste ~~landfill~~landfill is not permitted to be burned or disposed of at a ~~construction burn site~~construction burn site. The term ~~Construction burn site~~construction burn site, general does not include ~~a~~ a construction and demolition or a municipal solid waste landfill.

Freight terminal. Means a ~~building~~building or area in which freight brought by motor trucks or rail is assembled and/or stored for routing in intrastate or interstate shipment by motor truck or rail.

Gas and/or fuel storage and sales. Means the use of a site for bulk storage and wholesale distribution of flammable liquid, gas, or solid fuel, excluding below-ground storage that is clearly ancillary to an allowed ~~principal use~~use on the site.

Hazardous operations. Means activities that present serious hazards to human life and health. Typical ~~uses~~uses include arsenals, atomic reactors, explosives and fireworks manufacture, hazardous waste disposal, medical waste disposal, and radioactive waste handling.

Landfill. Means a disposal facility employing an engineered method of disposing of solid waste, including demolition and construction debris.

Manufacturing, limited. Means ~~the manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment, including research activities, conducted entirely within an enclosed structure, with no outside storage, serviced by a modest volume of trucks or vans and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants. an establishment primarily engaged in the on-site production of goods by hand manufacturing that generally involves only the use of hand tools or other equipment not exceeding two horsepower or a kiln not exceeding eight kilowatts, which may include assembly and packaging, as well as incidental, direct sales to consumers of those goods produced on-site.~~ Typical ~~uses~~uses include ceramic shops, candle-making shops, custom jewelry manufacturing, electronic and computer products assembly, ~~ice cream manufacturing, millwork and cabinetry, monument and grave marker manufacturing, precision machining of tools, dies and jigs,~~ production of instruments and lenses for medical, dental, optical, scientific, and other professional purposes, and upholstery shops.

Manufacturing, medium. Means ~~the manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment within an enclosed structure or an open yard that is capable of being screened from neighboring properties, serviced by a modest volume of trucks or other vehicles. Typical uses include ice cream manufacturing, millwork and cabinetry, monument and grave marker manufacturing, precision machining of tools, dies and jigs, and other professional purposes.~~

Manufacturing, general/heavy. Means ~~an establishment engaged in the manufacture, predominantly from previously prepared materials or from lightweight nonferrous materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industry. Typical uses include apparel and garment factories, appliance manufacturing and assembly, bakeries engaged in large-scale production and wholesale distribution, beverage manufacturing and bottling (excluding breweries), boat building and repair, electrical and electronic equipment, food processing (excluding slaughterhouses and rendering plants), furniture and fixtures, jewelry manufacturing, laundry and dry cleaning plants, leather products, meat cutting and wholesale storage, machine shops, motion picture production lots, musical instrument manufacturing, pharmaceutical and toiletries manufacturing, rubber and plastics products manufacturing, tobacco products manufacturing and toy manufacturing.~~ other types of manufacturing not included in the definitions of light manufacturing and medium manufacturing.

Mining or quarrying. Means the extraction of metallic and nonmetallic minerals, excluding oil or natural gas. Typical ~~use~~uses include sand, soil and gravel pit operations, quarries, and mines.

Oil and gas drilling. Means the subsurface extraction of oil or natural gas.

Research services. Means an establishment engaged in conducting basic and applied research, including production of prototype products when limits to the minimum scale necessary for full investigation of the merits of a product, excluding production of products used primarily or customarily for sale or for use in non-prototype production operations.

Rock crushing. Means an establishment engaged in crushing rock or stone milling.

Solid waste incinerator. Means a permanent facility operated alone or in conjunction with a *recycling processing center* or ~~landfill~~landfill for the purpose of burning solid waste or trash and converting it to ash.

Storage, outdoor. Means the keeping, storing, placing or locating outside of an enclosed structure for more than 72 consecutive hours any property, goods, products, equipment, ~~portable storage containers~~cargo containers, or other similar items not considered *accessory* ~~use~~uses as listed in ~~these regulations~~is-code. The term ~~outdoor storage~~outdoor storage does not include *vehicle storage yard*.

Transfer station. Means any enclosed facility where solid wastes are transferred from one vehicle or rail car to another or where solid wastes are stored and consolidated before being transported for disposal elsewhere.

Vehicle storage yard. Means the keeping outside of an enclosed building for more than 72 consecutive hours of one or more *motor vehicles* (except *inoperable vehicles*), boats, trailers, or unoccupied recreational vehicles. The term ~~vehicle storage yard~~vehicle storage yard does not include *wrecking/salvage yard*.

Warehousing. Means the storage of materials, equipment, or products within a ~~building~~ for manufacturing use or for distribution to wholesalers or retailers, as well as activities involving significant movement and storage of products or equipment. Typical ~~uses~~ include major mail distribution centers, frozen food lockers, and moving and storage firms, but excluding *self-service storage warehouses*.

Welding or machine shop. Means a workshop where machines, machine parts, or other metal products are fabricated. Typical ~~uses~~ include machine shops, welding shops, and sheet metal shops.

Wholesale or business services. Means an establishment primarily engaged in the display, storage, and sale of bulk goods or services to other businesses, typically retailers, for resale or further distribution. It may also include the sale of bulk goods and services directly to individual consumers.

Wrecking/salvage yard. Means a ~~lot~~, land, or ~~structure~~, or part thereof, used for the collecting, dismantling, storing, and/or salvaging of machinery, equipment, appliances, inoperable vehicles, vehicle parts, bulky waste, salvage material, junk, or discarded materials; and/or for the sale of parts thereof. Typical ~~uses~~ include *motor vehicle* salvage yards and junkyards.

300.E. AGRICULTURAL. The following terms define the agricultural uses listed in Article 5 as permitted or conditional in each zoning district.

Agriculture. Means a ~~use~~ of any land for the purpose of growing plants, crops, trees and other agricultural or forestry products or for the purpose of raising livestock. ~~The term Agriculture~~ also includes the roadside selling of products produced on land owned, leased, or legally controlled by the producer (farmer, rancher, horticulturalist, viticulture, apiary, or similar agricultural pursuits). The definition shall include, as a permitted *accessory use*, the sale of nursery stock, firewood, Christmas trees and other plants and produce raised on-site. Typical activities include, but are not limited to: ~~Farmer's Market~~ *Farmer's market* which permits the sale of agricultural products by other producers; U-pick-it activities; flower arranging; canning/cooking; gardening demonstrations; winery tours and tastings; corn mazes; agriculture related interpretive facilities; agricultural exhibits and tours; agriculturally related educational and learning workshops or experiences; horseback riding; non-commercial camping; bonfire/campfire themed events; service of food and beverages; hayrides; pumpkin patch sales and any other uses determined by the Zoning Administrator to be similar.

Agricultural processing. Means initial processing of agricultural products that is reasonably required to take place in close proximity to the site where they are produced. Typical uses include sawmills and packinghouses. Slaughterhouses are specifically excluded from this definition.

Agricultural research. Means the ~~use~~ of land and buildings for agricultural research and the cultivation of new agricultural products. This shall include greenhouses that are used for research purposes only.

Agricultural sales and service. Means an establishment primarily engaged in the sale or rental of farm tools and implements, feed and grain, tack, animal care products, propane, butane, anhydrous ammonia, farm supplies and the like, and including accessory food sales and machinery repair services. This definition shall also include greenhouses that are used for wholesale and/or retail purposes.

| Grain storage. Means facilities for the warehousing of agricultural products. Typical ~~use~~uses include grain elevators.

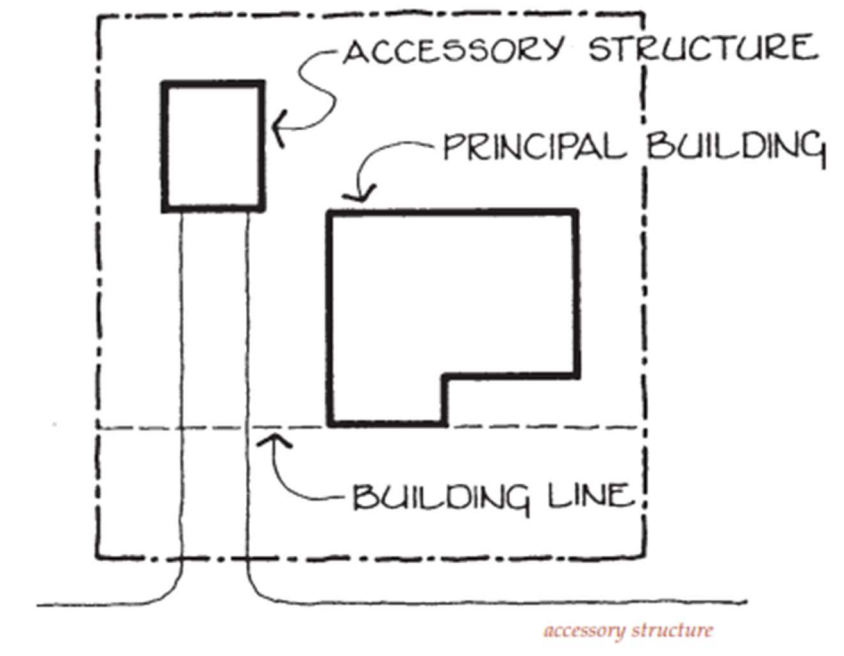
SECTION

301. GENERAL DEFINITIONS

301.A. THE FOLLOWING DEFINITIONS SHALL BE USED IN THE INTERPRETATION AND CONSTRUCTION OF THESE REGULATIONS.

Abut. Means touching, adjoining, or contiguous; as distinguished from lying near to or *adjacent*.

Accessory structure. Means a structure that is subordinate to and serves a *principal structure*; is subordinate in purpose to the principal structure served; contributes to the comfort, convenience or necessity of occupants of the principal structure served; and is located on the same zoning lot as the principal structure.



Accessory use. Means a use conducted on the same lot as the *principal* use to which it is related; a use that is clearly incidental to, and customarily found in connection with, such principal use.

Accessory apartment. An *accessory* use *dwelling unit* that may be wholly within, or may be detached from, a *principal* single-family dwelling unit. Commercial or industrial district, security only, not as a primary residence.

~~Accessory structure and accessory use. Means a *use or structure* that is subordinate to and serves a *principal use or structure*; is subordinate in purpose to the principal use or structure served; contributes to the comfort, convenience or necessity of occupants of the principal use or structure served; and is located on the same zoning *lot* as the principal use. Accessory structure including below grade substructure, must not be located in easements and may not block drainage.~~

~~Adjacent. Means lying near or close to, neighboring, but not necessarily touching or *abutting*.~~

Adult entertainment. Means any exhibition, performance, interaction, display or dance of any type, including but not limited to, talking, singing, reading, listening, posing, computer internet activities, computer programs with sex based content, serving food or beverages, soliciting the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered on a premises where such action is intended to arouse or excite the sexual desires of the entertainer, other entertainers, or the patron(s), or if the interaction is characterized by an emphasis on the exposure, depiction or description of “specified anatomical areas” or the conduct or stimulation of “specified sexual activities,” as defined in Chapter 5, Article 7, Haysville Municipal Code.

~~Adult entertainment establishment. Means any commercial establishment which is an adult bookstore, adult motion picture theater, adult hotel, adult motion picture arcade, or escort service as defined in Chapter 5, Article 7, Haysville Municipal Code, and includes any businesses involving *Adult Entertainment*, as defined herein.~~

~~Agriculture. Means a *use of any land* for the purpose of growing plants, crops, trees and other agricultural or forestry products or for the purpose of raising livestock. Agriculture also includes the roadside selling of products produced on land owned, leased, or legally controlled by the producer (farmer, rancher, horticulturalist, viticulture, apiary, or similar agricultural pursuits). The definition shall include, as a permitted *Accessory use*, the sale of nursery stock, firewood, Christmas trees and other plants and produce raised on-site. Typical activities include, but are not limited to: Farmer's Market which permits the sale of agricultural products by other producers; U-pick-it activities; flower arranging; canning/cooking; gardening demonstrations; winery tours and tastings; corn mazes; agriculture related interpretive facilities; agricultural exhibits and tours; agriculturally related educational and learning workshops or experiences; horseback riding; non-commercial camping; bonfire/campfire themed events; service of food and beverages; hayrides; pumpkin patch sales and any other uses determined by the Zoning Administrator to be similar.~~

~~Agricultural processing. Means initial processing of agricultural products that is reasonably required to take place in close proximity to the site where they are produced. Typical uses include sawmills and packinghouses. Slaughterhouses are specifically excluded from this definition.~~

~~Agricultural research. Means the *use of land and buildings* for Agricultural Research and the cultivation of new agricultural products. This shall include greenhouses that are used for research purposes only.~~

Agricultural sales and service. Means an establishment primarily engaged in the sale or rental of farm tools and implements, feed and grain, tack, animal care products, propane, butane, anhydrous ammonia, farm supplies and the like, and including accessory food sales and machinery repair services. This definition shall also include greenhouses that are used for wholesale and/or retail purposes.

Airport or airstrip. Means any landing area, runway or other facility designed, used, or intended to be used either publicly or by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage, and tie-down areas, hangars, and other necessary buildings and open spaces. The term airport or airstrip does not include heliport.

Alley. Means ~~a~~^A public right-of-way along the side of or in the rear of a ~~lot~~^{lot} intended to provide a secondary means of access to and from the *street* and such lot.



alley

An alley is not intended for general traffic circulation. Any such access designated as a fire lane shall meet the fire code requirements for such. No lot shall front upon an alley.

All-weather surface. ~~Includes:~~ Means a surface of either:

- 1) ~~1)~~ Asphalt, ~~a,~~ minimum ~~of~~ 2" inches ~~depth~~^{deep}, shall ~~and be~~ placed over base material ~~a~~ minimum ~~of~~ 4" inches ~~depth~~^{deep};
- 2) ~~C-2)~~ concrete, ~~a,~~ minimum ~~of~~ 4" inches ~~depth~~^{deep};
- 3) ~~C-3)~~ compacted rock ~~or~~ /crushed concrete, ~~a,~~ minimum ~~of~~ 4" inches ~~depth~~^{deep}, utilizing a minimum ~~of~~ 1" inch diameter rock with not more than 10% fines for a binder. Utilization of the compacted rock or crushed concrete option shall require borders installed around all four sides, extending 2" to 3" inches above ground and not to impede drainage;
- 4) ~~4)~~ ~~b~~ Brick paver stone, minimum 2 3/8" inches thick shall be placed over base material ~~of a~~ minimum 5" inches ~~depth~~^{deep}.

Base material shall consist of a minimum 4" inches ~~depth-deep~~ crushed stone or gravel, ~~and~~ topped with sand ~~a~~ minimum ~~of~~ 1" inch ~~depth-deep~~. ~~Utilization of the compacted rock/crushed concrete option shall require borders installed around all four sides, extending 2" to 3" inches above ground and not to impede drainage.~~ Every all-weather surface must be properly maintained and kept free of potholes, weeds, grass, dust, trash, and miscellaneous scattered objects (debris) to qualify as an "all-weather" surface. A surface that is not maintained free of weeds and debris is not an "all-weather" surface as an improperly developed or maintained surface does not meet the goals or the intent of this definition.

Alteration., structural. ~~Means a~~Any change, addition or modification in construction, occupancy or use. ~~in the supporting members of a building such as bearing walls, partitions, columns, beams or girders, or any substantial change in roof or exterior walls.~~

Animal care, general. ~~Means a use providing veterinary services for large animals, and that may include small animals (household pets), and for which boarding facilities may also be provided.~~

Animal care, limited. ~~Means a use providing veterinary services for small animals (household pets) for which there are no outside animal runs, and for which boarding facilities may also be provided.~~

Asphalt or concrete plant, general. ~~Means an establishment engaged in the manufacture, mixing, batching or recycling of asphalt, asphaltic cement, cement or concrete products.~~

Asphalt or concrete plant, limited. ~~Means a temporary establishment engaged in the manufacture, mixing, batching or recycling of asphalt, asphaltic cement, cement or concrete products for use on a government funded construction project.~~

Assisted living. ~~Means dwelling units used by adult persons needing or desiring assistance with day-to-day living matters, and may include supervised nursing care, and where skilled nursing care is not prohibited but is provided on an intermittent or limited term basis, or if limited in scope, a regular basis. Typical uses include retirement communities in which housekeeping services, common dining facilities and recreational and social activities are offered to residents, state-licensed residential health care facilities not attached to a Nursing Facility and state-licensed intermediate care facility for the mentally retarded. The term Assisted Living does not include Group Home, Group Residence, Hospital or Nursing Facility.~~

Attached structure. ~~Any building or structure that is physically connected to another by means of the walls or roof touching.~~

Auditorium or stadium. ~~Means an open, partially enclosed or fully enclosed facility used or intended to be used primarily for spectator sports, entertainment events, expositions and other public gatherings. Typical uses include convention and exhibition halls, sports arenas and amphitheaters.~~

Automated teller machine. ~~Means a mechanized consumer banking device operated by a Financial Institution for the convenience of its customers, whether outside or in an access-controlled facility.~~

~~ATMs located within a *Building* shall be considered accessory to the *Principal Use* unless the ATM is likely to be an independent traffic generator.~~

~~Bank or financial institution. Means an establishment engaged in deposit banking. Typical uses include commercial banks, savings institutions, and credit unions. Bank or Financial Institution also includes ATMs.~~

~~Barndominium. Open concept building with a large square footage, typically “post and beam” construction.~~

~~Basic industry. Means an establishment engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage or manufacturing processes that involve or have the potential to involve commonly recognized offensive conditions. Typical *uses* include fat rendering plants; poultry and rabbit dressing; pulp processing and paper products manufacturing; stockyards; slaughterhouses; steel works; tanneries; acid manufacture; cement, lime, gypsum, or plaster of Paris manufacture; distillation of bones; fertilizer manufacture; garbage, offal or dead animals’ incineration, reduction or dumping; glue manufacture; gas manufacture; and petroleum refineries.~~

~~Bed and breakfast inn. The use of an owner occupied or manager occupied residential *structure* to provide rooms for temporary lodging or lodging and meals for not more than *15 guests* on a paying basis.~~

~~Billboard. Any *sign* or advertisement used as an outdoor display for the purpose of making anything known, the origin or point of sale of which is remote from the display.~~

301.B.

~~Base flood (as defined by K.S.A. 12-742). Means a flood having a 1% chance of being equaled or exceeded in any one year.~~

~~Basement. Means any floor level below the first *story* in a building, except that a floor level in a building having only one floor level shall be classified as a *basement* unless such floor level qualifies as a first story as defined herein.~~

~~Block. Means **a** tract of land bounded by *streets*, or by a combination of streets, railway right-of-way or waterways.~~

~~Board of zoning appeals. **M**shall mean**s** the **B**oard of **Z**oning **A**ppeals.~~

~~Broadcasting or recording studio. Means an establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, including radio, television, film, or sound recording studios.~~

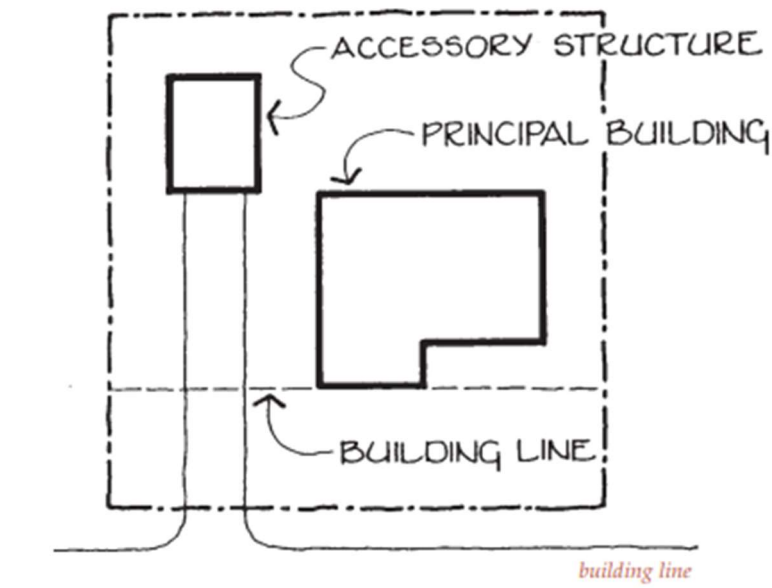
Building. Means any structure used or intended for supporting or sheltering any use or occupancy. ~~A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, or chattels. When separated by division walls from the ground up without openings, each portion of such building shall be deemed a separate building.~~

Building, auxiliary. Means ~~a~~ a building-structure on the same ~~lot~~ lot as the ~~main-principal building structure~~ structure or ~~principal use~~ principal use which may be on a substandard permanent foundation and of a nature customarily incidental and subordinate to the ~~main-principal building-structure~~ main-principal building-structure or principal use and does not exceed 99 square feet. For example, a portable metal storage shed on a concrete slab with modified footings is an auxiliary building

Building, community. ~~A building for social, educational, and recreational activities of a neighborhood or community, provided, that any such use is not operated for commercial gain.~~

Building, height. Means ~~t~~ The vertical distance measured above the average existing grade from the adjoining curb grade to the highest point of the roof building. ~~The height of a stepped or terraced building shall be the maximum height of any segment of the building, provided, that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished grade along the front of the building.~~

Building line. ~~–~~ Means the perimeter of that portion of a building or structure nearest a property line, but excluding open steps, terraces, cornices and other ornamental features projecting from the walls of a building or structure. ~~A line that is the distance that is required by the city of Haysville Zoning Regulations between a principal structure or accessory structure and the property line of the lot on which the structure is located. This term refers specifically to the exterior face of a wall of an existing structure or the limits to which an exterior face of a wall of a proposed structure may be built but shall not include the face of one story unoccupied gable roofed areas over open porches, entrances or like appendages.~~



Building, principal. Means a building in which the principal use of the site is conducted. See also *principal structure*.

Building, temporary. Means a building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction of utilities, or other community facilities, or used temporarily in conjunction with the sale of the property within a subdivision under construction.

Car wash. Means an establishment engaged in cleaning or detailing *Motor Vehicles*, whether self-service or automated.

301.C.

Code. Means the City of Haysville, Kansas Municipal Code.

Cargo container. ~~(shipping container).~~ Means aAny portable, weather-resistant receptacle, container or other ~~structure~~structure that is designed or used for the storage or shipment of household goods, commodities, building materials, furniture, or merchandise. ~~Not to be used as a base, platform, or location for business identification signs or temporary signs.~~

Cemetery. Means land used or intended to be used for burial of the dead, whether human or animal, including a mausoleum or columbarium. ~~A Funeral Home may be included as an Accessory Use to a cemetery.~~

Church or place of worship. Means a premises or Site used primarily or exclusively for religious worship and related religious services or established Place of Worship, convent, seminary, or similar facility owned or operated by a bona fide religious group for religious activities.

Class "A" club. ~~Means a~~ premises ~~which is~~ owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the Director of Alcoholic Beverage Control of the Kansas Department of Revenue, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members) and their families and guests accompanying them. ~~Membership~~ is required.

Class "B" club. ~~Means a~~ premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment. ~~Memberships~~ is not required only.

Commission. ~~Means t~~The City of Haysville Planning Commission.

~~Community assembly. Means an establishment providing meeting, recreational, educational, cultural, or social facilities for a private membership or non-profit association, primarily for use by members and guests. Typical uses include fraternal organizations, Class A Clubs, philanthropic and charitable institutions, private museums, art galleries, observatories, planetariums, botanical gardens, arboretums, zoos, and aquariums.~~

Community building. Means a structure for social, educational, and recreational activities of a neighborhood or community, provided, that any such use is not operated for commercial gain.

Comprehensive plan. ~~Means a~~Any plan or map adopted by the City for guidance of growth and improvement of the City and its environs including modifications or refinements that may be made from time to time.

Conditional use. Means a use allowed in accordance with certain procedures and standards of these regulations.

Condominium. Means a single *dwelling unit* in a multi-unit dwelling or structure that is separately owned and may be combined with an undivided interest in the common areas and facilities of the property.

~~Construction burn site, general. A location where clean tree waste that is created as a result of accepted construction industry practices of clearing a property prior to development, or as a result of a construction project, such as the installation, replacement, or repair of sewer, water, drainage, paving, or other similar development activities, is permitted to be burned under controlled circumstances four or more times a year. Clean tree waste is defined as trunks, branches and attached leaves of woody perennial plants typically characterized by a main or multiple trunks that support branches and leaves. Lumber, sheet rock, yard waste, insulation, or other material normally disposed of at a construction and demolition, or municipal solid waste landfill is not permitted to be burned or disposed of at a construction burn site. Construction burn site, general does not include a construction and demolition or a municipal solid waste landfill.~~

Construction burn site, limited. A location where clean tree waste that is created as a result of accepted construction industry practices of clearing a property prior to development, or as a result of a construction project, such as the installation, replacement or repair of sewer, water, drainage, paving, or other similar development activities, is permitted to be burned under controlled circumstances three or less times a year. Clean tree waste is defined as trunks, branches and attached leaves of woody perennial plants typically characterized by a main or multiple trunks that support branches and leaves. Lumber, sheet rock, yard waste, insulation, or other material normally disposed of at a construction and demolition or municipal solid waste landfill is not permitted to be burned or disposed of at a construction burn site.

Construction equipment. Means equipment used in the construction, improvement, and/or maintenance of buildings or other structures and/or grounds.

Construction sales and service. Means an establishment engaged in the retail or wholesale sale of materials used in the construction and/or maintenance of *buildings* or other *structures* and/or grounds, as well as the outdoor storage of construction equipment or materials on *lots* other than construction sites. Typical uses include lumberyards, home improvements centers, lawn and garden supply stores, electrical, plumbing, air conditioning, and heating supply stores, swimming pool sales, construction and trade contractors' storage yards, landscape installation and/or maintenance services and pest extermination services.

Convenience store. An establishment engaged in the retail sale of food, beverages, gasoline and other frequently or recurrently needed merchandise for household or automotive use and which may specifically include a *car wash* as an *accessory use*, but shall not include *vehicle repair*.

Correctional facility. Means a facility providing housing and care for individuals confined for violations of law. Typical uses include jails, prisons, and juvenile detention centers.

Correctional placement residence, general. Means a *facility* occupied by more than 15 individuals, including staff members who may reside there.

Correctional placement residence, limited. Means a *facility* occupied by three to 15 individuals, including staff members who may reside there.

Court. Means a An open, unoccupied space other than a *yard* on the same ~~lot~~*lot* with a ~~building~~*building* or group of buildings, and which is bounded on two or more sides by such building or buildings.

Court, inner. Means a A *court* other than an *outer court*. The length of an inner court is the minimum horizontal dimension measured parallel to its longest side. The width of an inner court is the minimum horizontal dimension measured at right angles to its length.

Court, outer. Means a A *court* which opens onto a required *yard*, or *street* or *alley*. The width of an outer court is the minimum horizontal dimension measured in the same general direction as the yard, street

or alley upon which the court opens. The depth of an outer court is the minimum dimension measured at right angles to its width.

~~— Day care. Means an establishment that provides care, protection, and supervision for individuals on a regular basis away from their primary residence for less than 24 hours per day. The term does **not** include the following: (1) kindergartens or nursery schools or other daytime programs operated by public or private Elementary, Middle and High Schools or institutions of higher learning; (2) facilities operated in connection with a shopping center or other principal activity, where individuals are cared for temporarily while parents or custodians are occupied on the premises, or are in the immediate vicinity and readily available; (3) special activity programs, including athletics, crafts instruction and similar activities conducted on a periodic basis by civic, charitable and governmental organizations; or (4) a "preschool" operated by a Church or Place of Worship as an accessory use and that is not leased to another group to operate and that meets the Kansas Department of Health and Environment regulations as a "preschool."~~

~~Day care, general. Means a Day Care center that provides care, protection, and supervision for more than ten individuals at any one time, including those under the supervision or custody of the day care provider and those under the supervision or custody of employees, or a Day Care center for ten or fewer individuals at any one time that is not operated as a Home Occupation.~~

~~Day care, limited. Means a day care center operated as a home occupation that provides care, protection, and supervision for no more than ten individuals at any one time, including those under the supervision or custody of the day care provider and those under the supervision or custody of employees.~~

301.D.

~~Day reporting center. Means a facility that provides nonresidential community supervision services to individuals or offenders who are under supervision of a court and any of whom are required to report to the facility for three or more days per week for six or more hours per day.~~

~~Development. Means any activity for which a permit is required to be obtained.~~

~~District. Means a~~Any section of the City for which the regulations governing the ~~use~~use of ~~building~~buildings and premises and the height and area of buildings are uniform.

~~Dwelling unit. One or more rooms in a dwelling, apartment, condominium, or hotel designed for occupancy by one family for living purposes.~~Means a building, or a portion of a building, that contains living facilities for not more than one family and that includes provisions for sleeping, cooking, eating and sanitation.

301.E.

Easement. ~~Means a~~A grant of specific property rights to land for the use of the public, a corporation or another person or entity.

~~Entertainment establishment.~~ Means any *event center* or any person or entity that provides entertainment, excluding *Adult Entertainment*, as defined herein.

~~Event center.~~ Means premises that are frequently rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is scheduled.

~~Family.~~ An individual or two or more persons related by blood or marriage, or a group of not more than five persons (excluding household employees) not related by blood or marriage, living together in a single *dwelling unit*.

301.F.

~~Farmer's market.~~ Means an outdoor place or market area with a formalized location where more than one Kansas farmer or grower gathers to sell agricultural products they have grown or raised. Other activities and other sellers may be accommodated at the market, but the sale of agricultural products shall be the focal point of the market activity. Other products that may be sold would typically include dried flowers, crafts and handicrafts that are made in the home, original artwork, and certain prepared foods.

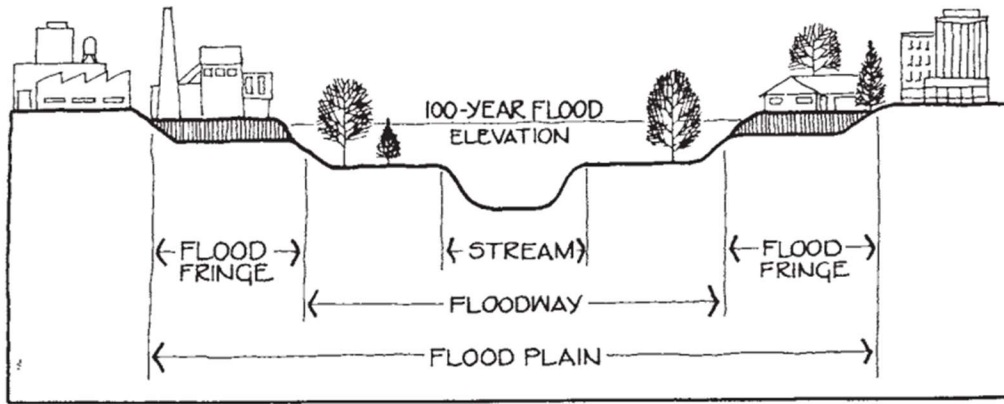
Fence. Means an artificially constructed barrier erected to enclose, screen, or separate areas; constructed of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials intended for fencing purposes. See also *screening* and *solid screening*.

Financial institution. Means an establishment engaged in deposit banking. Typical uses include commercial banks, savings institutions, and credit unions. Financial institutions also include *ATMs*.

Freight terminal. Means a *building* or area in which freight brought by motor trucks or rail is assembled and/or stored for routing in intrastate or interstate shipment by motor truck or rail.

Floodway fringe (as defined in K.S.A. 12-742). Means those portions of a flood plain outside the boundaries of a regulatory floodway and within stream reaches where such a floodway has been established.

Floodplain (as defined by K.S.A. 12-742). Means land adjacent to a watercourse subject to inundation from a flood having a chance occurrence in any one year of 1%.



floodplain

Frontage. Means The property on one side of a *street* between two intersecting streets (crossing or terminating) measured along the line of the street; or with a dead end street, all property abutting one side of such street measured from the nearest intersecting street and the end of the dead end street. the width of a lot or parcel abutting a public right-of-way measured at the front property line.

Frontage lot. That portion of the *frontage* which lies between the side *lot lines* of a single *lot*.

301.G.

Funeral home. Means an establishment engaged in preparing the human deceased for burial or cremation and arranging and managing funerals

Garage.

GPrivate garage, private. Means aAn accessory ~~structure~~structure or portion of a ~~main principal building~~structure for the parking and temporary storage of automobiles of the occupants of the premises, and wherein:

- (a) ~~(a)~~ Not more than one space is rented for parking to persons not occupants of the premises;
- (b) ~~(b)~~ Not more than one commercial vehicle per *dwelling unit* is parked or stored; and
- (c) ~~T-(c)~~ the commercial vehicles permitted do not exceed 26,000 pounds gross vehicle weight rating.



garage

~~Public Garage, public.~~ Means a ~~A~~ building other than a *private garage* used for housing, care or repair of automobiles, or where such vehicles are equipped for operation, repaired, parked or stored for remuneration, hire, or sale.

Grade. Means the lowest point of elevation of the existing surface of the ground, within the area between the building and a line 5 feet from the building.

~~Gas and/or fuel storage and sales.~~ Means the use of a site for bulk storage and wholesale distribution of flammable liquid, gas, or solid fuel, excluding below ground storage that is clearly ancillary to an allowed principal use on the site.

~~Golf course.~~ Means a tract of land developed for the purpose of providing private golf recreation services and support facilities. Included within this definition shall be regulation Golf Courses, executive Golf Courses, par three Golf Courses, and any combination thereof on a common tract of land. Specifically excluded shall be pitch and putt courses, independent driving ranges and miniature golf courses.

Governing body. Means t~~he~~ mayor and city council of the C~~city~~ of Haysville.

~~Government service.~~ Means ~~Buildings or facilities owned or operated by a government entity and providing services for the public, including utilities and recreational services. Typical uses include administrative offices of government agencies and utility billing offices.~~

~~Grain storage.~~ Means facilities for the warehousing of agricultural products. Typical uses include grain elevators.

Green area. Means a~~A~~ landscape area set aside and maintained by the owner for the aesthetic enjoyment of the public.

~~Group home.~~ A dwelling unit as defined by K.S.A. 12-736 as amended, and is occupied by not more than ten persons, including eight or fewer persons with a disability who need not be related by blood or

marriage and not to exceed two staff residents who need not be related by blood or marriage to each other or the residents of the home, which dwelling unit is licensed by a regulatory agency of the state, including the Kansas Department of Social and Rehabilitation Services, the Kansas Department of Health and Environment or the Kansas Department of Aging. Group Home also includes state licensed "Home Plus" adult care residences.

Group residence. A residential facility providing cooking, sleeping and sanitary accommodations for a group of people, not defined as a family, on a weekly or longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, boarding or lodging houses, children's homes, children in need of care under the Code for Care of Children and emergency shelters for the homeless and for victims of crime, abuse or neglect and include establishments providing guidance services for persons receiving non-court ordered alcohol or chemical dependence treatment which will comply with all applicable regulatory requirements of federal, state or local government agencies. The term "group residence" does not include "group home" or "correctional placement residence."

Group residence, general. A group residence that is occupied by more than fifteen persons, including staff members who reside in the facility.

301.H.

Group residence, limited. A group residence that is occupied by six to fifteen persons, including staff members who reside in the facility.

Hard surface. Means a concrete or other similar surface impervious to water and strong enough for the intended use. A "Hard Surface" differs from an "All-Weather Surface" in that a "Hard Surface" does not include gravel or rock.

Hazardous operations. Means activities that present serious hazards to human life and health. Typical uses include arsenals, atomic reactors, explosives and fireworks manufacture, hazardous waste disposal, medical waste disposal, and radioactive waste handling.

Heliport. Means the area of land, water, or structure, including any building or facilities thereon, used or intended to be used for the landing and takeoff of helicopters.

Home occupation. Means a business, profession, occupation or trade conducted in a dwelling unit for gain or support by a resident of the dwelling unit and which is accessory to the use of the dwelling unit as a residence.

— Hospital. Means an institution that: (1) offers services more intensive than those required for room, board, personal services and general nursing care; (2) offers facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease or pregnancy; and (3) regularly makes available at least clinical laboratory services, diagnostic X-ray services and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent. Hospitals may include

~~offices for medical and dental personnel, central service facilities such as pharmacies, medical laboratories, and other related uses.~~

~~Hotel/motel. Means an establishment used, maintained or advertised as a place where sleeping accommodations are supplied for short term use by *Transient Guests*, usually for less than a week, in which rooms are furnished for the accommodation of such transient guests, which may have as an *accessory use* one or more dining rooms, and may include individual kitchen facilities. Typical *uses* include hotels, motels, tourist courts and emergency shelters for the homeless and for victims of crime, abuse or neglect.~~

301.I.

Improvements. ~~Means~~ **a** All facilities constructed or erected by a subdivider within a subdivision to permit and facilitate the use of lots or blocks for residential, commercial or industrial purposes. Improvements shall include all facilities listed in Article VII of the subdivision regulations adopted by the city.

~~Incidental use. **?** Kennel, Boarding/Breeding/Training. Means premises housing five or more *adult dogs*, three or more of which are owned by someone other than the business owner, and premises housing over ten adult dogs.~~

301.J.

301.K.

301.L.

~~Kennel, Hobby. Means premises housing five to ten *adult dogs* owned by the property resident.~~

~~Landfill. Means a disposal facility employing an engineered method of disposing of solid waste, including demolition and construction debris.~~

Landscaping. Means the *improvement* of a ~~lot~~lot, parcel, or tract of land with grass and shrubs and/or trees. Landscaping may include pedestrian walks, flower beds, ornamental objects, such as fountains, statuary and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.

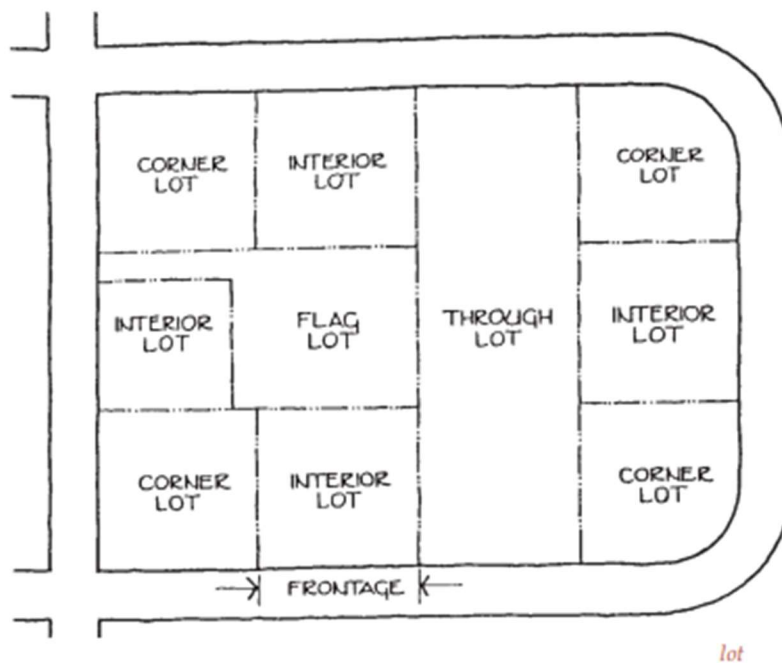
~~Library. Means a publicly operated facility housing a collection of books, magazines, audio and video tapes, or other material for borrowing and use by the general public.~~

Line of sight. Means a visual path emanating from an average eye level adjudged to be between three and eight feet above ground level.

Livable area. The total contiguous area of a *dwelling unit*.

Loading space. Space logically and conveniently located for bulk pickups and deliveries, scaled to such vehicles when required off-street parking space is filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space. (See also Section 500.)

Lot. Means a portion or basic parcel of a subdivision or other tract of land intended to be the parcel by which such land would be individually developed and transferred. A building site or parcel of land occupied or intended to be occupied by a building and accessory buildings, and including such open spaces as are required under this article and having its principal *frontage* upon a public *street* or officially approved place.



Lot area. Means the total area within the lot lines of a lot.

Lot, corner. Means a lot *abutting* two or more *streets* at their intersection. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

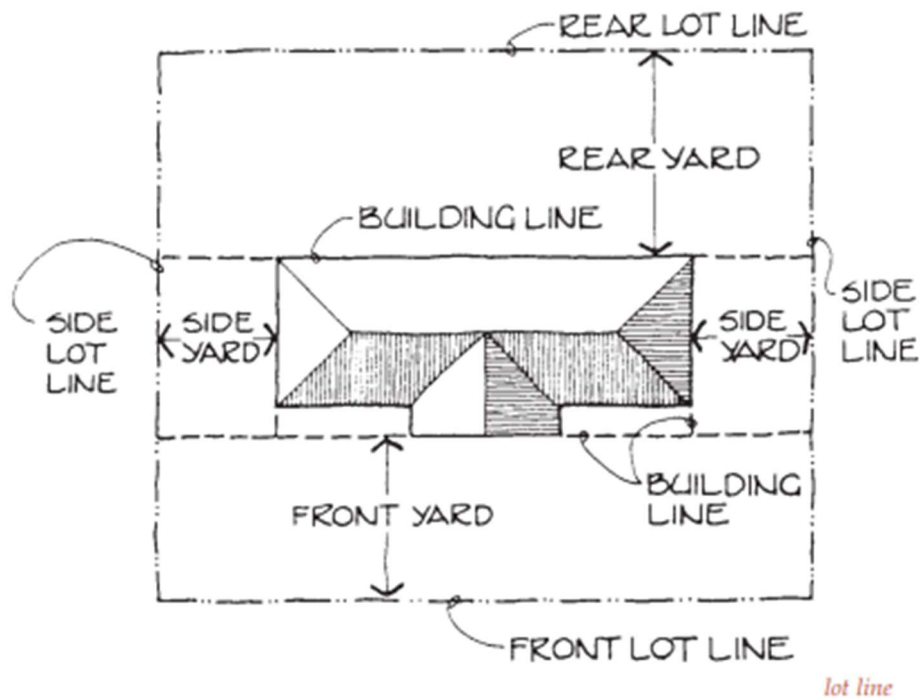
Lot depth. Means the horizontal distance between the front and rear lot *lines* measured along the median between the two side lot lines.

Lot, flag. Means a lot not meeting minimum lot width requirements and where access to a public or private street is provided by means of a long, narrow driveway between *abutting* lots.

Corner lot. A lot abutting two or more streets at their intersection. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

Interior lot, interior. Means a lot other than a corner lot or a through lot.

Lot lines. Means the lines bounding a lot as defined herein.



Through lot. A lot, other than a corner lot, with frontage on two parallel or approximately parallel streets.

Key lot. A corner lot abutting two or more non-corner (interior or through) lots.

TABLE: LOT TYPES

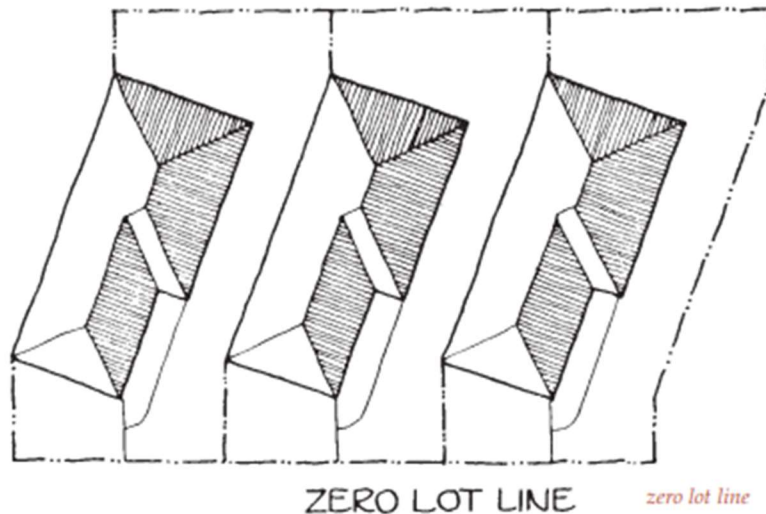
CORNER	INTERIOR	THROUGH	INTERIOR	KEY
				INTERIOR
CORNER	INTERIOR		INTERIOR	KEY

Lot area. The total horizontal area within the lot line of a lot.

Lot depth. The horizontal distance between the front and rear lot lines measured along the median between the two side lot lines.

Lot lines. The lines bounding a lot as defined herein.

Lot line, zero. Means the location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.



Lot of record. Means a lot or portions of one or more lots which are a part of a subdivision, the map of which has been recorded in the Office of the Register of Deeds in Sedgwick County, or a plot described by metes and bounds, the map and/or description of which has been recorded in the Office of the Register of Deeds of Sedgwick County.

Lot split. Means the dividing or redividing of a lot or lots in a recorded plat of a subdivision into not more than two tracts that meet the criteria established within the subdivision regulations into two or more lots.

Lot, through. Means a lot, other than a corner lot, with frontage on two parallel or approximately parallel streets.

Lot width. Means the horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines measured along lot depth.

Manufactured home. Means a structure consisting of one or more mobile components manufactured to the standards embodied in the federal Manufactured Home Construction and Safety Standards Act generally known as the HUD Code, established pursuant to 42 U.S.C. 5403. Such units shall provide all

~~the accommodations necessary to be a *dwelling unit* and shall be connected to all utilities in conformance with applicable regulations. For purposes of these regulations, the term Manufactured Home, when used by itself, shall not include a *residential design manufactured home* as defined in these regulations.~~

~~Manufactured home park. A parcel of land that has been planned and improved in some manner and used or intended to be used by occupied *Manufactured Homes* not placed on permanent foundations. The term Manufactured Home Park does not include sales lots on which unoccupied Manufactured Homes, whether new or used, are parked for the purposes of storage, inspection, or sale; nor does it include a tract of land on which a Manufactured Home as a second *Dwelling Unit* has been permitted on a temporary basis as a Conditional Use in accordance with these regulations.~~

~~Manufactured home park boundary line. The outermost property line that encloses the spaces/lots contained within a *manufactured home park* or *subdivision*.~~

~~Manufactured home site. Shall mean a parcel of ground within a *manufactured home park* that is designated and intended to accommodate one *manufactured home* or *mobile home*, that provides service facilities for water, sewer, and electricity. Also referred to as a *lot*.~~

~~Manufactured home subdivision. Means a *subdivision* that is platted for *Development* as individual *home sites* for *Manufactured Homes*, modular homes, *Residential-Design Manufactured Homes*, and site-built Single-Family *Dwelling Units*, all of which are required to be placed on permanent foundations.~~

~~Manufacturing, General. Means an establishment engaged in the manufacture, predominantly from previously prepared materials or from lightweight nonferrous materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding *Basic Industry*. Typical uses include apparel and garment factories, appliance manufacturing and assembly, bakeries engaged in large-scale production and wholesale distribution, beverage manufacturing and bottling (excluding breweries), boat building and repair, electrical and electronic equipment, food processing (excluding slaughterhouses and rendering plants), furniture and fixtures, jewelry manufacturing, laundry and dry cleaning plants, leather products, meat cutting and wholesale storage, machine shops, motion picture production lots, musical instrument manufacturing, pharmaceutical and toiletries manufacturing, rubber and plastics products manufacturing, tobacco products manufacturing and toy manufacturing.~~

~~Manufacturing, Limited. Means an establishment primarily engaged in the on-site production of goods by hand manufacturing that generally involves only the use of hand tools or other equipment not exceeding two horsepower or a kiln not exceeding eight kilowatts, which may include assembly and packaging, as well as incidental, direct sales to consumers of those goods produced on-site. Typical uses include ceramic shops, candle-making shops, custom jewelry manufacturing, electronic and computer products assembly, ice cream manufacturing, millwork and cabinetry, monument and grave marker manufacturing, precision machining of tools, dies and jigs, production of instruments and lenses for medical, dental, optical, scientific, and other professional purposes, and upholstery shops.~~

~~Marine Facility, Recreational.~~ Means a facility relating to recreational boating. Typical uses include boat docks, marinas, boathouses, and yacht clubs.

301.M.

~~Medical Service.~~ Means an establishment providing therapeutic, preventive, or corrective personal treatment services on an out-patient basis by physicians, dentists, and other practitioners of the medical or healing arts, as well as the provision of medical testing and analysis services. Typical uses include medical and dental offices and clinics, blood banks and medical laboratories.

Metes and bounds. Means a system of describing and identifying a parcel of land by measures (metes) and direction (bounds) from an identifiable point of reference.

~~—Microbrewery.~~ Means a brewery that: (1) is licensed by the Director of Alcohol Beverage Control of the state Department of Revenue; (2) produces no more than 5,000 barrels of beer per year; and (3) does so in a completely enclosed building.

~~Mining or Quarrying.~~ Means the extraction of metallic and nonmetallic minerals, excluding Oil or Natural Gas. Typical uses include sand, soil and gravel pit operations, quarries, and mines.

~~Mobile Food Unit.~~ Means any self-contained vehicle, trailer, cart, wagon, or other type of conveyance from which any food and/or beverage is offered for sale.

Mobile hHome. Means a movable detached ~~sSingle-fFamily~~ ~~dDwelling~~ ~~uUnit~~ that was manufactured according to standards prior to 1976 or that does not conform to the Manufactured Home Construction and Safety Standards Act (HUD Code). Such units shall provide all of the accommodations necessary to be a ~~dDwelling~~ ~~uUnit~~ and be connected to utilities in conformance with all applicable regulations. The term ~~mMobile~~ ~~hHome~~ does not include a ~~rRecreational~~ ~~vVehicle~~.

Monument. Means a statue, pillar, or other non-habitable structure erected in memory of the dead or of a person, event, etc.

~~Monument sales.~~ Means an establishment primarily engaged in the retail sale of *Monuments*, such as headstones, footstones, markers, statues, obelisks, cornerstones, and ledges, for placement on graves, including indoor or *Outdoor Storage*.

301.N.

Multi-Family. Means the use of a site for three or more *dwelling units* within a single *building*. Typical uses include triplexes, fourplexes, apartments, residential condominiums, and townhouses.

Neighborhood Swimming Pool. Means any non-publicly owned swimming pool that is not located on the same *Lot* as a residential *Dwelling Unit* but that is intended as an amenity for use by the residents and their guests of that subdivision or by a group of subdivisions in the immediate vicinity.

~~Nightclub. Means an establishment that provides entertainment, which may include the provision of dancing by employees or patrons, and which may or may not serve food.~~

Nonconforming lot. Means a lot lawfully existing at the time this zoning ordinance became effective, or as amended, which does not conform with the setback, lot size or other dimensional or property development standards applicable to the zoning district in which the lot is located.

~~Nonconforming structure or lot. Means a structure~~structure, or lot, lawfully existing at the time this zoning ordinance became effective, or as amended, which does not conform with the ~~setback~~setback, height, ~~lot size~~ or other dimensional or property development standards applicable to the zoning district in which the structure ~~or lot~~ is located.

~~Nonconforming use. Means the use~~Use of any land, building or structure which does not comply with the use regulations of the zoning district in which such use is located but which complied with the use regulations in effect at the time the use was established.

~~Nurseries and Garden Centers. A place of business where retail and wholesale products and produce are sold to the customer. These centers, which may include a nursery and/or greenhouses, and may include plants, nursery products and stock, and other garden and farm variety tools and utensils.~~

301.O.

~~Nursing facility. Means any state licensed place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to function impairments, need skilled nursing care to compensate for activities of daily living limitations and includes state licensed "nursing facility for mental health; and a state licensed "residential health care facility" when it is attached to a state licensed Nursing Facility. The term Nursing Facility does not include assisted living, group home, group residence or hospital.~~

Obstruction. Means any object within the sight triangle that is between three and eight feet above ground level and would therefor obstruct the driver's view of an approaching vehicle. Obstructions in sight triangles may include, but are not limited to, buildings, vehicles, signs, hedges, trees, bushes, tall crops, walls, or fences.

~~Office, General. Means an establishment providing executive, management, administrative or professional services, but not involving medical or dental services or the sale of merchandise, except as incidental to a Permitted Use. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting and the teaching of these and similar activities, and communication switching facilities and telecommunication carriers that are accompanied by office uses and with all facilities within the building or underground.~~

Oil and gas drilling. Means the subsurface extraction of oil or natural gas.

~~Original tract. A tract of land in existence at the time that Sedgwick County adopted subdivision regulations. (July 1, 1969)~~

Owner. Means aAny person or persons, firm or firms, corporation or corporations, or any other legal entity having legal title to land.

301.P.

~~Parks and Recreation. Means a park, playground, or community facility that is owned by or under the control of a public agency or homeowners' association and that provides opportunities for active or passive recreational activities, and a cultural facility that provides cultural services to the public, including a museum, art gallery, observatory, planetarium, botanical garden, arboretum, zoo, or aquarium that is owned by or under the control of a public agency. For purposes of this definition, Parks and Recreation shall include those parks, community facilities, and cultural facilities that are owned by or under the control of a public agency and leased to private entities for recreational activities, including recreational and cultural uses that involve paid admission or that allow the sale of cereal malt beverages or alcoholic beverages for consumption on the premises.~~

Parking. Means the temporary location of *motor vehicles (except for inoperable vehicles), boats, trailers, and unoccupied recreational vehicles* for not more than 72 consecutive hours.

~~Parking area and/or accessory drive, ancillary. Means an area other than a *Private or Commercial Parking Area, Street or Alley* that is located in any district from the most restrictive through NO inclusive, and that is used for the *Parking* of passenger vehicles as accessory parking to a *Principal Use* that requires the same or a more intensive District than the district in which the Ancillary Parking Area is located. Parking areas—public or customer improved in accordance with the parking appendix.~~

~~Parking Area, Commercial. Means an area or structure used or intended to be used for the off-street parking of operable motor vehicles on a temporary basis, other than as accessory parking to a principal nonresidential use.~~

Parking area, private. Means aAn area, other than a ~~s~~Street or ~~a~~Alley, used or intended to be used for the ~~p~~Parking of ~~operable the m~~Motor ~~v~~Vehicles, boats, ~~t~~Trailers that are exempt from ~~m~~Motor ~~v~~Vehicle registration by the state or are registered or are required by law to be registered with a 2M+ Kansas license plate in the city or 8M in the County, and unoccupied ~~r~~Recreational ~~v~~Vehicles, any of which shall be owned, leased, borrowed, etc. by the occupants of a ~~d~~Dwelling ~~u~~Unit that is located on the same ~~Zoning~~ Lot, and wherein not more than one ~~c~~Commercial ~~v~~Vehicle per ~~d~~Dwelling ~~u~~Unit is parked and the permitted ~~c~~Commercial ~~v~~Vehicle does not exceed 26,000 pounds gross vehicle weight rating.

Parking space. Means an (Automobile) A hard surface, ~~(except may be “all-weather” in areas identified as flood plains by the Zoning Administrator), surfaced~~ area on privately owned property within or without a building or on a private or public parking area and sufficient in size for the parking of one automobile. ~~The area shall conform to design criteria set forth in Section 500.~~

Parks and Recreation. Means a park, playground, or community facility that is owned by or under the control of a public agency or homeowners' association and that provides opportunities for active or passive recreational activities, and a cultural facility that provides cultural services to the public, including a museum, art gallery, observatory, planetarium, botanical garden, arboretum, zoo, or aquarium that is owned by or under the control of a public agency. For purposes of this definition, Parks and Recreation shall include those parks, community facilities, and cultural facilities that are owned by or under the control of a public agency and leased to private entities for recreational activities, including recreational and cultural uses that involve paid admission or that allow the sale of cereal malt beverages or alcoholic beverages for consumption on the premises.

Parts car. Means an inoperable *motor vehicle*, including any vehicle without current registration, which is owned by a collector to furnish parts which will enable the collector to restore, preserve and maintain a special interest vehicle, street rod vehicle or antique.

Pawnshop. Means an establishment primarily engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker, and the sale of such property. ~~Temporary outdoor display of merchandise for sale is permitted. No other outdoor storage is permitted.~~

Pedestrian way. Means a right-of-way for pedestrian traffic.

~~Personal Care Service. Means an establishment primarily engaged in the provision of frequently or recurrently needed services involving the care of a person or his personal goods or apparel. Typical uses include beauty and barber shops, electrolysis studios, shoe shining and/or repair operations, tailors and neighborhood laundry and dry cleaning operations.~~

~~Personal Improvement Service. Means an establishment primarily engaged in the provision or informational, instructional, personal improvement, and similar services of a nonprofessional nature. Typical uses include portrait shops, photography studios, art and music schools, licensed massage therapists, health and fitness studios, swimming clubs, tattooing and body piercing, and handicraft or hobby instruction.~~

Place of worship. Means a premises or site used primarily or exclusively for religious worship and related religious services or established place of worship, convent, seminary, or similar facility owned or operated by a bona fide religious group for religious activities.

Planned Unit Development. Means a development guided by a total design plan in which one or more of the zoning or subdivision regulations, other than use regulations, shall be permitted to be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with general guidelines.

Plat. Means a drawing/map by a professional surveyor of a tract of land that has been lawfully subdivided ~~meeting the criteria established in the subdivision regulations~~ and duly recorded in the Office of the Register of Deeds of Sedgwick County.

Principal structure. ?

Porch. Means a roofed structure projecting from a ~~building~~building and separated from the building by the walls thereof and having no enclosing features except roof supports, ~~and open~~ railing, and screen wire.

Post office substation. ~~Means a facility or structure owned by the U.S. Postal Service that is used for the collection, sorting, and distribution of mail within several zip code areas and having limited retail services for the general public, such as the sale of stamps, postcards and postal insurance.~~

Printing and Copying, Limited. ~~Means an establishment engaged in retail photocopying, reproduction, photo developing or blueprinting services.~~

Printing and Publishing, General. ~~Means the production of books, magazines, newspapers, and other printed matter, as well as record pressing and publishing, and engraving and photoengraving, but excluding printing and copying, limited.~~

Public way. Means aAny parcel of land unobstructed from the ground to the sky, more than 10 feet in width, appropriated to the free passage of the general public.

Recreation and entertainment, indoor. ~~Means a privately-owned establishment offering recreation, entertainment, or games of skill to the general public or members that is wholly enclosed in a building. Typically uses include bowling alleys, indoor theaters, bingo parlors, pool halls, billiard parlors, video game arcades, racquetball, and handball courts, and amusement rides. It does not include buildings typically accessory to a subdivision that are for use by the subdivision's residents and their guests.~~

Recreation and entertainment, outdoor. ~~Means a privately-owned establishment offering recreation, entertainment, or games of skill to the general public or members wherein any portion of the activity takes place in the open. Typical uses include archery ranges, batting cages, golf driving ranges, drive-in theaters, miniature golf courses, "pitch and putt" facilities, tennis courts, and amusement rides. It does not include golf courses, parks, open space, and recreational facilities typically accessory to a subdivision that are for use by the subdivision's residents and their guests.~~

Recreational vehicle campground. ~~Means the use of land designated for occupancy by recreational vehicles for temporary or transient living purposes, including the use of camping spaces for tents.~~

Recycling Collection Station, Private. ~~Means outdoor freestanding containers that are designed to receive, and store pre-sorted recyclable materials not intended for disposal and that are available only to those members or employees of the church, school, office building, or other principal use located on the same property as the station. Containers shall be constructed and maintained with durable waterproof and rust-resistant materials and shall be equipped with lids or doors to prevent access to stored materials by animals or vermin and to preclude stored materials from being scattered by wind. This definition shall not include containers used for curbside recycling or containers used by a~~

commercial or industrial enterprise for collection and/or compression of materials that are a byproduct or integral part of such enterprise.

Recycling Collection Station, Public. Means outdoor freestanding containers not occupying an area greater than 400 square feet (exclusive of area required for vehicular access) that are designed to receive and stored pre-sorted recyclable materials not intended for disposal and that are available to the general public. Containers shall be constructed and maintained with durable waterproof and rust-resistant materials and shall be equipped with lids or doors to prevent access to stored materials by animals or vermin and to preclude stored materials from being scattered by wind.

Recycling Processing Center. Means a *building* or land use in excess of 400 square feet devoted to the receipt, separation, storage, baling, conversion, and/or processing of recyclable materials, but not including *wrecking/salvage yard*.

301.Q.

301.R.

Regulations. Means the City of Haysville Planning and Zoning Regulations.

Renewable Energy Systems. Means either a *Wind Energy Conversion System (WECS)* or a *Solar Energy Conversion System (SECS)*. Those terms shall mean the following:

- (A) — Solar Energy Conversion System (SECS). Means a commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity and includes all associated support facilities including but not limited to, roads, substations, operation and maintenance buildings, as specified in the application.
- (B) — Wind Energy Conversion System (WECS). Means the combination of mechanical and structural elements used to produce electricity by converting the kinetic energy of wind to electrical energy. Wind Energy Conversion Systems consist of the turbine apparatus and any other buildings, support structures and other related improvements necessary for the generation of electric power from wind and intended for wholesale sales of generated electricity.

Replat. Means tThe re-subdivision of a tract of land that has previously been lawfully subdivided and a plat of such prior subdivision duly recorded.

Research Services. Means an establishment engaged in conducting basic and applied research, including production of prototype products when limits to the minimum scale necessary for full investigation of the merits of a product, excluding production of products used primarily or customarily for sale or for use in non-prototype production operations.

~~Residential-dDesign mManufactured hHome~~. Means a ~~mManufactured hHome~~ on a permanent foundation that ~~has-is a~~ minimum ~~dimensions~~ of 22 ~~body~~ feet in width; ~~has~~ a pitched roof, siding and roofing materials that are customarily used on site-built homes; ~~and that complies with the architectural and aesthetic standards specified in these regulations. (see Section 504).~~ A ~~rResidential-dDesign mManufactured hHome~~ shall be considered a ~~sSingle-fFamily dDwelling uUnit in accordance with- (K.S.A. 12-742).~~

301.S.

~~Restaurant~~. Means an establishment where the principal business is the sale of food and beverages in a ready-to-consume state, including the retail sale of alcoholic liquor or cereal malt beverages for consumption on the premises, but not as a *Tavern and Drinking Establishment* as defined herein.

~~Retail, General~~. Means the sale or rental of commonly used goods and merchandise for personal or household use, but excludes those classified more specifically in this section. Typical uses include grocery stores, department stores, furniture stores, clothing stores and establishments providing the following products or services: household electronic equipment, sporting goods, bicycles, office supplies, home furnishings, household appliances, wallpaper, carpeting and floor covering, art supplies, kitchen utensils, jewelry, drugs, cosmetics, books, notions, antiques or automotive parts and accessories.

~~Reverse Vending Machine~~. Means an automated mechanical device that accepts one or more types of recyclable materials and issues a cash refund or a redeemable credit slip. A reverse vending machine may sort and reduce materials mechanically, provided the entire process is enclosed within the machine.

~~Riding academy or stable~~. Means a commercial establishment for boarding, breeding, training, or raising of horses not owned by the owners or operators of the establishment, rental of horses for riding, or other equestrian activities. Riding Academy or Stable shall not include *Rodeo*.

~~Rock crushing~~. Means an establishment engaged in crushing rock or stone milling.

~~Rodeo~~. Means a competition, exhibition, or demonstration involving persons, equines, and/or bovines in which participants display various skills in one more events such as, but not limited to, bareback riding, saddle bronco riding, street wrestling, roping, team roping, tie-down roping, barrel racing, bull riding, or similar events.

~~Safety Services~~. A facility for conduct of public safety and emergency services, including fire and police protection services and emergency medical and ambulance services.

Salvage material. Means material, including but not limited to, scrap brass, scrap copper, scrap iron, scrap lead, scrap tin, scrap zinc and all other scrap metals and alloys, bones, rags, used cloth, used rope, used rubber, used tinfoil, used bottles, playground equipment, old or used machinery of any type, used tools, used appliances, used fixtures, used furniture, used utensils, used lumber, used boxes or crates

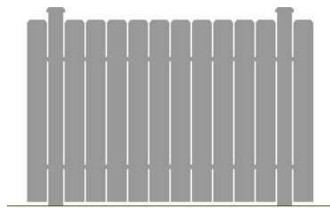
(fabricated of any material), used pipe or pipe fittings, used conduit or conduit fittings, used automotive parts, used tires, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

~~School, Elementary, Middle, & High. The use of a site for instructional purposes on an elementary or secondary level, including both public schools as well as private schools that have curricula similar to those in public schools.~~

Screening. Means fFencing, evergreen vegetation or landscaped earth berms maintained for the purpose of concealing from view the area behind such fences, evergreen vegetation or berms.

Screening, sSolid. Means a solid barrier of 90 to 100 percent opacity made from wood, vinyl, landscaped earth berms, masonry, or other similar materials, including brick, stone, architectural tile, or a combination of these materials erected to enclose, screen, or separate areas from adjacent views. Appropriate materials do not include mesh privacy screens.

Example of 90% Opacity of Screening



~~Secondhand Store. Means a retail establishment other than an antique store that engages in the purchase and resale of used goods such as clothing, furniture, appliances, books, and other household items. Temporary outdoor display of merchandise for sale is permitted. No other outdoor storage is permitted.~~

~~Service Station. Means an establishment primarily engaged in the retail sale of gasoline or other motor fuels that may include accessory activities, such as the sale of lubricants, automotive accessories, or supplies, the lubrication or washing of motor vehicles, the minor adjustment or repair of motor vehicles and may specifically include a car wash.~~

Setback. Means tThe minimum distance that is required by these regulations ~~is Code~~ between a structure~~Principal Structure or Accessory Structure~~ and the property lot line of the lot on which the sStructure is located. (Note: The term Setback refers to a required minimum area, while the term Yard refers to the actual open area.)

Setback, front. Means a sSetback that is to extend across the full width of the lot, the required depth of which is measured as the minimum horizontal distance between the street right-of-way line and a line parallel thereto on the lot.

Setback, interior side. Means a ~~Setback~~setback that is to extend from the street right-of-way line to the rear ~~lot~~ line along the side of a ~~lot~~ that is contiguous or *abutting* another ~~lot~~, the required depth of which is measured as the minimum horizontal distance between the side ~~lot~~ line and a line parallel thereto on the ~~lot~~.

Setback, rear. Means a ~~Setback~~setback that is to extend across the full width of a ~~lot~~, the required depth of which is measured as the minimum horizontal distance between the rear ~~lot~~ line and a line parallel thereto on the ~~lot~~.

Setback, street side. Means a ~~Setback~~setback that is to extend from the front ~~lot~~ line to the rear ~~lot~~ line along the side of a ~~lot~~ that is *abutting* a *street* or street right-of-way line, the required depth of which is measured as the minimum horizontal distance between the side ~~lot~~ line and a line parallel thereto on the ~~lot~~.

Sexually oriented business. ~~See adult entertainment establishment.~~

~~—Short term Residential Rental. Means any non-owner-occupied dwelling which (1) contains rooms furnished for the purposes of providing lodging to transient guests; (2) is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are available for pay or compensation by transient guests; and (3) rental is less than 28 days.~~

Signs. As defined ~~by in~~ Appendix D, ~~Haysville Municipal Code.~~ of these regulations.

Sight/Vision ~~t~~Triangle. ~~Means the unobstructed, triangular area located at the intersection of two streets, a street and a railroad, or a street and a driveway; two sides of which are measured from their corner intersection for a distance specified based on roadway speed. The third side is a line across the corner of the lot adjoining the ends of the two sides. A triangular area on a lot that is located adjacent to the area where two streets intersect. The triangle has two sides measured from the center of right-of-way, and a third side across the lot which connects the ends of the two sides. In all districts, the two lot lines establishing the sight triangle shall be a minimum distance of 60 feet. However, such standards may be increased to reflect unusual topography, sight distance, angle of street or roadway, vegetation or intensity of traffic volumes or speed. At street intersections, which are provided automatic traffic signalization, the Administrative Committee may modify or waive the sight triangle restrictions. The Zoning Administrator or City Inspector shall determine, upon request, the location of any sight triangle. (Code 2023)~~

Example of a sight triangle at the intersection of two streets.



Sight triangle, approach. Means a *sight triangle* used for intersection with no control requiring adequate distance for an approaching *motor vehicle* to identify any conflicts in or approaching the intersection before entering.

Sight triangle, departure. Means a *sight triangle* used for controlled intersections requiring drivers to stop or yield at intersections, check for approaching *motor vehicles* in the intersection, and then depart.

Single-Family. Means the use of a lot for only one detached principal dwelling unit, excluding a structure used as a group residence, that may be a residential design manufactured home but shall not be a mobile home.

Solid Waste Incinerator. Means a permanent facility operated alone or in conjunction with a recycling processing center or landfill for the purpose of burning solid waste or trash and converting it to ash.

Storage, Outdoor. Means the keeping, storing, placing or locating outside of an enclosed structure for more than 72 consecutive hours any property, goods, products, equipment, portable storage containers, or other similar items not considered accessory uses as listed in this code. The term storage, outdoor (or outdoor storage) does not include vehicle storage yard.

Site plan. Means a plan that outlines the use and development of any tract of land.

Story. Means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet above grade as defined here in for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such useable or unused under-floor space shall be considered to be a story.

Street. Means a thoroughfare, whether public or private, 25 feet or more in width of such width to conform to the adopted Subdivision Regulations. For the purpose of this chapter, the word "street" shall include the words "road," "highway," "boulevard," and "avenue," etc.

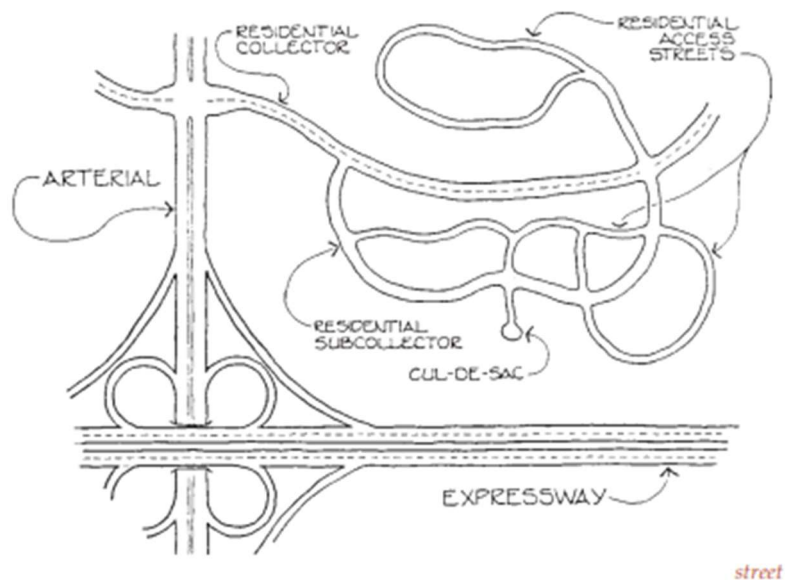
~~Residential street, local.~~ Means aAny street designed primarily to provide access to *abutting* property to include lanes, drives, circles, boulevards, or any other designation that might be given to such streets.

~~Road or roadway.~~ The paved or improved area existing on the street right-of-way exclusive of sidewalks, driveways or related uses.

Street, sub collector. Means aAny street designed to provide passage to ~~residential/local~~ streets and convey traffic to *collector streets* or through traffic to lower order streets.

Street, collector. Means any

Street, arterial. Means any



Street lines. Means aA ~~property lot~~ line identified between a parcel of land and the street right of way.

Structure ~~or building.~~ Means aAnything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, *mobile homes*, walls, billboards and poster panels.

Structure, accessory. See *accessory structure*.

Structure, attached. Means any building or structure that is physically connected to another by means of the walls or roof touching.

Structure, principal. See *principal structure*.

Subdivider. ~~Means t~~^{Means} ~~The owner~~, or any other person, firm or corporation authorized by the owner, undertaking proceedings under the provisions of the ~~S~~^Subdivision ~~R~~^Regulations for the purpose of subdividing land.

Subdivision (as defined by K.S.A. 12-742). ~~Means the~~^{Any} ~~division or redivision of land~~^{division or redivision of land} of a lot, tract or parcel into two or more parts for the purpose, whether immediate or future, of sale or building development, including resubdivision.

Subdivision regulations (as defined by K.S.A. 12-742). ~~Means the lawfully adopted subdivision ordinances of the City. by means of mapping, platting, conveying, changing, or rearranging of boundaries, or otherwise, and shall also relate to the process of subdividing or other land subdivided, where appropriate to the context.~~

Tattooing and Body Piercing Facility. ~~Means any room or space, or part thereof, where the act of tattooing, body piercing, or permanent color technology is conducted.~~

Tavern and Drinking Establishment. ~~An establishment engaged in the preparation and retail sale of alcoholic liquor or cereal malt beverage for consumption on the premises that derives in a six-month period less than fifty percent (50%) of its gross revenues from the sale of food and beverages for consumption on the premises. For the purposes of this Code, the term Tavern and Drinking Establishment shall include Class B Club.~~

Teen Club. ~~Means any building or part or other enclosed place where a teen dance is held or teen dancing is permitted.~~

Three-Four Family. ~~Means the use of a lot for three or four principal dwelling units within a single building.~~

Tiny Home. ~~Means the use of a lot for one detached principal dwelling unit not to exceed 599 square feet in size.~~

301.T.

Trailer. ~~Means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.~~

Transfer Station. ~~Means any enclosed facility where solid wastes are transferred from one vehicle or rail car to another or where solid wastes are stored and consolidated before being transported for disposal elsewhere.~~

Transient ~~g~~^Guest. Means a person who occupies a short-term residential rental for not more than twenty-eight ~~(28)~~ consecutive days.

301.U.

Two Family. Means the ~~use of a lot~~ for two principal ~~dwelling units~~ within a single ~~building~~.

University or College. Means an institution of higher education (post High School) offering undergraduate or graduate degrees in higher learning, including seminaries.

Use, principal. Means ~~t~~The main and primary purpose for which land or a ~~building or structure~~structure is designed, arranged or intended, or for which ~~either land or a building or structure~~ it may be occupied or maintained under th~~ese regulations~~is ordinance.

Use, accessory. Means a use that is subordinate to and serves a *principal use*; is subordinate in purpose to the principal use served; contributes to the comfort, convenience, or necessity of occupants of the principal use served; and is located on the same zoning lot as the principal use.

Use, principal. Means the main and primary use of land, a building or structure.

301.V.

Utility, Major. Means generating plants; electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; and radio, television and microwave transmission towers; and similar facilities of agencies that are under public franchise or ownership to provide the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service. The term Utility, Major shall not be construed to include corporate or general offices; gas or oil processing; manufacturing facilities; postal facilities; communication switching facilities that are accompanied by office uses, telecommunication carrier with transmission equipment for long-distance call and high-speed Internet connections with one or more telecommunication carrier located within a ~~building~~, or other ~~uses~~ defined in this section.

Utility, Minor. Means services and facilities of agencies that are under public franchise or ownership to provide services that are essential to support development and that involve only minor structures, such as poles and lines, and structures not exceeding 150 cubic feet in size and six feet in height that do not generate discernable noise, odor or vibration within any nearby residential district, and that comply with the setback requirements of the district in which they are located.

Variance. Means ~~To authorization by the Board of Zoning Appeals,~~ in specific cases, a deviation from the specific terms of the~~se regulations-zoning ordinance~~, which will not be contrary to the public interest and where owing to special conditions, a literal enforcement of the provisions of the~~se regulations e zoning ordinance~~ will, in an individual case, result in unnecessary hardship, and provided the spirit of the~~se regulations-zoning ordinance~~ shall be observed, public safety and welfare secured and substantial justice done.

Vehicle and Equipment Sales, Outdoors. Means an establishment engaged in the retail or wholesale sale or rental, from the premises, of motor vehicles or equipment, along with incidental service or

~~maintenance. Typical uses include new and used automobile and truck sales, automobile rental, boat sales, motorcycle sales, construction equipment rental yards, trailers and/or moving trailer rental.~~

Vehicle, cCommercial. Means any truck, van, panel truck, delivery van, ~~tTrailer~~, semitrailer or pole trailer drawn or designed to be drawn by a ~~mMotor~~ vVehicle, which vehicle was designed, used and/or maintained for the transportation of more than ten persons or the delivery of property for hire, compensation, profit or in the furtherance of any commercial enterprise.

Vehicle, iInoperable. Means any vehicle that is unable to operate or move under its own power. It shall also mean any ~~mMotor~~ vVehicle that is in an abandoned, wrecked, dismantled, scrapped, junked or partially dismantled condition that includes having no wheels, or lacking other parts necessary for the normal operation of the vehicle. It shall also mean any vehicle that because of mechanical defects, a wrecked or partially wrecked frame or body or dismantled parts, cannot be operated in a normal, and safe manner. It shall also mean any vehicle with an absence of display of current registration. An ~~iInoperable~~ vVehicle shall not include vehicles needing only the inflation of tires, the installation of a battery or the addition of fuel in order to operate. ~~An In the City, an iInoperable~~ vVehicle shall also include any vVehicle with uninflated tires, or otherwise meeting the definition of nuisance automobile Inoperable Vehicle in Chapter 8 of the Code of the City of Haysville.

Vehicle, mMotor. Means every motorized vehicle, other than a motorized bicycle or a motorized wheelchair, that is self-propelled, and every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails. ~~See Vehicle, Commercial and Vehicle, Passenger.~~

Vehicle, pPassenger. Means a ~~mMotor~~ vVehicle that is designed primarily to carry ten or fewer passengers, and that is not used as a ~~cCommercial~~ vVehicle.

Vehicle, rRecreational. Means a unit designed as temporary living quarters for recreational, camping or travel use that has a body width not exceeding eight feet and a body length not exceeding 40 feet. Units may have their own power, or designed to be drawn or mounted on a ~~mMotor~~ vVehicle. Recreational vVehicle shall include ~~motor homes~~, travel trailers, truck campers, camping trailers, converted buses, houseboats or other similar units as determined by the Zoning Administrator. A ~~rRecreational~~ vVehicle may or may not include individual toilet and bath.

~~Vehicle Repair, General. Means an establishment primarily engaged in painting of or body work to Motor Vehicles or heavy equipment. Typical uses include paint and body shops.~~

~~— Vehicle Repair, Limited. Means a use providing repair of Motor Vehicles or maintenance services within completely enclosed Buildings, but not including paint and body shops or other general Vehicle Repair services. Typical uses include businesses engaged in the following activities: (1) electronic tune-ups; (2) brake repairs (including drum turning); (3) air conditioning repairs; (4) transmission and engine repairs; (5) generator and starter repairs; (6) tire repairs; (7) front-end alignments; (8) battery recharging; (9) lubrication; and/or (10) sales, repair and installation of minor parts and accessories, such as tires, batteries, windshield wipers, hoses, windows, etc.~~

Vehicle Storage Yard. Means the keeping outside of an enclosed building for more than 72 consecutive hours of one or more *motor vehicles (except inoperable vehicles)*, boats, trailers, or unoccupied recreational vehicles. The term vehicle storage yard does not include *wrecking/salvage yard*.

Vocational School. A use providing education or training in business, commercial trades, language, arts or other similar activity or occupational pursuit, and not otherwise defined as a *University or College or Elementary, Middle, and High School*.

Warehouse, Self-Service Storage. Means an enclosed storage facility of a commercial nature containing independent, fully enclosed bays that are leased to persons exclusively for dead storage of their household goods or personal property.

Warehousing. Means the storage of materials, equipment, or products within a *building* for manufacturing use or for distribution to wholesalers or retailers, as well as activities involving significant movement and storage of products or equipment. Typical *uses* include major mail distribution centers, frozen food lockers, and moving and storage firms, but excluding *self-service storage warehouses*.

Welding or Machine Shop. Means a workshop where machines, machine parts, or other metal products are fabricated. Typical *uses* include machine shops, welding shops, and sheet metal shops.

Wholesale or Business Services. Means an establishment primarily engaged in the display, storage, and sale of bulk goods or services to other businesses, typically retailers, for resale or further distribution. It may also include the sale of bulk goods and services directly to individual consumers.

— Wireless Communication Facility. Means a *Lot* containing equipment at a fixed location that enables wireless communications between user equipment and a communications network, including, but not limited to: (A) a wireless support structure consisting of a freestanding support structure, such as a monopole, guyed, or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities; (B) a base station that supports or houses an antenna, transceiver, coaxial cables, power cables or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics; (C) equipment associated with wireless services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and/or (D) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration.

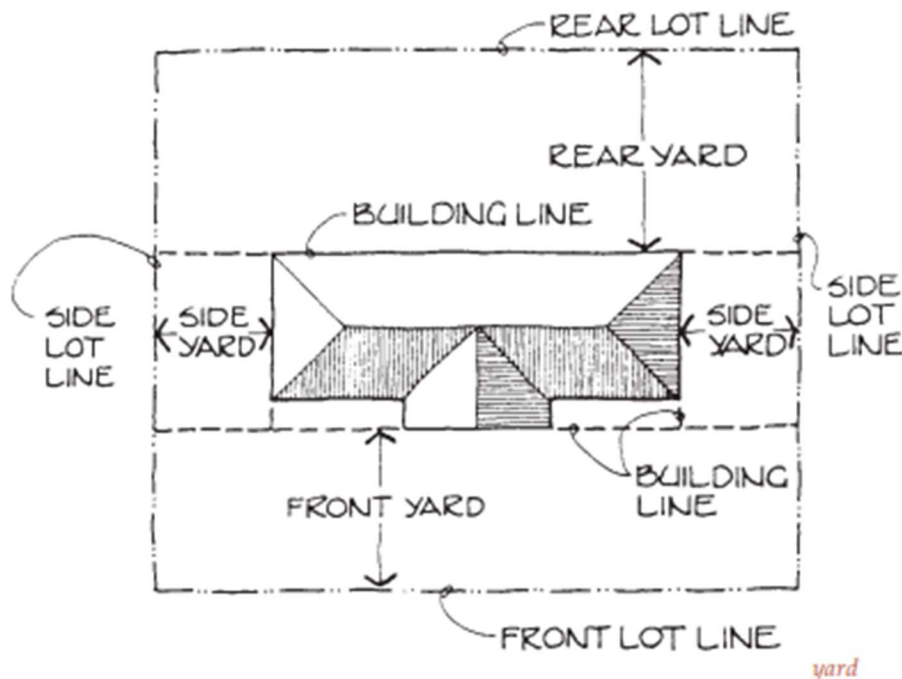
Wrecking/Salvage Yard. Means a *lot, land, or structure*, or part thereof, used for the collecting, dismantling, storing, and/or salvaging of machinery, equipment, appliances, inoperable vehicles, vehicle parts, bulky waste, salvage material, junk, or discarded materials; and/or for the sale of parts thereof. Typical *uses* include *motor vehicle salvage yards* and *junkyards*.

301.W.

301.X.

301.Y.

Yard. Means a An open space, other than a *court*, on the same *lot* with a *building* or group of buildings, which open space lies between the building or group of buildings and the nearest *lot line*, is unoccupied and unobstructed from the ground upward, except as provided in these regulations is chapter.



Front Yard, front. Means a A yard extending across the full width of the *lot*, the depth of which is the minimum horizontal distance between the front *property lot line* and the *building* line. On *corner lots*, the street address shall determine the primary front yard requirement which shall have the required front yard depth. The subordinate front yard shall have no less than fifteen (15) feet.

YRear yard, rear. Means a A yard extending across the full width of the *lot* between the nearest rear main *building* and the rear *lot lines*. The depth of the required rear yard shall be measured horizontally from the nearest part of a main building toward the nearest point of the rear lot lines. In case of *through lots* and *corner lots* there will be no rear yards, but only *front yards* and *side yards*.

YSide yard, side. Means a yard extending f From the *front yard* to the point of intersection of the *rear yard* or *property lot line*, when no rear yard exists.

Street yard, street. Means the area of a ~~lot~~lot, which lies between the ~~property lot~~property lot line abutting a street and ~~the street wall line of the building~~the building line. If a ~~building~~building has a rounded ~~street wall~~building line or if the building is on an irregular-shaped lot, wall lines extending parallel to the street wall from the points of the wall closest to the side ~~property lot~~property lot lines shall be used to define the limits of the street yard.

301.Z.

Zoning (as defined by K.S.A. 12-742). Means the regulation or restriction of the location and uses of buildings and uses of land.

ARTICLE 11

VIOLATIONS AND ENFORCEMENT

SECTION 1100. VIOLATIONS

1100.A. TYPES OF VIOLATIONS. Any of the following shall constitute a violation of these regulations, including any appendices incorporated by reference, and shall be subject to the enforcement remedies and penalties provided by these regulations and state law.

1. **Development or use without a permit.** To engage in any development, use, construction, remodeling or other activity of any nature upon the land and improvements thereon subject to the jurisdiction of the City of Haysville without all of the required permits, approvals, certificates and other forms of authorization required by these regulations in order to conduct or engage in such activity.
2. **Development or use inconsistent with permit.** To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate or other form of authorization required in order to engage in such activity.
3. **Development or use inconsistent with these regulations.** To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building, structure, or sign, or to use any land in violation or contravention of any zoning, subdivision, or general regulations of these regulations, or any amendment thereof.
4. **Making lot or setback noncomplying.** To reduce or diminish any lot area so that the setbacks or open spaces shall be smaller than prescribed by these regulations and the final plat or plan.
5. **Increasing intensity of use.** To increase the intensity of the use of any land or structure, except in accordance with the procedural and substantive requirements of these regulations.
6. **Continuing violation.** To continue any of the above violations. Each day of a violation shall be considered a separate offense.
7. **Removing, defacing, obscuring notice.** To remove, obscure, or otherwise interfere with any notice required by these regulations.

SECTION 1101. ENFORCEMENT PROCEDURES

1101.A. GENERAL. This section shall outline the enforcement procedures and effects of violations of these regulations.

1101.B. AUTHORITY. The Zoning Administrator, or designee, shall have the authority to investigate alleged violations and enforce these regulations.

1101.C. INVESTIGATION. The Zoning Administrator may enter onto any property as necessary to investigate an alleged violation of these regulations. If the owner or occupant refuses to allow the Zoning Administrator on to the property, the Zoning Administrator may seek a warrant as authorized by state law.

1101.D. NOTICE. The Zoning Administrator may issue a notice of violation for any violation of these regulations. The Zoning Administrator must send notice of violation to the property owner by certified mail. The notice of violation must:

1. Describe the violation;
2. Identify the specific provision(s) of these regulations being violated;
3. State the specific action required to abate the violation;
4. State that if the violation is not abated within 15 days of the receipt of the letter, the City may institute court proceedings to obtain a court order directing compliance with these regulations and awarding fines up to the maximum amount allowed under these regulations for each day the violation continues from the date of the notice;
5. State that the notice of violation may be appealed as per Section 203.G.

1101.E. PENALTY. Any violation of the provisions of these regulations shall be a misdemeanor and shall be punishable by a fine of not to exceed \$500 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.

1101.F. OTHER ENFORCEMENT MATTERS.

1. **Other powers.** In addition to the enforcement powers specified in this section, the City may exercise any and all enforcement powers granted to them by Kansas law, as it may be amended from time to time.
2. **Continuation.** Nothing in these regulations shall prohibit the continuation of previous enforcement actions, undertaken by the City pursuant to previous and valid resolutions, ordinances and laws.

ARTICLE 11

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2. **Development or use inconsistent with permit.** To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate or other form of authorization required in order to engage in such activity.
3. **Development or use inconsistent with these regulations.** To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building, structure, or sign, or to use any land in violation or contravention of any zoning, subdivision, or general regulations of these regulations, or any amendment thereof.
4. **Making lot or setback noncomplying.** To reduce or diminish any lot area so that the setbacks or open spaces shall be smaller than prescribed by these regulations and the final plat or plan.
5. **Increasing intensity of use.** To increase the intensity of the use of any land or structure, except in accordance with the procedural and substantive requirements of these regulations.
6. **Continuing violation.** To continue any of the above violations. Each day of a violation shall be considered a separate offense.
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1101.E. PENALTY. Any violation of the provisions of these regulations shall be a misdemeanor and shall be punishable by a fine of not to exceed \$500 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense. ~~Fees shall be as established in Chapter 17 of the Municipal Code of Haysville, Kansas. (Code 2023).~~

1101.F. OTHER ENFORCEMENT MATTERS.

1. Other powers. In addition to the enforcement powers specified in this section, the City may exercise any and all enforcement powers granted to them by Kansas law, as it may be amended from time to time.
- 1-2. Continuation. Nothing in these regulations shall prohibit the continuation of previous enforcement actions, undertaken by the City pursuant to previous and valid resolutions, ordinances and laws.

HAYSVILLE PLANNING COMMISSION & BOARD OF ZONING APPEALS BYLAWS

THE HAYSVILLE PLANNING COMMISSION HAS ADOPTED THE FOLLOWING BYLAWS FOR THE TRANSACTION OF BUSINESS AND HEARING PROCEDURES AS REQUIRED BY K.S.A. 12-741, ET. SEQ. The Planning Commission is hereby designated to also serve as the City's Board of Zoning Appeals, with all the powers and duties as provided for in K.S.A. 12-759

ARTICLE I MEMBERS

- A. MEMBERSHIP COMPOSITION. Membership of the Commission shall be as established by Section 1-605-606 of the Haysville City Code. The Haysville Planning Commission shall consist of seven (7) members who shall be appointed by the Mayor, with the consent of the City Council, in all respects as required by law. Five (5) members must be residents of the City of Haysville, and two (2) members must reside outside of the City, but within the City's zoning area of influence as designated in Haysville's current Comprehensive Plan. Appointment to a vacancy caused by the death, incapacity, resignation or disqualification of any Member of the Planning Commission shall be made for that Member's unexpired term.
- B. VACANCIES. Vacancies occurring other than through the expiration of the term shall be filled by appointment for the departing member's unexpired term.
- C. TERMS OF OFFICE. Members shall serve staggered three (3) year terms which shall expire on June 30 of the third year after appointment. Members may serve successive terms. At the end of the three year term, the member may be reappointed with the approval of the City council. Vacancies shall be filled for unexpired terms only. The terms of the two members residing outside of the City's corporate limits must not expire within the same year. Members shall take office on the first meeting of the Planning Commission in July.
- D. COMPENSATION. Commission members shall serve without compensation, except that all members shall be reimbursed for approved travelling expenses.
- E. ATTENDANCE. Regular attendance is an important responsibility of membership in order to maintain a quorum for voting. Members of the Planning Commission shall make it a regular practice to attend the full length of regular meetings, special meetings, and workshops. If, for any reason, a Commissioner cannot attend the scheduled meetings, it is the Commissioner's responsibility to notify the Secretary of the absence prior to the meeting. If a Planning Commissioner is absent from three consecutive meetings without notifying the Secretary prior to the meeting or is absent from 20 percent of the meetings with notification to the Secretary (approximately four times) in a calendar year, then upon a motion by the Planning Commission, the name of the Planning Commissioner will be forwarded to the Mayor for removal from the Planning Commission.

- F. REMOVAL. Planning Commissioners may be removed by the Mayor for failure to attend meetings, trainings and workshops; neglect of duty; or malfeasance in office

ARTICLE II ORGANIZATION

- A. OFFICERS. The officers of the Commission shall be a Chairperson, a Vice-Chairperson, and a Secretary. The Chairperson, Vice-Chairperson and Secretary shall be elected by the Commission annually at its first meeting after July 1. Their term of office shall be one (1) year. The Planning and Zoning Administrator or his/her selected representative may serve as Secretary to the Commission.
1. CHAIRPERSON. The Chairperson shall preside at all meetings of the Commission, appoint committees, decide all points of order and procedure, and perform other duties as may be assigned by the Planning Commission. The Chairperson retains his or her ability to discuss, make motions, and vote on issues before the Commission.
 2. VICE-CHAIRPERSON. The Vice-Chairperson shall act as Chairperson in the absence of the Chairperson. In the event the office of the Chairperson becomes vacant, the Vice Chairperson shall succeed to that office for the unexpired term, and the Commission shall select a new Vice-Chairperson for the unexpired term at the next regular meeting. The Vice-Chairperson shall perform other duties as may be assigned by the Commission.
 3. CHAIRPERSON PRO TEM. When both the Chairperson and Vice-Chairperson are absent from a hearing or meeting, a Chairperson Pro Tem shall be elected from the remainder of the members of the Planning Commission by majority vote to perform the duties and responsibilities of the Chairperson.
 4. SECRETARY. The Secretary shall be responsible for keeping the minutes of the Planning Commission; sending agendas to members of the Planning Commission; carrying out written correspondence; maintaining the records of the Commission; and performing such other duties as the Planning Commission may require.
- B. COMMITTEES. The Planning Commission may establish committees as necessary to study, facilitate, and/or make recommendation of specific issues. Each establishment will include purpose, members, and presiding officer. No committee shall have more than four (4) planning commissioners appointed to it.

ARTICLE III MEETINGS

- A. REGULAR MEETINGS. The Planning Commission shall meet at 6:00 p.m. on the second and fourth Thursday of every month at the Haysville Municipal Building when

needed. The Chairperson or Secretary may cancel a regular meeting with at least three (3) days prior notice for the following reasons:

1. It is determined that a quorum will not be present;
2. No subjects are scheduled for the agenda; or,
3. Other reasonable circumstances.

- B. BOARD OF ZONING APPEALS (BZA) MEETINGS. BZA meetings take place as needed, at the same date, time, and location as Planning Commission meetings. Therefore, when the Commission must act as the Board of Zoning Appeals, the Planning Commission must recess by motion, the Chairperson must then open the BZA meeting, the BZA must act on their agenda items, the BZA must then adjourn by motion, and the Chairperson must then reconvene the Planning Commission by motion.

Unless otherwise decided by the Commission, the order of business must be as follows:

1. Roll call.
2. Approval of the agenda.
3. Approval of the minutes.
4. Public agenda.
5. Committee and staff reports.
6. Communications.
7. Public hearings (including BZA Meeting, if necessary).
8. Plats.
9. Screening plans.
10. Miscellaneous.
11. Adjournment.

- C. SPECIAL MEETINGS. Special meetings can be held at any time and may be called by the Chairperson or upon request to the Secretary by at least two members of the Planning Commission. Special meetings are noticed official meetings and open to the public, during which the Planning Commission deliberates and may take votes on specific items. If a special meeting of the Commission is held because of an individual request, that individual shall pay the cost of advertising the meeting and administrative costs.

Notice of special meetings shall be given to the members of the Planning Commission at least twenty-four (24) hours prior to the meeting. Such notice shall state the purpose, time and location of the special meeting and shall be posted in accordance with the Open Meetings Act. No business shall be transacted at the meeting except such as is stated in the notice.

- D. WORKSHOPS/WORKING SESSIONS. Workshops or working sessions are noticed official meetings open to the public to discuss specific matters before the Commission. The intent of the working session is informational, and the Planning Commission may neither deliberate nor take a vote during the working session.
- E. JOINT MEETING. Joint meetings are noticed official meetings, open to the public, during which the City Council and Planning Commission discuss specific planning related matters. Neither the Planning Commission nor City Council may deliberate or take a vote during the meeting.
- F. MEETINGS HELD ELECTRONICALLY. Meetings of the Commission may be held electronically or by telephone when:
 - 1. The Chairperson or Vice-Chairperson has obtained written consent for this from a majority of the Planning Commission;
 - 2. Directed by the Mayor due to health or safety concerns;
 - 3. In the case of special meetings, when so directed by those calling the special meeting;

Electronic or telephone meetings shall be subject to all rules adopted by the Planning Commission to govern such meetings. Any such rules shall supersede any conflicting rules in the parliamentary procedures, but may not otherwise conflict with or alter any rule or decision of the Planning Commission.

- G. OPEN MEETINGS ACT. All meetings shall be open to the public and shall be compliant with the Kansas Open Meetings Act (KSA 75-4317 et seq)
- H. AGENDA. Agendas shall be transmitted electronically to the members of the Planning Commission at least three (3) days prior to the Planning Commission meeting. The agenda shall also be made available to the public and posted to the Planning Commission page on the City's website. The agenda may be updated and posted to the website by 5:00 PM on the meeting date.
- I. QUORUM. Four (4) members, a majority of the Commission, shall constitute a quorum for the transaction of business. The Commission shall assemble for all regularly scheduled meetings with a published agenda. If a quorum of the Commission is not present, no business shall be conducted and the matters for consideration shall be postponed to the next regularly scheduled Commission meeting. Further legal notifications or notification of surrounding property owners shall not be required for those cases postponed due to lack of a quorum.
- J. VOTING. Unless otherwise provided for in the state statutes, an affirmative vote of the majority of the members of the Planning Commission who are present and voting shall be necessary to authorize any action of the Commission. (At the passage of these by-laws, the only exceptions are in the cases of adopting and amending a comprehensive plan (KSA 12-747(b)), amending subdivision regulations (KSA 12-749(d)) and establishing or amending

a zoning ordinance (KSA 12-756(b).) When such a vote is not possible either for or against a particular proposal, the results of such action shall be submitted to the City Council with an explanation of the failure to establish an official vote on the subject in question. All members, including the Chairman, shall have a vote and shall vote when present except that any member shall automatically not vote on any decision in which there might be a conflict of interest. All votes shall be taken by roll call.

- K. ABSTENTION. Members of the Planning Commission have a duty to vote unless they have an actual conflict of interest. Members may routinely abstain from voting upon the adoption of minutes from a prior meeting at which the member was not in attendance, or upon their own nomination to the office of Chairperson or Vice-Chairperson.
- L. PARLIAMENTARY PROCEDURE. All meetings of the Commission and of its committees shall be conducted in accordance with the current edition of Robert's Rules of Order Newly Revised.

ARTICLE IV MATTERS TO BE CONSIDERED

- A. ITEMS TO BE CONSIDERED. The Commission shall consider matters relating to the Comprehensive Plan, including zoning, subdivision, and other regulatory measures relating to the Comprehensive Plan and the physical development of the city and its area of influence. A specific list of matters to be considered by the Commission is as follows:
 - 1. Rezoning proposals, Conditional Use Permits, Special Use Permits, and Subdivision plats and associated requests for variances or vacations;
 - 2. Annexation proposals;
 - 3. Comprehensive Plan amendments or revisions;
 - 4. Text Amendments to adopted ordinances and resolutions;
 - 5. Capital Improvement Plans, and;
 - 6. Such other matters as City Staff may bring before the Commission or that the governing body may assign to the Commission or the Commission shall deem relevant or appropriate.

The Commission shall not consider any proposal, request, application, or plat which is contrary to or in conflict with provisions of the Kansas Statutes Annotated, as amended, or contrary to or in conflict with city ordinances.

ARTICLE V CALENDAR

- A. CALENDAR. The Secretary shall prepare and submit to the Commission, for its consideration and adoption, a list of closing and hearing dates for the following year. The

list shall be submitted to the Commission at its last scheduled meeting in each calendar year. Applications shall then be placed on the calendar of the Commission for hearing, in accordance with said schedule. Study items may be, but need not be, placed on the calendar.

ARTICLE VI PROCEDURES FOR PUBLIC HEARINGS

- A. INTENT. On any matter that requires a public hearing, it is the Planning Commission's intent to provide adequate legal notice to all concerned parties, and to hold a fair and impartial hearing. Commissioners should discourage any ex parte contacts, and should:
 - 1. Come to a hearing favoring neither side.
 - 2. Have no personal interest in the outcome other than that shared by the community-at-large.
 - 3. Treat both sides alike.
 - 4. Base their decision solely on the facts presented as evidence before the Commission.
- B. DISCLOSURE. Commissioners must disclose any ex parte contacts or information that may have a bearing on their decisions, prior to any motion.
- C. ORDER OF PROCEEDINGS FOR ZONING HEARINGS. Applications for rezoning amendments, conditional use permits and special use permits that are site-specific land use decisions are considered quasi-judicial proceedings. Such proceedings require due process, including proper notice to concerned parties, and the opportunity to be heard in a fair, open and impartial hearing. At the end of the hearing, the Commission must adopt a written report or place a statement in the minutes which summarizes the evidence and states the factors that were considered in arriving at its decision.

The following order of proceedings must be used for all such rezoning and special use hearings:

- 1. Determine that a quorum is present.
- 2. Determine that proper notice has been given.
- 3. Have Commission members report any ex parte contacts.
- 4. Planning and Zoning Administrator introduction of the application.
- 5. Applicant's presentation.
- 6. Commission and staff questions to applicant.
- 7. Presiding officer opens hearing for public comments on proposed application.
- 8. Written communications or petitions received.
- 9. Applicant's final comments.

10. Presiding officer closes hearing. (No public comments will be received after this, although the Commission may question any participant at any time during the proceedings.)
 11. Planning Commission deliberations.
 12. Review findings and factors on which recommendation is based.
 13. Motion to recommend to the Governing Body the approval, disapproval or modification of the application, or to defer the agenda item to a specific date, time and place.
- D. ORDER OF PROCEEDINGS FOR LEGISLATIVE HEARINGS. Hearings for the adoption of comprehensive plans, and for adoption of zoning and subdivision regulations or their amendments, are considered to be legislative in nature. At the end of the hearing, the Commission must make a written recommendation to the Governing Body, including a summary of the hearing.

The following order of proceedings must be used for all such legislative hearings:

1. Determine that a quorum is present.
2. Determine that proper notice has been given.
3. Have Commission members report any ex parte contacts.
4. Planning and Zoning Administrator introduction of the matter, and any associated presentation.
5. Commission and staff questions to staff or consultant.
6. Presiding officer opens hearing to public comments on proposed plan or regulations.
7. Written communications received.
8. Staff's final comments.
9. Presiding officer closes public hearing. (No public comments will be received after this, although the Commission may question any participant at any time during the proceedings.)
10. Planning Commission deliberations.
11. Motion to recommend approval, disapproval or modification of the plan or regulations to the Governing Body, or to defer the agenda item to a specific date, time and place.

ARTICLE VII RECOMMENDATIONS TO COUNCIL

- A. RECOMMENDATIONS. All recommendations to the City Council shall be transmitted in writing stating the meeting date, motion and vote. A record of the Findings of Fact shall also accompany the recommendations.

ARTICLE VIII RECORDS

- A. RECORDS. The Planning Commission shall keep a record of its recommendations, resolutions, transactions, findings, and determinations. All records shall be available for public review.

ARTICLE IX CODE OF CONDUCT

- A. QUASI-JUDICIAL CONDUCT. A Planning Commission is expected to act like a judge, or function in a “quasi-judicial” capacity, when reviewing matters that affect a specific party’s land use rights. Quasi-judicial conduct must be above reproach and within the law. Quasi-judicial conduct demands that Commissioners provide interested parties with “procedural due process.” Procedural due process includes the following:
1. Proper notice of the hearing;
 2. A proper hearing where interested parties are permitted to present their case;
 3. A fair and impartial decision maker that reviews the evidence and makes its decision based on substantial competent evidence in the record
- B. ACTIVE REQUEST. An item is an active request until such time as the Planning Commission has completed deliberations on the item, forwarded a recommendation to the Governing Body(ies) and a ‘final action of approval’ has been taken. A ‘final action of approval’ shall be construed to mean, for the purposes of this document, the adoption of an ordinance or resolution by the Governing Body(ies) to enact a zoning or text change, the filing of a plat or development plan at the Register of Deeds, the denial of a request, or the issuance of a building permit based on an approval of an “active request.” An item is an active request at least from the time that any filing or request is received by the Planning Office, or any action has been initiated by the Planning Commission or by a Governing Body.
- C. EX PARTE COMMUNICATIONS. An ex parte communication is a communication - written, electronic, oral, or otherwise - that is relevant to the merits of a quasi-judicial proceeding, that is not in the record, and that occurs between a Commissioner and a person who is not on the Commission. Communications between Commissioners, communications between Commissioners and Planning Staff, communications on issues that are not quasi-judicial in nature, and communications on purely procedural matters are not ex parte communications.
- D. DISCLOSURE OF EX PARTE COMMUNICATIONS. Any ex parte communication shall be disclosed at any meeting as part of the Communications section, at the beginning of each quasi-judicial item on the agenda, or earlier. The Commissioner receiving the ex parte communication shall disclose the full nature of the communication including the identity of the individual(s) participating in the communications and any information obtained

through the communications so that all Commissioners have the same information upon which to make their decision and so that the applicant, City Staff, interested parties, and the general public are provided a fair opportunity to respond meaningfully to the information. Commissioners continue to be subject to the ex parte disclosure requirements until a final action of approval has been taken on an active request.

- E. REQUEST FOR ADDITIONAL INFORMATION BY COMMISSIONERS. The ex parte communication restriction shall not preclude any Commissioner from requesting additional information as long as the requests for information are in writing and a copy of the request and the response are forwarded to staff and made part of the public record on that quasi-judicial matter.
- F. CONFLICT OF INTEREST. A Commissioner shall declare a conflict of interest and shall not participate in, discuss, or vote on any matter in which he or she has a conflict of interest. Any Commissioner declaring a conflict of interest with respect to an item before the Commission shall physically leave the meeting room during the discussion and the vote on the item.

For the purposes of these Bylaws, “conflict of interest” is defined as:

- 1. An immediate family member is involved in any request for which the planning commission is asked to make a decision. “Immediate family member” is defined as “a planning commissioner’s spouse, mother, father, sister, brother, son, or daughter, including an adopted child, or a relative of any degree residing in the same household.”
 - 2. The planning commission member has a business or financial interest in the property involved in the request or has a business or financial interest in the applicant’s company, agency or association;
 - 3. The planning commission member owns or has a financial interest in adjacent property or any property that is within the notification radius for the subject request under the applicable zoning regulations;
 - 4. There is a reasonable appearance of a conflict of interest, as determined by a majority vote of the remaining members of the planning commission.
- G. CONDUCT. Commissioners shall refrain from making use of special knowledge or information before it is made available to the general public; shall refrain from making decisions involving business associates, customers, clients, friends and competitors; shall refrain from repeating and continued violation of these rules; shall refrain from using their influence as members of the Planning Commission in attempts to secure contracts, zoning or other favorable municipal action for friends, customers, clients, immediate family members or business associates; and shall comply with all lawful actions, directives and orders of duly constituted municipal officers as such may be issued in the normal and lawful discharge of the duties of such municipal officers.

Commissioners shall conduct themselves so as to bring credit upon the city as a whole and shall do everything in their power to ensure equal and impartial treatment of all without

respect to race, creed, color or the economic or the social position of individual citizens.

ARTICLE X AMENDMENTS

- A. AMENDMENTS. These bylaws may be amended by an affirmative vote by four (4) members of the Planning Commission provided such proposed amendment has been submitted to each member of the Commission at least three (3) days prior to the meeting at which said amendments are to be considered.

ARTICLE XI Board of Zoning Appeals

Planning Commission members concurrently serve as the City's Board of Zoning Appeals, which must hear and decide appeals of Zoning Administrator determinations, variances from the terms of the Zoning Regulations, and conditional uses as exceptions. (See K.S.A. 12-759.). The Board of Zoning Appeals must follow procedures and notification requirements as described in the City of Haysville Zoning Regulations.

ARTICLE IV

- A. CASES BEFORE THE BOARD. The jurisdiction of the Board of Zoning Appeals shall be limited to the following:
1. Appeals - See Article 10 Section 1001 of the Zoning Regulations of the City of Haysville.
 2. Variances - See Article 10 Section 1004 of the Zoning Regulations of the City of Haysville.
 3. Exceptions - See Article 10 Section 1005 and 1006 of the Zoning Regulations of the City of Haysville.
- B. The procedure for requesting a hearing before the Board of Zoning Appeals shall be as follows:
1. An application (appeal, variance, exception) shall be filed with the City Clerk on forms furnished by the Secretary of the Board of Zoning Appeals.
 2. An application shall be accompanied by the appropriate fee as established in Chapter 17 of the Municipal Code of Haysville, Kansas, and shall be paid at the time of submission of the application. A separate filing fee shall be charged for each appeal, variance or exception request. Total cost will include: a certified listing from an abstract company containing the names, mailing address, zip code and legal descriptions of the owners of all property within two hundred (200) feet of the property included in the application. If a proposed appeal, variance or exception to property for which review and consideration is sought is located adjacent to the city's limits, the area of notification of the action shall be extended to at least 1000 feet in the unincorporated area; notification fees associated with mailings; publication fees; recording fees.

- C. In addition to the above requirements, certain applications require additional information, as follows:
1. Appeals
 - a. The appeal shall be filed within three (3) months after a ruling has been made by the City Inspector, Zoning Administrator, and/or their designee.
 - b. The order, requirement, decision or determination by the City Inspector, Zoning Administrator, and/or their designee which the appellant believes to be in error; and the principal points supporting the appellant's allegation of errors, including reference to that Section of the Zoning Ordinance (Chapter 16, City Code, Haysville) under which it is claimed the permit should be issued.
 - c. A clear and accurate description of the proposed work, use or action, in which the appeal is involved, and a statement as to why or in what manner an error has been made.
 - d. The City Inspector, Zoning Administrator, and/or their designee, shall be represented at all hearings before the Board; and shall then make available to the Board all records regarding the matter.
 - e. A plot plan drawn to scale showing the proposed plan of improvements, when deemed necessary by the Secretary.
 2. Variances
 - a. A statement from the applicant justifying the variance requested; indicating specifically the enforcement provisions of the Zoning Ordinance from which the Variance is requested and to what degree such a Variance is requested.
 - b. A specific statement outlining in detail the manner in which it is believed that this application will meet the requirements of the Zoning Ordinance (Chapter 16, City Code, Haysville)...
 - c. A sketch, drawn to scale, showing the lot or lots included in the application; the structures existing thereon; and the structure or use contemplated necessitating the Variance requested.
 3. Exceptions
 - a. A plot plan, drawn to scale, showing the lot or lots included in the application; all existing structures thereon; all proposed structures; all point of ingress and egress; widths of driveways; location of parking spaces, dimensions of all proposed structures and parking spaces, screening and landscaping; interior traffic circulation and channelization; and any other information which may be required by the Secretary or may be utilized by the Board in making its determination.
 - b. A statement by the applicant, in writing, justifying the exception applied for, indicating the provisions of the Zoning Ordinance under which the Board of Zoning Appeals has jurisdiction.
- D. No application shall be considered wherein an application has been previously decided, involving the same premises and/or Zoning Ordinance requirements; except in cases where new plans or new facts pertaining to said requirements or regulations are presented, showing changed conditions or circumstances which, in the opinion of the Board, materially alter the aspects of the case. Each new consideration shall be considered a new case, requiring fees noted in Section IV B (2).

- E. No application shall be advertised for a public hearing for property wherein a change of zoning is first necessary until the zone change amendment is approved and becomes effective.

ARTICLE V NOTICE OF HEARING

- A. Notice to the applicant shall be given not less than twenty (20) days prior to the date of hearing and shall be by mail to his last known address.
- B. Notice to all property owners within a distance of two hundred (200) feet of the property to be altered if within the city's limits. If the property is adjacent to the city's limits, the area of notification shall be extended to 1000 feet in the unincorporated area as listed on the certified abstract ownership list accompanying the application, and to Haysville Planning Commission shall be given by mail not less than twenty (20) days prior to the date of the hearing.
- C. All notices by mail shall be directed to the addresses stated in the certified abstract ownership list accompanying the application.
- D. The Secretary shall cause to be published in the official city paper a notice of Public Hearing of said meeting at least twenty (20) days prior to the date of hearing, as provided by law.

ARTICLE VI HEARING OF CASES

- A. All hearings of the Board and all official actions taken by the Board shall be public.
- B. The applicant should be present at the public hearing, either in person or by counsel or agent. The applicant, and persons appearing in his behalf, shall be heard first and thereafter the individuals appearing in opposition to the application shall be heard. In the event of the absence of the applicant, either in person or by his counsel or agent, the Board shall determine that said applicant was duly notified, and the Board may proceed to decide the application on the basis of the facts then available for consideration.
- C. The Board may summon witnesses.
- D. The Board may require persons testifying before it to be sworn in a manner and by an official as provided by law; provided, however, this provision shall not be applicable to members of the Board or administrative employees of the City of Haysville serving in an official or advisory capacity to the Board; or to legal counsel representing applicants in an application before the Board.

ARTICLE VII FINAL DISPOSITION OF APPLICATION

- A. The final disposition of every application shall be in the form of a Resolution signed by the Chairperson and Secretary. Every application granted or denied by the Board shall be accompanied by written findings of fact and reasons for granting or denying the Appeal, Variance or Exception: and various conditions may be stipulated by the Board to be fulfilled before granting of the Appeal, Variance or Exception.
- B. In exercising its powers, the Board by its Resolution may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, and on all applications may attach appropriate conditions, and may issue or direct the issuance of a permit.
- C. An affirmative vote of the majority of those Board members present and voting shall be necessary for any action finally disposing of any application. In case of failure to reach a decision, the matter shall be presented at the next meeting.
- D. An applicant may withdraw his application at any time prior to the adoption of the Resolution which would cancel and close his case; but the filing fee shall not be remitted to him.
- E. The Secretary shall notify the applicant, in writing, of the final action of the Board.

ARTICLE VIII REHEARINGS

- A. Requests for rehearing shall be in writing and duly verified and shall be submitted to the Secretary of the Board within sixty (60) days of the date of the original hearing. The requests shall recite the reasons for the request. No request for rehearing shall be entertained unless new evidence is submitted which could not reasonably have been presented at the previous hearing. If the request is granted by the Board, the same procedure will be followed as was followed in consideration of the original application.
- B. The Secretary of the Board shall determine if a rehearing shall be allowed, however, the applicant shall have the right to appeal the Secretary's determination to the Board of Zoning Appeals.

ARTICLE IX AMENDMENTS

- A. Amendments to these rules may be introduced at any meeting of the Board and voted on at the same or any subsequent meeting; provided that notice of the consideration of any such amendment or passage, either in the form of a letter or official Agenda of the Board, is mailed to each member prior to its first introduction at a regular meeting. Changes to the bylaws must be approved by both the Planning Commission and the Board of Zoning Appeals.

ARTICLE X
RECORDS

- A. The records of all Board cases and hearings shall be kept on file in the office of the Secretary of the Board, in such manner as to be available for public inspection during the regular office hours of the City.
- B. The Secretary shall maintain a record of all applications, numbering said applications consecutively.