



# REGULAR COUNCIL MEETING

Monday, December 21, 2020 at 7:30 pm

**MEETING LOCATION: 520 N. Commercial Ave**

(Council Chambers)

*Council Meeting will be broadcast on Facebook Live*

*Click here to visit our: [Facebook Page](#)*

## 1. CALL TO ORDER / ROLL CALL / PLEDGE OF ALLEGIANCE

Mayor Bryan Chapman

Council Members Present: Brenda DeHaven, Monty Leonard, Kirby Stucky

Council Members Absent: Carol Truesdell, Randi Tolin

Also Present: Joe Turner, City Administrator (via Zoom), Brad Jantz, City Attorney (via Zoom), Janise Enterkin, City Clerk, Amanda Mabry, Deputy City Clerk, Scott McGinn, Glen Klocke, Network Real Estate, LLC, Bill Bush, Harvey County Independent

## 2. ADDITIONS / DELETIONS TO AGENDA

Sample Motion

Move to approve the agenda as presented.

Motion \_\_\_\_\_

Second \_\_\_\_\_

## 3. STAFF REPORTS

**a. Brad Jantz, City Attorney**

**b. Joseph Turner, City Administrator**

## 4. CONSENT AGENDA

Sample Motion:

Move to approve the consent agenda as presented.

Motion by \_\_\_\_\_

Second by \_\_\_\_\_

### **a. Minutes of December 7, 2020, Regular Meeting**

#### **Attachments:**

- **Regular City Council Minutes - December 7, 2020** (regular-council-meet

- b. Approval of Payroll December 11, 2020 amount \$12,481.97**
- c. Approval of General Disbursement Checks amount \$36,100.68**

General Disbursement #AAABHA \$7,680.46  
General Disbursement #AAABHB \$22,013.28  
General Disbursement #AAABHC \$6,406.94

**Attachments:**

- **Check Reports** (Checks.pdf)

**5. UNFINISHED BUSINESS**

**6. NEW BUSINESS**

- a. ATT Cell Tower Conditional Use Permit**

ATT Packet, Revised Survey & Conditional Use Permit

Sample Motion:

Move to approve the Conditional Use Permit with recommended restrictions made by the Sedgwick Planning Commission.

Motion \_\_\_\_\_

Second \_\_\_\_\_

**Attachments:**

- **ATT Minutes Packet** (ATT\_minutes-packet.pdf)
- **ATT Revised Survey and Drawings** (Att-rev.\_survey-drawings.pdf)
- **Conditional Use Permit** (Conditional\_use\_application-ATT.pdf)

- b. Subdivision & Zoning Regulations**

Sedgwick City Planning Commission unapproved Minutes, December 8, 2020

Sample Motion:

Move to receive and file the unapproved Minutes of the Sedgwick City Planning Commission meeting of December 8, 2020, at which these Subdivision Regulations were adopted as a Model Code.

Motion \_\_\_\_\_

Second \_\_\_\_\_

**Attachments:**

- **Subdivision Information Packet** (Subdivision-Zoning\_reg\_packet.pdf)
- **Subdivision Regulations Preliminary** (subdivision\_prelim\_copy-Nov..pdf)
- **Zoning Map** (zoning\_map.pdf)
- **Zoning Preliminary** (zoning\_preliminary-Nov.pdf)

- c. Ordinance 878 - Subdivision Regulations**

Sample Motion:

Move to accept the recommendation of the Sedgwick City Planning Commission to approve the Subdivision Regulations as submitted as a Model Code, and to approve Ordinance Number 878 and direct the City Clerk to publish it.

Motion \_\_\_\_\_

Second \_\_\_\_\_

**Attachments:**

- **Ordinance 878** (draft\_ord\_878\_subdivision.pdf)

**d. Ordinance 879 - Zoning Regulations**

Sample Motion:

Move to accept the recommendation of the Planning Commission to approve the Zoning Regulations and Official Zoning Map as submitted, and to approve Ordinance Number 879 and direct the City Clerk to publish it.

Motion \_\_\_\_\_

Second \_\_\_\_\_

**Attachments:**

- **Ordinance 879** (draft\_ord\_879-zoning\_.pdf)

**7. OTHER BUSINESS**

**8. EXECUTIVE SESSION**

**9. ADJOURN**

**a. Motion to Adjourn**

Move to adjourn the Council Meeting at \_\_ **(time)**

**Motion** \_\_

Second \_\_\_\_\_



# REGULAR COUNCIL MEETING

Minutes

Monday, December 7, 2020 at 7:30 pm

**MEETING LOCATION: 520 N. Commercial Ave**

(Council Chambers)

*Council Meeting will be broadcast on Facebook Live*

*Click here to visit our: [Facebook Page](#)*

## 1. CALL TO ORDER / ROLL CALL / PLEDGE OF ALLEGIANCE

### **Minutes:**

Mayor Bryan Chapman called the meeting to order at 7:30 pm inviting public by Facebook Live.

**Governing Body Members Present:** Monty Leonard, Kirby Stucky, and Carol Truesdell. Council Member Randi Tolin joined the meeting via Zoom.

**Governing Body Members Absent:** Brenda DeHaven

**Others Present:** Brad Jantz, City Attorney, Janise Enterkin, City Clerk, Joseph Turner, City Administrator joined the meeting via Zoom.

## 2. ADDITIONS / DELETIONS TO AGENDA

### **Minutes:**

Mayor Chapman added 7A COVID Office Procedures to the agenda.

Motion by **Council Member Carol Truesdell** to approve agenda with addition of 7A COVID Office Procedures. Second by **Council Member Kirby Stucky**

Motion Carried

### **Vote results:**

Ayes: 4 / Nays: 0

## 3. STAFF REPORTS

### **a. Brad Jantz, City Attorney**

#### **Minutes:**

Discussed the warehouse negotiations and Brooner property update.

### **b. Joseph Turner, City Administrator**

#### **Minutes:**

Turner reported on the following items: COVID Cares project amount has been submitted for funding. The Police Department building is progressing. Turner will

contact the audio/video company tomorrow to get an update. The Fire Department has taken possession of the Fire Engine, will be working on title issue. Street repairs have been progressing - crack sealing, patching and overlay in the Spring. The First and Commercial fire hydrant needs repaired. A valve needs to be put in along with other valves throughout town which will be scheduled next year. Contacted Stifel representatives to discuss the current bond market and potential options. No options for reducing our rates at this time, largest issue can not be re-funded until 2027. Also discussed potential bonding for EMS department. Police Chief Brian Daily has been working with the Highway Patrol to offer vin inspections.

#### 4. CONSENT AGENDA

**Minutes:**

**Motion by Council Member Carol Truesdell** to approve the Consent Agenda with change to date on November 16, 2020 Council minutes.

**Second by Monty Leonard**

Motion Carried

**Vote results:**

Ayes: 4 / Nays: 0

**a. Minutes of November 16, 2020, Regular Meeting**

**b. Approval of Payroll November 25, 2020 amount \$16,435.05**

**c. Approval of General Disbursement Checks amount \$149,271.70**

#### 5. UNFINISHED BUSINESS

#### 6. NEW BUSINESS

**a. Storm Shelter Contract with Protection Shelters LLC**

**Minutes:**

Motion by **Council Member Kirby Stucky** to accept the bid for Sedgwick Park Tornado Shelter Project from Protection Shelters.

Second by **Council Member Carol Truesdell**

Motion Carried

**Vote results:**

Ayes: 4 / Nays: 0

**b. Resolution 12072020 - USDA Grant Funding**

**Minutes:**

Motion by **Council Member Carol Truesdell** to approve Resolution 12072020, for acceptance and compliance with various requirements to obtain financial assistance from USDA Grant funding.

Second by **Kirby Stucky**

Motion Carried

**Vote results:**

Ayes: 4 / Nays: 0

**c. Appointment to Sedgwick Housing Authority - Pennie Schaffer**

**Minutes:**

Motion by **Council Member Carol Truesdell** to approve the appointment of Pennie Schaffer to the Sedgwick Housing Authority Board.

Second by **Council Member Kirby Stucky**

Motion Carried

**Vote results:**

Ayes: 4 / Nays: 0

**d. Appointment to Sedgwick Housing Authority - Teresa Eggleston**

**Minutes:**

Motion by **Council Member Monty Leonard** to appoint Teresa Eggleston\*\* to the Sedgwick Housing Authority Board.

Second by **Council Member Carol Truesdell**

Motion Carried

**Vote results:**

Ayes: 4 / Nays: 0

**7. OTHER BUSINESS**

**8. EXECUTIVE SESSION**

**a. Confidential data relating to financial affairs**

**Minutes:**

Motion by **Council Member Monty Leonard** to recess the open meeting into Executive Session pursuant to K.S.A. 75-4319(b)(4), confidential data relating to financial affairs or trade secrets of second parties, such as corporations, partnerships, trusts and individual proprietorships, to include the following persons: Governing Body, City Attorney, City Administrator and City Clerk for 10 minutes, with the open meeting to resume in City Council chambers at 8:03 PM.

Second by **Council Member Carol Truesdell**

Motion Carried

**Vote results:**

Ayes: 4 / Nays: 0

**b. Council meeting reconvened with no binding action taken in Executive Session.**

**9. ADJOURN**

**Minutes:**

Motion by **Council Member Monty Leonard** to adjourn at 8:06 PM.

Second by **Council Member Kirby Stucky**

Motion Carried

**Vote results:**

Ayes: 4 / Nays: 0



# AP Enter Bills Edit - Council Report

City of Sedgwick (SEDGKS)

Batch: AAABHB

12/11/2020 2:29:03 PM

Page 1

Vendor	Description	Check Date	Invoice#	Check#	Check Total
AGRI ENVIRONMENTAL SERVICES	SLUDGE HAUL	12/11/2020	1534	67308	\$780.00
CARQUEST AUTO PARTS	SHOP SUPPLIES	12/11/2020	2695-444040	67309	\$22.00
FENIX CO, INC	HVAC INSTALL	12/11/2020	82623	67310	\$3,164.00
INTERNATIONAL INSTITUTE OF MUNI	IIMC MEMBERSHIP DUES	12/11/2020	121120IIMC	67311	\$430.00
INTRUST BANK	MISC CHARGES	12/11/2020	121120INTRUST	67312	\$1,911.20
KANZA CO-OPERATIVE ASSOCIATION	MONTH FUEL CHARGES	12/11/2020	121120KANZA	67313	\$2,571.13
KANSAS ASSOCIATION OF CHIEFS OI	MEMBERSHIP DUES	12/11/2020	121120KACOP	67314	\$115.00
KANSAS DEPT OF REVENUE	WATER SALES TAX	12/11/2020	121120SALESTAX	67315	\$236.02
KANSAS PUBLISHING VENTURES, LLI	VETERAN'S DAY AD	12/11/2020	90739	67316	\$26.00
KANSAS SECRETARY OF STATE	NOTARY RENEWAL	12/11/2020	121120NOTARY	67317	\$25.00
M & M REPAIR, INC	MISC CHARGES	12/11/2020	121120MMREP	67318	\$297.38
PACE ANALYTICAL SERVICES, INC.	ANALYSES	12/11/2020	2060121209	67319	\$425.60
SAM'S CLUB	OFFICE SUPPLIES	12/11/2020	121120SAMS	67320	\$136.58
SEDGWICK COUNTY DEPT OF FINANCI	JAIL HOUSING FEES	12/11/2020	121120JAIL	67321	\$5.10
US BANK EQUIPMENT FINANCE	11-28-20 TO 12-28-20	12/11/2020	430378778	67322	\$872.84
VERIZON WIRELESS	PD MDT SERVICE	12/11/2020	9867706120	67323	\$120.03
WASTE CONNECTIONS	TRASH/RECYCLE	12/11/2020	15024411	67324	\$6,556.50
EVERGY	STREET LIGHTS	12/11/2020	121120EVERGY	67325	\$1,848.78
WHOLESALE WATER SUPPLY DISTRIK	WATER PURCHASE	12/11/2020	202012035189	67326	\$2,470.12

Total Direct Expense:	\$22,013.28
<b>Total Immediate Payments:</b>	<b>\$22,013.28</b>

**Report Summary**

	<b>Report Selection Criteria</b>	
<b>Report Type:</b>	Detailed	
	<b>Start</b>	<b>End</b>
<b>Transaction Number:</b>	Start	End

# AP Enter Bills Edit Report - Sorted by Vendor \*\* Customized \*\*

City of Sedgwick (SEDGKS)

Batch: AAABHB

12/11/2020 1:07:30 PM

Page 1

Tr. #	Vendor	Inv Date	Due Date	Invoice #	Total Invoice
<b>16</b>	<b>AGRI ENVIRONMENTAL / AGRI ENVIRONMENTAL SERV</b>	<b>12/11/2020</b>	<b>12/11/2020</b>	<b>1534</b>	<b>\$780.00</b>
1	13-00-60-6160	12-7-20 SLUDGE HAUL 19500 GAL		19,500.0	\$0.0400
					\$780.00
<b>14</b>	<b>CARQUEST / CARQUEST AUTO PARTS</b>	<b>12/11/2020</b>	<b>12/11/2020</b>	<b>2695-444040</b>	<b>\$22.00</b>
1	01-11-70-7130	FUSES, BLADES-SHOP		1.0	\$22.0000
					\$22.00
<b>18</b>	<b>FENIX CO, INC / FENIX CO, INC</b>	<b>12/11/2020</b>	<b>12/11/2020</b>	<b>82623</b>	<b>\$3,164.00</b>
1	01-00-00-4711	HVAC INSTALL EXISTING AIR HANDLER/DUCT WORK		1.0	\$3,164.0000
					\$3,164.00
<b>15</b>	<b>IIMC / INTERNATIONAL INSTITUTE OF MUNICIPAL CLER</b>	<b>12/11/2020</b>	<b>12/11/2020</b>	<b>121120IIMC</b>	<b>\$430.00</b>
1	01-01-60-6700	IIMC MEMBERSHIP DUES-JANISE, AMANDA, SHELIA		1.0	\$430.0000
					\$430.00
<b>23</b>	<b>INTRUST / INTRUST BANK</b>	<b>12/11/2020</b>	<b>12/11/2020</b>	<b>121120INTRUST</b>	<b>\$1,911.20</b>
1	01-00-00-4711	AMAZON MONITOR STAND-JANISE		1.0	\$20.4700
					\$20.47
2	01-01-70-7010	PITNEY BOWES-RED INK CARTRIDGE		0.5	\$161.4800
					\$80.74
3	01-03-70-7010	PITNEY BOWES-RED INK CARTRIDGE		0.1	\$161.4800
					\$16.15
4	01-05-70-7010	PITNEY BOWES-RED INK CARTRIDGE		0.2	\$161.4800
					\$32.30
5	01-09-70-7010	PITNEY BOWES-RED INK CARTRIDGE		0.1	\$161.4800
					\$8.07
6	10-00-70-7010	PITNEY BOWES-RED INK CARTRIDGE		0.1	\$161.4800
					\$8.07
7	12-00-70-7010	PITNEY BOWES-RED INK CARTRIDGE		0.1	\$161.4800
					\$8.07
8	13-00-70-7010	PITNEY BOWES-RED INK CARTRIDGE		0.1	\$161.4800
					\$8.07
9	01-00-00-4711	AMAZON-LAPTOP BAGS		1.0	\$337.9800
					\$337.98
10	01-03-70-7010	POCKET PRESS-PD POCKET GUIDES CRIM CODE		1.0	\$40.4600
					\$40.46
11	01-01-70-7010	AMAZON-MINUTE BOOK LEDGER SHEETS		1.0	\$89.9600
					\$89.96
12	01-01-60-6200	AMAZON PRIME BUSINESS ACCOUNT		0.2	\$179.0000
					\$35.80
13	01-03-60-6200	AMAZON PRIME BUSINESS ACCOUNT		0.3	\$179.0000
					\$44.75
14	01-04-60-6200	AMAZON PRIME BUSINESS ACCOUNT		0.1	\$179.0000
					\$8.95
15	10-00-60-6200	AMAZON PRIME BUSINESS ACCOUNT		0.3	\$179.0000
					\$44.75
16	13-00-60-6200	AMAZON PRIME BUSINESS ACCOUNT		0.3	\$179.0000
					\$44.75
17	01-01-60-6200	ADOBE ACROBAT PRO		0.3	\$16.3400
					\$4.09
18	01-03-60-6200	ADOBE ACROBAT PRO		0.3	\$16.3400
					\$4.09
19	10-00-60-6200	ADOBE ACROBAT PRO		0.3	\$16.3400
					\$4.09
20	13-00-60-6200	ADOBE ACROBAT PRO		0.3	\$16.3400
					\$4.09
21	01-00-00-4711	DAVIS COLORS COLOR SEAL II TINT-PD/COURT BLDG		1.0	\$450.9600
					\$450.96
22	01-00-00-4711	AMAZON-COMPUTER MICE, LAPTOP BAG-MAYOR		1.0	\$83.9500
					\$83.95
23	01-00-00-4711	OFFICE DEPOT-MONITORS-JANISE, SHELIA, AMANDA		1.0	\$329.9700
					\$329.97
24	01-01-70-7010	HURTS DONUTS-STAFF MTG		1.0	\$49.9900
					\$49.99
25	01-00-00-4711	BEST BUY-LAPTOP BAG TURNER		1.0	\$99.9900
					\$99.99

# AP Enter Bills Edit Report - Sorted by Vendor \*\* Customized \*\*

City of Sedgwick (SEDGKS)  
Batch: AAABHB

12/11/2020 1:07:30 PM

Page 2

Tr. #	Vendor	Inv Date	Due Date	Invoice #	Total Invoice
26	01-01-60-6720				\$50.64
<hr/>					
<b>22</b>	<b>KANZA / KANZA CO-OPERATIVE ASSOCIATION</b>	<b>12/11/2020</b>	<b>12/11/2020</b>	<b>121120KANZA</b>	<b>\$2,571.13</b>
1	01-03-70-7210				\$370.50
2	13-00-70-7210				\$102.09
3	01-04-70-7210				\$143.54
4	01-10-70-7210				\$44.77
5	01-11-70-7210				\$1,435.83
6	01-11-70-7210				\$54.90
7	01-11-70-7210				\$112.95
8	01-03-70-7120				\$47.40
9	01-11-70-7100				\$34.95
10	01-10-70-7230				\$164.25
11	01-11-70-7210				\$59.95
<hr/>					
<b>19</b>	<b>KS ASSC CHIEFS POLICE / KANSAS ASSOCIATION OF P</b>	<b>12/11/2020</b>	<b>12/11/2020</b>	<b>121120KACOP</b>	<b>\$115.00</b>
1	01-03-60-6700				\$75.00
2	01-03-60-6700				\$40.00
<hr/>					
<b>21</b>	<b>KS DEPT OF REV - SALES TAX / KANSAS DEPT OF REV</b>	<b>12/11/2020</b>	<b>12/11/2020</b>	<b>121120SALESTAX</b>	<b>\$236.02</b>
1	10-00-60-6156				\$236.02
<hr/>					
<b>3</b>	<b>KS PUBLISHING / KANSAS PUBLISHING VENTURES, LL</b>	<b>12/11/2020</b>	<b>12/11/2020</b>	<b>90739</b>	<b>\$26.00</b>
1	01-01-60-6290				\$26.00
<hr/>					
<b>17</b>	<b>KS SEC STATE / KANSAS SECRETARY OF STATE</b>	<b>12/11/2020</b>	<b>12/11/2020</b>	<b>121120NOTARY</b>	<b>\$25.00</b>
1	01-01-60-6700				\$25.00
<hr/>					
<b>9</b>	<b>M &amp; M REPAIR / M &amp; M REPAIR, INC</b>	<b>12/11/2020</b>	<b>12/11/2020</b>	<b>121120MMREP</b>	<b>\$297.38</b>
1	01-00-00-4711				\$20.75
2	01-11-70-7130				\$18.11
3	01-11-70-7130				\$109.10
4	01-00-00-4711				\$13.00
5	01-11-70-7130				\$18.43
6	01-11-70-7130				\$28.58
7	01-11-70-7420				\$9.79
8	01-11-70-7130				\$53.64
9	01-11-70-7420				\$25.98
<hr/>					
<b>8</b>	<b>PACE / PACE ANALYTICAL SERVICES, INC.</b>	<b>12/11/2020</b>	<b>12/11/2020</b>	<b>2060121209</b>	<b>\$425.60</b>
1	13-00-60-6170				\$425.60

# AP Enter Bills Edit Report - Sorted by Vendor \*\* Customized \*\*

City of Sedgwick (SEDGKS)  
Batch: AAABHB

12/11/2020 1:07:30 PM

Page 3

Tr. #	Vendor	Inv Date	Due Date	Invoice #	Total Invoice
Line	GL Expense Account	Desc/Inv Stock/Alloc/Cost Code	Quantity Bought	Cost Per Unit	Line Extension
<b>13</b>	<b>SAMS / SAM'S CLUB</b>		<b>12/11/2020 12/11/2020</b>	<b>121120SAMS</b>	<b>\$136.58</b>
1	01-00-00-4711	WWTP PAPER TOWELS & BLEACH-PD/COURT BLDG	1.0	\$30.9600	\$30.96
2	13-00-70-7010	TOILET PAPER	1.0	\$10.4900	\$10.49
3	01-01-70-7010	TOILET PAPER	1.0	\$10.4900	\$10.49
4	01-03-70-7010	TRUNK OR TREAT CANDY	1.0	\$42.3200	\$42.32
5	01-04-70-7010	TRUNK OR TREAT CANDY	1.0	\$42.3200	\$42.32
<b>1</b>	<b>SEDG CO DEPT OF FINANCE / SEDGWICK COUNTY DEI</b>		<b>12/11/2020 12/11/2020</b>	<b>121120JAIL</b>	<b>\$5.10</b>
1	01-05-60-6320	JAIL FEES-F SMITH	1.0	\$5.1000	\$5.10
<b>20</b>	<b>US BANK / US BANK EQUIPMENT FINANCE</b>		<b>12/11/2020 12/11/2020</b>	<b>430378778</b>	<b>\$872.84</b>
1	01-01-60-6200	CONTRACT PAYMENT	0.5	\$872.8400	\$436.42
2	01-03-60-6200	CONTRACT PAYMENT	0.1	\$872.8400	\$87.28
3	01-05-60-6200	CONTRACT PAYMENT	0.1	\$872.8400	\$87.28
4	10-00-60-6200	CONTRACT PAYMENT	0.2	\$872.8400	\$130.93
5	13-00-60-6200	CONTRACT PAYMENT	0.2	\$872.8400	\$130.93
<b>2</b>	<b>VERIZON / VERIZON WIRELESS</b>		<b>12/11/2020 12/11/2020</b>	<b>9867706120</b>	<b>\$120.03</b>
1	01-03-60-6180	PD MDT SERVICE	1.0	\$120.0300	\$120.03
<b>12</b>	<b>WASTE CONNECTIONS / WASTE CONNECTIONS</b>		<b>12/11/2020 12/11/2020</b>	<b>15024411</b>	<b>\$6,556.50</b>
1	12-00-60-6160	TRASH-95 GALLON CART	308.0	\$10.0000	\$3,080.00
2	12-00-60-6160	TRASH-65 GALLON CART	175.0	\$8.0000	\$1,400.00
3	12-00-60-6160	TRASH-35 GALLON CART	61.0	\$8.0000	\$488.00
4	12-00-60-6160	TRASH-SENIOR 35 GALLON	39.0	\$7.0000	\$273.00
5	12-00-60-6160	SEDGWICK CO SURCHARGE	55.0	\$2.5000	\$137.50
6	12-00-60-6160	RECYCLE(INCLUDING UNITS)	589.0	\$2.0000	\$1,178.00
<b>6</b>	<b>WESTAR / EVERGY</b>		<b>12/11/2020 12/11/2020</b>	<b>121120EVERGY</b>	<b>\$1,848.78</b>
1	01-10-60-6180	STREET LIGHTS	1.0	\$1,848.7800	\$1,848.78
<b>10</b>	<b>WHOLESALE WATER / WHOLESALE WATER SUPPLY DI</b>		<b>12/11/2020 12/11/2020</b>	<b>202012035189</b>	<b>\$2,470.12</b>
1	10-00-60-6150	10-22-20 TO 11-17-20 WATER PURCHASE 333800 USAGE	3,338.0	\$0.7400	\$2,470.12
<b>Grand Totals</b>					
				<b>Total Direct Expense:</b>	<b>\$22,013.28</b>
				<b>Total Immediate Payments:</b>	<b>\$22,013.28</b>

# AP Enter Bills Edit Report - Sorted by Vendor \*\* Customized \*\*

12/11/2020 1:07:30 PM

City of Sedgwick (SEDGKS)  
Batch: AAABHB

Page 4

Tr. #	Vendor	Inv Date	Due Date	Invoice #	Total Invoice	
Line	GL Expense Account	Desc/Inv Stock/Alloc/Cost Code		Quantity Bought	Cost Per Unit	Line Extension

## Report Summary

### Report Selection Criteria

Report Type: Detailed

Start End

Transaction Number: Start End

# AP Enter Bills Edit - Council Report

City of Sedgwick (SEDGKS)

Batch: AAABHC

12/18/2020 11:33:56 AM

Page 1

Vendor	Description	Check Date	Invoice#	Check#	Check Total
AIRGAS USA, LLC	CYLINDER LEASE RENEW	12/18/2020	9975983400	67327	\$74.60
BRYAN CHAPMAN	PD/COURT BLDG	12/18/2020	121820BRYAN	67328	\$237.99
COX BUSINESS SERVICES	PHONE/FAX/TV/INTERNE	12/18/2020	121820COX	67329	\$1,151.44
CULLIGAN OF WICHITA	DRINKING WATER	12/18/2020	587119	67330	\$8.56
FAMILY HEALTH AMERICA, LC	HRA ADMIN FEES	12/18/2020	121820	67331	\$350.00
FENIX CO, INC	HVAC REPAIR	12/18/2020	82052, 82104	67332	\$1,947.80
GRAYBAR	PD/COURT BLDG PHONE	12/18/2020	0236837479	67333	\$284.41
ZANE HANSEN	REIMB FIRE ENG EQUIP	12/18/2020	121820HANSEN	67334	\$946.75
AMANDA, HUBNER	FINE OVERPAYMENT	12/18/2020	121820HUBNER	67335	\$60.00
STAN KNAPTON	UTILTIY SVC REIMB	12/18/2020	121820KNAPTON	67336	\$126.50
PACE ANALYTICAL SERVICES, INC.	SEWER ANALYSES	12/18/2020	2060121940	67337	\$425.60
SHELLEY ELECTRIC INC	PUMP STATION REPAIR	12/18/2020	88192	67338	\$175.00
WCCIT	T SRVC	12/18/2020	WCC25844, WCC25883	67339	\$581.50
USA BLUEBOOK	CHEMICALS	12/18/2020	437252	67340	\$36.79

Total Direct Expense:	\$6,406.94
<b>Total Immediate Payments:</b>	<b>\$6,406.94</b>

**Report Summary**

	<b>Report Selection Criteria</b>	
<b>Report Type:</b>	Detailed	
	<b>Start</b>	End
<b>Transaction Number:</b>	Start	End

# AP Enter Bills Edit Report - Sorted by Vendor \*\* Customized \*\*

City of Sedgwick (SEDGKS)  
Batch: AAABHC

12/18/2020 9:22:09 AM

Page 1

Tr. #	Vendor	Inv Date	Due Date	Invoice #	Total Invoice	
<b>1</b>	<b>AIRGAS / AIRGAS USA, LLC</b>	<b>12/18/2020</b>	<b>12/18/2020</b>	<b>9975983400</b>	<b>\$74.60</b>	
1	01-11-70-7110	CYLINDER LEASE RENEWAL		1.0	\$74.6000	\$74.60
<b>2</b>	<b>CHAPMAN, BRYAN / BRYAN CHAPMAN</b>	<b>12/18/2020</b>	<b>12/18/2020</b>	<b>121820BRYAN</b>	<b>\$237.99</b>	
1	01-00-00-4711	MILEAGE TO GET PLUMBING PARTS-PD/COURT BLDG		1.0	\$25.3000	\$25.30
2	01-00-00-4711	LOCKE SUPPLY-ELECTRIC WATER HEATER-PD/COURT BLDG		1.0	\$173.8900	\$173.89
3	01-00-00-4711	LOCKE SUPPLY-PD/COURT BLDG-PLUMBING SUPPLIES		1.0	\$38.8000	\$38.80
<b>8</b>	<b>COX / COX BUSINESS SERVICES</b>	<b>12/18/2020</b>	<b>12/18/2020</b>	<b>121820COX</b>	<b>\$1,151.44</b>	
1	01-01-60-6180	CH PHONE/FAX/INTERNET/TV		1.0	\$278.7800	\$278.78
2	01-05-60-6180	COURT PHONE/FAX/INTERNET/TV		1.0	\$58.7200	\$58.72
3	10-00-60-6180	WATER PHONE/FAX/INTERNET/TV		1.0	\$58.7200	\$58.72
4	13-00-60-6180	SEWER PHONE/FAX/INTERNET/TV		1.0	\$58.7200	\$58.72
5	01-03-60-6180	PD PHONE/FAX/INTERNET/TV		1.0	\$220.0600	\$220.06
6	01-11-60-6180	MAINT SHOP 320 N WASH PHONE		1.0	\$33.2500	\$33.25
7	01-04-60-6180	FIRE PHONE/INTERNET		1.0	\$112.2500	\$112.25
8	13-00-60-6180	SEWER PLANT PHONE/INTERNET		1.0	\$152.2500	\$152.25
9	01-06-60-6180	POOL PHONE/INTERNET		1.0	\$112.1900	\$112.19
10	13-00-60-6180	EAST LIFT PHONE		1.0	\$33.2500	\$33.25
11	13-00-60-6180	SOUTH LIFT PHONE		1.0	\$33.2500	\$33.25
<b>9</b>	<b>CULLIGAN / CULLIGAN OF WICHITA</b>	<b>12/18/2020</b>	<b>12/18/2020</b>	<b>587119</b>	<b>\$8.56</b>	
1	01-01-60-6290	DRINKING WATER		0.4	\$8.5500	\$3.42
2	01-03-60-6290	DRINKING WATER		0.3	\$8.5500	\$2.57
3	13-00-60-6290	DRINKING WATER		0.3	\$8.5500	\$2.57
<b>10</b>	<b>FAMILY HEALTH / FAMILY HEALTH AMERICA, LC</b>	<b>12/18/2020</b>	<b>12/18/2020</b>	<b>121820</b>	<b>\$350.00</b>	
1	33-00-60-6290	HRA ANNUAL SETUP & RENEWAL FEE		1.0	\$250.0000	\$250.00
2	33-00-60-6290	HRA ADMIN SERVICES FEE		1.0	\$100.0000	\$100.00
<b>11</b>	<b>FENIX CO, INC / FENIX CO, INC</b>	<b>12/18/2020</b>	<b>12/18/2020</b>	<b>82052, 82104</b>	<b>\$1,947.80</b>	
1	01-01-60-6100	LIBRARY HEAT EXCHANGER INSTALL		1.0	\$1,647.0000	\$1,647.00
2	13-00-60-6100	WWTP THERMAL CUTOFF INSTALL		1.0	\$300.8000	\$300.80
<b>12</b>	<b>GRAYBAR / GRAYBAR</b>	<b>12/18/2020</b>	<b>12/18/2020</b>	<b>0236837479</b>	<b>\$284.41</b>	
1	01-00-00-4711	ADA HANDSFREE EMERG PHONE		1.0	\$284.4100	\$284.41

# AP Enter Bills Edit Report - Sorted by Vendor \*\* Customized \*\*

City of Sedgwick (SEDGKS)  
Batch: AAABHC

12/18/2020 9:22:09 AM

Page 2

Tr. #	Vendor	Inv Date	Due Date	Invoice #	Total Invoice	
<b>13</b>	<b>HANSEN / ZANE HANSEN</b>	<b>12/18/2020</b>	<b>12/18/2020</b>	<b>121820HANSEN</b>	<b>\$946.75</b>	
1	01-04-70-7420	COBLE FIRE DEPT-FIRE ENGINE EQUIP-FIRE HOSE		1.0	\$468.0000	\$468.00
2	01-04-70-7420	EBAY-HALLIGAN BAR		1.0	\$203.2100	\$203.21
3	01-04-70-7420	EBAY-CLAW		1.0	\$115.5500	\$115.55
4	01-04-70-7420	EBAY-ANGUS 3 WAY DISTRIBUTION VALVE		1.0	\$159.9900	\$159.99
<b>14</b>	<b>HUBNER / AMANDA, HUBNER</b>	<b>12/18/2020</b>	<b>12/18/2020</b>	<b>121820HUBNER</b>	<b>\$60.00</b>	
1	01-03-00-4305	FINE OVERPAYMENT-A HUBNER REIMB		1.0	\$60.0000	\$60.00
<b>15</b>	<b>KNAPTON / STAN KNAPTON</b>	<b>12/18/2020</b>	<b>12/18/2020</b>	<b>121820KNAPTON</b>	<b>\$126.50</b>	
1	10-00-00-4400	UTILITY SVC REIMB-DID NOT BUY HOUSE-S KNAPTON		1.0	\$126.5000	\$126.50
<b>16</b>	<b>PACE / PACE ANALYTICAL SERVICES, INC.</b>	<b>12/18/2020</b>	<b>12/18/2020</b>	<b>2060121940</b>	<b>\$425.60</b>	
1	13-00-60-6170	SAMPLE DATE 12/2/20		1.0	\$425.6000	\$425.60
<b>17</b>	<b>SHELLEY ELECTRIC INC / SHELLEY ELECTRIC INC</b>	<b>12/18/2020</b>	<b>12/18/2020</b>	<b>88192</b>	<b>\$175.00</b>	
1	13-00-60-6110	PUMP STATION VFD REPAIR		1.0	\$175.0000	\$175.00
<b>18</b>	<b>STUDIO F INC. / WCCIT</b>	<b>12/18/2020</b>	<b>12/18/2020</b>	<b>WCC25844, WCC25883</b>	<b>\$581.50</b>	
1	01-01-60-6200	MO SRVC-ADMIN		0.5	\$400.0000	\$200.00
2	01-03-60-6200	MO SRVC-POLICE		0.3	\$400.0000	\$100.00
3	01-04-60-6200	MO SRVC-FIRE		0.1	\$400.0000	\$20.00
4	13-00-60-6200	MO SRVC-SEWER		0.2	\$400.0000	\$80.00
5	01-01-60-6200	MICROSOFT		0.3	\$181.4500	\$45.36
6	01-03-60-6200	MICROSOFT		0.3	\$181.5000	\$45.38
7	10-00-60-6200	MICROSOFT		0.3	\$181.5000	\$45.38
8	13-00-60-6200	MICROSOFT		0.3	\$181.5000	\$45.38
<b>19</b>	<b>USA BLUEBOOK / USA BLUEBOOK</b>	<b>12/18/2020</b>	<b>12/18/2020</b>	<b>437252</b>	<b>\$36.79</b>	
1	13-00-70-7220	SEWER CHEMICALS-HACH DPD		1.0	\$36.7900	\$36.79

**Grand Totals**

**Total Direct Expense: \$6,406.94**  
**Total Immediate Payments: \$6,406.94**

**Report Summary**

	<b>Report Selection Criteria</b>	
<b>Report Type:</b>	Detailed	
	<b>Start</b>	<b>End</b>
<b>Transaction Number:</b>	Start	End

**SEDGWICK PLANNING COMMISSION  
SPECIAL MEETING  
520 N COMMERCIAL AVE**

**December 9, 2020  
7:00 P.M.**

**PRESIDING:** Beth Sharbutt, Chair

**MEMBERS PRESENT:** Tyler Mosiman, Clint Brown, Justin Stucky, Steve McGinn-entered meeting at 7:03pm

**MEMBERS ABSENT:** Chad Mueller

**ALSO PRESENT:** Amanda Mabry, Secretary; Glen Klocke, Network Real Estate, LLC; Scott McGinn.

Chair called the meeting to order at 7:00 p.m.

**Public Hearing for Network Real Estate Conditional Use Permit**

-Chair reopened the public hearing that was tabled November 17, 2020 at 7:01pm

-Glen Klocke with Network Real Estate, LLC spoke to the Board explaining that after the last meeting he spoke to AT&T and they could move the tower approximately 800 feet to the north on the property, but the move would add a year to the project timeline and possibly interrupt service to the south. He also said the owner Scott McGinn, of the property had spoken to the property owners to the south of him about the tower placement and the driveway location. Mr. Klocke did not want to speak for the Niemeyer's but said they indicated that the tower could stay in the original location but move the drive, so it is straight from the tower to the road and not along the south property line.

-Scott McGinn the owner of the property for the tower addressed the board and said he did talk with Andrew & Dallas and they did agree to the tower but wanted the drive moved.

-Board member Tyler Mosiman stated that he had spoken to Andrew Niemeyer and he did agree that is what he and Andrew had discussed, and Mr. Niemeyer had agreed.

-No other public was present or sent anymore correspondence different from the first meeting.

-Chair closed the public portion of the hearing at 7:15pm.

-Board discussed the action questions for the application.

1.
  - a. Yes, application meets the zoning regulations
  - b. No, does not affect the welfare or convenience of public
  - c. Should not affect value but board stated they cannot judge that.
  - d. Move the drive to go straight west off N. Washington to the tower location.
  - e. No off-street parking on site.
  - f. Yes, drainage should be good.
  - g. Yes, entrance should not be a hazard.
  - h. Yes, no toxic materials will be on property.
2.
  - a. Keep existing trees along the south property line not to exceed 50% from the survey measurement.
  - b. Tower placement will be located per the 9/28/20 engineers drawing submitted.
  - c. Driveway to the tower will run straight west off N. Washington Ave to the tower location.

**MOTION BY BETH SHARBUTT THAT THE PROPOSED CONDITIONAL USE PERMIT BE PRESENTED TO THE COUNCIL FOR APPROVAL WITH THE FOLLOWING TERMS: KEEP EXISTING TREES ALONG THE SOUTH PROPERTY LINE NOT TO EXCEED 50% FROM THE SURVEY MEASUREMENT.**

**TOWER PLACEMENT WILL BE LOCATED PER THE 9/28/20 ENGINEERS DRAWING SUBMITTED.**

**DRIVEWAY TO THE TOWER WILL RUN STAIGHT WEST OFF N. WASHINGTON AVE TO TOWER. SECONDED BY CLINT BROWN**

**MOTION CARRIED 4-0, STEVE MCGINN ABSTAINED FROM VOTE DUE TO CONFLICT OF INTEREST**

**MOTION BY BETH SHARBUTT TO ADJOURN THE PLANNING COMMISSION AT 7:34 P.M. SECONDED BY CLINT BROWN**

**MOTION CARRIED 5-0**

---

Amanda Mabry  
Planning Commission Sec./Deputy City Clerk

DRAFT

**PRESIDING:** Beth Sharbutt, Chair

**MEMBERS PRESENT:** Tyler Mosiman, Clint Brown, Justin Stucky, Steve McGinn

**MEMBERS ABSENT:** Chad Mueller

**ALSO PRESENT:** Amanda Mabry, Secretary; Bryan Chapman, Mayor; Glen Klocke, Network Real Estate; Brian Habluetzel, Dallas Kane, Andrew Niemeyer

Chair called the meeting to order at 7:00 p.m.

**MOTION BY BETH SHARBUTT TO APPROVE THE AGENDA AS PRESENTED  
SECONDED BY CLINT BROWN  
MOTION CARRIED**

**MOTION BY CLINT BROWN TO APPROVE MINUTES FROM OCTOBER 13, 2020.  
SECONDED BY TYLER MOSIMAN  
MOTION CARRIED**

New Business

**Conditional Use Permit- Network Real Estate LLC**

Chair opened the public hearing at 7:02pm

Board Member Steve McGinn announced that he would abstain from discussion due to conflict of interest.

Glen Klocke the representative from Network Real Estate LLC explained that they are asking for a Conditional Use Permit to allow the construction and use of a one hundred and ninety-nine (199) foot lattice cell tower located on N. Washington Ave, Harvey Co. parcel # 040-138-34-0-20-03-001.02-0, no address on record. It will have a 100 x 100 lease area with a six-foot-high chain link fence with barb wire along the top and a locked gate to help with security. The drive will be rocked, and all of the drive and leased area will be maintained by At&t. Approximately six weeks to complete construction. After that time the traffic to the tower would be once every two months in the beginning and then back off to maybe once every six months. He explained that the spot was picked by the engineers so it could make sure the signal will be able to hit tower in Newton, Halstead & N. Wichita to limit the amount of dropped calls and give the best service.

Mr. Klocke and the Board discussed concerns and other questions the Board had. Mr. Klocke had the following answers in response.

- Does not believe the values of properties would be adversely affected because big cities have towers in the middle of large housing additions.
- Tower will not have 5G service in the beginning but cannot promise that it never will come. He stated that At&t didn't even have 5G in Wichita yet, so it would be awhile if it ever happened.
- Studies show that there is not much concern about the radiation on the towers because it is not continuance, only when the tower has to transfer the call.
- There will be a diesel generator on site but will only run for backup if electricity goes out.
- Electric will all be running underground with no lights on the ground site and to have no noise off of it.

-No guide wires; it is designed to be a self-collapsing tower so if anything happened it would fall straight down on itself.

Chair opened the hearing to public comments.

Dallas Kane at 1357 N. Washington Ave, is concerned with the driveway being right along the property line and the tower being so close to their house. Would like it farther to the north and the driveway straight off the tower to the east not along the south property line. She also asked about health concerns and the affects that it could have on her children. Mr. Klocke said he had information from the Cancer Society he would send to her.

Brian Habluetzel at 1402 N Washington Ave, is concerned with it being 5G and not enough information being out on 5G service towers. Information will also be sent to Mr. Habluetzel about Cancer studies.

Julie Wilkinson at 1410 N Washington Ave, sent an email that was read for record and a copy is made part of minutes.

Chair closed the public portion of the hearing at 7:32pm.

Board discussed needing more information from Mr. Klocke before making their decisions.

**MOTION BY BETH SHARBUTT TO TABLE THE CONDITIONAL USE PERMIT PENDING THE ANSWERS TO THE QUESTIONS: CAN IT BE MOVED TO THE NORTH OF THE PROPERTY. IF NOT ABLE TO MOVE TOWER CAN THE DRIVE GO STRAIGHT EAST OFF THE TOWER TO THE ROAD. WANT TO REVIEW THE ENGINEER REPORT THAT MADE THAT SPOT THE BEST OPTION. TIMELINE FOR WHEN 5G WILL GO LIVE.**

**SECONDED BY TYLER MOSIMAN**

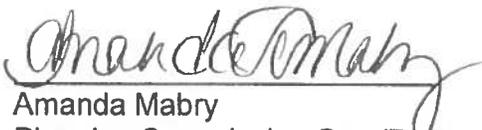
**MOTION CARRIED, WITH STEVE MCGINN ABSTAINING FOR CONFLICT OF INTEREST**

No Old Business

**MOTION BY BETH SHARBUTT TO ADJOURN THE PLANNING COMMISSION AT 7:47 P.M.**

**SECONDED BY CLINT BROWN**

**MOTION CARRIED**



Amanda Mabry  
Planning Commission Sec./Deputy City Clerk

## Amanda Mabry

---

**From:** Julie Wilkinson <juliew0202@gmail.com>  
**Sent:** Tuesday, November 17, 2020 4:34 PM  
**To:** Amanda Mabry  
**Subject:** Planning Commission 11/17 cell phone tower

Dear Planning Commission,

I am writing you today to give you my opinion regarding the application for a cell phone tower to be built at 1900 North Washington in Sedgwick Kansas. I am currently not feeling well and with the ongoing pandemic do not want to be out & about today.

While no one wants an eyesore of a cell phone tower in their 'backyard', I understand this would be very beneficial to many in our community and would not object if this is a regular cell phone tower.

My main concern is if the cell phone tower would be a 5G Tower or not. Because of potential health concerns I would most strenuously object to a 5G tower being built at this location and if this is to be a 5G Tower would ask that the application be denied based on those potential health concerns.

Thank you for your time and service to our community.

Sincerely yours,  
Julie Wilkinson

10 N Washington  
Sedgwick



# Network Real Estate, LLC

---

5055 Hwy N, Suite 200 • St Charles, MO 63304

Office: (817) 494-3909 Fax: (636) 922-3409

October 13, 2020

City of Sedgwick Kansas  
Attn: Zoning Manager  
520 North Commercial Ave.  
Sedgwick, KS 67135

**RE: Application To the Board of Zoning Appeals / CUP for proposed AT&T Telecommunications Tower located at Washington Ave. Sedgwick KS 67135**

Zoning Manager,

AT&T is a participant in the FCC's Connect America Fund offering which was established by the United States to improve broadband services to rural and underserved communities. Participation in this program requires AT&T to cover over 1 million subscribers in such communities. One of AT&T's strategies to meet the government's objectives is to deploy a fixed-wireless technology, often referred to as "Wireless Local Loop" or "WLL", which targets homes where traditional, "buried cable" internet service is unreliable or nonexistent. AT&T is proposing a new telecommunications facility inclusive of a new 199' structure on the below referenced parcel which is designed to deploy this type of technology and assist AT&T in meeting the government's objectives. The new structure will be utilized by AT&T and potential future telecommunications carriers for collocation of antennas and related equipment. While the WLL technology is designed to serve specific household units, the proposed structure, however, will also be utilized to deploy typical wireless technologies which will serve all AT&T wireless users in the community.

**Project Description:**

***Parcel 040-138-34-0-20-03-001.02-0***

***Property Address:*** Washington Ave. Sedgwick, KS 67135

***Property Owner:*** New SBM Farms Inc.

***Applicant:*** AT&T, c/o Network Real Estate, LLC

***Zoning District:*** A-1

***Adjacent Uses:*** A-1

***Proposed Facility Description:*** 199' self-support structure inside a 100' by 100' fenced compound for placement of communications equipment such as antennas, equipment shelters, and cabinets.

**Availability and Viability of Existing Structures**

AT&T gives priority and is financially incented to collocate on existing facilities or tall structures such as a water tank, building, or tower as these types of builds are more economically reasonable. AT&T's authorized representative searched the geographic area which would allow AT&T to meet their technical needs for existing structures and found there to be no structures available of the necessary height. Additionally, please find enclosed a letter from AT&T's engineering department explaining why and existing tower nearby could not be utilized.

**Compliance with Federal, State, and Local Regulations:**

As part of its FCC license as well as its lease with the property owner, AT&T is responsible to ensure compliance with all federal, state, and local rules and regulations to include the Federal Aviation Administration's regulations concerning construction of new structures and radio frequency emissions and the regulations of the State Historical Preservation Office. To that end, AT&T has made the necessary applications to confirm the proposed structure will have no adverse effects to the environment, including wilderness areas and preserves, endangered species habitats, historic places, and Indian cultural and religious sites, nor will it compromise the operations of the FAA or any activities within its jurisdiction.

The proposed facility is located within an A-1 zoning district. The attached drawings shows this proposed location complies with the cities set back requirements. In addition the tower will be built to support a total of 3 wireless carriers, allowing for collocation.

1. Minimum setbacks from the right of way and secondary road

In accordance with of the City of Sedwick City Zoning Regulations, we have enclosed in this package the Zoning application, Declaration of Representative, site plans and lease with property owner, FAA notice criteria report, and submittal fees in the amount of \$50.00. Please consider this letter and the accompanying documents as AT&T's application for a building permit Application / CUP.

If you have any questions, please feel free to contact me at 314.229.5410 or [glen.klocke@networkre.net](mailto:glen.klocke@networkre.net).

Regards,



Glen Klocke  
Network Real Estate, LLC, an authorized representative of AT&T  
[glen.klocke@networkre.net](mailto:glen.klocke@networkre.net)



### Notice Criteria Tool

Notice Criteria Tool - Desk Reference Guide V 2018 2 0

The requirements for filing with the Federal Aviation Administration for proposed structures vary based on a number of factors: height, proximity to an airport, location, and frequencies emitted from the structure, etc. For more details, please reference CFR Title 14 Part 77.9.

- You must file with the FAA at least 45 days prior to construction if:
- your structure will exceed 200ft above ground level
  - your structure will be in proximity to an airport and will exceed the slope ratio
  - your structure involves construction of a traverseway (i.e. highway, railroad, waterway etc...) and once adjusted upward with the appropriate vertical distance would exceed a standard of 77.9(a) or (b)
  - your structure will emit frequencies, and does not meet the conditions of the FAA Co-location Policy
  - your structure will be in an instrument approach area and might exceed part 77 Subpart C
  - your proposed structure will be in proximity to a navigation facility and may impact the assurance of navigation signal reception
  - your structure will be on an airport or heliport
  - filing has been requested by the FAA

If you require additional information regarding the filing requirements for your structure, please identify and contact the appropriate FAA representative using the Air Traffic Areas of Responsibility map for Off Airport construction, or contact the FAA Airports Region / District Office for On Airport construction.

The tool below will assist in applying Part 77 Notice Criteria

Latitude:  Deg  M  S

Longitude:  Deg  M  S

Horizontal Datum:

Site Elevation (SE):  (nearest foot)

Structure Height :  (nearest foot)

Traverseway:

(Additional height is added to certain structures under 77.9(c)  
User can increase the default height adjustment for Traverseway, Private Roadway and Waterway

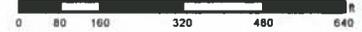
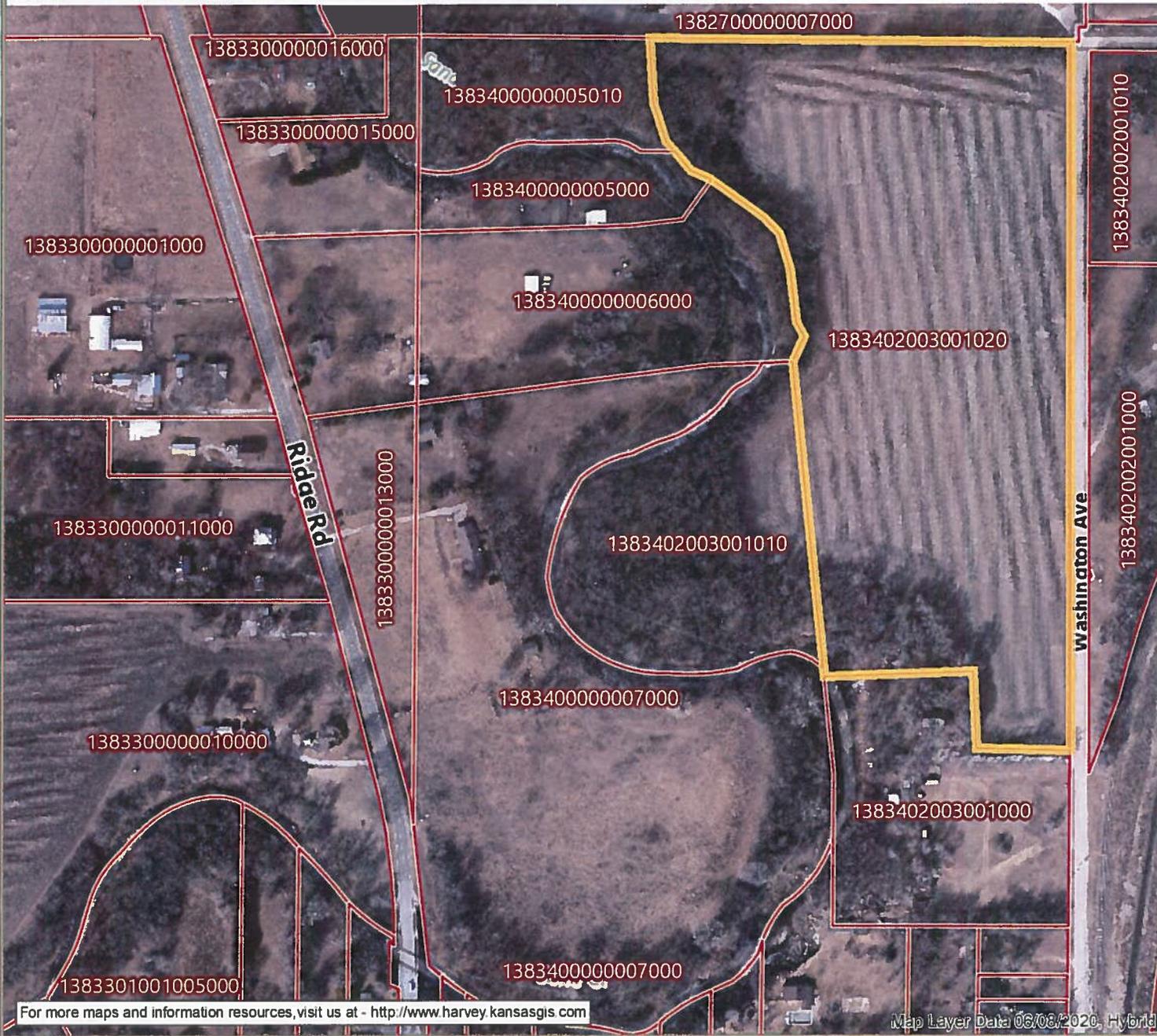
Is structure on airport:

No

Yes

### Results

You do not exceed Notice Criteria.



- Selection(s)
- Property Parcels
- County Boundary

10/16/2020



Harvey County makes every effort to produce and publish the most current and accurate information possible. This information is furnished as a public service. The information must be accepted and used by the recipient with the understanding that the data was developed and collected for the purpose of developing property valuations, using the criteria of fair market value, as required by the State of Kansas. The Appraised Value and Tax Information are updated at different times during the year and, therefore, may not always reflect same year values. Harvey County assumes no liability whatsoever associated with the use or misuse of such data, and disclaims any representation or warranty regarding the completeness or accuracy of the data.

Note: Acreage and Square Footage data shown are approximate and may not be consistent with records maintained for appraisal purposes.

©2013 Harvey County, Kansas Government  
Data sources: Harvey County, Kansas Government, Kansas Geospatial Commons (DASC).



**PARENT PARCEL DESCRIPTION:**

A portion of the Northwest Quarter (NW/4) of Section Thirty-four (34), Township Twenty-four (24) South, Range One (1) West of the 6th P.M., Harvey County, Kansas, described as follows:

Commencing at the Northeast corner of the Northwest Quarter (NW/4) of said Northwest Quarter (NW/4); thence North 88°53'52" West (basis of bearing is NAD83 Grid Kansas South Zone) along the North line of the Northwest Quarter (NW/4) of said Northwest Quarter (NW/4) 20.00 feet to the West line of a roadway, as measured, used by the general public, but no record of dedication found for the point of beginning; thence South 00°48'49" West along the West line of said undedicated roadway 1400.00 feet; thence North 89°04'16" West 185.20 feet; thence North 01°53'13" West 152.40 feet; thence South 89°01'01" West 295.20 feet to the East line of land formerly owned by W.M. Congdon; thence North 05°24'17" West along the East line of land formerly owned by W.M. Congdon 626.20 feet to a point being described as being on the South line of land formerly owned by William Finn in said Northwest Quarter (NW/4); thence North 83°54'35" East along the South line of said former Finn property 206.58 feet to a point previously described as being at the West end of a hedge row (now removed); thence North 44°35'59" West on a line previously described as being on a hedge row (now removed) 369.13 feet; thence North 53°19'17" West 130.04 feet measured (130.09 feet-survey by Lowell D. High, March 1983); thence North 66°13'34" West 44.16 feet measured (44.11 feet-survey by Lowell D. High, March 1983); thence North 39°54'44" West 77.84 feet measured (78.10 feet survey by Lowell D. High, March 1983); thence North 17°37'07" West 78.39 feet measured (78.04 feet-survey by Lowell D. High, March 1983); thence North 03°06'00" West 120.46 feet measured (120.31 feet-survey by Lowell D. High, March 1983); thence North 02°02'44" West 7.48 feet measured (7.37 feet survey by Lowell D. High, March, 1983); to a point on the North line of the Northwest Quarter (NW/4) of said Northwest Quarter (NW/4) 454.85 feet East of the Northwest Corner of said Northwest Quarter (NW/4); thence South 88°53'52" East along the North line of the Northwest Quarter (NW/4) of said Northwest Quarter (NW/4) 843.29 feet to the point of beginning.

**LEASE AREA DESCRIPTION:**

That part of the Northwest Quarter of Section Thirty-four, Township Twenty-four South, Range One West of the 6th P.M., Harvey County, Kansas, and being more particularly described as follows:

Referring to the North 1/16 Corner of the Northwest Quarter of Section 34, a #4 Rebar found for corner; thence southerly, on a Grid bearing of South 00°37'25" East, on the East line of the Northeast Quarter of Section 34, 1085.52 feet; thence departing said East line, westerly, South 89°22'35" West, 222.78 feet, to the Point of Beginning for the described Lease Area; thence following the perimeter of the Lease Area on the following bearings and distances: westerly, South 89°31'25" West, 100.00 feet; thence northerly, North 00°28'35" West, 100.00 feet; thence easterly, North 89°31'25" East, 100.00 feet; thence southerly, South 00°28'35" East, 100.00 feet, to the Point of Beginning.

Containing a total calculated area of 10,000 square feet, or 0.230 acres, more or less.



12851 MANCHESTER ROAD  
ST. LOUIS, MO 63131



5056 Hwy N, Suite 200  
St. Charles, MO 63304

**FULLERTON**  
ENGINEERING DESIGN

1100 E. WOODFIELD ROAD, SUITE 500  
SCHALMURG, ILLINOIS 60173  
TEL: 847-908-8400  
www.FullertonEngineering.com

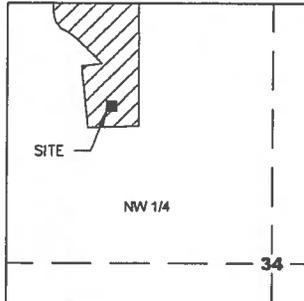
REV	DATE	DESCRIPTION	BY
1	07.30.20	PRELIMINARY	TH
2	08.08.20	ADD A-11 EASEMENT	PD
3	08.24.20	REVISE A-11 EASEMENT/ADD TITLE	PD
4	08.31.20	COMMENTS/FINAL	PD

6392



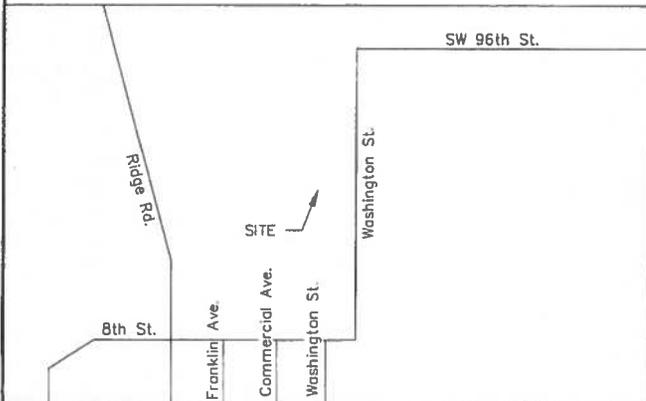
**HUSKER SURVEYING**

4835 Normal Blvd. Ste #101  
Lincoln, Ne 68508  
(402)423-8202  
(402)423-5211  
www.huskersurveying.com



T. 24 S, R. 1 W  
**PARENT PARCEL DETAIL**

**VICINITY MAP**



**SURVEYORS NOTES**

- 1.) Generally located in Kansas State Plane Coordinate System, South Zone (NAD-83).
  - 2.) Not a survey of the parent parcel shown, but to be used only for the purposes shown hereon.
  - 3.) The Utility locations shown hereon were determined by observed above ground evidence only. The surveyor was provided with above ground markings to determine any subsurface locations and makes no guarantee that the underground utilities in the area, either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated. This surveyor has not physically located the underground utilities.
- Zoning: Ag  
Flood information:  
Property falls within a No Digital Data Available Zone, as determined by FEMA Flood Rate Map No. 20079C0318F, with an effective date of September 4, 2014.



**Surveyor's Certificate**

I, Jayme M. Malone, a Professional Registered Land Surveyor under the laws of the State of Kansas, certify the above survey was executed by me, on the date shown. Distances shown are measured in feet and decimals of a foot.

Signed this 1st day of Sept., 20 20

*Jayme M. Malone*  
Jayme M. Malone

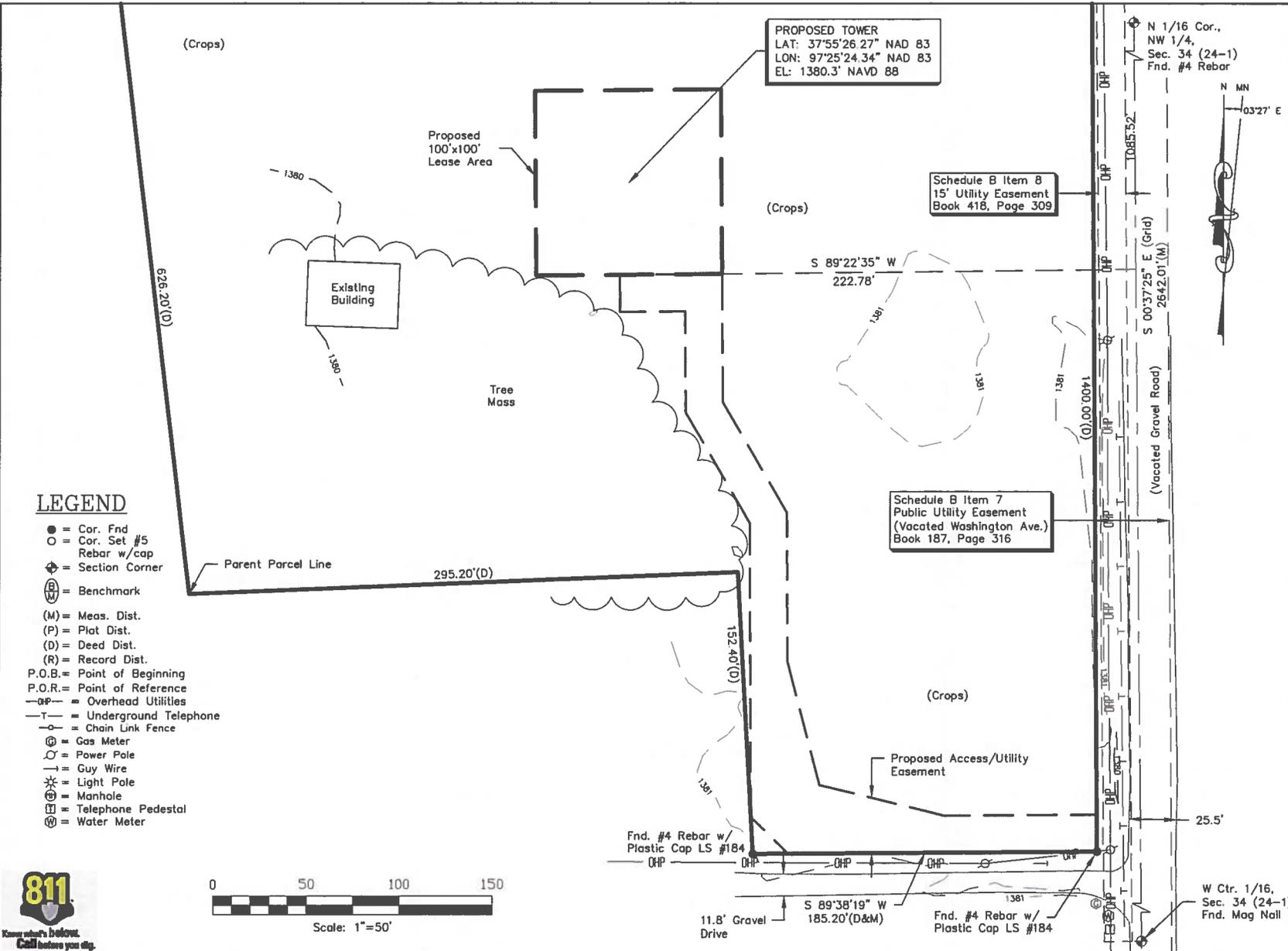
SITE NAME  
**SEDGWICK**

SITE NUMBER:  
**KS4328**

SITE ADDRESS  
**SEDGWICK, KS**

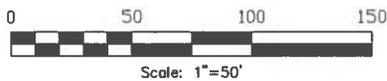
SHEET NAME  
**SITE PLAN**

SHEET NUMBER  
**SS-1**



**LEGEND**

- = Cor. Fnd
- = Cor. Set #5
- ⊕ = Rebar w/cap
- ⊕ = Section Corner
- ⊕ = Benchmark
- (M) = Meas. Dist.
- (P) = Plat Dist.
- (D) = Deed Dist.
- (R) = Record Dist.
- P.O.B. = Point of Beginning
- P.O.R. = Point of Reference
- OHP— = Overhead Utilities
- T— = Underground Telephone
- C— = Chain Link Fence
- ⊕ = Gas Meter
- ⊕ = Power Pole
- = Guy Wire
- ⊕ = Light Pole
- ⊕ = Manhole
- ⊕ = Telephone Pedestal
- ⊕ = Water Meter





12851 MANCHESTER ROAD  
ST. LOUIS, MO 63131



5055 Hwy N, Suite 200  
St. Charles, MO 63304

**FULLERTON**  
ENGINEERING & DESIGN

1100 E. WOODFIELD ROAD, SUITE 500  
SCHAUMBURG, ILLINOIS 60173  
TEL. 847.908.8400  
www.FullertonEngineering.com

REV	DATE	DESCRIPTION	BY
1	07.30.20	PRELIMINARY	TH
2	08.05.20	ADD A/U EASEMENT	PD
3	08.31.20	REVISE A/U EASEMENT/ADD WIRE	PD
4	08.31.20	COMMENTS/FINAL	PD

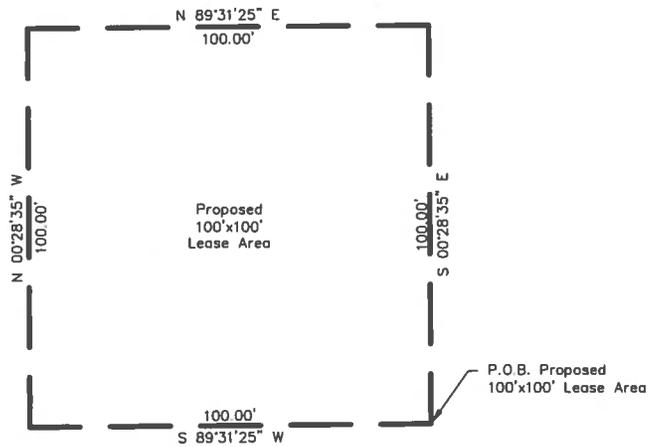
6392



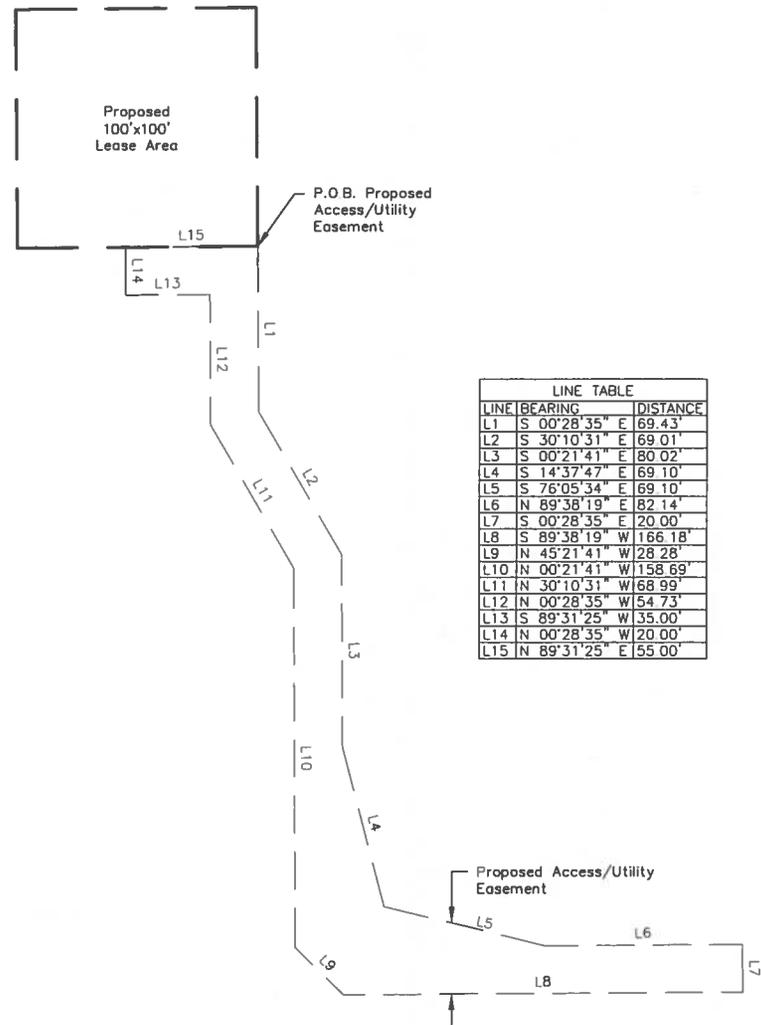
**HUSKER SURVEYING**

4535 Normal Blvd. Ste #101  
Lincoln, Ne 68508  
(402)423-5202  
(402)423-5211  
www.huskersurveying.com

SITE NAME	SEDGWICK
SITE NUMBER	KS4328
SITE ADDRESS	SEDGWICK, KS
SHEET NAME	SITE PLAN
SHEET NUMBER	SS-2



**LEASE AREA DETAIL**  
Scale: 1"=30'



**ACCESS/UTILITY EASEMENT DETAIL**  
Scale: 1"=50'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 00°28'35" E	69.43'
L2	S 30°10'31" E	69.01'
L3	S 00°21'41" E	80.02'
L4	S 14°37'47" E	69.10'
L5	S 76°05'34" E	69.10'
L6	N 89°38'19" E	82.14'
L7	S 00°28'35" E	20.00'
L8	S 89°38'19" W	166.18'
L9	N 45°21'41" W	28.28'
L10	N 00°21'41" W	158.69'
L11	N 30°10'31" W	68.99'
L12	N 00°28'35" W	54.73'
L13	S 89°31'25" W	35.00'
L14	N 00°28'35" W	20.00'
L15	N 89°31'25" E	55.00'



REV	DATE	DESCRIPTION	BY
1	07.20.20	PRELIMINARY	TH
2	08.05.20	ADD A/U EASEMENT	PD
3	08.21.20	REVISE A/U EASEMENT/ADD TITLE	PD
4	08.31.20	COMMENTS/FINAL	PD

6392



SITE NAME  
**SEDGWICK**

SITE NUMBER:  
**KS4328**

SITE ADDRESS  
**SEDGWICK, KS**

SHEET NAME  
**SITE PLAN**

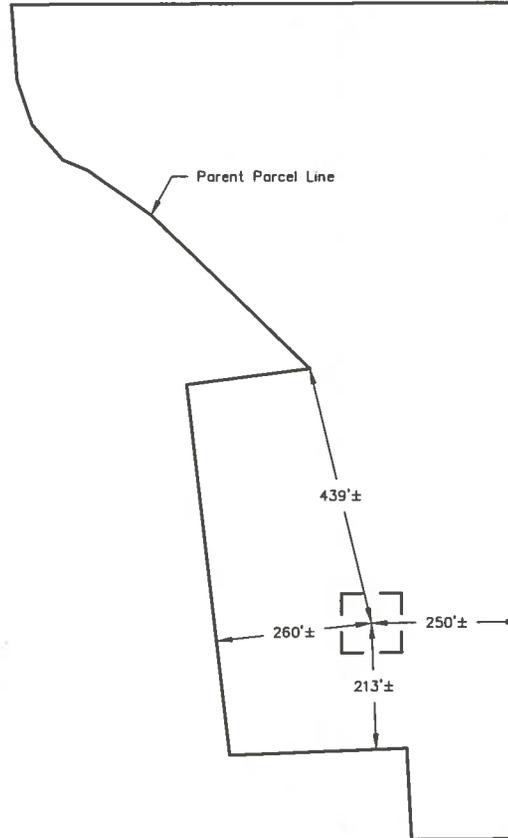
SHEET NUMBER  
**SS-3**

**ACCESS/UTILITY EASEMENT DESCRIPTION:**

An Access/Utility Easement located in that part of the Northwest Quarter of Section Thirty-four, Township Twenty-four South, Range One West of the 6th P.M., Harvey County, Kansas, and being more particularly described as follows:

Referring to the North 1/16 Corner of the Northwest Quarter of Section 34, a #4 Rebar found for corner; thence southerly, on a Grid bearing of South 00°37'25" East, on the East line of the Northeast Quarter of Section 34, 1085.52 feet; thence departing said East line, westerly, South 89°22'35" West, 222.78 feet, to the Southeast corner of the described Lease Area, also being the Point of Beginning for the described Access/Utility Easement; thence following the perimeter of the easement on the following bearings and distances: southerly, South 00°28'35" East, 69.43 feet; thence southeasterly, South 30°10'31" East, 69.01 feet; thence southerly, South 00°21'41" East, 80.02 feet; thence southerly, South 14°37'47" East, 69.10 feet; thence southeasterly, South 76°05'34" East, 69.10 feet; thence easterly, North 89°38'19" East, 82.14 feet, to a point of intersection on the westerly right-of-way line of vacated Washington Avenue; thence southerly, South 00°28'35" East, on said westerly right-of-way, 20.00 feet; thence departing the westerly right-of-way line of vacated Washington Avenue, westerly, South 89°38'19" West, 166.18 feet; thence northwesterly, North 45°21'41" West, 28.28 feet; thence northerly, North 00°21'41" West, 158.69 feet; thence northwesterly, North 30°10'31" West, 68.99 feet; thence northerly, North 00°28'35" West, 54.73 feet; thence westerly, South 89°31'25" West, 35.00 feet; thence northerly, North 00°28'35" West, 20.00 feet, to a point of intersection on the South line of the described Lease Area; thence easterly, North 89°31'25" East, on said South line, 55.00 feet, to the point of beginning.

Containing a total calculated area of 11,702 square feet, or 0.269 acres, more or less.



**TOWER DISTANCE DIAGRAM**  
(N.T.S.)

**TITLE REPORT:**

Based on Report of Title by U.S. Title Solutions, File No. 65768-KS2006-5039, with an effective date of July 8, 2020, the following are of survey matters:

- 7 Ordinance by The City of Sedgwick, Kansas to Public, dated 4/6/1953 recorded 3/1/1955 in book 187 page 316. Notes: Vacating street for public utility. Does not affect Parent parcel, Lease Area or Access/Utility Easement and is shown hereon.
- 8 Utility Easement by Bruce B. Behymer and Laurie Behymer, husband and wife to The City of Sedgwick, Kansas, dated 10/27/2004 recorded 3/10/2010 in book 418 page 309. Notes: Utility Does not affect Parent parcel, Lease Area or Access/Utility Easement and is shown hereon.
- 9 Survey for Scott McGinn dated 11/18/2013. Affects Parent parcel, but cannot be plotted due to being blanket in nature.



12851 MANCHESTER ROAD  
ST. LOUIS, MO 63131



5055 Hwy N, Suite 200  
St. Charles, MO 63304



1100 E. WOODFIELD ROAD, SUITE 500  
SCHALMERSBURG, ILLINOIS 60173  
TEL. 847-908-8400  
www.FullertonEngineering.com

REV	DATE	DESCRIPTION	BY
1	07.30.20	PRELIMINARY	TH
2	08.05.20	ADD A/U EASEMENT	PD
3	08.31.20	REVISE A/U EASEMENT/ADD RULE	PD
4	08.31.20	COMMENTS/FINAL	PD

6392



4535 Normal Blvd. Ste #101  
Lincoln, Ne 68506  
(402)423-5202  
(402)423-5211  
www.huskersurveying.com

SITE NAME:

SEDGWICK

SITE NUMBER:

KS4328

SITE ADDRESS:

SEDGWICK, KS

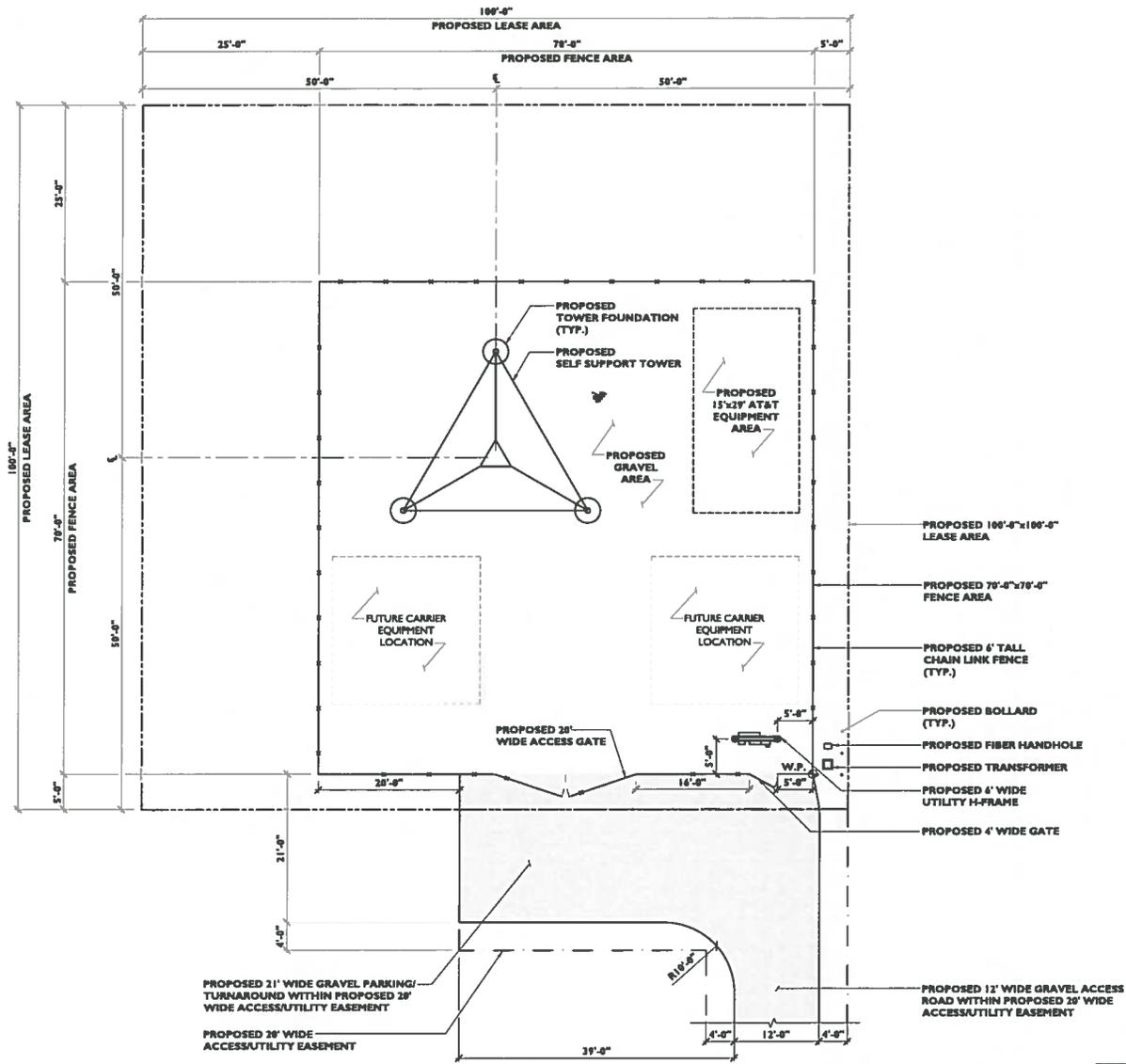
SHEET NAME:

SITE PLAN

SHEET NUMBER:

SS-4





12930 OLIVE BLVD  
CREVE COEUR, MO 63141

5055 Hwy N, Suite 200  
St. Charles, MO 63304

**FULLERTON**  
ENGINEERING DESIGN

1100 E WOODFIELD ROAD, SUITE 500  
SCHAUMBURG, ILLINOIS 60173  
TEL: 847-908-8400  
CO#AF E-1939  
www.FullertonEngineering.com

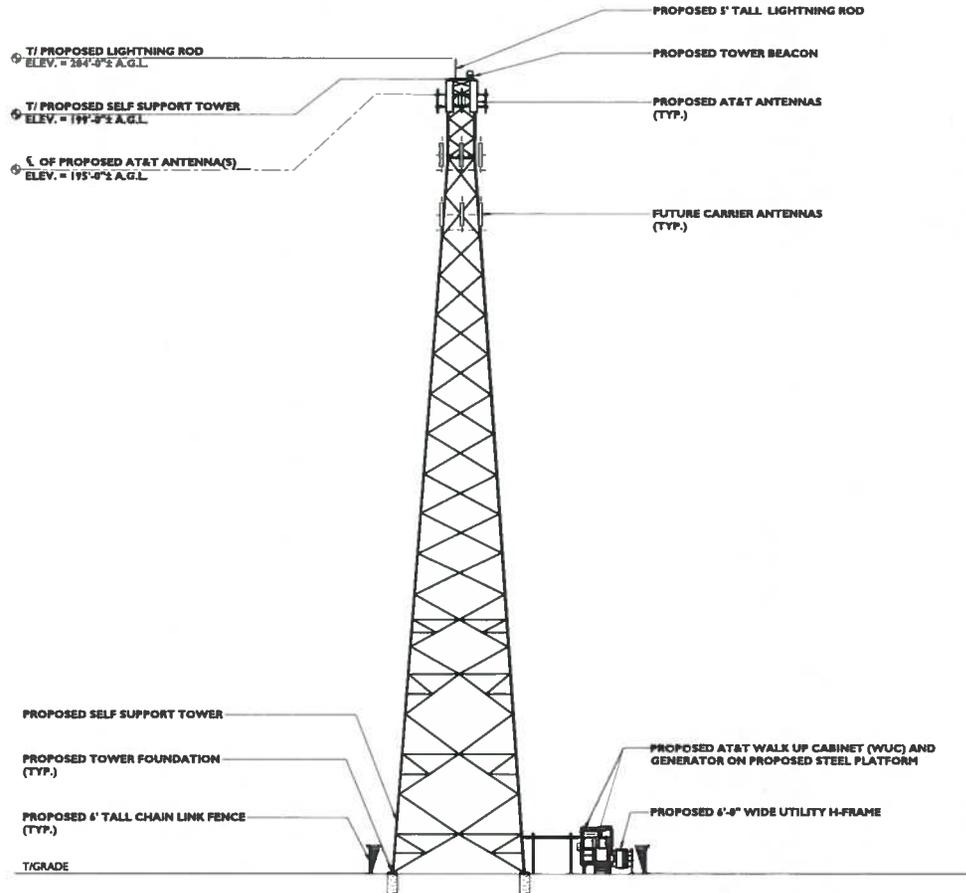
#	DATE	DESCRIPTION	INT
A	9/21/20	PRELIM. ZONING	JW
D	9/28/20	FINAL	JW



SITE NAME	SEDGWICK
SITE NO.	KS4328
SITE ADDRESS	WASHINGTON AVENUE SEDGWICK, KS 67135
SHEET NAME	ENLARGED SITE PLAN
SHEET NUMBER	Z-2

ENLARGED SITE PLAN

PROJECT# 2020.0013.0029



SCALE: 1" = 30'-0"

TOWER ELEVATION

17930 OLIVE BLVD  
CREVE COEUR, MO 63141

5056 Hwy N, Suite 200  
St. Charles, MO 63304

**FULLERTON**  
ENGINEERING DESIGN

100 E. WOODFIELD ROAD, SUITE 500  
SCHAUHUBURG, ILLINOIS 60173  
TEL: 847-908-8400  
CDM E-1939  
www.FullertonEngineering.com

#	DATE	DESCRIPTION	INT
A	9/21/20	PRELIM. ZONING	JW
0	9/28/20	FINAL	JW

SITE NAME  
**SEDGWICK**

SITE NO.  
**KS4328**

SITE ADDRESS  
WASHINGTON AVENUE  
SEDGWICK, KS 67135

SHEET NAME  
**TOWER ELEVATION**

SHEET NUMBER  
**Z-3**



**PARENT PARCEL DESCRIPTION:**

A portion of the Northwest Quarter (NW/4) of Section Thirty-four (34), Township Twenty-four (24)South, Range One (1) West of the 8th P.M., Harvey County, Kansas, described as follows:

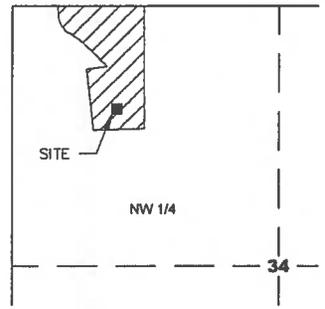
Commencing at the Northeast corner of the Northwest Quarter (NW/4) of said Northwest Quarter (NW/4); thence North 88°53'52" West(basis of bearing is NAD83 Grid Kansas South Zone) along the North line of the Northwest Quarter (NW/4) of said Northwest Quarter (NW/4) 20.00 feet to the West line of a roadway, as measured, used by the general public, but no record of dedication found for the point of beginning; thence South 00°48'48" West along the West line of said undedicated roadway 1400.00 feet; thence North 88°04'16" West 185.20 feet; thence North 01°53'13" West 152.40 feet; thence South 88°01'01" West 295.20 feet to the East line of land formerly owned by W.M. Congdon; thence North 05°24'17" West along the East line of land formerly owned by W.M. Congdon 628.20 feet to a point being described as being on the South line of land formerly owned by William Finn in said Northwest Quarter (NW/4); thence North 83°54'35" East along the South line of said former Finn property 206.58 feet to a point previously described as being at the West end of a hedge row (now removed); thence North 44°35'59" West on a line previously described as being on a hedge row (now removed) 369.13 feet; thence North 53°19'17" West 130.04 feet measured (130.09 feet-survey by Lowell D. High, March 1983); thence North 68°13'34" West 44.16 feet measured (44.11 feet-survey by Lowell D. High, March 1983); thence North 39°54'44" West 77.84 feet measured (78.10 feet survey by Lowell D. High, March 1983); thence North 17°37'07" West 78.39 feet measured (78.04 feet-survey by Lowell D. High, March 1983); thence North 03°06'00" West 120.48 feet measured (120.31 feet-survey by Lowell D. High, March 1983); thence North 02°02'44" West 7.48 feet measured (7.37 feet survey by Lowell D. High, March, 1983); to a point on the North line of the Northwest Quarter (NW/4) of said Northwest Quarter (NW/4) 454.65 feet East of the Northwest Corner of said Northwest Quarter (NW/4); thence South 88°53'52" East along the North line of the Northwest Quarter (NW/4) of said Northwest Quarter (NW/4) 643.29 feet to the point of beginning.

**LEASE AREA DESCRIPTION:**

That part of the Northwest Quarter of Section Thirty-four, Township Twenty-four South, Range One West of the 8th P.M., Harvey County, Kansas, and being more particularly described as follows:

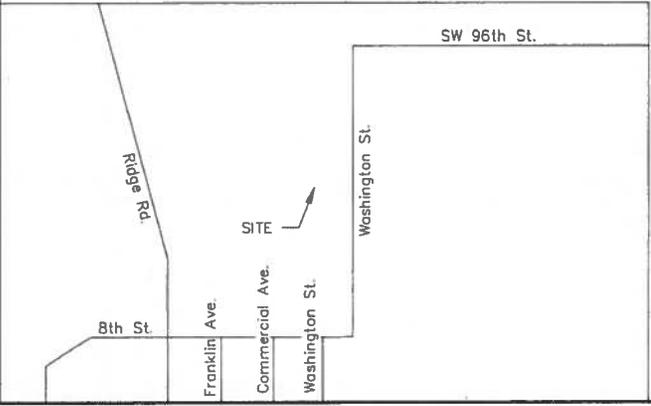
Referring to the North 1/16 Corner of the Northwest Quarter of Section 34, a #4 Rebar found for corner; thence southerly, on a Grid bearing of South 00°37'25" East, on the East line of the Northeast Quarter of Section 34, 1085.52 feet; thence departing said East line, westerly, South 89°22'35" West, 222.78 feet, to the Point of Beginning for the described Lease Area; thence following the perimeter of the Lease Area on the following bearings and distances: westerly, South 89°31'25" West, 100.00 feet; thence northerly, North 00°28'35" West, 100.00 feet; thence easterly, North 89°31'25" East, 100.00 feet; thence southerly, South 00°28'35" East, 100.00 feet, to the Point of Beginning.

Containing a total calculated area of 10,000 square feet, or 0.230 acres, more or less.



T. 24 S, R. 1 W  
**PARENT PARCEL DETAIL**

**VICINITY MAP**



**SURVEYORS NOTES**

- 1.) Generally located in Kansas State Plane Coordinate System, South Zone (NAD-83).
  - 2.) Not a survey of the parent parcel shown, but to be used only for the purposes shown herein.
  - 3.) The Utility locations shown hereon were determined by observed above ground evidence only. The surveyor was provided with above ground markings to determine any subsurface locations and makes no guarantee that the underground utilities in the area, either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated. This surveyor has not physically located the underground utilities.
- Zoning: Ag  
Flood Information:  
Property falls within a No Digital Data Available Zone, as determined by FEMA Flood Rate Map No. 20078C0316F, with an effective date of September 4, 2014.



**Surveyor's Certificate**

I, Jayme M. Malone, a Professional Registered Land Surveyor under the laws of the State of Kansas, certify the above survey was executed by me, on the date shown. Distances shown are measured in feet and decimals of a foot.

Signed this 11<sup>th</sup> day of Dec., 2020

*Jayme M. Malone*  
Jayme M. Malone



1281 MANCHESTER ROAD  
ST. LOUIS, MO 63131



6055 Hwy N, Suite 200  
St. Charles, MO 63304

**FULLERTON**  
ENGINEERING DESIGN

1100 E. WOODFIELD ROAD, SUITE 500  
SCHLAUBURG, ILLINOIS 60173  
TEL: 847-908-8400  
www.FullertonEngineering.com

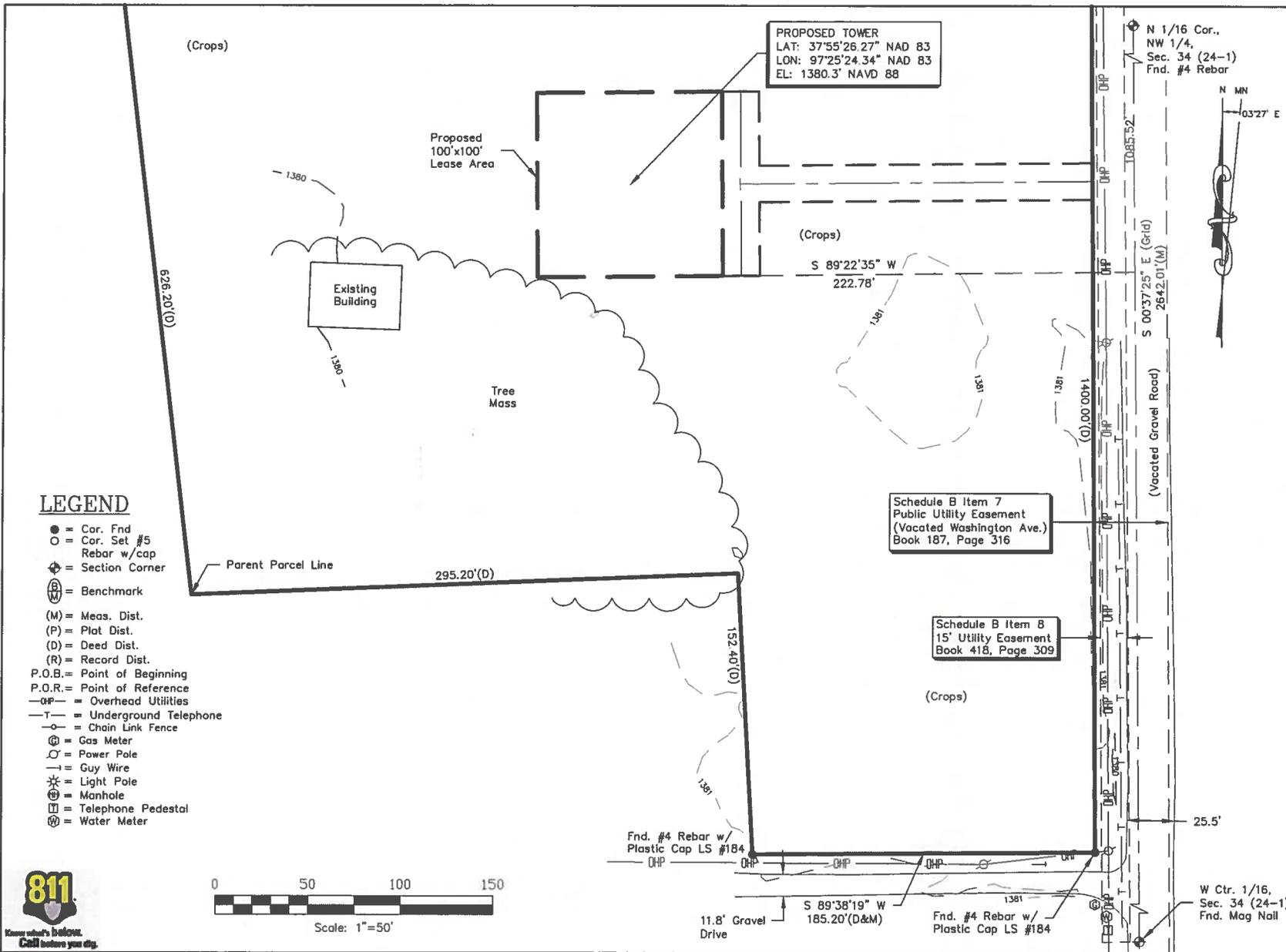
REV	DATE	DESCRIPTION	BY
1	07.20.20	PRELIMINARY	TM
2	09.24.20	ADD A/U EASIMENT	PD
3	08.14.20	REVISE A/U EASIMENT/ADD TITLE	PD
4	08.14.20	COMMENTS/FINAL	PD
8	12.10.20	REVISE A/U EASIMENT	PD

6392



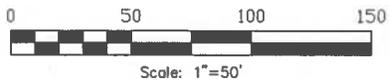
4535 Normal Blvd. Ste #101  
Lincoln, Ne 68508  
(402)423-5202  
(402)423-5211  
www.huskersurveying.com

SITE NAME	SEDGWICK
SITE NUMBER:	KS4328
SITE ADDRESS	SEDGWICK, KS
SHEET NAME	SITE PLAN
SHEET NUMBER	SS-1



**LEGEND**

- = Cor. Fnd
- = Cor. Set #5
- ⊕ = Rebar w/cap
- ⊕ = Section Corner
- ⊕ = Benchmark
- (M) = Meas. Dist.
- (P) = Plat Dist.
- (D) = Deed Dist.
- (R) = Record Dist.
- P.O.B. = Point of Beginning
- P.O.R. = Point of Reference
- OHP- = Overhead Utilities
- T- = Underground Telephone
- = Chain Link Fence
- ⊕ = Gas Meter
- ⊕ = Power Pole
- |- = Guy Wire
- \* = Light Pole
- ⊕ = Manhole
- ⊕ = Telephone Pedestal
- ⊕ = Water Meter



12851 MANCHESTER ROAD  
ST. LOUIS, MO 63131



5055 Hwy N, Suite 200  
St. Charles, MO 63304



1100 E. WOODFIELD ROAD, SUITE 500  
SCHAUMBURG, ILLINOIS 60173  
TEL. 817-908-8400  
www.FullertonEngineering.com

REV	DATE	DESCRIPTION	BY
1	07.30.20	PRELIMINARY	TH
2	08.05.20	ADD A/U EASEMENT	PD
3	08.21.20	REVERSE A/U EASEMENT/ADD TITLE	PD
4	08.31.20	COMMENTS/FINAL	PD
5	12.10.20	REVERSE A/U EASEMENT	PD
6	12.11.20	FINAL (2)	PD

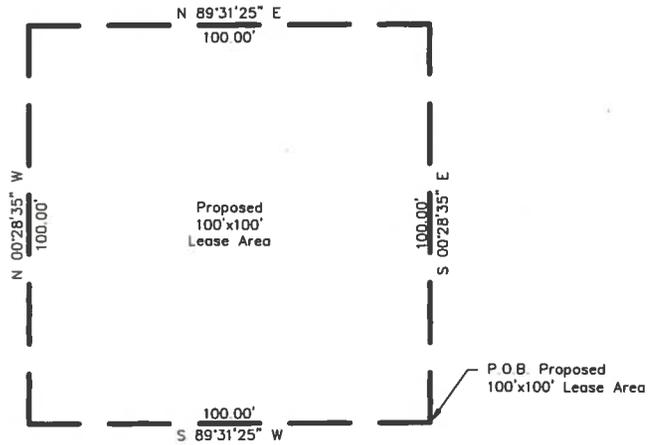
6392



4535 Normal Blvd, Ste #101  
Lincoln, Ne 68505  
(402)423-3202  
(402)423-3211  
www.huskersurveying.com

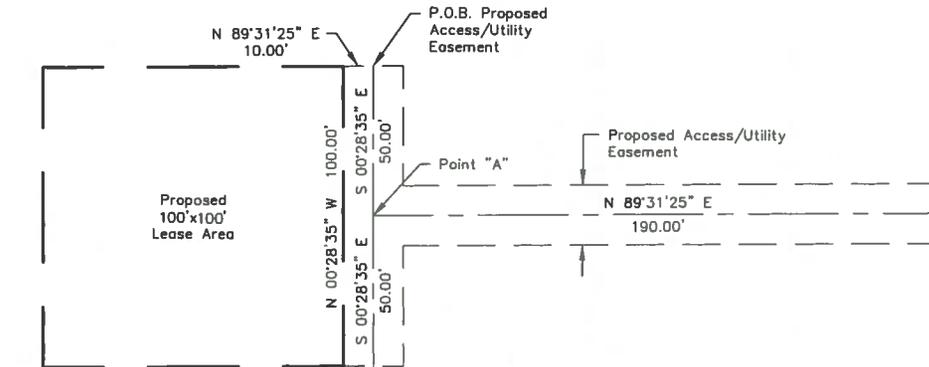
SITE NAME	SEDGWICK
SITE NUMBER	KS4328
SITE ADDRESS	SEDGWICK, KS
SHEET NAME	SITE PLAN
SHEET NUMBER	SS-2





**LEASE AREA DETAIL**

Scale: 1"=30'



**ACCESS/UTILITY EASEMENT DETAIL**

Scale: 1"=50'



12851 MANCHESTER ROAD  
ST. LOUIS, MO 63131



5055 Hwy N, Suite 200  
St. Charles, MO 63304

**FULLERTON**  
ENGINEERING & DESIGN

1100 E. WOODFIELD ROAD, SUITE 500  
SCHAUMBURG, ILLINOIS 60173  
TEL. 847-908-8400  
www.FullertonEngineering.com

REV	DATE	DESCRIPTION	BY
1	07.30.20	PRELIMINARY	TH
2	08.05.20	ADD A/U EASEMENT	PD
3	08.24.20	REVISE A/U EASEMENT/ADD TITLE	PD
4	08.31.20	COMMENTS/FINAL	PD
5	12.18.20	REVISE A/U EASEMENT	PD
6	12.19.20	FINAL (2)	PD

6392



4535 Normal Blvd. Ste #101  
Lincoln, Ne 68508  
(402)423-5202  
(402)423-5211  
www.huskersurveying.com

SITE NAME

SEDGWICK

SITE NUMBER:

KS4328

SITE ADDRESS

SEDGWICK, KS

SHEET NAME

SITE PLAN

SHEET NUMBER

SS-3

**ACCESS/UTILITY EASEMENT DESCRIPTION:**

An Access/Utility Easement, 20 feet in width, located in that part of the Northwest Quarter of Section Thirty-four, Township Twenty-four South, Range One West of the 6th P.M., Harvey County, Kansas, and being more particularly described as follows:

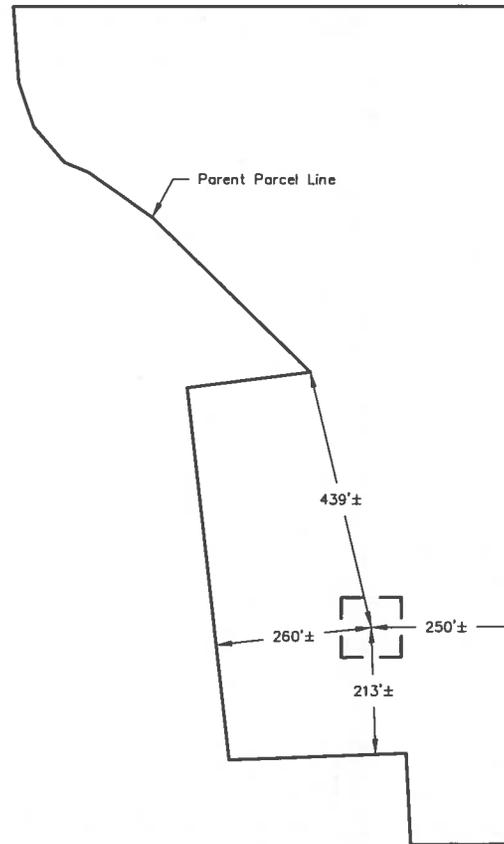
Referring to the North 1/16 Corner of the Northwest Quarter of Section 34, a #4 Rebar found for corner; thence southerly, on a Grid bearing of South 00°37'25" East, on the East line of the Northeast Quarter of Section 34, 1085.52 feet; thence departing said East line, westerly, South 89°22'35" West, 222.78 feet, to the Southeast corner of the described Lease Area; thence northerly, North 00°28'35" West, on the East line of the Lease Area, 100.00 feet; thence departing said east line, easterly, North 89°31'25" East, 10.00 feet, to the Point of Beginning for the centerline of the described Access/Utility Easement; thence following the centerline for the easement on the following bearings and distances: southerly, South 00°28'35" East, 50.00 feet, to a point hereafter referred to as Point "A"; thence easterly, North 89°31'25" East, 190.00 feet to a point of intersection on the West right-of-way line of vacated Washington Avenue, also being the Point of Termination for the centerline of the described Access/Utility Easement.

AND

Beginning at Point "A", southerly, South 00°28'35" East, 50.00 feet to the Point of Termination.

Containing a total calculated area of 5,900 square feet or 0.129 acres, more or less.

Parallel lines from the centerline of the described easement are intended to lengthen or shorten to intersect the lines described.



**TOWER DISTANCE DIAGRAM**  
(N.T.S.)

**TITLE REPORT:**

Based on Report of Title by U.S. Title Solutions, File No. 65768-KS2006-5039, with an effective date of July 8, 2020, the following are of survey matters:

7. Ordinance by The City of Sedgwick, Kansas to Public, dated 4/6/1953 recorded 3/1/1955 in book 187 page 316. Notes: Vacating street for public utility. Does not affect Parent parcel, Lease Area or Access/Utility Easement and is shown hereon.
8. Utility Easement by Bruce B. Behymer and Laurie Behymer, husband and wife to The City of Sedgwick, Kansas, dated 10/27/2004 recorded 3/10/2010 in book 418 page 309. Notes: Utility. Does not affect Parent parcel, Lease Area or Access/Utility Easement and is shown hereon.
9. Survey for Scott McGinn dated 11/18/2013. Affects Parent parcel, but cannot be plotted due to being blanket in nature.



12851 MANCHESTER ROAD  
ST. LOUIS, MO 63131



5055 Hwy N, Suite 200  
St. Charles, MO 63304

**FULLERTON**  
ENGINEERING & DESIGN

1100 E. WOODFIELD ROAD, SUITE 500  
SCHAMBURG, ILLINOIS 60173  
TEL. 847-908-8400  
www.FullertonEngineering.com

REV	DATE	DESCRIPTION	BY
1	07.30.20	PRELIMINARY	TH
2	08.05.20	ADD A/U EASEMENT	PD
3	08.24.20	REVISE A/U EASEMENT/ADD TITLE	PD
4	08.31.20	COMMENTS/FINAL	PD
5	12.18.20	REVISE A/U EASEMENT	PD
6	12.11.20	FINAL (2)	PD

6392



4535 Normal Blvd. Ste #101  
Lincoln, Ne 68506  
(402)423-5202  
(402)423-5211  
www.huskersurveying.com

SITE NAME

SEDGWICK

SITE NUMBER:

KS4328

SITE ADDRESS

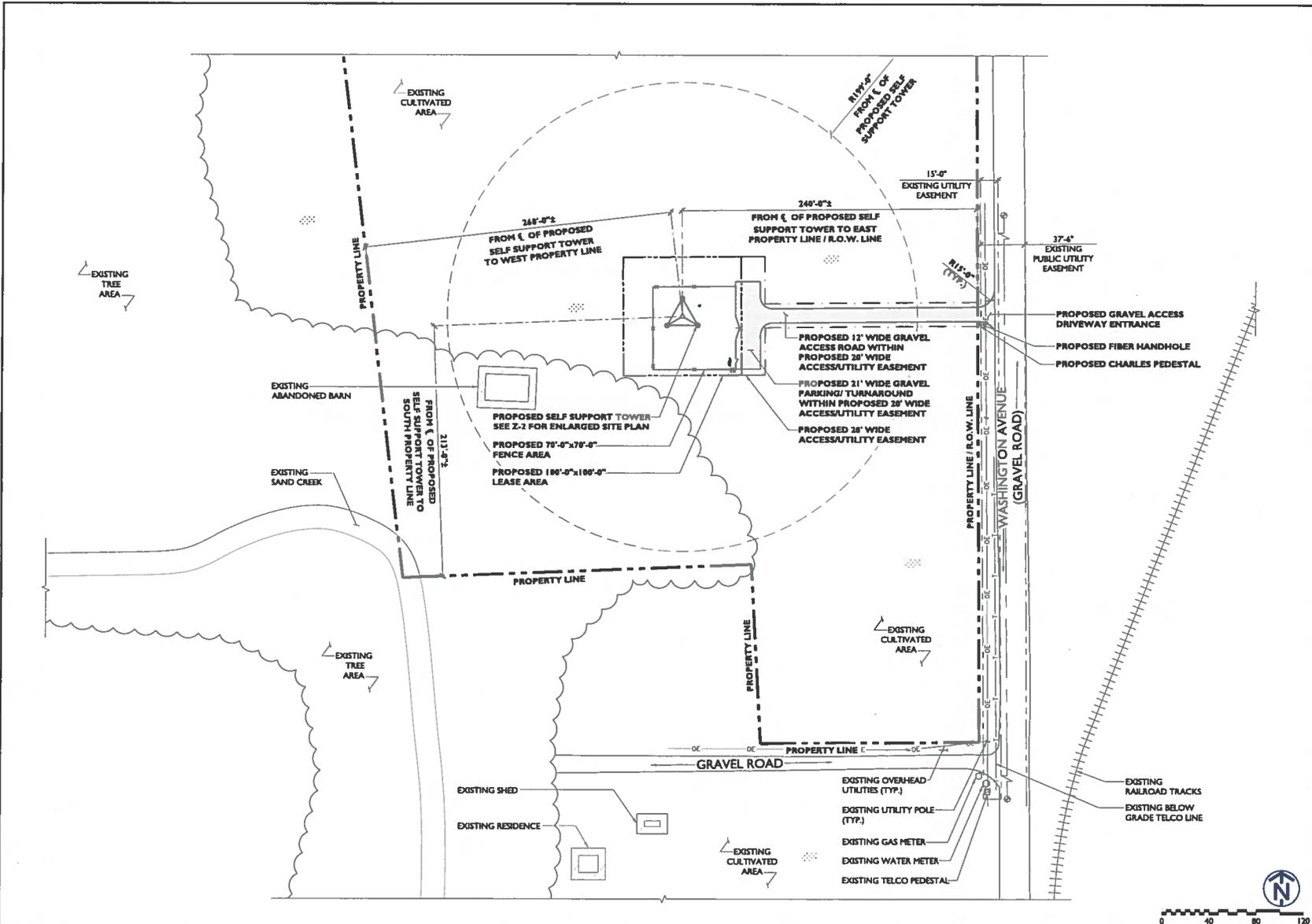
SEDGWICK, KS

SHEET NAME

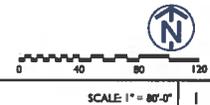
SITE PLAN

SHEET NUMBER

SS-4



SITE PLAN



**at&t**  
 12930 OLIVE BLVD  
 CREVE COEUR, MO 63141

**Network**  
 5055 Hwy N, Suite 200  
 St. Charles, MO 63304

**FULLERTON**  
 ENGINEERING · DESIGN  
 1100 E. WOODFIELD ROAD, SUITE 500  
 SCHLAUBURG, ILLINOIS 60173  
 TEL: 847-908-8400  
 COAM E-1939  
 www.FullertonEngineering.com

#	DATE	DESCRIPTION	INT
A	9/21/20	PRELIM. ZONING	JV
D	9/28/20	FINAL	JV
I	12/16/20	REVISED FINAL	JV

DANIEL W. SMITH  
 LICENSED  
 24307  
 PROFESSIONAL ENGINEER  
 KANSAS

SITE NAME  
**SEDGWICK**

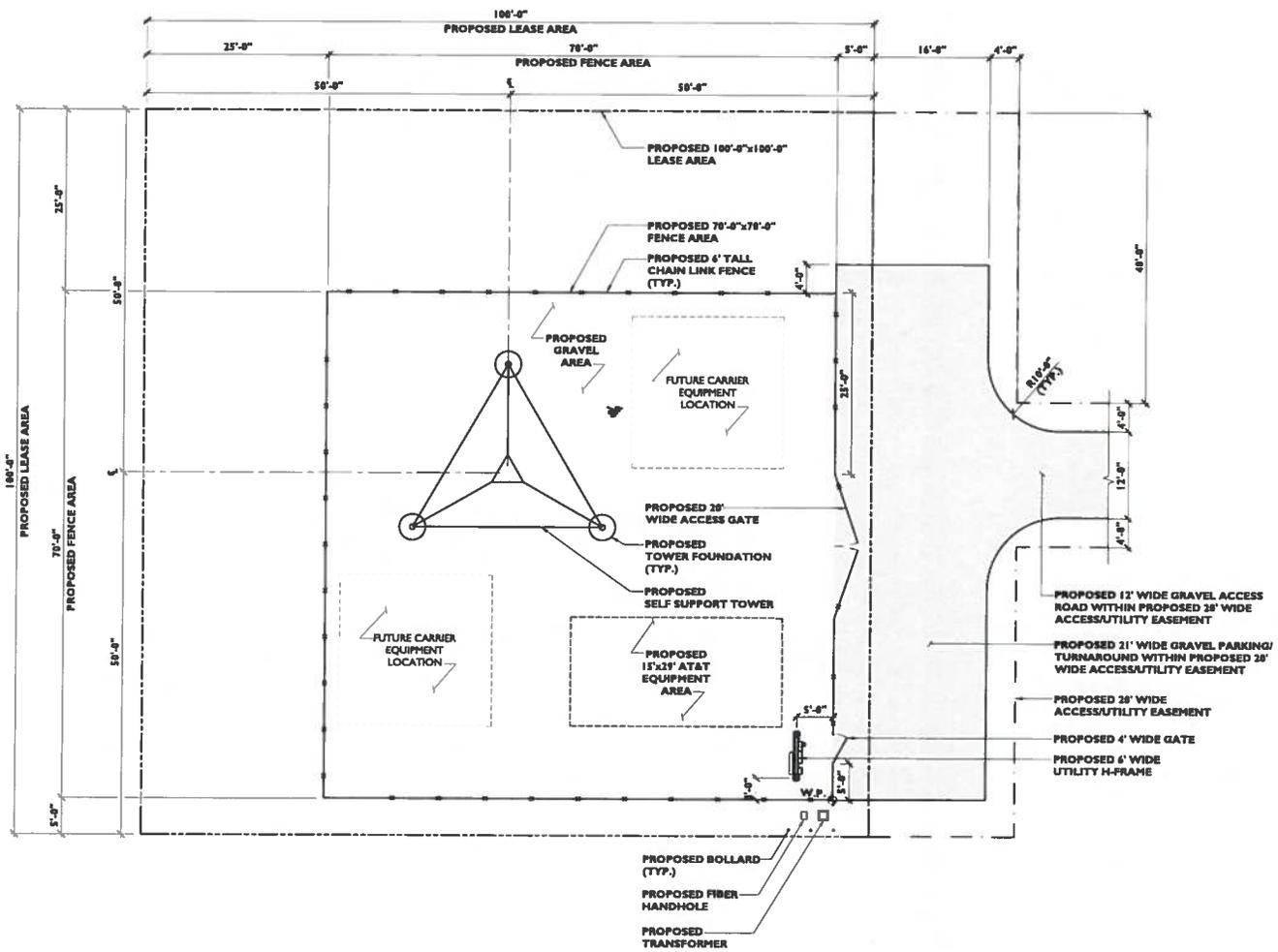
SITE NO.  
**KS4328**

SITE ADDRESS  
 WASHINGTON AVENUE  
 SEDGWICK, KS 47135

SHEET NAME  
**SITE PLAN**

SHEET NUMBER  
**Z-1**

PROJECT# 2020.0013.0029



**FULLERTON**  
ENGINEERING DESIGN

1100 E WOODFIELD ROAD, SUITE 500  
SCHALMERSBURG, ILLINOIS 60173  
TEL: 847-908-8400  
CO.# E-1939  
www.FullertonEngineering.com

#	DATE	DESCRIPTION	INT
A	9/21/20	PRELIM. ZONING	JW
D	9/28/20	FINAL	JW
I	12/16/20	REVISED FINAL	JW



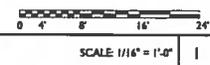
SITE NAME  
**SEDGWICK**

SITE NO.  
**KS4328**

SITE ADDRESS  
WASHINGTON AVENUE  
SEDGWICK, KS 67135

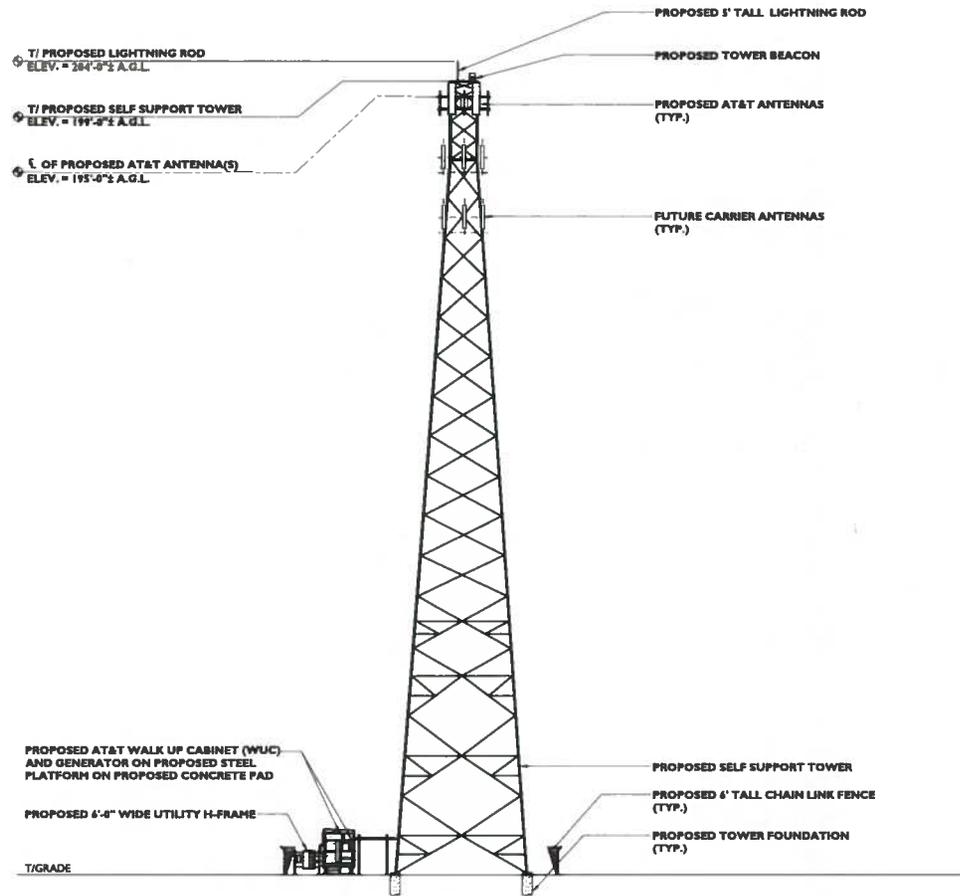
SHEET NAME  
**ENLARGED SITE PLAN**

SHEET NUMBER  
**Z-2**



ENLARGED SITE PLAN

PROJECT# 2020.0013.0029



SCALE: 1" = 30'-0"

12930 OLIVE BLVD  
CREVE COEUR, MO 63141

5055 Hwy N, Suite 200  
St. Charles, MO 63304

**FULLERTON**  
ENGINEERING DESIGN

1100 E. WOODFIELD ROAD, SUITE 500  
SCHAMBURG, ILLINOIS 60173  
TEL: 847-908-8400  
COMM: E-1939  
www.FullertonEngineering.com

#	DATE	DESCRIPTION	INT
A	9/21/20	PRELIM. ZONING	JW
0	9/28/20	FINAL	JW
1	12/16/20	REVISED FINAL	JW

SITE NAME  
**SEDGWICK**

SITE NO.  
**KS4328**

SITE ADDRESS  
WASHINGTON AVENUE  
SEDGWICK, KS 67135

SHEET NAME  
**TOWER ELEVATION**

SHEET NUMBER  
**Z-3**

TOWER ELEVATION

PROJECT# 2020.0013.0029

**PARENT PARCEL DESCRIPTION:**

A portion of the Northwest Quarter (NW/4) of Section Thirty-four (34), Township Twenty-four (24) South, Range One (1) West of the 6th P.M., Harvey County, Kansas, described as follows:

Commencing at the Northeast corner of the Northwest Quarter (NW/4) of said Northwest Quarter (NW/4); thence North 88°53'52" West (basis of bearing is NAD83 Grid Kansas South Zone) along the North line of the Northwest Quarter (NW/4) of said Northwest Quarter (NW/4) 20.00 feet to the West line of a roadway, as measured, used by the general public, but no record of dedication found for the point of beginning; thence South 00°48'49" West along the West line of said undedicated roadway 1400.00 feet; thence North 89°04'16" West 185.20 feet; thence North 01°53'13" West 152.40 feet; thence South 89°01'01" West 295.20 feet to the East line of land formerly owned by W.M. Congdon; thence North 05°24'17" West along the East line of land formerly owned by W.M. Congdon 626.20 feet to a point being described as being on the South line of land formerly owned by William Finn in said Northwest Quarter (NW/4); thence North 83°54'35" East along the South line of said former Finn property 206.58 feet to a point previously described as being at the West end of a hedge row (now removed); thence North 44°35'59" West on a line previously described as being on a hedge row (now removed) 369.13 feet; thence North 53°19'17" West 130.04 feet measured (130.09 feet-survey by Lowell D. High, March 1983); thence North 66°13'34" West 44.16 feet measured (44.11 feet-survey by Lowell D. High, March 1983); thence North 39°54'44" West 77.84 feet measured (78.10 feet survey by Lowell D. High, March 1983); thence North 17°37'07" West 78.39 feet measured (78.04 feet-survey by Lowell D. High, March 1983); thence North 03°06'00" West 120.46 feet measured (120.31 feet-survey by Lowell D. High, March 1983); thence North 02°02'44" West 7.48 feet measured (7.37 feet survey by Lowell D. High, March, 1983); to a point on the North line of the Northwest Quarter (NW/4) of said Northwest Quarter (NW/4) 454.65 feet East of the Northwest Corner of said Northwest Quarter (NW/4); thence South 88°53'52" East along the North line of the Northwest Quarter (NW/4) of said Northwest Quarter (NW/4) 843.29 feet to the point of beginning.

**LEASE AREA DESCRIPTION:**

That part of the Northwest Quarter of Section Thirty-four, Township Twenty-four South, Range One West of the 6th P.M., Harvey County, Kansas, and being more particularly described as follows:

Referring to the North 1/16 Corner of the Northwest Quarter of Section 34, a #4 Rebar found for corner; thence southerly, on a Grid bearing of South 00°37'25" East, on the East line of the Northeast Quarter of Section 34, 1085.52 feet; thence departing said East line, westerly, South 89°22'35" West, 222.78 feet, to the Point of Beginning for the described Lease Area; thence following the perimeter of the Lease Area on the following bearings and distances: westerly, South 89°31'25" West, 100.00 feet; thence northerly, North 00°28'35" West, 100.00 feet; thence easterly, North 89°31'25" East, 100.00 feet; thence southerly, South 00°28'35" East, 100.00 feet, to the Point of Beginning.

Containing a total calculated area of 10,000 square feet, or 0.230 acres, more or less.

**ACCESS/UTILITY & TURNAROUND EASEMENT DESCRIPTION:**

An Access/Utility Easement, 20 feet in width, located in that part of the Northwest Quarter of Section Thirty-four, Township Twenty-four South, Range One West of the 6th P.M., Harvey County, Kansas, and being more particularly described as follows:

Referring to the North 1/16 Corner of the Northwest Quarter of Section 34, a #4 Rebar found for corner; thence southerly, on a Grid bearing of South 00°37'25" East, on the East line of the Northeast Quarter of Section 34, 1085.52 feet; thence departing said East line, westerly, South 89°22'35" West, 222.78 feet, to the Southeast corner of the described Lease Area; thence northerly, North 00°28'35" West, on the East line of the Lease Area, 100.00 feet; thence departing said east line, easterly, North 89°31'25" East, 10.00 feet, to the Point of Beginning for the centerline of the described Access/Utility Easement; thence following the centerline for the easement on the following bearings and distances: southerly, South 00°28'35" East, 50.00 feet, to a point hereafter referred to as Point "A"; thence easterly, North 89°31'25" East, 190.00 feet to a point of intersection on the West right-of-way line of vacated Washington Avenue, also being the Point of Termination for the centerline of the described Access/Utility Easement.

AND

Beginning at Point "A", southerly, South 00°28'35" East, 50.00 feet to the Point of Termination.

Containing a total calculated area of 5,600 square feet or 0.129 acres, more or less.

Parallel lines from the centerline of the described easement are intended to lengthen or shorten to intersect the lines described.

**END OF DOCUMENT**



Husker Surveying LLC  
4535 Normal Blvd., Ste. 101  
Lincoln, NE 68506

Ph: 402-423-5202  
Fax: 402-423-5211



Planning Commission

Publication Date	10.22.20	Date Filed	10.15.20
Hearing Date	11.17.20	Filing Fee	\$50.00
Case #	2020-1	Receipt No.	039807

APPLICATION FOR CONDITIONAL USE PERMIT

- 1. Applicant's Name NETWORK REAL ESTATE LLC c/o AT&T WIRELESS
- 2. Applicant's Address 5055 HWY(N) SUITE 200 ST. CHARLES, MO. 63304
- 3. Telephone (daytime) 314.224.5410 E-mail GLEN.THOCTE@NETWORKRE.NET
- 4. Owner's Name SJM FARMS
- 5. Owner's Address 1010 DOUGLAS AVE. SEDGWICK, KS 67135
- 6. Legal Description of affected property (attach additional sheet if necessary)  
SEE ATTACHED DRAWINGS
- 7. Approximate Street Address WASHINGTON AVE SEDGWICK, KS 67135
- 8. Present Zoning A-1 use AGRICULTURAL
- 9. Application is made for an exception as provided in Section 1991 AT&T COMMUNICATIONS TOWER.  
Section 9, Article XVI - Supplementary District

- 10. The applicant herein, or the authorized agent:
  - a. Acknowledges receipt of article XXI of the City of Sedgwick Zoning Regulations relating to Conditional Use Permits.
  - b. Agrees to conform to all requirements of the appropriate section of the Zoning Regulations if this application is approved.
  - c. Acknowledges they have been advised that if denied by the City Council, said action shall be final. Reapplication for the same use shall not be accepted or processed by the City until 365 days after the date when the initial permit was denied by the City Council.

[Signature] 10/15/2020

Signature, Applicant  
(by signing above, I hereby certify that I am the registered owner of record)

[Signature] 10/15/2020

Signature, Authorized Agent Date

1. The Planning Commission shall not recommend a Conditional Use Permit unless it shall, in each specific case, make specific written findings of fact directly based upon the particular evidence presented to it that supports conclusions that:

a. The proposed conditional use complies with all applicable provisions of these Regulations, including intensity of use Regulations, yard Regulations and use limitations.

Yes, application meets zoning regulations

b. The proposed conditional use at the specified location will not adversely affect the welfare or convenience of the public.

No, does not affect the welfare or convenience of public

c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.

Should not affect value but board stated they cannot judge that

d. The location and size of the conditional use, the nature and intensity of the operation involved or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:

Move the drive to go straight west off N. Washington Ave to the tower

- (1) The location, size, nature and height of buildings, structures, walls, and fences on the site, and
- (2) The nature and extent of landscaping and screening on the site.

e. Off-street parking and loading areas will be provided in accordance with the standards set forth in these Regulations, and such areas shall be screened from adjoining residential uses and located so as to protect residential uses from any injurious effect.

No off-street parking on site

f. Adequate utility, drainage, and other such necessary facilities have been or will be provided.

Yes, drainage should be good

g. Adequate roads or entrance/exit drives shall be provided and designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

Yes, entrance should be good

h. Adjoining properties and the general public shall be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors or unnecessarily intrusive noises.

Yes, no toxic materials will be on property

2. In recommending a Conditional Use Permit, the Planning Commission may impose such conditions, safeguards and restrictions upon the premises benefitted by the conditional use as may be necessary to reduce or minimize any potentially negative affect upon other property in the neighborhood, and to carry out the general purpose and intent of these Regulations.

1. Decision by the Planning Commission of the City of Sedgwick for recommendation to the Governing Body:

4

Approved

0

Disapprove

2. Restriction(s) recommended by the Planning Commission of the City of Sedgwick:

A. Keep existing trees along the south property line not to exceed 50% from the survey measurement.

B. Tower placement will be located per the 9/28/20 engineers drawing submitted.

C. Driveway to the tower will run straight west off N. Washington Ave. to the tower location.

12/9/2020  
Date

Beth Sharbutt  
Planning Commission Chairman

---

1. Review of the Planning Commission recommendation(s)       Yes       No

2. Decision of the Governing body of the City of Sedgwick

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove

3. Restriction(s) imposed by the Governing Body of the City of Sedgwick:

A. \_\_\_\_\_

B. \_\_\_\_\_

C. \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mayor

Background summary of New Subdivision & Zoning Regulation by Fosters and Associates.

Minutes and Preliminary Copies are attached for review.

- In 2019 at the request of the Planning Commission the Council agreed to have an outside company bid to do new Zoning & Subdivision Regulations for the City.
- January 2020 the Council approved for Fosters and Associates to review and put together new updated Zoning & Subdivision regulations.
- June 2020, Planning Commission met with the Fosters for the first review of changes that were discussed.
- September 2020, Planning Commission reviewed the first drafts from Fosters and consensus to change items.
- October 2020, Planning Commission voted to set a public hearing for the adoption and recommendation to the Council.
- November 12, 2020 publication of public hearing was published in the Harvey County Independent.
- December 8, 2020, Planning Commission held the Public Hearing and voted that the November 10 draft of the Proposed Subdivision & Zoning regulations be approved and adopted as a model code by the governing body for the City of Sedgwick.

**SEDGWICK PLANNING COMMISSION  
601 N COMMERCIAL**

**June 9, 2020  
6:39 P.M.**

**PRESIDING:** Beth Sharbutt, Chair

**MEMBERS PRESENT:** Justin Stucky, Tyler Mosiman, Clint Brown, Steve McGinn, Chad Mueller

**MEMBERS ABSENT:** Danny Bevan

**ALSO PRESENT:** Amanda Mabry, Secretary; Bryan Chapman, Mayor; Joe Turner; Administrator, Janise Enterkin, City Clerk; David Foster, Bickley Foster, Foster Design Associates LLC

Chair called the meeting to order at 6:39 p.m.

**MOTION BY STEVE MCGINN TO APPROVE THE AGENDA AS PRESENTED**  
**SECONDED BY BETH SHARBUTT**  
**MOTION CARRIED**

**MOTION BY CODY BROWN TO APPROVE MINUTES FROM SEPTEMBER 10<sup>TH</sup>, 2019.**  
**SECONDED BY STEVE MCGINN**  
**MOTION CARRIED**

New Business

**Review of Zoning Regulations, Sub-Division Regulations & Sign Regulations with Foster Design Associates LLC.**

Board reviewed and discussed the different items of the new regulations. Foster Design Associates will make changes as discussed and then bring back to the Board for another review. See attached agenda from Foster Design of items reviewed.

**MOTION BY STEVE MCGINN TO ADJOURN THE PLANNING COMMISSION AT 9:39 P.M.**  
**SECONDED BY CLINT BROWN**  
**MOTION CARRIED**



Amanda Mabry  
Planning Commission Sec./Deputy City Clerk



AGENDA - SEDGWICK PC MEETING  
June 9, 2020

A. Intro & Schedule (Review Mtg. / Public Hearing / Governing Body Adoption)

B. Work Tasks / Planning Concepts & Background

- New Zoning Regulations.
- New Subdivision Regulations
- Official Zoning Map
- Adoption & Approval Forms
- Administrative Forms
- Assume that you have a currently operating Ordinance to establish the City's Planning Commission, and that the Planning Commission has required Bylaws.
- City's Comprehensive Plan 2015 - 2035 has existing and future land use maps / Goals

C. ZONING REGULATIONS: Model Code prepared from State Statutes, Court Cases, Ideas from Clients, 40 years tested / Goals to be Flexible & reasonable to make things possible. Articles 4 & 7 drive the application of zoning.

To ensure the new Regulations meet the desires of the City specific elements to be included are:

- Historic district for the downtown block
- Apartments as a permitted use in a business district if in a 2nd story
- New signage regulations compliant with 2015 U.S. Supreme Court ruling
- Business Temporary uses
- Tiny house regulations
- Food truck regulations
- Maximum fence height to be 8 feet in residential zoning districts
- Minimum Lot size for R-1 zoning to be 7000 Square Feet
- Provide no separate adult zoning district

Review Articles 4 & 7

Questions: Site Plan Review / Conditional Uses as Exceptions by BZA

D. SUBDIVISION REGULATIONS (Importance of City Shaping)

E. ADMINISTRATIVE FORMS

Four notebooks of Administrative Forms will be prepared to accompany the Zoning and Subdivision Regulations. Included in the fee estimate, these can be provided as fillable pdf forms, which can be made available on the City's website. They include:

- Diagrams of how to determine notification areas

- Instructions and application forms for all types of zoning cases and permits
- Notifications
- Protest petitions
- Checklists to conduct meetings, and instructions on voting requirements for various zoning procedures
- Materials regarding enforcement of violations
- Formats for ordinances and resolutions
- Forms to process preliminary and final plats, lot splits and vacations

**PRESIDING:** Beth Sharbutt, Chair

**MEMBERS PRESENT:** Tyler Mosiman, Clint Brown, Chad Mueller, Steve McGinn-arrived at 8 pm

**MEMBERS ABSENT:** Justin Stucky

**ALSO PRESENT:** Amanda Mabry, Secretary; Bryan Chapman, Mayor; Joe Turner; Administrator,  
Chair called the meeting to order at 7:08 p.m.

**MOTION BY BETH SHARBUTT TO APPROVE THE AGENDA AS PRESENTED**  
**SECONDED BY CLINT BROWN**  
**MOTION CARRIED**

**MOTION BY TYLER MOSIMAN TO APPROVE MINUTES FROM JUNE 9, 2020.**  
**SECONDED BY CLINT BROWN**  
**MOTION CARRIED**

New Business

**Resignation of Member-**The Board accepted the resignation of Danny Bevan

**MOTION BY BETH SHARBUTT TO APPROVE THE RESIGNATION OF DANNY BEVAN.**  
**SECONDED BY TYLER MOSIMAN**  
**MOTION CARRIED**

**Review of Zoning Regulations, Sub-Division Regulations & Sign Regulations**

Board reviewed and discussed the different items of the new regulations draft and email from Foster Design Associates.

The Boards consensus of the discussion is as follows.

-Article 2-102 Accessory Dwelling 7. Not sure they want to allow temporary dwelling for this. Asked to get more clarification to why Foster added it. If there is a set timeline for limited/temporary time guidelines?

- 2-Height, Maximum 3. Board likes the change and wants it to stay as written in the draft.

-Clarification on the building set back line. Board would like to know if it is from foundation of structure or furthest projected point of structure? Also, if it needs to state such in the regulation.

-Board agreement on the 25' feet front setback change for R-1 District, and 20' feet setback for the Manufactured homes.

-Board good with Tiny House definition

-The minimum lot size from 7000 to 6000 SF is correct for the R-1 change.

-Article 6. NOTE: change to read-accessory structures which exceed 120 square feet of ground area.

-Adding the Historical Properties Overlay is approved.

-Article 7-110E3. add language -Masonry material only for subdivision monument signs.

- 7-102D2a- add language (see 7-110E3 for platted subdivision).
- 7-111A4- 15 feet.
- 7-111C3a- Permanent Sign: 100 square feet per sign
- 7-111C4- pole or pylon sign: 20 feet.
- 7-111D3a- Permanent sign: 1 square foot per linear foot of street frontage, up to a maximum of 150 square feet.
- 7-111D4- Maximum height permitted for pole or pylon signs: 20 feet.

**MOTION BY CLINT BROWN TO ADJOURN THE PLANNING COMMISSION AT 8:33 P.M.**  
**SECONDED BY STEVE MCGINN**  
**MOTION CARRIED**



Amanda Mabry  
Planning Commission Sec./Deputy City Clerk

## Amanda Mabry

---

**From:** David Foster <david@fosterdesignassociates.com>  
**Sent:** Thursday, September 10, 2020 10:24 PM  
**To:** Amanda Mabry  
**Cc:** Bickley Foster; Debra Foster  
**Subject:** Zoning & Subdivision Regulations - Final Draft 9/10/20  
**Attachments:** Sedgwick SubRegs-091020.pdf; Sedgwick Zoning Regulations-091020 Final.pdf; Sedgwick 2-Zoning APPENDIX 1-091020.pdf

Amanda,

Attached are the final drafts of the Zoning & Subdivision Regulations. Along with the Zoning Regulations is Appendix 1 - Table of Comparability for Zoning Districts.

Some notes:

1. Requirements for monument signs for identification of subdivisions is included in Article 7, the Sign Article. ✓
2. Communication towers exceeding maximum heights are treated as a special use in all districts. ✓
3. A 25' front setback is noted for the R-1 District. R-2 Multiple Family and Manufactured Homes have 20' minimum. ✓
4. See Section 3-103C1 for the 30' setback requirement for residential districts. ✓
5. A definition for a Tiny House is added. They are only allowed as a special use in the R-1 District as an accessory structure when on a permanent foundation. This with wheels are treated as RV's.
6. At the June 9th meeting I noted a reduction to the minimum lot size in R-1 from 7000 to 6000 SF. Note this matches that for the R-2 zone. Please check.
7. A Historical Properties Overlay is provided in the C-1 Zoning District. Please review.
8. In Article 7 there are yellow boxes with notes listed which provide info from the existing sign regulations for reference. Items noted in red need City review and input.

We have drafted a Zoning Map using the existing districts. This will be revised to reflect the new zones. We will send you the draft map on Monday.

David Foster  
Foster Design Associates LLC  
1415 E 2nd Street N  
Wichita KS 67214-4119

[www.fosterdesignassociates.com](http://www.fosterdesignassociates.com)  
316-262-4525  
[david@fosterdesignassociates.com](mailto:david@fosterdesignassociates.com)

**SEDGWICK PLANNING COMMISSION  
520 N COMMERCIAL AVE**

**October 13, 2020  
7:07 P.M.**

**PRESIDING:** Beth Sharbutt, Chair

**MEMBERS PRESENT:** Tyler Mosiman, Clint Brown, Chad Mueller

**MEMBERS ABSENT:** Justin Stucky, Steve McGinn

**ALSO PRESENT:** Amanda Mabry, Secretary; Bryan Chapman, Mayor

Chair called the meeting to order at 7:07 p.m.

**MOTION BY CLINT BROWN TO APPROVE THE AGENDA AS PRESENTED  
SECONDED BY TYLER MOSIMAN  
MOTION CARRIED**

**MOTION BY CLINT BROWN TO APPROVE MINUTES FROM SEPTEMBER 15, 2020.  
SECONDED BY BETH SHARBUTT  
MOTION CARRIED**

No New Business

Old Business

-Continued review of the Zoning & Sub-Division Regulations

**MOTIONED BY CLINT BROWN TO SET A PUBLIC HEARING FOR THE ADOPTION AND  
RECOMMENDATION TO THE GOVERNING BODY OF MODEL CODES FOR THE CITY  
ZONING & SUB-DIVISION REGULATIONS ON DECEMBER 8<sup>TH</sup>, 2020 AT 7 PM IN THE  
CITY COUNCIL CHAMBERS, 520 N COMMERCIAL AVE WITH THE SUB-DIVISION TO BE  
HEARD FIRST.  
SECONDED BY TYLER MOSIMAN  
MOTION CARRIED**

**MOTION BY CLINT BROWN TO ADJOURN THE PLANNING COMMISSION AT 7:18 P.M.  
SECONDED BY BETH SHARBUTT  
MOTION CARRIED**

  
Amanda Mabry  
Planning Commission Sec./Deputy City Clerk

**PRESIDING:** Beth Sharbutt, Chair

**MEMBERS PRESENT:** Tyler Mosiman, Clint Brown, Chad Mueller, Steve McGinn-entered meeting at 7:09pm

**MEMBERS ABSENT:** Justin Stucky

**ALSO PRESENT:** Amanda Mabry, Secretary; Bryan Chapman, Mayor;  
Via Zoom: Joe Turner, Administrator; Bickley & David Foster, Foster and Associates.

Chair called the meeting to order at 7:00 p.m.

**MOTION BY TYLER MOSIMAN TO APPROVE THE AGENDA AS PRESENTED  
SECONDED BY CLINT BROWN  
MOTION CARRIED**

**MOTION BY TYLER MOSIMAN TO APPROVE MINUTES FROM NOVEMBER 17, 2020.  
SECONDED BY CHAD MUELLER  
MOTION CARRIED**

New Business

**Public Hearing for New Subdivision Regulations**

- Chair opened the public hearing at 7:02pm to consider adoption of Subdivision Regulations for the City of Sedgwick.
- Introduction of all members of Board and Staff present
- Secretary verified the 20-day notification period for the Hearing was published in the Harvey County Independent on November 12<sup>th</sup>, 2020.
- David Foster, Planning Consultant provided a summary of the Subdivision Regulations as a Model Code. No questions were presented to him from Board.
- The chair opened the legislative hearing to the public at 7:06pm
- There was nobody present at the meeting other than Mayor Chapman & staff informed Board that there has been no communication to the office about the Subdivision regulations.
- The Chair closed the public portion of the hearing at 7:08pm.
- No amendments to the text were submitted.

**MOTION BY CLINT BROWN THAT THE PROPOSED SUBDIVISION REGULATIONS FOR THE CITY OF SEDGWICK BE ADOPTED AS A MODEL CODE DATED DECEMBER 8, 2020 AND THAT THEY BE RECOMMENDED TO THE GOVERNING BODY FOR APPROVAL BY INCORPORATION INTO AN EFFECTUATING ORDINANCE FOR PUBLICATION.  
SECONDED BY TYLER MOSIMAN  
MOTION CARRIED 5-0**

**MOTION BY BETH SHARBUTT TO CLOSE THE SUBDIVISION REGULATION PUBLIC HEARING AT 7:12PM.  
SECONDED BY CLINT BROWN  
MOTION CARRIED**

**Public Hearing for Zoning Regulations & Official Zoning Map**

- Chair opened the public hearing at 7:13pm to consider adoption of new Zoning Regulations and Official Zoning Map for the City of Sedgwick.
- Secretary verified the 20-day notification period for the Hearing was published in the Harvey County Independent on November 12<sup>th</sup>, 2020.
- David Foster, Planning Consultant provided a summary of the Zoning Regulations and Official Zoning Map as a Model Code. He explained the addition of the protective overlay district to allow specific restrictions on any district if needed. Recommended that the Board add a site plan review to the regulation in the future. No questions were presented to him from Board.
- The chair opened the legislative hearing to the public at 7:28pm.
- There was nobody present at the meeting other than Mayor Chapman & staff informed Board that there has been no communication to the office about the Zoning Regulations and Official Zoning Map.
- The Chair closed the public portion of the hearing at 7:29pm.
- No amendments to the text were submitted.

**MOTION BY STEVE MCGINN THAT THE PROPOSED ZONING REGULATIONS FOR THE CITY OF SEDGWICK AND THE OFFICIAL ZONING MAP BE ADOPTED AS A MODEL CODE DATED DECEMBER 8, 2020 AND THAT THEY BE RECOMMENDED TO THE GOVERNING BODY FOR APPROVAL BY INCORPORATION INTO AN EFFECTUATING ORDINANCE FOR PUBLICATION. SECONDED BY CHAD MUELLER**  
**MOTION CARRIED 5-0**

**MOTION BY BETH SHARBUTT TO CLOSE THE ZONING REGULATIONS AND THE OFFICIAL ZONING MAP PUBLIC HEARING AT 7:38PM.**  
**SECONDED BY TYLER MOSIMAN**  
**MOTION CARRIED**

**MOTION BY STEVE MCGINN TO ADJOURN THE PLANNING COMMISSION AT 7:49 P.M.**  
**SECONDED BY BETH SHARBUTT**  
**MOTION CARRIED**

Amanda Mabry  
Planning Commission Sec./Deputy City Clerk

# SUBDIVISION REGULATIONS

of the

# CITY OF SEDGWICK, KANSAS

Official Copy  
as Incorporated by Ordinance No. \_\_\_\_\_

**Model Code**  
prepared by the  
**SEDGWICK CITY PLANNING COMMISSION**

Technical Assistance by

Foster Design Associates LLC  
Landscape Architecture & Planning  
Wichita, Kansas

in association with  
Foster & Associates  
Planning Consultants  
Wichita, Kansas

and

City Subdivision Administrator

edition of \_\_\_\_\_, 2020

effective date \_\_\_\_\_, 2020

---

© Foster Design Associates, LLC, Landscape Architecture & Planning, 2020.  
All rights reserved.

*These Subdivision Regulations are a proprietary product of Foster Design Associates, LLC,  
produced under contract solely for the use of the client named herein  
and any reproduction in any form or by any means, mechanical or electronic, by another party  
is prohibited without prior agreement and written permission from Foster Design Associates, LLC.*

SUBDIVISION REGULATIONS

of the

CITY OF SEBOWICK, KANSAS

CHAPTER 10

ARTICLE 1

SECTION 10-1-1

SEBOWICK CITY BOARD COMMISSION

SECTION 10-1-1-1

SECTION 10-1-1-2

SECTION 10-1-1-3

SECTION 10-1-1-4

SECTION 10-1-1-5

SECTION 10-1-1-6

SECTION 10-1-1-7

SECTION 10-1-1-8

SECTION 10-1-1-9

SECTION 10-1-1-10

SECTION 10-1-1-11

SECTION 10-1-1-12

SECTION 10-1-1-13

SECTION 10-1-1-14

SECTION 10-1-1-15

SECTION 10-1-1-16

SECTION 10-1-1-17

SECTION 10-1-1-18

# Table of Contents

## ARTICLE 1. TITLE, PURPOSE, AUTHORITY, JURISDICTION, APPLICABILITY AND EXEMPTIONS

Section 100	Title. ....	1-1
Section 101	Purpose. ....	1-1
Section 102	Authority. ....	1-1
Section 103	Subdivision Jurisdiction. ....	1-2
Section 104	Applicability. ....	1-2
Section 105	Exemptions. ....	1-2

## ARTICLE 2. INTERPRETATION, CONSTRUCTION AND DEFINITIONS

Section 100	Rules of Interpretation. ....	2-1
Section 101	Rules of Construction. ....	2-2
Section 102	Definitions. ....	2-3

## ARTICLE 3. ADMINISTRATION, PERMITS, ENFORCEMENT, VIOLATIONS AND FEES

Section 100	Division of Administrative Responsibility. ....	3-1
Section 101	Duties of the Subdivision Administrator. ....	3-1
Section 102	Duties of the City Clerk. ....	3-2
Section 103	Duties of the Subdivision Committee. ....	3-2
Section 104	Duties of the Planning Commission. ....	3-3
Section 105	Duties of the Governing Body. ....	3-3
Section 106	Building and Zoning Permits. ....	3-3
Section 107	Enforcement. ....	3-4
Section 108	Violations. ....	3-4
Section 109	Fees. ....	3-4
Section 110	Reports. ....	3-4

## ARTICLE 4. PROCEDURE FOR APPROVAL OF PRELIMINARY AND FINAL PLATS

Section 100	Submittal of Sketch Plan. ....	4-1
Section 101	Filing of Preliminary Plat. ....	4-1
Section 102	Distribution and Review of Preliminary Plat. ....	4-1
Section 103	Action by the Planning Commission on Preliminary Plat. ....	4-2
Section 104	Failure of Planning Commission to Act on Preliminary Plat. ....	4-2
Section 105	Effect of Approval of Preliminary Plat. ....	4-3
Section 106	Filing of Final Plat. ....	4-3
Section 107	Planning Commission Action on the Final Plat. ....	4-3
Section 108	Failure of Planning Commission to Act on Final Plat. ....	4-4
Section 109	Submittal to Governing Body of Final Plat. ....	4-4
Section 110	Governing Body Action on Final Plat. ....	4-4
Section 111	Recording of Final Plat. ....	4-4
Section 112	Unit Developments. ....	4-5
Section 113	Approval of Plats for Small Tracts. ....	4-5

**ARTICLE 5. CONTENTS OF PRELIMINARY AND FINAL PLATS**

Section 100 Contents of Preliminary Plat.....5-1  
Section 101 Contents of Final Plat. ....5-3

**ARTICLE 6. DESIGN STANDARDS**

Section 100 Scope. ....6-1  
Section 101 Comprehensive Development Plan. ....6-1  
Section 102 Land for Public Facility Sites. ....6-1  
Section 103 Land for Open Space. ....6-1  
Section 104 Land Subject to Flooding. ....6-2  
Section 105 Land Subject to Excessive Erosion by Wind or Water. ....6-2  
Section 106 Access. ....6-2  
Section 107 Streets Layout and Design. ....6-2  
Section 108 Alleys. ....6-6  
Section 109 Blocks and Pedestrian Ways.....6-6  
Section 110 Lots. ....6-7  
Section 111 Easements. ....6-7  
Section 112 Commercial and Industrial Subdivisions. ....6-8

**ARTICLE 7. INSTALLATION OF REQUIRED IMPROVEMENTS**

Section 100 Engineering Responsibility.....7-1  
Section 101 Required Improvements. ....7-1  
Section 102 Exceptions for Existing Improvements. ....7-4  
Section 103 Agreement and Guarantees for Installation of Required Improvements. ....7-4  
Section 104 Offsite Improvements.....7-6

**ARTICLE 8. IMPROVEMENT PROCEDURES**

Section 100 Submittal of Petitions.....8-1  
Section 101 Final Improvement Plans. ....8-1  
Section 102 Construction of Improvements. ....8-2  
Section 103 Acceptance of Improvements.....8-2

**ARTICLE 9. PROCEDURE FOR APPROVAL OF LOT SPLITS**

Section 100 Application Procedure. ....9-1  
Section 101 Approval Guidelines. ....9-2  
Section 102 Exception for Industrial Plats. ....9-4

**ARTICLE 10. VACATIONS AND CORRECTIONS**

Section 100 Vacation of Unrecorded Plat. ....10-1  
Section 101 Vacation of Recorded Plat. ....10-1  
Section 102 Correction of Platting Errors. ....10-2  
Section 103 Vacation of Streets, Alleys, Easements and Plats. ....10-2

**ARTICLE 11. APPEALS, WAIVERS AND MODIFICATIONS**

Section 100 Appeals General. ....11-1  
Section 101 Appeals on Improvement Standards. ....11-1  
Section 102 Waiver of Required Improvements or Guarantees for Installation of Same. ....11-1  
Section 103 Modifications. ....11-1

**ARTICLE 12. AMENDMENTS AND REVIEW**

Section 100 Amendment Procedure.....12-1  
Section 101 Annual Review. ....12-1  
Section 102 Judicial Review. ....12-1

**ARTICLE 13. SEVERABILITY AND EFFECTIVE DATE**

Section 100 Severability.....13-1  
Section 101 Effective Date. ....13-1

**APPENDICES.**

Appendix 1 Selected Index by Subject.....Appendix 1-1  
Appendix 2 Ordinance Incorporating and Adopting Subdivision Regulations. ....Appendix 2-1



**ARTICLE 1. TITLE, PURPOSE, AUTHORITY, JURISDICTION, APPLICABILITY AND EXEMPTIONS****Section 100 Title.**

These regulations shall be known and may be cited as the "Subdivision Regulations of the City of Sedgwick, Kansas", and shall hereinafter be referred to as "these regulations".

**Section 101 Purpose.**

Responsible land subdivision is the initial step in the process of orderly community development. Once land has been divided into streets, lots and blocks and publicly recorded, the correction of defects is difficult and costly. These regulations are designed and intended to serve the following purposes:

- A. To provide for the harmonious development of the City of Sedgwick;
- B. To provide for (1) desirable lot layouts, (2) efficient and orderly location of streets and the extent and manner in which they shall be improved, and (3) storm water drainage;
- C. To provide for adequate water supply, sewage disposal, various utility services and other improvements to protect public health, safety and general welfare;
- D. To provide for and secure to the proper governmental agencies the actual construction of all such necessary onsite and offsite public improvements including the reservation or dedication of land for park and recreational purposes;
- E. To provide protection from periodic flooding conditions;
- F. To reserve or dedicate land for open space to preserve natural areas for watercourses, drainage ways, wetlands, woodland, rugged topography, wildlife habitat, and for water quality and quantity, and to protect land from soil erosion;
- G. To avoid water and air pollution and the congestion of population and traffic;
- H. To facilitate safety by adequate access for firefighting equipment and police protection;
- I. To coordinate the subdividing of land with applicable zoning regulations, various construction codes and other City regulations which also affect the development of the land;
- J. To establish administrative procedures necessary to assure a fair and uniform basis for a working relationship with subdividers, utility providers and various governmental agencies, all of whom are contributing to the development of the community; and
- K. To realize the goals, policies and planning proposals as contained in the adopted Comprehensive Development Plan.

**Section 102 Authority.**

These regulations are adopted under authority established by K.S.A., 12-741 *et seq.*, as amended, 12-3009 to 12-3012 inclusive, 12-3301 and 12-3302.

**Section 103 Subdivision Jurisdiction.**

These regulations shall apply only to all subdivisions of land within the corporate limits of the City of Sedgwick, Kansas, as presently exists or are hereafter established by annexation.

All such land is included in the Planning Area for the Comprehensive Development Plan which has been adopted by the Planning Commission and approved by the Governing Body.

**Section 104 Applicability.**

The owner(s) of any land within the jurisdiction of these regulations desiring to vacate rights of way, easements, other public reservations or recorded plats or to:

- A. Divide or further divide land into two or more lots or parcels; or
- B. Otherwise alter the boundaries of lots or parcels of land; or
- C. Establish land for use as streets, alleys or other property intended for public use or for the use of a purchaser or owner(s) of lots or parcels;

shall cause a plat to be made in accordance with the provisions of these regulations, unless exempted under Section 1-105.

**Section 105 Exemptions.**

Notwithstanding the requirements of Sections 1-103 and 104, these regulations shall not apply in the following instances or transactions:

- A. Whenever any lot, parcel or tract of land located within the area governed by these regulations has been legally subdivided, resubdivided or replatted and recorded prior to the effective date of these regulations.
- B. A transaction between owners of adjoining land which involves only a change in the boundary between the land owned by such persons and which does not create an additional lot or which does not result in the creation of a substandard lot by either owner according to any applicable zoning regulations.
- C. A conveyance or dedication of land or interest therein for use as a street, highway, road or railroad right of way, a drainage easement or public utilities subject to local, state or federal regulation, where no new street or easement of access is created.
- D. The layout of burial lots in cemeteries; however, the actual cemetery tract is not exempt.
- E. Any lot split in industrially zoned areas divided in accordance with the provisions of Section 9-102 of these regulations.
- F. Any transfer by operation of law.

Any request made in writing for a determination as to qualifications for being exempt from these regulations shall be answered by the Subdivision Administrator either in the affirmative or negative within 30 days of filing such a request which contains all relevant information.

**ARTICLE 2. INTERPRETATION, CONSTRUCTION AND DEFINITIONS****Section 100 Rules of Interpretation.**

- A. Overlapping or Contradictory Regulations.** Where the conditions imposed by the provisions of these regulations 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.
- B. Private Agreements.** The provisions of these regulations are not intended to abrogate any lawful and valid 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 the responsibility to enforce such private agreements.
- C. Cumulative Limitations.** The provisions of these regulations are cumulative and additional limitations upon all other laws and ordinances heretofore passed or which may be passed hereafter governing any subject matter set forth in the provisions of these regulations.
- D. Unlawful Subdivisions.** A subdivision of land which was not lawfully existing at the time of the adoption of these regulations shall not become or be made lawful solely by reason of the adoption of these regulations.
- E. Vesting of Development Rights.** For the purpose of single-family residential developments according to K.S.A. 12-764, as amended, development rights in such land use shall vest upon recording of a final plat of such land after January 1, 1992. If construction of a principal structure is not commenced on such land within five years of recording a final plat before July 01, 2009, the development rights in such land shall expire and, thus, all revisions to zoning or subdivision regulations becoming effective during the period vested shall then apply to such platted land. For such plats recorded on or after July 01, 2009, such construction must take place within 10 years to be vested.

**Section 101 Rules of Construction.**

- A. The language set forth in these regulations shall be interpreted in accordance with the following rules of construction:
1. The singular number includes the plural and the plural the singular.
  2. The present tense includes the past and future tenses and the future tense includes the present tense.
  3. The word "shall" is mandatory while the word "may" is permissive.
  4. The word "City" means the City of Sedgwick, Kansas.
  5. The word "County" means Harvey County, Kansas and Sedgwick County, Kansas.
  6. The word "Clerk" means the City Clerk, unless otherwise identified as the County Clerk.
  7. The words "County Engineer" mean the officially appointed engineer for the respective county involved—either Harvey County or Sedgwick County.
  8. The words "Planning Commission" mean the Sedgwick City Planning Commission.
  9. The words "the Governing Body" mean the Mayor and City Council of the City of Sedgwick, Kansas, unless otherwise identified as the Board(s) of County Commissioners of Harvey and/or Sedgwick County, Kansas. (See Section 7-101.)
  10. The words "Planning Area" mean the City plus a perimeter area outside of and around the city limits all within Harvey and Sedgwick Counties designated by the City in their comprehensive development plan as the official study area for planning purposes.
  11. The words "Comprehensive Plan" mean the Comprehensive Development Plan for the Sedgwick Planning Area of Harvey and Sedgwick Counties, Kansas, which has been adopted by the Planning Commission, approved by the Governing Body and includes, among other elements, plans for land use, transportation, utilities and community facilities.
  12. The words "subdivision jurisdiction" mean the area as described in Section 1-103 for which these regulations are applicable for purposes of subdividing land. Such jurisdiction cannot exceed the boundary of the Planning Area.
- B. Any word or phrase which is defined in this Article or elsewhere in these regulations shall have the meaning as so defined whenever used in these regulations, unless such definition is expressly limited in its meaning or scope.
- C. Words or terms not herein defined shall have their ordinary meaning in relation to the context as defined in a dictionary or by statute.

**Section 102 Definitions.**

The following definitions shall be used in the interpretation and construction of these regulations:

**ACCELERATION LANE:** An added street lane which permits integration and merging of slower moving vehicles into the main vehicular stream of traffic.

**ACCESS CONTROL:** The limitation of public access rights to and from properties abutting streets or highways. Access control is used on major streets and highways, when necessary, to preserve high-quality traffic service and to improve safety.

**AGRICULTURE:** The use of a tract of land under one ownership for growing crops, pasturage, horticulture, nurseries, truck farms, dairying or the raising of poultry or cattle and other livestock, except feedlots, and including the structures necessary for carrying out farming operations and the dwelling(s) of those owning and/or operating the premises. The feeding or disposal of community or collected garbage shall not be deemed an agricultural use, nor shall riding academies, livery or boarding stables, dog kennels, or commercial or hydroponic greenhouses; however, forested and non-producing open space land are considered as agricultural.

**APPLICANT:** A person submitting an application for approval of a preliminary and/or final plat or a lot split.

**BENCHMARK:** Surveying mark made in some object which is permanently fixed in the ground showing the height of that point in relation to sea level.

**BLOCK:** A series of lots or tract of land bounded by streets, public parks, cemeteries, railway rights of ways, waterways, city limits or a combination thereof.

**BUILDING SETBACK LINE:** A line on a lot or other parcel of land indicating the limit beyond which buildings or structures may not be erected or altered and establishing the minimum open space to be provided. Such line may be more, but not less restrictive than applicable zoning or other regulations.

**CURB CUT:** The opening along a curb line at which point vehicles may enter or leave a roadway. (See City ordinance for curb cuts.)

**DECELERATION LANE:** An added roadway lane that permits vehicles to slow down and leave the main vehicular stream of traffic.

**DEDICATION:** A gift or donation of property by the owner to a governmental unit. The transfer is conveyed by a plat or a written separate instrument. The act of dedicating is completed with a formal acceptance by the governing body.

**DESIGN STANDARDS:** The basic land planning principles established as guides or requirements for the design and layout of subdivisions as described in these regulations.

**DETENTION POND:** A storage facility for the temporary storage of storm water runoff. The storm water may be released by gravity or by mechanical means at such time as downstream facilities can handle the flow.

**DEVELOPER'S AGREEMENT:** A contractual agreement signed and notarized by the subdivider and the Governing Body which is conditioned upon acceptance of the final plat for the dedications thereon with primary concern for the design, installation, inspection and financing or guarantees for public improvements. (See Section 7-104A for Agreement and Guarantees for Installation of Required Improvements.)

**EASEMENT:** A public dedication or private grant by a property owner of the specific use of a strip of land or portion of land by others.

**ENGINEER:** A professional engineer licensed by the State of Kansas who designs or engineers and inspects public improvements in connection with the approval of plats and construction of related improvements. (See LAND PLANNER and SURVEYOR.)

**FLAG LOT:** A lot, tract or parcel of land that provides minimum frontage to a street by a narrow strip of land for a driveway and whose main body of land lies to the rear of the property which is adjacent to the street. When such lots are permitted, a building setback line must be shown on the recorded plat which is not less than that required by applicable zoning regulations. (See Section 6-106 for Access.)

**FRONTAGE:** 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.

**HOMEOWNERS' ASSOCIATION:** A community association, other than a condominium association, that is organized in a subdivision in which individual owners share common interests, ownership and responsibilities for costs and upkeep of common open space, reserves, facilities or infrastructure and may enforce certain covenants and restrictions. The incorporation document shall contain provisions for the ownership and maintenance of the common open space, reserves, facilities and infrastructure as are reasonably necessary to ensure their continuity, care, conservation and maintenance, and to ensure that remedial measures will be available to the City if such responsibilities are permitted to deteriorate or are not maintained in a condition consistent with the best interest of the subdivision or the City. If the City finds it necessary to carry out the obligations required to maintain such responsibilities in order to avoid having them become a public nuisance, the costs shall be assessed against the properties within the development and shall become a tax lien on said properties. When a subdivision is comprised of both homeowners and other users of the land such as commercial, the association may be called an "Owners' Association".

**IMPROVEMENTS, PUBLIC:** Any street, roadway, alley, sidewalk, planting strip, cross walkway, off-street parking area, sanitary sewer, storm sewer, drainage ditch, water main or other facility for which a governing body may ultimately assume the responsibility for maintenance and/or operation.

**LAND PLANNER:** A professional architect, engineer, landscape architect or surveyor licensed by the State of Kansas who is responsible for the design and preparation of a preliminary plat. (See ENGINEER and SURVEYOR.)

**LOT:** A portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for development.

1. **LOT, DOUBLE FRONTAGE:** A lot, two opposite lot lines of which abut upon streets which are more or less parallel.
2. **LOT, REVERSE FRONTAGE:** A lot whose rear lot line also serves as the street line for a limited access highway or street.

**LOT DEPTH:** The distance between the midpoint of the front lot line and the midpoint of the rear lot line.

**LOT LINE:** The boundary line of a lot.

**LOT SPLIT:** The dividing of a lot in a recorded plat or replat of a subdivision into not more than two parcels which creates an additional lot and meets the criteria established within these regulations. A lot split is not created by the transfer or sale of a lot plus a portion of an adjacent lot or the combining of portions of two lots to form a lot which is equal to or larger than the other platted lots in the block so long as an additional lot is not created. (See Article 9 for Procedure for Approval of Lot Splits.)

**LOT WIDTH:** The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

**MINIMUM PAD ELEVATION:** The lowest ground elevation completely surrounding a structure or the lowest flood proofed opening into a structure. This elevation is expressed in city datum or mean sea level.

**MONUMENT:** A device used to mark and identify the corners in the boundaries of subdivisions, blocks and lots and the points of curves in the street rights of way. Usually such devices are made of a metallic bar or tube and may or may not be in concrete.

**OWNER:** Any individual, firm, association, partnership, corporation, trust, or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

**PARKING STRIP:** That portion of street right of way that is unpaved and which is located between the back of a curb and the street right of way line. Such strip provides right of way for the installation of public utilities (typically gas and water lines), street signs, street lights, sidewalks, driveways, traffic control devices, fire hydrants, street furniture, street trees and other ancillary uses. The parking strip should not be confused with parking lanes that are often provided for as part of street pavement.

**PEDESTRIAN WAY (CROSSWALK):** A right of way across a block or providing access within a block to be used primarily by pedestrians.

**PETITION:** A legal instrument which serves as the basis for initiation of a public improvement project. A petition is frequently used during the platting process to guarantee the construction of certain improvements, e.g., street paving, water and sewer lines, drainage, etc. A petition is valid if its signatures are more than 50% either by area within the benefit district or by ownerships. Petitions are also used to initiate the vacation of streets, alleys, easements, other public reservations and plats. (See Section 7-103A for improvement petitions and Section 10-103 for vacation petitions.)

**PLAT:** A map or drawing on which the subdivider's plan of the subdivision is presented and which he or she submits for approval and intends to record in final form: (See LOT SPLIT.)

1. **SKETCH PLAN:** A map or plan of a proposed subdivision made prior to the preparation of the preliminary plan to enable the subdivider to save time and expense in reaching tentative general agreements by a discussion of the form and objectives of their regulations.
2. **PRELIMINARY PLAT:** A tentative map or plan of a proposed subdivision of land showing the character and general details of the proposed development.
3. **FINAL PLAT:** A formal document by drawing and writing representing a subdivision which is prepared in accordance with these regulations to be placed on record with the County Register of Deeds.
4. **REPLAT:** A new plat or a revision to a subdivision or portion thereof for which a final plat has previously been recorded. The approval of a replat is processed in the same manner as a final plat.

**RESERVE:** An area of property within a subdivision which is platted for specific uses, e.g., open space, landscaping, entry monuments, recreational facilities, utilities, drainage, floodway, etc. Typically, future ownership and maintenance responsibilities for a reserve is set forth by a restrictive covenant which provides that a homeowners or lot owners association will hold title to the reserve and therefore be responsible for the reserve's maintenance. The restrictive covenant may provide for ownership and maintenance to be tied to the ownership of an adjacent lot. Ownership and maintenance is not assigned to an individual, partnership or corporation except in the case of a reserve platted for possible future sale to a public body for a public facility. (See Section 6-102 for Land for Public Facility Sites and Section 6-103 for Land for Open Space.)

**RESTRICTIVE COVENANTS:** Contracts entered into between private parties which constitute a restriction on the use of private property within a subdivision for the benefit of property owners and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values. Such restrictions may be set forth in a deed. Restrictions are also placed of record by separate instruments including homeowner association agreements. Restrictive covenants usually run with the land. (See Section 2-100B for Private Agreements.)

**RESUBDIVISION:** The subdivision of a tract of land which has previously been lawfully subdivided and a plat of such prior subdivision duly recorded. Sometime referred to as a "replat". (See PLAT for REPLAT.)

**RIGHT OF WAY:** The area between boundary lines of a street, alley or other easement of access.

**ROADWAY:** That portion of a street, alley or highway right of way which has been graded, surfaced or otherwise improved for use by vehicular traffic, exclusive of sidewalks, driveways and related uses.

**SCREENING:** Fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such fencing or vegetation. When fencing is used for screening, it shall be not less than six nor more than eight feet in height, unless otherwise provided. (See Section 6-111E for screening easement.)

**SIDEWALK:** That portion of a street or pedestrian way, paved or otherwise surfaced, intended for pedestrian use only. (See PEDESTRIAN WAY [CROSSWALK].)

**STREET:** The entire right of way width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic, and the placement of utilities and including the term "road", "highway", "lane", "place", "avenue", "alley" or other similar designation.

1. **ALLEY:** A right of way along the side of or in the rear of lots which affords a secondary means of access to and from streets and such lots.
2. **ARTERIAL:** A street of considerable continuity which is primarily a traffic artery for intercommunication among large areas and which provides access to abutting properties only as a secondary function.
3. **COLLECTOR:** A street supplementary to the major street system and a means of intercommunication between this system and smaller areas which is used for both through traffic and for access to abutting properties.
4. **CUL-DE-SAC:** A short street with one end open to traffic and being permanently terminated by a vehicular turnaround at the other end.
5. **DEAD END:** A street having only one outlet for traffic.
6. **EXPRESSWAY:** Any divided street or highway with no access from abutting property and which has either separate or at-grade access from other public streets and highways. Such streets have a minimum of four traffic lanes.
7. **HALF-STREET:** A portion of the right of way of a street, usually along the edge of a subdivision where the remaining portion of the street is intended to be provided in another subdivision.
8. **LOCAL:** A street intended primarily for access to abutting properties and of limited continuity within a neighborhood.
9. **MARGINAL ACCESS OR FRONTAGE ROAD:** A local street which is parallel with and adjacent to a limited access highway or arterial street and which provides access to abutting properties and protection from fast through traffic on the parallel streets.

**STREET WIDTH:** The shortest distance between lines delineating the right of way of a street.

**SUBDIVIDE LAND:** To partition a parcel of land into two or more parcels, tracts, lots or sites for the purpose of transfer of ownership or development, whether immediate or future, when such parcel exists as a unit or contiguous units under a single ownership.

**SUBDIVIDER:** The owner, or any other person, firm or corporation authorized by the owner, undertaking proceedings under the provisions of these regulations to subdivide land.

**SUBDIVISION:** Either an act of subdividing land as defined in this section or a tract of land subdivided.

**SUBDIVISION ADMINISTRATOR:** The person appointed by the Mayor with the consent of the City Council to administer these regulations. (See Section 3-101 for Duties of Subdivision Administrator.)

**SURVEYOR:** A professional surveyor licensed in the State of Kansas who is responsible for the survey and preparation of the final plat. (See ENGINEER and LAND PLANNER.)

**TURNAROUND:** An area at the closed end of a street with a single common ingress and egress within which vehicles may reverse their direction.

**VISION TRIANGLE:** A triangular area at the intersection of streets maintained in such a manner as to provide a safe and open line of vision for drivers of vehicles approaching the intersection. Within the vision triangle, no one shall install, construct, plant, park or maintain any sign, fence, hedge, shrubbery, tree, natural growth or other obstruction which would materially impede vision between the heights of 33 inches and eight feet above the street level. Such restrictions shall not apply to official traffic signs, signals and utility poles. (See Section 6-111C for vision triangle easement and City Zoning Regulations for definition of VISION TRIANGLE.)

**WATERCOURSE:** A stream of water having a course, current and cross-section, either natural or man-made.

**WETLAND:** A land area that is saturated by surface water or ground water at frequencies and durations sufficient to support a prevalence of plant life typically adapted for life in saturated soil conditions and as defined in Section 404, Federal Water Pollution Control Act of 1972, as amended, and delineated on maps prepared by the U.S. Fish and Wildlife Service and as field verified by onsite inspection.

**ZONING DEFINITIONS:** Designing a plat utilizes numerous design criteria embodied in the definitions for various words and planning concepts contained in applicable Zoning Regulations. Some of them used often in the platting process and not otherwise defined herein are:

BULK REGULATIONS; DENSITY; FENCE; FLOOR AREA; LANDSCAPING; LOT AREA; LOT; LOT COVERAGE; LOT, INTERIOR; LOT LINE, FRONT; LOT LINE REAR; LOT LINE, SIDE; LOT OF RECORD; LOT SIZE REQUIREMENTS; LOT, THROUGH; LOT, CORNER ZONING; YARD; YARD, FRONT; YARD, REAR; YARD, SIDE.

Utilizing such design criteria as defined for the preparation of a plat is important to coordinate the subdividing of land with applicable City Zoning Regulations. (See Section 1-101 I for Purpose.)

**ARTICLE 3. ADMINISTRATION, PERMITS, ENFORCEMENT, VIOLATIONS AND FEES****Section 100 Division of Administrative Responsibility.**

The administration of these regulations is vested in the following governmental branches of the City:

- A. Subdivision Administrator.
- B. City Clerk.
- C. Subdivision Committee.
- D. Planning Commission.
- E. Governing Body.

Each of the above named governmental branches shall have the responsibilities hereinafter set forth.

**Section 101 Duties of the Subdivision Administrator.**

The Subdivision Administrator or designee shall administer the provisions of these regulations and in furtherance of such authority, shall:

- A. Serve as an assistant to the Planning Commission on (1) the review of sketch plans, plats and lot splits; and (2) the vacation of plats, rights of way, easements and other public reservations.
- B. Inform applicants of procedures required for subdivision approval and vacations, provide application forms and other administrative forms to facilitate the process, and convey to subdividers the decisions of the Planning Commission.
- C. Receive and establish files for all sketch plans, preliminary and final plats, replats, final plats for small tracts, lot splits and vacations together with applications therefor.
- D. After determining the adequacy of the information submitted as suitable for distribution, forward copies of the preliminary plat and final plats for small tracts, when deemed necessary, to other appropriate governmental agencies and public and private utilities providers for their comments and recommendations.
- E. Review and compile a list of comments on all preliminary plats to determine whether such plats comply with these regulations and similarly review and compile a list on all final plats to determine whether they comply with the preliminary plat, if any, and these regulations.
- F. Forward sketch plans, preliminary and final plats and lot splits to the Subdivision Committee and/or Planning Commission for their consideration, together with the list of comments and recommendations.
- G. Following approval by the Planning Commission and recommendations on vacations forward to the Governing Body all final plats, replats, final plats for small tracts as well as vacations after having checked and assembled all pertinent data and drawings.
- H. Make such other determinations and decisions as may be required by these regulations.

**Section 102 Duties of the City Clerk.**

The City Clerk shall:

- A. File at least three copies of these model regulations marked by the Clerk as "Official Copy as Incorporated by Ordinance No. \_\_\_\_\_", (i.e., the ordinance approved by the Governing Body) and all sections or portions thereof intended to be omitted clearly marked to show any such omissions or showing the sections, articles, parts or portions that are incorporated and to which shall be appended a copy of the incorporating ordinance. Such copies maintained by the Clerk shall be open to inspection and available to the public at all reasonable business hours.
- B. Distribute at cost to the City, official copies of these regulations similarly marked as described in Section 3-102A to the applicable police department, court, Subdivision Administrator, zoning administrator, building inspector, City Attorney and all administrative departments of the City charged with the enforcement of these regulations. Subsequent amendments to these regulations shall be appended to such copies.
- C. Process the required fees.
- D. Provide clerical assistance to the Governing Body so as to facilitate and record their actions in the exercise of their duties relating to these regulations.

**Section 103 Duties of the Subdivision Committee.**

The Planning Commission may create a Subdivision Committee composed of any three or more of its members. The Chairperson shall, with the concurrence of the Commission, appoint the members and designate the chairperson and vice-chairperson of the Committee for such period of time as deemed appropriate. The Subdivision Administrator and other non-commission members such as public and private officials engaged in public works, utilities, sanitation, safety and building and zoning administration may be asked to serve as ex officio Committee members. The Subdivision Committee, among other assignments, may:

- A. Review sketch plans and forward comments to the potential subdivider.
- B. Review preliminary plats to determine compliance with these regulations, review final plats to determine whether they comply with the preliminary plat and these regulations, and forward such determinations and recommendations as may be appropriate to the Planning Commission.
- C. When deemed desirable, review proposed lot splits and vacations for recommendations to the Planning Commission.

Any person aggrieved by any comments, determinations or recommendations of the Subdivision Committee shall have a right to appeal to the Planning Commission.

**Section 104 Duties of the Planning Commission.**

The Planning Commission shall:

- A. Review the sketch plans, when submitted, and forward comments to the potential subdivider whenever this responsibility is not otherwise performed by a Subdivision Committee.
- B. Review and approve, approve conditionally or disapprove preliminary plats and lot splits.
- C. Review and approve, approve conditionally or disapprove final plats and transmit the same to the Governing Body for their acceptance of dedications of streets, alleys and other public ways and sites.
- D. Make recommendations to the Governing Body on vacations of recorded plats, rights of way, easements and other public reservations.
- E. Make such other determinations and decisions as may be required of the Commission from time to time by these regulations or applicable sections of the Kansas Statutes Annotated.

**Section 105 Duties of the Governing Body.**

The Governing Body shall:

- A. Accept or not accept dedications of streets, alleys and other public ways and sites shown on final plats and, in cases of disapproval or modification, inform the subdivider in writing of the reasons.
- B. Approve or not approve vacations of recorded plats, rights of way, easements and other public reservations.

**Section 106 Building and Zoning Permits.**

No building or zoning permit or occupancy certificate except those involving repairs, maintenance, continuation of an existing use or occupancy or accessory structures, shall be issued for a principal building or structure or use on any lot, tract or parcel of any subdivision that is subject to the provisions of these regulations until a copy of the recorded plat is available for examination by the applicable official charged with issuing such permits or certificates. Furthermore, no such building or zoning occupancy certificates shall be issued for the use of any building or structure within a subdivision approved for platting, replatting or lot splitting until required utility facilities have been installed and made ready to service the property; roadways providing access to the subject lot or lots have been constructed or are in the course of construction; or guarantees have been provided to ensure the installation of such utilities and roadways. If platting is not required, dedications in lieu of platting may be required to obtain easements and access control and to widen rights of way as well as to provide necessary public improvements during the process of issuing permits. (See Section 2-100E for Vesting of Development Rights and Section 1-105 for Exemptions from platting.)

**Section 107 Enforcement.**

No plat shall be approved which does not comply with the provisions of these regulations or be entitled to record at the County Register of Deeds or have any validity until it shall have been approved in the manner prescribed in these regulations. It shall be the duty of the Subdivision Administrator and the applicable official charged with issuing building and zoning permits and occupancy certificates in conjunction with the City Attorney or their designees to enforce these regulations. The following actions are specifically prohibited:

- A. The transfer or sale by metes and bounds description of any land subject to the applicability of Section 1-104 which is not otherwise exempted by Section 1-105.
- B. Approval of a plat by the Planning Commission which does not comply with the provisions of these regulations.
- C. The transfer or sales of any lot, tract or parcel of land located in a plat accepted for dedications by the Governing Body which has not been recorded with the Register of Deeds.
- D. The recording of any plats or replats of land laid out with building lots, streets, alleys, utility or other easements and dedications to the public unless the plat or replat bears the attested signatures of the Planning Commission and the Governing Body.

**Section 108 Violations.**

- A. **Penalties.** Pursuant to K.S.A. 12-761, as amended, any violations of these regulations shall be deemed to be a misdemeanor. Any person, firm, association, partnership, or corporation convicted thereof, shall be punished by a fine 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.
- B. **Remedies.** The City shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provisions of these regulations and to abate nuisances maintained in violation thereof; and in addition to other remedies, the appropriate authorities of the City of Sedgwick may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of such buildings, structures or land.

**Section 109 Fees.**

For purposes of wholly or partially defraying the costs of the administrative and enforcement provisions described in these regulations, including the cost of engineering and inspection services and recording legal documents, the applicant upon filing an application for a preliminary or final plat, plat for small tracts, lot split or vacation, shall pay the Clerk a fee according to the fee schedule approved by the Governing Body. No part of such fee shall thereafter be refunded.

**Section 110 Reports.**

The Subdivision Administrator shall periodically report verbally or in writing to the Governing Body and the Planning Commission a summary of all subdivisions and the number of lots recorded on final plats during the preceding period, giving details of any permitted variations, as well as the current status of all applications in process for sketch plans, preliminary and final plats, lot splits and vacations. Such a report shall include comments on any problems encountered in the administration or enforcement of these regulations which may especially be of use at the annual review established by Section 12-101.

**ARTICLE 4. PROCEDURE FOR APPROVAL OF PRELIMINARY AND FINAL PLATS****Section 100 Submittal of Sketch Plan.**

The subdivider may, if deemed desirable, submit a sketch plan at least 20 days prior to their meeting in order to receive the pre-plat comments of the Subdivision Committee and/or the Planning Commission which may prove helpful in designing the preliminary plat. The number of copies of the sketch plan, as determined by the Subdivision Administrator, should be submitted to the Administrator in a simple format sufficient to convey the location of proposed streets and utilities, the general layout of lots, and to note any particular design situations which could benefit from an early discussion of the problems. One copy of the sketch plan shall be returned to the subdivider with notations marked as to the comments resulting from such a review process. No fee shall be charged for the sketch plan review.

**Section 101 Filing of Preliminary Plat.**

An application shall be filed with the Subdivision Administrator at least 30 days prior to the next regular meeting of the Planning Commission and such number of copies of the preliminary plat as may be determined necessary by the Administrator for proper review by affected and interested governmental and public and private organizations. Such plat shall not be accepted for filing until the fee as provided for in Section 3-109 has been paid by the subdivider to the Clerk. The preliminary plat shall contain the information as set out in Section 5-100 of these regulations.

**Section 102 Distribution and Review of Preliminary Plat.**

After the filing of the preliminary plat, the Subdivision Administrator shall distribute copies to affected and interested governmental and public and private organizations as appropriate. Organizations receiving copies shall have 15 days to review the preliminary plat and to make their comments and recommendations to the Planning Commission. A lack of response in 15 days shall, at the discretion of the Commission, signify approval, unless during this period a written request for an extension of one time only not to exceed 15 days is submitted to the Commission.

**Section 103 Action by the Planning Commission on Preliminary Plat.**

The Planning Commission shall review the preliminary plat and consider the comments and recommendations of the organizations to whom the preliminary plat had been submitted for review. If deemed desirable, the Commission may mail notices or copies of agendas to interested parties and conduct a public meeting for the purpose of receiving an input of information supporting or opposing the preliminary plat.

- A. The Planning Commission shall determine whether the preliminary plat generally meets the design standards and requirements of these regulations, the Comprehensive Plan, the applicable zoning regulations and other applicable provisions of the ordinances and rules of the City.
- B. If satisfied, the Planning Commission shall approve the preliminary plat with or without conditions by a majority vote of the members present and voting, and so notify the subdivider in writing.
- C. If the Planning Commission determines that the preliminary plat does not satisfy the foregoing conditions, it may suggest modifications so as to satisfy such conditions and in such event:
  1. The subdivider may amend the preliminary plat so as to incorporate such modifications and resubmit the plat to the Commission, which shall then grant its approval if such amendments satisfactorily incorporate the suggested modifications; or
  2. The subdivider may reject the suggested modifications or, within the time allowed for Commission action, may refrain from taking any action thereon. In either event, the preliminary plat shall be deemed to have been disapproved and the Commission shall thereupon furnish the subdivider with a written statement setting forth the reasons for disapproval of the preliminary plat.
- D. If the Planning Commission determines that the preliminary plat does not satisfy the conditions of these regulations and that modifications would be too extensive or impractical, it shall disapprove the preliminary plat and immediately notify the subdivider in writing of its action, all within 60 days.

**Section 104 Failure of Planning Commission to Act on Preliminary Plat.**

If the Planning Commission fails to approve or disapprove a preliminary plat within 60 days after the date such plat is filed with the Subdivision Administrator or from the date the subdivider has filed the last item of required data, whichever date is later, then such preliminary plat shall be deemed to have been approved, unless the subdivider shall have consented in writing to extend or waive such time limitation.

**Section 105 Effect of Approval of Preliminary Plat.**

- A. Approval of the preliminary plat shall not constitute approval of the subdivision by the Planning Commission, but shall signify in general the acceptability of the proposed subdivision.
- B. Such approval shall be considered permission to submit the final plat accompanied by the information required by Section 5-101R.
- C. Such approval shall be effective for no more than 12 months from the date approval was granted, unless, upon application from the subdivider, the Planning Commission grants an extension of time beyond such period. If a final plat for the entire subdivision or a unit thereof has not been filed with the Subdivision Administrator within such period, or any extensions granted thereto, the preliminary plat must be resubmitted to the Commission as if such plat had never been approved, except that no additional fee shall be charged for such resubmittal if there are no substantive changes from the previous preliminary plat approval.

**Section 106 Filing of Final Plat.**

An application for final plat approval, together with a sufficient number of copies as determined by the Subdivision Administrator for proper review, shall be filed with the Administrator at least 20 days prior to the next regular meeting of the Planning Commission and within 12 months after the date that the preliminary plat has been approved. The Administrator shall transmit the final plat to the Commission and to other affected and interested governmental and public and private organizations as desirable for any further recommendations. The final plat shall contain the information as set out in Section 5-101 of these regulations. An application for a replat approval is processed in the same manner as a final plat. (See Section 2-102 for definition of a REPLAT under the heading of PLAT.)

**Section 107 Planning Commission Action on the Final Plat.**

The Planning Commission shall, within 60 days after the first meeting of the Commission following the date that the plat with all required data is filed with the Subdivision Administrator, review and approve the final plat by a majority vote of the members present and voting if:

- A. It is substantially the same as the approved preliminary plat; or
- B. There has been compliance with all conditions which may have been attached to the approval of the preliminary plat; and
- C. It complies with all of the provisions contained in these regulations and of other applicable regulations or laws.

**Section 108 Failure of Planning Commission to Act on Final Plat.**

If the Planning Commission fails to approve or disapprove the final plat within the 60 days designated by state law for its consideration as stated in Section 4-107, it shall be deemed to have been approved and a certificate shall be issued by the Secretary upon demand, unless the subdivider shall have consented in writing to extend or waive such time limitation. (See K.S.A. 12-752[b].)

**Section 109 Submittal to Governing Body of Final Plat.**

Before a final plat is recorded, it shall be submitted to the Governing Body for its acceptance of dedications for street rights of way and other public ways, drainage and utility easements, and any land dedicated for public use and accompanied by guarantees for the installation of required improvements according to Section 7-104.

**Section 110 Governing Body Action on Final Plat.**

The Governing Body shall either accept or not accept the dedication of any land for public purposes by a majority vote within 30 days after the first meeting of the Governing Body following the date of the submission of the plat to the Clerk. The Governing Body may defer action for an additional 30 days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. If the Governing Body defers action on the plat or declines to accept the dedications thereto, it shall advise the Planning Commission and the subdivider in writing of the reasons therefor. Acceptance of the dedications on the plat shall be shown over the signature of the Mayor and attested to by the Clerk.

**Section 111 Recording of Final Plat.**

The final plat with all required signatures and in the exact form as accepted by the Governing Body shall be recorded by the subdivider with the County Register of Deeds. The subdivider shall pay the recording fee and any outstanding real estate taxes and special assessments. Approval of the final plat by the Planning Commission and acceptance by the Governing Body shall be null and void if the plat is not acceptable for recording in the office of the Register of Deeds or is not recorded within 60 days after final acceptance by the Governing Body. The subdivider shall submit to the Subdivision Administrator such number of copies of the recorded plat as are necessary for record keeping purposes of the City and other affected governmental agencies as well as a DWG or DXF file and a PDF file. (See Section 5-101R1 for title report and Section 10-100C for Vacation of Unrecorded Plat.)

**Section 112 Unit Developments.**

The foregoing provisions of these regulations to the contrary notwithstanding, an approved preliminary plat may be submitted for final approval in separate geographic units rather than as a whole, provided the following conditions are met:

- A. Each unit of a plat of subdivision shall contain an area of sufficient size based on physical conditions and ability to install improvements economically.
- B. The approval of the Planning Commission as to the feasibility of such development, in separate units, including the feasibility of the proposed sequence of development, shall be secured.
- C. A final plat of at least one unit shall be filed within 12 months from the date of approval of the preliminary plat, and final plats of all such units shall be filed within five years from the date that the preliminary plat was approved. The Planning Commission on application of the subdivider, may, from time to time, grant extensions of time within which to submit such final plats, provided that each such extension shall be for no more than one year.
- D. All steps required for the approval of final plats, including the recording thereof, shall be adhered to with respect to each unit so submitted.
- E. A replat of all or a portion of a recorded final plat may be submitted at any time.

**Section 113 Approval of Plats for Small Tracts.**

- A. **Authorization.** Any other provision of these regulations to the contrary notwithstanding, if a proposed plat of subdivision or resubdivision complies with the requirements of Section 4-113B, then the Planning Commission may approve a final plat of such subdivision or resubdivision when neither a sketch plan nor a preliminary plat has been filed by the subdivider and a preliminary plat has not been approved by the Planning Commission.
- B. **Requirements.** In order to qualify for approval in the manner provided in Section 4-113A, a proposed plat of subdivision shall comply with the following requirements:
  1. The proposed plat of subdivision shall include not more than 10 acres if a residential plat, nor more than five acres for any other type of plat, unless approved for a larger acreage by the Planning Commission.
  2. The proposed plat of subdivision shall create not more than five lots, tracts or parcels of land, unless approved for a larger number by the Planning Commission.
  3. No public street or easement of access, e.g., a utility or drainage easement, is sought to be dedicated or is contemplated or projected through (as opposed to adjacent to) the lot, tract or parcel proposed to be subdivided or resubdivided.
  4. The proposed plat of subdivision shall be in the form required by Section 5-101 and shall contain all the data, information and certificates required on final plats as well as the supplemental information.
  5. Submission of the fees as required by Section 3-109.

**C. Procedures.**

1. Final plats filed for approval pursuant to Section 4-113 shall be filed with the Subdivision Administrator who may submit such plat for review and recommendations to affected and interested governmental agencies and public and private utility providers as deemed desirable. The Administrator may require the subdivider to submit topographic information whenever the property proposed to be subdivided or resubdivided is traversed by or is adjacent to a known watercourse, including intermittent streams or is subject to flooding as defined in Section 6-104.
2. The approval of final plats by the Planning Commission pursuant to Section 4-113 shall be subject to the same procedural provisions of a final plat, except insofar as the said sections require prior approval of, or compliance with, an approved preliminary plat.

**ARTICLE 5. CONTENTS OF PRELIMINARY AND FINAL PLATS****Section 100 Contents of Preliminary Plat.**

The preliminary plat shall be drawn at a scale of not more than one inch equals 100 feet.

- A. General Information. The following general information shall be shown on the preliminary plat:
1. Proposed name of the subdivision not duplicating or resembling the name of any plat heretofore recorded within the area of jurisdiction of these regulations. The use of the word "Addition" should be used for a plat which has just been or is in the process of being annexed and not for the subdivision of land already in the City.
  2. Date of preparation, north point and scale of drawing.
  3. An identification clearly stating that the drawing is a preliminary plat.
  4. Location of the subdivision by quarter-section, section, township and range and by measured distances to a section corner to further define the location and boundary of the tract.
  5. Names of adjacent subdivisions or, in the case of unplatted land, the name of the owner or owners of adjacent property.
  6. The name and address of the landowner, the subdivider and the name and seal of the land planner who prepared the plat and surveyor who did the topographic survey.
- B. Existing Conditions. The following existing conditions shall be shown on the preliminary plat:
1. The location, right of way, width and names of all existing public or private streets within or adjacent to the tract, together with easements, railroad rights of way and other important features such as section lines and corners, city and township boundary lines and monuments.
  2. The horizontal location within the subdivision and the adjoining streets and property of existing sanitary and storm water sewers including flow lines, water mains, culverts, catch basins, manholes, fire hydrants, underground wiring, pipe lines and gas lines proposed to serve the subdivision.
  3. Contour lines or spot elevations based on U.S. Geological Survey datum having the following intervals:
    - a. Two-foot contour intervals for ground slopes less than 10%.
    - b. Five-foot contour intervals for ground slopes exceeding 10%.
    - c. Spot elevations where the ground is too flat for contours.
- The date of the topographic survey shall be shown including the location, elevation and description of the benchmark controlling the vertical survey.
4. Locations of existing monuments or survey markers used in preparation of the survey.

5. The location and direction of all watercourses and areas subject to flooding as determined by Section 6-104.
  6. Significant natural features including, but not limited to rock outcroppings, wetlands, lakes and wooded areas.
  7. Existing use of the property including the location of all existing structures showing those that will be removed and those that will remain on the property after the final plat is recorded.
  8. Boundary line of proposed subdivision clearly indicated and total acreage therein.
  9. Zoning district classifications on and adjacent to the tract, if any.
- C. Proposed Subdivision Plat. The following information with respect to the manner in which the tract is to be subdivided and developed shall be included on the preliminary plat:
1. Streets showing the location, right of way, width, names and approximate grades thereof. The preliminary plat shall show the relationship of all streets to any projected streets shown or to any related Comprehensive Plan proposal or, if none proposed, then as determined by the Planning Commission.
  2. Street names which do not duplicate any heretofore used in the City or its environs, unless the street is an extension of or in line with an already named street, in which event that name shall be used. Appropriate prefixes and suffixes which provide relative direction and type of street should accompany such names. Street names shall be subject to the approval of the Planning Commission and follow the City's Street Naming and Property Numbering Policy, if adopted. Property numbers are assigned by the City.
  3. Easements showing width and purpose such as for utilities, drainage, screening, open space, pedestrian ways and alleys.
  4. Location and type of utilities to be installed.
  5. Lots showing approximate dimensions, minimum lot sizes and proposed lot numbers and block letters or numbers.
  6. Sites, if any, to be allocated for development with other than single-family dwellings or to be dedicated or reserved for park, recreation area, open space or other public or private purposes. (See Section 2-102 for definition of RESERVE.)
  7. Proposed building setback lines, if any, but not less than applicable zoning regulations. The setback should be measured from the existing or proposed street right of way, whichever is a greater distance. Almost always, the property line is concurrently the same as the street right of way line.
- D. Additional Data and Information to be Submitted with the Preliminary Plat. The following information shall be submitted in separate statements and/or drawings accompanying the preliminary plat, or, if practical, such information may be shown on the preliminary plat:
1. A vicinity map showing existing subdivisions, streets and unsubdivided tracts adjacent to the proposed subdivision and showing the manner in which the proposed streets may be extended to connect with existing streets.

2. A statement as to the nature and type of improvements proposed for the subdivision, and in what manner the subdivider intends to finance and guarantee their installation, e.g., petition, actual construction, monetary guarantee, etc. (See Section 7-103 for guarantees for installation of improvements.)
3. When deemed necessary by the Subdivision Administrator, a preliminary drainage plan based on standards and policies of the applicable jurisdiction.

### Section 101 Contents of Final Plat.

The final plat shall be prepared by a licensed professional surveyor in a computer aided drafting (CAD) program in black ink on Mylar or its equivalent. The permitted page sizes shall be 24 inches by 36 inches or smaller. Larger sizes will not be accepted. The scale shall be not more than 100 feet to one inch except that a variation in scale may be allowed where the Planning Commission determines it is necessary for a proper exhibit of the subdivision. When more than one sheet is used for any plat, each such sheet shall be numbered consecutively and each such sheet shall contain a notation showing the whole number of sheets in the plat and its relation to other sheets (e.g., Sheet 1 of 3). Linear dimensions shall be given in feet and decimals of a foot. The final plat shall show on the face thereof:

- A. The name of the subdivision followed by a reference to its location by quarter-section, section, township and range.
- B. The date of preparation, scale, north point, legend and controlling physical features, such as highways, railroads, watercourses and areas subject to flooding as determined by Section 6-104.
- C. Legal description of the tract boundaries. (See Section 5-101Q1 for professional surveyor's certificate and description.)
- D. Reference ties to previous surveys and plats, as follows: (See Section 7-102J for monuments as required improvements.)
  1. Distance and direction to the monuments used to locate the land described in the certificate of survey.
  2. The location of all other monuments required to be installed by these regulations.
- E. Location and elevation of permanent benchmark.
- F. Tract boundary, block boundary, street and other right of way lines with distances and angles (and/or bearings). Where these lines follow a curve (all curves must be circular), the central angle, the radius, points of curvature, length of curve and length of intermediate tangents shall be shown. Error of closure of the perimeter survey shall not exceed one foot for each 10,000 feet.
- G. Lot lines with dimensions. Side lot lines shall be at right angles or radial to street lines unless otherwise shown. Rear lot lines shall be parallel to block or tract lines unless otherwise indicated. Points of deflection of rear lot lines shall be indicated by angles and distances.
- H. Lot numbers beginning with number one and numbered consecutively in each block.

- I. Block letters or numbers continuing consecutively without omission or duplication throughout the subdivision. Such identification shall be solid, of sufficient size and thickness to stand out, and so placed as not to obliterate any figure.
- J. All easements shall be denoted by fine dashed lines, clearly identified and, if already on record, the recorded reference of such easements. If an easement is not definitely located on record, a statement of such easement shall be included. The width of the easement with sufficient ties to locate it definitely with respect to the subdivision must be shown and its purpose such as for utilities, drainage, screening, open space, pedestrian ways or alleys. If the easement is being dedicated through the plat, it shall be properly referenced in the owner's certificate and dedication.
- K. The width of street rights of way and any portion thereof being dedicated by the plat as well as the width of any existing right of way and the centerline of any adjacent perimeter streets.
- L. The name of each street shown on the subdivision plat including appropriate prefixes and suffixes.
- M. Minimum building setback lines, if any, but not less than applicable zoning regulations. The setback should be measured from the existing or proposed street right of way, whichever is a greater distance.
- N. Land parcels to be dedicated or reserved for any purpose, public or private, to be distinguished from lots or tracts intended for sale. (See Section 2-102 for definition of RESERVE.)
- O. When deemed desirable, the minimum pad elevation of each lot or parcel of land based on the design criteria of Section 6-104 so that each pad is elevated at least one foot above the base flood elevation. (See Section 2-102 for definition of MINIMUM PAD ELEVATION.)
- P. Marginal lines encircling the sheet. All information shall be within this margin.

Q. The following certificates, which may be combined where appropriate: (Certificates requiring a seal should be located near the edge of the plat to facilitate affixing the seal. All names on the plat must also be typed or clearly printed under the signature.)

- 1. A certificate signed by a licensed professional surveyor responsible for the survey and final plat. The surveyor shall not sign the plat until all monuments, irons or benchmarks have been set as required by these regulations. Such signature shall be accompanied by the legal description of the land surveyed, the total acreage, the month and year such survey was made and the surveyor's seal. This certificate may be in the following form:

**SURVEYOR'S CERTIFICATE AND DESCRIPTION**

I, the undersigned, licensed professional surveyor of the State of Kansas, do hereby certify that the following described tract of land was surveyed on \_\_\_\_\_, 20\_\_ and the accompanying final plat prepared, and that all the monuments shown herein actually exist and their positions are correctly shown to the best of my knowledge and belief:

*(Legal description, date of survey and acreage. If applicable, reference may be made to indicate that existing public easements and dedications are being vacated according to provisions of K.S.A. 12-512b. [See Section 10-101A1 for provisions of K.S.A. 12-512b.]*

Date: \_\_\_\_\_, 20 \_\_

( S E A L )

\_\_\_\_\_  
(Surveyor's name)

\_\_\_\_\_  
(Surveyor's license number)



- 3. Certificates signed and acknowledged by all parties having any record or possessory right, title or interest in the land subdivided including mortgagees consenting to the preparation and recording of the subdivision plat; and dedicating all tracts of land shown on the final plat which are intended for public use as highways, streets, alleys, easements and public sites. These certificates may be in the following forms:

**OWNER'S CERTIFICATE AND DEDICATION**

STATE OF KANSAS )  
 ) ss  
 COUNTY OF  
 HARVEY/SEDGWICK )

This is to certify that the undersigned owner(s) of the land described in the Surveyor's Certificate; have caused the same to be surveyed and subdivided on the accompanying plat into lots, blocks, streets and other public ways under the name of \_\_\_\_\_; (located in) (an addition to) the City of Sedgwick, Harvey/Sedgwick Counties, Kansas; that all highways, streets, alleys, easements and public sites as denoted on the plat are hereby dedicated to and for the use of the public for the purpose of constructing, operating, maintaining and repairing public improvements; and further that the land contained herein is held and shall be conveyed subject to any applicable restrictions, reservations and covenants now on file or hereafter filed in the Office of the Register of Deeds of Harvey/ Sedgwick County, Kansas.

Date: \_\_\_\_\_, 20 \_\_

\_\_\_\_\_, Owner  
 (print name)

Date: \_\_\_\_\_, 20 \_\_

\_\_\_\_\_, Owner  
 (print name)









9. Provision for all other certifications, approvals and acceptances which are now, or which may hereafter be, required by any statute, ordinance or regulation. The form of these certifications may be modified as necessary by the City's legal counsel to meet statutory or other requirements.

R. The following additional information shall be submitted with the final plat:

1. A title report by an abstract or a title insurance company, or an attorney's opinion of title, showing the owner of the land and all other persons who have an interest therein and describing any encumbrances on the plat, including such items as rights of way, easements, pipelines, leases, mineral rights, mortgages, real estate taxes, special assessments and other encumbrances affecting the ownership. (See Section 5-101Q8 on payment of real estate taxes and special assessments before recording.)
2. When deemed necessary by the Subdivision Administrator, a final drainage plan based on the standards and policies set by the City as determined by the designated City Engineer including a four-corner grading plan for each lot plus minimum pad elevations if located in a flood prone area. The plat shall also clearly note that a drainage plan has been developed for the subdivision which is on file with the City Subdivision Administrator and that all drainage easements, rights of way or reserves shall remain at the established grades or as modified with the approval of the designated City Engineer and unobstructed to allow for the conveyance of storm water.
3. A copy, if any, of restrictive covenants applicable to the subdivision. As a service to the subdivider, such restrictions may be reviewed by the Planning Commission and other officials to determine if any potential conflicts exist with the City's laws.

**ARTICLE 6. DESIGN STANDARDS****Section 100 Scope.**

All subdivision of land subject to these regulations shall conform to the minimum design standards of this Article.

**Section 101 Comprehensive Development Plan.**

Subdivisions shall conform with the intent of the Comprehensive Plan.

**Section 102 Land for Public Facility Sites.**

Public agencies using the Comprehensive Plan as a guide may use the following procedure for acquiring sites for public facilities which does not preclude voluntary dedication and mutual negotiations for land or the use of the condemnation laws of the State: (See Section 2-102 for definition of RESERVE.)

- A. The subdivider offers to sell to the appropriate public body, agency or authority, lands, sites and locations for parks, recreational areas, schools, fire stations or other public facilities. As soon as the preliminary plat has been received and reviewed, the Planning Commission shall give 45 days notice to the public body, agency or authority that it appears that lands should be considered for public acquisition. If within that 45 days the body receiving notice fails to act or submits a negative report on acquisition, then the subdivision and design thereof shall be treated as if no such request for land had been made.
- B. If the organization receiving notice replies in writing that they desire to acquire land within the subdivision, they shall have an additional 45 days after making such reply to make arrangements for such land acquisition.
- C. The time allocated for making the above determination may be extended with the mutual consent of the subdivider and the organization involved.

**Section 103 Land for Open Space.**

The following conditions may be required as part of the approval of any subdivision plat: (See Section 2-102 for definition of RESERVE and WETLAND.)

- A. That the subdivider provide appropriate dedication of land or easements for the preservation of open space areas within a subdivision. Such open space may be needed to preserve areas containing natural watercourses, drainage ways, areas subject to periodic flooding, wetlands, substantial woodland, rugged topography and wildlife habitat; to maintain water quality and quantity; and to protect land from soil erosion. In general, such land is not normally considered as buildable land and should not be developed in order to maintain the quality of the environment.

**Section 104 Land Subject to Flooding.**

- A. Whenever a subdivision of land including platting for manufactured home parks and other developments on one-lot plats is located on flood prone land identified on a Flood Insurance Rate Map(s) (F.I.R.M.) prepared by the Federal Emergency Management Agency, the following requirements shall apply: (See City Floodplain Management Regulations.) (See Section 5-101 O for minimum pad elevations.)
1. Show on the preliminary and final plats the boundary lines and elevations for both floodway, if any, and base flood elevation; and
  2. Assure that (a) all such subdivisions are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, water, gas and electrical systems are located, elevated and constructed to minimize or eliminate flood damage, and (c) adequate drainage is provided so as to reduce exposure to flood hazards.

**Section 105 Land Subject to Excessive Erosion by Wind or Water.**

On land subject to excessive soil movement by the forces of wind and/or water and that may cause environmental health hazards, necessary preventive measures shall be a part of the subdivision plat. Conservation standards applicable to subdivisions shall be adhered to which are used by the respective Harvey or Sedgwick County Conservation District.

**Section 106 Access.**

All lots located in any subdivision must contain at least 40 feet of frontage in the City and 30 feet in the unincorporated area for driveways directly connected to an opened public street and not across the land of others. Flag lots are not permitted, unless warranted by an unusual shape of the land or the ownership of property. (See Section 2-102 for definition of FLAG LOT.)

**Section 107 Streets Layout and Design.**

- A. The arrangement, character, extent, width, grade and location of all streets shall conform to the intent of the Comprehensive Plan, and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic within the subdivision and adjoining lands; to topographical conditions; to the runoff of storm water; to public convenience and safety; and in their appropriate relations to the proposed uses of the land to be served by such streets.
- B. Where such is not shown on a Comprehensive Plan, the arrangement of streets in a subdivision shall either:
1. Provide for the continuation or appropriate projection of existing streets in surrounding areas; or
  2. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographic or other conditions make continuance or conformance to existing streets impracticable.
- C. Local streets shall be laid out so that their use by through traffic will be discouraged.

- D. If a subdivision abuts or contains an existing or proposed limited access highway, arterial street or railroad right of way, the Planning Commission may require marginal access streets, reverse frontage lots with access control provisions along the rear property line and screening, deep lots with rear service alleys or such other design as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- E. Reserve strips controlling access of streets shall be prohibited except where their control is placed with the Governing Body under acceptable conditions.
- F. Street right of way requirements for other than arterials shall be determined by the total aggregate needs for the functional components for the particular system being considered. The total aggregates shall be in increments of even feet, even numbers only. The components involved shall be as follows depending upon the type of characteristics of the street needed based on land use, traffic and density:
  - 1. Moving or traffic lanes may be variable from nine to 12 feet depending on function, e.g., low density residential, cul-de-sac residential, collector, industrial, etc., and on design speed of the roadway. A moving lane may utilize a portion of the surface of certain types of curb construction.
  - 2. Parking lanes for on-street storage of vehicles shall be at least eight feet in width. For computation purposes, up to two feet for curb or shoulder may be included as part of the parking lane.
  - 3. A curb and gutter shall be considered to require two feet irrespective of construction type.
  - 4. Parking strips for streets shall be at least 14½ feet in width from the back of curb to the right of way line. This area shall be used for the installation of utilities, street signs, street lights, traffic control devices, fire hydrants, sidewalks, driveways, street furniture, street trees from an approved City list and to provide a transition area in grades, if necessary, between the roadway and the property adjacent to the right of way.
  - 5. Based on the above general criteria, street rights of way and roadways shall be calculated from the following guidelines:

URBAN AREA		ROW for Street (in feet)*	Roadway Width (in feet)
a.	Collector including Commercial, Industrial or Multiple-family Areas.	70-80	36-40 (Face of curb to face of curb)
b.	Local Residential including Cul-de-sacs and Single and Two-Family Areas.	60-64	30-34 (Face of curb to face of curb)
c.	Local Marginal Access Street (two moving lanes with no parking on one side plus a parking strip between curb and the main road right of way)	50	28 (Face of curb to face of curb)
d.	Alleys for Residential, if necessary, and Commercial Areas.	20-22	20-22

*\*Note: For arterial standards, see Sections 6-107G and H.*

These widths may be modified by the Planning Commission on a showing that special conditions exist such as drainage and utility requirements, safe and efficient traffic and pedestrian movement, intersection design, etc. In applying these standards, workable street systems must be established. When a pattern of widths based on function for a given area has been established, the pattern shall be followed until another system can be established or ties into a collector or arterial system. Access control and acceleration and deceleration lanes may be required to properly handle traffic flow and to protect the carrying capacity of the street.

- G. Arterial right of way widths shall be as shown in the Comprehensive Plan and where not shown thereon shall be between 80 to 100 feet, with 120 feet needed for special storm water drainage purposes. Arterial roadway widths may vary from 24 to 52 feet.
- H. For streets and roadways on the Functional Classification System of the County, prevailing design standards shall apply.
- I. Wherever possible, there shall be an inside tangent at least 100 feet in length introduced between reverse curves on arterial and collector streets.
- J. Streets shall be laid out so as to provide for horizontal sight distances on all curves depending upon design speed. These distances shall be:

Arterial Streets:	500 feet
Collector Streets:	300 feet
Local Streets:	200 feet

The sight distance shall be measured within street rights of way from a height of four and one-half feet above the proposed pavement surface in the right hand lane of the roadway.

- K. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than 80 degrees.
- L. Street jogs are to be avoided on arterial and collector streets. On local streets, center line offsets of less than 150 feet should be avoided.

M. Roadway grades, wherever feasible, shall not exceed the following with due allowance for reasonable vertical curves:

Roadway Type	Percent Grade
Arterial	3%
Collector	4%
Local	5%
Marginal Access	5%

N. No roadway grade shall be less than 0.32 of one percent, unless approved by the applicable engineer. Greater percentages of grade may be required where necessary to provide adequate drainage.

O. Roadway pavement at intersections shall be rounded by the following minimum radii:

Type of Roadway	Intersection Width	Minimum Curb Radii
Local Residential	Local Residential	20 feet
Local Residential	Collector	30 feet
Local Residential	Arterial	30 feet
Commercial/Industrial Collector or Arterial	Commercial/Industrial Collector or Arterial	50 feet

P. Half-streets shall be avoided, except for arterial streets and collector streets where applicable, or where they are essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; or, when the Planning Commission finds that it will be practicable to require the dedication of the other half of the street when the adjoining property is subdivided. Whenever a half-street, or portion thereof, exists and is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. No construction of the roadway shall occur until the full right of way is provided.

Q. The length of cul-de-sacs and the dimensions of the turnaround shall be determined as follows:

1. Cul-de-sacs in single-family areas should not generally be longer than seven times the average lot width or 500 feet, whichever is less. In multiple-family residential areas, such streets shall not exceed 300 feet.
2. Cul-de-sacs shall have a turn diameter of at least 70 feet and a street property line diameter, i.e., right of way line, of at least 100 feet, or shall have a turnaround area such as hammerheads, etc., as providing service equal to the foregoing requirement when an alternative design is warranted by the particular design features of the subdivision.

R. Subdividers are encouraged to consider projects designed to maximize solar access when not in conflict with existing contours or drainage. When the long axis of individual structures is parallel to the street, streets should be oriented as nearly as possible in an east/west direction. If the long axis of structures is perpendicular to the street, north/south street orientation is preferable for solar access purposes.

**Section 108 Alleys.**

- A. Alleys shall be provided in commercial and industrial areas, except that the Planning Commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking spaces consistent and adequate for the uses proposed. Alleys in residential districts are to be discouraged.
- B. When an alley is provided, the minimum right of way of the alley shall be 20 feet in residential areas, and 22 feet when needed in commercial and industrial areas.
- C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, a turning radius shall be provided to permit safe vehicular movement.
- D. Dead-end alleys shall be avoided where possible, but if unavoidable, such alleys shall be provided with adequate turnaround facilities at the dead end.

**Section 109 Blocks and Pedestrian Ways.**

- A. The lengths, widths and shapes of blocks shall be determined with due regard to:
  - 1. Provision of adequate building sites suitable for the special needs of the type of use contemplated.
  - 2. Zoning requirements as to lot sizes and dimensions, off-street parking and loading, etc.
  - 3. Need for convenient access, circulation, control and safety of street traffic.
  - 4. Limitations and opportunities of topography.
- B. A block should not exceed 1,340 feet in length, unless the previous layout or topographic conditions justify a modification. In general, blocks shall not be less than 400 feet unless necessary because of existing street patterns.
- C. All blocks shall be designed so as to provide at least two tiers of lots, unless a different arrangement is required in order to comply with or be permitted by other sections of these regulations.
- D. Blocks may be irregular in shape, provided they are harmonious with the overall pattern of blocks in the proposed subdivision.
- E. In extra long blocks, a public pedestrian way may be required to provide access to public or private facilities such as schools or parks. *(See Section 2-102 for definition of PEDESTRIAN WAY [CROSSWALK].)*

**Section 110 Lots.**

- A. The lot size, width, depth, shape and orientation, and the minimum building setback lines, if any desired, shall be appropriate for the location of the subdivision and use contemplated. (See Section 6-106 for flag lots.)
- B. Lot dimensions shall conform to the minimum requirements of City zoning regulations.
- C. As a general guideline, the maximum depth of all residential lots shall not exceed two and one-half times the width thereof. For all other types of lots, the depth shall not exceed three times the width.
- D. The area of the street right of way shall not be included and calculated in the size of the lot with respect to minimum lot size requirements of these regulations or of any zoning regulations applicable to the property. Lots shall be required to have more than the minimum area dimensions provided for in this section where such greater area or dimensions are required to meet the yard requirements of the zoning regulations.
- E. There shall be no double frontage lots for individual dwellings (e.g., single and two-family units), except where the lots abut upon a limited access highway or arterial street or where the topography of the land prevents reasonable subdivision in small units. Double frontage lots shall not have vehicular access between such lots and an abutting limited access highway or arterial street.
- F. Reversed frontage lots shall be avoided except where such are essential to provide a separation of residential development from limited access highways and arterial streets or to overcome specific disadvantages of topography and orientation.
- G. Corner lots for residential use shall have extra width, if necessary, to permit appropriate building setback from and orientation to both streets.
- H. Side lines of lots shall be at right angles or radial to the street line or substantially so.

**Section 111 Easements.**

- A. **Utility easements** shall be provided where necessary and centered on rear or side lot lines. Such easements shall be at least 20 feet wide along rear lot lines and 10 feet wide along side lot lines, except that easements for street lighting purposes shall not in any event be required to exceed 10 feet. Side lot easements, when needed for other than street lighting purposes such as drainage, may exceed 10 feet.
- B. **Drainage Easements.** If a subdivision is traversed by a watercourse, drainage way or channel or a detention pond is constructed, then a storm water easement or drainage right of way shall be provided. Such easement or right of way shall conform substantially to the lines of such watercourse and location of a detention pond and shall be of such width or construction, or both, as may be necessary to assure adequate storm water drainage and for access for maintenance thereof. All drainage easements shall be vegetated with perennial grasses or otherwise stabilized to prevent soil erosion and sediment movement by wind or water. Parallel streets or parkways may be required in connection therewith. (See Section 2-102 for definition of DETENTION POND.)

- C. **Vision triangle easements** may be required on any corner lot to provide an open and usable vision path for drivers of vehicles approaching the intersection. The extent of vision triangle easements shall be based on the type of intersection (3way, four, protected, unprotected, etc.); the type of street (local, collector, arterial, commercial or industrial); topography; proposed street grades (if any); and the design speeds contemplated for such roadways. (See Section 2-102 for definition of VISION TRIANGLE.)
- D. Wherever a lot or group of lots side or back on to an **existing high pressure oil or gas transmission line, a building setback easement** shall be established on each side of such line to the minimum safe standards as provided by the applicable oil or gas company to the subdivider or to such standards as may be adopted by the City, state or federal governments, whichever provides the most setback distance. The easement shall be provided on that part of the lot which abuts the oil or gas line and no principal buildings or structures shall be located or constructed within such an easement. Because of the many variables inherent in the establishment of such a setback easement, the City assumes no liability in such a determination.
- E. A **screening easement** may be required to provide for fencing and/or an adequate area for the mature growth of landscaping with appropriate maintenance. (See Section 2-102 for definition of SCREENING.)

## Section 112 Commercial and Industrial Subdivisions.

- A. **Streets.** Notwithstanding the other provisions of these regulations, the minimum width of streets adjacent to areas designed, proposed or zoned for commercial or industrial use may be increased by the Planning Commission to such extent as may be deemed necessary to assure the free flow of through traffic without interference from parked or parking motor vehicles.
- B. **Blocks and lots intended for commercial or industrial use** shall be designed specifically for such purpose with adequate space set aside for off-street parking and loading.
- C. **Marginal Access Street.** When lots or blocks in a proposed commercial or industrial subdivision front on any limited access highway or arterial street, the subdivider may be required to dedicate and improve a marginal access street to provide ingress and egress to and from such lots or blocks.

**ARTICLE 7. INSTALLATION OF REQUIRED IMPROVEMENTS****Section 100 Engineering Responsibility.**

In setting certain standards and specifications, approving engineering drawings, inspecting improvements, recommending acceptance of improvements, preparing petition forms and establishing the amount of surety for guaranteeing the installation of such improvements; the engineer designated by the City or utility provider representative shall be designated as responsible for the improvements within their respective jurisdictions. Coordination to achieve cooperation among the responsible parties is the responsibility of the City and, in particular, the Subdivision Administrator.

**Section 101 Required Improvements.**

As a condition to final plat acceptance, the subdivider of a proposed subdivision shall be responsible to install or, in cooperation with the Governing Body and utility companies, cause to be installed the following necessary facilities and improvements as listed below. The design and installation of such facilities and improvements shall include such sizing of pipes and extensions of streets as may be deemed desirable within the subdivision to facilitate development of adjacent land.\*

**A. Streets.**

1. All streets, alleys, curbs, gutters and street drainage facilities shall be constructed in accordance with established City standards. Streets shall be constructed of concrete, asphalt or asphaltic concrete and no gravel or sanded roadways shall be constructed.
2. To accommodate any future improvements, the entire right of way of collector and local streets shall be graded to match the level of the road surface. All stumps, trees that cannot be saved, boulders and similar items shall be removed from such right of way.
3. Street signs shall be installed in accordance with specifications set by the City subject to the standards of the Manual of Uniform Traffic Control Devices as adopted by the Secretary of the Kansas Department of Transportation and endorsed by the Federal Highway Administrator. (See K.S.A. 8-2003 for sign manual.)

---

**\*NOTE:** When required by the Kansas Department of Health and Environment, non-point source storm water permit applications must be filed before construction begins under the National Pollution Discharge Elimination System (N.P.D.E.S.).

**B. Storm Drainage System.**

1. A storm drainage system shall be provided, separate and independent of the sanitary sewer system, meeting all of the specifications and requirements of the City. Such storm drainage system shall be connected to any existing storm sewer system, where available, or if such connection is not available, other adequate means for the discharge of such storm water including the use of detention ponds shall be provided by the subdivider into the nearest major water channel.
2. If it is determined that adequate drainage can be accomplished by a natural drainage way across private property, a drainage easement may be required; however, any initial channelization is the responsibility of the subdivider and continued maintenance the responsibility of the adjacent property owner(s).

**C. Sidewalks shall be constructed in accordance with standards set by the City under the following conditions: (Also, see Section 6-109E for pedestrian ways.)**

1. Sidewalks may be required on one or both sides of the street when needed to service pedestrian traffic flow leading to schools, parks, shopping areas or places of public assembly and where heavy traffic would warrant sidewalks for safety purposes. Sidewalks may also be required in residential areas where the lot frontage is less than 150 feet. Sidewalks shall be required to extend or complete connecting links in the sidewalk system.
2. In general, sidewalks shall be constructed with the inside edge of the sidewalk one foot outside the property line, i.e., in the right of way, except in the central commercial district.
3. All sidewalks shall provide handicap access in conformity with K.S.A. 58-1301 *et seq.* and the federal Americans with Disabilities Act of 1990, 42 USCA 12-101, as may be amended.

**D. Water Supply System.**

1. All lots in the subdivision shall be connected to a municipal type water supply system, installed in accordance with the standards and requirements set by the applicable agency supplying the water, and as required by the regulations of the Kansas Department of Health and Environment. Water mains shall be of such size as to support the use of fire hydrants.
2. Fire hydrants of the type and quality specified by City standards, but not less than the minimum standards of the National Fire Protection Association (NFPA), shall be provided and connected to the municipal water system. Such hydrants shall be subject to the inspection and approval of the City Fire Chief.

**E. Sanitary Sewer System.**

1. All lots in the subdivision shall be connected to a municipal type sewage disposal and treatment system, constructed in accordance with standards set by the City, and subject to the regulations of the Kansas Department of Health and Environment.

- F. Underground wiring in residential subdivisions, unless found to be unfeasible, is required for electric power, street lights and communications services, except for electric lines rated over 12,000 volts; appurtenances serving such lines which may be mounted on the ground, such as transformers, transformer pads, telephone service pedestals and street light poles; or for those proposed subdivisions or replats of existing subdivisions located in areas which presently have an overhead type utility distribution system.
1. All such installation shall be under contract with the applicable utility provider. Where communications, electric, street lights and gas lines are placed underground entirely throughout a subdivision, conduits or cables shall be placed within easements or dedicated public ways in a manner which will not conflict with other underground services. Further, all transformer boxes shall be located so as not to be unsightly or hazardous to the public.
  2. Nothing in this section shall be construed as requiring underground installation of lines beyond the boundaries of the area contained in the preliminary plat.
  3. When carried on overhead poles, all utility lines for communications and electric service shall be placed in rear lot line easements or designated side lot line easements.
- G. If screening of public or private areas is to be required, a screening plan of landscaping and/or fencing shall be prepared and approved by the Planning Commission and such screening installed. (See Section 2-102 for definition of SCREENING.)
- H. Monuments as shown on the final plat shall be placed at all central points such as block corners, angle points, points of curves in streets and as may be required by the applicable engineer. Monuments shall be made of iron pipes or solid steel rods, e.g., rebars which are not less than one-half inch in outside diameter and not less than 24 inches in length and affixed with a plastic or metal cap which identifies the registration number of the surveyor in responsible charge. All monuments shall be securely placed and set in such a manner that the top of the monument shall be at grade ground level. If cultivation of the land for farming purposes is anticipated, monuments may be lowered nine inches below grade ground level. Benchmarks may also be required of such material, size and length as may be approved by the applicable engineer. (See Section 2-102 for definitions of BENCHMARK and MONUMENT and Sections 5-101 D and E for monuments and benchmark(s) to be shown on the final plat.)
- I. Costs to Relocate Existing Utilities.
1. Whenever any existing utilities must be relocated in order to construct improvements required as a condition of subdivision approval, the costs of relocation shall be the sole responsibility of the subdivider, whether or not the need for such relocation was known at the time of subdivision approval.
  2. Such existing utilities may include, but are not limited to: water lines, sanitary or storm water sewers, drainage channels, culverts, underground or overhead electric or communication lines, gas lines, pipe lines, or transmission lines.
- J. Where required, applicable measures will be taken during construction to minimize soil erosion and sedimentation by wind or water. Conservation standards shall be adhered to which have been adopted by the respective County Conservation District.

**Section 102 Exceptions for Existing Improvements.**

- A. Where the proposed subdivision is a resubdivision or concerns an area presently having any or all required improvements as set out in Section 7-101 and where such improvements meet the requirements of said section and are in good condition as determined by the Governing Body, no further provision need be made by the subdivider to duplicate such improvements. Where such existing improvements, however, do not meet the requirements, the subdivider shall provide for the repair, correction or replacement of such improvements so that all improvements will then meet the aforesaid requirements.
- B. Where the proposed subdivision is a resubdivision or concerns an area presently abutting or containing any existing public street of less than the minimum required right of way width or roadway width, land shall be dedicated in so far as is possible so as to provide for a minimum street right of way width and an additional roadway pavement meeting the minimum standards as set by these regulations. The Governing Body shall determine what adjustment to make where the aforesaid widenings merge with existing streets which are of smaller width at the boundary of such proposed subdivision. The minimum right of way and roadway width required by these regulations may be reduced to match an existing roadway system if the extension of such roadway is already improved at each end of the roadway in the subdivision.

**Section 103 Agreement and Guarantees for Installation of Required Improvements.**

Except for monuments, one of the following methods shall be used by the subdivider to guarantee that improvements required by these regulations can or will be installed in accordance with approved plans and specifications. This does not preclude the possibility that the Governing Body may, at its discretion and in recognition of its financial position, share in the cost of improvements, especially oversized improvements which may benefit other related areas or the municipality-at-large: (See Section 2-102 for definition of HOMEOWNERS' ASSOCIATION.)

- A. Fiscal sureties may be offered and the following shall apply: (See Section 2-102 for definition of DEVELOPER'S AGREEMENT.)
  1. The subdivider shall enter into a "Developer's Agreement" with the Governing Body under which the subdivider agrees to install such required improvements. Such agreement shall be conditioned upon the acceptance of the final plat by the Governing Body and filed with the Clerk.
  2. Simultaneously with the execution of the Developer's Agreement provided for in Section 7-103A1, the subdivider shall furnish a corporate completion bond by a firm authorized to do business in Kansas with good and sufficient sureties thereon or a cashier's check, escrow account or irrevocable letter of credit in favor of the Governing Body, in the amount of the estimated cost as approved by the official responsible for setting and enforcing the applicable design and construction standards of the installation of the required improvements. Such financial guarantee shall be conditioned upon the acceptance of the final plat and further conditioned upon the actual completion and satisfactory installation of such required improvements within two years from the date that the final plat is accepted by the Governing Body.

3. Simultaneously with the execution of the Developer's Agreement provided for in Section 7-103A1, if the subdivider furnishes a corporate completion bond, he or she shall also deposit in escrow with the Governing Body cash in the amount of 15% of the cost of all improvements to be made in accordance with the plans and specifications for required improvements or an equivalent amount in the form of a maintenance bond or other securities that may be deemed sufficient by the Governing Body. If a subdivider furnishes a cashier's check, escrow account or irrevocable letter of credit, 15% of the amount of such guarantees shall be returned by, or held as a deposit in escrow after, the final completion of such improvements. The subdivider shall agree that such deposit in escrow may be held by the Governing Body for a period of 18 months after such improvements are completed for the purpose of:
  - a. Guaranteeing and securing the correction of any defect in material or workmanship furnished for such improvements, latent in character, and not discernible at the time of final inspection or acceptance by the Governing Body; and
  - b. Guarantee against any damage to such improvements by reason of the settling of the ground, base or foundation thereof.

Such escrow agreement shall provide that, as such defects have so developed, that the deposit may be applied by the Governing Body for any amounts incurred correcting such defects; and that the balance of such deposit, if any, held at the end of such 18-month period shall be returned by the Governing Body to the depositor, or paid to the order of the depositor without payment of interest.

- B. Petitions to the Governing Body may be submitted as a means of guaranteeing to the Governing Body the authority to install improvements at such time as they deem appropriate. Petitions may be submitted only when the following conditions exist:
  1. The petitions must be valid as may be provided for under Kansas law.
  2. The petitions must be approved by the Governing Body concurrently with the acceptance of the final plat.
  3. The initiating resolution for such improvement must be adopted by the Governing Body concurrently with the petition approval or as soon thereafter as may be provided by law. The cost of the publication of said resolution shall be borne by the subdivider.
  4. A certificate signed by the petitioner must be recorded with the County Register of Deeds stating that such petitions have been filed and approved by the Governing Body and that certain land within the plat as described will be liable in the future for special assessment for the required improvements authorized.
- C. The subdivider shall, prior to the acceptance of the final plat, submit a letter from the utility provider(s) involved stating that satisfactory arrangements have been made by the subdivider guaranteeing the installation of their respective services.
- D. Monuments and benchmarks shall be installed and their installation certified by a licensed professional surveyor on the final plat before such plat is recorded with the County Register of Deeds. (See Section 5-101Q1 for Land Surveyor's Certificate.)

**Section 104 Offsite Improvements.**

The Governing Body may, upon making a finding of necessity, require the subdivider to install or upgrade offsite improvements located outside the perimeter of a subdivision if such need is substantially created by a proposed subdivision. Such off-site improvements should be within dedicated rights of way or easements and serve a public purpose. The financing and guaranteeing of such improvements shall be administered as if they were the same as onsite improvements under Section 7-103. The Governing Body may require such subdivision to participate in the following facilities and improvements, or any other offsite improvements as recommended by the Planning Commission, if the need is created by a proposed subdivision:

- A. Drainage improvements;
- B. Pedestrian ways and sidewalks;
- C. Screening;
- D. Special grading requirements;
- E. Street improvements; or
- F. Traffic control devices.

**ARTICLE 8. IMPROVEMENT PROCEDURES****Section 100 Submittal of Petitions.**

If petitions are proposed to meet the requirements of Article 7, the subdivider shall so indicate at the time of submittal of the preliminary plat. If the petition method is authorized by the Governing Body, petitions shall accompany the final plat for approval by the Governing Body.

**Section 101 Final Improvement Plans.**

When the use of petitions has not been requested by the subdivider or authorized by the Governing Body and a letter(s) of satisfactory arrangements from a utility provider(s) are not being utilized to guarantee improvements (See Section 7-103D for letter from utility), the subdivider shall have prepared by an engineer (which may be contracted for privately or with any governmental agency or utility), engineering drawings for proposed required improvements containing the data and information specified in Section 8-101A. Such drawings shall be certified by a licensed engineer and shall be submitted to the applicable reviewing official in duplicate at least 20 days prior to the date that approval is requested.

- A. **Content.** The engineering drawings shall contain the following data plus additional information deemed necessary by the applicable engineer:
1. Plans, details, specifications and cost estimates for roadway, alley and sidewalk construction; including plans, profile indicating existing topography and elevation including curb and sidewalk elevation when required, intersection control elevation and paving geometrics for each street with a typical cross section of the roadway. The profiles of grade lines shall be shown to a scale of one inch equals 100 feet horizontal, and one inch equals 10 feet vertical; or to a scale approved by the applicable engineer. This information shall be shown on standard plan and profile sheets unless otherwise required by such engineer and use topographic information cited in Section 5-100B3.
  2. Plans, profiles, details, specifications and cost estimates of proposed storm drainage improvements.
  3. Plans, profiles, details, specifications and cost estimates of proposed water distribution system, water supply facilities and fire hydrants.
  4. Plans, profiles, details, specifications and cost estimates of proposed sanitary sewage system.
  5. All plans for other utilities such as for electric, gas and telephone shall be prepared by or at the direction of the utility providing the service.
- B. **Review.** The applicable engineer, official or agency responsible for determining specifications and standards shall review all engineering drawings in order to determine whether such drawings are consistent with the approved final plat and comply with the design standards. If such drawings are consistent and so comply, the reviewing official shall forward to the Governing Body a notice to that effect. In the event that the drawings do not so comply, the reviewing official shall notify the subdivider of the specific manner in which such drawings do not comply, and he or she may then correct such drawings. If such drawings are not corrected, the reviewing official shall forward to the Governing Body a notice as to the items of nonconformity or noncompliance.

**Section 102 Construction of Improvements.**

No improvements shall be constructed nor shall any work preliminary thereto be done until such time as the engineering construction drawings shall have been approved and there shall have been compliance with all of the requirements relating to the Developer's Agreement and such guarantees as are specified in Section 7-104 of these regulations.

- A. **Inspection.** All improvements constructed or erected shall be subject to inspection by the applicable engineer or official responsible for setting and enforcing the applicable design and construction standards of the required improvements. The cost attributable to all inspections required by these regulations shall be charged to and paid by the subdivider. In so far as is possible, the subdivider shall give at least 48 hours notification to such official prior to the performance of any inspection work.
- B. **Inspection Procedures.** After notice is received as specified in Section 8-102A above, the applicable engineer or official designated may conduct an onsite inspection to determine that the work complies with the approved engineering plans and specifications. If in the opinion of such engineer or official, the work does not comply with such final drawings, he or she shall have authority to order that all such work shall be terminated until such time as necessary steps are taken to correct any defects or deficiencies. Upon the correction of such defects or deficiencies, the subdivider shall again notify the applicable engineer or official as provided in Section 8-102A that the work is again ready for inspection.
- C. **Final Inspection.** Upon completion of all improvements within the area covered by the final plat, the subdivider shall notify the applicable engineer or official designated in Section 8-102A above, who shall thereupon conduct a final inspection of all improvements installed. If such final inspection indicates that there are any defects or deficiencies in such improvements as installed, or if there are any deviations in such improvements as installed from the final engineering plans and specifications, he or she shall notify the subdivider in writing and the subdivider shall, at their sole cost and expense, correct such defects or deviations within six months of the date of notification. When such defects, deficiencies or deviations have been corrected, the subdivider shall notify the official that the improvements are again ready for final inspection. After the final inspection is made and before acceptance of the improvement by the Governing Body, the subdivider shall file a statement with the engineer or official which is executed by the subdivider, certifying that all obligations incurred in the construction of the improvement involved have been properly paid and settled.

**Section 103 Acceptance of Improvements.**

If a final inspection indicates that all improvements as installed contain no unacceptable defects, deficiencies or deviations, within 15 days from the submission of the subdivider's statement of obligation paid, the applicable engineer or official designated shall certify to the Governing Body and utility provider(s) that all improvements have been installed in conformity with the engineering plans and specifications accompanying the final plat. Upon the receipt by the Governing Body of such notification and in conformity with the requirements of these regulations and all other applicable statutes, ordinances and regulations, the Governing Body shall thereupon by resolution or utility by letter formally accept such improvements. The improvements shall become the property of the Governing Body or utility provider involved. Prior to this final action, however, neither the acceptance of the final plat, any subsequent annexation to the City or irrespective of any act(s) of employees, such actions shall not constitute their formal acceptance of improvements.

**ARTICLE 9. PROCEDURE FOR APPROVAL OF LOT SPLITS****Section 100 Application Procedure.**

The Planning Commission is hereby authorized to approve or disapprove lot splits.

- A. An application with the required fee for a lot split approval shall be submitted to the Subdivision Administrator by the owner of the land at least 20 days prior to the next regular meeting of the Planning Commission. (See Section 3-109 for Fees.)
- B. A drawing to scale of the lots involved shall accompany the application. If there are structures on the lot, the drawing must be a survey showing the lots involved and the precise location of each structure on the lot.
  1. Each drawing or survey shall show the location, dimensions and legal description of the proposed split; the square footage contained in each portion of the original lot; all existing easements including public reservations such as building setback lines or access control and a certificate of approval as worded in Section 9-101C. (See Section 2-102 for definition of LOT SPLIT.)
  2. The drawing or survey accompanying the application may be provided either as four hardcopies, or as a PDF digital file.
- C. Written notices shall be distributed by the Administrator to all owners of land adjacent to the property proposed to be split including such owners across the street or other public way. The application for a lot split must be accompanied by a list of the names and addresses of all persons to receive notices. Such owners shall have 10 days from the date of mailing the notification to inform the Administrator of any protest or concerns they may have on the lot split. The 10 day waiting period may be waived upon presentation of a written statement of no objection from those to be notified.

**Section 101 Approval Guidelines.**

Approval or disapproval of lot splits shall be made based on the following guidelines:

- A. A lot split shall **not** be approved unless all of the following requirements have or can be satisfied:
1. A new street or alley or extension of an existing street or alley is required or proposed.
  2. A vacation of streets, alleys, setback lines, access control or easements is required and has not been satisfied.
  3. Such action will result in significant increases in service requirements, e.g., utilities, drainage, sidewalks, traffic control, streets, etc. or will interfere with maintaining existing service levels, e.g., additional curb cuts, repaving, etc.
  4. There is less street right of way than required by these regulations or the Comprehensive Plan unless such dedication can be made by separate instrument.
  5. All easement requirements have not been satisfied.
  6. Such split will result in a lot without direct access from its frontage to an opened public street. (See Section 6-106 for Access.)
  7. A substandard sized lot will be created or an existing structure will not be able to meet all yard requirements according to applicable zoning regulations.
  8. The lot is subject to periodic flooding which cannot be feasibly corrected in order to properly develop the lot.
  9. The lot has been previously split without replatting.
- B. The Planning Commission may make such additional requirements as deemed necessary to carry out the intent and purpose of existing land development regulations and Governing Body policy. Requirements may include, but not be limited to, the installation of public facilities, water supply and sewage disposal and/or the dedication of right of way and easements.





**ARTICLE 10. VACATIONS AND CORRECTIONS****Section 100 Vacation of Unrecorded Plat.**

- A. Upon written request of the subdivider to the Planning Commission, a preliminary or final plat may be withdrawn from consideration either before or after approval by the Commission. Upon approval of the request by a motion of the Commission, the Subdivision Administrator is automatically directed to remove the case file from the City records.
- B. Upon written request of the subdivider to the Clerk, a final plat for which dedications, if any, have been accepted by the Governing Body may be vacated by motion of the Governing Body; provided, that (1) the plat has not been recorded; (2) no lots have been sold or transferred; and (3) no improvements have been installed. After the plat is vacated, the Administrator shall see that all fiscal sureties are returned to the subdivider except for those expenditures which have been incurred by the City in administrative, legal or engineering costs prior to the date of the request for vacation. Upon the return of such sureties, the Administrator is automatically directed to remove the case file including any petitions from the City records.
- C. Upon determining from the County Register of Deeds that a final plat has not been recorded within 60 days from its final acceptance by the Governing Body, the Administrator shall notify the subdivider that the plat is null and void and that the case file will be removed from the City records within 30 days unless a reapplication for platting is received during that time. (See Section 4-111 for Recording of Final Plat.)

**Section 101 Vacation of Recorded Plat.**

- A. Recorded plats may be vacated by either replatting according to Section 10-101A1 below or directly vacated according to Section 10-101A2:
  1. According to K.S.A. 12-512b, any recorded plat or part thereof or street, alley or other public reservation, including, without limitation, easements, dedicated building setback lines and access control, whether established by instrument, condemnation or earlier plats, shall be vacated both as to use and as to title without any further proceedings upon the filing and recording with the County Register of Deeds in accordance with K.S.A. 12-403, any plat or replat duly executed in accordance with these regulations which embraces the same lands as those heretofore embraced by the earlier plat or part thereof or street, alley or other public reservation. Streets, alleys or other public reservations which may be vacated shall revert, as provided for in K.S.A. 12-506, to abutting property owners according to their frontage thereon; provided, that such land to be reverted was derived directly or indirectly from the owner of the land from which such street, alley or public reservation was originally platted. The proper completion of the Owner's Certificate and Dedication as required by Section 5-101Q2 shall constitute appropriate notice to all persons having property rights or interests affected by the above platting or replatting.
  2. Recorded plats may also be vacated without replatting. The procedure is the same as provided for in Section 10-103.

**Section 102 Correction of Platting Errors.**

- A. According to K.S.A. 12-420, procedures are provided to correct certain platting errors. If, after recording a final plat, an error is found in distances, angles, bearings, subdivision or street names, block or lot numbers, the computation of dimension or elevation or other details of the plat, except in connection with the outer boundaries of the plat, and if the property described in that part of the plat containing the error is under the ownership of the person who caused the plat to be prepared, the designated City Engineer, after substantiation of the existence of the error, may file an affidavit with the County Register of Deeds that the error was made. The affidavit shall describe the nature and extent of the error and the appropriate correction. The Register of Deeds shall record the affidavit and shall place in the margin of the recorded plat a notation that the affidavit has been filed, the date of filing and the book and page where it is recorded. The filing of the affidavit shall correct any such errors, but shall have no effect on the validity of the plat or any property interest recorded by reference thereto. A copy of the recorded affidavit shall be filed with the Subdivision Administrator. The City will bill the person requesting the correction for engineering costs and recording fees.

**Section 103 Vacation of Streets, Alleys, Easements and Plats.**

- A. According to K.S.A. 12-504 and 505, the following procedures are provided to vacate streets, alleys or other public reservations such as, but not limited to public easements, dedicated building setback lines, access control, or a part thereof, and including all or parts of recorded plats\*:
1. Petitions for vacations received from the Governing Body, the owner of platted land or the owner of land adjoining on both sides of any street, alley, easement or other public reservation may be filed with the Clerk and transmitted to the Subdivision Administrator for processing. All nongovernmental petitioners will be billed a processing fee. (See Section 3-109 for Fees.) The Planning Commission shall give public notice of a hearing on a proposed vacation by publication once in the official city newspaper by the Subdivision Administrator. At least 20 days shall elapse between the date of such publication and the date set for such hearing. Such notice shall state (1) the nature of the vacation petition, (2) the legal description of the property and (3) the date, time and place for the hearing before the Planning Commission. The notice may contain the information that the hearing may be adjourned from time to time upon a motion to continue in the future at some stated date, time and place. Furthermore, the Commission by rule shall mail a notice to all affected utility providers; all owners of land proposed for vacation; all landowners abutting a street, alley or easement including any segment remaining open; and owners on the opposite side of the street from vacations of setbacks and access control. The petitioner(s) shall provide a list of such landowners as required by the Subdivision Administrator, including names, addresses and zip codes. Such notice to providers and landowners shall be mailed so that at least **20 days shall elapse** between the mailing date and the hearing date.

**\*Note:** The same statutory procedure may be used to exclude a portion of land from the boundaries of the City, i.e., the land could also be "de-annexed".

2. The Planning Commission shall hold a public hearing to consider a recommendation to the Governing Body as to whether the vacation should be approved or disapproved and with or without conditions attached. At the hearing, the Planning Commission shall hear such testimony as may be presented or as may be required in order to fully understand the true nature of the petition and the propriety of recommending the same. If the Planning Commission determines from the testimony presented that:
  - a. due and legal notice has been given;
  - b. no private rights will be injured or endangered;
  - c. the public will suffer no loss or inconvenience; and
  - d. in justice to the petitioner(s) the vacation should be granted;

then, the Planning Commission shall recommend that such vacation be approved and entered at length in the minutes. Such recommendation may provide for the reservation to the City and/or the owners of any lesser property rights for public utilities, rights of way and easements for public service facilities originally located in such vacated land or planned for the future. The recommendation may be conditioned upon the petitioner's responsibility to remove or relocate all underground or surface utilities or paving in or on the vacated land. The petition shall not be recommended by the Planning Commission nor granted by the Governing Body if a written objection is filed with the Clerk, at or before the hearing, by any owner who would be a proper party to the petition, but has not joined therein. Furthermore, when only a portion of a street, alley or public reservation is proposed to be vacated, the petition shall not be recommended by the Planning Commission nor granted by the Governing Body if a written objection is filed with the Clerk by any owner of lands which adjoin the portion to be vacated. The recommendation of the Planning Commission to the Governing Body shall be made in the same manner as provided by K.S.A. 12-752 for the submission and approval of a final plat. (See Sections 4-107 and 108 for the 60-day time period for consideration of a plat and Section 4-110 for Governing Body approval procedure.) The Planning Commission shall announce at their hearing when the Governing Body will consider the recommendation on the vacation.

Following the approval of the vacation by the Governing Body in the form of an order, the Clerk shall certify a copy of the order to the County Register of Deeds; however, such certification shall be withheld until such time as any conditions attached to the order have been satisfied. The Register of Deeds shall note on the recorded plat of the "townsite," i.e., the City, or the applicable platted addition, the words, "canceled by order" or "canceled in part by order" and give the book and page where recorded.



**ARTICLE 11. APPEALS, WAIVERS AND MODIFICATIONS****Section 100 Appeals General.**

The subdivider of a proposed subdivision may appeal decisions made in the enforcement of these regulations by the Subdivision Administrator to the Planning Commission and by the Planning Commission to the Governing Body. In the event the Governing Body sustains the Planning Commission, the action of the Planning Commission shall be final except as otherwise provided by law. If the Governing Body overrules the Planning Commission, the Governing Body shall make its decision, in writing or in the minutes of the meeting, stating the reason therefore and return such decision and plat to the Planning Commission for consideration of reapproval.

**Section 101 Appeals on Improvement Standards.**

Any appeal as to approval of standards or plans and engineering drawings in connection with required improvements shall be directed to the Governing Body and that action shall be final.

**Section 102 Waiver of Required Improvements or Guarantees for Installation of Same.**

Any waiver of the required improvements or guarantees for their installation may be made only by the Governing Body on a showing that such improvements are not technically feasible or necessary.

**Section 103 Modifications.**

In cases in which there is unwarranted hardship in carrying out the literal provisions of these regulations as to design standards, the Commission may grant a modification from such provision according to the following guidelines: (See Article 6, Design Standards.)

- A. A request for a modification shall be made to the Subdivision Administrator who shall transmit it to the Planning Commission. The Commission shall give the subdivider and any other interested person an opportunity to be heard with respect to the requested modification.
- B. The Planning Commission shall not grant a modification unless it shall find that (1) the strict application of these regulations will create an unwarranted hardship; (2) modification is in harmony with the general spirit and intended purpose of these regulations; (3) the rights of adjacent property owners will not adversely be affected; and (4) the public safety, health and general welfare will be protected.
- C. When used in this Section, the term "unwarranted hardship" shall mean the effective deprivation of use as distinguished from a mere inconvenience.
- D. Modifications permitted under the provisions of this Article shall not include modifications from the requirements of improvement standards, required improvements or guaranteeing their installation unless approved by the Governing Body as provided for in Sections 11-101 and 102. Furthermore, variances may not be granted from the provisions of the City Zoning Regulations by these modification procedures.



**ARTICLE 12. AMENDMENTS AND REVIEW****Section 100 Amendment Procedure.**

These regulations may be amended at any time after the Planning Commission shall have held a public hearing on the proposed amendment. A notice of such public hearing shall be published once in the official city newspaper so that at least 20 days shall elapse between the publication date and the date of such hearing. Such notice shall fix the time and place for the hearing and shall describe such proposed amendment(s) in general terms. The hearing may be adjourned from time to time. At its conclusion, the Commission shall prepare its recommendations and by an affirmative vote of a majority of the entire membership of the Commission adopt the proposed amendments to these regulations and submit them, together with the written summary of the hearing thereon, to the Governing Body.

The Governing Body either may: (1) Approve such recommendations by ordinance; (2) override the Planning Commission recommendation by a 2/3 majority vote of the City Council; or (3) return the same to the Commission for further consideration, together with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the Commission's recommendations, the Commission after considering the same, may resubmit their original recommendations giving the reasons therefore or submit new and amended recommendations. Upon the receipt of such recommendations, the Governing Body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by an ordinance, or it need take no further action thereon. If the Commission fails to deliver its recommendations 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 recommendations and proceed accordingly. The amended regulations shall become effective upon publication of the respective adopting ordinance. A copy of such legal publication shall be added to the Appendix of these regulations, unless the Model Code is amended and the revisions added to the text.

**Section 101 Annual Review.**

In order to maintain these regulations, the Planning Commission shall annually hold a public review at its regular meeting in January to consider amendments, if any, to these regulations. Notification of such a public review may be distributed to governmental agencies and interested parties. If amendments are deemed desirable, the amendment procedure as described in Section 12-100 shall be followed. During the intervening period between reviews, the Subdivision Administrator shall maintain a list of possible amendments which may be periodically brought to his or her attention.

**Section 102 Judicial Review.**

As provided by K.S.A. 12-760, as amended, any ordinance, regulation or decision provided for or authorized by these regulations shall be reasonable and any person aggrieved thereby may have the reasonableness of any decision determined by bringing an action against the City within 30 days after a final decision is made by the City. Such action shall be brought in the Harvey or Sedgwick County District Court.



**ARTICLE 13. SEVERABILITY AND EFFECTIVE DATE**

**Section 100 Severability.**

If any part or provision of these regulations is adjudged unconstitutional or otherwise invalid by any court of competent jurisdiction, then such part or provision shall be considered separately and apart from the remaining parts or provisions of these regulations, and said part or provision to be completely severable from the remainder of these regulations, and the remainder provisions of these regulations shall remain in full force and effect.

**Section 101 Effective Date.**

These regulations shall be in full force and effect from and after their adoption by the Commission, approval by the Governing Body by an ordinance incorporating these regulations by reference as a Model Code and publication of such ordinance in the official city newspaper.

ADOPTED by the Sedgwick City Planning Commission on \_\_\_\_\_, 2020.

\_\_\_\_\_  
\_\_\_\_\_ (print name), Chairperson

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_ (print name), Secretary

APPROVED and ADOPTED by the Governing Body of the City of Sedgwick, Kansas on \_\_\_\_\_, 2020.

\_\_\_\_\_  
\_\_\_\_\_ (print name), Mayor

ATTEST:

(SEAL)

\_\_\_\_\_  
\_\_\_\_\_ (print name), City Clerk

*(Approved by Ordinance No. \_\_\_\_\_  
by the Governing Body of the City of Sedgwick, Kansas on \_\_\_\_\_, 2020,  
officially published in \_\_\_\_\_ on \_\_\_\_\_, 2020  
and effective on \_\_\_\_\_, 2020.)*

THE HISTORY OF THE

REIGN OF

CHARLES THE FIRST

BY

JOHN BURNET

IN TWO VOLUMES

LONDON

Printed by R. and J. Baskin, in the Strand

1724

Printed by R. and J. Baskin, in the Strand

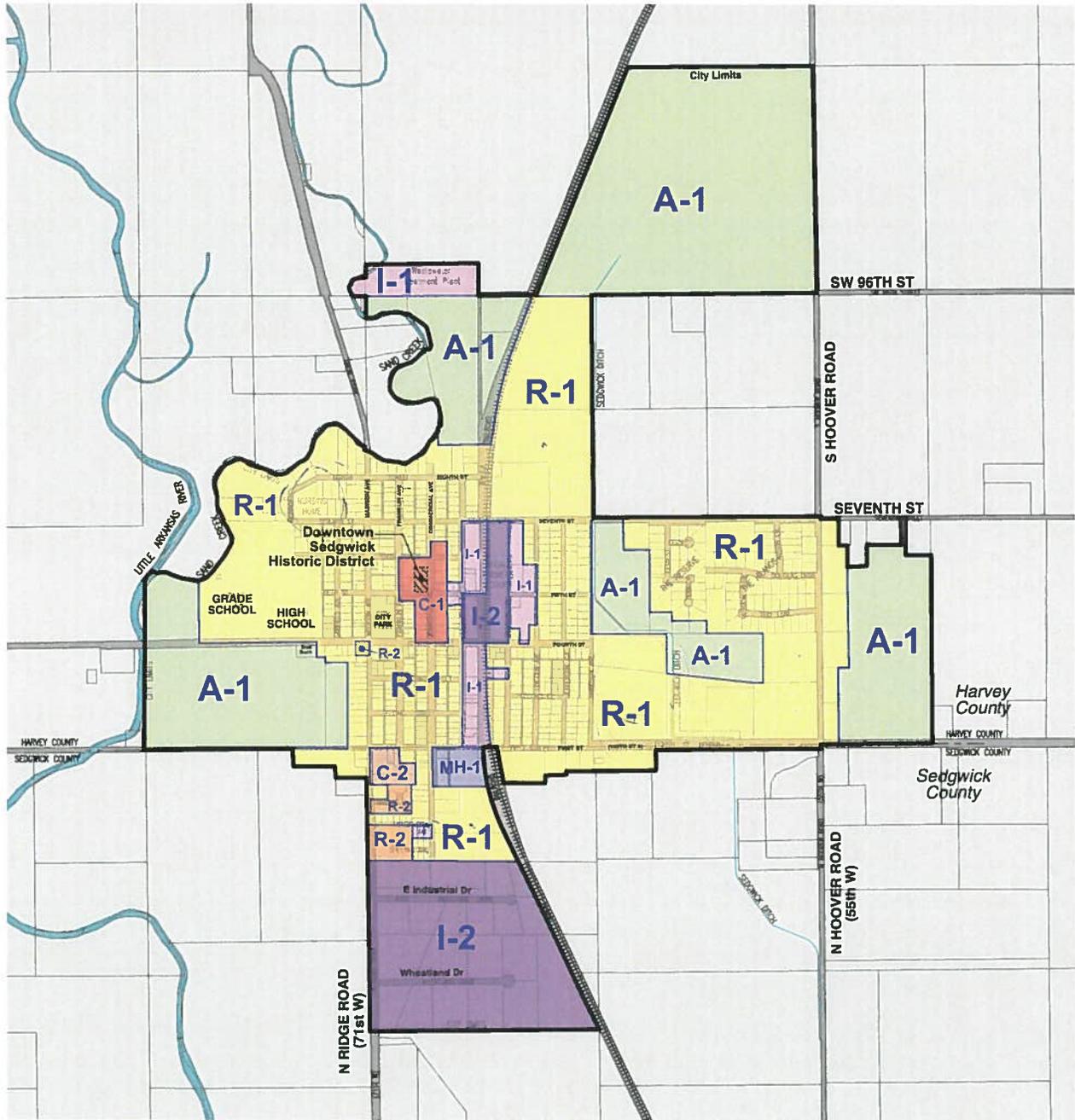
1724

# OFFICIAL ZONING MAP

0' 100' 200'  
Scale 1"=200'-0"



# CITY OF SEDGWICK, KANSAS



## Zoning Districts

- A-1 Agricultural District
- R-1 Single- and Two-Family Residential District
- R-2 Multiple-Family Residential District
- MH-1 Manufactured Home Park District
- C-1 Central Business District
- C-2 General Business District
- I-1 Light Industrial District
- I-2 Heavy Industrial District

P-O Protective Overlay District  
may be applied with any underlying zoning district.

Official copy of Zoning District Map  
incorporated into Zoning Regulations  
by adoption of Ordinance Number \_\_\_\_\_  
by the Governing Body of the City of Sedgwick  
on the \_\_\_\_\_ day of \_\_\_\_\_ 2020.  
Effective Date: \_\_\_\_\_, 2020.

Mayor:

Bryan Chapman

Attest: City Clerk

Janise Enterkin

Revision Dates:

# ZONING REGULATIONS

of the

# CITY OF SEDGWICK, KANSAS

Official Copy  
as Incorporated by Ordinance No. \_\_\_\_\_

**Model Code**  
prepared by the  
**SEDGWICK CITY PLANNING COMMISSION**

Technical Assistance by

Foster Design Associates LLC  
Landscape Architecture & Planning  
Wichita, Kansas

in association with  
Foster & Associates  
Planning Consultants  
Wichita, Kansas

and

City Zoning Administrator

edition of \_\_\_\_\_, 2020

effective date \_\_\_\_\_, 2020

---

© Foster Design Associates, LLC, Landscape Architecture & Planning, 2020.  
All rights reserved.

*These Zoning Regulations are a proprietary product of Foster Design Associates, LLC,  
produced under contract solely for the use of the client named herein  
and any reproduction in any form or by any means, mechanical or electronic, by another party  
is prohibited without prior agreement and written permission from Foster Design Associates, LLC.*



# Table of Contents

## ARTICLE 1. TITLE, PURPOSE, AUTHORITY AND JURISDICTION

Section 100	Title. ....	1-1
Section 101	Purpose. ....	1-1
Section 102	Authority. ....	1-2
Section 103	Zoning Jurisdiction. ....	1-2

## ARTICLE 2. INTERPRETATION, CONSTRUCTION AND DEFINITIONS

Section 100	Rules of Interpretation. ....	2-1
Section 101	Rules of Construction. ....	2-2
Section 102	Definitions. ....	2-3

## ARTICLE 3. GENERAL PROVISIONS

Section 100	Activities Governed by these Regulations. ....	3-1
Section 101	Districts, Zoning Maps and Boundaries. ....	3-2
Section 102	General Requirements for All Zoning Districts. ....	3-3
Section 103	Supplemental Requirements. ....	3-5
Section 104	Screening and Landscaping. ....	3-9

## ARTICLE 4. ZONING DISTRICTS

Section 100	Permitted Uses in All Districts. ....	4-1
Section 101	A-1 Agricultural District. ....	4-2
Section 102	R-1 Single- and Two-Family Residential District. ....	4-4
Section 103	R-2 Multiple-Family Residential District. ....	4-6
Section 104	MH-1 Manufactured Home Park District. ....	4-8
Section 105	C-1 Central Business District. ....	4-10
Section 106	C-2 General Business District. ....	4-13
Section 107	I-1 Light Industrial District. ....	4-15
Section 108	I-2 Heavy Industrial District. ....	4-18
Section 109	P-O Protective Overlay District. ....	4-20

## ARTICLE 5. OFF-STREET PARKING AND LOADING

Section 100	Off-Street Parking. ....	5-1
Section 101	Required Parking Spaces. ....	5-3
Section 102	Conditional Use for Parking. ....	5-5
Section 103	Off-Street Loading and Unloading. ....	5-6

## ARTICLE 6. ACCESSORY STRUCTURES AND USES, TEMPORARY USES AND HOME OCCUPATIONS

Section 100	Accessory Structures and Uses Authorization. ....	6-1
Section 101	Temporary Uses Permitted. ....	6-4
Section 102	Home Occupations Authorization. ....	6-6

## ARTICLE 7. SIGNS

Section 100	Purpose, Substitution and Severability. ....	7-1
Section 101	Applicability. ....	7-2
Section 102	Definitions. ....	7-2
Section 103	Electronic Message Centers & Lighted Signs. ....	7-5
Section 104	Prohibited Signs.....	7-6
Section 105	Exempt Signs. ....	7-7
Section 106	Nonconforming Signs. ....	7-8
Section 107	Zoning Permit Required for Permanent Sign. ....	7-8
Section 108	Enforcement. ....	7-9
Section 109	Requirements in All Zones for All Signs. ....	7-11
Section 110	Requirements in All Zones by Sign Type. ....	7-12
Section 111	Sign Regulations by Zoning District.....	7-18

## ARTICLE 8. NONCONFORMING LOTS, STRUCTURES AND USES.

Section 100	Purpose. ....	8-1
Section 101	Nonconforming Lots of Record. ....	8-1
Section 102	Nonconforming Structures. ....	8-3
Section 103	Nonconforming Uses. ....	8-4
Section 104	Nonconforming Residential Structures. ....	8-6
Section 105	Nonconforming Nonresidential Structures and Uses. ....	8-6
Section 106	Status of Existing Permitted and Conditional Uses.....	8-7
Section 107	Registration of Nonconformities and Exemptions. ....	8-7

## ARTICLE 9. ADMINISTRATION AND ENFORCEMENT

Section 100	Office of the Zoning Administrator. ....	9-1
Section 101	Zoning Permits and Occupancy Certificates.....	9-2
Section 102	Enforcement and Liability.....	9-4
Section 103	Violations. ....	9-5
Section 104	Fees. ....	9-6
Section 105	Reports.....	9-6

## ARTICLE 10. BOARD OF ZONING APPEALS

Section 100	Authorization. ....	10-1
Section 101	General Procedures.....	10-1
Section 102	Jurisdiction. ....	10-1
Section 103	Notice of Hearing. ....	10-2
Section 104	Conduct of Hearing. ....	10-2
Section 105	Finality and Judicial Review of Decisions. ....	10-3
Section 106	Appeals. ....	10-3
Section 107	Variances. ....	10-4
Section 108	Conditional Uses. ....	10-6

**ARTICLE 11. AMENDMENTS**

Section 100 General Provisions for Amendments and Special Uses. ....11-1  
Section 101 Special Uses. ....11-6  
Section 102 Project Review. ....11-7  
Section 103 Filing of Protest. ....11-7  
Section 104 Adoption of Amendments or Special Uses by the Governing Body. ....11-7  
Section 105 Annual Review. ....11-8  
Section 106 Judicial Review. ....11-8

**ARTICLE 12. SEVERABILITY AND EFFECTIVE DATE**

Section 100 Severability. ....12-1  
Section 101 Effective Date. ....12-1

**APPENDICES**

Appendix 1. Table of Comparability. ....Appendix 1-1  
Appendix 2. Selected Index by Subject. ....Appendix 2-1  
Appendix 3. Ordinance Incorporating and Adopting Zoning Regulations. ....Appendix 3-1

**ARTICLE 1. TITLE, PURPOSE, AUTHORITY AND JURISDICTION**

**Section 100 Title**

These regulations, including the zoning district maps made a part hereof, shall be known and may be cited as the "Zoning Regulations of the City of Sedgwick, Kansas," and shall hereinafter be referred to as "these regulations".

**Section 101 Purpose**

These regulations are intended to serve the following purposes:

- A. To promote the public health, safety, morals, comfort and general welfare;
- B. 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. 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 floodplains;
- D. 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. To protect property values and conserve energy and natural resources;
- F. To provide for adequate light and air and acceptable noise levels;
- G. To avoid the undue concentration of population and vehicular traffic and to prevent overcrowding the use of land and public facilities;
- H. To facilitate the adequate provisions of transportation, water supply, sewage disposal, schools, parks and other public improvements;
- I. 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. To establish and provide procedures for the Board of Zoning Appeals to consider appeals, variances and conditional uses as exceptions; and
- K. To implement the goals, policies and proposals of the comprehensive plan for the zoning jurisdiction.

**Section 102 Authority**

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

**Section 103 Zoning Jurisdiction**

These regulations shall apply only to all structures, buildings and land within the corporate limits of the City of Sedgwick, Kansas, as presently exists or are hereafter established by annexation.

All such land is included in the Planning Area for the Comprehensive Development Plan which has been adopted by the Planning Commission and approved by the Governing Body.

**ARTICLE 2. INTERPRETATION, CONSTRUCTION AND DEFINITIONS****Section 100 Rules of Interpretation**

- 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.
- 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.
- C. **Private Agreements.** The provisions of these regulations are not intended to abrogate any valid 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.
- 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.
- 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.
- F. **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: *(See Section 2-100G for Vesting of Development Rights.)*
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 were 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 2-100F applies, an occupancy certificate shall be issued in accordance with the zoning regulations in effect at the time the zoning permit was issued.

**G. Vesting of Development Rights.** For the purpose of single-family residential developments according to K.S.A. 12-764, as amended, development rights in such land use shall vest upon recording of a final plat of such land after January 1, 1992. If construction of a principal structure is not commenced on such land within five years of recording a final plat before July 01, 2009, the development rights in such land shall expire and, thus, all revisions to zoning or subdivision regulations becoming effective during the period vested shall then apply to such platted land. For such plats recorded on or after July 01, 2009, such construction must take place within 10 years to be vested.

**Section 101 Rules of Construction**

- A. 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 singular number includes the plural and the plural the singular.
  2. The present tense includes the past and future tenses and the future the present.
  3. The word "shall" is mandatory while the word "may" is permissive.
  4. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
  5. The word "person" includes an individual, firm, corporation, association, partnership, trust, governmental body and agency, and all other legal entities.
  6. The word "City" means the City of Sedgwick, Kansas.
  7. The words "Governing Body" mean the Mayor and Council members of the City of Sedgwick, Kansas which together constitute the governing body.
  8. The word "Clerk" means the City Clerk of the City of Sedgwick, Kansas.
  9. The words "Planning Commission" mean the Sedgwick City Planning Commission.
  10. The words "Comprehensive Plan" mean the adopted and approved Comprehensive Development Plan for the City of Sedgwick, Kansas and surrounding Planning Area, which includes, among other elements, a plan for land use.
  11. The word "Board" means the Sedgwick Board of Zoning Appeals.
  12. The words "zoning jurisdiction" mean the area as defined in Section 1-103 for which the jurisdiction of these regulations is applicable for zoning purposes.
  13. Unless otherwise specified, all distances shall be measured horizontally.

- B. Any word or phrase which is defined in this Article or elsewhere in these regulations shall have the meaning as so defined whenever used in these regulations, unless such definition is expressly limited in its meaning or scope.
- C. Words or terms not herein defined shall have their ordinary meaning in relation to the context as defined in a dictionary.

**Section 102 Definitions**

The following definitions shall be used in the interpretation and construction of these regulations:

**ACCESSORY DWELLING:** An accessory dwelling unit may be constructed wholly within, or may be detached from, a principal single-family dwelling unit which shall be subject to the following standards:

1. A maximum of one accessory dwelling unit may be allowed on the same zoning lot as a single-family dwelling unit;
2. A detached accessory dwelling unit may be constructed separately or in conjunction with a garage for the principal dwelling unit;
3. The appearance of an accessory dwelling unit shall be compatible with the principal dwelling and the character of the neighborhood;
4. The lot on which the accessory dwelling unit is to be located must meet the minimum lot area as required for the lot size of the relevant zoning district and the maximum lot coverage;
5. The off-street parking space and standards for Section 5-101A1 must be met;
6. Separate or shared utility connections may be utilized subject to meeting all requirements of any applicable building codes in the City;
7. Temporary, prefabricated structures may be used as accessory dwellings for limited periods of time; and
8. An accessory dwelling unit shall remain accessory to and under the same ownership as the principal single-family dwelling unit and not be subdivided or sold as a condominium. A suitable deed restriction stating this restriction must be filed with the County Register of Deeds prior to issuance of any occupancy certificate for the accessory dwelling.

**ACCESSORY USE OR STRUCTURE:** As defined in Article 6.

**ADULT CARE CENTER:** A facility in which care and activities are provided on an hourly or daily basis for adults of all ages. The latter arrangement is not construed to be a "nursing home". It may also be referred to as an "adult day care" facility. Such centers are licensed under regulations established and administered by the Kansas Department of Health and Environment. *(See Section 6-102C1 for adult care center limitations as home occupation.)*

**ADULT CARE HOME:** A residential facility operated as a home occupation for not more than six adults wherein care and activities are provided on an hourly or daily basis or limited nursing care is provided on a 24-hour basis. Such homes may also be referred to as "home plus" and are licensed under regulations established and administered by the Kansas Department of Health and Environment. Standards for such definitions may be periodically amended by changes in state regulations. Application to the Board of Zoning Appeals may be made for a conditional use to allow up to 10 persons to be cared for in a home occupation.

**ADULT ENTERTAINMENT:** (See *SEXUALLY ORIENTED BUSINESS*.)

**AGRICULTURE:** The use of land for growing crops in the open, horticulture, nurseries, truck farms and accessory uses, including the structures not in a designated floodplain for carrying out agricultural operations; provided, however, such agricultural use shall not include the following uses: (See Section 3-100E4 for Exemptions.)

1. The maintenance and operation of commercial greenhouses or hydroponic farms, except in zoning districts where permitted.
2. Retail sales as an accessory use, unless the same are otherwise permitted by these regulations.
3. The feeding of garbage to animals.
4. The feeding, grazing, or sheltering of domestic animals or fowl, e.g., horses, cows, swine, goats, chickens, pigeons, rabbits or fur bearing animals, but not including cats and dogs and other pets; unless such animals or fowl are otherwise permitted by the City laws or regulations.
5. The operation or maintenance of a stockyard or commercial feedlot.

Farmhouses are considered to be single-family dwellings.

**ALLEY:** A minor right of way along the side of or in the rear of lots intended to provide a secondary means of access to abutting lots and to and from streets.

**ALTERATION:** See STRUCTURAL ALTERATION.

**AMUSEMENT CENTER:** An indoor commercial establishment which contains amusement devices for public use as the principal activity of the business operating the center, but, in any event, places which operate four or more of the devices. Amusement devices shall include computer video games, pinball machines, pool or billiard and other table games. Such definition is not intended to include recreational uses such as bowling, skating rinks or miniature golf, but may include indoor ranges for archery and shooting firearms.

**ANIMAL HOSPITAL OR CLINIC:** An establishment where animals are admitted principally for examination, treatment, board or care, by a doctor of Veterinary Medicine. This does not include open kennels or runs, unless specifically permitted by the district regulations.

**APARTMENT:** See DWELLING, MULTIPLE-FAMILY.

**ASSISTED LIVING FACILITY:** Dwelling units used by older persons, persons with disabilities or other persons needing or desiring assistance with day-to-day living matters, but not including nursing homes, hospitals or convalescent care facilities. Typical uses include retirement communities in which housekeeping services, common dining facilities and recreational and social activities are offered to residents.

**AUTOMOBILE SERVICE STATION:** A structure and surrounding land used for the storage and sale of petroleum fuel, including self-service, primarily to passenger vehicles and for accessory uses such as the sale of lubricants, accessories or supplies, the incidental washing of motor vehicles and the performing of minor repairs, but not including tire recapping, body repairs or major overhaul. Such use does not include open sales lots for new or used vehicles nor provide rental equipment, unless specifically permitted by the district regulations.

**AWNING:** A roof-like cover that is temporary in nature which projects from the wall of a building and which may overhang a public sidewalk area.

**BASEMENT:** That portion of a building located wholly or partially underground, but having more than one-half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

**BED AND BREAKFAST HOME OR INN:** A dwelling where for compensation one or more rooms are available for lodging and breakfast served to lodgers only. When conducted as a home occupation, such facilities are designated as "homes." When designated as an "inn," such facilities may be operated as a home occupation or as a business enterprise. When specifically permitted, tea rooms for a limited number of customers may be operated in conjunction with bed and breakfast inns.

**BLOCK:** A tract of land bounded by streets or by a combination of streets, public parks, cemeteries, railroad right of way, waterways, city limits or other property lines.

**BOARDING OR ROOMING HOUSE:** A building other than a hotel where, for compensation and by prearrangement for definite periods, lodging only or with meals are provided for three or more boarders and/or roomers exclusive of the occupant's family. Individual cooking facilities are not provided. (See *FAMILY*.)

**BUILDING:** Any covered structure having a roof supported by walls for the shelter, support or enclosure of persons, animals, horticultural products or chattels. Interconnected buildings shall be considered as one building. (See *STRUCTURE*.)

**BULK REGULATIONS:** Regulations controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Bulk regulations include regulations controlling: (1) maximum height, (2) maximum lot coverage, and (3) minimum size of yards and setbacks. (See *Section 3-103G for utility and communication facilities exemption*.)

**BUSINESS AND PROFESSIONAL OFFICE:** The office of an architect, attorney, dentist, doctor, engineer, landscape architect, real estate or insurance agent or other similar professional person, and any office used primarily for accounting, correspondence, research, editing or administration.

**CAMPGROUND:** Any parcel of ground which provides space for transient or semi-permanent occupancy and is used or intended to be used for the placement of one or more RV campers and for single-wide portable housing structures. The latter are sometimes referred to as "cabins" or "tiny houses". The term campground does not include sales lots on which unoccupied campers or housing structures, whether new or used, are parked for the purpose of storage, inspection, or sale.

**CANOPY:** Any structure, movable or stationary, open on three sides, which is attached to and projects from a wall of a building for the purpose of sheltering a drive-up facility, platform, stoop, entranceway or sidewalk from the elements including a motor vehicle; or an independent roof-like structure supported by posts with no sidewalls for purpose of the sheltering a gasoline service area, drive-in facility or motor vehicles. In any event, the sheltering of motor vehicles is for temporary parking and unloading only and not for a permanent parking space or storage. (See *CARPORT and Section 3-103F1 for Permitted Obstructions*.)

**CAPACITY IN PERSONS:** The maximum number of persons who can avail themselves of the services or goods of an establishment, at any one time, with reasonable comfort.

**CARPORT:** A structure for shelter and permanent parking space for motor vehicles attached to a building or independent thereof. Such carports are not permitted obstructions under Section 3-103F1. (See *CANOPY*.)

**CAR WASH:** An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.

**CELLULAR TOWER:** A telecommunication structure with an attached antenna(s) which creates a cell site for a wireless transmission service that permits customers to use mobile telephones to connect either to the public switched network or to other mobile cellular phones. Such definition shall also include structures which provide "personal communication services" (PCS) that are similar to cellular, but allow for both data and voice transmission.

**CHILD CARE FACILITIES:** Standards and requirements for facilities which provide care for children are established by State law and promulgated by regulations of the Kansas Department of Health and Environment. The following facilities are licensed or registered by the department and all requirements, as may be amended from time to time, must be met:

1. **Group Boarding Home:** A non-secure facility providing 24-hour residential care for not less than five nor more than 10 persons unrelated to the caregivers. Emergency shelter and maternity care may be provided.
2. **Child Care Center:** A facility in which care and educational activities for 13 or more children two weeks to 16 years of age are provided for more than three, but less than 24 hours per day, including before and after school care for school age children.
3. **Preschool:** A facility such as a "nursery school" providing learning experiences for children of less than kindergarten age, but who are 30 months or older, where sessions do not exceed three hours per day.
4. **Day Care Home:** A home or facility in which care is provided for a maximum of 10 children under 16 years of age.
5. **Group Day Care Home:** Similar to day care homes except that care is provided to a maximum of 12 children under 16 years of age.
6. **Family Day Care Home:** A home in which care is provided for less than 24 hours per day for a maximum of six children who are less than 16 years of age, but of whom not more than three children are less than 18 months.

*(See Section 6-100B11 for child care facilities for employees and Sections 6-102C and D for home occupations permitted and prohibited.)*

**CLUB:** An organization licensed as a Class A or B club for the purpose of consuming alcoholic beverages either for or not for profit under K.S.A. 41-2601, et seq., as amended. *(See FRATERNAL OR SERVICE CLUB and TAVERN AND DRINKING ESTABLISHMENT.)*

**CONDITIONAL USE:** A use of a structure or land which is not permitted outright within a zoning district because of possible adverse effects upon surrounding properties, but which with conditions placed upon it by application to the Board of Zoning Appeals as an exemption such a conditional use may become compatible to the area at particular locations within the district. *(See Section 10-108 for Conditional Uses.)*

**CONDOMINIUM:** A structure and related common areas and facilities designed to meet the provisions of the Apartment Ownership Act cited in K.S.A. 58-3101, *et seq.*, which governs the ownership, management, taxation, contents of the declaration and other matters related to the sale and operation of such structures and the independent units therein. Independent condominium units, as defined in the Act, may be used for residential, office, business, industrial and other uses as permitted by the respective zoning districts. The contents of the declaration as required by K.S.A. 58-3111 shall also include a provision for the City to carry out the obligation to maintain the common areas and facilities in order to avoid having them become a public nuisance. In the event that such responsibilities are assumed by the City, the costs for such maintenance shall be assessed against the condominium units and shall become a tax lien thereon. The Zoning Administrator must be satisfied that such a provision is included in the declaration before a zoning permit or occupancy certificate will be approved.

**DENSITY:** Restrictions on the number of dwelling units that may be constructed per acre or per square feet of a zoning lot area.

**DEVELOPER:** The legal or beneficial owner or owners of all of the land proposed to be included in a planned development or the duly authorized agent thereof. The holder of an option or contract or purchase, a lessee having a remaining term of not less than 40 years or other person having an enforceable proprietary interest in such land, shall be deemed to be a developer for the purpose of these regulations.

**DISTRICT:** A section or sections of the zoning jurisdiction for which the regulations governing the use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform.

**DOG KENNEL:** Any place where four or more dogs are kept, maintained, boarded, bred for a fee or offered for sale. A "dog" is defined as any member of any canine species over six months of age. This definition includes dogs which are kept or maintained as pets.

**DRIVE-IN ESTABLISHMENT:** An enterprise which accommodates the patrons' parked automobiles and from which the occupants may make purchases, transact business or view motion pictures or other entertainment. Such definition does not include a drive-through facility such as located at banks or restaurants.

**DWELLING:** A building, or portion thereof, which is designed or used for residential occupancy including a condominium and a modular home, but not a group home as herein defined, an earth-sheltered dwelling, a residential-design manufactured home or a manufactured or mobile home, unless any of the latter are specifically permitted.

**DWELLING, ATTACHED:** A residential building which is joined to another dwelling at one or more sides by a party wall or walls, including walls of an attached garage. Separate ownership of attached dwelling units known as common lot line housing or "twin homes" shall be accompanied by a recorded lot split unless already platted into individual lots. All utilities and facilities must be independent of each other, unless provided by an association of town house or condominium owners under K.S.A. 58-3101 *et seq.* or 58-3701 *et seq.* respectively and platted as common ownership.

**DWELLING, DETACHED:** A residential building which is entirely surrounded by open space on the same lot.

**DWELLING, MULTIPLE-FAMILY:** A residential building containing three or more dwelling units.

**DWELLING, SINGLE-FAMILY:** A residential building containing one dwelling unit only or a group home as defined herein.

**DWELLING, TWO-FAMILY:** A residential building containing two dwelling units only, which also may be referred to as a duplex.

**DWELLING UNIT:** One or more rooms in a residential building or residential portion of a building which are arranged, designed, used or intended for use by one family, and which includes cooking space and lawful sanitary facilities reserved for the occupants thereof.

**EARTH-SHELTERED DWELLING:** A single-family dwelling constructed so that 50% or more of the exterior surface area of the building, excluding garages and other accessory structures, is covered with earth. Such a dwelling is a complete structure that does not serve just as a foundation or substructure for above-grade construction. A partially completed building shall not be considered earth-sheltered. Bulk regulations shall be measured from the structural part of the dwelling as distinguished from the earth covering.

**EASEMENT:** A public dedication or private grant by the property owner of the specific use of a strip of land by others. Limitations apply on what type of principal or accessory buildings or structures can be located on a public easement. *(See Section 9-101A for Zoning Permits.)*

**FAMILY:** Either (1) an individual or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit; or (2) a group of not more than four adult persons who need not be related by blood, marriage or adoption, living together as a single, housekeeping unit in a dwelling unit; plus in either case, domestic servants. A family may include any number of gratuitous guests or minor children not related by blood, marriage or adoption. No more than two boarders or roomers are permitted as part of a housekeeping unit. *(See BOARDING OR ROOMING HOUSE and Section 6-102B3 for home occupation limitations.)*

**FENCE:** A free-standing structure of customary materials such as metal, masonry, glass, plastic or wood or any combination thereof, resting on or partially buried in the ground including a berm and rising above ground level, and used for confinement, screening, or partition purposes, but which does not pose a threat to public safety or health and is designed and constructed in such a manner as to produce an aesthetically pleasing appearance. Fences constructed of fork-lift pallets, portions of vehicles or appliances, concrete bags or metal roofing material and the like are not permitted. In determining the location of a fence, consideration must be given to its effect upon proper drainage. *(See Section 3-103F2-5 for fences as Permitted Obstructions.)*

**FLOODPLAIN:** See definitions in the City Floodplain Management Regulations.

**FLOOR AREA:** For computing off-street parking requirements, floor area shall mean the gross floor area of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings and shall include all floors, except that space which is used for storage or for group meeting rooms.

**FRATERNAL AND SERVICE CLUB:** An association formally organized for either fraternal, social, educational, philanthropic or other similar purposes, including union and professional organizations and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee or similar body chosen by the members. Food, meals and beverages may be served on such premises, provided adequate dining space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests, provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all federal, state, county and local laws. *(See CLUB.)*

**FRONTAGE:** 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.

**GARAGE, PRIVATE:** A building for the private use of the owner or occupant of a principal building situated on the same lot as the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

**GARAGE, REPAIR:** A building designed and used for the storage, care, repair or refinishing of motor vehicles including both minor and major mechanical overhauling, paint and body work.

**GARDEN STORE:** A store which sells growing plants, seeds, bulbs, shrubs and gardening and landscaping tools, implements and supplies, including lawn furniture.

**GROUP HOME:** A dwelling occupied by not more than 10 persons, including eight or fewer persons with a disability which is a physical or mental impairment as defined by K.S.A. 12-736. The two staff residents need not be related by blood or marriage to each other or to the other residents of the home. Such a dwelling must be licensed by the Kansas Department of Social and Rehabilitation Services or the Kansas Department of Health and Environment. *(See DWELLING, SINGLE-FAMILY.)*

**HAZARDOUS WASTE FACILITY:** An on-site or off-site facility or part of a facility or modification of an existing facility which includes all contiguous land, structures and other appurtenances and improvements on the land utilized for the purpose of treating, storing or disposing of hazardous waste. Such term shall also mean a hazardous waste injection well. In addition to this definition of facility, all related definitions pertaining to hazardous wastes as contained in K.S.A. 65-3430 and as may be amended from time to time are hereby incorporated by reference into the definitions of these regulations.

**HEIGHT, MAXIMUM:** A horizontal plane above and parallel to the average finished grade of the entire zoning lot at the height shown in the district regulations. No part of any structure shall project through such plane except:

1. Chimneys, flues, stacks, fire escapes, gas holders, elevator enclosures, ventilators, skylights, solar panels, water tanks and similar roof structures needed to operate and maintain the building on which they are located and signs where permitted by Article 7;
2. Flagpoles, water towers and tanks, steeples, bell towers, carillons, monuments, cupolas, electric transmission line towers and private wind energy conversion systems. *(See Section 6-100B14 for private wind energy conversion systems.);* and
3. Communication structures which do not exceed 60 feet in height in agricultural and industrial districts only. Also, an exception to the maximum height in all districts are antennas for licensed amateur radio and citizens band operators, as well as wireless cable TV antennas on masts. Communication structures include (1) antennas, and (2) broadcasting and microwave transmitting and relay towers for television, radio and cellular telephone systems and other similar forms of electronic communication. In all districts, applicants may apply for a special use to construct a communication structure as a principal use which may exceed the height limitations for such structures. The Planning Commission may adopt criteria in the form of a policy statement to assist in the review of such special use applications. *(See Section 6-100B6 for satellite dish antennas, Section 6-100B7 for communication structures, antennas and aerials and Section 3-103G for lot size and bulk regulations exemption.)*

**HOME OCCUPATION:** As defined in Article 6.

**HOTEL:** A building or portion thereof, or a group of buildings, which provides sleeping accommodations for transients with or without meals, whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court or otherwise, but not a bed and breakfast home or inn.

**LANDSCAPING:** 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.

**LOT:** See LOT, ZONING.

**LOT AREA:** The area of a horizontal plane bounded by the front, side and rear lot lines.

**LOT, CORNER:** A lot abutting upon two or more streets at their intersection. (See LOT LINE, REAR AND YARD, FRONT.)

**LOT COVERAGE:** That percentage of a lot which, when viewed directly from above, would be covered by a structure or structures or any part thereof, excluding projecting roof eaves and recreational activity areas for basketball, racquetball, swimming, tennis and similar activities. (See BUILDING.)

**LOT DEPTH:** The distance between the midpoint of the front lot line and the midpoint of the rear lot line.

**LOT, INTERIOR:** A lot other than a corner lot.

**LOT LINE:** The boundary line of a zoning lot. (See LOT, ZONING.)

**LOT LINE, FRONT:** A street right of way line forming the boundary of a lot.

**LOT LINE, REAR:** The lot line that is most distant from and is or is most nearly, parallel to the front lot line. If a rear lot line is less than 10 feet long or if the lot comes to a point at the rear, the rear lot line shall be a line at least 10 feet long, lying wholly within the lot, parallel to the front line. If a zoning lot has two or more front lot lines, the owner or developer shall designate the yard which is to be the rear yard and/or side yard.

**LOT LINE, SIDE:** A lot line which is neither a front lot line nor a rear lot line.

**LOT OF RECORD:** A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Deeds or a parcel of land described by metes and bounds of which the deed was recorded prior to adoption of these regulations.

**LOT, REVERSE FRONTAGE:** A lot whose rear lot line also serves as the street line for a limited access highway or street. With complete access control on the rear lot line, the abutting yard is considered to be a rear yard. (See LOT, THROUGH and YARD, REAR.)

**LOT SIZE REQUIREMENTS:** Restrictions on the dimensions of lots including (1) minimum lot area, width and depth; and (2) maximum density. Lot area, width and depth establish the minimum size of the zoning lot on which a structure or use or two or more structures or uses, may be constructed or established. (See Section 3-103G for utility and communication facilities exemption.)

**LOT, THROUGH:** A lot which has a pair of opposite lot lines along two substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines, but in the case of two or more contiguous through lots, there shall be a common front lot line, sometimes referred to as a double frontage lot. (*See Lot, REVERSE FRONTAGE.*)

**LOT WIDTH:** The distance on a horizontal plane between the side lot lines measured at right angles to the lot depth at the established front yard setback line.

**LOT, ZONING:** A parcel of land that is designated by its owner or developer at the time of applying for a zoning permit as a tract all of which is to be used, developed or built upon as a unit under single ownership. As long as it satisfies the above requirements, such lot may consist of: (1) a single lot of record, or (2) a portion of a lot of record, or (3) a combination of complete lots of record, complete lots and portions of lots of record, or portions of lots of record.

**MANUFACTURED HOME:** A factory-built structure or structures equipped with the necessary service connections and made so as to be transportable as a unit or units on its own running gear and designed to be used as a dwelling unit with or without a permanent-type, enclosed perimeter foundation. The transportation system is designed so that the home may be moved from time to time at the convenience of the owner. The term shall also include two or more separately towed units which are designed to be bolted or otherwise fastened together to form a complete living unit. Such homes are built on a chassis consisting of drawbar and coupling mechanism, frame (e.g., steel I-beams), running gear assembly and lights. Removal of any or all of these component parts does not change the definition. All such homes shall be either skirted according to the manufacturer's design and construction standards or placed on a permanent-type, enclosed perimeter foundation and, according to standards of the State of Kansas under K.S.A. 75-1226, *et seq.*, as amended, shall be anchored to the ground or secured to a permanent-type foundation. All manufactured homes must meet the standards of the National Manufactured Home Construction and Safety Standards of 1976, otherwise referred to as the "HUD Code". Additions may be made to such homes for patios, porches, carports, garages, storage structures and living space provided such additions are designed and constructed by a manufactured home factory or meet applicable City building codes. Overhead structures which cover or enclose a home are not permitted; however, a protective roof covering which is used to remedy a deteriorating roof condition is permitted. Under no circumstances shall two or more single-wide homes be permitted to connect together in any manner on the same zoning lot, nor shall such homes be attached to or integrated with the design of a site-built dwelling unit. (*See MOBILE HOME and RESIDENTIAL-DESIGN MANUFACTURED HOME.*)

**MANUFACTURED HOME PARK:** Any area, piece, parcel, tract, or plot of ground equipped as required for support of manufactured homes and used or intended to be used by one or more mobile homes, RV campers and single-family portable manufactured homes. Some types of the latter may be identified as portable "cabins" or "tiny houses" and be leased for rent by the park owner. The parks shall be under one ownership and control, but offered for sale individually. The definition of a park does not include a sales area on which unoccupied homes, whether new or used, are parked for the purposes of storage, inspection or sale. A manufactured home or related structures may, however, remain on a space for purposes of sale by the resident owner.

**MEDICAL, DENTAL OR HEALTH CLINIC:** Any building designed for use by three or more full-time professional persons engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to doctors of medicine, dentists, chiropractors, osteopaths, optometrists, podiatrists and naturopaths, and in which no patients are lodged overnight, but which may include a pharmacy.

**MINI-STORAGE FACILITY:** A building or group of buildings that contain varying sizes of individual, compartmentalized and controlled-access stalls and/or lockers for the dead storage indoors of customer's goods or wares. Outdoor storage may be permitted, but only when specifically permitted by these regulations. The operation shall not include a transfer and storage business where the use of vehicles is part of such a business.

**MOBILE HOME:** A factory-built structure or structures equipped with the necessary service connections and made so as to be transportable as a unit or units on its own running gear and designed to be used as a dwelling unit with or without a permanent-type, enclosed perimeter foundation. The transportation system is designed so that the home may be moved from time to time at the convenience of the owner. The term shall also include two or more separately towed units which are designed to be bolted or otherwise fastened together to form a complete living unit. Such homes are built on a chassis consisting of drawbar and coupling mechanism, frame (e.g., steel I-beams), running gear assembly and lights. Removal of any or all of these component parts does not change the definition. All such homes shall be either skirted according to the manufacturer's design and construction standards or placed on a permanent-type, enclosed perimeter foundation and, according to standards of the State of Kansas under K.S.A. 75-1226, *et seq.*, as amended, shall be anchored to the ground or secured to a permanent-type foundation. Additions may be made to such homes for patios, porches, carports, garages, storage structures and living space provided such additions are designed and constructed by a manufactured home factory or meet applicable City building codes. Overhead structures which cover or enclose a home are not permitted; however, a protective roof covering which is used to remedy a deteriorating roof condition is permitted. Under no circumstances shall two or more single-wide homes be permitted to connect together in any manner on the same zoning lot, nor shall such homes be attached to or integrated with the design of a site-built dwelling unit. (See *MANUFACTURED HOME and RESIDENTIAL-DESIGN MANUFACTURED HOME.*)

**MODULAR HOME:** A single-family dwelling structure located on a permanent foundation and connected to public utilities, consisting of pre-selected, prefabricated units or modules, and transported to and/or assembled on the site of its foundation; in contrast to a residential building which is custom built on the site of its permanent location; and also in contrast to a manufactured or mobile home of any width which is located on a permanent foundation. In general, such modular homes shall have exterior building materials and somewhat similar appearance to custom-built residential buildings and meet the standards of any applicable City building codes.

**NONCONFORMING LOT OF RECORD:** A zoning lot which does not comply with the lot size requirements for any permitted use in the district in which it is located. *(See Sections 8-100A and 101 for Nonconforming Lots of Record.)*

**NONCONFORMING STRUCTURE OR USE:** A lawfully existing structure or use at the time these regulations or any amendments thereto became effective which does not conform to the requirements of the zone in which it is located. *(See Sections 8-100B and C, 102 and 103 for Nonconforming Structures and Uses.)*

**NURSING OR CONVALESCENT HOME:** An institution for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, but not including institutions for the care and treatment of mental illness, alcoholism or narcotics addiction. Regulations of the Kansas Department of Health and Environment designate such homes as "Adult Care Homes."

**OCCUPANCY CERTIFICATE:** A certificate by which the Zoning Administrator certifies that upon completion of an applicant's proposed structure and/or use that it complies with these regulations and, therefore, may be occupied and/or used. When applicable, such a certificate may be combined with the issuance of a certificate of occupancy as required by a building code. *(See Section 8-103H for Change in Use and Section 9-101B for Occupancy Certificates.)*

**PERMITTED USE:** A use of a structure or land which is permitted outright within a zoning district because of its suitability to the purpose of the other uses so designated. When a use may appear to be classified under more than one permitted use as well as a special or conditional use in any district, the most specific description or narrowly defined wording is applicable. The Zoning Administrator is authorized to issue zoning permits and occupancy certificates for such permitted uses when all other requirements of the regulations have been met.

**PORTABLE STORAGE UNIT:** A container specifically designed for storage or a converted former metal shipping container which is used for general storage purposes and painted a neutral color. Such a unit requires location on the ground, but is not permanently attached to the ground or to anything on the ground. Access is granted by doors on one or both ends. No other signage is permitted on the unit other than business identification signage of modest size. *(See Section 2-102 for definition of STRUCTURE.)*

**PREMISES:** A contiguous lot or tract of land together with all buildings and structures thereon.

**PRINCIPAL STRUCTURE:** A structure in which a principal use of the lot on which the structure is located is conducted.

**PRINCIPAL USE:** The main use of land or structures as distinguished from a subordinate or accessory use or structure.

**RECREATIONAL VEHICLE, (RV):** A vehicle or a unit that may be independently motorized or may be mounted on or drawn by another vehicle, which is primarily designed and used for travel, camping, recreation, temporary living or occasional use. Recreational vehicles include motor homes, mini-motor homes, converted buses, converted camper vans, pickup and truck campers, camping trailers, fifth-wheel trailers, boats and boat trailers, jet skis and jet ski trailers and similar vehicles. Conventional vans and pickup trucks with or without slide-in pickup campers or toppers are not considered to be recreational vehicles nor are small trailers used for hauling animals, equipment or household goods of the occupant of the dwelling whereon such trailer is parked. *(See Section 6-100B4 for storage of recreational vehicles.)*

**RECYCLING CENTER:** A location where clean, source-separated, recyclable materials are accepted or deposited by the public for transfer elsewhere. As distinguished from the operation of salvage yards or hazardous waste facilities, such recyclable materials consist only of aluminum and steel cans, glass, paper, plastic, reusable containers and materials capable of being composted. A center must be maintained in a litter-free condition on a daily basis. The name and phone number of a responsible party must be clearly posted in case a problem occurs. Such a center may be further classified as follows: *(See Sections 6-100B12 and 101G for recycling centers.)*

1. Small recycling collection center: A center for collection containers or reverse vending machines not exceeding 100 square feet in ground area which may be approved by the Zoning Administrator as an accessory use in all business and industrial districts and on church and public property. Such a center may be located in the required front yard in business and industrial districts and on public property if proper vehicular safety and parking standards can be maintained.
2. Large recycling collection center: A center for collection containers larger than 100 square feet in ground area, on-site trailers, bulk-feed reverse vending machines, vehicles on-site during operating hours only and the like. As an accessory use, such a center may be approved by the Board of Zoning Appeals as a conditional use in all business and industrial districts and on church and public property.
3. Recycling processing center: A principal use in industrial districts only for handling the collection and processing of large volumes of bulky materials, some of which may originate at other recycling centers. Mechanical equipment may be used such as forklifts, balers, smashers and other related equipment. Outdoor storage may be permitted including composting operations.

**REHABILITATION HOME:** A residential building which is used by an organized group to supervise the rehabilitation of the individual occupants. Sometimes such homes are known as "halfway houses" for the rehabilitation of wayward juveniles, drug or alcoholic addicts or former offenders. For new buildings or modifications of existing buildings, the overall appearance is to remain as a residential type building when located in a residential district.

**RESIDENTIAL BUILDING:** A building all or part of which contains one or more dwelling units, including single-family dwellings with or without accessory dwellings as defined herein, two-family dwellings, multiple-family dwellings, lodging houses, dormitories, sororities and fraternities, as well as modular homes. Such definition does not include manufactured or mobile homes of any type.

**RESIDENTIAL CENTER:** A non-secure facility which provides 24-hour residential care for more than 10 residents unrelated to the caregivers including emergency shelter and maternity homes. Such a facility must be licensed by the Kansas Department of Health and Environment.

**RESIDENTIAL-DESIGN MANUFACTURED HOME:** A structure manufactured to the standards embodied in the federal Manufactured Home Construction and Safety Standards generally known as the HUD Code established in 1976 pursuant to 42 U.S.C. Sec. 5403. Such units shall provide all of the accommodations necessary to be a dwelling unit and shall be connected to all utilities in conformance with applicable City regulations. Such a structure shall be on a permanent-type, enclosed perimeter foundation which has minimum dimensions of 22 body feet in width, a pitched roof, siding and roofing materials which are customarily used on site-built homes, and which complies with the following architectural or aesthetic standards so as to ensure their compatibility with site-built housing:

1. The roof must be predominantly double-pitched and have a minimum vertical rise of 3.0 inches for every 12 inches of horizontal run, and must be covered with material that is customarily used on site-built dwellings, including but not limited to approved wood, asphalt composition shingles or fiberglass, but excluding corrugated aluminum, corrugated fiberglass or metal roof. The roof shall have a minimum eave projection and roof overhang on at least two sides of 10 inches which may include a gutter.
2. Exterior siding shall be of a non-reflective material customarily used on site-built dwellings such as wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials, but excluding smooth, ribbed or corrugated metal or plastic panels. Siding material shall extend below the top of the exterior of the foundation or curtain wall or the joint between siding and enclosure wall shall be flashed in accordance with any applicable City building codes.
3. The home shall be installed in accordance with the recommended installation procedures of the manufacturer and the standards set by any applicable City building codes. A continuous, permanent concrete or masonry foundation or masonry curtain wall, unpierced except for required ventilation and access which may include walk-out basements and garages, shall be installed under the perimeter of the home, also in accordance with the above guidelines.
4. At the main entrance door there shall be a landing that is a minimum of 25 square feet which is constructed to meet the requirements of any applicable City building code standards.
5. The moving hitch, axles, wheels and transporting lights must be removed at the time of installation of the home on the lot.
6. The finished floor of the home shall be a maximum of 18 inches above the exterior finish grade of the lot on which it is located, as measured at the main entrance into the dwelling.
7. Any attached addition to such a home shall comply with all construction requirements of any applicable City building codes, unless designed and constructed by a manufactured home factory.
8. If 50% or more of the existing site-built housing on both sides of the street on which the residential-design manufactured home is to be installed have a garage and/or a similar percentage have a covered porch or recessed entry, such a home shall also provide a garage and/or porch or entry based on the percentages determined by the Zoning Administrator. On a corner lot, the street shall mean that street on which the facade has been designated for the household address number. External roofing and siding material of the garage and porch or entry shall be similar in appearance to the materials on the roofing and siding of the residential-design manufactured home.

For purposes of these regulations, the term "manufactured home", when used by itself, shall not include a "residential-design manufactured home" as herein defined. Nothing in these regulations shall be construed to preempt or supersede valid restrictive covenants running with the land as to the placement or location of a residential-design manufactured home. (*See MANUFACTURED or MOBILE HOME.*)

**RESTAURANT:** A public eating house, including but not limited to the types of business establishments customarily referred to as cafeterias, coffee shops, dairy bars, fast food restaurants and soda fountains, but not a drive-in establishment unless specifically permitted by the district regulations. Drive-through facilities such as service from a window, however, are permitted. (See *DRIVE-IN ESTABLISHMENT*.)

**RETAIL:** Selling on the premises in small quantities to the ultimate consumer for direct consumption and/or use and not for resale. Sales at auctions and sales lots for motorized vehicles and recreational vehicles and the like are not considered as retail sales.

**RIGHT OF WAY:** The area between boundary lines of a street, alley or other easement of access.

**SALVAGE YARD:**

1. Any land or building used for the collection or storage or sale of wastepaper, trash, rags, fibrous material, scrap metal or other discarded material; or for the collecting or dismantling or storing or salvaging of machinery or unlicensed motor vehicles not in operating condition, or for the sale of parts thereof, or materials from the demolition of buildings or structures.
2. In residential districts, this definition shall prevent the storing of any more than two inoperable or unlicensed motor vehicles for a period of more than 72 hours which are in the process of restoration to operating conditions, unless such vehicles are stored inside a structure or screened from public view including that of adjacent property owners.
3. (See any City ordinance(s) pertaining to inoperable and unlicensed motor vehicles in the city limits.)

**SCREENING:** Fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such fences or evergreen vegetation. When fencing is used for screening, it shall be not less than six nor more than eight feet high, unless otherwise provided.

**SERVICE STATION:** (See *AUTOMOBILE SERVICE STATION*.)

**SETBACK, BUILDING:** A line nearest the front of and across a lot or parcel of land establishing the minimum open space to be provided between the face of a building or structure which is closest to the street, and the line of the front street right of way. The setback distance shall be measured from the existing right of way line or the proposed right of way line, whichever is the greater. (Note: Proposed right of way lines are based on the Comprehensive Plan and are further specified in the City Subdivision Regulations for arterial, collector, local and marginal access streets.) (See *YARD, FRONT*.)

**SEXUALLY ORIENTED BUSINESS:** An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center as defined by K.S.A. 12-770, as amended.

**SIGN:** Any writing (including letters, words or numerals), pictorial representation (including illustrations or decorations), emblem (including devices, symbols or trademarks), flag, banner, streamer, pennant, string of lights or display calculated to attract the attention of the public or any other figure of similar character which:

1. Is a structure or any part thereof or a portable display, or is attached to, painted on, or in any other manner represented on a building or other structure or on the ground; and
2. Is used to announce, direct attention to, or advertise; and

3. Is not located inside a building.

**SPECIAL USE:** A use of a structure or land which is not permitted outright within a zoning district because of characteristics that might have an adverse effect upon nearby properties or the future development of the district unless certain conditions can be placed on the use which would make it suitable to the purpose of the district and compatible to the other uses so designated. Such uses are "special" in that they are often large, one-of-a-kind, private or public uses serving as community facilities and/or whose location would have planning implications for a neighborhood or the entire City. Designated special uses are processed in the same manner as zoning amendments for the hearing; except that a particular use is applied for within a district and conditions may be recommended by the Planning Commission and attached to their approval by the Governing Body. *(See Section 11-101 for Special Uses.)*

**STORAGE, OUTDOOR:** The storage of goods and materials outside of any building or structure when specifically permitted by these regulations, but not including storage of a temporary or emergency nature or of new or used goods and materials on display for sale except when such display is permitted. Such storage does not permit the storing or parking of motor vehicles including recreational vehicles or utility trailers for sale at any location in any residential district. *(See Section 5-100A1 for utilization of parking facilities exemption and Section 6-100B13 for outdoor storage.)*

**STREET:** The entire right of way width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic, and the placement of utilities and including the term "road", "highway", "land", "place", "avenue", "alley" or other similar designation.

**STRUCTURAL ALTERATION:** Any change in a structure other than normal repairs and maintenance which may prolong its useful life; or the useful life of its supporting members such as bearing walls or partitions, columns, beams, girders or foundations; or any complete rebuilding of the roof; or the exterior walls; or the construction of any addition to or enlargement of a structure; or the removal of any portion of a structure. For the purpose of these regulations, the following shall not be considered a structural alteration:

1. Attachment of a new front where structural supports are not changed.
2. Addition of fire escapes where structural supports are not changed.
3. New windows where lintels and support walls are not materially changed.
4. Repair or replacement of non-structural members.

*(See Section 3-100C for Structural Alterations and Section 3-103F for Permitted Obstructions in Required Yards regarding fire escapes.)*

**STRUCTURE:** Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground, but not including hard surfaced walks, mailboxes, utility poles, fire hydrants, street light fixtures or street signs. Buildings, fences, driveways, parking spaces and signs other than street signs are considered to be structures. *(See BUILDING and Section 3-100E1 for Exemptions.)*

**TAVERN AND DRINKING ESTABLISHMENT:** An establishment which may be open to the general public wherein alcoholic liquor or cereal malt beverages are sold by the individual drink to customers for consumption on the premises. Such establishments shall include a Class B club. *(See CLUB.)*

**TINY HOUSE:** A house with between 200 and 400 square feet of gross floor area, with a foundation, which meets building code requirements and qualifies for a certificate of occupancy, and may be permitted as an accessory dwelling unit.

1. For the purposes of these regulations, a **Tiny House On Wheels (THOW)** is considered to be a type of house trailer or recreational vehicle, and is regulated as such.

**USE:** Any purpose for which a structure or a tract of land may be designed, arranged, intended, maintained or occupied; also, any activity, occupation, business or operation carried on, or intended to be carried on, in a structure or on a tract of land.

**USE REGULATIONS:** The provisions of these regulations which identify permitted, special and conditional uses, impose use limitations and regulate accessory and temporary uses and home occupations.

**VARIANCE:** See Section 10-107 for description.

**VISION TRIANGLE:** A triangular area at the intersection of streets maintained in such a manner as to provide a safe and open line of vision for drivers of vehicles approaching the intersection. Within the vision triangle, no one shall install, construct, plant, park or maintain any sign, fence, hedge, shrubbery, tree, natural growth or other obstruction including automobiles, trucks, and other large vehicles or trailers which would materially impede vision between the heights of 33 inches and eight feet above the street level. These restrictions shall not apply to signs as provided for in Section 7-102J2 as well as official traffic signs, signals and utility poles.

Such area on a corner lot shall have two sides which are measured from the center of the lot line intersection and a third side across the lot joining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. In all residentially zoned districts, the two sides forming the lot line intersection shall be a minimum length of 30 feet and in all other zoning districts such length shall be 20 feet, except that there will be no vision triangle requirements in the B-1 Central Business District. *(See City Subdivision Regulations for more information on VISION TRIANGLES for platting.)*

**YARD:** Open space on a lot which is unoccupied and unobstructed from its lowest level to the sky, except for the permitted obstructions listed in Section 3-103F.

**YARD, FRONT:** A yard extending along a full length of a front lot line and back to a line drawn parallel to the front lot line at a distance therefrom equal to the depth of the required front yard. On a corner lot, each yard that abuts a front lot line shall be considered a front yard. *(See LOT LINE, FRONT and SETBACK, BUILDING.)*

**YARD, REAR:** A yard extending along the full length of the rear lot line and back to a line drawn parallel to the rear lot line at a distance therefrom equal to the depth of the required rear yard. *(See LOT LINE, REAR and LOT, REVERSE FRONTAGE.)*

**YARD, SIDE:** A yard extending along a side lot line and back to a line drawn parallel to the side lot line at a distance therefrom equal to the width of a required minimum side yard, but excluding any area encompassed within a front yard or rear yard. Dimensions of minimum side yards specified in the district regulations of these regulations refer to the required width of each side yard rather than to the total width of both side yards, unless otherwise specified. *(See LOT LINE, SIDE.)*

**ZONING ADMINISTRATOR:** The person appointed by the Mayor with the consent of the City Council to administer and enforce the requirements of these regulations. (See Section 9-100 for Office of the Zoning Administrator.)

**ZONING PERMIT:** A certificate by which the Zoning Administrator certifies to an applicant that their proposed structure and/or use are in conformance with these regulations. When applicable, such a certificate may be combined with the issuance of a building permit as required by a building code. (See Section 9-101A for Zoning Permits.)

**ARTICLE 3. GENERAL PROVISIONS****Section 100 Activities Governed by these Regulations**

- A. **New Structures.** All structures built hereafter shall comply with all of the provisions of these regulations. Any structure hereafter moved from one site to another site shall be considered to be a structure built hereafter. Any structure rebuilt or restored after damage, by any means, shall be considered to be a structure built hereafter, unless Article 8 of these regulations permits such structures to be rebuilt or restored. *(See Section 2-102 for definition of STRUCTURE.)*
- B. **New Uses of Old Structures.** If a use of any structure is hereafter changed to another, then the new use must comply with the use regulations of these regulations, unless permitted by provisions in Article 8. The mere establishment of the new use does not require an existing structure to conform to the lot size requirements or the bulk regulations.
- C. **Structural Alterations.** If any structure is hereafter structurally altered as defined in Section 2-102:
1. The entire structure as altered shall comply with the use regulations of these regulations.
  2. Any alterations, enlargements or additions to the structure shall comply with the bulk regulations of these regulations, except as permitted by Section 8-102B for nonconforming structures.
  3. The off-street parking facilities shall not be reduced below or if already less than, shall not be further reduced below the requirements applicable to a similar new structure or use.
- D. **Uses of Open Land.** If any use of open land is hereafter established or if any use of open land is hereafter changed to another use, such new use shall comply with all the provisions of these regulations, unless permitted by Sections 8-103 and 106.
- E. **Exemptions.** The following structures and uses shall be exempt from the provisions of these regulations:
1. Poles, wires, cables, conduits, vaults, lift stations, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephones or other communications, electricity, gas or water, or the collection of sewage or surface water, but not including major utility substations located on or above the surface of the ground. *(See Section 3-103G for lot size and bulk regulations for utility facilities.)*
  2. Railroad tracks, signals, bridges and similar facilities and equipment located on railroad rights of way, and maintenance and repair work on such facilities and equipment.
  3. Buildings, structures or land used, but not just leased, by the federal government.
  4. Use of land for agricultural purposes as defined in Section 2-102, including accessory buildings and structures thereon not in a designated floodplain. When any land or accessory buildings or structures cease to be used only for agriculture, then it shall be subject to the applicable provisions of these regulations.

**Section 101 Districts, Zoning Maps and Boundaries**

- A. Establishment of Districts.** The zoning jurisdiction is hereby divided into the districts as described in Article 4. References to "agricultural districts" shall mean those districts in which agricultural uses are the predominant activity. References to "residential districts" shall mean those districts in which residential uses are the main permitted use. References to "commercial districts" shall mean those districts in which commercial uses are the main permitted uses. References to "industrial districts" shall mean those districts in which industrial uses are the main permitted use. The City Floodplain Management Regulations are considered as an overlay zone to be used in conjunction with the other districts.
- B. Zoning Maps.**
1. The boundaries of the districts described in Article 4 are as indicated on the Official Zoning Map(s) which is on file with the Zoning Administrator and identified on its face as part of these regulations. The zoning map(s) with all notations, references and other matters shown thereon is as much a part of these regulations as if specifically set forth herein. *(See Section 9-100A9 for zoning map(s) certificate and revisions.)*
  2. It is the intent of these regulations that the entire area of the zoning jurisdiction, including all the land and water areas, rivers, streets, alleys and railroads and other rights of way, be included in the districts established in these regulations. Any area not shown on the zoning map(s) as being included in any district shall be deemed to be in the most restrictive district.
- C. Boundaries.** In the event that uncertainties exist with respect to the intended boundaries of the various districts as shown on the Official Zoning Map(s), the following rules shall apply:
1. Where boundary lines are indicated as approximately following roads, streets, alleys, easements, railroads, rivers, streams or lakes, such boundaries shall be construed as following the centerlines thereof, unless otherwise indicated.
  2. Where boundary lines are indicated as approximately following lot lines; or section, half-section or quarter-section lines; such lines shall be construed to be said boundaries.
  3. Where a district boundary line divides a lot or unsubdivided property in single ownership, the regulations for either portion of the lot may, at the owner's discretion, extend to the entire lot, but not more than 25 feet beyond the boundary line of the district.
- D. Zoning of Rights of way.** All streets, alleys, public ways, waterways and railroad rights of way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting them. Where the centerline of a street, alley, public way, waterway or railroad right of way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

**Section 102 General Requirements for All Zoning Districts**

- A. **Permitted Uses.** No structure shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied or designed for use or occupancy except for a use that is permitted within the zoning district in which the structure or land is located or provided for otherwise in these regulations. *(See Section 2-102 for definition of PERMITTED USE.)*
- B. **Special Uses.** No use of a structure or land that is designated as a special use in any zoning district shall hereafter be established, and no existing special use shall hereafter be changed to another special use in such district, unless a special use is approved in the same manner as for an amendment to a zoning district, except that the Official Zoning Map is not amended. The latter procedure is set forth in Section 11-101 with the additional requirement that all conditions further imposed upon the special use be made a part of the effectuating ordinance and that a plot plan be submitted with the application. *(See Section 2-102 for definition of SPECIAL USE.)*
- C. **Conditional Uses.** No use of a structure or land that is designated as a conditional use in any zoning district shall hereafter be established, and no existing conditional use shall hereafter be changed to another conditional use in such district, unless a conditional use as an exception is approved by the Board of Zoning Appeals as provided for in Section 10-108 of the regulations and statutorily permitted by K.S.A. 12-759e. *(See Section 2-102 for definition of CONDITIONAL USE.)*
- D. **Lot Sizes.**
1. No structure, or part thereof, shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied, arranged or designed for use of occupancy on a zoning lot, unless otherwise provided for in these regulations, which in its district is:
    - a. Smaller area than the minimum area or minimum lot area per dwelling unit required;
    - b. Narrower than the minimum lot width required; or
    - c. Shallower than the minimum lot depth required.
  2. Where independent dwelling units are to be sold as condominiums, minimum lot size requirements shall not apply to each individual ownership, but shall be applied collectively to the common open space surrounding the structure(s) such that the total open space is an aggregate of the minimum lot area required for each dwelling unit; however, the minimum lot width and depth for the district shall be applied to the entire zoning lot.

- E. Bulk Regulations.** In these regulations, bulk requirements are expressed in terms of maximum structure height, maximum lot coverage, minimum setbacks and minimum front, side and rear yards.
1. No structure, or part thereof, shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied or designed for use or occupancy:
    - a. That would exceed the maximum lot coverage percentage or the maximum structure height specified for the zoning district in which the structure is located, unless exempted by the definition of HEIGHT, MAXIMUM, or
    - b. That would provide any minimum setback of a front, side or rear yard that is less than that specified for the zoning district in which such structure or use of land is located or maintained, except as front yard setbacks may be applied in Sections 3-103B and 103C and front and side yard setbacks for nonconforming structures and uses in Article 8.
  2. Where independent dwelling units are to be sold as condominiums, bulk regulations shall not apply to each individual ownership, but shall be applied to the entire zoning lot.
- F. Use Limitations.** No permitted, special or conditional use hereafter established, altered, extended, enlarged or moved shall be operated or designed so as to conflict with the use limitations for the zoning district in which such use is, or will be located. No permitted, conditional or special use or exception already established on the effective date of these regulations shall be altered, extended or enlarged so as to conflict, or further conflict with, the use limitations for the zoning district in which such use is located. (*See Sections 8-102, 103 and 106.*)
- G. Off-Street Parking and Loading.** No structure shall hereafter be built or moved and no structure or land shall hereafter be used, occupied or designed for use or occupancy, unless the minimum off-street parking and off-street loading space required by Article 5 are provided. No structure or use already established on the effective date of these regulations shall be enlarged, unless the minimum off-street parking and loading space which would be required by Article 5 are provided.
- H. Accessory Structures or Uses.** No accessory structures or use, as defined in Article 6, shall hereafter be built, altered, extended, enlarged or moved, unless such accessory structure or use is permitted by Article 6.
- I. Temporary Structures or Uses.** No temporary structure or use shall hereafter be built, altered, extended, enlarged or moved, unless such temporary structure or use is permitted by Article 6 of these regulations.
- J. Home Occupations.** No home occupation, as defined by Article 6, shall hereafter be established, altered, extended, enlarged or moved in any residential district, unless such home occupation complies with the permitted uses, conditions and use limitations as provided for in Article 6.
- K. Signs.** No signs shall hereafter be built, and no existing signs shall be altered, enlarged or moved, unless such sign complies, or will thereafter comply, with the restrictions imposed by Article 7.

**Section 103 Supplemental Requirements****A. Number of Structures and Uses on a Zoning Lot.**

1. Whenever a zoning lot is used for a single-family detached or attached dwelling, two-family dwelling or any type of manufactured or mobile home, only one principal structure and use may be located on the lot, but only when the structure and use conform to all requirements of the district in which the lot is located.
2. Whenever a zoning lot is used for other than a residential unit as described in Section 3-103A1 above, more than one principal structure and use may be located on the lot in common ownership, but only when the structures and uses conform to all requirements of the district in which the lot is located.
3. Whenever any structures are developed as condominiums, more than one principal structure may be located on the lot; provided, the definition of a condominium in Section 2-102 is met as well as the requirements of Sections 3-102D2 and E2.

**B. Platted Building Setback Lines.** If a recorded subdivision plat imposes a building or setback line for a lot which is different from the minimum setback or yard required by the applicable section of these regulations, then, notwithstanding any other provision of these regulations, the minimum setback or minimum yard shall be the same as that shown on such subdivision plat; provided, that it has been recorded and not otherwise been officially vacated.

**C. Average Setback in Existing Residential Districts.**

1. On streets where a front yard more than that required by these regulations has been maintained for existing structures on lots having a frontage of 50% or more of the total frontage on one side of that portion of the street line between two intersecting streets, there shall be maintained a front yard setback of not less than the average setback of the existing structures; provided, that these regulations shall not be interpreted to require a front yard setback of more than 30 feet.
2. On streets where a front yard less than that required by these regulations has been maintained for existing structures on lots having a frontage of 50% or more of the total frontage on one side of that portion of the street line between two intersecting streets, the front yard setback need not be greater than the average setback of the existing structures; provided, that these regulations shall not be interpreted to permit a front yard setback of less than 15 feet, but not less than 20 feet in front of a garage, carport or permanent parking space.

**D. Yard Requirements for Open Land.** If a zoning lot is, or will be, occupied by a permitted use without structures, then the minimum front, side and rear yards that would otherwise be required for the zoning lot shall be provided and maintained, unless some other provision of these regulations requires or permits a different minimum front, side or rear yard. Such yards shall not be required on zoning lots used for open public recreation areas.

**E. Restrictions on Allocation and Disposition of Required Yards or Open Space.**

1. No part of the lot area, or of a yard, or other open space, or off-street parking or loading space provided in connection with any structure or use in order to comply with these regulations shall, by reason of change of ownership or otherwise, be included as part of the minimum lot area, or of a yard, or open space, or off-street parking or loading space required for any other structure or use, except as specifically provided herein.
2. All of the lot area and all yards and other open spaces provided in connection with any structure or use in order to comply with these regulations shall be located on the same zoning lot as such structure or use.
3. No part of the lot area, or of the yard, other open space, or off-street parking or loading space provided in connection with any structure or use (including but not limited to, any structure or use existing on the effective date of these regulations or of any amendment thereof) shall be subsequently reduced below, or further reduced if already less than, the minimum requirements of these regulations for the equivalent new construction.

**F. Permitted Obstructions in Required Yards.** The following shall not be considered to be obstructions when located in a required yard: *(See Section 9-101A3 for principal or accessory buildings or structures or uses locating on or projecting over public easements.)*

1. In all yards: Open terraces or patios not over four feet above the average level of the adjoining ground, but not including a permanent roof over a terrace or patio; awnings; canopies including underlying islands for petroleum pumps; steps four feet or less above grade which are necessary for access to a permanent structure or for access to a lot or to a lot from a street or alley including access to conform to the standards of the federal Americans with Disabilities Act of 1990 as incorporated into state statutes; fire escapes, one story bay windows and overhanging eaves and gutters projecting 24 inches or less into the yard; chimneys, entrance hoods, window wells and daylight windows projecting 24 inches or less into the yard; arbors and trellises; little free libraries and food boxes; flagpoles and basketball goals; ornamental light or gas fixtures; parking, when permitted by Article 5; accessory and temporary uses, when permitted by Article 6; signs, when permitted by Article 7; and when otherwise specifically permitted by the district regulations. Attached garages, carports, patio covers, porches, wing walls and decks are not permitted obstructions.
2. In any yard except a front yard: Accessory uses permitted by Article 6; children's recreational and laundry drying equipment; and open and closed fences not exceeding eight feet in height.
3. Fences in a front yard: On lots with single or two-family dwellings and residential-design manufactured homes, fences not exceeding four feet in height are permitted which are constructed with at least 75% open space. In all other circumstances, including decorative walls as entryways to subdivisions open and closed fences are permitted which do not exceed eight feet in height.
4. Construction standard for all fences: No fence shall be constructed which will constitute a hazard to traffic or a danger to persons or animals. *(See Section 3-100E4 for Exemptions.)*
5. Conditional use for fences: The Board of Zoning Appeals may as a conditional use as an exception approve the construction of higher fences and/or less open space in all yards and in any district if the Board finds that the public welfare is preserved.

- G. **Lot Size Requirements and Bulk Regulations for Utility and Communication Facilities.** Notwithstanding any other provision of these regulations, none of the following utility or communication facilities shall be required to comply fully with the lot size requirements and bulk regulations of the zoning district in which they are located: *(See Subsection three of the definition for HEIGHT, MAXIMUM in Section 2-102 for exemptions to the height limitations for communication structures and Section 3-100E1 for Exemptions.)*
  - 1. Communication structures.
  - 2. Electric and telephone substations.
  - 3. Gas regulator stations.
  - 4. Pumping stations.
  - 5. Water towers or standpipes.
  
- H. **Access to Business and Industrial Districts.** No land which is located in a residential district shall be used for a driveway, walkway or access purpose to any land which is located in any business or industrial district.
  
- I. **Annexed Land.** All land which may hereafter be annexed to the City from the zoning jurisdictions in Harvey or Sedgwick County shall remain in its current zoning classification until such time as the property owner, Planning Commission or Governing Body may file an application for rezoning to a City zoning classification. Rezoning may also be considered during the process of annexation. While the Planning Commission may hold their required public hearing on a rezoning amendment or a special use prior to annexation, the zoning ordinance of the Governing Body approving the amendment or special use cannot be effectuated until the land is first officially annexed by a separate annexation ordinance. While both ordinances may be published on the same day, the annexation ordinance must be published first if they are published on separate days.
  
- J. **Sewer and Water Facilities.** All principal structures built hereafter within the city limits and on adjacent zoning lots shall be served by and connected to the City's sewer and water system, if such facilities can be feasibly provided as may be determined by the Governing Body.
  
- K. **Dedication of Rights of way and Easements.** As a condition related to a rezoning amendment or a special use, the dedication of additional street rights of way; easements for utilities, drainage, access control, fire lanes, building setback lines and other purposes; and the construction, removal or replacement of public improvements necessary to the proper development of the property, may be required either by platting or replatting the land according to the City Subdivision Regulations or, in lieu of platting, by a legal document effectuating such dedications and improvements. Such condition may be required whether the property is being divided or held in single ownership. A stated time limit not exceeding one year may be established to ensure compliance with the above conditions during which time the effectuation of the zoning amendment or special use having been approved with such conditions by the Governing Body shall be withheld from publication by the Clerk. Failure to comply with the conditions during the stated period shall result in making the zoning amendment or special use null and void. No extension of the time period may be granted without reapplication.
  
- L. **Floodplain Requirements.** Within any floodplain area as delineated by the Federal Emergency Management Agency, no use of land shall commence or no structure shall hereafter be constructed, structurally altered, extended, enlarged or moved under these regulations, unless it also complies with the floodplain regulations. *(See City Floodplain Management Regulations.)*

- M. Moving Structures.** No structure shall be moved into, nor from one location to another location within the City, unless such structure shall, when relocated, be made to conform fully with these regulations and applicable City building codes. No zoning permit shall be issued unless, in the opinion of the Zoning Administrator, the height, age, architectural style and texture of the materials pertaining to the outward appearance of such structure reasonably conform to other buildings in the block to which it is to be moved and in the block opposite or to surrounding land owners in the rural area, to such an extent that its relocation shall not be detrimental to the appearance or have no substantial adverse effect on property values to the adjacent properties. Modifications in the appearance of such a structure as proposed by the applicant may be considered in making such a decision and conditions may be attached to the issuance of the permit by the Administrator to achieve conformance. (*See City ordinance on moving structures, if available.*)
- N. Status of Moving Manufactured and Mobile Homes, RV Campers, and Tiny Houses.** Notwithstanding other provisions of these regulations, the Zoning Administrator is authorized to issue a zoning permit for various types of manufactured and mobile homes, RV campers and tiny houses under the following provisions; except, that all such homes must meet the floodplain district requirements and none may be replaced in a floodway overlay boundary:
1. Wherever a manufactured or mobile home, RV camper or tiny house is moved from a zoning lot within a district in which it is a permitted structure, another one meeting the requirements of the district may be moved onto the lot at any time.
  2. In the case of a lawful, nonconforming manufactured or mobile home, RV camper or tiny house, such a move must take place within 90 days from the date that the previous one was moved off the lot, otherwise such use shall not thereafter be re-established. When so moved in, a manufactured home shall be skirted or placed on a permanent-type enclosed perimeter foundation within 60 days. The replacement must be a manufactured home type only and not more than 10 years old, and not a mobile home. In re-establishing such a home or camper use, any existing nonconforming lot size requirements or bulk regulations shall not be increased in nonconformity and no newly acquired land can be used for placement of such a home.
  3. No manufactured or mobile home, or portion thereof, or RV camper or tiny house, shall be moved onto any lot or parcel or an existing home converted for storage or any other purpose than for a residence in any district and no such home shall be temporarily or permanently located in any district not otherwise permitting such homes. These provisions do not preclude the use of prefabricated mobile structures designed for offices in business or industrial districts, but not manufactured or mobile homes unless specifically permitted.
  4. In the event of disasters, such as fires, tornados or floods, whereby expediency is an important factor, a manufactured or mobile home, RV camper or tiny house may be located temporarily in any district at the discretion of the Zoning Administrator with appropriate conditions attached and for a stated period of time.
  5. Where an unusual hardship is shown, the Board of Zoning Appeals may approve a conditional use as an exception for a manufactured home, RV camper or tiny house as an accessory structure to be located on a lot or tract with an existing dwelling for a stated period of time. A time period may be extended upon request to the Board of Zoning Appeals without further notice or fee.

- O. **Vision Triangle.** On all corner lots in all districts, no use of land shall commence or no structure shall hereafter be constructed, structurally altered, extended, enlarged or moved after the effective date of these regulations unless it also conforms to the requirements of the vision triangle as defined by Section 2-102.

### Section 104 Screening and Landscaping

Screening and/or landscaping shall be provided when a zoning permit is issued on all properties developed for multiple-family, manufactured home park and all nonresidential uses when such uses are established on property within or adjacent to any residential districts in accordance with standards and procedures as listed below. In anticipation of a need for screening, such matters are proper subjects to be discussed and, if deemed desirable, decided at any hearing for a zoning district amendment or a special use. In addition to the requirement for screening as stated above, screening may further be required at such a hearing to preserve the value of an existing use or the potential for future development of any adjacent land or land across a right of way.

- A. Screening shall be provided along all side or rear lot lines adjacent to such residential districts.
- B. Landscaping shall be provided along a front lot line to the depth of at least 10 feet whenever such front lot line is adjacent to or across from such residential districts. No other uses except driveways and signs as permitted by Article 7 shall be allowed in such a landscaped area.
- C. Screening shall be provided on all required development sufficient to reasonably hide from ground level view all loading docks, trash receptacles, outdoor storage, outdoor display, outdoor working areas, parking spaces and similar uses from such residential districts.
- D. Screening on the side or rear lot line may be reduced in height and intensity in the front yard area extending to the front lot line, i.e., the street right of way; however, screening shall not be required along such lot lines in that portion of the front yard which may be landscaped.
- E. Whenever properties are developed adjacent to an alley, screening may be omitted at driveways deemed essential for ingress and egress to uses established on the property.
- F. Screening may consist of fencing and/or landscaping provided that such screening will serve to adequately reduce:
1. The visual effects on the environment caused by adjacent nonresidential or higher density residential uses;
  2. Noise;
  3. Lighting;
  4. Glare; and
  5. Blowing trash
- G. All screening and landscaping shall meet the requirements of the vision triangle in Section 3-104 O on maintenance.
- H. Landscaping along the front lot line shall involve bringing the soil surface to a smooth finished grade and installing sufficient trees, shrubs, ground cover and grass to soften building lines, provide shade and generally produce a pleasing visual effect of the premises.

- I. The selection of landscape materials shall take into consideration the "mature" growth and habit of such plants so that vegetation will not overhang or obstruct the public street or a sidewalk area in such a manner as to conflict with pedestrian and vehicular access.
- J. The type of fencing should be compatible with the kind and intensity of the land use and the architectural style of the development and adjacent properties.
- K. Whenever such screening is required, a screening plan for the area shall accompany the application for a zoning permit. Such plan shall be transmitted to the Planning Commission for their review and approval prior to the issuance of the zoning permit.
- L. The screening plan shall be in such detail as to provide enough information to determine if the plan meets the above criteria. Such plan shall contain the location, type and height of any fence and the location, mature size and the type of any plant materials along with their common and botanical names. The sizing, grading and condition of the plant materials shall be specified according to the *American Association of Nurserymen Standards* for nursery stock.
- M. The Planning Commission may, in its discretion, temporarily or permanently waive the requirements for screenings and/or landscaping if:
  - 1. The adjacent land use in the residential district may not necessitate nor benefit from such a requirement; or
  - 2. The adjacent land use may already have provided adequate screening for which additional screening may be a duplication; or
  - 3. The future land use for the adjacent area can not readily be determined at this time and that upon mutual agreement of the Planning Commission and the applicant, that the requirements may be waived and the matter reviewed at a specified date in the future. In the meanwhile, the Planning Commission shall require that either a letter of assurance or a covenant be submitted to run with the land; or a guarantee in the form of a corporate security bond, cashier's check, escrow account or other security be submitted to ensure that such requirements will be met when a determination is made. The Planning Commission may determine the sufficiency of the assurance based on the length of time anticipated before a decision, the size and cost of the potential work involved, and the need to ensure that the requirement is met regardless of any change in ownership.
  - 4. Section 3-104M3 above shall not prevent the Planning Commission from requiring temporary screening on all or a portion of a side or rear yard wherein a nonresidential use is proposed for development adjacent to an existing single-family dwelling and thereby a potential nuisance or hazard may be created for the homeowner.
- N. All plant materials shall be healthy and/or fencing in place prior to issuance of an occupancy certificate. A temporary certificate may be issued as provided for in Section 9-101B2 without the landscaping installation; provided, written assurances are given satisfactory to the Zoning Administrator that the planting will take place when the proper season arrives.

### O. Maintenance.

1. It shall be the responsibility of the property owner to maintain in good condition all of the required screening and landscaping improvements on his property. When it is determined by the Zoning Administrator that improvements required by Section 3-104 are not being maintained, it is his duty to give notice in writing to the property owner. Such notice shall specify in what manner the improvements are in need of maintenance and a date for compliance. The owner shall have not less than 30 days to comply with the notice; provided, however, that any person aggrieved by any such order and disagreeing with any of the requirements of the notice, may file an appeal under Section 10-106 within the 30-day filing period with the Board of Zoning Appeals.
  2. If the owner of the land has failed, refused or neglected to make the necessary maintenance repairs within the time of the notice or time designated by the Board, then the Zoning Administrator shall cause such maintenance to be done to the property. The cost of maintenance shall be certified by the Administrator to the Clerk, who shall cause the costs to be assessed against the property on which the maintenance repairs were made.
- P. To assist in reviewing screening and landscape plans, the Planning Commission may from time to time adopt design criteria in the form of policy statements which may include illustrations.

**ARTICLE 4. ZONING DISTRICTS**

**Section 100 Permitted Uses in All Districts**

- A. Fences screening and landscaping as permitted by Article 3, Sections 103F and 104.
- B. Off-street parking and loading as required by Article 5.
- C. Accessory and temporary structures and uses and home occupations as permitted by Article 6.
- D. Signs as permitted by Article 7.

**Section 101 A-1 Agricultural District**

This district is designed for a variety of low-density dwellings and agricultural uses as defined with limitations in Section 2-102.

**A. Permitted Uses.**

1. Single-family detached dwellings, earth-sheltered dwellings, modulars, residential-design manufactured homes, manufactured homes not over 10 years old placed on a permanent-type, enclosed perimeter foundation and metal buildings specifically designed to be used as a single-family dwelling.
2. Agricultural uses as defined. (See Section 2-102 for limitations on domestic animals and fowl.)

**B. Special Uses.**

1. Public buildings erected or land used by any agency of the City, a township, county or state government.
2. Bed and breakfast homes and inns.
3. Greenhouses and hydroponic farming operations, retail and wholesale.
4. Kennels for breeding and boarding dogs, provided that:
  - a. No kennel buildings or runs or open areas shall be located closer than 300 feet to any property line.
  - b. All kennel runs or open areas shall be screened around such areas or at the property lines. Such screening may be densely planted evergreen foliage or a solid wall or fence of masonry, wood or metal designed so as to reduce noise and prevent the distraction or excitement of the dogs.
5. Roadside stands for the sale of agricultural products by an operator who may or may not be the producer of the product. (*See Section 2-102 for definition of AGRICULTURE and Section 6-101D for seasonal sale of farm products.*)
6. Utility uses as follows: electric and telephone substations and distribution centers, gas regulator stations, pumping stations and water towers and standpipes. (*See Section 3-103G for lot size and bulk regulations.*)
7. Other uses not specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-101 and compatible with the uses permitted in Section 4-101A.

**C. Conditional Uses.**

1. None.

**D. Lot Size Requirements.**

1. Minimum lot area:
  - a. Residential uses: five acres, except for the following:
    - (1) All lots existing at the date of the adoption of these regulations which are smaller than five acres are declared to be legal, nonconforming lots and, thus, are eligible for zoning permits; provided, that they meet the requirements of Section 8-101A for Nonconforming Lots of Record.
    - (2) The creation of a smaller lot to divide off a dwelling from the principal agricultural land use is permitted; provided, that the minimum requirements of the "R-1" Single- and Two-Family District are met.
  - b. Other uses: 40,000 square feet.
2. Minimum lot width: None.
3. Minimum lot depth: None.

**E. Bulk Regulations.**

1. Maximum structure height: 35 feet.
2. Yard requirements:
  - a. Minimum front yard: 35 feet on all sides abutting a street.
  - b. Minimum side yards:
    - (1) Residential: 20 feet.
    - (2) Other uses: 20 feet.
  - c. Minimum rear yards: 30 feet.
3. Maximum lot coverage: A building, structure or use may occupy all that portion of a zoning lot not otherwise required for off-street parking, loading or yard requirements.

**F. Use Limitations.**

1. Outdoor storage shall be permitted as defined by Section 2-102 for goods and materials as accessory uses related to the operation of the principal use.

**Section 102 R-1 Single- and Two-Family Residential District**

This district is designed for medium density single-family dwelling units with public water supply and sewage and to allow certain public facilities. It is intended that no uses be permitted in this district that will tend to interfere with the health, safety, order or general welfare of persons residing in the district or to devalue property for residential purposes. Regulations are intended to control density of population and to provide adequate open space around buildings and structures to accomplish these purposes.

**A. Permitted Uses.**

1. Single-family detached dwellings and modular homes, residential-design manufactured homes and group homes as defined in Section 2-102.
2. Churches, chapels, temples and synagogues.
3. Golf courses, including accessory club houses, but not driving ranges and miniature golf courses operated for commercial purposes.
4. Public and private schools: educational buildings for primary, intermediate and secondary schools including administrative centers, transportation centers, recreation areas, spectator sports facilities and the like. All such uses must be located on land which is platted according to the City Subdivision Regulations.

**B. Special Uses.**

1. Public buildings erected or land used by any agency of the City, a township, county or state government.
2. Cemeteries, including crematories and mausoleums and, where permitted, mortuaries.
3. Utility uses as follows: electric and telephone substations, gas regulator stations, pumping stations and water towers and standpipes. (*See Section 3-103G for lot size and bulk regulations exemption.*)
4. A tiny house as an accessory dwelling unit.

**C. Conditional Uses.**

1. Two-family dwellings.
2. Adult and child care centers and preschools.
3. Bed and breakfast homes.
4. Earth-sheltered dwellings, provided that the design is compatible with adjacent properties including such items as drainage, parking and accessory structures.
5. Metal building specifically designed for use as single-family detached dwellings; provided, that the design is compatible with adjacent properties including such items as aesthetic appearance, parking and accessory structures.
6. Swimming, tennis, racquetball and similar recreational club activities and related clubhouses.

**D. Lot Size Requirements.**

1. Minimum lot area:
  - a. Dwellings permitted by Section 4-101A1: 6,000 square feet.
  - b. Two-family dwellings: 4,000 square feet per family.
  - c. All other permitted uses: 10,000 square feet.
2. Minimum lot width:
  - a. Dwellings permitted by Section 4-101A1: 60 feet.
  - b. Two-family dwellings: 80 feet.
  - c. All other permitted uses: 90 feet.
3. Minimum lot depth: 100 feet.

**E. Bulk Regulations.**

1. Maximum structure height: 35 feet.
2. Yard requirements:
  - a. Minimum front yard: 25 feet on all sides abutting a street, except that on a corner lot, one of the front yards may be reduced to 15 feet; provided, that a driveway must maintain a length of at least 20 feet from the front lot line.
  - b. Minimum side yard:
    - (1) Residential buildings: 6 feet.
    - (2) All other permitted uses: 15 feet.
  - c. Minimum rear yard: 25 feet.
3. Maximum lot coverage: 40%

**F. Use limitations.**

1. No outdoor storage shall be permitted as defined by Section 2-102.

**Section 103 R-2 Multiple-Family Residential District**

This district is intended to permit various types of medium density multiple-family dwelling units with compatible home occupations, community facilities and certain special uses, yet retain a basic residential quality. The district is not intended generally for single-family type uses except as incidental to the area. All uses shall be connected to the public water supply and sewerage.

**A. Permitted Uses.**

1. Any permitted uses allowed in the R-1 Residential District.
2. Two-family and multiple-family dwellings.
3. Adult and child care centers and preschools.
4. Boarding or rooming houses.

**B. Special Uses.**

1. Any special uses allowed in the R-1 Residential District except cemeteries.
2. Hospitals and medical, dental and health clinics.
3. Mortuaries and funeral homes with live-in facilities.
4. Multiple dwelling units for the elderly and handicapped whereby density and parking requirements may be varied from the standards otherwise required by these regulations.
5. Nursing or convalescent homes, congregate care facilities and retirement centers including assisted living facilities.
6. Rehabilitation houses and residential centers.

**C. Conditional Uses.**

1. Any conditional uses allowed in the R-1 Residential District not otherwise having been designated as permitted uses, but not earth-sheltered dwellings.
2. Adult care homes exceeding six adults.
3. Bed and breakfast homes or inns.

**D. Lot Size Requirements.**

1. Minimum lot area:
  - a. Dwellings permitted by Section 4-102A1: 6,000 square feet.
  - b. Two-family dwellings: 4,000 square feet.\*
  - c. Multiple-family attached dwelling units: 2,500 square feet per dwelling unit, but no zoning lot shall be less than 8,000 square feet.
  - d. All other permitted uses: 10,000 square feet.

**\* Note:** See Article 9 in City Subdivision Regulations for Procedures for Approval of Lot Splits.

- 2. Minimum lot width:
    - a. Dwellings permitted by Section 4-102A1: 60 feet.
    - b. Two-family dwellings: 70 feet.
    - c. Multiple-family dwellings: 80 feet.
    - d. All other permitted uses: 90 feet.
  - 3. Minimum lot depth: 100 feet.
- E. Bulk Regulations.**
- 1. Maximum structure height: 45 feet.
  - 2. Yard requirements:
    - a. Minimum front yard: 20 feet on all sides abutting a street.
    - b. Minimum side yard:
      - (1) Dwellings permitted by Section 4-102A1: 6 feet.
      - (2) Single-family attached and two-family dwellings: 6 feet on each side, except for the common lot line of an attached dwelling. *(See Section 2-102 for definition of a DWELLING, ATTACHED.)*
      - (3) Multiple-family dwellings: 8 feet.
      - (4) All other permitted uses: 15 feet.
    - c. Minimum rear yard: 20 feet.
  - 3. Maximum lot coverage: 40%.
- F. Use limitations.**
- 1. No outdoor storage shall be permitted as defined by Section 2-102.

**Section 104 MH-1 Manufactured Home Park District**

This district is established to provide for new or the expansion of medium density manufactured home parks, where all types of manufactured homes plus recreational vehicle campers, single-family portable housing and tiny houses are located on individually rented spaces. The rented spaces must be provided with public water and sewer, and have direct access to a paved public street by way of internal driveways. Such parks may be further governed by any applicable Manufactured Home Park Regulations.

**A. Permitted Uses.**

1. Manufactured home parks with all types of housing units as described in Section 4-104, including related facilities for the residents, such as:
  - a. Child care centers and preschools and day care homes.
  - b. Recreational facilities such as playgrounds, swimming pools, tennis courts, shuffleboards, ball fields and lakes providing boating and fishing.
  - c. Recreation or community buildings, washrooms, rest rooms, laundry facilities, storm shelters, outdoor storage areas for vehicles and offices for the park.

**B. Special Uses.** None.

**C. Conditional Uses.** None.

**D. Size Requirements.** 40,000 square feet for park area.

1. Minimum space: 3,000 square feet for each home or portable housing unit. 1,250 square feet for each camper or tiny house.
2. Minimum width: 30 feet for each home or portable housing unit. 25 feet for each camper or tiny house.
3. Minimum depth. 100 feet for each home or portable housing unit. 50 feet for each camper or tiny house.

**E. Bulk Regulations for Parks.**

1. Maximum structure height: 35 feet.
2. Yard requirements:
  - a. Minimum front yard: 20 feet on all sides abutting a street.
  - b. Minimum side yard: 15 feet, unless otherwise established by the standards of Section 4-104F.
  - c. Minimum rear yard: 25 feet, unless otherwise established by the standards of Section 4-104F.
  - d. Maximum lot density: Eight housing units per gross acre.

**F. Standards for Parks.** Each park shall be designed so as to comply with the following standards:

1. The applicant for a new or for the expansion portion of an existing park shall submit an application for zoning accompanied by a development plan of which the number of copies as determined by the Zoning Administrator are submitted for recommendation by the Planning Commission and approval by the Governing Body. The plan shall show topography and the location and size of:
 

a. Spaces for housing units;	g. Gas lines and outlets;
b. Service buildings;	h. Recreational areas;
c. Off-street parking areas;	i. Landscaped areas and walls or fences;
d. Electrical outlets;	j. Driveways;
e. Sewer lines and outlets;	k. Sidewalks; and
f. Water lines and outlets;	l. Storm water drainage.
2. The park shall be located on a well-drained site which is properly graded to insure rapid drainage and freedom from stagnant pools of water.
3. The park shall provide spaces which shall be clearly delineated, and meet their respective size requirements. Each space shall provide for at least two paved or graveled on-site parking spaces. Spaces for recreational vehicle campers and tiny houses shall be grouped together in an area or areas of the park which are separated from all other types of housing units. In effect, campers and tiny houses shall not be intermixed with other types of housing units.
4. Housing units shall be located so that there is at least a 10-foot clearance between them; provided, however, with respect to units parked end-to-end, the clearance shall not be less than 10 feet. No unit shall be located less than 5 feet from an interior driveway of the park.
5. All spaces shall abut on an interior driveway that is not less than 28 feet in width. Such driveways shall have unobstructed access to a public street and shall as a minimum standard have a graveled surface which is well-maintained and adequately lighted by the operator.
6. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in any other residential district.
7. Each park is encouraged to devote at least 10% of its net area to provide for the recreational use and enjoyment of the occupants of the park. Required perimeter yards and vehicular driveways shall not be counted in computing such areas.
8. All electric distribution systems, plumbing systems and telephone service systems to each space, except outlets and risers, shall be underground. Both 120 and 240 volt outlets shall be provided.
9. Park owners are encouraged to construct or provide nearby access to a storm shelter for the residents.
10. In all other respects, parks shall comply with all of the applicable ordinances and regulations of the City.

**G. Unused Manufactured Home Park.** Whenever a property, zoned for the MH-1 District ceases to be used for such purposes for a period of one year, the City may consider initiating an application to rezone such property to some other district compatible with the neighborhood area.

**Section 105 C-1 Central Business District**

This district is established to group the main retail merchandising activities into a concentrated area serving the general shopping needs of the City and its trade area. The grouping of related activities which are compatible is intended to strengthen the District.

**A. Permitted Uses.**

1. Antique and gift shops.
2. Business and professional offices and financial institutions.
3. Clubs, taverns and drinking establishments. *(See Section 2-102 for related definitions.)*
4. Department and variety stores.
5. Dwelling units constructed in conjunction with and above the first floor of business establishments.
6. Hotels and motels.
7. Medical, dental and health clinics.
8. Newspaper, publishing and printing firms.
9. Parking lots or garages, public.
10. Physical fitness centers and personal care services including tattoo parlors.
11. Private and public places of assembly and fraternal and service clubs.
12. Restaurants, but not drive-in establishments.
13. Retail businesses. *(See Section 2-102 for definition of RETAIL.)*
14. Senior citizen centers.
15. Service businesses such as cleaning and laundry establishments, appliance repairs, locksmiths, tailor shops, watch and shoe repairing, barber and beauty shops and the like.
16. Studios: Art, music, dance, photography and radio and television stations.
17. Theaters, indoors.

**B. Special Uses.**

1. Public buildings erected or land used by any agency of the City, a township, county or state government.
2. College off-campus facilities and business and technical schools with related off-street parking facilities.
3. Sexually oriented businesses which are not established within 1000 feet of a residence, park, church, elementary or secondary school, or child care facility as the latter is defined herein. *(See Section 2-102 for definition.)*
4. Shops employing not more than five persons for manufacturing items of which some portion are sold at retail on the premises.
5. Utility substations, pumping stations and water towers and communication structures. *(See Section 3-103G for lot size and bulk regulations exemption.)*
6. Other uses not specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-105 and compatible with the uses permitted in Section 4-105A. In addition, business uses of a temporary nature that may or may not be fully compatible with the uses permitted in Section 4-105A, may also be considered as a special use; provided, that a specific ending time is attached to the approval as a condition.

**C. Conditional Uses.**

1. Amusement centers.
2. Commercial recreational activities, indoor only.
3. Sale of gasoline at convenience stores.
4. Storage facilities, but not mini-storage facilities.

**D. Historical Properties Overlay:**

1. The Sedgwick Downtown Historic District was listed in the National Register of Historic Places on February 3, 2012. All of the Historic District is contained within the boundary of the C-1 Central Business District. It is protected under the Kansas Historic Preservation Act (K.S.A. 75-2715 through 2725).
2. As added local protection, the Sedgwick Historical Society has agreed to use their background knowledge to make recommendations to City officials as to whether a change in appearance or land use proposed for a historic property continues to meet the state standards. Such standards are overseen by the Kansas State Historical Society which offers free technical advice to owners of historic properties to help maintain their historical accuracy.
3. In matters related to this overlay zone, the recommendations of the Sedgwick Historical Society will be utilized to support the decision-making process of the Zoning Administrator, Planning Commission, Board of Zoning Appeals and Governing Body.

### **E. Lot Size Requirements:**

1. Minimum lot area: None required.
2. Minimum lot width: 25 feet.
3. Minimum lot depth: 75 feet.

### **F. Bulk Regulations.**

1. Maximum structure height: 45 feet.
2. Yard requirements:
  - a. Minimum front yard: None.
  - b. Minimum side yard: None, but if there is one provided, it shall not be less than 5 feet.
  - c. Minimum rear yard: None, but if there is one provided, it shall not be less than 5 feet.
3. Maximum lot coverage: A building, structure or use may occupy all that portion of the lot not otherwise required for the yard regulations.

### **G. Use Limitations.**

1. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any property located in a residential district.
2. All business, servicing, storage and display of goods shall be conducted within completely enclosed structures, unless approved as a conditional use by the Board of Zoning Appeals or as part of an application for a special or other conditional use.

**Section 106 C-2 General Business District**

This district is designed to provide for certain retail trade and for service establishments not generally in the Central Business District and to recognize existing businesses and the needs and convenience of people in adjacent residential areas. Off-street parking is required and also screening where necessary to reduce possible adverse environmental effects on adjacent residential properties.

**A. Permitted Uses.**

1. Animal hospital or clinic with all activities indoors. (See Section 2-101 for definition.)
2. Automobile service stations and supply stores.
3. Barber and beauty shops and related personal care services.
4. Business and professional offices and financial institutions including drive up windows and automatic teller machines.
5. Child care centers and preschools.
6. Department and variety stores.
7. Garden stores.
8. Grocery and convenience stores for food and related items.
9. Hotels, motels and bed and breakfast homes and inns.
10. Liquor stores.
11. Rental centers including appliances, furniture, tools and construction equipment. (See Section 4-104F3 for outside storage.)
12. Restaurants including drive-up windows.
13. Self-service laundries.

**B. Special Uses.**

1. Public buildings erected or land used by any agency of the City or a township, county or state government.
2. Assembly places both private and public including churches and similar places of worship and fraternal and service clubs.
3. Funeral homes with or without a related residence.
4. Utility substations, pumping stations and water towers and communication structures. (See Section 3-103G for lot size and bulk regulations exemption.)
5. Other special uses not otherwise specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-106 and compatible with the uses permitted in Section 4-106A. In addition, business uses of a temporary nature that may or may not be fully compatible with the uses permitted in Section 4-106A, may also be considered as a special use; provided, that a specific ending time is attached to the approval as a condition.

**C. Conditional Uses.**

1. Car washes.
2. Commercial recreational activity and amusement centers, both indoor and outdoors. (See Section 2-101 for definition.)
3. Drive-in restaurant establishments. (See Section 2-101 for definition.)
4. Garages, repair. (See Section 2-101 for definition.)
5. Mini-storage facilities for inside rental storage only and personal storage structures.
6. Sales lots for new and/or used vehicles including recreational vehicles.

**D. Lot Size Requirements.**

1. Minimum lot area: 5,000 square feet.
2. Minimum lot width: 50 feet.
3. Minimum lot depth: 100 feet.

**E. Bulk Regulations.**

1. Maximum structure height: 35 feet.
2. Yard requirements:
  - a. Minimum front yard: 35 feet on all sides abutting a street.
  - b. Minimum side yard: None, but if a side yard is provided it shall not be less than 10 feet.
  - c. Minimum rear yard: None, but if a rear yard is provided, it shall not be less than 20 feet.
3. Maximum lot coverage: A building, structure or use may occupy all that portion of the zoning lot not otherwise required for off-street parking or the yard regulations.

**F. Use Limitations.**

1. No new building shall be used for residential purposes.
2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any property located in a residential district.
3. All business, servicing, storage and display of goods, except for the operation of car washes, the sale of self-service gasoline by convenience stores and the operation of automobile service stations, shall be conducted within completely enclosed structures or screened from public view, unless approved as a conditional use by the Board of Zoning Appeals or as part of an application for a special or conditional use.

**Section 107 I-1 Light Industrial District**

This district is established for industrial uses which do not require large amounts of land; generate modest amounts of traffic; are consistent with the availability of public and private services; create limited environmental problems in the way of odor, smoke, dust, glare, vibration, or sounds; and do not permit the intermixing of residential uses.

**A. Permitted Uses.**

1. Agricultural equipment sales, service and storage.
2. Agricultural feed, seed, fertilizer mixing and grain processing, storage and sales.
3. Animal clinics or hospitals including outside runs and incinerators.
4. Assembly, manufacture or repair of electrical and mechanical appliances, instruments, machinery and the like.
5. Automobile service stations and car washes.
6. Building material production, storage and sales, including lumberyards, but not asphalt or concrete plants.
7. Cartage and express facilities providing storage of goods in an enclosed structure.
8. Clothing and textile manufacture.
9. Contractors shops, including storage yards for equipment and supplies.
10. Dog kennels, including outside runs.
11. Dry cleaning and laundry plants.
12. Food manufacture, distribution and storage.
13. Frozen food lockers.
14. Furniture manufacture and repair, new and used.
15. Garages, repair.
16. Garden stores,
17. Greenhouses, hydroponic farming and nurseries, wholesale and retail.
18. Light manufacturing operations including metal fabricating.
19. Machinery sales and sales yards.
20. Mini-storage facilities, including accessory outside storage.
21. Monument works and sales lots.
22. Motor and recreational vehicle sales, service and storage.
23. Offices, business and professional.
24. Oil field supplies and equipment, retail and wholesale, including storage yards.
25. Plastic products manufacturing.
26. Printing and publishing firms.

27. Production, sales and repair of manufactured housing, portable housing, recreational vehicles, campers and tiny houses.
28. Rental equipment firms.
29. Research laboratories.
30. Restaurants.
31. Sign shops and service.
32. Sporting goods and supplies, including boats, out-board motors, accessories and supplies.
33. Upholstery shops, including cleaning and repair shops and retail sales of used furniture and appliances.
34. Used automobile and truck sales lots.
35. Warehouses, wholesale operations and storage.
36. Utility uses as follows: electric and telephone substations and distribution centers, gas regulator stations, pumping stations, water towers and standpipes and communication structures. *(See Section 3-108G for lot size and bulk regulations exemption.)*

## **B. Special Uses.**

1. Public buildings erected or land used by any agency of the City, a township, county or state government.
2. Other uses not specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-107 and compatible with the uses permitted in Section 4-107A. Such other uses may also include retail and service businesses which provide a particular service to the industrial uses or serve as a convenience to the employees thereof.

## **C. Conditional Uses.**

1. None.

## **D. Lot Size Requirements.**

1. Minimum lot area: 10,000 square feet.
2. Minimum lot width: 75 feet.
3. Minimum lot depth: 100 feet.

## **E. Bulk Regulations.**

1. Maximum structure height: 45 feet, exclusive of grain elevators.
2. Yard requirements:
  - a. Minimum front yard: 35 feet on all sides abutting a street.
  - b. Minimum side yard: 10 feet.
  - c. Minimum rear yard: 20 feet, except a rear yard abutting an alley or railroad may be reduced to 10 feet.
3. Maximum lot coverage: 75%.

## F. Use Limitations.

1. No new building shall be used for residential purposes, except that a watchman or custodian may reside on the premises.
2. There shall be no emission of dust, odor, noise or vibration which shall be detectable as a nuisance beyond the property line. All existing City, county, state and federal laws relating to environmental conditions and safety factors must be met.
3. All outdoor operations, storage and display areas related to the permitted, special and conditional uses are allowed in all yards, except that only parking and display areas are permitted in the front yard setback.

**Section 108 I-2 Heavy Industrial District**

This district is established for the purpose of allowing basic or primary industries which are generally not compatible with residential and/or commercial activity. Certain environmentally obnoxious or hazardous uses will require a special or conditional use permit to locate in this District. No residential uses are permitted.

**A. Permitted Uses.**

1. Any permitted use allowed in the I-1 District.
2. Manufactured or mobile home, modular home and recreational vehicle manufacturing, sales, service and storage.
3. Manufacturing processing or fabrication establishments which are not noxious or offensive by reason of vibration, noise, dust, fumes, gas, odor or smoke off the site.
4. Storage yards, but not salvage yards, providing the storage yard is completely enclosed with at least a six foot solid fence or wall.
5. Welding shops.
6. Utility uses as follows: electric and telephone substations and distribution centers, gas regulator stations, pumping stations, water towers and standpipes and communication structures. *(See Section 3-108G for lot size and bulk regulations exemption.)*

**B. Uses Not Permitted.**

1. Acid manufacture.
2. Arsenals.
3. Cement, lime gypsum or plaster of Paris manufacture.
4. Creosote or tar treatment or manufacture.
5. Distillation of bones.
6. Fat rendering and fertilizer manufacture.
7. Fireworks or explosives manufacture or storage.
8. Garbage, offal or dead animal incineration disposal or reduction.
9. Glue and soap manufacture.
10. Gutta percha manufacture or treatment.
11. Salt works.
12. Smelting of base metals or ore reduction.
13. Synthetic polymers manufacture.
14. Tanning, curing or storage of rawhides or skins.
15. Use of a well for underground disposal purposes.

**C. Special Uses.**

1. Public buildings erected or land used by any agency of the City, a township, county or state government.
2. Asphalt and concrete mixing plants.
3. Bulk storage for retail or wholesale distribution and not used as an accessory part of a normal manufacturing process of such items as anhydrous ammonia, petroleum products and other products which may be considered as highly explosive, combustible or of a volatile nature.
4. Hazardous waste facilities, public and private. *(See Section 2-102 for definition of HAZARDOUS WASTE FACILITY.)*
5. Recycling processing centers, large recycling collection centers and salvage yards when all materials are enclosed within at least six foot solid fence or wall. *(See Section 2-102 for definitions.)*
6. Truck terminals, including parking areas and repair services.
7. Other uses not specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-108 and compatible with the uses permitted in Section 4-108A. Such other uses may also include retail and service businesses which provide a particular service to the industrial uses or serve as a convenience to the employees thereof.

**D. Conditional Uses.**

1. None.

**E. Lot Size Requirements.**

1. Minimum lot area: 20,000 square feet.
2. Minimum lot width: 100 feet.
3. Minimum lot depth: 125 feet.

**F. Bulk Regulations.**

1. Maximum structure height: 45 feet, exclusive of grain elevators.
2. Yard requirements:
  - a. Minimum front yard: 35 feet on all sides abutting a street.
  - b. Minimum side yard: 15 feet.
  - c. Minimum rear yard: 20 feet, except a rear yard abutting an alley or railroad may be reduced to 10 feet.
3. Maximum lot coverage: 75%.

**G. Use Limitations.**

1. No new building shall be used for residential purposes, except that a watchman or custodian may reside on the premises.
2. All existing City, county, state and federal laws relating to environmental conditions and safety factors must be met.
3. All outdoor operations, storage and display areas related to the permitted, special and conditional uses are allowed in all yards, except that only parking and display areas are permitted in the front yard setback.

**Section 109 P-O Protective Overlay District**

This district may be applied as an overlay district in combination with any underlying zoning district. By limiting specific uses or requiring more restrictive development standards to individual projects or specific properties, this district is intended to:

- (1) ensure compatibility among incompatible or potentially incompatible land uses;
- (2) ease the transition from one zoning district to another;
- (3) address sites or land uses with special requirements; and
- (4) guide development of unusual situations or unique circumstances.

Development standards include, but are not limited to, lot sizes, bulk requirements, use limitations, off-street parking and loading provisions, accessory structures and uses, sign standards, miscellaneous requirements of Section 3-103 and screening and landscape requirements of Section 3-104.

- A. **Use and Development Standards.** This district can be used to modify and restrict the use and development standards of an underlying zoning district. All requirements of this district are in addition to and supplement all other applicable standards and requirements of these regulations. Restrictions and conditions imposed by this district shall be limited to the following:
  1. Prohibiting otherwise permitted or special or conditional uses and accessory uses; or making an otherwise permitted use a special or conditional use;
  2. Decreasing the number or average density of dwelling units that may be constructed on the site;
  3. Increasing minimum lot size or lot width;
  4. Increasing minimum setback requirements in any yard;
  5. Restrictions on access to abutting properties and streets, including specific design features; and
  6. Any other development standards required or authorized by these regulations.
- B. **Method of Adoption.** Modifications and restrictions imposed through this district are considered part of this zoning text and accompanying map. All property included in the district shall be identified on the Official Zoning Maps by adding the letters "P-O" and a number to the base zoning district symbol. The number shall be assigned when the application is filed and numbers shall run consecutively beginning with number 1. The effectuating ordinance for zoning or rezoning property to the P-O district shall specifically state the modifications or restrictions imposed pursuant to Section 4-109A. Such modifications and restrictions imposed shall be considered part of the text of these regulations and a violation of them shall be a violation of these regulations. The modifications and restrictions shall continue in full force and effect until revised in accordance with the same amendment procedures as for the approval of the original P-O District.
- C. **Effect of P-O District Designation.** When the P-O District zoning designation is applied in combination with an underlying zoning district, it shall always be considered to result in a more restrictive designation than if the district did not have the P-O classification. In the event that the P-O designation was not originally requested as part of the rezoning application, but is added instead during the public hearing process, renotification and readvertisement of the requested zoning amendment shall not be required.

**ARTICLE 5. OFF-STREET PARKING AND LOADING****Section 100 Off-Street Parking**

In any applicable zoning district, all structures built and all uses established hereafter shall provide accessory off-street parking in accordance with the following regulations. When an existing structure or use is expanded, accessory off-street parking shall be provided in accordance with the following regulations for the area or capacity of such expansion. Plans showing the layout and design of all off-street parking spaces and loading areas must be submitted and approved by the Zoning Administrator before a zoning permit and/or occupancy certificate is issued for such spaces or areas.

**A. General Provisions.**

1. **Utilization:** Accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants or employees of such uses. Such parking facilities or any vacant lot shall not be used to display or store motor vehicles including recreational vehicles and utility trailers for sale other than where permitted specifically in a district. Such provision shall not prevent the display of a small temporary sign not exceeding two square feet in size on a personal vehicle when parked periodically on a driveway or an identifiable parking area on a zoning lot of a residence or a business location. *(See Section 2-102 for definition of STORAGE, OUTDOOR.)*
2. **Parking space dimension:** An off-street parking space shall be at least eight feet six inches in width and at least 18 feet in length, exclusive of access drives or aisles, ramps or columns, unless special parking is designated for variable sizes of vehicles.
3. **Access:** Each off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. No parking space shall be designed to exit or back directly onto a public street or use the public right of way for parking space, unless less specifically approved by the Governing Body. Such arrangements are to be discouraged, except in unusual circumstances wherein the traffic safety of the public can still be protected.
4. **Open and enclosed parking:** Off-street parking spaces open to the sky may be located in any yard, except that in residential districts no such spaces shall be located in a front yard setback other than for multiple-family dwellings. Principal buildings with garages and carports integrated into or attached to the buildings which contain or shelter off-street parking spaces shall be subject to the yard setback requirements applicable in the district wherein the buildings are located. Detached garages and carports which contain or shelter off-street parking spaces shall be subject to the provisions of the accessory uses contained in Section 6-100 and, in particular, the bulk regulations of Section 6-100C. *(See Section 3-103F1 for canopies.)*

**5. Design and Maintenance:**

- a. **Design:** Off-street parking spaces shall comply with such design standards relating to curb cuts and curb length, stall depth, driveway width, island width, barriers, and the location of ingress and egress as may be established from time to time by the City. Off-street parking spaces may be open to the sky or enclosed in a building or structure. Parking on driveways for single and two-family dwellings and all types of manufactured and mobile homes is considered to be permitted temporary parking and required parking spaces on such lots are not to be in the front yard setback. All parking spaces must be in an identifiable area where all spaces are contained thereon. (See *Section 5-100A5c for screening.*)
- b. **Surfacing:** All open off-street parking spaces, whether required spaces or not, and driveways shall be graded and paved with an asphalt, asphaltic concrete or concrete which shall be maintained in good condition; provided, however, graveled parking areas and driveways are permitted in the agricultural and industrial districts, for church parking lots and in manufactured home parks. At the discretion of the Zoning Administrator, extended driveways on residential lots in the City may be graveled. Driveways, parking spaces and display areas for all open sales or rental lots for motor vehicles, trailers, recreational vehicles and manufactured / mobile homes shall be paved or graveled.
- c. **Screening:** Screening for parking spaces and loading areas is incorporated into the general screening and landscaping provisions of Section 3-104.
- d. **Lighting:** Any lighting used to illuminate off-street parking spaces shall be shaded so that direct light is not cast upon property located in a residential district and so that glare is not a problem to traffic on any public street.
- e. **Repair and service:** No motor vehicle repair work or service of any kind shall be permitted in association with any off-street parking spaces or structures, except as incidental repairs to a personal vehicle. (See *Section 2-102 for definition of SALVAGE YARD.*)
- f. **Computation:** When determination of the number of off-street parking spaces required by these regulations results in a requirement of a fractional space, the fraction of one-half or less may be disregarded, and a fraction in excess of one-half shall be counted as one parking space.
- g. **Collective provisions:** Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so furnished is not less than the sum of the separate requirements for each such use; provided, that wherever there is a common plan of parking for land in single ownership that the amount of required parking shall consider the joint use of such space whenever large places of assembly are present which vary in their times of use and season of the year to the end that all parking is contained on the site or on accessory parking lots except for infrequent periods of peak use. The off-street parking spaces required by Section 5-101 may be increased; however, where it is anticipated that peak parking periods will be a consistently reoccurring problem. All regulations must be adhered to which cover the location of accessory parking spaces in relation to the use served.



4. Cartage, express, parcel delivery and freight terminal establishments: One parking space for each two employees.
5. Car washes: Two holding spaces for each car washing stall, plus one drying space for each car washing stall.
6. Funeral homes and mortuaries: One parking space for each four seats based upon the designed maximum capacity of the chapel, plus one additional parking space for each employee and each vehicle maintained on the property.
7. Furniture or appliance stores and service or repair shops: One parking space for each 400 square feet of floor area.
8. Manufacturing, production, processing, assembly, disassembly, cleaning, servicing, testing, or repairing of goods, materials or products: One parking space per two employees.
9. Medical and dental clinics or offices: One and one-half parking spaces for each examining or treatment room, plus one for each doctor and employee.
10. Restaurants, private clubs and taverns: One parking space for each 2.5 seats based on the maximum designed seating capacity; provided, however, that drive-in restaurants shall have a minimum of least 10 parking spaces.
11. Retail stores and financial institutions: One space per 250 square feet of floor area, not including meeting rooms. *(See Section 5-101B13 for places of assembly.)*
12. Service stations: One parking space for each employee, plus two spaces for each service bay.
13. Theaters, auditoriums and places of assembly: One space for each three seats. *(See Section 5-100A5g for collective provisions.)*
14. Warehouses, storage and wholesale establishments: One parking space for each employee.

#### C. Other Uses:

1. Child care centers and preschools: One parking space for each employee.
2. Churches: One parking space for each five seats based upon the maximum designed seating capacity in the main worship area, including choir lofts.
3. Elementary, middle school and junior high public schools and equivalent parochial and private schools: One space for each faculty and staff person plus places of assembly. Regular parking spaces must be provided off the street for all buses serving the school. *(See Section 5-100A5g for collective provisions.)*
4. Hospitals: One parking space for each two beds, plus one parking space for each resident or staff doctor and one space for each two employees.
5. Nursing homes, convalescent homes and retirement centers: One parking space per each five beds based on the maximum designed capacity of the building, plus one parking space for each employee.

6. Private social and hobby clubs, associations and lodges: One parking space for each three seats based upon the maximum designed seating capacity.
7. Secondary public and private high schools: One parking space for every three pupils based on the maximum design capacity and one space for each faculty and staff person, plus places of assembly. Regular parking spaces must be provided off the street for all buses serving the school. *(See Section 5-100A5g for collective provisions.)*
8. Trade and commercial schools: Two parking spaces for each three students, plus one for each employee based on full-time equivalency.

Parking spaces for other permitted uses not listed above shall be provided in accordance with the determination of the Zoning Administrator with respect to the number of spaces that are required to serve employees and/or the visiting public at each such use. Parking for special and conditional uses may be established as part of processing their application or when issuing the zoning permit.

### Section 102 Conditional Use for Parking

In order to provide off-premises required or additional off-street parking areas, the Board of Zoning Appeals may grant as a conditional use the establishment of parking areas in any zoning district under the following provisions: *(See Section 2-102 for definition of PREMISES.)*

- A. **Location:** The nearest access to the parking area provided under this section must be within at least 300 feet (along lines of public access) from the boundary of the nearest entrance to the structure for which the parking is provided.
- B. **Use:** The parking area shall be used for passenger vehicles only, and in no case shall it be used for sales, repair work, storage, dismantling or servicing of any vehicles, equipment, materials or supplies. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.
- C. **Improvements:**
  1. Parking spaces and driveways on private property providing ingress and egress to parking areas shall be surfaced with concrete, asphaltic concrete, asphalt or any other comparable surfacing which meets the approval of the Board and shall be maintained in good condition and free of weeds, dust, trash and other debris.
  2. Parking areas shall have adequate guards to prevent extension or the overhanging of vehicles beyond property lines or parking spaces. Such areas shall have adequate markings for channelization and movement of vehicles.
  3. If lighting facilities are provided, they shall be so arranged as to deflect or direct light away from any adjacent dwelling or residential district.
  4. A fence (such as solid-wall masonry, wood, louvered/wood, metal or other similar materials) not less than eight feet high, may be required to be erected along any property line adjacent to or adjoining any residential district to reduce noise, eliminate the passage of light from vehicles and prevent the blowing of debris. Whenever a fence shall be required along a front yard which includes a driveway area, such fence shall not be higher than four feet.

5. When located in a residential district, parking shall not be located within a front yard and the front yard shall remain unpaved and shall be landscaped.
6. The Board shall determine the necessity of additional improvements in order to protect adjacent property owners and the public interest. Such improvements shall include, but not be limited to proper drainage, setbacks, screening, grass, shrubs, trees and the maintenance thereof, and the extent of access permitted to public streets and alleys.

**Section 103 Off-Street Loading and Unloading**

In all zoning districts except the C-1 Central Business District, loading and unloading space shall be provided off-street and on the same premises with every building, structure or part thereof, hereafter erected, established, or enlarged and occupied which requires the receipt or distribution of materials or merchandise by motor vehicle. The loading and unloading space shall be so located as to avoid undue interference with public use of streets, alleys and walkways. Such vehicular access shall be maintained in good condition and surfaced in such manner as required in Section 5-100A5b for parking spaces. When off-street parking space is used to fulfill this loading and unloading requirement, the latter shall be scheduled so as not to interfere with meeting the parking needs.

---

**ARTICLE 6. ACCESSORY STRUCTURES AND USES, TEMPORARY USES AND HOME OCCUPATIONS****Section 100 Accessory Structures and Uses Authorization**

Accessory structures and uses are permitted in any zoning district in connection with any principal use which is permitted.

**A. Definitions.** An accessory structure or use which:

1. Is subordinate to and serves a principal building or use;
2. Is subordinate in area, extent or purpose to the principal building or use served; however, this does not preclude recreational areas for tennis, swimming, racquetball, basketball and similar activities;
3. Contributes to the comfort, recreation, convenience or necessity of occupants, business or industry in the principal building or use served; and
4. Is located on the same zoning lot as the principal structure or use served. *(See Section 6-100D1 regarding beginning any accessory structure or use prior to the principal structure or use.)*

**B. Permitted Accessory Structures and Uses.** Any structure or use that complies with the terms of Section 6-100A may be allowed as an accessory structure or use and may be included, but is not limited to the following list of examples:\*

1. Off-street parking and loading space as regulated by Article 5 of these regulations, including detached garages and carports. On lots for single and two-family dwelling units and all types of manufactured and mobile homes such structures may contain incidental space for storage and other uses and are limited to one each per zoning lot not over 720 square feet in gross floor area for a garage and 400 for a carport, unless a conditional use is approved by the Board of Zoning Appeals for a larger structure.
2. Signs, when permitted by Article 7 of these regulations.

---

**\*NOTE:** *Zoning permits are required only for accessory structures which exceed 120 square feet of ground area; however, permits are required for all fences in the front yard setback. For other accessory zoning permits, see Section 6-101 for temporary uses, Section 6-102 for home occupations, Section 5-100 for parking spaces and loading areas and Article 7 for signs.*

3. Buildings for storage and other purposes; provided, that no such building on lots which are accessory to single and two-family dwelling units and all types of manufactured or mobile homes shall not exceed 400 square feet in gross floor area, unless a conditional use is approved by the Board of Zoning Appeals for a larger building.

No motorized vehicle of any type or any portion thereof such as a truck trailer may be used on a residential lot for storage or any purpose other than for periodic construction or vehicular parking according to provisions of Article 5. Similarly, a railroad box car, construction trailer, dumpster, shipping container or portable storage unit is not permitted permanently on a residential lot. Motorized vehicles and portions thereof, construction trailers, dumpsters, shipping containers or portable storage units; however, may be used temporarily for refuse disposal or storage during a period of construction, reconstruction or moving. Such storage containers placed for temporary use may be located at the front of any residential property, including location on a driveway, but may not be placed on the street or in such a way as to restrict the line of sight of any vehicle(s) leaving the property or entering in any direction on that street. (See Section 2-102 for definition of PORTABLE STORAGE UNIT.)

4. Storage of recreational vehicles; provided, that they shall not be utilized for living purposes, except for the convenience of temporary lodging only for not more than 15 days at any one time, and for not more than four times in a calendar year, i.e. not more than a total of 60 days in a year. When stored on the driveway or on a graveled or paved surface parallel and adjacent to the driveway of a residential lot by the occupant of the lot who is the vehicle owner, such vehicles shall be located not less than five feet from the front lot line and not otherwise stored in a front yard setback. (See Section 2-102 for definitions of RECREATIONAL VEHICLE (RV) and YARD, FRONT.)
5. Storage outside both above or below ground level of petroleum products for heating and power purposes or for fueling vehicles related to the operation of the principal use on commercial and industrial lots only and for sale at automobile and truck service stations. (See also State Fire Marshal's regulations.)
6. Detached, rack mounted solar equipment; and satellite dish antennas; provided, that on lots with single-family and duplex dwelling units and all types of manufactured and mobile homes that the antenna structure shall not be located in any front yard setback nor in any portion of the area which is parallel to the front facade of the principle structure. Satellite antenna dishes exceeding one meter (39.37 inches) in diameter shall not be located on or attached to or mounted on masts (wireless cable) which are attached to dwelling units or manufactured or mobile homes nor their accessory garages or storage buildings. If an acceptable quality signal cannot be received under these restrictions to minimize visual impact and to provide safety, the Zoning Administrator may approve an alternative location suitable for reception. (See Section 2102 for definition of HEIGHT, MAXIMUM for wireless cable antenna height.)
7. Communication structures, antennas and aerials. (See Section 2-102 for definition of HEIGHT, MAXIMUM and Section 6-100B6 above for satellite antennas.)

8. Storm shelters, children's playhouses, statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, bathhouses and permanent-type swimming pools; provided, the latter are enclosed by a security-type fence for the protection of young children in residential districts only as approved by the Zoning Administrator regardless of whether the pool is above or below ground.
9. Guest houses without kitchen facilities or rooms for guests in accessory buildings; provided, such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units for permanent occupancy as housekeeping units.
10. Restaurants, pharmacies, gift shops, beauty parlors, barber shops and newsstands when located in a permitted hotel or motel.
11. For employees only, child care centers and restaurants when located in a permitted business or industrial building.
12. Recycling collection centers, large and small. *(See Section 2-102 for definition of RECYCLING CENTER.)*
13. Outdoor storage shall not be permitted as an accessory use, except as specifically permitted in the district regulations. *(See Section 2-102 for definition of STORAGE, OUTSIDE and Section 3-103N3 for manufactured or mobile homes as storage structures.)*
14. Private wind energy conversion systems may be permitted in all districts as an accessory structure if granted as a conditional use as an exception by the Board of Zoning Appeals. *(See Section 2-102 for definition of HEIGHT, MAXIMUM for exemption from height limitation.)*

#### C. Bulk Regulations.

1. Accessory structures and uses shall maintain the same side and front yard setback as is required for the principal structure unless they are permitted obstructions within the provisions of Section 3-103F and 6-100B3. Such accessories, however; may cross the rear yard setback line from both directions.
2. Accessory buildings shall be set back at least five feet from the rear lot line and garages with entrances facing alleys shall be set back at least 18 feet. *(See Section 9-101A3 for zoning permits on easements.)*
3. No part of any accessory building shall be located closer than five feet to any principal structure, unless it is attached to and forms a part of the principal structure.
4. Accessory structures and uses shall otherwise comply with the bulk regulations applicable in the district in which they are located, except that in residential districts no accessory building shall exceed 20 feet in height, unless application is made for a conditional use to the Board of Zoning Appeals.

- D. **Use Limitations.** All accessory structures and uses shall comply with the use regulations applicable in the zoning district in which they are located with the following additional use limitations:
1. No accessory structure shall be constructed and occupied or a use started on any zoning lot prior to the time construction begins on the principal structure or use to which it is accessory. Conversely, no accessory structure or use shall continue to be used or occupied after the principal structure has been removed from a zoning lot. *(See Section 6-100A4 regarding same zoning lot.)*

### Section 101 Temporary Uses Permitted

The following uses of land are permitted in each zoning district unless specifically restricted to particular zoning districts and are subject to the regulations and time limits which follow and to the other applicable regulations of the district in which the use is permitted (See temporary business uses as special uses in the Business Districts of Sections 4-105B6 and 4-106B5.):\*

- A. Temporary zoning permits for community celebrations, carnivals, circuses, farmers and arts and crafts markets, musical festivals, religious revival services or similar outdoor events and Halloween or haunted houses may be approved with conditions by the Governing Body or their designated representative. Such uses need not comply with the bulk or lot size requirements; provided, that structures or equipment which might block the view of operators of motor vehicles on the public streets shall meet the requirements of the vision triangle. *(See Section 2-102 for definition of VISION TRIANGLE.)*
- B. Christmas tree sales in any agricultural, business or industrial district for a period not to exceed 60 days. Display of Christmas trees need not comply with the yard and setback requirements of these regulations; provided, that no tree shall be displayed within the dimensions of a vision triangle. *(See Section 2-102 for definition of VISION TRIANGLE.)*
- C. Contractors' offices, equipment sheds and open storage areas which are accessory to a construction project and remain on the site only during the duration of such project. Similarly, a model home or a portion thereof may be used as a real estate sales office on the site of large scale residential developments.
- D. Fireworks may be sold from an outside stand as approved by State law and when all other applicable City or County regulations have been met and such stand removed at all other times of the year. *(See Section 6-101 for temporary zoning permit and City Codes for fireworks sale dates and related rules.)*
- E. Food trucks permitted in all business and industrial districts and in residential districts when the latter is specifically authorized by City ordinance.. *(See City ordinance on food trucks for definition of and standards for location and parking spaces.)*

---

**\*NOTE:** Temporary zoning permits are required for events provided for in Section 6-101A, asphalt and concrete plants and fireworks stands. A recycling center is also required to obtain such a permit, but no fee is charged.

- F. Periodic conduct of what is commonly called "garage or yard sales" which do not exceed a period of more than three days during any one sale and no more than two sales to be held at the same residence during any calendar year.
- G. Promotional activities of retail merchants involving the temporary display of goods and merchandise may be conducted outside of enclosed buildings for a period of not more than three consecutive weeks in any three month period in an area adjacent to the building subject to the following conditions:
  - 1. No portion of the display shall be on publicly owned property, unless the applicant shall first have obtained approval for such use from the City.
  - 2. These provisions shall in no way be deemed to authorize the outdoor display or the sale of used goods such as furniture, appliances, plumbing, house wares, building material or similar display or sale in any business or industrial districts unless permitted otherwise by these regulations.
- H. Recycling centers, small and large, periodically operated not for profit in business and industrial districts only for not more than 10 days in one period and for no more than three times during any 12-month period consistent with adequate provisions for public health and safety.
- I. Seasonal sale of farm produce grown on the premises in a single-family residential district to continue for not more than six months per year. Small, temporary structures on private property incidental to such sale need not comply with the applicable front yard requirements.
- J. Temporary permits may be approved by the Governing Body or their designated representative for an equipment and material yard including an asphalt or concrete mixing plant for stated periods of time with conditions attached as deemed necessary to accommodate working space for highway or road projects.

**Section 102 Home Occupations Authorization**

Home occupations that are customarily incidental to the principal use of a residential building or any type of manufactured or mobile home shall be permitted; provided, that the residential appearance of the building or home is maintained and no undue traffic or parking problems are created. If such a home occupation is conducted in a business or industrial district as a legal, nonconforming use, all the provisions of this section must be adhered to unless a zoning permit is obtained to operate the property and structure(s) thereon as a use meeting all the provisions of the applicable business or industrial district.\*

- A. **Definition.** A business, profession, occupation, or trade conducted for gain or support entirely within a residential building or manufactured or mobile home, or within a permitted structure that is accessory to such a building or home. This definition exempts gunsmithing and the sale of firearms and/or ammunition as a home occupation within these regulations; however, the standards for the size and location for a sign still apply as well as no related outdoor storage or displays are allowed. While no zoning permit is required, such uses are regulated by permits from the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives.
- B. **Use Limitations.** In addition to all of the use limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:
1. The home occupation shall be conducted entirely within the principal residential structure or a garage, swimming pool or an accessory structure. *(See Sections 6-100B1 and 3 for limitations on detached accessory structures.)*
  2. No exterior alteration of the principal residential structure shall be made which changes the character thereof as a residence or causes goods to be displayed visibly from the residence or on the premises.
  3. No more than 25% of the gross floor area of the residence shall be devoted to the home occupation; provided, that rooms let to boarders and roomers or used by child care facilities are not subject to this limitation. *(See Section 2-102 for definition of BOARDING OR ROOMING HOUSE.)*
  4. Goods or stock for sale on or off the premises may be stored in enclosed areas, except articles which may constitute a hazard to the safety of adjacent property owners or tenants.
  5. There shall be no outdoor storage of equipment or materials used in the home occupation.

---

**\*NOTE:** Zoning permits are required for a home occupation only when a sign is displayed or an accessory structure is used.

6. No equipment or process shall be used which shall create undue noise, smoke or particulate matter emission, vibrations or odors which are detectable to the normal senses off the lot. In case of electrical interference, no equipment or process shall be used which creates a visual effect or an audible interference off the premises in any radio or television receiver or transmitter or causes fluctuation in the voltage.
  7. No other person than a member of the immediate family occupying such residence shall be employed.
  8. No sign shall be permitted other than that permitted by the applicable regulations in Article 7.
- C. Home Occupations Permitted.** Customary home occupations include, but are not limited to, the following list of occupations provided; however, that each listed occupation shall be subject to the requirements of Section 6-102A and B:
1. Adult care center for not more than four adults, adult care home, group boarding home, day care home and family and group day care home.
  2. Artist, author, composer, photographer or sculptor.
  3. Barber or beautician; provided, that only one operator shall be permitted.
  4. Home crafts, such as cabinet making, model making, lapidary work, rug weaving and the like.
  5. Minister, priest or rabbi.
  6. Office for a route salesperson, sales representative or manufacturer's representative, where no exchange of tangible goods is made on the premises, including internet sales.
  7. Professional office for an accountant, architect, attorney, building contractor, dentist, engineer, landscape architect, physician, real estate or insurance agent or a member of a similar type of profession.
  8. Seamstress or tailor.
  9. Teacher, including music and dance instructions; provided, that instructions shall be limited to two pupils at any time, except for occasional groups.
- D. Home Occupations Prohibited.** Permitted home occupations, for example, shall not in any event be deemed to include:
1. Animal kennels or commercial stables.
  2. Automobile and other vehicular repair shops or sales of such vehicles which exhibit a pattern of regular or continuous sales. A person holding a State Vehicle Dealer's License may not operate as a home occupation. This shall not prevent the periodic sale of a vehicle which is owned and operated for personal use.
  3. Child care centers and preschools, unless specifically permitted by the district regulations.
  4. Churches, chapels, temples or synagogues for regular public worship or religious services.

5. Dancing schools, except as provided for in Section 6-102C9.
  6. Excavating or heavy equipment operators.
  7. Funeral homes and mortuaries.
  8. Grocery stores.
  9. Private schools providing educational services for persons outside of the home other than tutoring.
  10. Renting of equipment, furniture, motorcycles, tools or trailers.
  11. Repair of electrical, diesel or gasoline engines.
  12. Restaurants.
- E. Home Occupation Authorization by Conditional Use.** Notwithstanding any other provisions of these regulations and, in particular, Section 6-102A through D, an application may be made to the Board of Zoning Appeals for a conditional use to allow a home occupation which would permit a broader range of home occupations and less restrictions than otherwise required, so long as in the opinion of the Board under stated conditions that the effect upon adjacent areas is minimized to the extent feasible and the public interest is served. The intent of such a provision is to provide for a wider range of home occupational activities while at the same time protecting adjacent properties from the intrusion of incompatible uses and uses of too great an intensity. In addition to the procedures and standards for establishing conditional uses as provided for in Section 10-108, the Board may, using the use limitation restrictions of Section 6-102B as guidelines, permit the following variations:
1. Limited outdoor storage of goods, materials and equipment when screened wherever feasible.
  2. Limited outdoor display of goods, when deemed essential to the proper merchandising of the product.
  3. Limited number of additional employees other than members of the immediate family occupying the dwelling unit may be employed regularly or periodically.
  4. Limited outdoor related activity necessary to the conduct of the home occupation.
  5. A sign for such home occupation may be increased in size when warranted by the type of activity.
  6. Limitations as to stated periods of operational time such as hours, days and seasons.
  7. Conditions may be attached to the premises and/or to the person(s) conducting the home occupation, including licenses and permits.

**ARTICLE 7. SIGNS****Section 100 Purpose, Substitution and Severability**

- A. **Purpose.** The purpose of these sign regulations is to provide reasonable time, place and manner restrictions on the installation and maintenance of signs, in order to allow communication through signs while protecting public safety, preserving the City's appearance and property values, and upholding the right of free speech and expression.
1. **Safety.** These regulations are intended to safeguard the public when using streets and sidewalks near signs; allow governmental entities, railroads, and utilities to erect official signs to help protect public safety and welfare; allow signs that identify premises, in order to aid first responders in emergency situations; and reduce visual clutter to avoid distractions that are potentially harmful to traffic and pedestrian safety.
    - a. To support substantial governmental interests in protecting public safety and welfare, and without reference to the viewpoint of the individual speaker, any sign is prohibited which includes text or graphics that advertise unlawful activity; are defamation, hate speech, incitement to imminent lawless action, or true threats; are indecent, obscene, or immoral in nature and harmful to minors. (*See K.S.A. 21-6401.*)
  2. **Economy & Community.** These regulations are intended to support clear and efficient wayfinding, as a factor contributing to both public safety and the local economy; allow reasonable advertising, as a factor contributing to the local economy; enhance community appearance, in order to preserve and promote property values; recognize local history, in order to strengthen Sedgwick's sense of community; and enhance community appearance, in order to augment quality of life, and support citizen satisfaction with the environment in which they live, work, learn and play.
  3. **Character & Design.** To support quality development in Sedgwick, these sign regulations are intended to exercise reasonable control over the character and design of signs, promoting the use of signs which are aesthetically pleasing, appropriately scaled, compatible with their surroundings, and legible under the circumstances in which they are seen.
- B. **Substitution.** Signs containing noncommercial speech are permissible anywhere that signs containing commercial speech are permissible.
- C. **Severability.** Invalidation of any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article 7 by any court of competent jurisdiction does not affect the validity or enforceability of the remaining portions of Article 7 of these Zoning Regulations.

**Section 101 Applicability**

A. **Applicability.** These sign regulations apply to the construction, installation, structural alteration, relocation, and maintenance of all outdoor signs, including signs painted on or applied to a building's exterior.

1. These sign regulations establish limits to the size, height, location, number, setback, and total sign message area of signs.

**Section 102 Definitions**

A. **SIGN:** Any object, material, device, display, structure or part of a structure, which is within view of the general public from a public way, or visible from other properties, and which uses any means – including text, images, light or movement – to communicate information on, attract attention to, or promote the interests of a person, institution, organization, business, product, service, event or location. A sign may incorporate internal or external lighting or an electronic message center.

1. **FREESTANDING SIGN:** A sign which is unattached to and independent of any building or structure.
2. **DANGEROUS SIGN:** A sign that creates a hazard to public health, safety, or welfare because of inadequate maintenance, dilapidation, or obsolescence.

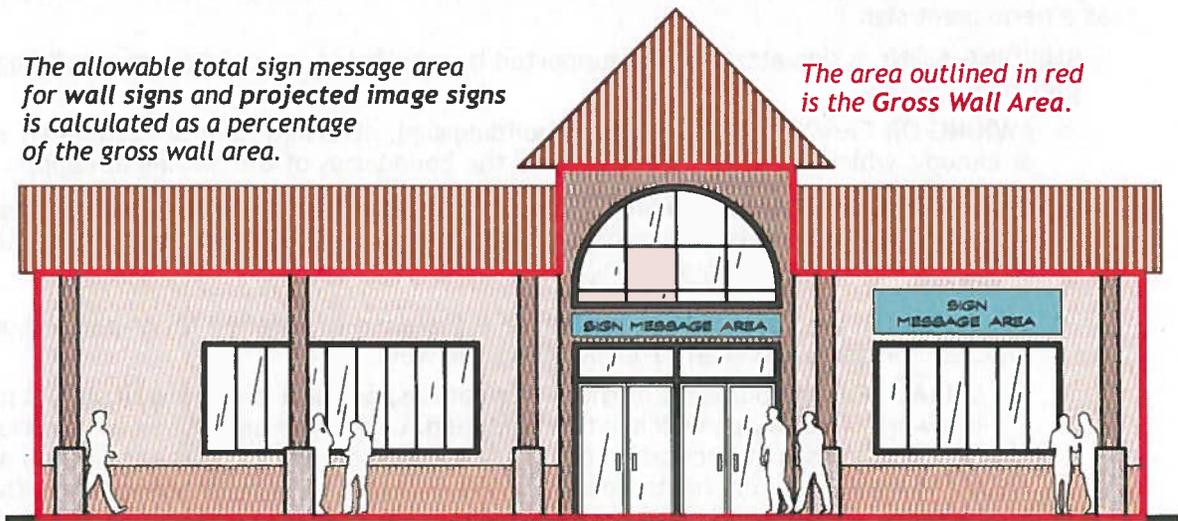
B. **SIGN OWNER:** The person entitled to possession or control of the sign, including but not limited to the owner, lessee, occupant, or agent of the property where the sign is located, or of the sign itself.

**C. SIGN STANDARDS.**

1. **SIGN HEIGHT:** The vertical distance from ground level below the sign, to the highest element of the sign.
  - a. Zoning district restrictions on maximum structure height do not apply to signs.
2. **GROSS WALL AREA:** The total area of the architectural elevation of the building on which signs are located, including recessed planes and visible angled planes, windows and doors, and mansard roofs, but excluding other roof structures.
  - a. **ARCHITECTURAL ELEVATION:** A horizontal orthographic projection of a building on to a vertical plane which is parallel to a facade of the building.

*The allowable total sign message area for wall signs and projected image signs is calculated as a percentage of the gross wall area.*

*The area outlined in red is the Gross Wall Area.*



3. **SIGN MESSAGE AREA:** The area of a sign containing text, images, a setting, or the screen of an electronic message center. Sign message area is regulated separately from other sign dimensions.
- a. Structural elements and exempt sign elements (such as address numbers) are not included in sign message area.
  - b. **SETTING:** An area which differentiates a sign's message from its background, the boundary of which may be defined by a line, or by a change in color, texture or material.
  - c. For **double-faced signs**, if the sign faces are parallel or form an interior angle of less than 45 degrees, only one display face must be included in the measurement of sign message area. If the two faces are of unequal area, then the sign message area of the larger face must be used as the sign's message area. For **signs with more than 2 faces**, all display faces must be included in the measurement of sign message area.
  - d. For the following sign types, the sign message area is defined as the **entire sign face, excluding structural elements**.
    - (1) Projecting or suspended signs.
    - (2) Pole banners.
    - (3) Projected image signs.
    - (4) All temporary signs.
    - (5) All short-term signs.
    - (6) All hand portable signs.
  - e. For the following sign types, the **sign message area** is determined separately from the area of the entire sign face.
    - (1) Awning or canopy signs.
    - (2) Wall signs.
    - (3) Monument signs.
    - (4) Pole or pylon signs.
- D. **PERMANENT SIGNS** are constructed of materials durable enough to remain in good condition for more than 3 years outdoors. They are attached to a building, wall or similar structure, embedded in the ground, or attached to a structure which is embedded in the ground. Types of permanent signs include building signs, ground signs, pole banners, and projected image signs. (Note that a sign may carry or produce a **temporary message**, and still be categorized as a permanent sign.)
1. **BUILDING SIGN:** A sign attached to, supported by, applied to, or painted on a building or part of a building.
    - a. **AWNING OR CANOPY SIGN:** A type of building sign, attached to or printed on an awning or canopy, which does not extend beyond the boundaries of the awning or canopy.
    - b. **PROJECTING OR SUSPENDED SIGN:** A type of building sign, attached to a building, dependent on the building for support, projecting at least 12 inches from the building's surface or suspended from a ceiling.
    - c. **WALL SIGN:** A type of building sign, which is fastened to, applied to, or painted on a wall, and projects less than 12 inches from the wall.
      - (1) **MURAL** For the purposes of these Regulations, a mural is not a wall sign. A mural is a work of visual art which is tiled, applied, or painted directly on an exterior wall for the purposes of decoration or artistic expression, which does not contain any brand name, product name, letters of the alphabet spelling or abbreviating the name of any product, company, profession, or business, or any logo, trademark, trade name, or other commercial message.

2. **GROUND SIGN:** A freestanding sign constructed on the ground, which is unattached to and independent of any building or structure.
  - a. **MONUMENT SIGN:** A type of ground sign intended to serve as a decorative feature, typically with a solid supporting base, no more than 15 feet in height.
  - b. **POLE OR PYLON SIGN:** A type of ground sign, greater than 15 feet in height, with a permanent support structure on a permanent foundation.
3. **POLE BANNER:** A sign made of lightweight, non-rigid but durable material, designed to be attached to brackets which are mounted on a permanent pole with a permanent foundation.
4. **PROJECTED IMAGE SIGN:** A sign made of light projected on the face of a wall, structure, sidewalk, or other surface.
- E. **TEMPORARY SIGNS** are typically constructed of non-durable materials, intended for temporary use outdoors, and are easily installed or removed without special tools or equipment. Types of temporary signs include attention getters, banner signs, blade signs, inflated signs and person signs.
  1. **ATTENTION GETTER:** A device primarily intended to attract attention, often without written content, such as balloons, pennants or searchlights.
    - a. **BALLOONS:** Bags made of flexible air-tight material, inflated with air, helium or other gas, usually brightly colored, and **less than 5 feet in diameter** when inflated.
    - b. **PENNANTS:** Multiple pieces of fabric or plastic, often triangular, attached to a cord in a row, and intended to attract attention by flapping in the wind.
    - c. **SEARCHLIGHTS:** Searchlights, also known as spotlights or sky beams, are a sign made of light projected into the sky, generally moved through sweeping arcs when displayed.
  2. **BANNER SIGN:** A sign made of lightweight, non-rigid material such as paper, fabric, or vinyl, which may be tied to a structure, adhered to a structure with removable adhesive, or be freestanding and supported by posts.
  3. **BLADE SIGN (Also known as a Feather Sign or Teardrop Sign):** A sign made of lightweight, non-rigid material such as paper, fabric, or vinyl, which is supported by a single vertical pole mounted either into the ground or on a portable base.
  4. **INFLATED SIGN:** A sign made of flexible fabric, and enlarged, inflated or activated with air or other gas. Inflated signs include air-activated and balloon signs.
    - a. **AIR-ACTIVATED SIGN (Also known as a Waving Man Sign):** A type of inflated sign which is designed so that all or part of it moves, activated or animated by a fan blowing air into the sign.
    - b. **BALLOON SIGN:** A type of inflated sign, **at least 5 feet in diameter** when inflated, which is lighter than air, and must be tethered when displayed.
  5. **PERSON SIGN (Also known as a Human Mascot, Sign Spinner, or People Sign):** A person wearing or decorated with insignia, images, costumes, masks, or other symbols that display messages with the purpose of drawing attention to or advertising an activity, who may or may not be holding an additional sign.

- F. **SHORT-TERM SIGNS** are constructed of materials durable enough to remain in good condition for up to 3 years outdoors. They are attached to posts embedded in the ground, or attached to a permanent structure, and are easily installed or removed without heavy equipment. Types of short-term signs include flag signs and yard signs.
1. **FLAG SIGN:** A sign made of lightweight, non-rigid material, durable enough to be used over time, designed to be attached along one edge or by two corners to a permanent flagpole, or to a pole designed to be inserted in a flagpole bracket mounted on a building or wall.
    - a. If any side is more than three times as long as any other side, the sign is categorized as a banner sign.
  2. **YARD SIGN:** A freestanding sign more than 6 square feet in area, made of materials durable enough to be used over time, typically attached to posts embedded in the ground.
- G. **HAND PORTABLE SIGNS** are constructed of materials durable enough to remain in good condition for up to 3 years outdoors. They are freestanding, typically mounted on a lightweight frame sitting on or temporarily embedded in the ground, and are readily transportable by a single person without special tools or equipment. Types of hand portable signs include reusable signs and sidewalk signs.
1. **REUSABLE SIGN:** A freestanding hand portable sign, greater than 6 square feet in area, durable enough to be used in multiple locations over time, but intended for short-term use in each location.
    - a. **METAL-FRAME SIGN:** A sign constructed of a panel mounted in a metal frame, which is temporarily embedded in the ground for display.
    - b. **POST & BEAM SIGN:** A sign constructed of a post embedded in the ground, with a crossarm from which a sign panel is suspended.
  2. **SIDEWALK SIGN:** A freestanding hand portable sign, greater than 6 square feet in area, durable enough to be used over time, but typically displayed only during business hours, and otherwise stored inside; includes A-Frame, T-Frame and Sandwich Board signs.

### Section 103 Electronic Message Centers & Lighted Signs

- A. An **ELECTRONIC MESSAGE CENTER (EMC)** is a sign or component of a sign with an electronically controlled display showing a changeable lighted image. All electronic message center displays, including LED displays, plasma screens, digital screens, and holographic displays, must comply with the following requirements:
1. **Minimum message hold time:** 5 seconds.
    - a. **Flashing signs**, which exhibit noticeable changes in light intensity in a repeating pattern at intervals of less than 3 seconds, are not allowed.
    - b. **Full motion or animation** (graphics displayed on an EMC in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes) is not allowed.
  2. **Transition Method** Only dissolve or fade transitions are allowed, where the first frame gradually disappears and the second frame gradually appears, with a maximum transition duration of 1 second.

3. **Brightness Levels** From dusk to dawn, **brightness levels** must be no more than **0.3 foot-candles** above ambient lighting.
    - a. On written notice from the Zoning Administrator, a **sign owner is required to cooperate with brightness testing** by programming the EMC as requested.
    - b. **Method of Measurement** Brightness levels must be measured with an illuminance meter accurate to at least two decimals. Measure once with the EMC off (to measure ambient lighting), and again with the EMC displaying a white image for a full color-capable EMC, or a solid message for a single-color EMC. The measurements must be taken as close as practical to **perpendicular** to the face of the EMC, and as close as practical to a **distance** (in feet) which is determined by multiplying the area of the EMC (in square feet) by 100, then calculating the square root of the result.
  4. **Auto-dimming.** EMCs constructed or installed after the adoption of these Zoning Regulations must be equipped to automatically sense ambient illumination, and adjust their brightness levels to comply with the required 0.3 foot-candle maximum difference.
- B. Lighted Signs.** Signs may incorporate lighting, either as a component of the sign (internally lighted), or shining on the sign to provide better nighttime visibility (externally lighted).
1. From dusk to dawn, **brightness levels** created by the sign lighting must be no more than **0.3 foot-candles** above ambient lighting, as measured in Section 7-102A-3b of these Zoning Regulations.
  2. A lighted sign on a zoning lot adjacent to or across the street from any residential zoning district, **must not be illuminated between 11:00 pm and 7:00 am.**
  3. From dusk to dawn, **brightness levels** created by sign lighting on any residential property must not exceed **0.5 foot-candles.**

### Section 104 Prohibited Signs

- A. The following types of signs are not permitted in Sedgwick, Kansas:
1. **BILLBOARD:** Any sign, 72 square feet in size or larger, that directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.
  2. **ROOF SIGN:** Any sign erected on and supported by a roof, or that projects above the highest point of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.
  3. **DIGITAL VEHICLE SIGN:** An electronic message center (EMC) mounted on and displayed from any vehicle other than taxis, public buses, or road construction, road maintenance, or traffic control vehicles.

**Section 105 Exempt Signs**

- A. The following signs must comply with this Article's requirements in Section 7-109 (*Requirements in All Zones for All Signs*), but are otherwise exempt from regulation under this Article:
1. **Private Signs.** Signs located on private property and owned by the property owner or lessee, which have an area of **6 square feet or less**, have a maximum sign height of 8 feet above adjacent grade, and are not visible from a public way or other properties.
  2. **Temporary, Short-term and Hand Portable Signs** with a surface area of **6 square feet or less**.
  3. **Address numbers** and street names of the premises, with a total area of **6 square feet or less**.
  4. **Time and temperature displays.**
  5. **Works of art** which in no way identify a product or service.
  6. **Flags and logos** as long as they comply with **maximum sign message area requirements** for their zoning district.
  7. **Equipment Signs.** Signs which are integrated as a part of vending machines, ATMs, merchandise display racks, gasoline pumps, or similar equipment.
  8. Scoreboards in athletic stadiums.
  9. **Traffic control devices** that comply with the most current edition of the Federal Highway Administration's *Manual on Uniform Traffic Control Devices*.
  10. **Official signs** erected by a taxing authority, governmental body, governmental agency, public school district, public utility or railroad.
  11. **Digital Vehicle Signs.** LED or other digital or electronic signs mounted on and displayed from the taxis, public buses, or road construction, road maintenance, or traffic control vehicles.
  12. **Non-digital Vehicle Signs.**
    - a. Non-digital signs on vehicles that are **for sale or lease** and are parked legally in a parking space.
    - b. Non-digital signs painted on or adhered to a vehicle, **when the primary purpose of the vehicle is not the display of the sign.** For a vehicle's primary purpose to be determined as something other than sign display, the vehicle must be mobile, be actively used by a business, and must not be parked on a vacant lot. When the primary purpose of the vehicle is display of a sign, the sign is **not exempt**.

**Section 106 Nonconforming Signs**

A. A **NONCONFORMING SIGN** is an *existing* sign structure which complied with sign regulations in effect at the time it was constructed or installed, but does not comply with current requirements applicable to *new* signs in its zoning district.

1. **Enlargement, Repair or Alterations.** Any nonconforming sign may be maintained, repaired, enlarged or structurally altered, as long as the changes do not increase the degree of existing nonconformity or create any additional nonconformity in any part of the structure.
2. **Moving.** A nonconforming sign must not be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other zoning lot, unless the entire sign will afterwards conform to all the zoning district regulations of the location to which it is moved.
3. **Damage.**
  - a. If a nonconforming sign is damaged to the extent of **50% or less of its fair market value**, a zoning permit must be obtained before any repairs or restoration occur. Restoration must begin **within 1 year** after the date of damage, and must be diligently pursued to completion to maintain legal nonconformity.
  - b. If a nonconforming sign is damaged to the extent of **more than 50% of its fair market value**, the sign must not be restored unless it will afterwards conform to zoning district regulations.
  - c. The percent of damage in terms of fair market value is determined by the Zoning Administrator, based on data submitted by the Applicant. An Applicant aggrieved by the Zoning Administrator's determination may submit an appeal to the Board of Zoning Appeals. (*See Zoning Regulations, Article 10-106.*)
4. **Dangerous Nonconforming Sign.** If a nonconforming sign is damaged or deteriorated enough to become a hazard to the public, it must be immediately restored or removed.

**B. Amortization of Nonconforming Signs.**

1. Legally nonconforming **permanent signs**, existing lawfully at the time these Zoning Regulations are enacted, may remain in use **at the same location for 10 years**, after which they must comply with the requirements of Zoning Regulations in effect at that time.
2. Legally nonconforming **short-term or hand portable signs**, existing lawfully at the time these Zoning Regulations are enacted, may remain in use **for 1 year**, after which they must comply with the requirements of Zoning Regulations in effect at that time.

**Section 107 Zoning Permit Required for Permanent Sign**

A. A zoning permit must be obtained before constructing, installing, structurally altering, or relocating any permanent sign.

1. **Exceptions.** A zoning permit is not required for:
  - a. Exempt signs listed in Article 7-105 of these Zoning Regulations
  - b. Routine maintenance, or changes to the text or graphics, of a permanent sign.
  - c. Permanent signs accessory to single-family dwellings.
2. Permanent signs must comply with the requirements of this Article, or no zoning permit will be issued.

**Section 108 Enforcement**

- A. Determination of Sign Type.** The Zoning Administrator makes the final determination when designating a sign's type and exemption status. Sign types not described in these Zoning Regulations may be conditionally approved by the Zoning Administrator.
- 1. Appeal.** An aggrieved party may appeal the Zoning Administrator's determination of sign type to the Board of Zoning Appeals. *(See Zoning Regulations, Article 10-106, Appeals.)*
- B. Permit Revocation.**
- 1. Permanent Signs.** The Zoning Administrator may **revoke the zoning permit** for any permanent sign which:
    - a. Is in violation of any provision of these Zoning Regulations, or of any condition on which the permit was based.
    - b. Does not comply with applicable codes.
    - c. Would become dangerous to life or property if work continued.
    - d. Has become **nonconforming** by an action of the sign owner.
- C. Notice.** Except in the case of a dangerous sign, the Zoning Administrator must give notice when a sign's **zoning permit** has been revoked. Notice must be provided by hand delivery or certified mail, return receipt requested, to the sign owner or to the property's owner or occupant. The notice must describe the sign, specify the violation, note the time limit for compliance, and describe the consequences of non-compliance.
- 1. Notice for Dangerous Signs.** The Zoning Administrator may have a dangerous sign removed without prior notice, but **must send notice of the removal** by hand delivery or certified mail, return receipt requested, to the sign owner or to the property's owner or occupant **within 72 hours after removal**.
- D. Violation.** Permanent, short-term and hand portable signs in violation of any provision of these regulations must be **corrected or the sign removed**, within the following periods of time **after notification is mailed or hand delivered**, or the sign is in violation of these Zoning Regulations.
1. Permanent Sign or Short-term Sign: **30 days**.
  2. Hand Portable Sign: **72 hours**.
- E. Stop Work or Removal.**
- 1. Permanent or Short-term Sign:** The Zoning Administrator may order **work to be stopped or removal** of a permanent or short-term sign in violation of these Zoning Regulations.
  - 2. Hand Portable Sign:** The Zoning Administrator may order **removal** of a hand portable sign in violation of these Zoning Regulations.
- F. Enforcement for Temporary Signs.** Temporary signs in violation of any provision of these Zoning Regulations must be corrected or the sign removed.
1. The Zoning Administrator may order the **sign owner** to remove a temporary sign in violation, or the sign may be removed by the **Zoning Administrator** or by any **City staff member authorized** by the Zoning Administrator.
  - 2. Right of Adjacent Property Owner to Remove Signs.** Any property owner or tenant may remove and discard any unauthorized temporary sign which has been placed in a right-of-way adjacent to the owner or tenant's property.
  - 3. Interval Between Temporary Signs.** On any individual zoning lot, **at least 30 days** must elapse after one temporary sign is removed, before another temporary sign is displayed.

**G. Abandoned Signs.** For purposes of these Regulations, an abandoned sign is any sign remaining after demolition of the principal structure on the property; any sign which was erected for an occupant or business unrelated to the present occupant or business; or any sign or sign structure on a property which has been vacant and unoccupied for a period of 6 months.

1. **Notice.** Except in the case of a dangerous sign, the Zoning Administrator must give notice when a sign is deemed abandoned. Notice must be provided by hand delivery or certified mail, return receipt requested, to the sign owner or to the property's owner or occupant. The notice must describe the sign, specify why it is deemed abandoned, note the time limit for compliance, and describe the consequences of non-compliance.
2. **Violation.** An abandoned sign or sign structure must be corrected or removed, **within 30 days** after notification is mailed or hand delivered, or the sign or sign structure is in violation of these Zoning Regulations.
3. **Removal.** The Zoning Administrator may order removal of an abandoned sign in violation of these Zoning Regulations.

**H. Dangerous Signs.** Any sign or sign structure which because of damage or deterioration has become a hazard to the public, must be immediately restored or removed.

1. **Restoration.** A damaged or unsafe sign or sign structure may be restored to its original condition without obtaining a zoning permit.
  - a. **Exception:** Nonconforming signs. (*See Zoning Regulations, Section 7-106A3.*)
2. **Replacement.** If a damaged or dangerous sign or sign structure is replaced, it must conform to Zoning Regulations current at the time of replacement.

**I. Impoundment and Disposal of Removed Signs.**

1. Signs in violation of these sign regulations are considered to be a **public nuisance**, and therefore may be removed and impounded. Signs considered to be a public nuisance include the following:
  - a. Any **unauthorized private sign placed on public property**, including street rights-of-way and easements.
  - b. Any **unauthorized private sign placed on railroad property, or on a utility pole, box, fence, or other utility structure.**
  - c. Any **unauthorized private sign attached to a tree**, whether on public or private property.
  - d. Any sign, including **graffiti or tagging**, placed on a private structure without the authorization of the property owner.
  - e. Any vehicle, trailer or similar movable structure used as a sign or sign support, **when the primary purpose of the vehicle is the display of the sign**, as opposed to transporting passengers or carrying cargo, parked for a period of more than 72 hours where the sign is visible from a public way.
2. **Impoundment.** Any permanent, temporary, short-term or hand portable sign declared to be a public nuisance, and removed by order of the Zoning Administrator, may be impounded by the City.
  - a. **Redemption from Impoundment.** If not redeemed **within 30 days** by the owner paying a service charge of \$20 per sign, the City may dispose of the sign in any manner deemed appropriate.

**J. Costs of Removal.** The owner of any sign which must be removed by the City is responsible for reimbursing the City for the costs of removal.

1. **Notice of Costs.** The City must provide a Notice of Costs to the sign owner by hand delivery or certified mail, return receipt requested, which includes any and all incidental expenses incurred by the City in connection with removal of the sign.

a. If the sign owner does not pay the costs due **within 30 days**, the City Clerk will assess the costs as a **special assessment** against the lot or parcel of land on which the sign was located.

**K. Penalties.**

1. See Zoning Regulations, Article 9-103A on Penalties for violations of Zoning Regulations.

2. See Zoning Regulations, Section 9-103B on Remedies the City may pursue for violations of Zoning Regulations.

### Section 109 Requirements in All Zones for All Signs

**A. Traffic Safety.**

1. Signs must be designed so they cannot be confused with any traffic control sign, signal or device. Signs must not interfere with, mislead or confuse traffic.

2. Do not locate signs where they **obscure the view** of any traffic control sign, signal or device.

3. Do not locate signs in any VISION TRIANGLE, with the following exceptions:

a. Official traffic signs.

b. Signs at least 8 feet clear above the ground, and with no more than 2 supports, each a maximum of 12 inches wide.

**B. Other Codes and Regulations Apply.**

1. Signs must not block any accessway or window required by any building, housing, or fire code, or by other applicable codes or regulations.

2. All signs must conform to the structural design standards of any applicable building code.

3. Wiring of all electrical signs must conform to any applicable electrical code.

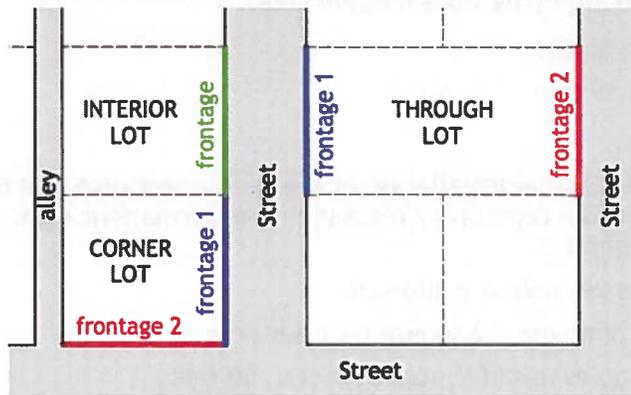
4. All signs must conform to traffic safety regulations, including requirements for VISION TRIANGLES.

5. For information on State of Kansas sign regulation standards, see K.S.A. 68-2231.

**C. Overhead Clearance.** All signs which project over a street or sidewalk, including but not limited to awning or canopy signs, projecting or suspended signs, pole or pylon signs, and pole banners, must provide **at least 7 feet of clearance between the ground surface and the bottom edge of any sign projection.**

D. Limitations on Total Sign Message Area.

1. On a single zoning lot, which is not a corner or through lot, the **total sign message area of all signs** must not exceed the maximum sign message area per street frontage set for that zoning district. (See definition of *FRONTAGE*.)
2. **Corner and Through Lots.** On corner and through lots, each lot line that abuts a street or highway is considered a **separate street frontage**. (See definitions of *LOT*, *CORNER* and *LOT*, *THROUGH*.)
  - a. Each frontage is allowed the sign message area of permissible signs for a zoning lot in the applicable zoning district.
  - b. Each frontage must be treated independently, and the sign message area allowance for one frontage must not be used on the other frontage.



Section 110 Requirements in All Zones by Sign Type

A. The requirements described in this section for each sign type apply for that sign type in all zones in the City of Sedgwick.

B. Requirements for Awning or Canopy Signs.

1. **Maximum sign message area:** 20% of the total area of the awning or canopy.

C. Requirements for Projecting or Suspended Signs.

1. **Maximum sign face area.**
  - a. Projecting Signs: 6 square feet per face.
  - b. Suspended Signs: 10 square feet per face.
2. **Maximum Number of Signs.** One for each entrance to the building.
3. **Minimum Separation Between Signs.** 10 feet.

D. Requirements for Wall Signs.

1. **Maximum area.** In all nonresidential zoning districts, the area of a wall sign must be no more than 20% of the gross wall area.
2. **Murals.** To be exempted from these Regulations as art rather than be regulated as a wall sign, a mural must not contain commercial speech, must be less than 200 square feet in area, must contain less than 3% text by area, and must be located on a building in a business or industrial district!
  - a. On a lot with **less than 300 feet of frontage**, only one mural per zoning lot is allowed. On a lot with **300 feet or more of frontage**, a maximum of 2 murals per zoning lot are allowed.

**E. Requirements for Monument Signs.**

1. Maximum height: 15 feet.
  - a. For a monument sign located at an entrance to a platted subdivision: 10 feet.
2. The sign's supporting base must be at least half the maximum width of the sign.
3. Any monument sign located at an entrance to a platted subdivision must be constructed primarily of masonry materials.
  - a. For a monument sign located at an entrance to a platted subdivision, design drawings for the proposed sign must be submitted to the City Zoning Administrator for staff review and approval before a Zoning Permit will be issued.
    - (1) Design drawings must include plan and elevation views, a description of materials, and a description of lighting methods if applicable.

**F. Requirements for Pole or Pylon Signs.**

1. Minimum height: More than 15 feet.

**G. Requirements for Pole Banners.**

1. A zoning permit is required for initial installation of the permanent pole and brackets, but the banner itself is considered a temporary message on a permanent sign, and may be changed without additional permits.
2. No more than 2 pole banners per pole are allowed.
3. Maximum total area of pole banners: 32 square feet per pole.
4. Minimum distance between poles used for pole banners: 50 feet.
5. All pole banners must comply with any:
  - a. Structural and windload requirements of the pole and brackets on which it is mounted.
  - b. Size, weight, permeability, and attachment requirements described in the original zoning permit.

**H. Requirements for Projected Image Signs.**

1. A zoning permit is required for initial installation of the permanent projection system, but the image itself is considered a temporary message on a permanent sign, and may be changed without additional permits.
2. The projection system for a projected image sign must:
  - a. Be located on the same zoning lot as the surface on which the image will be projected.
  - b. Not be located in the public RIGHT-OF-WAY, or in any VISION TRIANGLE near an intersection.
  - c. Not obstruct pedestrian or handicap accessibility to buildings, emergency exits, transit stops, or parking spaces.
  - d. Not be located where its operation is liable to shine light directly into the eyes of drivers or pedestrians.
  - e. Be securely mounted, and comply with any applicable electrical, building or safety codes.
3. The projected image must:
  - a. Comply with the requirements for electronic message centers described in Article 7-103 of these Zoning Regulations.
  - b. Not be projected onto any residential building.
  - c. Not be projected across any sidewalk or driveway.

4. **Maximum area.** In all nonresidential zoning districts, the area of a projected image sign must be **no more than 20%** of the gross wall area.

**I. Requirements for Attention Getters.**

1. **Balloons.** For the purposes of these Zoning Regulations, all balloons on a single zoning lot are counted as one temporary sign.
2. **Pennants.** For the purposes of these Zoning Regulations, all pennants on a single zoning lot are counted as one temporary sign.
3. **Searchlight Signs.** Each searchlight sign on a single zoning lot is counted as one temporary sign.
  - a. **Maximum number:** 4 per zoning lot.
  - b. **Aggregate light intensity** of all searchlights on a zoning lot must not exceed 1,600 million foot candles.
  - c. When located within 25 feet of a street right-of-way, a searchlight must project beams at an **angle of at least 30 degrees above grade.**
  - d. A searchlight may not project a beam at a street **RIGHT-OF-WAY** or impair the vision of anyone driving a vehicle on the street or on private property.
  - e. A searchlight may not project a beam at an adjoining property.
  - f. A searchlight may not be operated between the hours of **12:00 pm and 7:00 am.**
  - g. A searchlight may not be operated on a zoning lot for more than **10 consecutive days**, and there must be at least **2 months between intervals of use.**

**J. Requirements for Banner Signs.**

1. Except for banner signs used as interim signs for a business at a new location, or located on active construction sites, banner signs must meet the following requirements.
  - a. On a zoning lot, one banner sign is allowed for each 100 linear feet of street frontage.
  - b. Allowed sign message area of all banner signs is the total of 32 square feet times the number of permitted banner signs.
  - c. Any banner sign must be at least 10 feet away from any other banner sign.
  - d. When mounted on temporary posts, a banner sign must be no more than 6 feet in height.
  - e. Banner signs must be securely attached to their supporting structure, and mounted so they remain stretched taught while displayed.
  - f. Banner signs are allowed on an individual property for a **maximum of 60 days** during any calendar year.
2. Banner signs are **not allowed in the public RIGHT-OF-WAY, and must not obstruct sidewalks.**
3. **Banner Signs as Interim Signs.** For a business in a new location, or for a business where an existing sign has been accidentally destroyed, banner signs are allowed as interim signs.
  - a. The maximum total area of banner signs used as interim signs may equal the area of existing signs, or the wall sign allowance for that building or tenant space, whichever is larger.
  - b. Banner signs used as interim signs are allowed for a **maximum of 90 days** after the business buys or leases the new location, or until a permanent sign is installed, whichever is less.

4. **Banner Signs on Construction Sites.** Banner signs located on a parcel of land which is a construction site must meet the following requirements.
  - a. One banner sign is allowed per zoning lot street frontage.
  - b. Maximum size per banner sign face is 60 square feet.
  - c. Banner signs on construction sites are allowed from **30 days before** the date plans are submitted for a building permit until **30 days after** the date the occupancy certificate is issued.

**K. Requirements for Blade Signs.** Blade signs must comply with the following requirements:

1. One blade sign is allowed per 50 feet of street frontage, up to a maximum of 4 signs per zoning lot.
  - a. **Exception:** For a zoning lot with at least 500 feet of frontage, a maximum of 8 blade signs are allowed.
2. Maximum width: 3.5 feet wide at the widest point.
3. Maximum height from grade, including the full length of the supporting pole: 14 feet.
4. Blade signs are allowed on an individual property for a **maximum of 60 days** during any calendar year.
5. When displayed, blade signs must:
  - a. Be located at least a distance equal to the height of the sign from RIGHT-OF-WAY, lot lines, and overhead utilities.
  - b. Not interfere with clear visibility at intersections.
  - c. Be securely anchored into the ground or secured in a portable base designed for the purpose.

**L. Requirements for Inflated Signs.** Inflated signs include balloon signs and air-activated signs.

1. Inflated signs are allowed in business or industrial districts, provided they meet the following requirements:
  - a. Only one inflated sign is permitted per zoning lot.
    - (1) **Exception:** A corner lot or through lot is permitted one inflated sign per street frontage.
  - b. Maximum height: 20 feet.
  - c. Inflated signs are allowed on an individual property for a **maximum of 60 days** during any calendar year.
  - d. When displayed, an inflated sign must:
    - (1) Be located at least a distance equal to the height of the sign from rights-of-way, lot lines, and overhead utilities.
    - (2) Comply with applicable building codes.
2. Inflated signs are **not allowed in the public RIGHT-OF-WAY, and must not obstruct sidewalks.**
3. **Air-activated Signs.** An air-activated sign may be operated only during business hours.
4. **Balloon Signs.** When displayed, a balloon sign must be securely anchored to the ground or a structure so that it cannot shift more than 3 feet horizontally under any condition.

**M. Requirements for Person Signs.** Person signs are allowed in business districts, provided they meet the following requirements:

1. No more than one person sign is permitted per zoning lot.
  - a. **Exception:** A corner lot or through lot is permitted one person sign per street frontage.
2. The use of lighting or amplified sound in conjunction with a people sign is prohibited.
3. The use of a mannequin to display a sign is prohibited.
4. If the person is holding a sign, the maximum size allowed for the held sign is 6 square feet.
5. Person signs are allowed on an individual property for a **maximum of 60 days** during any calendar year.
6. Person signs are **not allowed in the public RIGHT-OF-WAY**, and **must not obstruct sidewalks**.

**N. Requirements for Flag Signs.**

1. Two flag signs are allowed per zoning lot street frontage.
2. Maximum size per flag sign face is 35 square feet.

**O. Requirements for Yard Signs.**

1. A yard sign's face area must be **greater than 6 square feet**.
2. Number of Signs by zoning lot street frontage.
  - a. For lots with **less than 100 feet of frontage**:
    - (1) Maximum number of yard signs per zoning lot: 1.
    - (2) Maximum total area of yard signs per zoning lot: 32 square feet.
    - (3) Maximum height: 6 feet.
  - b. For lots with **more than 100 feet and less than 500 feet of frontage**:
    - (1) Maximum number of yard signs per zoning lot: 2.
    - (2) Maximum total area of yard signs per zoning lot: 64 square feet.
    - (3) Maximum height: 8 feet.
  - c. For lots with **more than 500 feet of frontage**, or with frontage **along a limited-access highway**:
    - (1) Maximum number of yard signs per zoning lot: 3.
    - (2) Maximum total area of yard signs per zoning lot: 100 square feet.
    - (3) Maximum height: 10 feet.
3. Yard signs must be located outside of any VISION TRIANGLE near an intersection, and **outside of the public RIGHT-OF-WAY**.

4. Yard signs are allowed on an individual property for a **maximum of 180 days** during any calendar year.
  - a. **Exception:** When located on a parcel of land that is for sale or lease, yard signs are allowed from the time the property goes on the market until **14 days** after the property is sold or leased.
  - b. **Exception:** When located on a parcel of land which is a construction site, yard signs are allowed from **30 days before** the date plans are submitted for a building permit until **30 days after** the date the occupancy certificate is issued.
  - c. **Exception:** When located on a parcel of land which has an active temporary use permit, yard signs are allowed for the duration of the temporary use.
    - (1) When the temporary use permit expires, all elements of accessory signs, including support structures, must be removed **within 3 days**.
- P. **Requirements for Hand Portable Signs.** To be permitted, hand portable signs – including reusable metal-frame or post & beam signs, and A-frame or T-frame sidewalk signs – must meet the following requirements:
  1. In residential zoning districts, one hand portable sign is allowed per street frontage on each zoning lot.
  2. In business zoning districts, hand portable signs must be spaced at least 50 feet apart.
  3. **Maximum area** per sign face is 12 square feet.
  4. **Maximum width** is 3 feet.
  5. When displayed, a hand portable sign must be placed on **private** sidewalk pavement. **Hand portable signs are not allowed on the public RIGHT-OF-WAY, including public sidewalks.**
  6. When displayed, a hand portable sign must be located to maintain a minimum clear sidewalk width of 5 feet, and must not obstruct pedestrian or handicap accessibility to buildings, emergency exits, transit stops, or parking spaces.
  7. Hand portable signs may be displayed only during business hours.

**Section 111 Sign Regulations by Zoning District**

**A. AGRICULTURAL ZONE A-1:** The following regulations apply to signs in the A-1 Agricultural District.

**1. Permissible Sign Types:**

- a. Permanent signs.
  - (1) Wall signs.
  - (2) Monument signs.
  - (3) Pole or pylon signs.
- B. Temporary signs.
  - (1) Balloons.
  - (2) Pennants.
  - (3) Banner signs.
  - (4) Blade signs.
  - (5) Air-activated signs.
  - (6) Balloon signs.
- C. Short-term signs.
  - (1) Yard signs.

**2. Maximum number of signs allowed on each zoning lot:**

- a. **Permanent Signs:** On each zoning lot, 1 permanent sign per street frontage.
- b. **Short-term and Temporary Signs:** On each zoning lot, 1 short-term and 1 temporary sign per street frontage.

**3. Maximum total sign message areas allowed on each zoning lot:**

- a. **Permanent Signs:** 100 square feet per sign.
- b. **Short-term and Temporary Signs:** 32 square feet per sign.

**4. Maximum height permitted for pole or pylon signs:**  
15 feet.**5. Minimum Separation:** A sign must be separated from any residential district at least by a distance in feet equal to the surface area of the sign in square feet.

B. **RESIDENTIAL ZONES R-1, R-2 and MH-1:** The following regulations apply to signs in these zoning districts:

- R-1 Single and Two-family Dwelling District
- R-2 Multiple-family Dwelling District
- MH-1 Manufactured Home Park District

1. **Permissible Sign Types:**

- a. Permanent signs.
  - (1) Wall signs.
  - (2) Monument signs.
- b. Hand portable signs.
  - (1) Reusable signs (metal-frame or post & beam).
  - (2) Sidewalk signs (A-frame or T-frame).
- c. Short-term signs.
  - (1) Yard signs.
- d. Temporary signs.
  - (1) Banner signs.

2. **Maximum number of signs allowed on each zoning lot:**

- a. **Permanent Signs:** On each zoning lot, 1 permanent sign per street frontage.
  - (1) **Exception:** For a platted subdivision, 1 monument sign is permitted per phase, or 1 per arterial or collector street entrance.
- b. **Hand Portable, Short-term and Temporary Signs:** On each zoning lot, 1 hand portable, 1 short-term or 1 temporary sign per street frontage.

3. **Maximum total sign message areas allowed on each zoning lot:**

- a. **Permanent Signs for Residential Uses:** 6 square feet per sign.
  - (1) **Exception:** For a platted subdivision, 100 square feet per sign.
- b. **Permanent Signs for Non-residential Uses:** 100 square feet per sign.
- c. **Hand Portable, Short-term and Temporary Signs for Residential Uses:** 6 square feet per sign.
- d. **Hand Portable, Short-term and Temporary Signs for Non-residential Uses:** 32 square feet per sign.

4. **Maximum height:** Signs associated with single-family dwellings must be located at a maximum height of 8 feet above the ground at the point of attachment.

5. **Setbacks:**

- a. A front yard setback of 15 feet is required for all permanent signs.
  - (1) No front yard setback is required for hand portable, short-term or temporary signs.
- b. No side yard setback is required in these zones.

C. **BUSINESS ZONES C-1 and C-2:** The following regulations apply to signs in these zoning districts:

- C-1 Central Business District
- C-2 General Business District

**1. Permissible Sign Types:**

a. Permanent signs.

- (1) Awning or canopy signs.
- (2) Projecting or suspended signs.
- (3) Wall signs.
- (4) Monument signs.
- (5) Pole or pylon signs.
- (6) Pole banners.

b. Hand portable signs.

- (1) Reusable signs (metal-frame or post & beam).

c. Short-term signs.

- (1) Flag signs.
- (2) Yard signs.

d. Temporary signs.

- (1) Banner signs.
- (2) Blade signs.
- (3) Person signs.

**2. Maximum number of signs allowed on each zoning lot:**

- a. **Permanent Signs:** On each zoning lot, 1 permanent sign per street frontage.
- b. **Hand Portable, Short-term and Temporary Signs:** On each zoning lot, 1 hand portable, 1 short-term or 1 temporary sign per street frontage.

**3. Maximum total sign message areas allowed on each zoning lot:**

- a. **Permanent Signs:** 100 square feet per sign.
- b. **Hand Portable, Short-term and Temporary Signs:** 32 square feet per sign.

**4. Maximum height permitted for pole or pylon signs:**  
20 feet.

**5. Minimum Separation:** A sign must be separated from any residence at least by a setback distance in feet equal to half the surface area of the sign in square feet.

D. **INDUSTRIAL ZONES I-1 and I-2:** The following regulations apply to signs in these zoning districts:

- I-1 Light Industrial District
- I-2 Heavy Industrial District

1. **Permissible Sign Types:**

a. Permanent signs.

- (1) Awning or canopy signs.
- (2) Projecting or suspended signs.
- (3) Wall signs.
- (4) Monument signs.
- (5) Pole or pylon signs.
- (6) Pole banners.
- (7) Projected image signs.

b. Hand portable signs.

- (1) Reusable signs (metal-frame or post & beam).
- (2) Sidewalk signs (A-frame or T-frame).

c. Short-term signs.

- (1) Flag signs.
- (2) Yard signs.

d. Temporary signs.

- (1) Balloons.
- (2) Pennants.
- (3) Searchlights.
- (4) Banner signs.
- (5) Blade signs.
- (6) Air-activated signs.
- (7) Balloon signs.

2. **Maximum number of signs** allowed on each zoning lot:

- a. **Permanent Signs:** On each zoning lot, 1 permanent sign per 300 feet or portion of 300 feet of street frontage.
- b. **Hand Portable, Short-term and Temporary Signs:** On each zoning lot, 1 hand portable, 1 short-term or 1 temporary sign per 300 feet or portion of 300 feet of street frontage.

3. **Maximum total sign message areas** allowed on each zoning lot:

- a. **Permanent Signs:** 1 square foot per linear foot of street frontage, up to a maximum of 150 square feet.
- b. **Hand Portable, Short-term and Temporary Signs:** 32 square feet per sign per linear foot of street frontage.

4. **Maximum height permitted for pole or pylon signs:**  
20 feet.

5. **Minimum Separation:** A sign must be separated from any residence at least by a setback distance in feet equal to the surface area of the sign in square feet.

**ARTICLE 8. NONCONFORMING LOTS, STRUCTURES AND USES.****Section 100 Purpose.**

The purpose of this Article is to (1) provide for the regulation of nonconforming lots, buildings, structures and uses; and (2) specify those circumstances and conditions under which such nonconformities shall be permitted to continue. The right to continue a nonconforming lot, building, structure or use shall not be affected by a change in ownership or operator of the structure or use unless such ownership or operator is a condition attached to an approval for a special or conditional use. Definitions of such nonconformities are as follow:

- A. **Nonconforming Lot of Record:** A zoning lot which is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations and such lot now neither complies with the lot area requirements or the width for any permitted uses in the zoning district in which it is located.
- B. **Nonconforming Structure:** An existing building or structure which does not comply with the maximum lot coverage and height or the minimum yard requirements which are applicable to new structures in the zoning district in which it is located.
- C. **Nonconforming Use:** An existing use of a structure or land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.
- D. **Nonconformity.** A nonconforming lot, use or structure that does not comply with currently applicable regulations, but that complied with zoning regulations in effect at the time it was legally established. *(See Sections 8-100A, B and C and 8-107 on Registration of Nonconformities and Exemptions.)*

**Section 101 Nonconforming Lots of Record.****A. In Any Residential District.**

- 1. Notwithstanding the regulations imposed by any other provision of these regulations, a single-family detached dwelling or any type of manufactured or mobile home which is a permitted use and complies with the restrictions in Section 8-101A2 may be located on a lot(s) in the same ownership that is not less than 48 feet in width with public water and sewerage and that consists entirely of a tract of land that:
  - a. Has less than the prescribed minimum lot area, width or depth, or all three; and
  - b. Meets the definition in Section 8-100A for a nonconforming lot of record.

2. Construction permitted by Section 8-101A1 shall comply with all of the regulations except lot area, width and depth applicable to a single-family detached dwelling or any type of manufactured or mobile home permitted in the zoning district in which the lot in question is located; provided, however, that the following side yard requirements shall apply in place of the side yard requirements otherwise applicable:
  - a. The structure shall be placed on the lot so as to provide a yard on each side of the dwelling.
  - b. The sum of the widths of the two side yards on each lot shall be not less than the smaller of:
    - (1) 20% of the width of the lot, or
    - (2) the minimum total for both side yards prescribed by the bulk regulations for the zoning district.
  - c. In any case, neither side yard resulting from the methods permitted in Section 8-101A2b shall be less than five feet wide.
  - d. When a yard is also considered to be a front yard on a corner lot, one of the front yards comprising part of the lot width may be reduced to 15 feet; provided, that a driveway to a parking space must maintain a length of at least 20 feet from the front lot line.

**B. In Districts Other than Residential Districts.**

1. Notwithstanding the regulations imposed by any other provision of these regulations, a structure designed for any permitted use may be erected on a lot of the type described in Section 8-101A1.
2. Construction permitted by Section 8-101B1 shall comply with all of the regulations except lot area, width and depth applicable in the zoning district in which the lot in question is located; provided, however, that the width of any side yard must not be less than that derived by applying the following formula (wherein the width of any side yard required = W):

$$W = \frac{\text{actual lot width} \times \text{minimum side yard by Zoning District regulations}}{\text{minimum lot width required by district regulations}}$$

**Section 102 Nonconforming Structures.**

- A. **Authority to Continue.** Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions in Section 8-102B through 8-102D.
- B. **Enlargement, Repair or Alterations.** Any such structure described in Section 8-102A may be enlarged, maintained, repaired or structurally altered; provided, however, that no such enlargement, maintenance, repair or alteration shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be determined by Section 8-101A2 or 8-101B2, whichever is applicable.
- C. **Damage.** In the event that any structure described in Section 8-102A is damaged, by any means except flooding, to the extent of more than 50% of its fair market value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided, that structures located on a lot that does not comply with the applicable lot size requirements shall not in any event be required to provide a side yard that exceeds the yard requirements in Sections 8-101A2 or B2, whichever is applicable. When a structure is damaged to the extent of 50% or less of its fair market value, no repairs or restoration shall be made unless a zoning permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion. If the applicant is aggrieved by the decision of the Zoning Administrator in approving the percent of damage to the value of the structure based on data submitted by the applicant, an appeal may be made to the Board of Zoning Appeals for a determination. *(See Section 8-105 for Nonconforming Nonresidential Structures and Uses and the City Floodplain Management Regulations for any substantial improvements.)*
- D. **Moving.** No structure described in Section 8-102A shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved. *(See Section 3-103M for Moving Structures.)*

**Section 103 Nonconforming Uses.**

- A. Authority to Continue.** Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use of land, may be continued, so long as otherwise lawful, subject to the regulations contained in Sections 8-103B through 103J.
- B. Ordinary Repair and Maintenance.**
1. Normal maintenance and incidental repair or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use; provided, however, that this subsection shall not be deemed to authorize any violation of Sections 8-103C through I of these regulations.
  2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition provided that such restoration will not be in violation of Section 8-103F of these regulations.
- C. Structural Alteration.** No structure that is devoted in whole or in part to a nonconforming use shall be structural altered unless the entire structure and use thereof shall thereafter conform to all regulations of the zoning district in which it is located.
- D. Extension.**
1. Extension of a nonconforming use is permitted within a nonconforming structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of these regulations or on the effective date of the original City Zoning Regulations or a subsequent amendment heretofore that caused such use to become nonconforming; provided, however, that no structural alterations shall be made unless such changes, and the use thereof, conform to the regulations of the district in which the structure is located.
  2. Extension of a nonconforming use of a part of a structure is not permitted if all or substantially all of the structure is designed or intended for a use which is permitted in the district in which the structure is located, nor shall the use be changed to any other nonconforming use.
  3. Extension of a nonconforming use is not permitted to any structure or land area other than the one actually occupied or used by such nonconforming use on the effective date of these regulations or on the effective date of the original City Zoning Regulations or a subsequent amendment heretofore that caused such use to become nonconforming.

- E. **Enlargement.** No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.
- F. **Damage.** In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged, by any means except flooding, to the extent of more than 50% of its fair market value, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage is 50% or less of the fair market value, no repairs or restoration shall be made unless a zoning permit is obtained, and restoration is actually begun within one year after the date of such partial damage and is diligently pursued to completion. If the applicant is aggrieved by the decision of the Zoning Administrator in approving the percent of damage to the value of the structure based on data submitted by the applicant, an appeal may be made to the Board of Zoning Appeals for a determination. *(See Section 8-105 for Nonconforming Nonresidential Structures and Uses and the City Floodplain Management Regulations for any substantial improvements.)*
- G. **Moving.** No structure that is devoted in whole or in part to a nonconforming use shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. No nonconforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless such use shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. *(See Section 3-103M for Moving Structures.)*
- H. **Change in Use.** If no structural alterations are made other than those necessary to repair or maintain the structure as described in Section 8-103B1, a nonconforming use of a structure may be changed to another nonconforming use of the same or of a similar type of use or more restrictive use. Similarly, a nonconforming use of land not involving a structure or involving only an accessory structure may also be changed. When a nonconforming use has been changed to a more restrictive use or to any permitted use, it shall not thereafter be changed back to a less restrictive use or to a nonconforming use. In determining whether a change in use is the same, similar or more restrictive, the Zoning Administrator shall consider the changes in environmental factors such as outdoor storage, loading, traffic, parking, noise, lighting, air pollution, hours of operation, screening and other factors, as well as the provisions available in Section 8-105. *(See Section 9-101A for Zoning Permits and Section 9-101B for Occupancy Certificates.)*

**I. Abandonment.**

1. When a nonconforming use of land, not involving a structure, or involving only a structure which is accessory to the nonconforming use of land, is abandoned for a period of six consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.
2. When a nonconforming use of a part or all of a structure which was designed and intended for any use which is permitted in the zoning district in which such structure is located is abandoned for a period of 12 consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such structure shall comply with the regulations of the zoning district in which such structure is located.
3. When a nonconforming use of a part or all of a structure which was **not** designed and intended for any use which is permitted in the zoning district in which such structure is located, is abandoned for a period of 12 consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such structure shall comply with the regulations of the zoning district in which such structure is located.

- J. Nonconforming Accessory Structures or Uses.** No structure or use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

**Section 104 Nonconforming Residential Structures.**

Notwithstanding the provisions of Sections 8-103C, D and E, any structure which is devoted to a residential use and which is located in a business or industrial district, may be structurally altered, extended, expanded and enlarged; provided, that after any such alteration, extension, expansion or enlargement, such structure shall not be used to accommodate a greater number of dwelling or lodging units than such structure accommodated prior to any such work, unless specifically permitted by the district.

**Section 105 Nonconforming Nonresidential Structures and Uses.**

Notwithstanding any other provisions of these regulations and, in particular, Sections 8-102B and C and 8-103C, D, E, and F, nonconforming nonresidential structures and uses that existed on the day prior to the effective date of these regulations, may apply on a one time basis only to the Board of Zoning Appeals for a conditional use to structurally alter, enlarge or reconstruct after damage, or make extensions to structures or uses including the use of additional land when properly zoned for the use, so long as in the opinion of the Board under stated conditions that the effect upon adjacent areas is protected to the extent feasible and the public interest served. *(See Section 10-107C6 for Authorized Variances.)*

**Section 106 Status of Existing Permitted and Conditional Uses.**

A. The following procedures are to be followed to determine the status of existing permitted and conditional uses after their reclassification as lawful permitted, special or conditional uses in these regulations to avoid nonconformities and to provide equitable conversions of such uses:

1. Where a use existed prior to the effective date of these regulations and was previously permitted as a conditional use, i.e., considered for a recommendation by the Planning Commission and approved by the Governing Body, such uses shall not be deemed to be nonconforming, but shall, without further action, be deemed to be a lawful special or conditional use as now classified with the same conditions applicable as originally established, unless reclassified now as a permitted use.

Enlargement, extension or alterations to existing structures or land improvements for expansion of such lawful uses may be made within the area of the zoning lot which was actually used or occupied for such use on the effective date of these regulations and shall be subject to all requirements set forth in these regulations as a permitted use, unless application is made for a special or conditional use to enlarge, extend or alter structures or land improvements beyond the area heretofore described.

**Section 107 Registration of Nonconformities and Exemptions.**

*(See Sections 8-100D for Nonconformities and 3-100E for Exemptions.)*

A. **Purpose.** Registration of nonconformities and exemptions, among other purposes, is to provide a property owner with a record of their nonconformity or exemption which may be in effect for many years. Such a record is very desirable since most nonconformities or exemptions are established in the past and the availability of personal witnesses and written documentation to confirm their status becomes more difficult due to the passage of time. This is particularly important since the person claiming the nonconformity or exemption has the burden to prove their claim by the preponderance of the evidence. Registration can be especially useful to property owners who may have a nonconformity or exemption created by changing their zoning status from the unincorporated area of a county to the City regulations.

B. **Rights Conditioned.** A lawfully established nonconformity including exemptions is a vested right protected by due process which is sometimes referred to as being "grandfathered-in". In order to establish such a right, it is essential that it be created or commenced prior to the enactment of the regulations which restricted its establishment. A nonconformity or exemption which violated the zoning regulations at its inception has no lawful right to continue. Once the validity of the nonconformity or exemption has been determined, it has the right to be sold, inherited, transferred or assigned unless restricted by a condition attached to a special or conditional use. Certain limitations, however, may be placed on the expansion, repair, maintenance and continuance of such nonconformities or exemption as may be determined by the provisions of Article 8 in these regulations. For example, continuance may be subject to abandonment or limited amortization of certain uses.

- C. Registration Process.** The Zoning Administrator shall establish a process for registration of nonconformities and exemptions and a system for making determinations thereof and keeping records of the same. While there shall be no deadline for registration, property owners anticipating the need for registration should do so at their earliest convenience.
- D. Registration Determination.** The Zoning Administrator shall determine the qualifications of the lot, use or structure for registration as to its legal, nonconforming status. Such determination in writing shall be based on the evidence submitted by the property owner requesting the registration.
- E. Appeal.** An aggrieved party may appeal the Zoning Administrator's determination whether to register or not register the nonconformity or exemption to the Board of Zoning Appeals. *(See Section 10-106 pertaining to Appeals.)*

**ARTICLE 9. ADMINISTRATION AND ENFORCEMENT****Section 100 Office of the Zoning Administrator.**

A Zoning Administrator shall be appointed by the Mayor with the consent of the City Council. The Zoning Administrator and clerical assistance as shall be approved from time to time shall administer and enforce these regulations, except for those duties specifically assigned to the Clerk.

**A. Duties of the Zoning Administrator. (See Section 9-102 for Enforcement and Liability.)**

1. Approve and issue all zoning permits and occupancy certificates and make and maintain records thereof.
2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of these regulations.
3. Maintain a set of administrative forms to assist applicants and to process the cases considered by the Planning Commission, Board of Zoning Appeals and Governing Body.
4. Receive, file and forward to the Planning Commission the applications and records for all amendments and special uses which are initially filed with the Zoning Administrator.
5. Receive, file and forward to the Board of Zoning Appeals the applications and records for all variances and conditional uses which are initially filed with the Zoning Administrator and forward all records of appeals to the Chairperson of the Board.
6. Maintain permanent and current public records of the zoning regulations, including but not limited to all Official Zoning Maps, amendments, special uses, appeals, variances, conditional uses and applications thereof and records of hearing thereon.
7. Provide such technical and clerical assistance as may be required by the Planning Commission, the Board of Zoning Appeals, the Governing Body and other agencies and officials in the exercise of their duties relating to these regulations.
8. Maintain for distribution to the public a supply of the current Zoning Regulations, Official Zoning Map(s) and any rules of the Planning Commission and the Board of Zoning Appeals. A fee may be charged to defray the cost of printing and distribution.
9. Maintain the official copy of the zoning map(s) showing the district boundaries. Such map(s) shall be marked "Official copy of zoning district map(s) incorporated into zoning regulations by adoption of Ordinance No. \_\_\_\_ by the Governing Body of the City of Sedgwick on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_" and shall be open to inspection and available to the public at all reasonable business hours. Each map shall be signed by the Mayor and attested to by the Clerk. Periodic changes to the map(s) shall be noted by a revision date.

B. **Duties of the Clerk.** The Clerk shall maintain certain official records and carry out certain responsibilities in the administration of these regulations as follows:

1. That not less than three copies of these model code regulations shall be marked by the Clerk as "Official Copy as Incorporated by Ordinance No. \_\_\_\_\_", (i.e., the ordinance approved by the Governing Body) and all sections or portions thereof intended to be omitted clearly marked to show any such omissions or showing the sections, articles, chapters, parts or portions that are incorporated and to which shall be appended a copy of the incorporating ordinance. Such copies maintained by the Clerk shall be open to inspection and available to the public at all reasonable business hours.
2. That the Clerk supply at cost to the City official copies of these regulations similarly marked as described in Section 9-100B1 to the applicable police department, court, Zoning Administrator and all administrative departments of the City charged with the enforcement of these regulations. Subsequent amendments to these regulations shall be appended to such copies unless the Model Code is readopted to include all of the text.
3. That such clerical assistance be provided by the Clerk to the Governing Body as to facilitate and record the actions of the Governing Body in the exercise of their duties relating to these regulations.

## Section 101 Zoning Permits and Occupancy Certificates.\*

### A. Zoning Permits.

1. Unless a zoning permit shall first have been obtained from the Zoning Administrator, the construction, reconstruction, moving or structural alteration of any building or structure or the improvement of land prior to its use or the use of any land or structure being changed to any other use, shall not be commenced. For permits required on accessory uses, temporary uses, home occupations, plans for parking and loading space and signs, see Articles 5, 6 and 7. Such permits shall not be issued by any other official, employee, department, board or agency of the City, except as provided for as a temporary permit in Section 6-101. Any zoning permit issued in conflict with the provisions of these regulations shall be null and void. *(See Section 8-103H for Change in Use.)*
2. Except for a continuation of an existing use or occupancy, accessory structures or uses, or additions to existing structures or uses, permits must also 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 or exempted from the platting requirements. If platting or replatting is not required, all of the public improvements necessary to carry out the requested permit nevertheless may be required, including dedications in lieu of platting such as for easements and additional rights of way.

---

**\*NOTE:** *The City may issue zoning permits and occupancy certificates concurrently with the process of issuing building and occupancy permits under any City building codes.*

3. No principal or accessory building or structure or use, or portion thereof, shall be permitted to locate on or project over any platted or recorded public easement or over any known utility installation, unless (1) as a sign permitted by Section 7-102K or (2) as an accessory structure or use which is moveable, relocatable or poses no significant problem to the maintenance of existing public improvement installations or to such future installations. Ground level extensions such as concrete slabs or other permanent-type materials are not permitted in or on a public easement except as extensions of parking spaces, driveways or sidewalks for which a zoning permit has been or is being issued. In any event, when such structures or uses are permitted to be located on or project over such easements, the property owner assumes the risk and liability for any reconstruction or replacement necessary including fences if any maintenance or other improvements are required by a governmental agency or a utility provider.
4. A zoning permit is not initially required for grading and/or excavating a proposed construction site, unless the site is located in a designated floodplain and would result in an increase in base flood elevations. (*See the City Floodplain Management Regulations.*)
5. **Application.** Every application for a zoning permit shall be accompanied by the following:
  - a. A drawing or copy of the recorded plat, in duplicate, of the piece or parcel of land, lot(s), block(s), parts or portions thereof, drawn to scale showing the actual dimensions of the zoning lot(s), including any easements thereon.
  - b. A drawing, in duplicate, drawn to scale and in such form as may, from time to time, be prescribed by the Zoning Administrator, showing the location, ground area, height and bulk of (1) all present and proposed structures, (2) drives, parking spaces and loading areas, (3) building setback lines in relation to lot lines, (4) waste disposal areas, (5) use to be made of such present and proposed structures on the land, and (6) such other information as may be required for the proper enforcement of these regulations.

One copy of such drawings shall be retained by the Zoning Administrator as a public record.
6. **Issuance.** A zoning permit shall be either issued or disapproved by the Zoning Administrator within 10 days after the receipt of an application thereof or within such further period as may be agreed to by the applicant. When the Administrator refuses to issue a zoning permit, he shall advise the applicant in writing of the reasons for the disapproval.
7. **Period of Validity.** A zoning permit shall become null and void 180 days after the date on which it is issued, unless within said period construction, reconstruction, moving or structural alteration of a structure is commenced or a use is commenced. If the construction or work is abandoned or suspended for any 180-day period after such a permit is issued, then application may be made to the Zoning Administrator for an extension of time to continue the project. The Zoning Administrator may grant reasonable extensions of time provided no changes have been made in any applicable regulations. If such changes have occurred, application must be made for a new permit based on the provisions of the new or amended regulations in order to continue the project, unless Section 2-101G applies pertaining to vesting of single-family residential developments. (*See Section 2-101F for Effect of Existing Permits.*)

- B. Occupancy Certificates.** No structure or addition thereto constructed, reconstructed, moved or altered after the effective date of these regulations shall be occupied or used for any purpose; and no land vacant on the effective date of these regulations shall be used for any purpose; and no use of any land or structure shall be changed to any other use, unless an occupancy certificate shall first have been obtained from the Zoning Administrator certifying that the proposed use or occupancy complies with all the provisions of these regulations.
1. **Application.** Every application for a zoning permit shall be deemed to be an application for an occupancy certificate. Every occupancy certificate shall be in such form and contain such information as the Administrator shall provide by general rule.
  2. **Issuance.**
    - a. No occupancy certificate for a structure or addition thereto constructed, reconstructed, moved or structurally altered or for the new or changed use of any structure or land shall be issued after the effective date of these regulations until such work has been completed and the premises inspected and certified by the Zoning Administrator to be in full and complete compliance with the plans and specifications upon which the zoning permit was issued including the requirements for utilities, streets and other public improvements in the City Subdivision Regulations which must either be installed or guaranteed. Direct access must be available from the frontage of each zoning lot to an opened public street or otherwise the street improvement must be guaranteed by such methods as stated in the Subdivision Regulations.
    - b. An occupancy certificate shall be issued or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued within 10 days after the receipt of an application therefore or after the Zoning Administrator is notified in writing that the structures or premises are ready for occupancy or use. Pending the issuance of a permanent occupancy certificate, a temporary occupancy certificate may be issued to be valid for a period not to exceed six months from its date pending the completion of any addition or improvement(s) or during partial occupancy of the premises; provided, satisfactory guarantees are submitted including the possible use of performance bonds or escrow accounts.

### **Section 102 Enforcement and Liability.**

- A.** It shall be the duty of the Zoning Administrator or any deputies working under his direction to enforce the provisions of these regulations in consultation with the City Attorney in the following manner:
1. To refuse to issue any zoning permit or occupancy certificate for any building or structure or use of any premises which would violate any of the provisions herein.
  2. To revoke a zoning permit and issue a stop order at any time for a building or structure or use for which the same was issued when it shall appear (1) that there is a departure from the plans, specifications or conditions as required under terms of the permit; (2) that the same was procured by false representation; (3) that it was issued by mistake, or (4) that it violates any provisions of the zoning regulations.

3. To cause any building, structure, place or premises to be inspected and examined as required by these regulations and to order in writing the remedying of any condition found to exist therein or threat in violation of any provisions herein.
  4. To institute any appropriate action or proceedings to prevent such unlawful action or use or to restrain, correct or abate such violation on or about the premises of any building or structure which is constructed, built, moved, structurally altered or reconstructed or land is used in violation of any provisions herein.
- B. The Zoning Administrator or designee charged with the enforcement of these regulations, acting in good faith and without malice in the discharge of the duties described herein, shall not be personally liable for any damage that may accrue to persons or property as a result of any act or by reason of an act or omission in the discharge of such duties. A suit brought against the Administrator because of an act or omission performed by the Administrator in the enforcement of any provision of these regulations or other pertinent laws or ordinances implemented through the enforcement of these regulations shall be defended by the City until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by the City. *(See K.S.A. 75-6101, et seq. in general and K.S.A. 75-6109 specifically.)*

### Section 103 Violations.

- A. **Penalties.** Pursuant to K.S.A. 12-761, as amended, any violations of these regulations shall be deemed to be a misdemeanor. The owner or agent of a building, structure or premises in or upon which a violation of any provision of these regulations has been committed or shall exist or the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist; or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building, structure or premises in or upon which a violation has been committed or shall exist, shall be punished by a fine 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.
- B. **Remedies.** In case any building or structure is erected, constructed, reconstructed, structurally altered, converted or maintained; or any building, structure or land is used or is proposed to be used in violation of these regulations, the appropriate authorities of the City of Sedgwick, in addition to using other remedies, may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or to correct or abate such violation, or to prevent the occupancy of such building, structure or land. In addition to the City, any person, the value or use of whose property is or may be affected by such violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these regulations and to abate nuisances in violation thereof.

### **Section 104 Fees.**

For purposes of wholly or partially defraying the costs of the administrative and enforcement provisions described in these regulations, including publication costs, the applicant upon filing an application for an amendment, special use, appeal, conditional use, variance or a zoning permit including occupancy certificate, shall pay the Clerk a fee according to the Fee Schedule approved by the Governing Body. No part of such fee shall thereafter be refunded except for a zoning permit which is not approved.

### **Section 105 Reports.**

The Zoning Administrator shall periodically report verbally or in writing to the Governing Body and the Planning Commission a summary of all zoning permits issued during the preceding period, giving details of any permitted variations, as well as the current status of all applications in process for amendments, special uses, appeals, conditional uses and variances. Such a report shall include comments on any problems encountered in the administration or enforcement of these regulations which may especially be of use at the annual review established by Section 11-105.

**ARTICLE 10. BOARD OF ZONING APPEALS**

**Section 100 Authorization.**

The Planning Commission as previously established by the Governing Body has been designated to also serve as the Board of Zoning Appeals as prescribed by K.S.A. 12-759, as amended, and hereinafter in this Article will be referred to as the "Board."

**Section 101 General Procedures.**

All members of the Planning Commission are voting members of the Board whether they reside inside or outside the city limits and shall serve without compensation, but may be reimbursed for expenses when authorized by the Governing Body. All officers of the Planning Commission are officers of the Board including the Secretary. Public records shall be kept of all official actions of the Board which shall be maintained separately from the Planning Commission by the Secretary. The Board shall keep minutes of its proceedings showing evidence presented, findings of fact, decisions and the vote of each member upon each question. If absent, abstaining or disqualified from voting, such fact shall be indicated. Special meetings shall be held at the call of the Chairperson and at such other times as the Board may determine in its bylaws. Board meetings may be held separately from a Planning Commission meeting or in conjunction with such a meeting wherein the Planning Commission may recess a portion of its meeting to conduct business of the Board and to reconvene to continue the Planning Commission agenda. When a quorum is declared present, all actions of the Board including appeals, variances and conditional uses as exceptions shall be made by motion and decided by a majority vote of the members present and voting.

The Board shall adopt rules for its operation in the form of bylaws which shall include hearing procedures and will not be in conflict with the ordinance designating the Planning Commission as the Board, the applicable state statutes and the provisions of these regulations. Such bylaws shall be subject to the approval of the Governing Body. The Governing Body shall establish a scale of reasonable fees to be paid in advance by the appealing party.

**Section 102 Jurisdiction.**

The Board shall have the following jurisdiction and authority as a quasi-judicial body:

- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination (all hereinafter referred to collectively as "decision") made by the Zoning Administrator in the enforcement of these regulations subject to the procedure and standards set out in Section 10-106.
- B. To hear and decide on variances from specific terms of these regulations subject to the procedure and standards set out in Section 10-107.
- C. To hear and decide on conditional uses as exceptions subject to the procedure and standards set out in Section 10-108.

**Section 103. Notice of Hearing.**

For the hearing on each appeal for a decision, variance or conditional use, public notice of the date, time and place of the hearing, the legal description or a general description sufficient to identify the property under consideration, and a brief description of the subject of such hearing shall be published once in the official newspaper so that at least 20 days shall elapse between the date of such publication and the date for the hearing. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available when only a general description of the property is provided in the notice. A copy of such notice shall be mailed to each party making the appeal and to the Secretary of the Planning Commission.

For land inside the city limits, the Board shall also provide notice to all owners of record of real property located within 200 feet of the exterior boundary of the property under consideration both within the city limits and extending outside the city limits when necessary. If the applicant's property is located adjacent to but within the city limits, the area of notification in addition to the 200 feet inside the City, shall be extended to 1,000 feet in the unincorporated area. If such area is located outside the main portion of the city limits, the area of notification shall extend for 1,000 feet and, if such notification extends into the city limits, then 200 feet inside the city limits must also be included. Such notice shall be mailed so that at least **20 days shall elapse** between the mailing date and the hearing date. A list of such owners of record of real property with their addresses and zip codes shall be provided by the applicant. Failure to receive such notice after it has been properly addressed and deposited in the mail shall not invalidate any subsequent action taken by the Board. If there is no quorum present for the meeting or at the time of the hearing, the members in attendance may agree to hold another meeting in the future at a stated date, time, and place for which, when announced at the present meeting, no further public notice need be given.

The Board may give additional notice to other persons as it may from time to time provide by its rules. Such rules may include requirements for additional notice to be provided for by the posting of signs on the property to be considered in the appeal application.

**Section 104 Conduct of Hearing.**

The Board shall select a reasonable time and place for the hearing on each appeal of a decision, variance or conditional use as an exception. All hearings shall be open to the public; however, when hearing such appeals the Board exercises quasi-judicial functions and, thus, may upon proper motion proceed to deliberate in closed session according to K.S.A. 75-4318(a). No binding action may be taken and all voting must be conducted in an open meeting. Any person may appear and testify at a hearing, either in person or by a duly authorized agent or attorney. Every decision of the Board shall be filed without unreasonable delay with the Zoning Administrator and shall be open to public inspection during reasonable business hours.

**Section 105 Finality and Judicial Review of Decisions.**

Any order or determination of the Board on an appeal for a decision, a variance or a conditional use as an exception, shall be final decisions and shall be subject to judicial review, but not appealable to the Planning Commission or the Governing Body. Any person, official or governmental agency, jointly or separately dissatisfied by any decision of the Board, may present to the County District Court, a petition, duly verified, stating that such decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom based on a determination of the reasonableness of any such order or determination. Such petition shall be filed with the Court within 30 days after the date of filing the final decision with the Zoning Administrator.

**Section 106 Appeals.**

An appeal from a decision of the Zoning Administrator with respect to the interpretation, application or enforcement of these regulations may be taken to the Board by any person aggrieved, or by any officer of the City, county or any governmental agency or body affected by any decision of the Zoning Administrator.

- A. **Time for Appeals.** Appeals shall be made within 30 days after a decision has been made by the Zoning Administrator by filing an application for appeal. Upon the Chairperson's receipt of an application for appeal and notification to the Zoning Administrator, the Administrator shall forthwith transmit to the Chairperson all of the papers constituting the record upon which the decision being appealed was based.
- B. **Application.** An application for an appeal shall (1) be filed with the Chairperson, (2) specify the grounds for such an appeal, (3) include the legal description of any property involved with the appeal, (4) be accompanied by an ownership list as required by Section 10-103 and the filing fee, and (5) provide such additional information as may be prescribed by rule of the Board.
- C. **Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after the application for appeal has been filed, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on petition with notice to the Zoning Administrator and on the basis of due cause shown.
- D. **Hearing and Notice.** A hearing on the application for such an appeal shall be held and notice thereof given as specified under Sections 10-103 and 104 and which are consistent with the general procedures and records required by Section 10-101.
- E. **Decision.** The Board may affirm or reverse, wholly or partly, 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 to that end shall have all the powers of the Zoning Administrator, and may issue or direct the issuance of a zoning permit and/or occupancy certificate. No conditions may be attached to such a decision that could not otherwise have been available to the Zoning Administrator in making his initial decision. The Board shall render a written decision in the form of a resolution on the appeal without unreasonable delay after the close of a hearing and, in all cases, within 45 days after the close of the hearing.

**Section 107 Variances.**

The Board may authorize such variances from the terms of these regulations as will not be contrary to the public interest and provided that the spirit of the regulations shall be observed, public safety and welfare secured and substantial justice done. Variances may be authorized only in those specific instances enumerated in Section 10-107C and then only when the Board has made findings of fact based upon the standards set out in Section 10-107D that owing to special conditions a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship for the owner, lessee or occupant of land or structures. **According to K.S.A. 12-759(e), any such variance shall not permit any use not permitted by these regulations in the zoning district in which the variance is requested.**

- A. Application.** An application for a variance shall (1) be filed with the Zoning Administrator, (2) provide the legal description of the property involved with the variance, (3) be accompanied by an ownership list as required by Section 10-103 and the filing fee, and (4) contain the following information as well as such additional information as may be prescribed by rule of the Board:
1. The particular requirements of these regulations which prevent the proposed use or construction;
  2. The characteristics of the subject property which prevent compliance with the requirements of these regulations;
  3. The reduction of the minimum requirements of these regulations which would be necessary to permit the proposed use or construction; and
  4. The particular hardship which would result if the particular requirements of these regulations were applied to the subject property.
  5. Submit a sketch drawn to scale showing the lot(s) included in the application, the structures existing thereon and the structures proposed that necessitate the request.
- B. Hearing and Notice.** A hearing on the application for such a variance shall be held and notice thereof given as specified under Sections 10-103 and 104 and which are consistent with the general procedures and records required by Section 10-101.
- C. Authorized.** Variances from the provisions of these regulations shall be granted by the Board only in accordance with the standards set out in Section 10-107D, and may be granted only in the following instances and in no others:
1. To vary the applicable minimum lot area, lot width and lot depth requirements.
  2. To vary the applicable bulk regulations, including maximum height and lot coverage and minimum yard requirements.
  3. To vary the dimensional provisions for permitted obstructions in required yards including fences in Sections 3-103F.
  4. To vary the applicable number of required off-street parking spaces and the amount of off-street loading requirements of Article 5.
  5. To vary the applicable dimensional sign provisions of Article 7 regarding general standards and district regulations.

6. To vary the applicable requirements in Sections 10-107C1 through 5 above in conjunction with conditional use applications for nonconforming, nonresidential structures and uses under provisions of Section 8-105.
7. To vary the applicable provisions permitted by the floodplain regulations. (*See the City Floodplain Management Regulations.*)

**D. Standards:**

1. The Board may grant a variance upon specific written findings of fact based upon the particular evidence presented to it at the hearing that all the conditions required by K.S.A. 12-759(e) have been met which are listed below:
  - 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 zoning district, and is not created by an action or actions of the property owner or the applicant;
  - b. That granting of the variance will not adversely affect the rights of adjacent property owners or residents;
  - c. That strict application of the provisions of these regulations from which a 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 the variance desired will not be opposed to the general spirit and intent of these regulations.
2. In determining whether the evidence supports the conclusions required by Section 10-107D1, the Board shall consider the extent to which the evidence demonstrates that:
  - a. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a practical difficulty or unnecessary hardship upon or for the owner, lessee or occupant, as distinguished from a mere inconvenience, if the provisions of these regulations were literally enforced;
  - b. The request for a variance is not based exclusively upon a desire of the owner, lessee, occupant or applicant to make more money out of the property;
  - c. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located; and
  - d. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion on public streets or roads, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood.

- E. **Conditions.** In granting a variance, the Board may impose such conditions upon the premises benefitted by the variance as may be necessary to comply with the standards set out in Section 10-107D which would reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood and to carry out the general purpose and intent of these regulations, including methods for guaranteeing performance such as are provided for in Section 10-108D. Failure to comply with any of the conditions for a variance which are later attached to a zoning permit shall constitute a violation of these regulations. If an applicant desires to make a change in a condition at a later date, it is necessary to apply for a rehearing and a decision be made in the same manner as the original variance; however, only the requested condition is to be reconsidered at the hearing.
- F. **Decisions and Records.** The Board shall render a written decision containing specific findings of fact in the form of a resolution on an application for a variance without unreasonable delay after the close of a hearing, but in all cases within 45 days after the close of the hearing. The Zoning Administrator shall maintain complete records of all actions of the Board with respect to applications for variances in order to properly issue permits.
- G. **Period of Validity.** No variance granted by the Board shall be valid for a period longer than 180 days from the date on which the Board grants the variance, unless within such 180-day period a zoning permit is obtained and the variance requested is started. The Board may grant additional extensions not exceeding 180 days each, upon written application during the existing 180-day period, without further notice or hearing.

### Section 108 Conditional Uses.

The Board may grant as an exception to the provisions of these regulations, the establishment of only those conditional uses that are expressly authorized to be permitted in a particular zoning district or in one or more zoning districts. No such conditional use shall be granted unless it complies with all of the applicable provisions of these regulations.

- A. **Application.** An application for a conditional use shall (1) be filed with the Zoning Administrator, (2) provide the legal description of the property involved with the conditional use, (3) be accompanied by an ownership list as required by Section 10-103 and the filing fee, and (4) contain the following information as well as such additional information as may be prescribed by rule of the Board:
1. A statement or diagram showing compliance with any special conditions or requirements imposed upon the particular conditional use by the applicable district regulations or Section 10-108D if applicable;
  2. A statement as to why the proposed conditional use will not cause substantial injury to the value of other property in the neighborhood;
  3. A statement as to how the proposed conditional use is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable district regulations; and
  4. Present data in support of the standards specified in Section 10-108C.
  5. Submit a sketch drawn to scale showing the lot(s) included in the application, the structures existing thereon and the structures proposed which necessitate the request.

- B. Hearing and Notice.** A hearing on the application for such a conditional use as an exception shall be held and notice thereof given as specified under Sections 10-103 and 104 and which are consistent with the general procedures and records required by Section 10-101.
- C. Standards.** The Board may grant a conditional use when it makes specific written findings of fact based upon the particular evidence presented to it at the hearing which support conclusions that:
1. The proposed conditional use complies with all applicable regulations, including lot size requirements, bulk regulations, use limitations and performance standards; unless a concurrent application is in process for a variance.
  2. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood.
  3. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
    - a. The location, nature and height of buildings, structures, walls and fences on the site; and
    - b. The nature and extent of landscaping and screening on the site.
  4. Off-street parking and loading areas will be provided in accordance with the standards set forth in Article 5 of these regulations. Such areas will be screened from adjoining residential uses and located so as to protect such residential uses from injurious effects.
  5. Adequate utility, drainage and other such necessary facilities have been installed or will be provided by platting, dedications and/or guarantees.
  6. Adequate access roads, entrance and exit drives and/or access control is available or will be provided by platting, dedications and/or guarantees and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and roads.

- D. **Conditions.** In granting a conditional use, the Board may attach such conditions upon the premises and/or the applicant benefitted by the conditional use as may be necessary to comply with the standards set out in Section 10-108C in order to reduce or minimize any potentially injurious affect upon other property in the neighborhood and to carry out the general purpose and intent of these regulations. Such conditions may include, but not be limited to, further restrictions on bulk regulations; time of operation and ownership limitations; screening, landscaping and fencing; provision of utilities, drainage 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 filed with the County Register of Deeds. Failure to comply with any of the conditions for a conditional use which is later attached to a zoning permit shall constitute a violation of these regulations. If an applicant desires to make a change in a condition at a later date, it is necessary to apply for a rehearing and a decision be made in the same manner as the original conditional use, only the requested condition is to be reconsidered at the hearing.

In lieu of actual construction of required off-street parking or the initial provisions for screening, the Board may accept, in the name of the City, a corporate surety bond, cashier's check, escrow account or other like security in an amount to be fixed by the Board and conditioned upon actual completion of such improvement within a specified time. Such securities shall be filed with the Clerk. The Governing Body may enforce such securities by all equitable means.

- E. **Decisions and Records.** The Board shall render a written decision containing specific findings of fact in the form of a resolution on an application for a conditional use without unreasonable delay after the close of a hearing, but in all cases within 45 days after the close of the hearing. The Zoning Administrator shall maintain complete records of all actions of the Board with respect to applications for conditional uses in order to properly issue permits.
- F. **Period of Validity.** No conditional use granted by the Board shall be valid for a period longer than 180 days from the date on which the Board grants the conditional use, unless within such period a zoning permit is obtained and the conditional use requested is started. The Board may grant extensions not exceeding 180 days each, upon written application during the existing 180-day period, without further notice of a hearing.
- G.

**ARTICLE 11. AMENDMENTS****Section 100 General Provisions for Amendments and Special Uses.**

These regulations and the districts created under the authority of these regulations may be amended from time to time by the Planning Commission following a public hearing and the approval by the Governing Body. No such amendment shall be adopted except in accordance with the procedures of this Article 11. Special use applications are not amendments, but are processed for the hearing in the same manner. *(See Section 11-101 for special uses.)*

- A. **Proposal.** Amendments or special uses may be proposed: (1) by the Governing Body, (2) by the Planning Commission or (3) upon application by, or on behalf of the owner of the property affected, but only in accordance with the procedure set forth in Section 11-100B. When the Governing Body proposes an amendment or special use, it shall transmit its proposal to the Planning Commission for a public hearing and recommendation thereon. *(See Section 11-100D3 for special notice of hearing procedure for Governing Body and Planning Commission applications.)*
- B. **Application.** When the owner of the property affected proposes an amendment to any of these regulations or to any zoning district created thereby or applies for a special use, an application shall (1) be filed with the Zoning Administrator who refers it to the Planning Commission for a hearing, (2) be in such form and contain such information as shall be prescribed from time to time by the Commission, and (3) in all instances contain the following information:
1. The applicant's name, address and telephone number;
  2. The precise wording of any proposed amendment to the text of these regulations or the exact description of the special use requested.
  3. In the event that the proposed amendment would change the zoning district classification or add a special use to any specific property:
    - a. The name, address and telephone number of the owner of the property and, if any, the agent representing the owner;
    - b. The legal description of the property and a general description such as a street address sufficient to identify the property;
    - c. The present and proposed zoning district classifications and existing uses of the property and structures thereon;
    - d. The dimensions of the property and the zoning lot area stated in square feet or acres or fractions thereof; and
    - e. For land inside the city limits, an ownership list of the names, addresses and zip codes of the owners of record of real property located within 200 feet of the exterior boundary of the area described in the application both within the city limits and extending outside the city limits when necessary.
    - f. If such area is located adjacent to but within the city limits, the ownership list, in addition to the 200 feet inside the city limits, shall provide similar information extending to 1,000 feet into the unincorporated area. If such area is located outside the main portion of the city limits, the ownership list shall extend for 1,000 feet in the unincorporated area and, if the latter extends into the city limits, then such owners for 200 feet inside the city must also be included on the list.

- C. **Public Hearing.** The Planning Commission shall hold a public hearing on each proposed amendment that is filed with, referred to, or initiated by the Commission. The Commission shall select a reasonable time and place for such public hearing, and it shall hold such hearing within 45 days from the date on which the proposed amendment is received or initiated. An applicant for an amendment may waive the requirement that such hearing be held within 45 days.
- D. **Notice of Hearing.** One of the following three procedures shall be selected to provide proper notice for a public hearing for any zoning amendment application:
1. Public notice of a hearing by the Planning Commission on a proposed amendment shall be published once in the official newspaper by the Zoning Administrator. At least **20 days shall elapse** between the date of such publication and the date set for such hearing. Such notice shall state the date, time and place of the hearing and shall contain a statement regarding the proposed changes in regulations or the zoning classification or zoning district boundaries of any property. If the proposed amendment would change the zoning classification of any specific property or the boundaries of any zoning district, such notice shall contain the legal description or a general description sufficient to identify the property under consideration. If a general description is used, the notice shall include a statement that a complete legal description is available for public inspection and where such description is available.

In addition to such publication notice, the Zoning Administrator shall mail a written notice of the hearing containing information similar to the published notice thereof to the applicant and to the owners of record of all real property within the area to be altered or changed and to all owners of record of real property located within 200 feet of the exterior boundary of the area described in the amendment application both within the city limits and extending outside the city limits when necessary. If such area is located adjacent to but within the city limits, the area of notification shall, in addition to the 200 feet inside the city limits, be extended to 1,000 feet in the unincorporated area. If such area is located outside the main portion of the city limits, the area of notification shall extend for 1,000 feet and, if such notification extends into the city limits, then 200 feet inside the city limits must also be included. The notice to adjacent property owners including the applicant shall be mailed so that **20 days shall elapse** between the mailing date and the hearing date. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Commission or the Governing Body.

2. Whenever five or more owners of record of real property owning 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification initiate a rezoning of their property from a less restrictive to a more restrictive zoning classification, such amendment shall require notice by publication only and hearing in like manner as required by Section 11-100C. Such zoning amendment **shall not** require written notice and shall not be subject to the protest petition provision of Section 11-103.

3. Whenever the Governing Body or the Planning Commission initiates a rezoning from a less restrictive to a more restrictive zoning classification of 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification having five or more owners of record of real property, such amendment shall require notice by publication and hearing in like manner as that required by Section 11-100C. In addition, written notice **shall be** required to be mailed to **only** owners of record of real properties to be rezoned and **only** such owners shall be eligible to initiate a protest petition under Section 11-103.

The Commission may give additional notice to other persons as it may from time to time provide by its rules. Such rules may include requirements for additional notice to be provided for by the posting of signs on the property to be considered in the amendment application.

#### E. Conduct of Hearing.

1. All hearings that these regulations require the Planning Commission to conduct for amendments to changes or revisions in the regulations or the zoning classifications or in district boundaries shall be open public meetings according to K.S.A. 75-4317 et seq., the Open Meetings Act. Legislative hearings are required by the Commission's Bylaws for changes or revisions in the regulations of the Zoning Regulations. When a proposed amendment will affect the zoning classification or district boundary of specific property; however, the Commission acts in a quasi-judicial capacity for the hearing and may upon proper motion proceed to deliberate in closed session according to K.S.A. 75-4318(g)(1). No binding action can be taken in such a session and all voting must be conducted in an open meeting.
2. Any interested person or party may appear and be heard at the hearing in person, by agent or by attorney.
3. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Commission may from time to time prescribe by rule or bylaws which are not in conflict with these regulations or applicable state statutes.
4. The Commission shall keep minutes of the proceedings showing evidence presented at hearings, findings of fact by the Commission, motions made and the vote of each member upon any question or recommendation. If a member is absent, abstains or disqualified, such fact shall be indicated.
5. The Commission may request a report on any proposed amendment from any governmental official or agency, or any other person, firm or corporation. If such a report is made, a copy thereof shall be made available to the applicant and any other interested person prior to or at the public hearing.
6. The Commission may make recommendations on proposed amendments to specific properties which affect only a portion of the land described in the hearing notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice. A recommendation for a zoning classification of lesser change than that set forth in the notice shall not be valid, however, without republication and, where necessary, re-mailing of notices, unless the Commission shall have previously established a table or publication available to the public which designates what zoning classifications are lesser changes authorized within the published zoning classifications. *(See Appendix page A-1 for Table of Comparability for Zoning Districts.)*

7. For action on zoning amendments, a quorum of the Commission must be more than one-half of the membership as established by ordinance. A majority vote of the members of the Commission present at the hearing shall be required to recommend approval or disapproval of the amendment to the Governing Body. If the Commission fails to make a recommendation on a rezoning request, the Commission shall be deemed to have made a recommendation of disapproval.
  8. A hearing may be adjourned from time to time upon a motion to continue in the future at some stated date, time and place. At the conclusion of a hearing, the Commission shall prepare its findings and the factors on which to base its recommendation and vote.
  9. If a meeting is called or a hearing is on the agenda and no quorum is present, the members in attendance may agree to hold the hearing at another meeting in the future at a stated date, time and place or at the next regular meeting for which, when announced at the present scheduled meeting, no further public notice need be given to continue the hearing.
- F. Report by Planning Commission.** Within 14 days after the close of the public portion of the hearing and voting on a proposed amendment or special use, the Planning Commission shall submit a report to the Governing Body. A copy of this report shall also be filed with the Clerk and the Zoning Administrator and such copies shall be kept available for public inspection. A copy of the report shall also be mailed to the applicant. Such report shall contain a recommendation as to whether the proposed amendment or special use should be approved or disapproved and specific written determinations on the items listed in Sections 11-100G or 11-100H and on such other items as the Commission may consider relevant. The report submitted to the Governing Body shall be accompanied by a summary of the hearing as required by K.S.A. 12-756(b). In lieu of a report, the above information may be contained in the minutes of the meeting and submitted to the Governing Body.
- G. Amendments to Text.** When a proposed amendment by the Governing Body or Planning Commission would result in a change or revision in the text of these regulations, but would not result in a change of zoning classification of any specific property, a legislative hearing shall be held by the Commission and the report or minutes shall contain a statement as to the nature and effect of such proposed amendment.
- H. Review Criteria for Amendments or Special Uses.** When a proposed rezoning amendment or special use would result in a zoning change for any specific property, the report of the Planning Commission accompanied by a summary of the hearing shall contain statements as to (1) the present and proposed district classifications or description of the special use, (2) the applicant's reasons for requesting such reclassification or special use, and (3) a statement of the factors where relevant upon which the recommendation of the Commission is based using the following criteria as guidelines:\*
1. What is the character of the subject property and the surrounding neighborhood in relation to existing uses and their condition?
  2. What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the request?

---

**\*NOTE:** All the factors stated in the decision of Golden v. City of Overland Park, 224 Kan. 591, 584 P.2d 130 (1978) are included in this list. In using these factors as guidelines, modifications may be made in the criteria to more specifically relate them to the particular zoning change in classification or special use.

3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?
4. Would the request correct an error in the application of these regulations?
5. Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?
6. Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property?
7. Would the subject property need to be platted or replatted or in lieu of dedications made for rights of way, easements, and access control or building setback lines?
8. Would a screening plan be necessary for existing and/or potential uses of the subject property?
9. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?
10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?
11. Is the subject property suitable for the uses in the current zoning to which it has been restricted?
12. To what extent would the removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?
13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?
14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?
15. What is the nature of the support or opposition to the request?
16. Is there any information or are there recommendations on this request available from professional persons or persons with related expertise which would be helpful in its evaluation?
17. By comparison, does the relative gain to the public health, safety or general welfare outweigh the loss in property value or the hardship imposed upon the applicant by not approving the request?

Of those factors considered as relevant to the requested change in zoning district classification or boundary or special use, not all factors need to be given equal consideration by the Commission in deciding upon its recommendation.

**Section 101 Special Uses.**

Because of particular factors associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts, but are allowed as "special uses" when their proposed location is supplemented by additional conditions such as to make the use considered compatible with the surrounding property, the neighborhood and the zoning district.

In granting a special use, the minimum requirements of approval for all similar types of permitted uses in the same district must be met, unless otherwise reduced by a specific reference in these regulations. The requirements may be made more stringent if there is a potentially injurious effect which may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public. Such additional conditions may include, but are not limited to, requirements affecting the lot size or yard dimensions; changing street width; the extent and location of entrance or exit drives; controlling the size, location and number of signs; the period and time of operation; lot coverage and height of buildings; screening, fencing and/or landscaping to protect the surrounding property; establishing environmental standards for air and water pollution, noise, vibration, lighting and other such conditions; protection from flooding; and additional improvements such as street construction, sidewalks, utilities and storm drainage, if necessary, including platting and/or dedications. Such conditions may be placed upon the property which is the subject of the special use application or upon the applicant or both.

Although the Official Zoning Map is not amended, the procedure for approval of a special use shall otherwise be the same as for an amendment to change a zoning district classification or boundary which is set forth in Section 11-100 of this Article including the provisions for filing protest petitions in Section 11-103; provided, that any conditions which are further imposed upon the special use shall be made a part of the effectuating ordinance. Applications for a special use shall be accompanied by a plot plan of the proposed development. Concurrent applications may be processed for changing zoning district classifications as amendments and approving special uses on the same property wherein joint notices are advertised and mailed and hearing held; however, separate motions, review criteria and effectuating ordinances are necessary.

Failure to comply with any of the conditions for a special use which are later attached to a zoning permit shall constitute a violation of these regulations. Upon a finding by the Zoning Administrator of such a violation, the zoning permit may be declared null and void. If an applicant desires to make a change in a condition at a later date it is necessary to apply for a rehearing and a decision be made in the same manner as the original special use; however, only the requested condition is to be reconsidered at the hearing.

No special use approval by the Governing Body shall be valid for a period longer than one year from the publication date of the effectuating ordinance unless (1) another time period is designated as a condition attached to the special use; (2) an application is filed and a zoning permit is approved during the period of validity. In such instance the special use shall be valid for the period of validity of the zoning permit. The Governing Body may authorize extensions of the validity period without notice or public hearing for more than one year upon a written request received within a valid period. Upon expiration of any validity period, the effectuating ordinance automatically becomes null and void unless an extension has been granted or a zoning permit has been obtained.

**Section 102 Project Review.**

In the event that certain public improvements, facilities or utilities of a type embraced within the recommendations of the Comprehensive Plan are classified as special uses or are the subject of a change in zoning district classification or boundary, the consideration of such uses by the Planning Commission in conjunction with a zoning application may also constitute their project review of such proposed use if concurrently processed under procedures required by K.S.A. 12-748, as amended; provided, that a statement of findings is included in the Commission's approval or disapproval as to whether such proposed use is or is not in conformance with the Comprehensive Plan. In case the Commission finds that the proposed use is not in conformance to the Plan and states in writing the manner in which it is not in conformance, then the Governing Body shall not proceed with construction of such a proposed use unless the Governing Body by a majority vote overrides the disapproval of the Commission and the Plan shall be deemed to have been amended and the Commission shall make the necessary changes in the Plan to reflect the vote of the Governing Body.

**Section 103 Filing of Protest.**

Whether or not the Planning Commission approves or disapproves a zoning change, if a written protest against a proposed amendment for a specific property or a special use shall be filed in the office of the Clerk within 14 days after the date of the conclusion of the hearing by the Commission which is signed and acknowledged and an accurate legal description of their property provided by the owners of record of 20% or more of any real property proposed to be altered or changed, excluding streets or public ways, or by the owners of record of 20% or more of the real property within the total area required in the official area of notification by Section 11-100D, excluding streets and public ways and specific statutorily excluded property as described below, then the effectuating ordinance shall not be passed except by at least a 3/4 vote of all the members of the Governing Body.

Property statutorily excluded by K.S.A. 12-757(f) from determining the sufficiency of a protest petition when calculating the total real property within the notification area is that which was (1) requested by the owner of the specific property for rezoning or a special use; or (2) the owner of the specific property requested for rezoning or a special use who does not oppose in writing such rezoning or special use. *(See Sections 11-100 D2 and D3 for protest petition exceptions for rezoning from a lesser restrictive to a more restrictive zoning classification.)*

**Section 104 Adoption of Amendments or Special Uses by the Governing Body.**

When the Planning Commission in its report submits a recommendation of approval or disapproval of a proposed amendment or special use including the basis therefore, the Governing Body may: (1) Adopt such recommendation by an effectuating ordinance; (2) override the Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or (3) return such recommendation to the Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the Commission's recommendation, the Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new or 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 the effectuating 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.

In considering its decision under each of the above set of circumstances, the Governing Body shall take into account the guidelines in Section 11-100H which are relevant to the proposed amendment or special use and, having reviewed the Commission's findings of fact and the factors upon which their recommendation is based, the Governing Body either adopts the Commission's findings and factors by reference or records their own findings of fact and the factors upon which their decision is based.

The proposed amendment or special use shall become effective upon publication of their respective adopting ordinance. If such an amendment affects the classification or boundaries of any zoning district, the respective ordinance shall legally describe the classification or boundaries as amended, shall order the Official Zoning Map to be changed to reflect such amendment, and shall reincorporate such map as amended.

### **Section 105 Annual Review.**

In order to maintain these regulations including the Official Zoning Map(s), the Planning Commission shall annually hold a public review at their first regular meeting in February to consider amendments, if any, to these regulations. Preceding such a review, the Governing Body and other affected governmental agencies and interested parties should be notified of the intent to review and their ideas requested. In preparation for such a review, the Zoning Administrator shall maintain a master copy of the current zoning regulations on which are recorded comments and ideas brought to the attention of the Administrator during the preceding year in order to maintain the intent and purpose of these regulations under changing conditions and to implement the Comprehensive Plan. Information on any relevant changes in state statutes shall be compiled for the review.

### **Section 106 Judicial Review.**

As provided by K.S.A. 12-760, as amended, any ordinance, regulation, amendment, special use or other zoning decision provided for or authorized by these regulations shall be reasonable and any person aggrieved thereby may have the reasonableness of any decision determined by bringing an action against the City within 30 days after a final decision is made by the City. In the event that an amendment to these regulations or a special use is approved by the Governing Body, the 30-day period commences when the effectuating ordinance is published. Such action shall be brought in the County District Court.

According to K.S.A. 12-757(a), if a proposed amendment is not a general revision of the existing regulations and affects specific property, such an amendment shall be presumed to be reasonable if it is in accordance with the land use plan or the land use element of the comprehensive plan.

ARTICLE 12. SEVERABILITY AND EFFECTIVE DATE

Section 100 Severability.

If any provisions of these regulations are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, then such provisions shall be considered separately and apart from the remaining provisions of these regulations, so as to be completely severable and the remaining provisions of these regulations shall remain in full force and effect.

Section 101 Effective Date.

These regulations shall be in full force and effect from and after their adoption by the Planning Commission, approval by the Governing Body by an ordinance incorporating these regulations by reference as a model code in book form and publication of such ordinance in the official city newspaper.

ADOPTED by the Sedgwick City Planning Commission on \_\_\_\_\_, 2020.

\_\_\_\_\_  
\_\_\_\_\_ (print name), Chairperson

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_ (print name), Secretary

APPROVED and ADOPTED by the Governing Body of the City of Sedgwick, Kansas on \_\_\_\_\_, 2020.

\_\_\_\_\_  
\_\_\_\_\_ (print name), Mayor

ATTEST:

(S E A L)

\_\_\_\_\_  
City Clerk

(Approved by Ordinance No. \_\_\_\_\_  
by the Governing Body of the City of Sedgwick, Kansas on \_\_\_\_\_, 2020,  
officially published in \_\_\_\_\_ on \_\_\_\_\_, 2020  
and effective on \_\_\_\_\_, 2020.)



**ORDINANCE NO. 878**

**APPROVING SUBDIVISION REGULATIONS  
WITHIN THE CITY OF SEDGWICK, KANSAS**

An ordinance enacted approving and incorporating by reference certain Subdivision Regulations governing the subdivision of land located within the City of Sedgwick, Kansas, as prepared and published as a Model Code in book form by the Sedgwick City Planning Commission, pursuant to K.S.A. 12-741 *et seq.*, as amended, 12-3009 to 12-3012 inclusive, 12-3301 and 12-3302.

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SEDGWICK, KANSAS:**

**Section 1. Adoption**

Subdivision Regulations, entitled *Subdivision Regulations of the City of Sedgwick, Kansas* and dated December 8, 2020, are hereby approved and adopted by the Governing Body of the City of Sedgwick, Kansas.

The Subdivision Regulations were prepared with the technical assistance of Foster Design Associates LLC, Landscape Architecture & Planning, in association with Foster & Associates, Planning Consultants, both of Wichita, Kansas, and the City Subdivision Administrator. The Subdivision Regulations were adopted in book form as a Model Code by the Sedgwick City Planning Commission, and are hereby incorporated by reference as fully as if contained in their entirety within this Ordinance.

**Section 2. Public Hearing**

The Sedgwick City Planning Commission held a Public Hearing on December 8, 2020. As required by Kansas statute K.S.A. 12-749, the Public Hearing was advertised at least 20 days in advance.

The Subdivision Regulations were discussed at the Hearing, and public comments were heard. The Subdivision Regulations in Model Code form adopted by this Ordinance are a true and correct copy of the Subdivision Regulations adopted by the Planning Commission at that Hearing.

**Section 3. Jurisdiction**

From the effective date of this Ordinance, the Subdivision Regulations incorporated by reference in this Ordinance govern the subdivision of land and the vacation of rights-of-way, easements and other public reservations located within the City of Sedgwick, Kansas.

**Section 4. Official Copies**

At least one copy of the Subdivision Regulations in book form must be filed with the City Clerk. It must be marked "Official Copy as incorporated by Ordinance No. 878 and must have a copy of this Ordinance as published attached.

The City must provide a copy of the Subdivision Regulations to be open for inspection and available to the public at all reasonable business hours.

**Section 5. Invalidity of a Part**

If any provisions of this Ordinance are declared by a competent court to be unconstitutional or invalid, all other sections of this Ordinance nevertheless remain valid and authorized.

**Section 6. Repeal**

Ordinance No. 814 is hereby repealed, and any other ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

**Section 7. Effective Date**

After this Ordinance is approved by the Governing Body, it becomes effective on the date it is published at least once in the official city newspaper.

PASSED BY THE CITY COUNCIL  
this 21st day of December, 2020.

APPROVED BY THE MAYOR  
this 21st day of December, 2020.

/S/ \_\_\_\_\_

Bryan Chapman, Mayor

( S E A L )

ATTEST:

/S/ \_\_\_\_\_

Janise P. Enterkin, City Clerk

APPROVED AS TO FORM:

/S/ \_\_\_\_\_

Bradley D. Jantz, City Attorney

**ORDINANCE NO. 879**

**APPROVING ZONING REGULATIONS  
WITHIN THE CITY OF SEDGWICK, KANSAS**

An ordinance enacted approving and incorporating by reference certain Zoning Regulations governing the use of land and the location of buildings within the City of Sedgwick, Kansas, as prepared and published as a Model Code in book form by the Sedgwick City Planning Commission pursuant to K.S.A. 12-741 *et seq.*, as amended, 12-736, 12-3009 to 12-3012 inclusive, 12-3301 and 12-3302.

The Zoning Regulations establish zoning district boundaries and classify the districts by land use category; adopt by reference an official map of zoning districts; define certain terms used in the Zoning Regulations; regulate the maximum dimensions of buildings and other structures through bulk regulations and lot areas; regulate the location and size of signs; provide for and regulate vehicle parking space; reestablish the Board of Zoning Appeals and prescribe its duties; provide for the appointment of a Zoning Administrator and prescribe his or her duties; provide for fees to be charged for amendments, appeals and permits; establish a means for amending the Zoning Regulations, the Zoning Map and this Ordinance; provide for penalties for violation of Zoning Regulation provisions and a means of enforcement; and repeal all other ordinances in conflict with this Ordinance.

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SEDGWICK, KANSAS:**

**Section 1. Adoption of Zoning Regulations**

Zoning Regulations, entitled *Zoning Regulations of the City of Sedgwick, Kansas* and dated December 8, 2020, are hereby approved and adopted by the Governing Body of the City of Sedgwick, Kansas.

The Zoning Regulations were prepared with the technical assistance of Foster Design Associates LLC, Landscape Architecture & Planning, in association with Foster & Associates, Planning Consultants, both of Wichita, Kansas, and the City Zoning Administrator. The Zoning Regulations were published in book form as a Model Code by the Sedgwick City Planning Commission, and are hereby incorporated by reference as fully as if contained in their entirety within this Ordinance.

**Section 2. Adoption of Official Zoning Map**

A Zoning Map for the City of Sedgwick, Kansas, dated December 8, 2020, delineating the boundaries and the classifications of the zoning districts described in the *Zoning Regulations of the City of Sedgwick, Kansas*, is hereby incorporated by reference, and approved and adopted as the Official Zoning Map for the City of Sedgwick.

**Section 3. Public Hearing**

The Sedgwick City Planning Commission held a Public Hearing on December 8, 2020. As required by Kansas statute K.S.A. 12-756, the Public Hearing was advertised at least 20 days in advance.

The Zoning Regulations and Zoning Map were discussed at the Hearing, and public comments were heard. The Zoning Regulations and Zoning Map in Model Code form adopted by this Ordinance are a true and correct copy of the Zoning Regulations and Zoning Map adopted by the Planning Commission at that Hearing.

**Section 4. Jurisdiction**

From the effective date of this Ordinance, the Zoning Regulations and Official Zoning Map incorporated by reference in this Ordinance govern all use of the land and the location of buildings and other structures within the corporate boundary of the City of Sedgwick, Kansas.

**Section 5. Official Copies**

At least one copy of the Zoning Regulations in book form must be filed with the City Clerk. It must be marked "Official Copy as incorporated by Ordinance No. 879", and must have a copy of this Ordinance as published attached.

At least one copy of the Official Zoning Map must be filed with the Zoning Administrator. It must be marked "Official copy of Zoning District Map incorporated into Zoning Regulations by adoption of Ordinance No. 879 by the Governing Body of the City of Sedgwick on the 21st day of December, 2020".

The City must provide a copy of the Zoning Regulations and of the Official Zoning Map to be open for inspection and available to the public at all reasonable business hours.

**Section 6. Invalidity of a Part**

If any provisions of this Ordinance are declared by a competent court to be unconstitutional or invalid, all other sections of this Ordinance nevertheless remain valid and authorized.

**Section 7. Repeal**

Ordinances No. 815 is hereby repealed, and any other ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

**Section 8. Effective Date**

After this Ordinance is approved by the Governing Body, it becomes effective on the date it is published at least once in the official city newspaper.

PASSED BY THE CITY COUNCIL  
this 21st day of December, 2020.

APPROVED BY THE MAYOR  
this 21st day of December, 2020.

/S/ \_\_\_\_\_

Bryan Chapman, Mayor

( S E A L )

ATTEST:

/S/ \_\_\_\_\_

Janise P. Enterkin, City Clerk

APPROVED AS TO FORM:

/S/ \_\_\_\_\_

Bradley D. Jantz, City Attorney