

CITY OF SABETHA

NEMAHA COUNTY, KANSAS

ZONING ORDINANCE

ADOPTED BY THE CITY OF SABETHA, KANSAS

Prepared By



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Article 1: Title and Purpose

Section 1.01 Title

This Ordinance shall be known and may be cited and referred to as the Zoning Ordinance of the City of Sabetha, Kansas.

Section 1.02: Purpose and Intent

The *Sabetha Zoning Ordinance* is intended to aid in the proper and harmonious development of the City of Sabetha and the area as defined in the Comprehensive Plan. The regulations included in the text of this ordinance have been duly adopted by the Governing Body for the following purposes:

1. Promote the health, safety, morals, comfort and general welfare of all the citizens of Sabetha, Kansas.
2. Create zoning districts sensitive to the needs of the citizens while protecting and enhancing the small-town values of the City. Also to create zoning districts sensitive to the needs of the rural residents and properties surrounding the City of Sabetha in Brown County and Nemaha County, while protecting and enhancing the rural values of the area and encouraging as much non-agricultural development as possible to occur within the City.
3. Encourage and promote agricultural development and productivity, and to protect agricultural land, including the natural resources associated with the fertility and productivity of agricultural land, from the intrusion of uses which are incompatible, inconsistent, or which otherwise detract from, limit, restrict, or diminish agricultural productivity within the environs of Sabetha, Kansas.
4. Encourage and promote family farms.
5. Regulate the height, number of stories, and size of buildings; the percentage of lots that may be occupied by buildings and other structures; size of yards, courts, and other open spaces for the general welfare of the citizens of the City of Sabetha and its extraterritorial jurisdiction.
6. Provide for adequate light and air, and acceptable noise levels.
7. Avoid the undue concentration of populations and prevent overcrowding in the use of land and community facilities.
8. Provide adequate notice on subsequent changes to this Code and an opportunity for interested parties to be heard.
9. Provide information regarding possible flood hazards.
10. Facilitate the adequate provisions of transportation, water, sewage, schools, parks, and other public improvements and services, and to carry out the goals and objectives as set forth in applicable laws of the State of Kansas and the Comprehensive Plan for Sabetha and its extraterritorial jurisdiction.
11. Promote the achievement of the Future Land Use Plan for Sabetha and its extraterritorial jurisdiction.
12. Inform the public regarding future development in the City of Sabetha and its extraterritorial jurisdiction, thereby providing a basis for wise decisions with respect to such development.

The provisions in this ordinance shall supplement and facilitate the provisions in the comprehensive plan, the subdivision regulations and the capital budget.

Section 1.03 Authority and Jurisdiction

1. Authority: The Regulations set forth herein are adopted under authority of K.S.A 12-753 and are in accordance with the adopted Land Use Plan for the City of Sabetha, Kansas.
2. Jurisdiction: These Regulations shall apply to all structures and land within the incorporated area of the City of Sabetha, Kansas, and such unincorporated areas as may be added to the zoning jurisdiction within Brown and Nemaha Counties by Ordinance.
3. Agricultural Exclusion: Except for flood plain regulations in areas designated as a flood plain, nothing in this Regulation shall be construed as authorizing regulations applying to or affecting any land in excess of three acres under one ownership which is used only for agricultural purposes. For agricultural purposes, see definition in Article 2.

Section 1.05 Feeding Livestock As Agricultural Pursuit; Zoning

Pursuant to K.S.A. §47-1502, feeding of livestock, and animal husbandry, for the purpose of this Ordinance shall be considered to be, and shall be construed to be, an agricultural pursuit: Provided, such agricultural pursuit may be subject to any city zoning provisions created under the laws of Kansas or any subdivision thereof.

Section 1.05: Zoning Procedure

This Ordinance permits only those uses in each district under Article 5. Any owner of property desiring to use their property for some use other than the listed uses may proceed as follows:

1. When the proposed use intensity varies slightly from the Regulation, the property owner may file an application with the Zoning Administrator for a hearing with the Board of Zoning Appeals for one of the following:
 - a. Variance (i.e. height, area, and yard);
 - b. Exception (Conditional Use Permit) as outlined in the district regulations.
 - c. Appeal the Zoning Administrators decision.
2. When the proposed use requires a Conditional Use Permit, the property owner may file an application with the Zoning Administrator for a hearing with the Planning Commission.
3. When the proposed use requires an amendment to the text of these Regulations and/or change in Zoning District Map, the property owner may file an application and proceed as set out in Article 13.
4. Any person intending to perform construction other than for agricultural purposes shall be in compliance with these Regulations and shall obtain a zoning permit from the Zoning Administrator.
5. Any person intending to construct on an unplatted tract other than agricultural uses shall prepare a plat in accordance with the City of Sabetha Subdivision Regulations and shall obtain the approval of the Plat by the Planning Commission and the City Commission before requesting a zoning certificate.

Section 1.06 Comprehensive Plan Relationship

These zoning ordinances are designed to implement various elements of the comprehensive plan as required by state statutes. Any amendment to the district ordinances or map shall conform to the comprehensive plan adopted by the governing body.

Section 1.07 Enforcement and Penalties

1. It shall be the duty of the Zoning Administrator (as established in Section 12.01 of the *Zoning Ordinance of the City of Sabetha*) to enforce the provisions of this ordinance and to bring to the attention of the Planning Commission and the Governing Body any violations or lack of compliance.
2. Violation of the provisions of this ordinance shall be deemed a misdemeanor, punishable as provided by law and with each day such violation continues constituting a separate offense. The Governing Body shall have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of these regulations.

Section 1.08 Interpretation, Conflict, and Separability

The rights of landowners of properties platted or subdivided for residential purposes prior to the adoption of this Code shall be protected from the requirements of this Code for use of said land for the intended residential purposes for a period of five years from the time in which such property was first platted or subdivided, provided:

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

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

Properties divided or platted for any use other than residential purposes shall not be permitted to develop or further develop except in conformance with this Code and the Sabetha Subdivision Regulations. Persons who obtained a validly issued permit under the previous Sabetha Land Development Code shall be permitted to develop the property so long as the permit issued under the previous Sabetha Land Development Code does not expire. Failure to start construction under said permit before the expiration of the permit shall not protect

the owner from the provisions of this Code, the Sabetha Subdivision Regulations, or any other applicable Codes or regulations then in effect.

Section 1.09 Interpretation and Conflict

1. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements. More stringent provisions may be required if it is demonstrated that different standards are necessary to promote the public health, safety and welfare.
2. Where the conditions imposed by any provision of this ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this ordinance or of any other applicable law, ordinance, resolution, rule, regulation, easement, or covenant of any kind, public or private, the regulations which are more restrictive and impose higher standards or requirements shall govern.

Article 2: Definitions

Section 2.01 Rules

For the purpose of this ordinance, the following rules shall apply:

1. Words and numbers used singularly shall include the plural. Words and numbers used in the plural shall include the singular. Words used in the present tense shall include the future.
2. The word "persons" includes a corporation, members of a partnership or other business organization, a committee, board, council, commission, trustee, receiver, agent or other representative.
3. The word "shall" is mandatory. The word "may" is permissive.
4. The words "use", "used", "occupy" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged" or "designed" to be used or occupied.
5. The word "commission" shall refer to the Planning Commission of Sabetha, Kansas.
6. Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.
7. In the case of any real or apparent conflict between the text of the Ordinance and any illustration explaining the text, the text shall apply.

Section 2.02 Abbreviations and Acronyms

For purposes of these Regulations this section contains a listing of abbreviations and acronyms used throughout this document.

ADA = Americans with Disabilities Act
CFR = Code of Federal Regulations
DU = Dwelling Unit
DWR= Department of Water Resources
FAA = Federal Aviation Administration
FCC = Federal Communication Commission
FEMA = Federal Emergency Management Agency
GFA = Gross Floor Area
HUD = US Department of Housing and Urban Development
KAR = Kansas Administrative Regulations
KDHE = Kansas Department of Health and Environment
KDWP = Kansas Department of Wildlife and Parks
K.S.A. = Kansas State Statutes Annotated
KV = Kilovolt
KW = Kilowatt
KDOT= Kansas Department of Transportation
KDEM= Kansas Division of Emergency Management
KHHS= Kansas Department of Health and Human Services
NPDES = National Pollutant Discharge Elimination System
NRCS = Natural Resources Conservation Service
USC = United States Code
USACE = United States Army Corps of Engineers
USDA = United States Department of Agriculture

Section 2.03 Definitions

A

ABANDONED VEHICLE shall mean any inoperable motor vehicle to which the last registered owner of record thereof has relinquished all further dominion and control.

ABANDONMENT shall mean to cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.

ABUT shall mean to border on, be contiguous with or have common property or district lines, including property separated by a public street or alley

ACCESS shall mean the right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

ACCESSORY LIVING QUARTERS shall mean living quarters within an accessory building located on the same premises with the main building, for use by temporary guests of the occupant of the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling unit.

ACCESSORY BUILDING or STRUCTURE shall mean a detached subordinate building or structure located on the same lot with the principal building or structure, the use of which is incidental and accessory to that of the principal structure. Customary accessory buildings and structures include farm buildings, garages, carports, and storage sheds but not portable storage containers.

ACCESSORY DWELLING UNIT shall mean a separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure, also referred to as "Granny Flats".

ACCESSORY USE shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building.

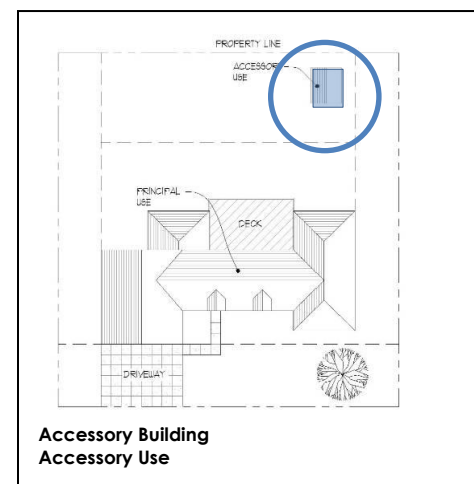
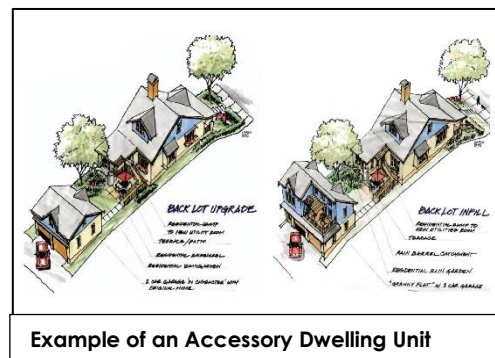
ACREAGE shall mean any tract or parcel of land, used for single-family residential purposes, that does not qualify as a farm or farmstead.

ADJACENT see "Abut".

ADMINISTRATIVE OFFICER see Zoning Administrator.

ADULT shall mean a person 18 years and older.

ADULT CARE HOME shall mean any nursing facility, nursing facility for mental health, intermediate care facility for the mentally retarded, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility, all of which classifications of adult care homes are required to be licensed by the Kansas Secretary of Aging per KSA 39-923 et seq.



ADULT CARE HOME, ONE AND TWO-BED FACILITY shall mean any place or facility which place, or facility may be a private residence and which place, or facility is operating for not less than 24 hours in any week. The facility provides care for one or two individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves. The reception, accommodation, board, personal care and treatment and skilled nursing care, supervised nursing care or simple nursing care is provided by the adult care home. Said place or facility is staffed, maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care but who require domiciliary care and skilled nursing care, supervised nursing care or simple nursing care provided by the adult care home.

ADULT DAY CARE shall mean any place or facility operating less than 24 hours a day caring for individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment need supervision of or assistance with activities of daily living.

ADULT FAMILY HOME shall mean any private residence in which care is provided for not less than 24 hours in any week for one or two adult clients who (1) are not related within the third degree of relationship to the owner or provider by blood or marriage, (2) by reason of aging, illness, disease or physical or mental infirmity are unable to live independently but are essentially capable of managing their own care and affairs. The home does not furnish skilled nursing care, supervised nursing care or simple nursing care. Adult family home does not mean adult care home.

ADVERTISING STRUCTURE shall mean any structure used as an outdoor display, regardless of size and shape, for the purposes of making anything known, the origin or place of sale of which is not on the property with such Advertising Structure.

AGENT shall mean any person showing written verification that he/she is acting for, and with the knowledge and consent of, a property owner.

AGRICULTURAL OR FARM BUILDINGS shall mean any building or structure which is necessary or incidental to the normal conduct of a farming operation, including but not limited to, residence of hired persons, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.

AGRICULTURAL ACTIVITY shall mean the growing or raising of horticultural and agricultural crops, hay, poultry and livestock, poultry and dairy products for commercial purposes and includes activities related to the handling, storage and transportation of agricultural commodities.

AGRICULTURAL INDUSTRIES shall mean establishments or uses engaged in the large-scale storage or initial processing of agricultural products and supplies that cannot be otherwise categorized as light, general, or heavy industries, some of which may involve storage of potentially hazardous materials. Typical uses include grain elevators and anhydrous ammonia storage facilities.

AGRICULTURAL PURPOSES shall mean land "used only for agricultural purposes" as that term is utilized in K.S.A. 12-715b, and amendments thereto, shall for purposes of the City of Sabetha, Kansas zoning ordinance mean land used by an individual, a firm, a partnership, a joint venture, a corporation, a limited liability company (LLC), an estate, a trust, or any legally existing entity (1) for the growing or raising of horticultural and agricultural crops, including grass and hay; and, (2) for the breeding, raising and feeding of livestock, specifically including swine and cattle, for commercial purposes and the operation of livestock feedlots and other facilities dedicated to animal husbandry and the commercial production of cattle, swine, and other livestock.

AGRICULTURAL SALES AND SERVICE shall mean an establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, farm equipment, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, farm implement dealerships, feed and grain stores, and tree service firms.

AGRICULTURAL USE see Agricultural Activity.

AGRICULTURE shall mean the use of land for agricultural purposes including dairying, farming, floriculture, horticulture, pasturage, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided that the operation of any such accessory use shall be secondary to that of the normal agricultural activities.

AIRCRAFT shall mean a weight-carrying structure for navigation of the air that is supported either by its own buoyancy or by the dynamic action of the air against its surfaces. Aircraft includes, but is not limited to, airplanes, helicopters, gliders, ultra-light airplanes, hot-air balloons, and the like.

AIRPORT OR AIRCRAFT LANDING FIELD shall mean any landing area, runway or other facility designed, used, or intended to be used either publicly or by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage, and tiedown areas, hangars, and other necessary buildings and open spaces.

AISLE shall mean the travelled way by which cars enter and depart parking spaces.

ALLEY shall mean a public or private thoroughfare which affords only a secondary means of access to property abutting thereon.

ALTERATION shall mean any change, addition or modification to the construction or occupancy of an existing structure.

AMATEUR RADIO shall mean radio equipment and associated antennas or support structures for the purpose of receiving or transmitting communications by a radio station as described in Section 153(g) of Title 47 of the CFR and which is operated under license by the FCC.

AMENDMENT shall mean a change in the wording, context, or substance of this Ordinance, or an addition, deletion or change in the district boundaries or classifications upon the Official Zoning Map.

ANIMAL BREEDER shall mean any person who operates an animal breeder premises.

ANIMAL BREEDER PREMISES shall mean any premises where all or part of six or more litters of dogs or cats, or both, or 30 or more dogs or cats, or both, are sold, or offered, or maintained for sale, primarily at wholesale for resale to another.

ANIMAL, DOMESTIC see Household Pet.

ANIMAL HOSPITAL shall mean a place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

ANIMAL UNITS (A.U.):

One A.U. = One Cow/Calf combination
One A.U. = One Slaughter, Feeder Cattle;
One A.U. = One-half Horse;
One A.U. = Seven Tenths Mature Dairy Cattle;
One A.U. = Two and One-half Swine (55 pounds or more);
One A.U. = 25 Weaned Pigs (less than 55 pounds);
One A.U. = Two Sows with litters;
One A.U. = 10 Sheep;
One A.U. = 11.25 Goats;
One A.U. = 50 Turkeys;
One A.U. = 100 Chickens
One A.U. = Five Ducks if a liquid manure handling system;

ANTENNA shall mean any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of electromagnetic waves. Also, see Satellite Dish Antenna and Tower.

ANTIQUE SHOPS shall mean a place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, that is at least 30 years old.

APARTMENT shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed as a place of residence for a single family or group of individuals living together as a single housekeeping unit, including culinary accommodations. Also, see Dwelling Unit.

APARTMENT COMPLEX shall mean a building or buildings containing apartments used as a place of residence for more than two households.



APARTMENT HOUSE see Dwelling, Multiple-Family.

APPLICANT shall mean the owner or duly designated representative of land proposed to be subdivided, or for which a special use permit, conditional use permit, temporary use permit, zoning amendment, variance, appeal, building permit, or certificate of occupancy and other similar administrative permits has been requested. Consent shall be required from the legal owner or his legal representative in writing except for building permits.

APPROPRIATE shall mean fitting the context of the site and the whole community.

APPURTENANCES shall mean the visible, functional objects accessory to and part of buildings.

ARTISAN PRODUCTION SHOP shall mean a building or portion thereof used for the creation of original handmade works of art or craft items by more than three but less than six artists or artisans, as either a principal or accessory use.

ARTIST STUDIO shall mean a place designed to be used, or used as, both a dwelling place and a place of work by an artist, artisan, or craftsman, including persons engaged in the application, teaching, or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, and writing.

ASSISTED LIVING FACILITY shall mean any place or facility caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act. Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

ATTACHED shall mean a foundation, wall or roof of a building or structure which is connected to and supported by the foundation, wall, or roof of another building or structure.

AUCTION SALES YARD shall mean a tract of land and accompanying buildings and/or other structures, if any, arranged or designed to be used for the sale by auction of merchandise offered on consignment.

AUTO BODY REPAIR shall mean the repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.

AUTO SERVICES shall mean the provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles; and washing and cleaning and/or repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include service stations, car washes, muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, and similar repair and service activities but exclude dismantling, salvage, or body and fender repair services.



Example of a stand-alone ATM

AUTOMATIC TELLER MACHINE (ATM) shall mean an automated device that performs banking or financial functions at a location remote from the controlling financial institution.

AUTOMOBILE RENTAL AND SALES shall mean sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships; motorcycle dealerships; and boat, trailer, and recreational vehicle dealerships.

AUTOMOBILE WRECKING YARD shall mean any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.

AUTOMOTIVE AND MACHINERY REPAIR SHOP shall mean a building used for the repair of motor vehicles or machinery, when such repair shall be wholly within a completely enclosed building. This definition also includes, but not be limited to, body and paint shops, glass service shops and auto service centers.

AUTOMOTIVE SALES AREA shall mean an open area, other than a street, used for display or sale of new or used motor vehicles and trailers by one required to be licensed as a motor vehicle dealer by the State of Kansas, and where no repair work is done except minor incidental repair of motor vehicles or trailers to be displayed and sold on the premises.

AUTOMOTIVE SERVICE STATION shall mean any building, structure or land used for the dispensing, sale or offering for sale at retail any motor vehicle fuels, oils, or accessories, including lubrication of motor vehicles and replacement or installation of minor parts and accessories, but not including tire recapping, major repair work such as motor replacement, body and fender repair or spray painting, provision of rental equipment, or open motor vehicle sales lots.

AWNING shall mean a roof-like cover that is temporary in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

B

BAR shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. Also, see Nightclub and Tavern.

BASE FLOOD shall mean the flood, from whatever source, having a one percent chance of being equaled or exceeded in any given year, otherwise referred to as the 100-year flood.

BASE FLOOD ELEVATION shall mean that elevation, expressed in feet above mean sea level, to which flooding can be expected to occur on a frequency of once in every 100 years, or which is subject to a one percent or greater chance of flooding in any given year.

BASE ZONING DISTRICT shall mean a district established by this Ordinance that prescribes basic regulations governing land use and site development standards.

BASEMENT shall mean that portion of a building which is partly or wholly below grade. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average level of the adjoining ground.

BEACON shall mean any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

BED AND BREAKFAST INN shall mean a dwelling that is used for the purpose of offering overnight lodging and meals to travelers for a fee which dwelling has unique structural and/or site characteristics which create the appearance of an Inn type setting. Such dwelling shall have a maximum of six guest rooms available for travelers lodging and no more than 12 guests may stay at any time. Guests who stay at the bed and breakfast shall not remain for a period of more than 30 consecutive days.

BEDROOM shall mean a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.

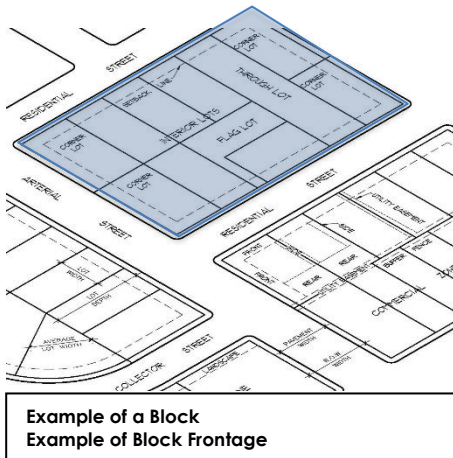
BEER GARDEN shall mean a permanent establishment which includes any area out-of-doors and not completely contained within a building in which alcoholic beverages or food is served.

BEGINNING OF CONSTRUCTION shall mean when site grading begins.

BERM shall mean a raised form of earth to provide screening or to improve the aesthetic character.

BEST INTERESTS OF COMMUNITY shall mean interests of the community at large and not the interest of the immediate neighborhood.

BILLBOARD see Sign, Billboard.



BLOCK shall mean a parcel of land platted into lots and bounded by public streets or by waterways, rights-of-way, non-platted land, City or County boundaries, or adjoining property lines.

BLOCK FRONTAGE shall mean that section of a block fronting on a street between two intersecting streets or another block boundary.

BOARD OF ZONING APPEALS shall mean that Board which has been created by the Governing Body having jurisdiction and which has the statutory authority to hear and determine special use permits, appeals, exceptions and variances of these zoning regulations.

BOARDING OR ROOMING HOUSE shall mean every building or other structure which is kept, maintained, advertised or held out to the public to be a place where sleeping accommodations are furnished for pay to transient or permanent guests and in which no more than three guests may be accommodated, and which maintains common facilities for the serving or preparation of food for such guests. The term "boarding house" shall not include facilities licensed under paragraph (5) of subsection (a) of K.S.A. 75-3307b and amendments thereto.

BREEDER PREMISES shall mean any premises where all or part of one or two litters of dogs or cats, or both, are produced, whether or not they are offered for sale or are offered to prospective owners at no charge.

BREW-ON PREMISES STORE shall mean a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Brew-on-premises stores do not include the sale of intoxicating liquor, unless the owner of the brew-on-premises store holds the appropriate liquor license.

BREW PUB shall mean a restaurant, bar or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting.

BREWERY shall mean a licensed industrial use that distills, rectifies, brews, makes, mixes, concocts, processes, blends, bottles, or fills an original package with any alcoholic liquor, beer, or cereal malt beverage. This does not include a microbrewery or a farm winery.

BREWERY, CRAFT shall mean a brew pub or a microbrewery.

BUFFER shall mean a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. Also, see Screening.

BUFFER AREA shall mean an open and unobstructed ground area of a plot in addition to any no building zones or street widening around the perimeter of any plot where required.

BUFFERYARD shall mean a landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

BUILDABLE AREA shall mean that part of a zoning lot not included within the required yards or subject to other restrictions herein required.

BUILDING shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary". Trailers, with or without wheels, shall not be considered buildings.

BUILDING AREA shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.

BUILDING CODE shall mean the various codes of the City of Sabetha that regulate construction and require building, electrical, mechanical, plumbing and other permits to as well as other codes adopted by the City that pertain to building construction.

BUILDING COVERAGE shall mean the area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.

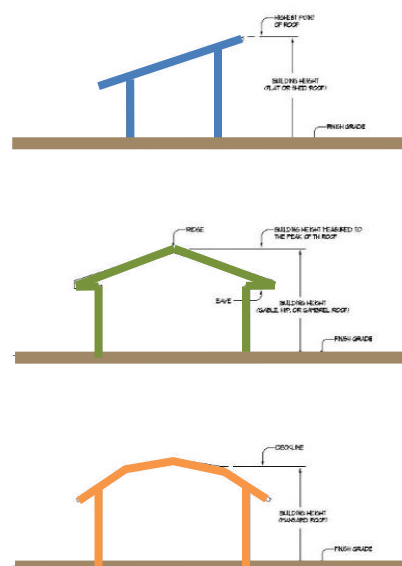
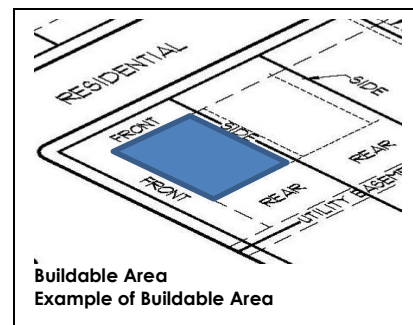
BUILDING ENVELOPE shall mean the three-dimensional space within which a structure is permitted to be built on a lot after all zoning and other applicable municipal requirements have been met.

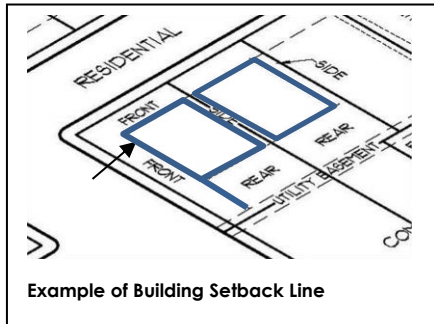
BUILDING HEIGHT shall mean the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest point of a gable, hip, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five feet horizontal distance of the exterior wall of the building.

BUILDING LINE shall mean the outer boundary of a building established by the location of its exterior walls.

BUILDING OFFICIAL shall mean the designee of the City Commission, responsible for the enforcement of the building and/or land use regulations of the City of Sabetha.

BUILDING, PUBLIC shall mean a publicly-owned building used or occupied for a public purpose. Public buildings include, but are not limited to: fire stations, police stations, auditoriums, gymnasiums, natatoriums, community halls, maintenance buildings, park shelters, jails or penal institutions, and schools. This shall include privately owned buildings used for the same public-type purposes.





BUILDING SETBACK LINE shall mean the required zoning distance between a building and the lot line.

BULK REGULATIONS shall mean regulations controlling the size and relationship 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 yard and setbacks.

BULKY WASTE shall mean discarded or stored inoperative household appliances, disused furniture, disused equipment, junk lumber and other building debris, parts of machinery and equipment, and similar waste not ordinarily collected with compactor equipment; provided that bulky waste shall not mean abandoned or inoperable vehicles in whole or in part.

BUSINESS shall mean activities that include the exchange or manufacture of goods or services on a site.

BUSINESS CENTER shall mean a building containing more than one commercial business, or any group of nonresidential buildings within a common development, characterized by shared parking and access.

BUSINESS SERVICES shall mean uses providing services to people, groups, businesses, dwellings and other buildings. Business services shall include janitorial services, carpet and upholstery cleaning, painting and decorating, building maintenance, swimming pool maintenance, security service, graphics/advertising agency, photocopying/duplication, quick print shops, printing, blueprinting, sign painting, non-vehicle equipment rental, photographic studios.

BUSINESS SUPPORT SERVICES shall mean establishments or places of business primarily engaged in the sale, rental or repair of equipment, supplies and materials or the provision of services used by office, professional and service establishments to the firms themselves but excluding automotive, construction and farm equipment; or engaged in the provision of maintenance or custodial services to businesses. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms, janitorial services, photography studios, and convenience printing and copying.

C

CAMP shall mean any plot, including its area of land and/or water, on which are located cabins, shelters, houseboats or other accommodations of the design or character suitable for seasonal or other more or less temporary living purposes; but not including a day camp, trailer camp, rooming house, tourist home, hotel, summer colony, hospital, place of detention, school of general instruction, or nursery school.

CAMPER shall mean any coach, cabin, house trailer, house car or other vehicle or structure intended for or capable of temporary occupancy as living and sleeping quarters as is primarily required during camping or vacation travels. Such facility has characteristics similar to a mobile home in that it can be conveyed on the streets. However, in no way is it intended to become a residence.

CAMPING TRAILER See Camper.

CAMPGROUND shall mean a parcel of land intended for the temporary occupancy of tents, campers, and major recreational vehicles for which the primary purpose is recreational, and having open areas that are natural in character.

CAR WASH shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles.

CARPORT shall mean a permanent roofed structure with not more than two enclosed sides used or intended to be used for automobile shelter and storage.

CELLAR shall mean a building space having less than one-half of its height below the average adjoining grade lines.

CENTRALIZED SEWER shall mean a private central sewer treatment facility for a single subdivision, community, or region with an accompanying collection network. Such system must comply with all requirements of the Nemaha County Sanitation Code and the KDHE.

CENTRALIZED WATER shall mean a private water supply system established by an individual or developer for the purpose of serving two or more buildings, structures and/or uses. Such system must comply with all requirements of the Nemaha County Sanitation Code and the KDHE.

CEMETERY shall mean land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbariums, crematoriums, and mausoleums.

CERTIFICATE OF OCCUPANCY shall mean an official certificate issued by the Building Official or his/her designee, upon finding of conformance with the zoning regulations and other applicable ordinances of the City and authorizing legal use of the premises for which it is issued.

CHANNEL shall mean the geographical area located within either the natural or the artificial banks of a watercourse or drainageway.

CHARITABLE shall mean a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals.

CHILD CARE CENTER shall mean a facility licensed by the State of Kansas to provide for the care of 13 or more children from two weeks to 16 years of age, and which is maintained for less than 24-hours per day.

CHURCH shall mean an establishment, the principal purpose of which is religious worship, but which may include such accessory uses in the main structure or in separate buildings, as Sunday School rooms, private schools, child care, assembly rooms, kitchen, recreational facilities and/or library.

CHURCH, STOREFRONT shall mean a religious facility contained within a store or similar structure not typically used for religious activities that are now used as a meeting place for a congregation, including but not limited to, barns, stores, warehouses, old public buildings, and single-family dwellings.

CITY shall mean the City of Sabetha, Kansas. Also, "City Commission" or "Governing Body."

CITY ADMINISTRATION shall mean the City Official assigned the responsibility to provide administrative assistance in administering these and other ordinances and regulations. This includes all administrative responsibilities normally covered by engineering and other technical services associated with these Regulations.

CITY ATTORNEY shall mean the City Attorney of the City of Sabetha or his/her authorized deputy, agent or representative.

CITY COMMISSION shall mean the City Commission of Sabetha, Kansas.

CITY ENGINEER shall mean the City Engineer as hired or appointed by the Mayor, City Commission and City Commission or his/her authorized deputy, agent or representative.

CITY LIMITS shall mean the established corporate boundary of the City of Sabetha.

CLEAN RUBBLE shall mean inert uncontaminated construction and demolition waste which includes concrete and concrete products, reinforcing steel, asphalt pavement, brick, soil or rock.

CLEAR VIEW ZONE See Sight Triangle.

CLINIC shall mean an office building or a group of offices for one or more professionals licensed to practice by the State Board of Healing Arts or subsequent agency, engaged in treatment of the sick or injured, which are not lodged overnight.

CLUB shall mean buildings and facilities owned or operated by a corporation, association, person or persons for social, educational, or recreational purposes, but not primarily for profit which insures to any individual and not primarily to render a service which is customarily carried on as a business.

CLUB, MEMBERSHIP shall mean membership clubs, including private clubs, as defined by K.S.A. 41-2601 et seq and succeeding amendments, including but not limited to such clubs as the American Legion, VFW, and the Elks.

CLUSTERED DEVELOPMENT shall mean a development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

CODE shall mean the Municipal Code of the City of Sabetha, Kansas.

COFFEE KIOSK shall mean a retail food business in a freestanding building that sells coffee, or other nonalcoholic beverages, and pre-made bakery goods from a drive-through window to customers seated in their automobiles for consumption off the premises and that provides no indoor or outdoor seating.

COMMISSION shall mean the Planning Commission of Sabetha, Kansas.

COMMON AREA OR PROPERTY shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the Owners of the individual building sites in a Planned Development or condominium development.

COMMON DEVELOPMENT shall mean a development proposed and planned as one unified project not separated by a public street or alley.

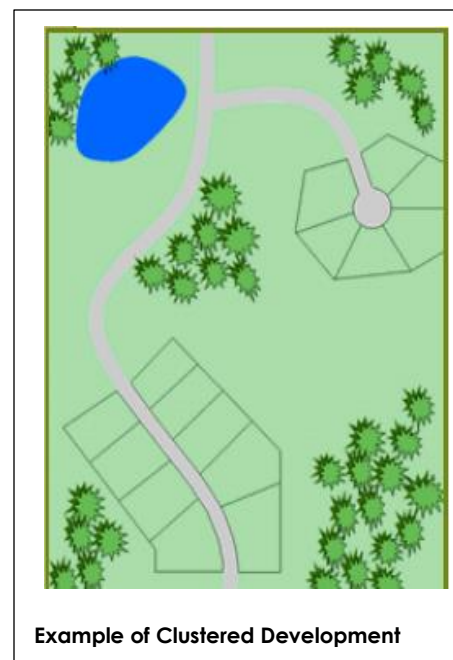
COMMON OPEN SPACE shall mean a parcel of land or an area of water, or combination of both land and water within a site classified as a Planned Unit Development (PUD) District, designed and intended for the use and enjoyment of the residents of the PUD District. Common open space does not include streets, alleys, parks, off-street parking or loading areas, public open space, or other facilities dedicated by the developer for public use. Common open space may contain such improvements as are approved as a part of the general development plan and are appropriate for the recreation of the residents of the district.

COMMUNICATION SERVICES shall mean establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as Utilities. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities.

COMMUNITY CENTER shall mean a place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.

COMPATIBILITY shall mean harmony in the appearance of two or more external design features in the same vicinity.

COMPATIBLE USE shall mean the degree to which two or more different land use types are able to exist together in close proximity, with no one use having significant negative effects on any other use.



COMPREHENSIVE PLAN shall mean the Comprehensive Plan of the City of Sabetha, Kansas as adopted by the City, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements of the residents of the City of Sabetha and its planning and zoning jurisdiction.

CONDITIONAL USE shall mean a use where allowed by the district regulations, that may not be appropriate throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relationship to the neighborhood or other minimal protective characteristics will not be detrimental to the public health, safety, and general welfare.

CONDITIONAL USE PERMIT shall mean the documentary evidence of authority granted by the City Commission in accordance with these regulations which allows establishment of a Conditional Use at a particular location.

CONDOMINIUM shall mean a building containing two (2) or more dwelling units which are designed and intended to be separately owned in fee under the Townhouse Ownership Act (K.S.A. 58-3710 et seq) of the State of Kansas.

CONFLICTING LAND USE shall mean the use of property which transfers over neighboring property lines negative economic or environmental effects, including, but not limited to, noise, vibration, odor, dust, glare, smoke, pollution, and water vapor, or consists of mismatched land uses, density, height, mass, or layout of adjacent uses, or results in a loss of privacy.

CONFINED ANIMAL FEEDING OPERATION shall mean any lot, pen, pool and/or pond which is used for the confined feeding of animals or fowl for food, fur or pleasure which is not normally used for raising crops and in which no vegetation intended for animal food is growing. For purposes of these Regulations, a confined animal feeding operation shall be those operations with a minimum of 1,000 animal units as measured by standards established by the State of Kansas. Further, for the purposes of these regulations, the term confined animal feeding operation shall include stockyards and feedlots.

CONGREGATE HOUSING shall mean any structure occupied by five or more persons not all related by blood, marriage, adoption, or guardianship, living together as a single housekeeping unit.

CONSERVATION shall mean the management of natural resources to prevent waste, destruction, or degradation.

CONSERVATION AREA shall mean an area of environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in the case of an overriding public interest, including but not limited to: wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness.

CONSERVATION DEVELOPMENT shall mean a development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

CONSERVATION EASEMENT shall mean an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses or preserving the ability said land to be used for specific purposes such as on site wastewater treatment systems.

CONSERVATION SUBDIVISION shall mean wholly or in majority, a residential subdivision that permits a reduction in lot area, setback, or other site development regulations, provided 1) there is no increase in the overall density permitted for a conventional subdivision in a given zoning district, and 2) the remaining land area is used for common space.

CONSTRUCTION BATCH PLANT shall mean a temporary demountable facility used for the manufacturing of cement, concrete, asphalt, or other paving materials intended for specific construction projects.

CONSTRUCTION/DEMOLITION LANDFILL shall mean a permitted solid waste disposal area used exclusively for the disposal on land of construction and/or demolition waste.

CONSTRUCTION/DEMOLITION WASTE shall mean waste building materials and rubble resulting from construction, remodeling, repair or demolition operations, but not clean rubble or asbestos.

CONSTRUCTION YARDS shall mean establishments housing facilities of businesses primarily engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical uses are building contractor's yards.

CONVALESCENT SERVICES shall mean a use providing bed care and inpatient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease. Typical uses include nursing homes.

CONVENIENCE STORE shall mean a one-story, retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). A convenience store may also include the sale of self-service automotive fuels. It is designed to attract, and depends upon, a large volume of stop-and-go traffic.



Creative/Conservation Subdivision
Source: Google Earth



Convenience Store



Conventional Subdivision
Source: Google Earth

CONVENTIONAL SUBDIVISION shall mean a subdivision which literally meets all nominal standards of the Subdivision Regulations for lot dimensions, setbacks, street frontage, and other site development regulations.

CONTIGUOUS see Abut.

CORPORATE LIMITS shall mean all land, structures and open space that has been annexed into the Village's jurisdiction. This does not include the extraterritorial jurisdiction of the City.

COURT shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and bounded on two or more sides by such building or buildings.

COURT, INNER shall mean a court enclosed on all sides by the exterior walls of a building or buildings.

COURT, OUTER shall mean a court enclosed on all but one side by exterior walls of building or buildings or lot lines on which fences, hedges, or walls are permitted.

COURTYARD shall mean an open, unoccupied space, bounded on two or more sides by the walls of the building.

COUNTY HEALTH OFFICER shall mean the Director of the Nemaha County Community Health Services or such person designated to administer the health regulations of Nemaha County.

CREATIVE SUBDIVISION shall mean a subdivision that, while complying with the Subdivision Ordinance, diverges from nominal compliance with site development regulations in the Land Development Ordinance. Creative subdivisions imply a higher level of pre-planning than conventional subdivisions. They may be employed for the purpose of environmental protection or the creation of superior community design. Types of Creative Subdivisions include Cluster Subdivisions and New Urban Residential Districts.

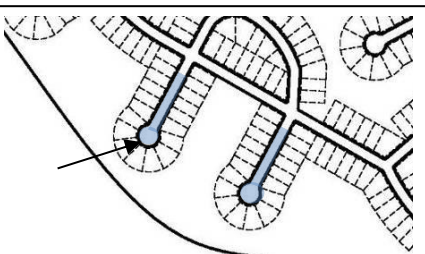
CROP PRODUCTION shall mean the raising and harvesting of tree crops, row crops for field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.

CURB LEVEL shall mean the officially established grade of the curb in front of the mid-point of the lot. In the case of corner lots, as defined in this section, the curb level shall be the mean elevation.

CUL-DE-SAC shall mean a short public way, which has only one outlet for vehicular traffic and terminates in a vehicular turn-around.

CULTURAL SERVICES shall mean a library, museum, or similar registered nonprofit organizational use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

CURVE LOT see Lot, Curve.



Cul-de-sac

D

DATE OF SUBSTANTIAL COMPLETION shall mean the date certified by the local Zoning Administrator when the work, or a designated portion thereof is sufficiently complete, so the owner may occupy the work or designated portion thereof for the use for which it is intended.

DAY CARE CENTER shall mean an establishment that provides care, protection and supervision for individuals on a regular basis away from their primary residence for less than 24 hours per day. The term does not include the following: (a) kindergartens or nursery schools or other daytime programs operated by public or private elementary or secondary schools or institutions of higher learning; (b) facilities operated in connection with a shopping center or other principal activity, where individuals are cared for temporarily while parents or custodians are occupied on the premises, or are in the immediate vicinity and readily available; or (c) special activity programs, including athletics, crafts instruction and similar activities conducted on a periodic basis by civic, charitable and governmental organizations.

DAY CARE HOME shall mean a facility licensed by the State of Kansas to provide for the care of not more than 10 children under 14 years of ages, not more than six of whom are under kindergarten age, between the hours of 6:00 a.m. and 9:00 p.m. This term is further construed to include similar units operated under other names.

DAY CARE HOME, REGISTERED FAMILY shall mean a home within a providers own residence in which care is provided by the applicant for not more than six children from birth to 16 years of age with not more than three children under 18 months of age. All children under 12 years of age related to the provider are included in the total. In addition, there are specific criteria for meeting this definition as administered by KDHE.

DECIDUOUS SCREEN shall mean landscape material consisting of plants which lose their leaves in winter and eventually will grow and be maintained at six feet in height, at least.

DECK shall mean a flat, floored, roofless structure. Roofless does not include a roll-out awning or a canopy provided that all the vertical sides, other than the residential structure are open.

DENSITY shall mean the number of dwelling units per gross acre of land.

DENTENTION BASIN shall mean a facility for the temporary storage of stormwater runoff.

DENTENTION FACILITY shall mean a publicly or privately operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.

DEVELOPER shall mean any person, corporation, partnership, or entity that is responsible for any undertaking that requires a building or zoning permit, conditional use permit or sign permit.

DEVELOPMENT shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required.

DEVELOPMENT CONCEPT PLAN see Site Plan.

DEVELOPMENT REVIEW shall mean the review, by the City, of subdivision plats, site plans, rezoning requests, or permit review.

DISTANCE shall mean horizontal distances unless otherwise noted.

DISTRICT OR ZONE shall mean a section or sections of the Zoning Area for which uniform regulations governing the use of land, the height, use, area, size, and intensity of use of buildings, land, and open spaces are established.

DOG shall mean any canine species over six months of age.

DOG KENNEL see Kennel, Boarding or Training, and Kennel, Commercial.

DOMESTIC ANIMALS see Household Pet.

DOWNZONING shall mean a change in zoning classification of land to a less intensive or more restrictive district, such as from commercial district to residential district or from a multiple family residential district to single family residential district.

DRAINAGEWAY shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks; provided, that when there is doubt as to whether a depression is a watercourse or drainageway, it shall be presumed to be a watercourse.

DRINKING ESTABLISHMENT shall mean a premises, which may be open to the general public, where alcoholic liquor by the individual drink is served.

DRIVE-IN FACILITY shall mean an establishment where customers can be served without leaving the confinement of their vehicle.

DRIVEWAY shall mean any vehicular access to an off-street parking or loading facility.

DUMP shall mean a place used for the disposal, abandonment, discarding by burial, incineration, or by any other means for any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals. Such use shall not involve any industrial or commercial process.

DUPLEX see Dwelling, Two Family.

DWELLING shall mean any building or portion thereof, which is designed and used exclusively for single family residential purposes, excluding mobile homes.

DWELLING, MANUFACTURED HOME shall mean a dwelling unit substantially assembled in an off-site manufacturing facility for installation or assembly at the dwelling site, bearing a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards (24 CFR 3280 et sec) promulgated by the U.S. Department of Housing and Urban Development.

DWELLING MANUFACTURED HOME, RESIDENTIAL-DESIGN shall mean a manufactured home on a permanent foundation which has (A) minimum dimensions of 22 body feet in width, (B) a pitched roof, and (C) siding and roofing materials which are customarily used on site-built homes.

DWELLING, MOBILE HOME shall mean a transportable, factory-built structure designed to be used as a year-round residential dwelling, built prior to enactment of the National Manufactured Home Construction and Safety Standards Act, which became effective June 15, 1976, or which fails to meet this standard.

DWELLING, MODULAR shall mean dwelling structure located on a permanent foundation and connected to public utilities consisting of preselected, prefabricated units or modules, and transported to and/or assembled on the site of its foundation; in contradistinction to a dwelling structure which is custom-built on the site of its permanent location, and also in contradistinction to a manufactured home or a residential-design manufactured home.

DWELLING, MODULAR (HOME SEAL) shall mean a device or insignia issued by the Kansas Department of Health to be displayed on the exterior of the modular housing unit to evidence compliance with departmental standards.

DWELLING, MULTI-FAMILY shall mean a building, or portion thereof, arranged, intended or designed for occupancy by three or four families. As used herein, this may also be referred to as duplex, triplex or quadplex.

DWELLING, SEASONAL shall mean a dwelling designed and used as a temporary residence and occupied less than six months in each year.

DWELLING, SINGLE FAMILY shall mean a building having accommodations for and occupied exclusively by one family. A residential design manufactured home shall be considered a single-family dwelling.

DWELLING, SINGLE FAMILY ATTACHED shall mean a one-family dwelling unit that is attached to one or more additional single-family dwelling. Said dwelling units are separated by an un-pierced common wall(s) (as required by local codes) through the center of the structure that also sits along the property line separating ownership of the structure.

DWELLING, TOWNHOUSE shall mean a one-family dwelling in a row of at least two such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical wall(s).

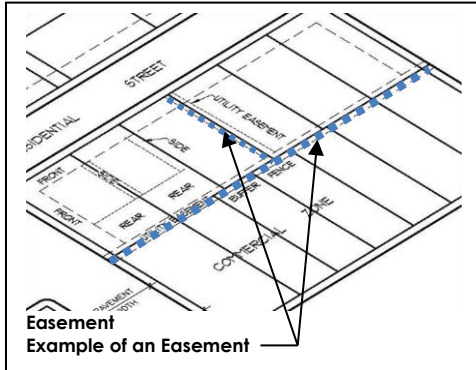


Example of Single-Family Attached

DWELLING, TWO FAMILY shall mean a building designed or used exclusively for the occupancy of two families living independently of each other and having separate kitchen and toilet facilities for each family.

DWELLING UNIT shall mean a building, or part thereof, containing complete housekeeping facilities for one family.

E



EASEMENT shall mean a grant, made by a property owner, to the use of his or her land by the public, a corporation, or persons, for specific purposes, such as access to another property or the construction of utilities, drainage ways or roadways.

EDUCATIONAL INSTITUTION shall mean a public, or private institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, or collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must meet all criteria and standards as established by the Kansas State Board of Education or other respective authority having jurisdiction over the institution.

EFFECTIVE DATE shall mean the date that this chapter shall have been adopted, amended, or the date land areas became subject to the regulations contained in this chapter as a result of such adoption or amendment.

EMERGENCY RESIDENTIAL SERVICES shall mean a facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings.

EMERGENCY SHELTER shall mean a facility providing 24-hour residential care and protection for a period not to exceed 30 days and which provides the resident access to the surrounding community.

ENCROACHMENT shall mean an obstruction or illegal or unauthorized intrusion into a delineated floodway, right-of-way, or adjacent property.

ENLARGEMENT shall mean the expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.

EQUIPMENT RENTAL AND SALES shall mean the sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.

EQUIPMENT REPAIR SERVICES shall mean the Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling, salvage, or body and fender repair services.

ERECTED shall mean constructed upon or moved onto a site.

ESTABLISHED SETBACK shall mean the average setback on each street on which a lot fronts established by three or more buildings; provided, only those properties that are within the same district and within 300 feet on each side of said lot along the same side of the street, but not beyond any intersecting street, are used in determining the established setback.

EVERGREEN OR CONIFEROUS SCREEN shall mean landscape material consisting of plants which retain leaves or needles throughout the year which eventually will grow and be maintained at six feet in height, at least.

EXOTIC BIRDS OR ANIMALS shall mean birds or animals not commonly kept domestically or that are not native to Nemaha or Brown County and/or the United States. Exotic birds or animals includes, but are not limited to, bears, lions, tigers, cougars, wolves, half-breed wolves, and snakes. Birds in the ratite family, llamas and buffalo shall not be considered as exotic birds or animals.

EXPRESSWAY shall mean a street or road that provides fast and efficient movement of large volumes of vehicular traffic between areas and does not provide direct access to property.

EXTRATERRITORIAL JURISDICTION shall mean the area beyond the corporate limits of the City, in which the State has granted the City the power to exercise zoning jurisdiction and building regulations.

F

FABRICATION shall mean that part of manufacturing which relates to stamping, cutting, or otherwise shaping processed materials into objects and may include the assembly of standard component parts, but does not include extracting, refining, or other initial processing of basic new materials. **Factory-Built Home**: A mobile home, manufactured home, or modular home as defined in this Zoning Ordinance.

FAÇADE shall mean the exterior wall of a building exposed to public view from the building's exterior.

FACTORY shall mean a structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.

FAMILY shall mean one or more persons related by blood or marriage or adoption, living together as a single housekeeping unit plus usual domestic servants; or a group of not more than four unrelated persons living together as a single housekeeping unit.

FAMILY DAY CARE HOME shall mean a facility licensed by the State of Kansas to provide children under 18 years of age with food and lodging for less than 24-hours per day. This term is further construed to include similar units with different names.

FARMING shall mean the planting, cultivating, harvesting and storage of grains, hay or plants commonly grown in Kansas with the necessary accessory uses for treating or storing the produce and the feeding of livestock as prescribed hereunder, provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

FARMER'S MARKET shall mean an occasional or periodic market held in an open area or in a structure where groups of sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include secondhand goods) dispensed from booths located on-site.

FEDERAL shall mean the federal government of the United States of America.

FEED LOT shall mean (1) A livestock feedlot, or feed yard, having more than 1,000 head of livestock at one time during the licensed year; or (2) any other livestock feedlot whose operator elects to come under this act.

FENCE shall mean a free-standing structure of metal, masonry, composition of wood or any combination thereof resting on or partially buried in the ground and rising above ground level, and used for confinement, screening or partition purposes.

FENCE, INVISIBLE shall mean an electronic pet containment system that includes the burying of wire and the use of transmitters for complete enclosure of a yard or creating sectional areas within a yard.

FENCE, OPEN shall mean a fence, including gates, which has 50 percent or more of the surface area in open spaces, which affords direct views through the fence.

FENCE, SOLID shall mean any fence, which does not qualify as an open fence.

FINANCIAL SERVICES shall mean the provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on site. Typical uses include banks, savings and loan associations, savings banks, and loan companies.

FIREWORKS, CLASS C shall mean common fireworks and firecrackers sold for consumer use. Consumer fireworks include shells and mortars, multiple tube devices, Roman Candles, rockets, sparklers, firecrackers with no more than 50 milligrams of powder and novelty items such as snakes, airplanes, ground spinners, helicopters, fountains, and party poppers. In general consumer fireworks are: United States Department of Transportation Class C 1.4GUN0336.

FIREWORKS STAND shall mean any tent used for the retail sale of fireworks, on a temporary basis.

FIREWORKS STORAGE shall mean any permanent building and/or structure where fireworks are stored for any portion of a year provided there is no retail sales made from the storage location. Said storage facility may also be used for the delivery and distribution of fireworks on a wholesale basis.

FLOOD shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters, or (2) The unusual and rapid accumulation of runoff of surface waters from any source.

FLOODPLAIN shall mean any land area susceptible to being inundated by water from any source.

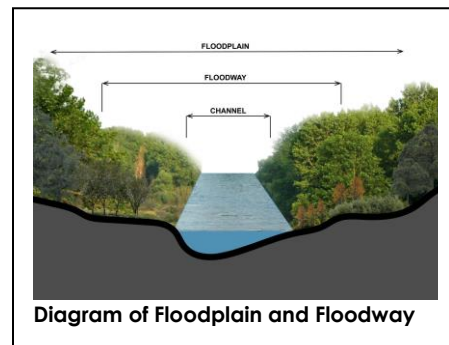
FLOOD PROOFING shall mean any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY shall mean the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FLOOR AREA shall mean the square foot area of all space within the outside line of a wall, including the total area of all floor levels, but excluding porches, garages, or unfinished space in a basement or cellar.

FLOOR AREA RATIO shall mean the floor area ratio of the building or other structure on any lot is determined by dividing the floor area of such building or structure by the area of the lot on which the building or structure is located. When more than one building or structure is located on a lot, then the floor area ratio is determined by dividing the total floor area of all buildings or structures by the area of the lot, or in the case of Planned Unit Developments, by the net site area. The floor area ratio requirements, as set forth under each zoning district, shall determine the maximum floor area allowable for a building or other structure (including both principal and accessory buildings) in direct ratio to the gross area of the lot.

FOOD SALES shall mean establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.





Freestanding Canopy

FOOT CANDLE shall mean a unit of illumination. Technically, the illumination of all points one-foot distance from a uniform point source of one candle power.

FOSTER FAMILY HOME shall mean a private home in which care is given for 24 hours a day for children away from their parent or guardian and which is licensed under K.A.R. 28-4311 et seq.

FOUNDATION shall mean that part of a building or wall, wholly or partly below grade, that constitutes a structural base for such building or wall.

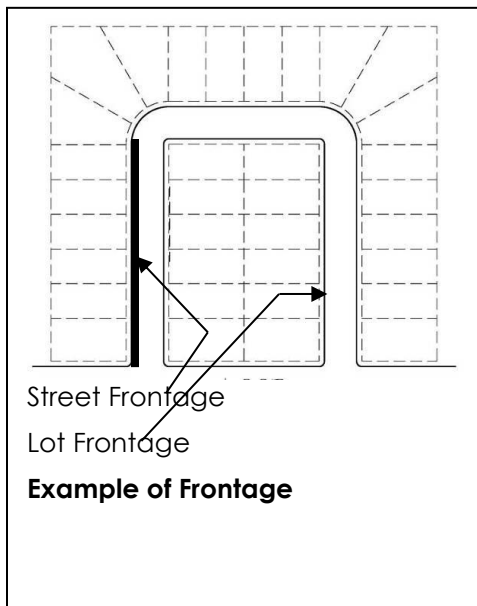
FREESTANDING CANOPY shall mean a permanent, freestanding, unenclosed roof structure, typical of gas stations and financial institutions, designed to provide patrons shelter from the elements.

FREQUENCY shall mean the number of oscillations per second in a sound wave. This is an index of the pitch of the resulting sound.

FRONT shall mean the part or side of any building or structure facing the street or frontage road which is used as the basis for establishing the permanent address for the building or structure.

FRONTAGE shall mean that portion of a parcel of property that abuts a dedicated public street or highway.

FUNERAL HOME/MORTUARY shall mean a building used for the storage, preparation, and display of the deceased and for the performance of rituals and ceremonies connected therewith before burial or cremation. Crematoriums are permitted as an accessory use to a funeral home/mortuary providing they are licensed by the Board of Mortuary Science Examiners and have received an establishment permit to operate, required by the State of Kansas and meet all federal regulations.



G

GARAGE, PRIVATE shall mean an enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein, nor space therein for more than one car is leased to a nonresident of the premises. Also see Carport.

GARAGE, PUBLIC shall mean any garage that is not a private garage, and which is used for storage, repair, rental, servicing or supplying of gasoline or oil to motor vehicles.

GARAGE, REPAIR shall mean 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. Also, see Service Station.

GARBAGE shall mean any waste food material of an animal or vegetable nature, including that which may be used for the fattening of livestock.

GENERAL OFFICES shall mean the Use of a site for business, professional, or administrative offices. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; banks or financial offices; or professional offices.

GOVERNING BODY shall mean the City Commission of the City of Sabetha, Kansas.

GRADE, ESTABLISHED shall mean the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

GREEN BUILDING shall mean structures that incorporate the principles of sustainable design in which the impact of a building on the environment will be minimal over the lifetime of that building. Green buildings incorporate principles of energy and resource efficiency, practical applications of waste reduction and pollution prevention, good indoor air quality and natural light to promote occupant health and productivity, and transportation efficiency in design and construction, during use and reuse. A building shall be considered "green" if it meets the requirements of the most current LEED certification or any other nationally recognized green building certification program.

GREENHOUSE shall mean a building or premises used for growing plants, preparing floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes.

GREENHOUSE, NONCOMMERCIAL shall mean a building constructed primarily of glass, plastic or similar material in which temperature and humidity can be controlled for the cultivation of fruit, herbs, flowers, vegetables or other plants intended for private use and not for sale.

GREENWAY shall mean a parcel or parcels of land, together with the improvements thereon, dedicated as an easement for access and/or recreation; usually a strip of land set-aside for a walkway, bicycle trail, bridle path, or other similar access-way.

GROSS FLOOR AREA shall mean the total enclosed area of all floors of a building, measured to the inside surfaces of the exterior walls. This definition excludes the areas of basements, elevator shafts, airspaces above atriums, and enclosed off-street parking and loading areas serving a principal use.

GROUND COVER shall mean plant material used in landscaping which remains less than 12 inches in height at maturity.

GROUNDWATER shall mean water naturally occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.

GROUP HOME shall mean a residential facility licensed by the state Department of Social and Rehabilitation Services, the Behavioral Service Regulatory Board or the State Board of Healing Arts that is occupied or intended to be occupied by persons with a "disability," as that term is defined in K.S.A. 12-736 as amended, and staff residents, none of whom need be related by blood or marriage.

GROUP DAY CARE HOME shall mean a facility licensed by the State of Kansas for the care of seven to 12 children under 14 years of age, and which is maintained for less than 24 hours per day.

GROUP HOUSING shall mean two or more separate buildings on a lot, each containing one or more dwelling units.

GUEST HOUSE shall mean living quarters within a detached accessory building located on the same premises with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utilities and not rented or otherwise used as a separate dwelling.

GUEST ROOM shall mean a room, which is designed to be occupied by one or more guests for sleeping purposes, having no kitchen facilities, not including dormitories.

H

HALF-STORY shall mean a story under a sloped roof which has the intersection of the roof line and exterior wall face not more than three feet above the floor of such story.

HALFWAY HOUSE shall mean a licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation and counseling are provided to mainstream residents back into society, enabling them to live independently.

HAZARDOUS WASTE shall mean any discarded material, refuse, or waste products, in solid, semisolid, liquid, or gaseous form, that cannot be disposed of through routine waste management techniques because they pose a present or potential threat to human health, or to other living organisms, because of their biological, chemical, or physical properties.

HAZARDOUS WASTE DISPOSAL FACILITY shall mean any facility which meets the requirements as defined in K.S.A. 65-3402, as amended.

HEALTH CLUB shall mean a privately owned facility operated for profit, such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments.

HEDGE shall mean a plant or series of plants, shrubs or other landscape material, so arranged as to form a physical barrier or enclosure.

HOBBY BREEDER PREMISES shall mean any premises where all or part of 3, 4, or 5 litters of dogs or cats, or both, are produced for sale or sold, offered or maintained for sale. This provision applies only if the total number of dogs or cats, or both, sold, offered or maintained for sale is less than 30 individual animals.

HOME OCCUPATION shall mean a business, profession, occupation or trade conducted for gain or support, entirely within a residential building, and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the residential building for dwelling purposes and does not change the character thereof.

HOMEOWNERS ASSOCIATION shall mean a community association, other than a condominium association, which is organized in a development in which individual owners share common interests in open space or facilities. The Homeowners Association usually holds title to reserves, manages and maintains the common area, and enforces certain covenants and restrictions. Condominium Associations differ from Home Owners Associations in that Condominium Associations do not have title to the common property.

HORTICULTURE shall mean the growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses.

HOSPICE shall mean a facility serving as a medical and residential facility for end of life treatment, providing inpatient services and support services for families of the residents and patients.

HOSPITAL shall mean, unless otherwise specified, the term "hospital" shall be deemed to include sanitarium, clinic, rest home, nursing home, convalescent home, home for the aged and any other place for the diagnosis, treatment or other care of human ailments.

HOTEL shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes but is not limited to motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, and motor hotel.

HOUSEHOLD PET shall mean an animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.

I

IMPERVIOUS COVERAGE shall mean the total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of site area. The surface water area of pools is excluded from this definition.

IMPERVIOUS SURFACE shall mean a surface that has been compacted or covered with a layer of material making the surface highly resistant to infiltration by water, such as compacted sand, rock, gravel, or clay and conventionally surfaced streets, roofs, sidewalks, parking lots, and driveways.

INCIDENTAL USE shall mean a use, which is subordinate to the main use of a premise.

INCOMBUSTIBLE shall mean a material which will not ignite nor actively support combustion during an exposure for five minutes to a temperature of 1200 degrees Fahrenheit.

INDUSTRIAL, GENERAL shall mean enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines.

INDUSTRIAL, HEAVY shall mean enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials.

INDUSTRIAL, LIGHT shall mean establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or unenclosed outdoor storage. Typical uses include commercial bakeries, dressed beef processing plants, soft drink bottling, apparel assembly from fabrics, electronics, manufacturing, print shops and publishing houses.

INDUSTRIAL LANDFILL shall mean a permitted solid waste disposal area used exclusively for the disposal on land of industrial solid waste.

INDUSTRIAL PARK shall mean a special or exclusive type of planned industrial area designated and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors. Industrial parks may be promoted or sponsored by private developers, community organizations, or governmental organizations.

INDUSTRIAL SOLID WASTE shall mean non-toxic, non-hazardous solid waste generated from industrial processing and acceptable as material for disposal in an industrial landfill as determined by the Kansas Department of Health and Environment.

INDUSTRIAL USES shall mean the manufacture, fabrication, processing, reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof, and any storage facilities operated in conjunction with an industrial use or for a fee, including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.

INFILL DEVELOPMENT shall mean the construction of a building or structure on a vacant parcel located in a predominantly built up area.

INFILL SITE shall mean any vacant lot, parcel or tract of land within developed areas of the City and where water, sewer, streets, schools, and fire protection have already been constructed or are provided. a predominately built up area.

INFRASTRUCTURE shall mean facilities and services needed to sustain industry, residential, commercial, and all other land-use activities, including water lines, sewer lines, and other utilities, streets and roads, communications, and public facilities such as fire stations, parks, schools, etc.

INOPERABLE MOTOR VEHICLE shall mean any motor vehicle which: (1) Does not have a current state license plate; or, (2) Which is disassembled or wrecked in part or in whole, or is unable to move under its own power; or, (3) is not equipped as required by Kansas State Law for operation upon streets or highways. A vehicle that is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.

INTENSE BURNING A rate of combustion described as a material that burns with a high degree of activity and is consumed rapidly.

INTENSITY shall mean the degree to which land is used referring to the levels of concentration or activity in uses ranging from uses of low intensity being agricultural and residential to uses of highest intensity being heavy industrial uses. High intensity uses are normally uses that generate concentrations of vehicular traffic and daytime population and are less compatible with lower intensity uses.

J

JUNK shall be any old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material. This shall not apply to the storage of agricultural equipment used for parts and repairs primarily for the operations conducted by that equipment owner.

JUNK YARD shall mean any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment result from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. For motor vehicles, see "Automobile Wrecking Yard".

K

KENNEL, BOARDING, or TRAINING shall mean any place, area, building or structure where dogs (including those under one year of age) are boarded, housed, cared for, fed or trained by other than the owner.

KENNEL, BREEDER shall mean any place, area, lot, building or structure where more than four dogs are kept for any purposes.

KENNEL, PRIVATE shall mean an establishment where five or more dogs or cats, or combination thereof, other household pets, or non-farm/non-domestic animals at least four months of age, excluding vicious animals, are raised, bred, or boarded

L

LABORATORY, MEDICAL shall mean an establishment which provides bacteriological, biological, medical, x-ray, pathological and other similar analytical or diagnostic services.

LAGOON shall mean a wastewater treatment facility that is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the KDHE. All lagoons shall have the proper permits approved prior to starting construction.

LANDFILL shall mean a site established for disposing of solid wastes in a manner that minimizes environmental hazards which is operated in accordance with the regulations of the KDHE.

LANDSCAPE shall mean plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.

LANDSCAPED AREA shall mean the area within the boundaries of a given lot, site or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, ground cover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.

1. Perimeter Landscaped Area: Any required landscaped area that adjoins the exterior boundary of a lot, site or common development.
2. Interior Landscaped Area: Any landscaped area within a site exclusive of required perimeter landscaping.

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

LAUNDRY, SELF SERVICE shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.

LEED shall mean a professional credential that means Leadership in Energy and Environmental Design as administered and regulated by the United States Green Building Council.

LEED-ND shall mean a professional credential within the overall LEED program meaning Leadership in Energy and Environmental Design – Neighborhood Design as administered and regulated by United States Green Building Council.

LICENSED MENTAL HEALTH CARE PROVIDER shall mean a person or agency who provides mental health services, and which is licensed under the following regulations of the State of Kansas:

1. The Department of Social and Rehabilitation Services pursuant to K.S.A. 75-3307b or 65-425 et. seq., and amendments thereto; or
2. The Behavioral Sciences Regulatory Board pursuant to K.S.A. 75-5346 et. seq. or 74-5301 et. seq., and amendments thereto; or
3. The State Board of Healing Arts pursuant to K.S.A. 65-2801 et. seq., and amendments thereto.

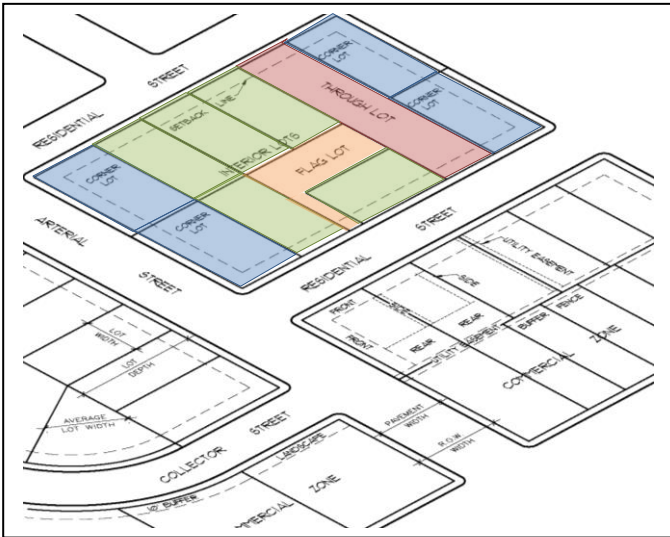
LIFE CARE FACILITY shall mean a facility for the transitional residency of the elderly and/or disabled persons, progressing from independent living to congregate apartment living where residents share common meals, culminating in full health, and continuing care nursing home facility. Also, see Congregate Housing.

LIMITS OF GRADING shall mean the outermost edge of the area in which the existing topography is to be altered by cutting and/or filling.

LIQUOR SALES shall mean establishments or places of business engaged in retail sale for off-premises consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off-site consumption.

LIVESTOCK SALES YARD shall mean the use of a site for the temporary confinement and exchange or sale of livestock. Typical uses include sale barns.

LOADING AREA/SPACE shall mean an off-street space or berth on the same lot with a main building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which abuts a street, alley, or other appropriate means of ingress and egress.



LOT shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon an improved street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the Regulation, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the Nemaha County Register of Deeds and abutting at least one improved public street or right-of-way, two thoroughfare easements, or one improved private road.

LOT, CORNER shall mean a lot located at the intersection of two or more streets at an angle of not more than 135 degrees. If the angle is greater than 135 degrees, the lot shall be considered an "Interior Lot". The setbacks for a front yard shall be met on all abutting streets.

LOT, DOUBLE FRONTAGE, or THROUGH shall mean a lot having a frontage on two non-intersecting streets as distinguished from a corner lot.

LOT, FLAG shall mean an interior lot, the majority of which has frontage and access provided by means of a narrow corridor.

LOT, INTERIOR shall mean a lot other than a corner lot.

LOT AREA shall mean the total area, on a horizontal plane, within the lot lines of a lot.

LOT COVERAGE shall mean the portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether said building or structure is intended for human occupancy or not.

LOT DEPTH shall mean the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

LOT FRONTAGE shall mean the side of a lot abutting on a legally accessible street right-of-way other than an alley or an improved county road. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.

LOT LINE shall mean the property line bounding a lot.

LOT LINE, FRONT shall mean the property line abutting a street.

LOT LINE, REAR shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.

LOT LINE, SIDE shall mean any lot line not a front lot line or rear lot line.

LOT OF RECORD shall mean a lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds of Nemaha County or a lot described by metes-and-bounds, the description which has been recorded in the office of the Register of Deeds, both of which were prior to the adoption of these Regulations.

LOT WIDTH shall mean the average horizontal distance between the side lot line, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

M

MANUFACTURE shall mean any method of processing, developing, fabricating, or assembling; either raw materials, semi-finished materials, or parts into a semi-finished or finished product.

MANUFACTURED HOME see Dwelling, Manufactured Home.

MANUFACTURED HOME CERTIFIED shall mean a structure consisting of one or more mobile components manufactured to the standards embodied in the federal Manufactured Home Construction and Safety Standards Act generally known as the HUD Code, established pursuant to 42 U.S.C. 5403. Such structure shall have been constructed after June 15, 1976. 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 regulations. For purposes of these regulations, the term "manufactured home," when used by itself, shall not include a "residential-design manufactured home" as defined in these regulations.

MANUFACTURED HOME, NON-CERTIFIED shall mean a manufactured home as defined above that has not been certified as meeting the federal Manufactured Home Construction and Safety Standards Act established pursuant to 42 USC 5403.

MANUFACTURED HOME ACCESSORY BUILDING OR STRUCTURE shall mean a subordinate building or structure which is an addition to or supplements a manufactured home such as awnings, cabanas, storage structures, carports, porches, fences, skirting, or windbreaks.

MANUFACTURED HOME LOT shall mean a plot of ground within a manufactured home subdivision for the placement of one manufactured home for single family occupancy and the exclusive use of its occupants and which provides the necessary utility services for water, sewage and electricity.

MANUFACTURED HOME PAD shall mean that portion of an individual lot on which the manufactured home unit and any attached structure is placed.

MANUFACTURED HOME PARK shall mean an area, parcel, tract, or plot of ground equipped as required for support of manufactured homes and used or intended to be used by two or more occupied manufactured homes, provided the manufactured home spaces shall not be sold or offered for sale individually. The term "manufactured home park" does not include sale lots on which unoccupied manufactured homes, whether new or used, are parked for the purpose of storage, inspection or sale.

MANUFACTURED HOME PARK PERMIT shall mean a written document of certification issued by the Zoning Administrator permitting the construction, alteration or extension of a manufactured home park.

MANUFACTURED HOME SALES AREA shall mean an open area, other than a street, used for display or sale of new or used manufactured homes and where no repair work is performed except minor incidental repair of manufactured homes to be displayed and sold on the premises.

MANUFACTURED HOME, RESIDENTIAL DESIGN shall mean a manufactured home on a permanent foundation which meets the construction and design standards of the City of Sabetha. A residential design manufactured home shall be used only for a single-family dwelling and shall meet the following criteria:

1. The home shall have no less than 600 square feet of floor area, above grade, for single story construction.
2. The home shall have no less than a 22-foot exterior width.
3. The roof shall be pitched with a minimum vertical rise of two and one-half inches for each 12 inches of horizontal run.
4. The exterior material is of a color, material and scale comparable with those existing in residential site-built, single family construction.
5. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or is a standing seam residential grade steel material, or rock.
6. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
7. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
8. Permanent foundation: continuous perimeter base on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42 inches below the final ground level.

MANUFACTURED HOME SKIRTING shall mean the enclosing of the area between the manufactured home and the ground with a material designed to obscure from view the chassis of a manufactured home.

MANUFACTURED HOME SUBDIVISION shall mean a subdivision that is platted for development as individual home sites for manufactured homes, modular homes, residential-design manufactured homes and site-built single-family dwellings, all of which are required to be placed on permanent foundations.

MANUFACTURED HOME UNIT, DOUBLE WIDE shall mean a manufactured home which does not meet the designated standards of the City of Sabetha for residential designed manufactured homes.

MANUFACTURED HOME UNIT, SINGLE WIDE shall mean a manufactured home which measures less than twenty-two feet in width when affixed to the manufactured home pad.

MANUFACTURING shall mean the mechanical or chemical transformation of materials or substances into new products. Manufacturing uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Assembling component parts of manufactured products is also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.

MANUFACTURING, CUSTOM shall mean an establishment primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving:

1. The use of hand tools, or
2. The use of domestic mechanical equipment not exceeding 2 horsepower, or
3. A single kiln not exceeding 8 KW or equivalent.

This category also includes the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, custom jewelry manufacturing, and candle making shops.

MASSAGE PARLOR shall mean an establishment other than a regularly licensed and established hospital or dispensary where non-medical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational or physical therapist, chiropractor or osteopath with or without the use of therapeutic, electrical, mechanical, or bathing devices. Also, see Adult Uses.

MASTER FEE SCHEDULE shall mean a fee schedule maintained by the City of Sabetha and passed, and amended periodically, which establishes the required fees to be collected for specific Planning, Zoning, and Subdivision activities.

MECHANICAL EQUIPMENT shall mean equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.

MEDICAL OFFICES shall mean the use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar practitioners licensed for practice in the State of Kansas.

MINI-STORAGE OR MINI-WAREHOUSE see Self-Service Storage Facility.

MISCELLANEOUS STRUCTURES shall mean structures, other than buildings, visible from public ways. Examples are memorials, staging, antennas, water tanks and towers, sheds, shelters, fences, and walls, kennels, and transformers.

MIXED USE shall mean properties where various uses, such as office, commercial, institutional, and residential are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design.

MIXED USE BUILDING shall mean a building or structure that incorporates two or more use types within a single building or structure, provided that each use type is permitted within the individual Base Zoning District in which the building or structure is to be located.

MIXED USE DEVELOPMENT shall mean a single development that incorporates complementary land use types into a single development.

MOBILE FOOD UNIT shall mean a temporary food service establishment that is a vehicle-mounted and is designed to be readily movable.

MOBILE HOME see Dwelling, Mobile Home.

MOBILE HOME PARK shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured or mobile housing used or to be used for dwelling purposes and where manufactured or mobile home spaces are not offered for sale or sold. The terms "manufactured home park" or "mobile home park" do not include sales lots on which new or used manufactured or mobile homes are parked for the purposes of storage, inspection, or sale. The terms "manufactured home park" or "mobile home park" shall include the term "trailer camp", as defined in the Sabetha Code.

MOBILE HOME SUBDIVISION shall mean a parcel of land that has been subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured or mobile homes.

MODERATE BURNING shall mean a rate of combustion described by a material which supports combustion and is consumed slowly as it burns.

MOTEL see Hotel.

MOTOR FREIGHT TERMINAL shall mean a building or area in which freight brought by motor truck is received, assembled or stored and dispatched for routing by motor truck which may include motor truck storage.

MOTOR VEHICLE shall mean every self-propelled land vehicle, not operated upon rails, except self-propelled wheelchairs.

MOTOR VEHICLE GRAVEYARD shall mean any establishment which is maintained, used, or operated for storing, keeping, buying, or selling three or more wrecked, scrapped, ruined, dismantled or inoperative motor vehicles; provided, however, such term shall not include any location where motor vehicle bodies are placed along stream banks for purposes of bank stabilization and soil erosion control, if such placement conforms with guidelines established by the Chief Engineer of the Division of Water Resources of the State Board of Agriculture and has been permitted accordingly.

MOTOR VEHICLE OR AUTOMOBILE REPAIR SHOP shall mean a building, or portion of a building, arranged, intended, or designed to be used for making repairs to motor vehicles and automobiles.

N

NIGHTCLUB shall mean a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided. Also, see Bar.

NONCOMMUNITY WATER SUPPLY SYSTEM shall mean any public water supply system that is not a community water supply system.

NONCONFORMING BUILDINGS, LAND AND/OR USE shall mean the use of a building or land which was lawful at the time this Code became effective but which, because of the passage of this Code, does not conform to the regulations of the district in which it exists.

NONCONFORMING LOT shall mean an unimproved lot which does not comply with the lot size requirements for any permitted use in the district in which it is located.

NONCONFORMING SIGN shall mean a sign that was legally erected prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance.

NONCONFORMING STRUCTURE shall mean a structure which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the structure.

NONCONFORMING USE shall mean any use existing and lawful at the time of adoption of these regulations occupying a building, structure or land but is no longer allowed.

NON-FARM BUILDINGS shall mean all buildings except those buildings utilized for agricultural purposes on a farm.

NOXIOUS MATTER shall mean material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

NUISANCE shall mean anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter.

NURSERY shall mean the use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.

NURSING OR CONVALESCENT HOME shall mean an institution or agency licensed by the State for the reception, board, care or treatment of five or more unrelated individuals, but not including group boarding homes for minors or group homes for adults.

NURSING FACILITY FOR MENTAL HEALTH shall mean any place or facility operating 24 hours a day, seven days a week caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care and special mental health services to compensate for activities of daily living limitations.

O

OCTAVE BAND shall mean a prescribed interval of sound frequencies which classifies sound according to its pitch.

OCTAVE BAND FILTER shall mean an electronic frequency analyzer designed according to standards of the American Standards Association and used in conjunction with a sound level meter to take measurements of sound pressure level in specific octave bands.

ODOROUS MATTER shall mean any material that produces an olfactory response among human beings.

ODOR THRESHOLD shall mean the lowest concentration of odorous matter in air that will produce an olfactory response in a human being.

OFFICE shall mean a building or a portion of a building wherein services are performed involving, primarily, administrative, professional, or clerical operations.

OFFICIAL ZONING DISTRICT MAP shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Sabetha City Commission.

OFF-STREET PARKING AREA shall mean all off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.

OPEN LOTS shall mean pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.

OPEN SPACE shall mean open space designed and intended for use by all residents of a residential area, including publicly dedicated space.

OPEN SPACE, COMMON shall mean a separate and distinct area set aside as open space within or related to a development, and not on individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development. Rights-of-way, private streets, driveways, parking lots or other surfaces designed or intended for vehicular use or required yards shall not be included as common open space.

OUTDOOR ADVERTISING see Advertising Structure and Sign.

OUTDOOR STORAGE shall mean the storage of goods and materials outside of any building or structure, but not including storage of a temporary nature or an emergency nature.

OUTDOOR STORAGE CONTAINERS shall mean an "outdoor storage container" is defined as a fully enclosed, detached, and self-supporting structure, by itself incapable of motion or movement and not exceeding 8 feet in width, 12 feet in height, and 40 feet in length or a total enclosed floor area of 320 square feet. The unit must be manufactured/assembled off-site and transportable, by means other than its own, to a location where it is set into place on a graded surface of concrete, asphalt, or gravel and not upon a foundation or wheels. It shall be made of metal or a similar stable, durable, and acceptable material and shall not include a foundation, electricity, plumbing, or other mechanical systems as part of its assembly or use.

OVERLAY DISTRICT shall mean a district in which additional requirements are imposed upon a use, in conjunction with the underlying zoning district. The original zoning district designation does not change.

OWNER shall mean an individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

P

PACKAGE LIQUOR STORE shall mean an establishment in which alcoholic beverages in original containers are sold for consumption off the premises.

PAINTBALL COURSE shall mean a commercial recreational park containing obstacle courses for the purpose of staging paintball battles. Said facility generally collects a fee, either as membership or on a visit-by-visit basis that allows individuals to participate in paintball activities.

PARCEL shall mean a lot or a contiguous group of lots in single ownership or under single control, which may be considered as a unit for purposes of development.

PARK shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.

PARKING AREA, PRIVATE shall mean an area, other than a street, used for the parking of automotive vehicles capable of moving under their own power and restricted from general public use.

PARKING AREA, PUBLIC shall mean an area, other than a private parking area or street used for the parking of vehicles capable of moving under their own power, either free or for remuneration.

PARKING LOT shall mean an area consisting of one or more parking spaces for motor vehicles together with a driveway connecting the parking area with a street or alley and permitting ingress and egress for motor vehicles.

PARKING SPACE, AUTOMOBILE shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than nine feet by 20 feet, plus such additional area as is necessary to afford adequate ingress and egress.

PARTICULATE MATTER shall mean material other than water which, if suspended in or discharged into the atmosphere, is in a finely divided form as a liquid or solid.

PAVED shall mean permanently surfaced with poured concrete, concrete pavers, or asphalt.

PERFORMANCE GUARANTEE shall mean a financial guarantee to ensure that all improvements, facilities, or work required by this chapter will be completed in compliance with these regulations as well as with approved plans and specifications of a development.

PERMANENT FOUNDATION shall mean a base constructed from either poured concrete or laid masonry rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.

PERMANENT STORAGE shall mean the long-term storage on-site within an accessory building or structure.

PERMITTED USE shall mean any land use allowed without condition within a zoning district.

PERMANENTLY ATTACHED shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent foundation or structural change in such structure in order to relocate it to another site.

PERSON shall mean an individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, City, County, special district or any other group or combination acting as an entity, except that it shall not include Sabetha, Kansas.

PERSONAL SERVICES shall mean uses providing human services exclusively to private individuals as the ultimate consumer. Personal services shall not be limited to but including grocery shopping services, tailoring and alterations, hair salons, spas, nail salons, barber shops, private household services and temporary personal in-home care.

PET SHOP shall mean a retail establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals.

PITCH shall mean the frequency of sound.

PLANNED UNIT DEVELOPMENT (PUD) shall mean a development constructed on a tract of a minimum contiguous size under single ownership, planned and developed as an integral unit, and consisting of a combination of residential and/or non-residential uses on land within a "Planned Unit Development District" in accordance with the provisions of Section 5.19 of these regulations.

PLANNING COMMISSION shall mean the Planning Commission of Sabetha, Kansas.

PLANT MATERIALS shall mean trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs and other such vegetation.

PLAT shall mean a map showing the location, boundaries, and legal description of individual properties.

POLE BUILDING shall mean a structure built with no foundation or footings, using poles embedded directly in the ground as its primary support to hold metal, plastic, fiberglass or wood covering to form the building.

POLICY shall mean a statement or document of the Sabetha, such as the comprehensive plan, that forms the basis for enacting legislation or making decisions.

PORCH, UNENCLOSED shall mean a roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than thirty inches above its floor other than wire screening and a roof with supporting structure.

PREFERRED FREQUENCIES shall mean a set of octave bands described by the band center frequency and standardized by the American Standards Association.

PREMISES shall mean a tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract. A building or land within a prescribed area.

PRESCHOOL shall mean an early childhood program which provides primarily educational services, and the following:

1. Provides learning experiences for children who have not attained the age of eligibility to enter kindergarten as prescribed in K.S.A. 72-1107 and any amendments thereto, and who are 30 months of age or older.
2. Conducts sessions not exceeding three hours per session.
3. Does not enroll any child more than one session per day; and
4. Does not serve a meal.

The term preschool shall include educational preschools, Montessori schools, nursery schools, church sponsored preschools, and cooperatives. A facility may have fewer than 13 children and be licensed as a preschool if the program and facility meet preschool regulations.

PRESERVATION shall mean the act of protecting an area, parcel of land, or structure from being changed or modified from the present character to another that is not representative of a specific period or condition.

PRINCIPAL STRUCTURE shall mean the main building or structure on a lot, within which the main or primary use of the lot or premises is located.

PRINCIPAL USE shall mean the main use of land or structure, as distinguished from an accessory use.

PRIVATE WELL shall mean a well that provides water supply to less than 10 service connections and regularly serves less than 25 individuals daily for at least 60 days per year as defined by K.S.A. 65-162a.

PROFESSIONAL OFFICE shall mean any building used by one or more persons engaged in the practice of law, accounting, architecture, engineering, medicine, or in business as a real estate brokerage, insurance agency or brokerage, or financial planning or stock brokerage, or in any other similar type of occupation for which a governmental license is required.

PROHIBITED USE shall mean any use of land, other than nonconforming, which is not listed as a permitted use, conditional use or accessory use within a zoning district.

PROMOTIONAL DEVICE shall mean any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall be considered a promotional device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe-type ribbons or piping shall be considered as a promotional device.

PROTECTED ZONE shall mean all lands that fall outside the buildable areas of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping strips according to the provisions of the Zoning Regulation.

PUBLIC BUILDING shall mean any building open to the general use, participation or enjoyment of the public or operated for the public's benefit and owned and/or operated by a city, county, state, or federal government, or by a public utility corporation or municipal district or authority.

PUBLIC IMPROVEMENT shall mean any drainage ditch, street, sidewalk, pedestrian way, tree, lawn, off-street parking areas, lot improvement or other facility for which the City may ultimately assume the responsibility for maintenance and operation or which may affect an improvement for which City responsibility is established.

PUBLIC OPEN SPACE shall mean a parcel of land or an area of water, or a combination of land and water dedicated to public use and available for the use and enjoyment of the general public. Public open space does not include streets, alleys or off-street parking or loading area.

PUBLIC SEWER AND WATER SYSTEM shall mean any system, other than an individual septic tank or tile field, or individual well, operated by a municipality or other governmental agency or a public utility, for the disposal of wastes and the furnishing of water.

PUBLIC UTILITY shall mean any business, the purpose of which is to furnish to the general public:

1. Telecommunication Services (telephone, cable TV, etc.)
2. Electricity Service
3. Natural Gas
4. Water
5. Transportation of Persons or Property
6. Solid Waste Disposal
7. Wastewater Collection and Treatment
8. Any other business so affecting the public interest as to be subject to the supervision or regulation by any other agency of the State.

Q

QUARRY shall mean an open pit from which building stone, sand, gravel, mineral, or fill is taken to be processed for commercial purposes.

QUARRY REHABILITATION shall mean providing slopes to be covered with a layer of soil and revegetated where practical. It applies to the rehabilitation of all kinds of sand, gravel, and rock excavations to obtain fill or construction materials and from which no further removal of materials is intended, as well as to resource extraction. Rehabilitation is intended to minimize the hazardous and unsightly nature of abandoned pits, and if practical, to return the area to some productive use.

R

RAILROAD shall mean the land use including the right-of-way abutting railroad properties occupied by uses pertinent to the railroad operation and maintenance, but not including properties owned by the railroad and leased for use by others.

RAILROAD RIGHTS-OF-WAY shall mean a strip of land within which the railroad tracks and auxiliary facilities for track operation are normally located, but not including freight depots or stations, loading platforms, train sheds, warehouses, care or locomotive shops, or car yards.

RECREATION, COMMERCIAL shall mean recreation facilities open to the general public for a fee or restricted to members when operated for profit as a business.

RECREATION, INDOOR shall mean a facility for relaxation, diversion, amusement or entertainment where such activity occurs within a building or structure.

RECREATION, OUTDOOR shall mean a facility for relaxation, diversion, amusement or entertainment in which some or all of the activities occur on the exterior but within the property of the facility.

RECREATION, PRIVATE, NON-COMMERCIAL shall mean clubs or recreation facilities, operated by a non-profit organization and open only to bona fide members of such non-profit organization and their guests.

RECREATIONAL OR SPORTS-RELATED ACTIVITIES OR FACILITIES shall mean any lot, plot, parcel or tract of land and/or water; and/or any building or structure, or combination thereof; planned, intended or designed for recreational use. Said activities and/or facilities shall include, but not be limited to, such things as: athletic fields, ball diamonds, golf courses, golf driving ranges, miniature golf courses, swimming pools, natatoriums, tennis courts, racquetball courts, recreational lakes, marinas, racetracks, drag strips, gun clubs, hunting reserves, sporting clay ranges, private shooting ranges, and all common appurtenant accessory activities and facilities such as lighting, bleachers, and concession stands, etc.

RECREATIONAL EQUIPMENT shall mean an item which is not used in connection with customary accessory residential uses on a lot. Included in the meaning of recreational equipment are such large items as slide-in campers, boat trailers, hang gliders, ski jets, houseboats, pontoons, and boats over fourteen feet in length which require a trailer for transportation.

RECREATIONAL FACILITY shall mean facilities for the use by the public for passive and active recreation including tennis, handball, racquetball, basketball, track and field, jogging, baseball, soccer, skating, swimming, or golf. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean museums, amphitheaters, race tracks (including all motor powered vehicles) and wildlife conservation areas (used for public viewing), and theme parks.

RECREATIONAL VEHICLE (RV) shall mean a recreational vehicle or pleasure vehicle shall mean any motor vehicle or trailer designed and used as a travel trailer, camper, motor home, tent trailer, truck camper, boat, boat trailer, snowmobile, snowmobile trailer, camping trailer or any other motor vehicle or trailer designed and used for living or sleeping while on vacation or other trips of short duration; provided the term trailer shall not include hauling trailers designed and normally used for over the road transporting of belongings, merchandise, livestock and other objects, but not equipped for human habitation.

RECREATIONAL VEHICLE CAMPGROUND shall mean a lot or tract of land designed for occupancy by recreational vehicles for temporary or transient living purposes, including the use of camping spaces for tents.

RECYCLING CENTER shall mean a building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products. The facility is not junkyard.

RECYCLING COLLECTION shall mean a collection point for small refuse items, such as bottles and newspapers, located either in a container or small structure.

RECYCLING PROCESSING shall mean any site which is used for the processing of any postconsumer, nondurable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

REDEVELOPMENT shall mean the act of preserving and/or rehabilitating existing buildings. In extreme cases, a building or structure could be demolished for the purpose of a new use or building.

REMODELING shall mean any change in a structure, other than incidental repairs and normal maintenance, which may prolong its useful life, or the useful life of its supporting members such as foundations; or the construction of any addition to, or enlargement of, a structure; or the removal of any portion of a structure.

REMOTE PARKING shall mean a supply of off-street parking at a location not on the site of a given development.

RENEWABLE ENERGY shall mean energy sources including wind, solar power, biomass, and hydropower, that can be regenerated and that is much less polluting than nuclear or fossil fuels.

RENEWABLE RESOURCE shall mean a natural resource that is able to regenerate, either by itself or with human assistance, over a short to moderate time period, including food crops and trees.

RESIDENCE shall mean a building used, designed, or intended to be used as a home or dwelling place for one or more families.

RESIDENTIAL CENTER shall mean a non-secure facility licensed by the State of Kansas providing residential care for more than 10 persons unrelated to the operator(s).

RESIDENTIAL, MAIN FLOOR COMMERCIAL shall mean any residential living scenario in the rear half of a non-residential use within the Downtown Commercial District.

RESTAURANT shall mean a public eating establishment operated for profit at which the primary function is the preparation and serving of food primarily to persons seated within the building.

RESTAURANT, DRIVE-IN shall mean a restaurant establishment that has the facilities to serve prepared food and/or beverages to customers seated within motor vehicles for consumption either on or off the premises.

RESTAURANT, ENTERTAINMENT shall mean a restaurant establishment where food and drink are prepared, served, and consumed, within a building or structure that integrally includes electronic and mechanical games of skill, simulation, and virtual reality, play areas, video arcades or similar uses, billiards, and other forms of amusement.

RESOURCE EXTRACTION shall mean a use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding the grading and removal of dirt. Typical uses are quarries, borrow pits, sand and gravel operations, mining.

RETAIL SALES shall mean establishments engaged in selling of goods or merchandise to the general public for personal or household consumption.

RETAIL SERVICES shall mean establishments engaged in selling of goods or merchandise including household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel jewelry, fabrics and like items; cameras, photograph services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation).

RETENTION BASIN shall mean a pond, pool, or basin used for the permanent storage of stormwater runoff.

RETIREMENT RESIDENCE shall mean a building or group of buildings which provide residential facilities for more than four residents of at least sixty-two years of age, or households headed by a householder of at least sixty-two years of age. A retirement residence may provide a range of residential building types and may also provide support services to residents, including but not limited to food service, general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement residences may include additional health care supervision or nursing care.

REZONING shall mean an amendment to or change in the zoning regulations either to the text or map or both.

REZONING, PIECEMEAL shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.

RIDING ACADEMY OR STABLES shall mean any structures in which saddle horses are kept, maintained and/or boarded, and in connection with which saddle horses may be rented to the general public or made available to members of a private club. Exercise rings and show rings shall be considered uses accessory to the use of the premises for a riding stable.

RIGHT-OF-WAY shall mean a strip of land, generally linear, occupied or intended to be occupied by a system that conveys people, traffic, fluids, utilities, or energy from one point to another. Rights-of-way may include streets and roads, crosswalks, bicycle paths, recreational trails, railroads or fixed guideway transit, electric transmission lines, gas pipelines, water mains, or sewer mains.

ROAD, PRIVATE shall mean a way, other than driveways, open to vehicular ingress and egress established for the benefit of certain, adjacent properties. Also, see Right-of-way and Street.

ROAD, PUBLIC shall mean all public rights-of-way reserved or dedicated for street or road traffic. Also, see Right-of-Way and Street.

ROOM shall mean an unsubdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.

S

SALVAGE SERVICES shall mean places of business engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms.

SANITARY LANDFILL shall mean a disposal site in which the method of disposing of solid waste and/or industrial solid waste is by landfill, dump or pit and which has a solid waste disposal permit issued under K.S.A. 65-3401 et seq., and amendments thereto.

SANITARY SEWER shall mean a municipal or community sewage disposal system of a type approved by the Kansas Department of Health and Environment.

SANITARY TRANSFER STATION shall mean a collection point for temporary storage of refuse. No processing of refuse would be allowed. The transfer station must be in conformance with the requirements of all State and Federal Agencies.

SATELLITE DISH ANTENNA shall mean a round, parabolic antenna incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, or cone and used to transmit and/or receive radio or electromagnetic waves. Also, see Antenna.

SCHOOL shall mean any building or buildings housing public or private elementary, junior high, high school, college, university, post-graduate, technical or vocational school, offering courses in general instruction at least five days per week and seven months per year.

SCHOOL, BUSINESS OR TRADE shall mean a use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.

SCHOOL, ELEMENTARY, JUNIOR HIGH, or HIGH shall mean public and other non-profit institutions conducting regular academic instruction at kindergarten, elementary, and secondary levels. Such institutions shall offer general academic instruction equivalent to the standards prescribed by the State of Kansas.

SCREENING shall mean a structure or planting that conceals from public view the area behind such structure or planting.

SELF-SERVICE STATION shall mean an establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.

SELF-SERVICE STORAGE FACILITY shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.

SEPARATE OWNERSHIP shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.

SEPTIC SITE shall mean the area bounded by the dimensions required for the proper location of the septic tank system.

SERVICE STATION shall mean buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine overhauls, painting, and body repair.

SETBACK shall mean the minimum distance, as prescribed by this regulation, measured from the edge of the eve or other similar building component located closest to the lot line.

SETBACK LINE, FRONT YARD see Yard, Front

SETBACK LINE, REAR YARD see Yard, Rear

SETBACK LINE, SIDE YARD see Yard, Side

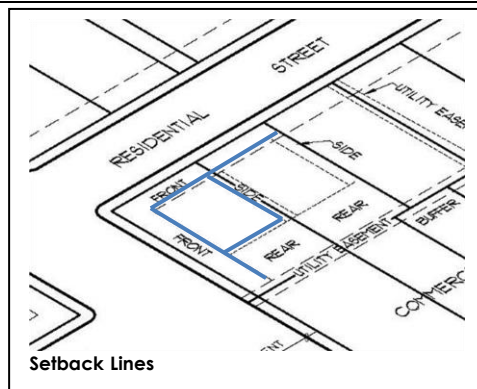
SHRUB shall mean a multi-stemmed woody plant other than a tree.

SIDEWALK CAFE shall mean an area adjacent to a street level eating or drinking establishment located adjacent to the public pedestrian walkway and used exclusively for dining, drinking, and pedestrian circulation. The area shall be separated from the public sidewalk by railings or fencing meeting City requirements.

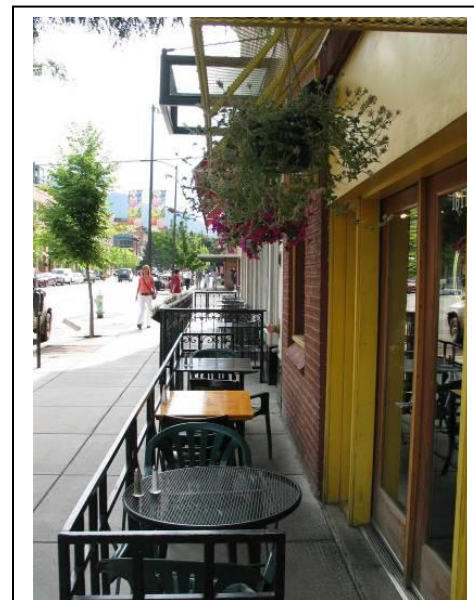
SIGHT TRIANGLE is an area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one-half feet and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets along the centerline of the streets.

SIGN shall mean and include any outdoor sign, display, declaration, device, figure, drawing, illustration, message, placard, poster, billboard, insignia, or other things which are designed, intended, or used for direction, information, identification, or to advertise, to inform, or to promote any business, product activity, service, or any interest, except the following:

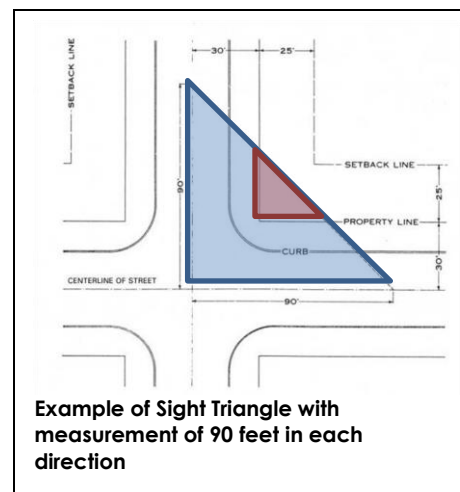
1. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
2. Flags and insignia of any government except when displayed in connection with commercial promotion.
3. Legal notices: Identification, informational, or directional signs erected or required by governmental bodies.
4. Integral decorative or architectural features of buildings, except letter, service marks, trademarks, moving parts, or moving lights.
5. Signs directing and guiding traffic and parking on private property but bearing no advertising matter.



Setback Lines



Example of a Sidewalk Cafe



Example of Sight Triangle with measurement of 90 feet in each direction

SIMILAR USE shall mean the use of land, buildings, or structures of like kind or general nature with other uses within a zoning district as related to bulk, intensity of use, traffic generation and congestion, function, public services requirements, aesthetics or other similarities.

SITE shall mean the parcel of land to be developed or built upon. A site may encompass a single lot; a portion of a lot; or a group of lots developed as a common development under the special and overlay districts provisions of this ordinance.

SITE BREAK shall mean a structural or landscape device used to interrupt long vistas and create visual interest in a site development.

SITE PLAN shall mean a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land.

SKATE, IN-LINE shall mean a boot-type device, which is placed on an individual's feet. In-line skates contain wheels on the bottom of the boot, which are attached in linear fashion.

SKATE PARK shall mean a recreational facility containing skateboard ramps and other obstacle courses and devices for the use with skateboards and in-line skates.

SKATEBOARD shall mean a foot board mounted upon four or more wheels and is usually propelled by the user who sometimes stands, sits, kneels, or lies upon the device while it is in motion.

SKATEBOARD or HALF PIPE shall mean an outdoor structure that is shaped into a half circle or oval that is designed and principally intended to permit persons on skateboards to move continuously from one side to the other.

SKATEBOARD RAMP shall mean an outdoor structure with an upward inclined surface, essentially one of the sides of a pipe, which are designed and principally intended to permit persons on skateboards to move from horizontal to vertical and back to horizontal.

SKILLED NURSING HOME shall mean a facility where services performed by or under the immediate supervision of registered professional nurse and additional licensed nursing personnel. Skilled nursing includes administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions which require substantial nursing judgment and skill based on the knowledge and application of scientific principles. All facilities shall be operated in accordance with the regulations of KDHE.

SLOW BURNING shall mean a rate of combustion which describes materials that do not in themselves constitute an active fuel for the spread of combustion, for example, wood and materials with fire retardant treatments.

SLUDGE shall mean solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.

SMOKE shall mean small gas-borne particles other than water that form a visible plume in the air.

SOLID WASTE shall mean garbage, refuse and other discarded materials including, but not limited to solid, semisolid, sludge, liquid and contained gaseous waste materials resulting from commercial, agricultural and domestic activities. Such term shall not include hazardous wastes.

SOUND LEVEL METER shall mean an instrument for the measurement of sound pressure levels constructed in accordance with the standards of the American Standards Association and calibrated in decibels.

SOUND PRESSURE LEVEL shall mean the intensity of sound or noise in decibels.

SPOT ZONING shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the owner rather than the general welfare. Spot zoning usually results from an upzoning to a more intensive use classification.

STABLE AND/OR RIDING ACADEMIES shall mean the buildings, pens and pasture areas used for the boarding and feeding of horses, llamas, or other equine not owned by the occupants of the premises. This use includes instruction in riding, jumping, and showing or the riding of horses/equine for hire.

STANDARD SYSTEM shall mean a sewage treatment system employing a building sewer, septic tank, and a standard soil absorption system.

STOCKPILING shall mean the accumulation of manure in mounds, piles, or other exposed and non-engineered site locations for storage or holding purposes for a period of not more than one year.

STORAGE shall mean the keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than 30 days.

STORAGE CONTAINER, PORTABLE shall mean any container that can be loaded onto the chassis of a semi-trailer for the purpose of hauling materials and commodities. Portable storage containers are intended to be used as a load on-site and haul-off for storage off-site. Another name for these containers is Portable On Demand Storage.

STORM DRAIN shall mean a conduit that carries natural storm and surface water drainage but not sewage and industrial wastes, other than unpolluted cooling water.



An Example of a Stormwater Management project

STORMWATER DETENTION shall mean any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof.

STORMWATER MANAGEMENT shall mean the collecting, conveyance, channeling, holding, retaining, detaining, infiltrating, diverting, treating, or filtering of surface water, or groundwater, and/or runoff, together with applicable managerial (non-structural) measures.

STORMWATER RETENTION AREA shall mean an area designed by a licensed professional engineer and approved by the City to retain water to control the flow of stormwater.

STORMWATER RUNOFF shall mean surplus surface water generated by rainfall that does not seep into the earth but flows over land to flowing or stagnant bodies of water.

STORY shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.

STORY, HALF shall mean a story under a gable, hip or gambrel roof of which the wall plates on at least two opposite exterior walls are not more than 2 feet above the floor of such story.

STREET shall mean paved or improved area existing on public right-of-way or on private easement (exclusive of sidewalks, driveways, or related uses), and which is used for the conveyance of automobile traffic.

STREET CLASSIFICATION shall mean:

1. Freeway: Inter-regional, high-speed roadways which provide efficient, non-stop travel with little or no property access.
2. Arterial: Heavily trafficked streets which provide limited or restricted access to residential or business properties.
3. Collector: Streets which provide for traffic movement between arterials and local streets, with limited access to residential lots.
4. Local: Streets which provide for local traffic movement and direct access to abutting land, whether in residential, commercial, or industrial areas.

STREET GRADE shall mean the officially established grade of the street upon which a lot fronts or in its absence the established grade of other street upon which the lot abuts, at the midpoint of the frontage of the lot thereon. If there is no officially established grade, the existing grade of the streets at such midpoint shall be taken as the street grade.

STREETLIGHTS shall mean lights installed within the public right-of-way which illuminate public streets and sidewalks.

STREET LINE shall mean the legal line between street right-of-way and abutting property.

STREET, PRIVATE shall mean a right-of way which affords principal access to property abutting thereon which right-of-way is owned, controlled and maintained by persons other than the public.

STREET, PUBLIC shall mean a right-of-way which affords the principal means of vehicular access to property abutting thereon which right-of-way has been dedicated to the public for such use.

STREET, RESIDENTIAL WAY shall mean a right-of-way that serves a maximum of 30 dwelling units or has an average daily traffic of less than 200 vehicles per 24-hour period, shall be so designed to encourage reduced vehicle speed, and may be cul-de-sacs, loop streets or minor cross streets but shall not function as a collector.

STREET CENTERLINE shall mean the centerline of a street right-of-way as established by official surveys.

STREET FRONTAGE shall mean the distance for which a property line adjoins a public street from one property line intersecting said street to the opposite property.

STREET, FRONTAGE ACCESS shall mean a street adjacent to a major street, major inter-regional highway, or major collection road and primarily for service to the abutting properties and being separated from the major street by a dividing strip.

STREET HARDWARE shall mean man-made objects other than buildings that are part of the streetscape. Examples are lamp posts, utility poles, traffic signs, benches, litter containers, planting containers, letter boxes, fire hydrants.

STREETSCAPE shall mean the scene as may be observed along a public street or way composed of natural and man-made components, including buildings, paving, plantings, street hardware, and miscellaneous structures.

STRUCTURE shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.

STRUCTURAL ALTERATION shall mean any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.

SUBDIVISION shall mean the division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes, and bounds description, lease, map, plat, or other instrument.

SURFACE WATERS shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

SURPLUS SALES shall mean businesses engaged in the sale of used or new items, involving regular, periodic outdoor display of merchandise for sale. Typical uses include flea markets and factory outlets or discount businesses with outdoor display.

SWIMMING POOL, PRIVATE shall mean a pool which is an accessory use to a residence and for the exclusive use of the occupants of the residential building and their guests.

T

TANNING STUDIO shall mean any business that uses artificial lighting systems to produce a tan on an individual's body. These facilities may be either a stand-alone business or as an accessory use in spas, gymnasiums, athletic clubs, health clubs, and styling salons. This use is not included with any type of adult establishment.

TATTOO PARLOR/BODY PIERCING STUDIO shall mean an establishment whose principal business activity is the practice of tattooing and/or piercing the body of paying customers.

TAVERN see Bar.

TAXIDERMY SERVICES shall mean an operation conducted solely within an enclosed building to include on-site preparation, stuffing, and mounting of heads and skins of animals. Exterior storage or processing of carcasses or parts of animals shall be prohibited.

TEMPORARY USE shall mean a use intended for limited duration to be located in a zoning district not permitting such use.

TERRACE shall mean a raised earthen embankment with the top leveled. A terrace may be supported by a retaining wall.

THEATER shall mean a building or structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received and limited audience participation or meal service.

TOWER shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. Also, see Antenna.

TOWNHOUSE shall mean a one-family dwelling unit, with a private entrance in a group of three or more units where the unit and land are in the ownership of the same owner, which part of a structure whose dwelling units are attached horizontally in a linear arrangement and having a totally exposed front and rear wall to be used for access, light, and ventilation.

TOXIC MATTER shall mean materials which are capable of causing injury to living organisms by chemical means when present in relatively small amounts.

TRACT shall mean an area or parcel of land, other than a platted lot of record, described and recorded in the Office of the Nemaha County Register of Deeds as a single parcel of land under individual ownership.

TRAILER, AUTOMOBILE shall mean a vehicle without motive power, designed and constructed to travel on the public thoroughfares and to be used for human habitation or for carrying property, including a trailer coach.

TRAILER shall mean a vehicle standing on wheels or on rigid supports which is used for transporting boats or cargo or property.

TRAILER PARK shall mean a tract of tract, lot, or parcel of land upon which temporary accommodations are provided for two or more travel trailers; such park being open to the public either free or for a fee.

TRANSFER STATION shall mean a facility, including land and buildings, used for the handling and processing of solid waste to be bundled, bailed or otherwise packaged for transport to another site for disposal in a solid waste landfill. Transfer station can include material recovery operations, recycling facilities and any other ancillary and/or accessory operation associated with the management of solid waste.

TRANSITIONAL HOUSING shall mean a project is designed to provide housing and appropriate supportive services to homeless persons to facilitate movement to independent living. The housing is short-term, typically less than 24 months. In addition to providing safe housing for those in need, other services are available to help participants become self-sufficient.

TRAILER, TRAVEL shall mean a structure, not to exceed nine feet in width, designed to provide temporary living quarters for recreational, camping or travel use, constructed with integral wheels to make it mobile and/or towable by a motor vehicle.

TREE COVER shall mean an area directly beneath the crown and within the dripline of the tree.

TRUCK REPAIR shall mean the repair, including major mechanical and body work, straightening of body parts, painting, welding, or other work that may include noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations, of trucks having a hauling capacity of over one ton and buses but excluding pickups and other vehicles designed for the transport of under eight passengers.

TRUCK WASH shall mean a mechanical facility for the washing, waxing and vacuuming of heavy trucks and buses.

U

UPPER STORY HOUSING shall be defined as one or more dwelling units located above the first floor where allowed within a commercial district.

UPZONING shall mean a change in zoning classification of land to a more intensive or less restrictive district such as from residential district to commercial district or from a single-family residential district to a multiple family residential district.

USABLE OPEN SPACE shall mean land or water which is free of buildings, structures and/or substantial improvements and which is readily accessible by the public or residents of a residential development. Useable open space does not include streets, alleys, off-street parking or loading areas, roofs, or slopes in excess of 50 percent.

USE shall mean the purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

USE, BEST shall mean the recommended use or uses of land confined in an adopted comprehensive plan. Such use represents the best use of public facilities, and promotes health, safety and general welfare.

USE, CONDITIONAL shall mean a use permitted in a particular zoning district upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in the zoning ordinance and authorized by the approving agency.

USE, HIGHEST shall mean an appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.

USED MATERIALS YARD shall mean any lot or a portion of any lot used for the storage of used materials. This shall not include "Junk Yards" or "Automobile Wrecking Yards".

UTILITARIAN STRUCTURE shall mean a structure or enclosure relating to mechanical or electrical services to a building or development.

UTILITY EASEMENT see Easement

UTILITY HARDWARE shall mean devices such as poles, crossarms, transformers and vaults, gas pressure regulating assemblies, hydrants, and buffalo boxes that are used for water, gas, oil, sewer, and electrical services to a building or a project.

UTILITIES, OVERHEAD OR UNDERGROUND "LOCAL DISTRIBUTION SYSTEM OF" shall mean the local service distribution circuit or lines and related appurtenances served from a substation, town border station, reservoir, or terminal facility which is served from a main supply line, main transmission line, or main feeder line as may be applicable to electric, communications, gas, fuel, petroleum, fertilizer, or other chemical utilities. Local electric distribution systems shall include all lines and appurtenances carrying a primary voltage of less than 161 KV from an electric transformer substation to the consumer. The local telephone distribution system shall be limited to include the local exchange lines, the local toll lines, and the local communications equipment facilities structure.

UTILITIES, OVERHEAD OR UNDERGROUND "TRANSMISSION LINE, SUPPLY LINE, WHOLESALE CARRIER OR TRUNK LINE, MAIN FEEDER LINE", or other applicable designation shall mean the main supply or feeder line serving a local distribution system of utilities, and shall include but is not limited to pumping stations, substations, regulating stations, generator facilities, reservoirs, tank farms, processing facilities, terminal facilities, towers, and relay stations, and treatment plants.

UTILITY SERVICE shall mean any device, including wire, pipe, and conduit, which carries gas, water, electricity, oil and communications into a building or development.

V

VALUE shall mean the estimated cost to replace a structure in kind, based on current replacement costs.

VARIANCE shall mean a relief from or variation of the provisions of this chapter, other than use regulations, as applied to a specific piece of property, as distinct from rezoning.

VEGETATION shall mean trees, shrubs, and vines.

VEHICLE shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved solely by human power or used exclusively upon stationary rails or tracks.

VEHICLE, MOTOR see Motor Vehicle.

VEHICLE STORAGE shall mean storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage.

VEHICLE STORAGE, LONG TERM shall mean storage of operating or non-operating vehicles for a period exceeding 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage.

VENDING MACHINE shall mean any unattended self-service device that, upon insertion of a coin, coins, tokens, debit and/or credit cards or by similar means, dispenses food, beverage, goods, rental materials, wares, merchandise, or services.

VENDING MACHINE, REVERSE shall mean an automated mechanical device that accepts at least one or more types of empty beverage containers, including but not limited to aluminum cans and glass or plastic bottles and that issues a cash refund or a redeemable credit, provided that the entire process is enclosed within the entire machine. A reverse vending machine may be designed to accept more than one container at a time, paying by weight instead of the container.

VETERINARY SERVICES shall mean services and hospitals for animals. Typical uses include pet clinics, dog and cat hospitals, pet cemeteries, and veterinary hospitals for livestock and large animals.

VIBRATION shall mean the periodic displacement measured in inches of the ground.

VIBRATION, FREQUENCY shall mean the number of oscillations per minute of a vibration.

VISUAL OBSTRUCTION shall mean any fence, hedge, tree, shrub, wall or structure exceeding two feet in height, measured from the crown of intersecting or intercepting streets, alleys or driveways, which limit the visibility of persons in motor vehicles on said streets, alleys, or driveways. This does not include trees kept trimmed of branches below a minimum height of eight feet.

W

WAREHOUSE shall mean a building used primarily for the storage of goods and materials.

WAREHOUSE AND DISTRIBUTION shall mean a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.

WAREHOUSING (ENCLOSED) shall mean uses including storage, warehousing, distribution, and handling of goods and materials within enclosed structures. Typical uses include wholesale distributors, storage warehouses, and van and storage companies.

WAREHOUSING (OPEN) shall mean uses including open air storage, distribution, and handling of goods and materials. Typical uses include monument yards, materials yards, open storage.

WASTE TIRE shall mean a whole tire that is no longer suitable for its original intended purpose because of wear, damage or defect, as defined in K.S.A. 65-3424, et seq, and amendments thereto.

WASTE TIRE ABATEMENT shall mean the processing or removing to an approved storage site of waste tires which are creating a danger or nuisance.

WASTE TIRE BENEFICIAL USE shall mean the use or storage of waste tires in a way that creates an on-site economic benefit, other than from processing or recycling to the owner of the tires. This shall not include the disposal of waste tires on the owner's land simply to avoid proper disposal as prescribed by this Ordinance and/or state law.

WASTE TIRE COLLECTION CENTER shall mean a site where used or waste tires are collected from the public prior to being offered for recycling or disposal.

WASTE TIRE PROCESSING FACILITY shall mean a site where equipment is used to cut, burn or otherwise alter whole waste tires so that they are no longer whole.

WASTE TIRE SITE shall mean a site at which 1,000 or more whole tires are accumulated.

WASTEWATER LAGOON see Lagoon.

WATERCOURSE shall mean natural or once naturally flowing water, either perennially or intermittently, including rivers, streams, creeks, and other natural waterways. Includes waterways that have been channelized, but does not include manmade channels, ditches, and underground drainage and sewage systems.

WATERS OF THE STATE shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.

WETLAND shall mean an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soils conditions, commonly known as hydrophytic vegetation.

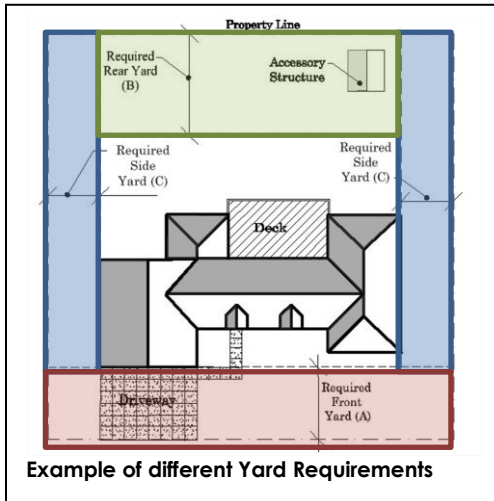
WHOLESALE ESTABLISHMENT shall mean an establishment for the on-premises sales of goods primarily to customers engaged in the business of reselling the goods.

WHOLESALE TRADE shall mean the selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or buyers acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. The principal types of establishments included are: Merchant wholesalers; sales branches and sales offices (but not retail stores) maintained by manufacturing enterprises apart from their plants for the purpose of marketing their products; agents, merchandise or commodity brokers, and commission merchants; petroleum bulk storage, assemblers, buyers, and associations engaged in cooperative marketing of farm products. The chief functions of uses in wholesale trade are selling goods to trading establishments, or to industrial, commercial, institutional, farm and professional; and bringing buyer and seller together. In addition to selling, functions frequently performed by wholesale establishments include maintaining inventories of goods; extending credit; physically assembling, sorting and grading goods in large lots, breaking bulk and redistribution in smaller lots; delivery; refrigeration; and various types of promotion such as advertising and label designing.

WIRELESS COMMUNICATION TOWER shall mean a structure for the transmission or broadcast of cellular, radio, television, radar, or microwaves which exceed the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding 50 feet in height shall not be considered wireless communication towers.

X

Y



YARD shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Regulation.

YARD, FRONT shall mean a space between the front yard setback line and the front lot line or highway setback line and extending the full width of the lot.

YARD, REAR shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.

YARD, SIDE shall mean a space extending from the front yard or from the front lot line where no front yard is required by this Regulation, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.

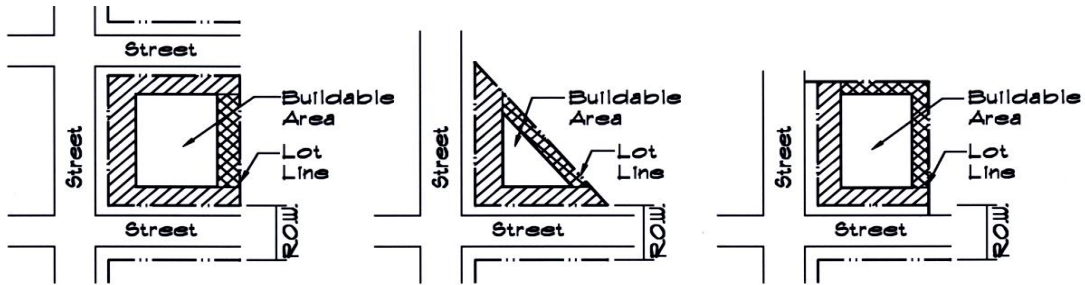
Z

ZONE OR DISTRICT shall mean a section of the zoning area for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land and open space about buildings are herein established.

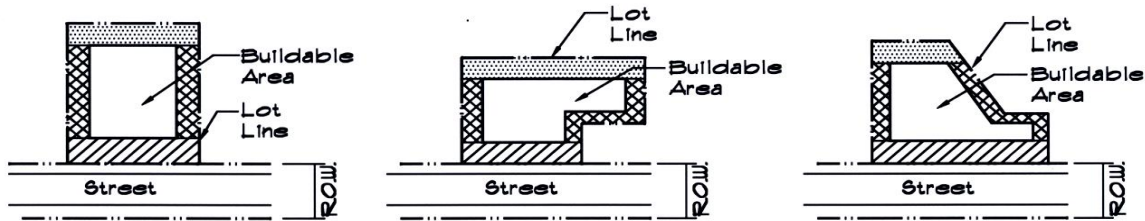
ZONING ADMINISTRATOR shall mean the person or persons authorized and empowered by the City to administer and enforce the requirements of this chapter.

ZONING DISTRICT see District

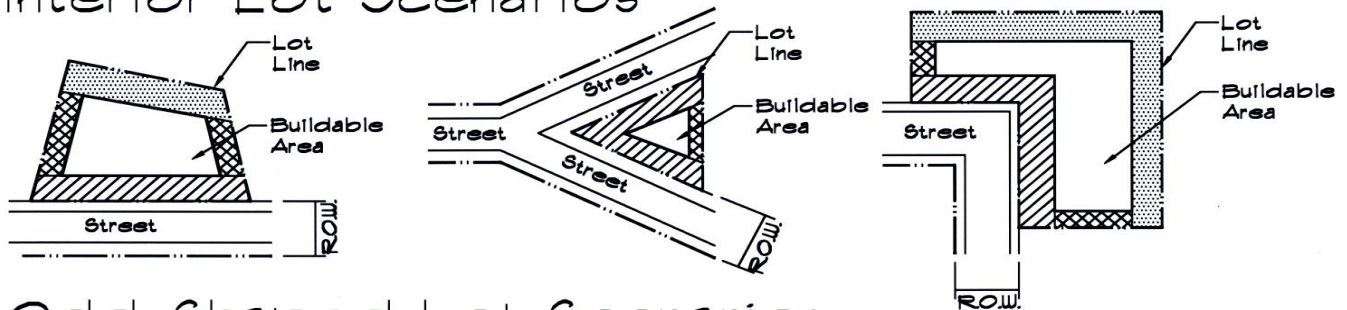
ZONING DISTRICT, CHANGE OF shall mean the legislative act of removing one or more parcels of land from one zoning district and placing them in another zoning district on the zone map of the City.



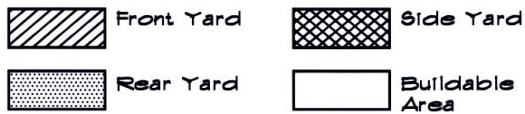
Corner Lot Scenarios



Interior Lot Scenarios



Odd-Shaped Lot Scenarios



Article 3: Districts and Official Map

Section 3.01 Districts

As provided by K.S.A. 12-753 the Sabetha City Commission by adoption of an Ordinance, may provide for the adoption or amendment of zoning regulations in the manner provided by this act. The City Commission may divide the territory subject to its jurisdiction into districts of such number, shape, area and of such different classes, according to the use of land and buildings and the intensity of such use, as may be deemed suited to carry out the purposes of this act. Such regulations may include, but not be limited to, provisions restricting and regulating the height, number of stories and size of buildings; the percentage of each lot that may be occupied; the size of yards, courts and other open spaces; the density of population; the location, use and appearance of buildings, structures and land for residential, commercial, industrial and other purposes; the conservation of natural resources, including agricultural land; and the use of land located in areas designated as flood plains and other areas, including the distance of any buildings and structures from a street or highway. Such regulations shall define the boundaries of zoning districts by description contained therein or by setting out such boundaries upon a map or maps incorporated and published as part of such regulations or by providing for the incorporation by reference in such regulations of an official map or maps upon which such boundaries shall be fixed.

Section 3.02 Provision for Official Zoning Map

- 3.02.01 The City is hereby divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Mayor and attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3.02 of Ordinance No. (____) of the City of Sabetha, Kansas", together with the date of the adoption of this Ordinance. If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Commission.
- 3.02.02 In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Commission may by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor and attested by the City Clerk and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (Ordinance No. (____)) of the City of Sabetha Kansas." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

Article 4: General Provisions

Section 4.01 Provisions of Ordinance Declared to be Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance are in conflict with the provisions of any other ordinance or municipal law, the ordinance or municipal law with the most restrictive provisions shall govern.

Section 4.02 Zoning Affects Every Building and Use

All building or land uses shall hereafter follow the requirements listed below:

1. New Structures – All structures built after the effective date of this ordinance shall comply with all provisions of these zoning regulations. Any structures moved from one site to another, shall comply with all pertinent regulations.
2. Old Structures – If the use of any structure is hereafter changed to another use, then the new use must comply with all district regulations unless stated otherwise herein.
3. Remodeling – If any structure is hereafter remodeled resulting in additional square feet:
 - a. The entire structure as remodeled shall comply with all district regulations.
 - b. Any alterations, enlargements or additions shall comply with the bulk requirements of these regulations.

Section 4.03 Special Lot Requirements

- 4.03.01 Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one principal building on a lot unless otherwise provided.
- 4.03.02 More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if recommended by the Planning Commission and approved by the City Commission.
 1. Institutional buildings
 2. Public or semi-public buildings
 3. Multiple-family dwellings
 4. Commercial or industrial buildings
 5. Home for the aged
 6. Agricultural buildings
 7. Planned Unit Developments
- 4.03.03 In the event a lot is to be occupied by a group of two or more related buildings to be used for residential, school, institutional, hotel, or motel purposes, there may be more than one main building on the lot where such buildings are arranged around a court having a direct street access; provided, however:
 - a. That said court, between buildings that are parallel or within 45 degrees of being parallel, shall have a minimum width of 30 feet for 1-story buildings, 40 feet for 2-story buildings, and 50 feet for 3-story buildings, and, in no case may such buildings be closer to each other than 15 feet;
 - b. Where a court having direct street access is more than 50 percent surrounded by a building, the minimum width of the court shall be at least 20 feet for 1-story buildings, 30 feet for 2-story buildings, and 40 feet for 3-story buildings.
- 4.03.04 Where a lot is used for a commercial or industrial purpose, more than one main building may be located on the lot, but only when such buildings conform to all open space requirements around the lot for the district in which the lot is located.
- 4.03.05 Except as herein provided for accessory buildings and structures, whenever a lot abuts upon a public alley, one-half of the alley width may be considered as a portion of the required yard.
- 4.03.06 *Double Frontage Lots:* The required front yard shall be provided on each street.
- 4.03.07 *Building Groupings:* For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.
- 4.03.08 *Corner Lots:* On corner lots, a front setback shall be provided along the shorter street frontage. A setback of 15 feet shall be provided along the other street frontage.
- 4.03.09 *Front Yards:* When an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.

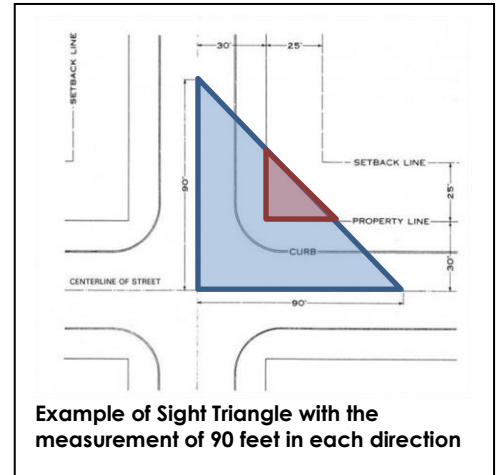
4.03.10 *Side Yards*: The minimum depth of side yards for schools, libraries, churches, community houses, and other public and semi-public buildings in residential districts shall be 24 feet, except where a side yard is adjacent to a business or industrial district, in which case the depth of the yard shall be as required in the district in which the building is located.

Section 4.04 Reductions in Lot Area Prohibited

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

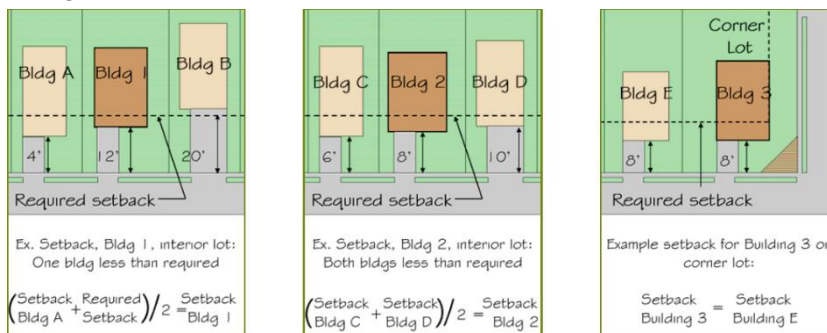
Section 4.05 Obstructions to Vision at Street Intersections Prohibited

On a corner lot, within the area formed by the center line of streets at a distance of 90 feet from their intersections, there shall be no obstruction to vision between a height of two and one-half feet and a height of 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets. At the intersection of major or arterial streets, the 90-foot distance shall be increased to 120 feet for each arterial leg of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall. See "Sight Triangle," as defined in Article 2 of this Ordinance.



Section 4.06 Yard Requirements

- 4.06.01 Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
- 4.06.02 No part of a yard, or other open space, or off-street parking or loading space, required in connection with any building for the purpose of complying with this regulation, shall be included as part of a yard, open space, or off-street parking or loading space required for another building and or lot.
- 4.06.03 No yard or lot existing at the time of passage of this regulation shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this regulation shall meet the minimum requirements herein.
- 4.06.04 All accessory buildings when connected to the principal building (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
- 4.06.05 The Zoning Administrator may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that 1.) More than 24 percent of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this Ordinance, and 2.) A minority of such structures have observed or conformed to an average setback line, see illustration for different provisions:



- 4.06.06 Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than 25 feet and shall contain the owner shall install and maintain landscaping and planting suitable to provide effective screening.
- 4.06.07 Any yard for a commercial or industrial use located within any Commercial or Industrial Zoning District, which is adjacent to any residential use, or district shall be increased to 40 feet and shall contain landscaping and planting suitable to provide effective screening; except in the Downtown Commercial District.

Section 4.07 Drainage

No building, structure, or use shall be erected on any land and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands.

Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the City or their designated agent that such changes will not be a detriment to the neighboring lands.

Section 4.08 Permitted Obstructions in Required Yards

The following shall not be considered to be obstructions when located in the required yards:

4.08.01 All Yards:

- Steps in combination with an accessibility ramps used for wheelchair and other assisting devices which are four feet or less above grade which will not exceed minimum requirements of the Americans with Disabilities Act are necessary for access to a permitted building or for access to a lot from a street or alley;
- Chimneys projecting 24 inches or less into the yard.
- Approved freestanding signs.
- Arbors and trellises.
- Flag poles.
- Window air conditioners projecting not more than 18 inches into the required yard; and
- Fences or walls subject to applicable height restrictions are permitted in all yards.

4.08.02 Rear and Side Yards:

- Playground and other recreational equipment.
- Clothes lines.
- Open off-street parking spaces
- Outside elements of central air conditioning systems.
- Emergency egress systems for basements on an existing structure.
- satellite dish-type antennas
- Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues may project into the required rear yard for a distance of not more than 5 feet, but only where the same are so placed as not to obstruct light and ventilation.

Section 4.09 Accessory Building and Uses

- 4.09.01 No accessory building or structure shall be constructed on a lot without a principal building or structure.
- 4.09.02 In no event shall an accessory building be used as a dwelling.
- 4.09.03 In no event shall a portable storage container be used as permanent storage/accessory building within any residential district.
- 4.09.04 No detached accessory building or structure shall exceed the maximum permitted height allowed in the individual district, unless otherwise provided.
- 4.09.05 No accessory building shall be constructed in the required front yard.
- 4.09.06 Detached accessory buildings or structures shall be located no closer than 10 feet to any other accessory or principal building.
- 4.09.07 Within the R-1, R-2, and R-3 Districts, accessory buildings and structures may be located in a required rear yard; however, no accessory building may be located closer than 5 feet from a rear lot line
- 4.09.08 Accessory buildings and structures shall maintain the same side and front yard setback as required for the principal structure.
- 4.09.09 When a detached garage or other outbuilding is built within the required setback for a principal structure, the principal structure and detached building shall remain as separate structures and maintain the required separation distances found in Section 4.09.06 above.

ARTICLE 4: GENERAL PROVISIONS

4.09.10 When a detached garage has access to an alley, the rear yard setback shall be increased to 10 feet for garages directly accessing the alley from the garage and door is parallel to the alley. Otherwise, it shall be a minimum of five feet.

4.09.11 With the exception of a detached garage, the total of all accessory buildings shall not exceed 15% of the total lot area with the AG-1 and any residential district.

4.09.12 Temporary and portable carports may be allowed in designated zoning districts provided the following criteria shall be met:

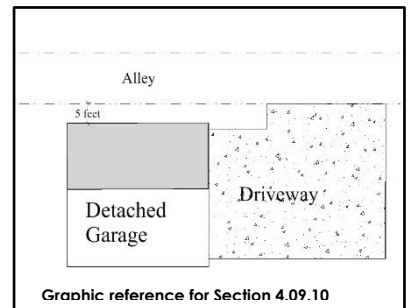
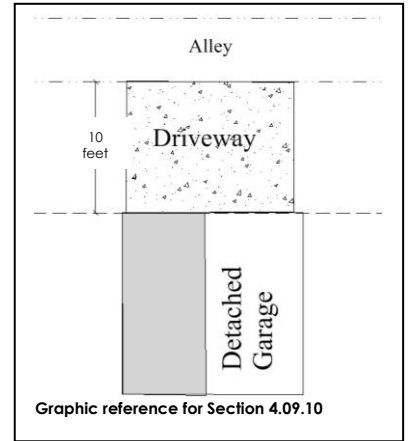
1. The carport shall be anchored to the ground with a permanent footing.
2. Carport shall not be allowed to have more than two sides covered with a siding material.
3. Siding material shall match the style of the primary structure on the lot.
4. Shall meet all minimum setbacks.

4.09.13 Detached private garages and outbuildings in the Residential Districts within the corporate limits of Sabetha for automobiles and/or storage use and other structures customary and appurtenant to the permitted uses and detached accessory garages shall be constructed of materials customarily used in residential construction and meet the following:

1. Be constructed of materials that are in good repair,
2. The sidewalls of said building shall not exceed 10 feet in height, unless a Conditional Use Permit is granted for a taller structure.,
3. Garages shall have an overhang of at least six inches,
4. Garages shall have a maximum width of 36 feet,
5. Maximum square feet of 1,200 square feet, unless a Conditional Use Permit is granted for a larger structure. Garages shall be constructed and finished in materials customary to residential construction.

4.09.14 Regulation of accessory uses shall be as follows:

1. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
2. Filling station pumps and pump islands may occupy the required yards; provided, however, that they are not less than 15 feet from the property line, and further provided that canopies and other similar coverings over the pumps and pump islands shall have at least 14 feet of clearance and shall not project beyond the property line.
3. Storage of any boat, boat trailer, camp trailer, or other vehicle shall not be permitted in any required yard; except that a boat, boat trailer, camp trailer may be placed on rock or concrete surfacing in a side yard or rear yard.
4. Accessory, open and uncovered swimming pools and permanent barbecue grills may occupy a required rear yard, provided they are not located closer than 5 feet to the rear lot line nor closer than 3 feet to a side lot line. No alley may be used in meeting this requirement.
5. Accessory storm shelters which are not a part of the main building may occupy a required rear yard, provided they are not located closer than 5 feet to the rear lot line nor closer than 3 feet to a side lot line. No alley may be used in meeting this requirement.



Section 4.10 Permitted Modifications of Height Regulations

4.10.01 The height limitations of this Ordinance shall not apply to:

Air-Pollution Prevention Devices
Belfries
Chimneys
Church Spires
Conveyors
Cooling Towers
Elevator Bulkheads

Flag Poles
Ornamental Towers and Spires
Public Monuments
Radio/Television Towers less than 125 feet tall
Silos and grain elevators
Smokestacks
Stage Towers or Scenery Lots

Commercial Elevator Penthouses
 Fire Towers
 Web cameras and meteorological equipment

Tanks
 Water Towers and Standpipes

Provided that the appropriate yard setbacks are increased by one foot for every two feet in excess of the maximum height requirement for the given zoning district.

- 4.10.02 When permitted in a district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding 75 feet when each required yard line is increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

Section 4.11 Occupancy of Basements and Cellars

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed, and any required emergency egress requirements of the City of Sabetha have been installed as required per state and life-safety codes.

Section 4.12 Non-Conforming, General Intent

This section addresses the few instances when existing development does not conform to provisions of these Regulations (nonconformities). The continued existence of nonconformities may be inconsistent with the purposes of these Regulations. Therefore, this section provides for the gradual elimination of nonconformities. This section restricts further expansion of nonconforming structures or uses.

4.12.01 Non-Conforming Uses Which May Be Continued:

1. The following lawful non-conforming uses of land may be continued:
 - a. A use of land which existed prior to the effective date of this Zoning Ordinance.
 - b. A use of land existing at the time of the annexation.
 - c. A use of land existing at the time an amendment is made to the Zoning Ordinance which changes such land to a more restricted district or extends the jurisdiction of the Zoning Ordinance to the land use.
2. The lawful use of a building located upon any land, except as provided in Section 4.12.02 below, may be continued although such use does not conform with the provisions of this Zoning Ordinance, and such use may be continued throughout the building if no structural alterations are made therein, except those required by law or ordinance. If no structural alterations are made in such building, a non-conforming use of the building may be changed to another non-conforming use if deemed by the Zoning Administrator to be of a similar non-conforming use or a non-conforming use that is more appropriate to the district. The foregoing provisions shall also apply to any uses of buildings which may be made non-conforming by any subsequent amendment or change of this Zoning Ordinance.
3. 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 non-conforming use.
4. 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 who declares such structure to be unsafe and dangerous and orders its restoration to a safe condition.
5. The property owner shall be responsible for establishing that said nonconformity is a legal nonconformity.

4.12.02 Non-Conforming Uses Which May Not Be Continued:

1. When a non-conforming use is discontinued or abandoned, for a period of 12 consecutive months, such use shall not thereafter be re-established or resumed, and any subsequent use or occupancy of such land shall comply with these Regulations.
2. No use which is accessory to a principal non-conforming use shall continue after such principal use shall cease or terminate.
3. No non-conforming structure 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.

4. Whenever a non-conforming use of building has been changed to a conforming use, such use shall not thereafter be changed back to a non-conforming use.
5. A non-conforming building which has been damaged to the extent of more than 50 percent of its fair market value by any means including fire, explosion, act of God, or the public enemy shall not be restored, except in accordance with all zoning regulations of the zoning district. In the event a question may arise on the fair market value of such a building, the same shall be determined by three appraisers: One shall be selected by the Governing Body, one shall be selected by the owner of the building, and the third appraiser shall be selected by the two selected appraisers. If the first two appraisers selected cannot agree on the selection of the third such appraiser, the Judge of the appropriate court shall be requested to appoint the third appraiser. The decision of the appraisers, or a majority of them, shall be final and conclusive and shall be binding upon all concerned to the purpose of determining whether the damaged property may be restored. The cost of such appraisal shall be paid by the property owner.

Section 4.13 Nonconforming Lots of Record

In any district notwithstanding limitations imposed by other provisions of these Regulations, a structure and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of these Regulations, provided such development shall be subjected to all applicable bulk regulations of the zoning district, unless otherwise permitted by variance.

Section 4.14 Repairs and Maintenance

- 4.14.01 On any building devoted in whole or in part to any nonconforming use, work including ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing may be done provided that the cubic content of the building as it existed at the time of passage of amendment of these Regulations shall not be increased.
- 4.14.02 Nothing in these Regulations shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe and dangerous by order of the Building Official.

Section 4.15 Uses under Conditional Use Permit not Nonconforming Uses

Any use for which a special exception has been issued as provided in previous ordinances shall not be deemed a nonconforming use but shall without further action be deemed a conforming use in such district.

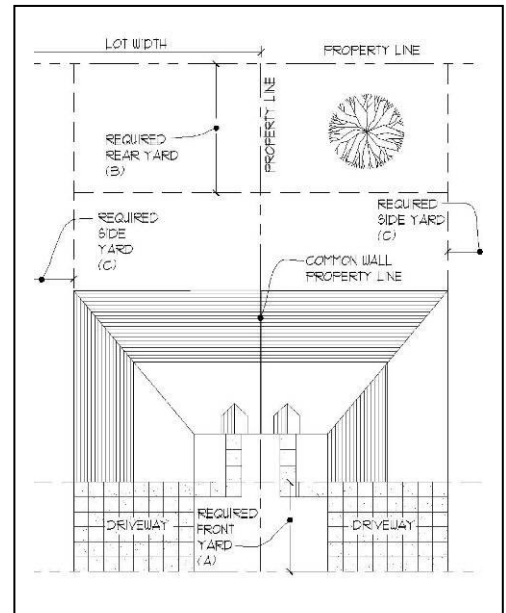
Section 4.16 Zero Lot Line

- 4.16.01 Zero lot line concept is where a single- or two-family dwelling has one exterior wall on or within one foot of a side property line and the remaining side yard is double the normal side yard required by the district regulations. Zero Lot Line Developments may be built under the following conditions:

1. When submitted as part of a new subdivision plat or an amendment to an existing subdivision and each lot to be developed using the zero-lot line concept is so designated showing which lot line is the zero-lot line.
2. On an existing lot in a partially developed subdivision when submitted to and approved by the Board of Zoning Appeals as a variance under Article 11 of the zoning regulations.

- 4.16.02 On any lot approved for the zero-lot line concept by platting, re-platting or approval of the Board of Zoning Appeals, the following stipulations shall apply:

1. A maintenance easement at least five feet in width shall be provided and recorded on the property adjoining the designated zero lot line.
2. There shall be no door or window openings on the side of the house which is built on the zero-lot line.
3. No portion of a roof, gutter or other part of the structure shall project past the zero-lot line and all roof drainage will be installed so as to keep all run-off water off of the adjoining property.



Section 4.17 Rear Yard Setbacks Reduction

The rear yard setback may be the lesser of the required setback in a district or 20% of the depth of the lot.

Section 4.18 Temporary Uses and Permits

4.18.01 The administrator shall issue temporary permits for buildings to be constructed and used for storage incidental to construction of buildings on the property and for signs advertising a subdivision or tract of land or the lots thereon. The permits shall not exceed 180 days in duration unless the following conditions apply:

1. Model homes or apartments, if contained within the development to which they pertain.
2. Development sales offices. Such offices may remain in place until 90% of the lots or units within the development are sold and may not be located within a mobile home or manufactured home/structure.
3. Public assemblies, displays, and exhibits.
4. Christmas tree or other holiday-related merchandise sales lots, provided that such facilities are not located in a residential zoning district.
5. Construction site offices, if located on the construction site itself.
6. Outdoor special sales, provided that such sales operate no more than three days in the same week and five days in the same month; and are located in commercial or industrial zoning districts.
7. Construction Batch Plants, provided that:
 - a. No plant may be located within 600 feet of a developed residential use, park, or school.
 - b. Hours of operation do not exceed 12 hours per day.
 - c. The duration of the plant's operation does not exceed 180 days but may be extended by the Zoning Administrator if unforeseen circumstances have delayed the project.

4.18.02 Required Conditions of All Temporary Uses

1. Each site shall be left free of debris, litter, or other evidence of the use upon its completion or removal.
2. The Planning Commission, or its designee, may establish other conditions which he/she deems necessary to ensure compatibility with surrounding land uses.

4.18.03 Permit Application and Issuance

1. An application to conduct a temporary use shall be made to the Zoning Administrator and shall include at a minimum a description of the proposed use; a diagram of its location; information regarding hours and duration of operation; and other information necessary to evaluate the application.
2. The Planning Commission, or its designee, may authorize a temporary use only if he/she determines that:
 - a. The use will not impair the normal operation of a present or future permanent use on the site.
 - b. The use will be compatible with surrounding uses and will not adversely affect the public health, safety, and welfare.
3. The duration of the permit shall be explicitly stated on the permit.

Section 4.19: Sanitation Requirements

Hereafter all structures used for habitation, employment or otherwise - providing indoor plumbing facilities shall be connected to a municipal type, public benefit, or approved private sewerage disposal system. It shall be unlawful to occupy any structure without providing for said system. It shall be unlawful to discharge sewage either beneath or on top of the ground without an approved system. It shall be unlawful to operate a malfunctioning sewerage system that discharges effluent to the surface of the ground.

Section 4.20: Prohibited Uses

All uses which are not specifically permitted or are not permissible as a Conditional Use throughout each district of this Ordinance are prohibited until such time as the Ordinance is amended accordingly.

Section 4.21: Fees

The payment of any and all fees for any zoning or subdivision related action or permit request shall be required prior to the issuance or investigation of any said action or permit request. Such fees shall be adopted and published by the City Commission by separate Ordinance.

Article 5: Zoning Districts

Section 5.01 Districts; Use

For the purpose of this Chapter, the Municipality is hereby divided into 14 districts, designated as follows:

- (AG-1) General Agricultural District
- (SR) Suburban Residential District
- (R-1) Single-Family Residential District
- (R-2) Single-Family Residential District
- (R-3) Two Family Residential District
- (R-4) Multiple Family Residential District
- (R-M) Mobile Home Residential District
- (C-1) Central Business District
- (C-2) General Commercial District
- (C-3) Highway Commercial District
- (I-1) Light Industrial District
- (I-2) Medium Industrial District
- (AO) Airport Overlay
- (PUD) Planned Unit Development

Section 5.02 Districts; Boundaries and Official Zoning Map

The boundaries of the districts are hereby established as shown on the map entitled "Official Zoning Map of the City of Sabetha, Kansas." Said maps and all explanatory matter thereon accompany and are hereby made a part of this Ordinance as if fully written herein. The Official Zoning District Map shall be identified by the signature of the Mayor and attested by the City Clerk. No changes shall be made on the Zoning District Map except as may be required by amendments to this Ordinance. Such changes shall be promptly indicated on the Zoning District Map with the Ordinance number, nature of change, and date of change noted on the map.

Section 5.03 Rules for Interpretation of District Boundaries on the Official Zoning Map

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following City limits shall be construed as following such City limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shore line;
6. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
7. Boundaries indicated as parallel to or extensions of features indicated in subsections (1) to (6) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
8. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (1) to (7) above, the Board of Zoning Appeals shall interpret the district boundaries.
9. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, The Board of Zoning Appeals may permit the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
10. When a district boundary line splits a lot, tract, or parcel that is in sole ownership, the zoning district with the most restrictive requirements may be extended over the entire property without amending the zoning map through the public hearing process.
11. When a lot, tract, or parcel is bisected by the extraterritorial jurisdiction boundary line, the jurisdiction with the greatest portion of the property shall have controlling interest.

Section 5.04 Land Use Categories Matrix Explanation

The Matrix found in Section 5.06 of this Ordinance is a listing of uses that may be allowed within the variety of Zoning Districts.

1. The different uses are grouped into specific "Land Use Categories".
2. The "Land Use Categories" are listed in each of the Zoning Districts in lieu of specific uses. It is important to note, if a "Land Use Category" is listed within a specific Zoning District, it DOES NOT indicate every use in the "Land Use Category" is allowed within the specific District.

The different uses within Section 5.06 are Permitted (P), Allowed upon approval of a Conditional Use Permit (C), Temporary (T) or not permitted (-).

In order to determine if a specific use is allowed in a Zoning District, the following steps need to be followed:

1. Find the Use Type that matches your application
2. Look across the table and determine which of the Zoning Districts it may be allowed.
3. Determine any special criteria for the use(s) by referring to the specific District.
4. Determine where the specific Zoning Districts are by reviewing the Official Zoning Map.
5. Determine the necessary procedures to receive required permits after the land or property is the control of the applicant.
6. When doubt, please confer with Planning staff.

The Table in Section 5.06 also lists Accessory Uses which may be allowed or not allowed in any specific Zoning District. The Accessory Use listing can be found at the end of the Table.

Section 5.05 Annexation and Conformance with the Land Use Plan

Areas annexed into the corporate limits of Sabetha shall be zoned to conform to the Future Land Use Plan.

Section 5.06 Land Use Categories/Matrix

E = Exempted (no Permit required) P = Permitted (Permit required) C = Conditional Use Permit (Permit required) T = Temporary (Permit required) “-“ = not permitted														
Use Category	Use Type	AG-1	SR	R-1	R-2	R-3	R-4	RM	C-1	C-2	C-3	I-1	I-2	Additional Requirements/Notes
Agriculture & Horticulture Uses	Agricultural buildings for general ag. use	E	E	-	-	-	-	-	-	-	-	-	-	
	Agricultural operations	E	E	-	-	-	-	-	-	-	-	-	-	
	Community Gardens	P	P	P	P	P	P	P	P	P	P	P	P	
	Crop Production	E	E	-	-	-	-	-	-	-	-	-	-	
	Confined Feeding Operations	E	-	-	-	-	-	-	-	-	-	-	-	Confined feeding is not permitted within ½ mile of the Sabetha Corporate Limits
	Livestock for 4-H purposes as a Secondary use	E	E	-	-	-	-	-	-	-	-	-	-	
	Livestock sales yard	P	-	-	-	-	-	-	-	-	-	C	C	
	Livestock grazing	E	-	-	-	-	-	-	-	-	-	-	-	
	Wineries/Vineyards	E	E	E	-	-	-	-	-	-	-	-	-	
	Cover crops (alfalfa, brome, oats)	E	E	E	E	E	E	E	E	E	E	E	E	
Agricultural Sales & Service	Agricultural chemicals, fertilizer, anhydrous ammonia-storage & distribution for commercial use.	C	-	-	-	-	-	-	-	C	C	C	C	
	Agricultural chemicals, fertilizer, anhydrous ammonia-storage & distribution for personal use.	E	-	-	-	-	-	-	-	-	-	-	-	
	Agricultural implement & vehicle sales and service	C	-	-	-	-	-	-	-	C	C	C	C	
	Agricultural research farm	E	-	-	-	-	-	-	-	-	-	C	C	
	Agricultural processing	P	-	-	-	-	-	-	-	-	-	C	C	
	Commercial agriculture feed mixing and blending, seed sales and grain handling operations	P	-	-	-	-	-		-	-	-	C	C	
	Equestrian centers and stables	C	C	-	-	-	-	-	-	-	-	-	-	
	Horses and other non-commercial livestock on residential lots	E	E	-	-	-	-	-	-	-	-	-	-	
Residential Living	Seasonal dwelling or cabins	P	P	-	-	-	-	-	-	-	-	-	-	
	Multi-family dwelling (max. of 4 units per building)	-	-	-	-	-	C	-	C	C	C	-	-	
	Multi-family dwelling (more than 4 units per building)	-	-	-	-	-	C	-	C	C	C	-	-	
	Condominiums (max. of 2 units)	-	-	-	C	P	P	-	-	-	-	-	-	
	Condominiums (3 units or more)	-	-	-	-	C	C	-	-	-	-	-	-	
	Mobile Home Dwelling	P	P	-	-	-	-	P	-	-	-	-	-	
	Mobile Home Dwelling as secondary dwelling	-	-	-	-	-	-	-	-	-	-	-	-	
	Residential designed Manufactured homes	P	P		-						-	-	-	See Section 9.04
	Single-family attached dwelling (max. of 2 units)	-	-	-	C	P	P	-	-	-	-	-	-	
	Single-family attached dwelling (more than of 2 units)	-	-	-	-	C	P	-	-	-	-	-	-	
	Single-family detached dwellings	P	P	P	P	P	P	P	-	-	-	-	-	
	Two-family/Duplex	-	P	-	C	P	P	P	-	-	-	-	-	
	Upper story housing	-	-	-	-	-	-	-	P	C	-	-	-	
	Lower level housing in back 50%of structure	-	-	-	-	-	-	-	C	-	-	-	-	
	Accessory Dwelling Units	P	P	C	C	C	C	C	C	-	-	-	-	See Section 4.09
	Special Dwelling Types	P	C	C	C	C	C	C	-	-	-	-	-	

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Use Category	Use Type	AG-1	SR	R-1	R-2	R-3	R-4	RM	C-1	C-2	C-3	I-1	I-2	Additional Requirements/Notes
Residential/ Commercial Institutions	Adult care homes	P	P	P	P	P	P	P	P	P	-	-	-	
	Assisted Living Facilities	P	P	P	P	P	P	-	C	C	C	-	-	
	Bed and Breakfast	P	P	P	P	P	P	P	-	-	-	-	-	See Section 9.15
	Convents	P	P	C	C	C	C	C	-	-	-	-	-	
	Emergency Residential Services/Shelters	P	P	P	P	P	P	P	-	-	-	-	-	
	Group Care Home	P	P	P	P	P	P	P	P	P	P	-	-	
	Group Home	P	P	P	P	P	P	P	-	-	-	-	-	
	Hospice	P	P	P	P	P	P	P	P	P	P	-	-	
	Life Care Facility	P	P	P	P	P	P	P	P	P	P	-	-	
	Monasteries	P	P	C	C	C	C	C	-	-	-	-	-	
	Nursing Homes	P	-	-	-	-	-	-	C	C	C	-	-	
	Retirement Homes	P	-	-	-	-	-	-	C	C	C	-	-	
	Transitional housing	P	P	P	P	P	P	P	P	P	P	P	P	
Community Services/ Civic Uses	Animal shelters	P	P	-	-	-	-	-	C	C	C	C	C	
	Cemetery	P	P	-	-	-	-	-	-	-	C	-	-	
	Churches, synagogues, temples & similar	C	P	P	P	P	P	P	P	P	P	-	-	
	Church, Storefront	-	-	-	-	-	-	-	C	C	C	-	-	
	Community centers & buildings	C	P	C	C	C	C	C	P	P	P	P	P	
	Fire and Rescue facilities	P	P	P	P	P	P	P	P	P	P	P	P	
	Fraternal Organization	C	-	-	-	-	-	-	C	C	C	P	P	
	Governmental offices and uses	P	P	P	P	P	P	P	P	P	P	P	P	
	Law enforcement centers	P	P	P	P	P	P	P	P	P	P	P	P	
	Public Libraries and museums	P	P	P	P	P	P	P	P	P	P	P	P	
	Philanthropic Organizations	C	C	C	C	C	C	C	P	P	P	P	P	
	Museums	C	C	-	-	-	-	-	P	P	P	P	P	
	Planetariums	C	C	-	-	-	-	-	-	-	-	-	-	
	Senior citizen centers	C	C	C	C	C	C	C	P	P	P	C	C	
Treatment, Rehabilitation, Incarceration Facilities	Community correction centers	C	C	-	-	-	-	-	-	-	C	C	C	
	Drug & alcohol rehabilitation centers	C	C	-	-	-	-	-	C	C	C	C	C	
	Halfway houses	P	P	P	P	P	P	P	P	P	P	P	P	
	Public Detention Center	P	P	P	P	P	P	P	P	P	P	P	P	
	Juvenile Detention Center	P	P	P	P	P	P	P	P	P	P	P	P	
	Private Prisons	C	C	-	-	-	-	-	-	-	-	C	-	
	Public Prisons	P	P	P	P	P	P	P	P	P	P	P	P	

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		AG-1	SR	R-1	R-2	R-3	R-4	RM	C-1	C-2	C-3	I-1	I-2	Additional Requirements/Notes
Day-Care, Public & Private Schools	Adult day-care home	P	P	P	P	P	P	P	P	P	P	P	-	
	Child Care Center	C	C	C	C	C	C	C	C	C	C	C	C	
	Colleges and Universities	P	P	-	-	-	-	-	C	P	P	P	P	
	Day care centers	C	C	C	C	C	C	C	C	C	C	C	C	
	Day Care Home	P	P	P	P	P	P	P	-	-	-	-	-	
	Day Care Home, Registered Family	P	P	P	P	P	P	P	-	-	-	-	-	
	Family Daycare Home	P	P	P	P	P	P	P	-	-	-	-	-	
	Preschools	P	P	P	P	P	P	P	C	C	C	C	C	
	Public & private schools (K-12)	P	P	P	P	P	P	C	P	P	P	P	P	
	Trade, career & technical schools	P	P	P	P	P	P	-	P	P	P	P	P	
Public Parks & Open Space	Arboretums	P	P	P	P	P	P	P	P	P	P	P	P	
	Athletic fields	P	P	C	C	C	C	C	-	-	-	-	-	
	Campground	C	C	-	-	-	-	-	-	-	-	-	-	
	Nature centers	C	C	-	-	-	-	-	-	-	-	-	-	
	Parks, trails, picnic areas, & playgrounds	P	P	P	P	P	P	P	P	P	P	P	P	
	State parks	P	P	P	P	P	P	P	P	P	P	P	P	
	Public pools and/or water parks	P	P	P	P	P	P	P	P	P	P	P	P	
Public/Private Utilities & Communication Services	Natural gas exploration and pumping	C	C	-	-	-	-	-	-	-	-	C	C	
	Natural gas depots	C	C	-	-	-	-	-	-	-	-	C	C	
	Private Wells	P	P	-	-	-	-	-	-	-	-	-	-	
	Wind Energy Conversion Sys. – Commercial/Utility Grade	-	-	-	-	-	-	-	-	-	-	-	-	
	Public works facilities incl. storage/maintenance areas	P	P	P	P	P	P	P	P	P	P	P	P	
	Wireless telecommunication facilities sys. - new tower	C	C	-	-	-	-	-	C	C	C	C	C	See Section 9.03
	Wireless telecommunication facilities sys. - collocated	P	P	P	P	P	P	P	P	P	P	P	P	See Section 9.03
	Radio and tower transmitter (Shortwave and Ham operations) (no offices)	P	P	C	C	C	C	C	C	C	C	C	C	See Section 9.21
Animal Care	Animal Shelter	P	P	-	-	-	-	-	-	C	C	P	P	
	Kennel boarding or training	P	P	-	-	-	-	-	-	C	C	P	P	
	Kennel, commercial	P	P	-	-	-	-	-	-	C	C	P	P	
	Kennel, private	P	P	-	-	-	-	-	-	-	-	-	-	
	Pet cemetery	C	C	-	-	-	-	-	-	-	-	-	-	
	Pet crematorium	C	C	-	-	-	-	-	-	-	-	C	C	
	Pet grooming, Pet training	C	C	-	-	-	-	-	P	P	P	-	-	
	Animal hospital	C	C	-	-	-	-	-	P	P	P	P	P	

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Business and Household Services	Building maintenance & cleaning services	C	-	-	-	-	-	-	P	P	P	P	P	
	Copying, printing, mailing, & packaging services	C	-	-	-	-	-	-	P	P	P	P	P	
	Lawn, garden & yard maintenance services	C	-	-	-	-	-	-	P	P	P	P	P	
	Locksmiths and key duplication	C	-	-	-	-	-	-	P	P	P	P	P	
	Pest control services	C	-	-	-	-	-	-	C	C	C	P	P	
	Small appliances & household equipment repair	C	-	-	-	-	-	-	P	P	P	P	P	
	Well drilling/septic tank cleaning	C	-	-	-	-	-	-	-	P	P	P	P	
Financial Services	Banks	-	-	-	-	-	-	-	P	P	P	P	P	
	Automatic Teller Machine (ATM)	-	-	-	-	-	-	-	P	P	P	P	P	
	Brokerages	-	-	-	-	-	-	-	P	P	P	P	P	
	Credit Unions	-	-	-	-	-	-	-	P	P	P	P	P	
	Insurance offices	-	-	-	-	-	-	-	P	P	C	P	P	
	Financial advisory services	-	-	-	-	-	-	-	P	P	P	P	P	
	Specialty loan services	-	-	-	-	-	-	-	P	P	P	P	P	
Food And Beverage Services	Banquet/reception facility	C	C	-	-	-	-	-	C	C	P	P	P	
	Brew-on Premises Store	-	-	-	-	-	-	-	P	P	P	P	P	
	Brewery	C	C	-	-	-	-	-	C	C	P	P	P	
	Craft Brewery (Commercial)	C	C	-	-	-	-	-	P	P	P	P	P	
	Catering service	C	C	-	-	-	-	-	C	C	P	P	P	
	Donut and pastry shops	-	-	-	-	-	-	-	P	P	P	-	-	
	Mobile Food Units	T	T	-	-	-	-	-	T	T	T	T	T	See Section 9.20
	Restaurants	C	-	-	-	-	-	-	P	P	P	-	-	
	Roadside produce stands	T	T	T	-	-	-	-	T	T	T	T	T	
	Sidewalk Café	-	-	-	-	-	-	-	P	P	P	-	-	
	Tavern or bar	-	-	-	-	-	-	-	P	P	P	-	-	
	Coffee houses, coffee shops	-	-	-	-	-	-	-	P	P	P	-	-	
	Brew pub	-	-	-	-	-	-	-	P	P	P	-	-	
	Micro-brewery (Commercial)	-	-	-	-	-	-	-	P	P	P	-	-	
	Coffee kiosks	C	C	-	-	-	-	-	P	P	P	-	-	

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General Commercial	Antiques and collectables shop	C	-	-	-	-	-	-	P	P	P	-	-	
	Art galleries	C	-	-	-	-	-	-	P	P	P	-	-	
	Artisan production shop	C	-	-	-	-	-	-	P	P	P	-	-	
	Artist Studio	C	-	-	-	-	-	-	P	P	P	-	-	
	Bridal sales & services	-	-	-	-	-	-	-	P	P	P	-	-	
	Clothing & accessories	-	-	-	-	-	-	-	P	P	P	-	-	
	Computer hardware/software sales	-	-	-	-	-	-	-	P	P	P	-	-	
	Dance studios & schools	-	-	-	-	-	-	-	P	P	P	-	-	
	Electronic/appliance sales & service	-	-	-	-	-	-	-	P	P	P	P	P	
	Equipment sales/storage/rental	-	-	-	-	-	-	-	P	P	P	-	-	
	Equipment repair services	-	-	-	-	-	-	-	P	P	P	P	-	
	Fabric and sewing supply stores	-	-	-	-	-	-	-	P	P	P	-	-	
	Farmer's Market	P	-	-	-	-	-	-	P	P	P	-	-	
	Firearms and ammunition sales	-	-	-	-	-	-	-	C	C	C	C	P	
	Florists	-	-	-	-	-	-	-	P	P	P	-	-	
	Food store (specialty) including bakeries, meat lockers, butchers, delicatessen, not a full-service grocery	-	-	-	-	-	-	-	P	P	P	-	-	
	Funeral homes and mortuaries, including crematoriums	-	-	-	-	-	-	-	P	P	P	P	P	
	Garden center	C	C	-	-	-	-	-	C	C	C	-	-	
	Gift store	-	-	-	-	-	-	-	P	P	P	-	-	
	Grocery	-	-	-	-	-	-	-	P	P	P	-	-	
	Hardware store	-	-	-	-	-	-	-	P	P	P	-	-	
	Heating and cooling sales and services	-	-	-	-	-	-	-	P	P	P	P	P	
	Lawn and garden equipment sales and service	-	-	-	-	-	-	-	P	P	P	P	P	
	Photographic equipment & supplies	-	-	-	-	-	-	-	P	P	P	-	-	
	Pottery store	-	-	-	-	-	-	-	P	P	P	-	-	
	Religious book, card and articles stores	-	-	-	-	-	-	-	P	P	P	-	-	
	Secondhand store, thrift or consignment store	-	-	-	-	-	-	-	P	P	P	-	-	
	Self-services laundry and Laundromat	-	-	-	-	-	-	-	P	P	P	-	-	
	Tanning Studio	-	-	-	-	-	-	-	P	P	P	-	-	
	Taxidermy Services	C	C	-	-	-	-	-	P	P	P	P	P	
Special Commercial	Billiard halls	-	-	-	-	-	-	-	P	P	P	-	-	
	Commercial Greenhouse	P	C	-	-	-	-	-	C	C	C	C	C	
	Business Center	-	-	-	-	-	-	-	P	P	P	-	-	
	Concrete and cinder block sales	C	-	-	-	-	-	-	-	P	P	P	P	
	Convenience store	-	-	-	-	-	-	-	P	P	P	C	-	
	Fencing dealers	C	C	-	-	-	-	-	C	P	P	P	P	
	Fireworks stands	C	C	-	-	-	-	-	P	P	P	P	P	
	Gasoline filling stations, including Self-Service	-	-	-	-	-	-	-	P	P	P	C	C	
	Liquor stores/sales	-	-	-	-	-	-	-	P	P	P	-	-	
	Monument sales	-	-	-	-	-	-	-	P	P	P	P	P	
	Motels and hotels	P	-	-	-	-	-	-	C	P	P	-	-	

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	Nurseries, retail sales	P	-	-	-	-	-	-	C	P	P	P	P	
	Piercing Studio	-	-	-	-	-	-	-	P	P	P	P	P	
	Tattoo Parlor	-	-	-	-	-	-	-	P	P	P	P	P	
	Vending Machines	-	-	-	-	-	-	-	A	A	A	A	A	
	Vending Machine, Reverse	-	-	-	-	-	-	-	A	A	A	A	A	
	Adult Entertainment	P	-	-	-	-	-	-	P	P	P	C	P	See Section 9.23
Medical Uses	Acupuncture offices	-	-	-	-	-	-	-	P	P	P	-	-	
	Chiropractor offices	-	-	-	-	-	-	-	P	P	P	-	-	
	Dental offices incl. orthodontics	-	-	-	-	-	-	-	P	P	P	-	-	
	Massage therapy	-	-	-	-	-	-	-	P	P	P	-	-	
	Medical offices	-	-	-	-	-	-	-	P	P	P	-	-	
	Optical sales & services	-	-	-	-	-	-	-	P	P	P	-	-	
	Rehabilitation facilities including out-patient services	-	-	-	-	-	-	-	P	P	P	-	-	
Office Uses	Accountant and investment counseling	-	-	-	-	-	-	-	P	P	P	-	-	
	Business offices	-	-	-	-	-	-	-	P	P	P	P	P	
	Consultant offices	-	-	-	-	-	-	-	P	P	P	P	P	
	Lawyer/Attorney offices	-	-	-	-	-	-	-	P	P	P	-	-	
	Photographic studios	-	-	-	-	-	-	-	P	P	P	-	-	
	Real Estate offices	-	-	-	-	-	-	-	P	P	P	P	P	
	Utility and telephone company offices	C	C	-	-	-	-	-	P	P	P	P	P	
Recreational Commercial	Bowling alley	-	-	-	-	-	-	-	P	P	P	P	P	
	Commercial stables	P	C	C	-	-	-	-	-	-	-	-	-	
	Golf courses, public & private	P	P	P	-	-	-	-	-	C	P	-	-	
	Golf driving ranges	P	P	P	-	-	-	-	-	-	P	P	-	
	Gun clubs	C	C	-	-	-	-	-	-	-	C	C	C	
	Miniature golf courses	-	-	-	-	-	-	-	P	P	P	-	-	
	Paintball Course	C	C	C	-	-	-	-	-	-	-	C	C	
	Recreational facility, Indoor	C	C	C	-	-	-	-	C	C	C	C	C	
	Recreational facility, outdoor	C	C	C	-	-	-	-	-	C	C	C	C	
	Recreational vehicle (RV) Park	C	C	-	-	-	-	-	-	C	C	-	-	
	Riding Academies	P	C	C	-	-	-	-	-	-	-	-	-	
	Amusement arcade	-	-	-	-	-	-	-	P	P	P	P	P	
		C	C	-	-	-	-	-	-	C	C	C	C	

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Auto Services/ Commercial	Auto body repair	-	-	-	-	-	-	-	C	C	P	P	P	See Section 9.13
	Automotive/machinery repair shop	-	-	-	-	-	-	-	C	C	P	P	P	See Section 9.13
	Automobile/truck sales, rental & leasing	-	-	-	-	-	-	-	C	C	P	P	P	See Section 9.13
	Automobile/truck washes, self-services or automatic	-	-	-	-	-	-	-	C	C	P	P	P	See Section 9.13
	Motor home dealers	-	-	-	-	-	-	-	C	C	P	P	P	See Section 9.14
	Motorcycle dealers, incl. moped and scooters	-	-	-	-	-	-	-	C	C	P	P	P	See Section 9.14
	Muffler sales & services	-	-	-	-	-	-	-	C	C	P	P	P	See Section 9.13
	Recreational vehicle sales & rentals	-	-	-	-	-	-	-	C	C	P	P	P	See Section 9.14
	Transmission repair shops	-	-	-	-	-	-	-	C	C	P	P	P	See Section 9.13
	Travel trailer dealers	-	-	-	-	-	-	-	C	C	P	P	P	See Section 9.14
	Vehicle Storage	C	C	-	-	-	-	-	-	C	P	P	P	
	Vehicle Storage, Long-term	C	C	-	-	-	-	-	-	C	C	P	P	
	Trailer, RV, & boat storage	C	C	-	-	-	-	-	-	C	C	P	P	
Warehousing & Storage	Fireworks storage	-	-	-	-	-	-	-	-	-	-	P	P	
	Mini warehouses & self-service storage	C	C	-	-	-	-	-	-	C	C	C	P	See Section 9.12
	Motor Freight Terminals	-	-	-	-	-	-	-	-	C	C	C	P	
	Outdoor Storage	C	C	-	-	-	-	-	-	C	C	P	P	
	Outdoor Storage Containers	E	-	-	-	-	-	-	-	C	C	P	P	
	Portable On-demand storage facilities	T	T	T	T	T	T	T	T	T	T	T	T	
	Warehouse and distribution	C	-	-	-	-	-	-	-	C	C	C	P	
	Warehousing (enclosed)	C	-	-	-	-	-	-	-	-	-	P	P	
	Warehousing (Open)	C	-	-	-	-	-	-	-	-	-	C	P	
	Wholesale business and storage	C	-	-	-	-	-	-	-	-	-	P	P	
Contractors, Contractor Yards, Storage & Supply	Bulk materials or machinery storage (fully enclosed)	C	-	-	-	-	-	-	-	-	-	P	P	
	Carpenters	C	-	-	-	-	-	-	-	C	C	P	P	
	Carpet & rug cleaning plants	C	-	-	-	-	-	-	-	-	-	P	P	
	Construction batch plants	C	-	-	-	-	-	-	-	C	C	P	P	
	Construction yards incl. offices & equipment storage yards excl. heavy machinery	C	-	-	-	-	-	-	-	C	C	P	P	
	Electricians	C	-	-	-	-	-	-	-	P	P	P	P	
	Heating & ventilating contractors	C	-	-	-	-	-	-	-	P	P	P	P	
	Masons & bricklayers	C	-	-	-	-	-	-	-	P	P	P	P	
	Plumbers	C	-	-	-	-	-	-	-	P	P	P	P	
	Trade shops (incl. cabinet makers)	C	-	-	-	-	-	-	-	P	P	P	P	

E = Exempted (no Permit required) P = Permitted (Permit required) C = Conditional Use Permit (Permit required) T = Temporary (Permit required) “-“ = not permitted														
Use Category	Use Type													
		AG-1	SR	R-1	R-2	R-3	R-4	RM	C-1	C-2	C-3	I-1	I-2	Additional Requirements/Notes
Large Contracting/ Materials Manufacturing	Asphalt contractors	U	-	-	-	-	-	-	-	-	-	P	P	
	Concrete block manufacturing	U	-	-	-	-	-	-	-	-	-	P	P	
	Concrete contractors	U	-	-	-	-	-	-	-	-	-	P	P	
	Concrete products	U	-	-	-	-	-	-	-	-	-	P	P	
	Excavating contractors	U	-	-	-	-	-	-	-	-	-	P	P	
	Heavy construction companies	U	-	-	-	-	-	-	-	-	-	P	P	
	Highway/street construction co.	U	-	-	-	-	-	-	-	-	-	P	P	
	Manufactured housing fabrication	U	-	-	-	-	-	-	-	-	-	P	P	
	Prefabricated buildings & components manufacturing	U	-	-	-	-	-	-	-	-	-	P	P	
	Wrecking & demolition contractors	U	-	-	-	-	-	-	-	-	-	P	P	
Food Processing	Bakery Products Manufacturing	U	-	-	-	-	-	-	-	-	-	P	P	
	Beverage Blending and Bottling (Except Breweries)	U	-	-	-	-	-	-	-	-	-	P	P	
	Coffee, Tea and Spice Processing and Packaging	U	-	-	-	-	-	-	-	-	-	P	P	
	Creamery and Dairy Operations	U	-	-	-	-	-	-	-	-	-	P	P	
	Dairy Products Manufacturing	U	-	-	-	-	-	-	-	-	-	P	P	
	Egg Processing Plants	U	-	-	-	-	-	-	-	-	-	P	P	
Mining & Excavation	Brick, firebrick and clay products manufacturing	C	-	-	-	-	-	-	-	-	-	-	C	See Section 9.19
	Monument & architectural stone manufacturing	C	-	-	-	-	-	-	-	-	-	-	C	
	Quarry	U	-	-	-	-	-	-	-	-	-	-	C	See Section 9.19
Metal Processing and Stamping	Culvert manufacturing	U	-	-	-	-	-	-	-	-	-	C	P	
	Welding	U	-	-	-	-	-	-	-	-	-	C	P	
	Wire Rope and Cable Manufacturing	U	-	-	-	-	-	-	-	-	-	C	P	
Waste Handling	Landfill, Construction Material	U	-	-	-	-	-	-	-	-	-	-	C	
	Landfill, Solid Waste	U	-	-	-	-	-	-	-	-	-	-	C	
	Recycling Center	U	-	-	-	-	-	-	-	C	C	C	C	
	Recycling Processing	U	-	-	-	-	-	-	-	-	-	C	C	
	Sanitary Transfer Station	U	-	-	-	-	-	-	-	-	-	C	C	
General Manufacturing	Basket & hamper (wood, reed, rattan, etc.) manufacturing	C	-	-	-	-	-	-	-	-	-	P	P	
	Millwork manufacturing	U	-	-	-	-	-	-	-	-	-	P	P	
	Electronics manufacturing	U	-	-	-	-	-	-	-	-	-	P	P	
	Machinery manufacturing	U	-	-	-	-	-	-	-	-	-	P	P	
	Musical instruments manufacturing	U	-	-	-	-	-	-	-	-	-	P	P	
	Tool, die, gauge and machine shops	U	-	-	-	-	-	-	-	-	-	P	P	
	Wind turbine manufacturing	U	-	-	-	-	-	-	-	-	-	C	C	

<div>E = Exempted (no Permit required) P = Permitted (Permit required) C = Conditional Use Permit (Permit required) T = Temporary (Permit required) “-“ = not permitted</div>														
Use Category	Use Type	AG-1	SR	R-1	R-2	R-3	R-4	RM	C-1	C-2	C-3	I-1	I-2	Additional Requirements/Notes
General Manufacturing (High Hazard)	Bio-Fuels Manufacturing, including Ethanol production	C	-	-	-	-	-	-	-	-	-	-	-	See Section 9.10
	Grain Elevator and Storage Facilities	C	-	-	-	-	-	-	-	C	C	C	C	
	Salvage Operations	-	-	-	-	-	-	-	-	-	-	-	-	
	Scrap or Salvage Yards	-	-	-	-	-	-	-	-	-	C	C	C	See Section 9.09
	Waste Recovery Facilities – Commercial, Industrial & Residential	-	-	-	-	-	-	-	-	-	-	-	-	See Section 9.09
	Wood Preserving Treatment	-	-	-	-	-	-	-	-	-	-	-	-	
Accessory Uses	Accessory off-street parking and loading spaces	P	P	P	P	P	P	P	P	P	P	P	P	
	Awnings	E	E	E	E	E	E	E	E	E	E	E	E	
	Barns	E	P	P	-	P	P	-	-	-	-	-	-	
	Bins, silos, grain storage	E	P	-	-	-	-	-	-	-	-	P	P	
	Carports	E	E	E	E	E	E	E	E	E	E	E	E	See section 4.12
	Decks, gazebos, patios (elevated or on-grade)	E	E	E	E	E	E	E	E	E	E	E	E	See section 4.12
	Fences	E	E	E	E	E	E	E	E	E	E	E	E	See section 9.04
	Flagpoles	E	E	E	E	E	E	E	E	E	P	P	P	
	Freestanding canopy	E	E	E	E	E	E	E	E	E	E	E	E	See section 4.12
	Fuel storage	-	-	-	-	-	-	-	P	P	P	P	P	
	Fuel tanks and dispensing equipment	-	-	-	-	-	-	-	P	P	-	P	P	
	Garages, Private	P	P	P	P	P	P	P	-	-	-	P	P	See section 4.12
	Garage, Storage	P	P	P	P	P	P	P	-	-	-	P	P	See section 4.12
	Gate or guard houses	P	P	P	P	P	P	P	-	-	-	-	-	
	Greenhouses, Non-commercial	E	E	E	E	E	E	E	E	E	E	E	E	See section 4.12
	Guest houses	P	P	P	P	P	P	P	-	-	-	-	-	
	Home Occupations	E	E	E	E	E	E	E	-	-	-	-	-	See Section 9.01 and 9.02
	Home based Businesses	E	E	E	E	E	E	E	-	-	-	-	-	See Section 9.01 and 9.02
	Lighting, Exterior	E	E	E	E	E	E	E	E	E	E	E	E	
	Parabolic and satellite dish style antennae	E	E	E	E	E	E	E	E	E	E	E	E	
	Portable on-demand storage containers	T	T	T	T	T	T	T	T	T	T	T	T	See section 9.18
	Porch, unenclosed	E	E	E	E	E	E	E	-	-	-	-	-	See section 4.12
	Recreational equipment	E	E	E	E	E	E	E	-	-	-	E	E	
	Solar energy systems for use on individual properties or buildings	P	P	P	P	P	P	P	P	P	P	P	P	See Section 9.11
	Storage sheds	E	E	E	E	E	E	E	-	-	E	E	E	See section 4.12
	Storage building using multiple storage containers	E	E	E	E	E	E	E	-	-	-	E	E	
	Swimming pools	E	E	E	E	E	E	E	-	-	-	-	-	
	Tennis courts	P	P	P	P	P	P	P	-	-	-	-	-	
	Small Wind Energy Conversion System (non-commercial grade)	C	C	C	-	-	-	-	-	-	C	C	C	See Section 9.10

District	Maximum Height of Building		Minimum Yard Requirements in Feet			Minimum Lot Dimensions in Feet		Minimum Lot Area in Square feet (unless otherwise noted)
	Feet	Stories	Front Yard	Side Yard (A) (B)	Rear Yard (C)	Width	Depth	
AG-1 General Agricultural	-	-	40 (D)	20 (D)	40	200	-	3 acres (E)
SR Suburban Residential	35	2 ½	50	30	50	165	(F)	3 acres (E)
R-1 Single-family Residential	35	2 ½	25 (K)	5	25	80	100	20,000
R-2 Single-family Residential	35	2 ½	25 (K)	5 (G)	25	See District		7,000
R-3 Medium Density Residential	35	2 ½	25 (K)	5 (G)	25	See District		See District
R-4 High Density Residential	45	3	See District			See District		See District
R-M	See District for requirements							
C-1 Central Business District	-	-	-	-	-	-	-	-
C-2 General Commercial	35	2 ½	25	5	25	65	100	7,000
C-3 Highway Commercial	35	2 ½	25	10	25	75	100	25,000
I-1 Light Industrial	75	2	40 (H)	20 (I)	15 (J)	-	-	-
I-2 Medium Industrial	75	2	40 (H)	20 (I)	15 (J)	-	-	-

- (A) A side yard shall be provided on each side of the lot. The dimension given is for one side.
- (B) Requirements apply only to property in the unincorporated jurisdiction of Sabetha and not to any property within the corporate limits of the City.
- (C) See Section 4.18
- (D) Front Yard requirements apply only to properties on major roads or highways. Side and Rear Yard requirements apply only to Conditional Uses.
- (E) The minimum lot size shall be that listed for an on-site wastewater treatment system unless a smaller or larger lot size would be required under the applicable sanitation code.
- (F) There shall not be a lot depth to lot width ratio greater than 3:1 (i.e. the depth of the lot cannot be greater than 3 times the width of the lot). In the event of unusual lot configurations, the Zoning Administrator shall determine whether the lot dimensions meet the spirit and intent of this requirement.
- (G) The minimum side yard on single-family attached/townhouses and condominiums shall be zero feet for all interior lots and shared property lines.
- (H) The front yard setback of 40 feet only required when no parking is present in the front yard. If parking is located in the front yard, then the front yard setback shall be increased to 50 feet.
- (I) The minimum rear yard setback is 20 feet; except when adjacent to a Residential District, then the rear yard setback shall be 45 feet. Exception, if a public alley is between the industrial use and the Residential District, then the setback may be reduced to 25 feet. Section 5.18.07 (2) below shall also apply.
- (J) The minimum side yard setback is 15 feet; except when adjacent to a Residential District, then the side yard setback shall be 25 feet. Section 5.18.07 (2) below shall also apply.
- (K) On corner lots the front setback shall be provided along the shorter street frontage. A setback of 15 feet shall be provided along the other street frontage.

Note: This is quick reference guide and may not be the official requirements due to amendments. The requirements listed on this page may not be the only requirements for an individual district. Please review the specific district and any General Provisions or Supplemental Regulations which may pertain to an application

Section 5.07 AG-1: General Agricultural District

5.07.01 Intent:

The regulations set forth in this Section or set forth elsewhere in this Code when referred to in this Section, are the regulations in the "AG-1" Agricultural District. This article shall apply to lands within the extraterritorial jurisdiction of the City of Sabetha in Nemaha County and Brown County, Kansas, as specified within this Code.

The purpose of this District is to provide for a full range of agricultural activities on land used for agricultural purposes, including processing and sale of agricultural products raised on the premises; and at the same time offer protection to land used for agricultural purposes from the depreciating effect of objectionable, hazardous, incompatible and unsightly uses. The District is also intended to protect watersheds and water supplies; to protect the use of natural resources in the production of agricultural products and prevent and/or discourage their conversion to other uses not in the interests of the citizens of Nemaha County and Brown County; to protect forest and scenic areas; to conserve fish and wildlife habitat; to promote forestry; and to prevent and/or discourage untimely scattering of residential, and/or more dense urban development.

All lands used for agricultural purposes, as defined in this Code, are and shall be exempt from any and all restrictions or limitations. No administrative interpretation shall be made resulting in any restriction or stipulation on land used for agricultural purposes as herein defined; provided, however, consistent with state law, new agricultural buildings shall be subject to setback requirements on any part of agricultural lands fronting on designated major roads and highways. Any proposal for change of land used for agricultural purposes to nonagricultural uses shall be subject to the requirements of this Code.

5.07.02 Permitted Uses:

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

5.07.03 Conditional Uses:

Conditional uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the AG-1 District as recommended by the Planning Commission and approved by the City Commission.

5.07.04 Temporary Uses:

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

5.07.05 Accessory Uses and Structures:

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Article 4 for more detail.

5.07.06 Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

Use	Lot Area (acres)	Lot Width (feet)	A Front Yard (feet)	B Rear Yard (feet)	C Side Yard (feet)	Max. Height (feet)	Max. Building Coverage (%) *
Agricultural Uses, Farming Activities and Associated structures (other than the residence)	-	-	***	-	-	-	-
Single-family dwelling	3**	200	40***	40****	20****	35	10
Other Permitted Uses	3**	200	40***	40****	20****	35	10
Conditional Uses	3**	200	40***	40****	20****	35	10
Accessory Structures	-	-	40***	40****	10****	35	-

* Percentage applies to the buildable area of the lot.

** Minimum lot area shall be based upon the minimum land required for an on-site wastewater treatment system per the applicable sanitation code but in no case shall it be less than two acres.

*** The depth of the front yard for properties on major roads or highways shall be at least 40 feet.

**** For any non-agricultural use approved in this district, there shall be a side yard on each side of a dwelling. No side yard shall be less than 20 feet.

***** The depth of the rear yard for any non-agricultural use approved in this district shall be at least 40 feet.

5.07.07 Other Applicable Provisions:

1. The maximum density of dwelling units shall not exceed four non-agricultural dwelling units per ¼ Section. Clustering of lot is recommended when possible.
2. The following uses shall be a minimum of 2,640 feet from any residential, commercial, industrial, or public use, as measured from the nearest point on the lot line, unless the parties mutually agree to an Impact Easement and said easement is attached to the deed of both properties.
 - a. Commercial auction yards or barns.
 - b. Commercial production and husbandry of poultry, fish, and small animals.
 - c. Commercial feedlots.
 - d. Mining and extraction of natural resources.
 - e. Feed mills.
 - f. Auto wrecking yards, junk yards, salvage yards, and scrap processing yards.
 - g. Storage and distribution of anhydrous ammonia, fuel, fertilizer, and other chemicals.
3. No new residential, commercial, industrial, or public use shall be located nearer than 3,960 feet to any existing use listed in Section 5.07.07 (2), unless the parties mutually agree to an Impact Easement and said easement is attached to the deed of both properties.
4. Where allowed by these Regulations (by right in the "AG-1" Agricultural District and by accessory use in other districts), agricultural uses are permitted with no restrictions as to operation of such vehicles or machinery as are customarily incidental to such uses, and with no restrictions to the sale or marketing of products raised on the premises. However, there shall be no disposal of garbage, rubbish or offal, other than regular removal, except in compliance with the Nemaha County or Brown County Sanitation or Environmental Code.
5. The following, or similar accessory uses are allowed:
 - a. Open or enclosed storage of farm materials, products or equipment, including farm machinery and equipment being used for parts or materials for repairs by the owner of such machinery and equipment, but not the operation of a junkyard.
 - b. The use of a manufactured home as an accessory dwelling on land used for agricultural purposes when used by persons employed thereon or as a caretaker, including their families. At no time shall a manufactured home or the land upon which it sits be intended and/or used as a rental unit in the "AG-1" District.
 - c. Wholesale or retail sales of agricultural products grown or raised by the farm operator.
 - d. A hobby activity operated by the occupant of the premises purely for personal enjoyment, amusement or recreation.

Section 5.08 SR Suburban Residential
5.08.01 Intent:

The regulations set forth in this Section or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "SR" Suburban Residential District. The provisions of this district shall apply in the City of Sabetha's extraterritorial jurisdiction in Nemaha County and Brown County, Kansas, only.

The purpose of this District is to provide for the platted development of low-density residential neighborhoods retaining the character of a basically rural area and allow for residential development.

5.08.02 Permitted Uses:

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

5.08.03 Conditional Uses:

Conditional uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the SR District as recommended by the Planning Commission and approved by the City Commission.

5.08.04 Temporary Uses:

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

5.08.05 Accessory Uses and Structures:

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

5.08.06 Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

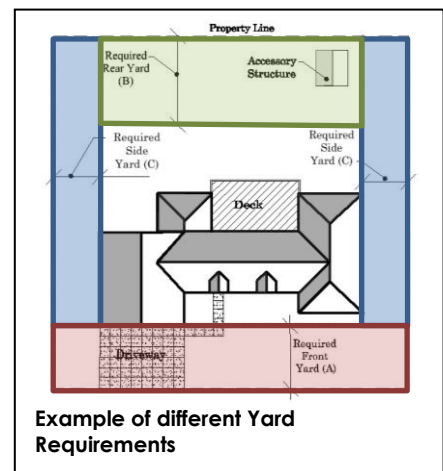
Use	Lot Area (Acres)	Lot Width (feet)	A Front Yard (feet)	B Rear Yard (feet)	C Side Yard (feet)	Max. Height (feet)	Max. Building Coverage (%)
Single-family dwelling detached	3*	165**	50	50	30	35	45
Permitted Uses	3*	165**	50	50	30	35	45
Conditional Uses	3*	165**	50	50	30	35	45
Other Permitted Uses not requiring an enclosed structure	3*	165**	50	50	30	35	45
Accessory Structures	-	-	50	10	30	15	-

* Minimum lot area shall be based upon the minimum land required for an on-site wastewater treatment system per the applicable sanitation code but in no case shall it be less than two acres.

** There shall not be a lot depth to lot width ratio greater than 3:1 (i.e. the depth of the lot cannot be greater than 3 times the width of the lot). In the event of unusual lot configurations, the Zoning Administrator shall determine whether the lot dimensions meet the spirit and intent of this requirement.

5.08.07 Other Applicable Provisions:

1. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.
2. On lots three acres or larger, agricultural activities may be conducted as accessory activities, such as growing of crops, pasturage of animals, growing of hay, or other similar activities. However, at no time shall such activity be classified or permitted as the primary usage of the land; said usage being as a residential home site.
3. This district is limited to those areas where adequate water, sewage disposal and other infrastructure presently exists; or may be approved outside such areas only when adequate water, sewage disposal and other infrastructure, as well as the delivery of support services can be demonstrated and proved to the satisfaction of the city.



4. The density of any individual proposed development shall be determined by the adequacy of the site to meet the development standards and policies of these and all other City of Sabetha, Nemaha County and Brown County rules and regulations, including but not limited to the Subdivision Regulations, Environmental/Sanitary Code, soil suitability classification, and other such factors that will justify and support such proposed density.
5. The burden of proof for such proposed density shall be on the person proposing the development and the city may require of said person any and all such proof deemed necessary before any approval of the project may be granted.

Section 5.09 R-1 Low Density Single Family Residential

5.09.01 Intent:

The regulations set forth in this Section or set forth elsewhere in this code when referred to in this Section, are the regulations in the "R-1" Low Density Single-Family Residential District. The provisions of this district shall apply in the City of Sabetha only.

The purpose of this District is to provide for single-family residential development spacious character where public utilities are present to support the development. The District is also designed to protect and preserve existing development of a similar character.

5.09.02 Permitted Uses:

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

5.09.03 Conditional Uses:

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the R-1 District as recommended by the Planning Commission and approved by the City Commission.

5.09.04 Temporary Uses:

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

5.09.05 Accessory Uses and Structures:

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

5.09.06 Height and Lot Requirements:

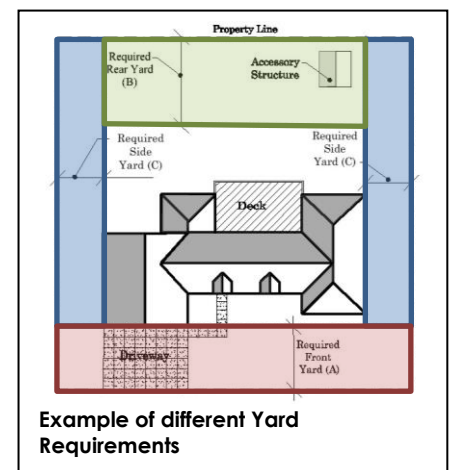
The height and minimum lot requirements shall be as follows:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	Minimum Lot Depth (feet)	A Front Yard (feet)	B Rear Yard (feet)	C Side Yard (feet)	Street Side Yard (Corner Lots)	Max. Height (feet)	Max. Building Coverage (%)
Single-family dwelling detached	10,000	80	100	25	25*	5	15	35	45
Permitted Uses	10,000	80	100	25	25*	5	15	35	45
Conditional Uses	10,000	80	100	25	25*	5	15	35	45
Other Permitted Uses not requiring an enclosed structure	10,000	80	100	25	25*	5	15	35	45
Accessory Structures	-	-	-	25	5	5	15	15	-

See Section 4.18

5.09.07 Other Applicable Provisions:

- Within newer subdivisions, the following use regulations shall apply:
 - There shall be only one residential sales office in any one subdivision.
 - All sales shall be limited to the sale of new properties located within that subdivision.
 - Any sales office within a subdivision shall be located within a permanent residential structure. Mobile homes, manufactured homes, and construction trailers shall not be permitted to be used as a residential real estate sales office.
 - No additional parking facilities other than adjacent on-street parking or customary driveway parking shall be permitted.
 - Upon issuance of any final approval of construction for 90% of the lots within the subdivision, the sales office shall be terminated.
- A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.
- On platted lots, agricultural activities may be conducted as accessory activities, such as growing of cover crops, growing of hay and/or sweet corn, or other similar activities. However, at no time shall such activity be classified or permitted as the primary usage of the land; said usage being as a residential home site.



4. This district is limited to those areas where adequate water, sewage disposal and other infrastructure presently exists; or may be approved outside such areas only when adequate water, sewage disposal and other infrastructure, as well as the delivery of support services can be demonstrated and proved to the satisfaction of the city.

Section 5.10 R-2 Single Family Residential
5.10.01 Intent:

The regulations set forth in this Section or set forth elsewhere in this code when referred to in this Section, are the regulations in the "R-2" Single-Family Residential District. The provisions of this district shall apply in the City of Sabetha only.

The purpose of this District is to provide for single-family residential development of a higher density, serviced by public utilities, and accessible to public infrastructure capable of supporting the development. The District is also designed to protect and preserve existing development of a similar character.

5.10.02 Permitted Uses:

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

5.10.03 Conditional Uses:

Conditional uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the R-2 District as recommended by the Planning Commission and approved by the City Commission.

5.10.04 Temporary Uses:

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

5.10.05 Accessory Uses and Structures:

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

5.10.06 Height and Lot Requirements:

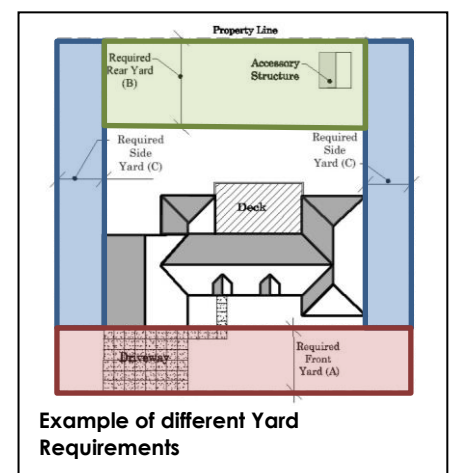
The height and minimum lot requirements shall be as follows:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	Minimum Lot Depth (feet)	A Front Yard (feet)	B Rear Yard (feet)	C Side Yard (feet)	Street Side Yard (Corner Lots)	Max. Height (feet)	Max. Building Coverage (%)
Single-family dwelling detached	7,000	65	100	25	25*	5	15	35	45
Permitted Uses	7,000	65	100	25	25*	5	15	35	45
Conditional Uses	7,000	65	100	25	25*	5	15	35	45
Other Permitted Uses not requiring an enclosed structure	12,000	65	100	25	25*	5	15	35	45
Accessory Structures	-	-	-	25	5	5	15	15	-

*** See Section 4.18

5.10.07 Other Applicable Provisions:

- Within newer subdivisions, the following use regulations shall apply:
 - There shall be only one residential sales office in any one subdivision.
 - All sales shall be limited to the sale of new properties located within that subdivision.
 - Any sales office within a subdivision shall be located within a permanent residential structure. Mobile homes, manufactured homes, and construction trailers shall not be permitted to be used as a residential real estate sales office.
 - No additional parking facilities other than adjacent on-street parking or customary driveway parking shall be permitted.
 - Upon issuance of any final approval of construction for 90% of the lots within the subdivision, the sales office shall be terminated.
- A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.
- On platted lots, agricultural activities may be conducted as accessory activities, such as growing of cover crops, growing of hay and/or sweet corn, or other similar activities. However, at no time shall such activity be classified or permitted as the primary usage of the land; said usage being as a residential home site.



4. This district is limited to those areas where adequate water, sewage disposal and other infrastructure presently exists; or may be approved outside such areas only when adequate water, sewage disposal and other infrastructure, as well as the delivery of support services can be demonstrated and proved to the satisfaction of the city.

Section 5.11 R-3 Medium Density Residential District
5.11.01 Intent:

The regulations set forth in this Section or set forth elsewhere in this code when referred to in this Section, are the regulations in the "R-3" Medium Density Residential District. The provisions of this district shall apply in the City of Sabetha only.

The purpose of this District is to maintain a generally spacious residential environment of existing single-family neighborhoods, and at the same time permit multi-family dwellings within those neighborhoods as in-fill development. Also, it is intended to accommodate new developments of multi-family dwellings adjacent to, or near areas planned for higher density development.

5.11.02 Permitted Uses:

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

5.11.03 Conditional Uses:

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the R-3 District as recommended by the Planning Commission and approved by the City Commission.

5.11.04 Temporary Uses:

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

5.11.05 Accessory Uses and Structures:

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

5.11.06 Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	Minimum Lot Depth (feet)	A Front Yard (feet)	B Rear Yard (feet)	C Side Yard (feet)	Street Side Yard (Corner Lots)	Max. Height (feet)	Max. Building Coverage (%)
Single-family dwelling	7,000	40	100	25	25*	5	15	35	60
Single-family attached	2,000/unit	20/unit	100	25	25*	5***	15	35	60
Two-family dwelling/duplex	3,500/unit	40	100	25	25*	5	15	35	60
Condominium	2,000/unit	20/unit	100	25	25*	5***	15	35	60
Permitted Uses	7,000	40	100	25	25*	5	15	35	60
Conditional Uses	7,000	40	100	25	25*	5	15	35	60
Other Permitted Uses not requiring an enclosed structure	12,000	60	100	25	25*	5	15	35	60
Accessory Structures	-	-	-	25	5**	5	15	15	-

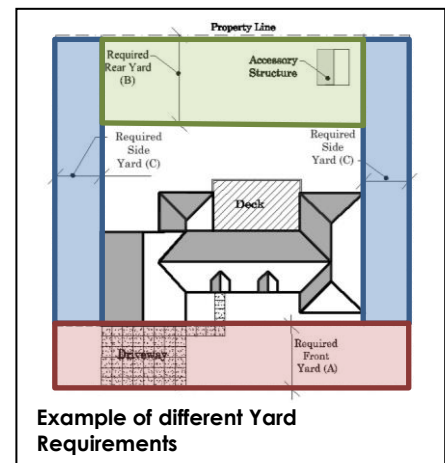
* See Section 4.17

** See Section 4.09.10

*** The minimum side yard on single-family attached/townhouses and condominiums shall be zero feet for all interior lots and shared property lines.

5.11.07 Other Applicable Provisions:

1. Single-family Attached/Townhouses
 - A. Common wall shall have a zero-lot line setback and be located on the property line separating both dwellings.
 - B. Each unit is separated by a two-hour fire rated wall from the lowest level and continuing through the roof structure.
 - C. Each unit shall be serviced by separate facilities.
 - D. When each unit is in separate ownership, the accompanying lot shall not be in common ownership with any other unit.
 - E. No more than three units shall be connected in this district, unless a conditional use permit is approved.
2. Within newer subdivisions, the following use regulations shall apply:
 - A. There shall be only one residential sales office in any one subdivision.
 - B. All sales shall be limited to the sale of new properties located within that subdivision.



- C. Any sales office within a subdivision shall be located within a permanent residential structure. Mobile homes, manufactured homes, and construction trailers shall not be permitted to be used as a residential real estate sales office.
 - D. No additional parking facilities other than adjacent on-street parking or customary driveway parking shall be permitted.
 - E. Upon issuance of any final approval of construction for 90% of the lots within the subdivision, the sales office shall be terminated.
- 3. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.
 - 4. On platted lots , agricultural activities may be conducted as accessory activities, such as growing of cover crops, growing of hay and/or sweet corn, or other similar activities. However, at no time shall such activity be classified or permitted as the primary usage of the land; said usage being as a residential home site.
 - 5. This district is limited to those areas where adequate water, sewage disposal and other infrastructure presently exists; or may be approved outside such areas only when adequate water, sewage disposal and other infrastructure, as well as the delivery of support services can be demonstrated and proved to the satisfaction of the city.

Section 5.12 R-4 Multiple-Family Residential District
5.12.01 Intent:

The "R-4" Multiple Family Residential District is established to provide a district suitable for family living in an area characterized by medium to high density residential uses. This district allows single family dwellings, duplexes, triplex and four-plex uses, apartment buildings, and certain community facilities and conditional uses. The "R-4" Multiple Family Residential District should only be established in areas where street and utility systems are adequate to accommodate high density development.

5.12.02 Permitted Uses:

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

5.12.03 Conditional Uses:

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the R-4 District as recommended by the Planning Commission and approved by the City Commission.

5.12.04 Temporary Uses:

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

5.12.05 Accessory Uses and Structures:

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

5.12.06 Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	Minimum Lot Depth (feet)	A Front Yard (feet)**	B Rear Yard 2.5/3 stories (feet)	C Side Yard 2.5/3 stories (feet)	Street Side Yard (Corner Lots)	Max. Height (feet)	Max. Building Coverage (%)
Single-family dwelling	5,500	40	100	25	25/30	5/8	15	45	60
Single-family attached	2,500/unit	20/unit*	100	25	25/30	5/8****	15	45	60
Two-family dwelling/duplex	2,500/unit	40	100	25	25/30	5/8	15	45	60
Condominium	2,500/unit	20/unit	100	25	25/30	5/8****	15	45	60
Multi-family	1,500/unit	40	100	25	25/30	5/8	15	45	60
Permitted Uses	5,500	40	100	25	25/30	5/8	15	45	60
Conditional Uses	5,500	40	100	25	25/30	5/8	15	45	60
Accessory Structures	-	-	-	25	5***	5	15	15	-

* The minimum lot width for Townhouses and Condominiums with more than two units shall be 20 feet for interior units and 40 feet for the exterior units. See Section 5.12.07 see addition requirements.

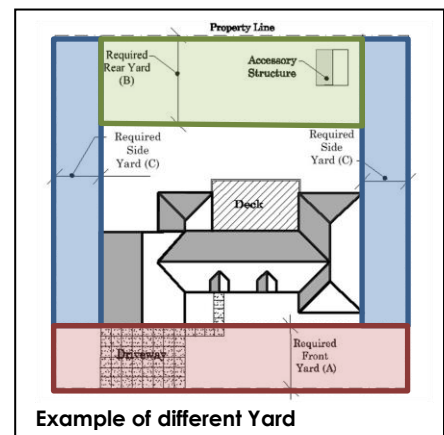
** See Section 4.06.05

*** See Section 4.17

**** The minimum side yard on single-family attached/townhouses and condominiums shall be zero feet for all interior lots and shared property lines. See Section 5.12.07 for additional requirements.

5.12.07 Other Applicable Provisions:

1. Single-family Attached/Townhouses
 - A. Common wall shall have a zero-lot line setback and be located on the property line separating both dwellings.
 - B. Each unit is separated by a two-hour fire rated wall from the lowest level and continuing through the roof structure.
 - C. Each unit shall be serviced by separate facilities.
 - D. When each unit is in separate ownership, the accompanying lot shall not be in common ownership with any other unit.
 - E. No more than units shall be connected in this district.
2. Within newer subdivisions, the following use regulations shall apply:
 - A. There shall be only one residential sales office in any one subdivision.
 - B. All sales shall be limited to the sale of new properties located within that subdivision.



- C. Any sales office within a subdivision shall be located within a permanent residential structure. Mobile homes, manufactured homes, and construction trailers shall not be permitted to be used as a residential real estate sales office.
 - D. No additional parking facilities other than adjacent on-street parking or customary driveway parking shall be permitted.
 - E. Upon issuance of any final approval of construction for 90% of the lots within the subdivision, the sales office shall be terminated.
- 3. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.
 - 4. On platted lots agricultural activities may be conducted as accessory activities, such as growing of cover crops, growing of hay and/or sweet corn, or other similar activities. However, at no time shall such activity be classified or permitted as the primary usage of the land; said usage being as a residential home site.
 - 5. This district is limited to those areas where adequate water, sewage disposal and other infrastructure presently exists; or may be approved outside such areas only when adequate water, sewage disposal and other infrastructure, as well as the delivery of support services can be demonstrated and proved to the satisfaction of the city.

Section 5.13 RM Mobile Home Residential District**5.13.01 Intent:**

This district recognizes that mobile home development, properly planned, can provide important opportunities for affordable housing. It provides opportunities for mobile home development within planned parks or subdivisions, along with the supporting services necessary to create quality residential neighborhoods.

5.13.02 Permitted Uses:

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

5.13.03 Conditional Uses:

Conditional uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the RM District as recommended by the Planning Commission and approved by the City Commission.

5.13.04 Temporary Uses:

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

5.13.05 Accessory Uses and Structures:

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

5.13.06 Special Design Criteria for this District

1. A mobile home development shall have a lot area of not less than two acres. No mobile homes or other structures shall be located less than 65 feet from the road centerline when contiguous to or having frontage to a County Road or 25 feet when contiguous from a State Highway. The setback on all other court property lines shall be 10 feet. These areas shall be landscaped. The minimum lot depth in a mobile home court shall be 200 feet.
2. Each lot provided for occupancy of a single mobile home dwelling shall have an area of not less than 4,000 square feet, excluding road right-of-way, and a width of not less than 40 feet. Each individual lot shall have:
 - a. Side yard setback (C) shall not be less than five feet, except that on corner lots, the setback for all buildings shall be a minimum of 25 feet on the side abutting a street/road.
 - b. Front yard setback (A) shall not be less than 25 feet.
 - c. Rear yard setback (B) of not less than 25 feet.
3. There shall be a minimum livable floor area of 500 square feet in each mobile home.
4. Height of buildings shall be:
 - a. Maximum height for principal uses shall be 35 feet.
 - b. Maximum height for accessory uses shall be 10 feet.
5. Each lot shall have access to a hard-surfaced drive not less than 24 feet in width, excluding parking.
6. Community water and community sewage disposal facilities shall be provided with connections to each lot, in accordance with design standards for the City. The water supply shall be sufficient for domestic use and for fire protection.
7. Service buildings including adequate laundry and drying facilities. Common toilet facilities for mobile homes which do not have these facilities within each unit may be provided.
8. Storm shelters shall be required and shall meet the following criteria:
 - a. Shelter space equivalent to two persons per mobile home lot,
 - b. Designed in conformance with "National Performance Criteria for Tornado Shelters" by the Federal Emergency Management Agency (FEMA) and any other referenced material by FEMA,
 - c. Shelters shall be sited in order to provide maximum protection to park occupants and so that residents may reach a shelter within the maximum safe time frame as directed by FEMA.
9. All trailer pad locations shall be hard surfaced with properly reinforced Poured in Place Concrete.
10. Not less than 10 percent of the total court area shall be designated and used for park, playground and recreational purposes.

11. Each mobile home dwelling shall be provided with a paved patio or equivalent, other than parking spaces, of not less than 150 square feet.

5.13.07 Special Requirements

1. All lots must be platted in accordance with the Subdivision Regulations of the City of Sabetha and shall also contain the following information:
 - a. A complete plan of the mobile home development shall be submitted showing:
 - b. A development plan and grading plan of the court.
 - c. The area and dimensions of the tract of land.
 - d. The number, location, and size of all mobile home spaces.
 - e. The area and dimensions of the park, playground and recreation areas.
 - f. The location and width of roadways and walkways.
 - g. The location of service buildings and any other proposed structures.
 - h. The location of water and sewer lines and sewage disposal facilities.
 - i. Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home court.

Section 5.14 C-1 Downtown Commercial District**5.14.01 Intent:**

The "C-1" Downtown Commercial District is established to provide a relatively broad range of concentrated retail commercial and service uses that are intended to serve the needs of the local town center. The "C-1" Central Business District is intended to be located only in the downtown area of the City of Sabetha and to be expanded out from that central area in an orderly and progressive manner as demand for additional commercial land is generated.

5.14.02 Permitted Uses:

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

5.14.03 Conditional Uses:

Conditional uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the C-1 District as recommended by the Planning Commission and approved by the City Commission.

5.14.04 Temporary Uses:

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

5.14.05 Accessory Uses and Structures:

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

5.14.06 Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	A Front Yard (feet)	B Rear Yard (feet)	C Side Yard (feet)	Max. Height (feet)	Max. Building Coverage (%)
Permitted Uses	-	-	-	-	-	-	100
Conditional Uses	-	-	-	-	-	-	100
Accessory Structures	-	-	-	-	-	-	-

5.14.07 Use Limitations:

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within 15 feet of such residential district.
2. When adjacent to any residential district, new construction shall provide permanent screen with a height of six feet or six feet four inches if a fence or flora planting eight feet in height, in order to minimize impacts on residentially zoned property, pursuant to Section ****. Said screening shall be kept in good condition.
3. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
4. Merchandise which may appropriately be displayed or stored outside a building shall be kept off the public sidewalks and streets, except during special promotional activities and sales approved by the Governing Body with a special event permit.
5. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and/or District and so that no glare is visible to any traffic on any public street.
6. All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building, unless screened from the residential district by a sight-obscuring fence permanently maintained at least six feet four inches in height.
7. Openings to structures on sides adjacent to or across the street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise or other adverse effects on residential properties.
8. Motor vehicle, boat, or trailer rental or sales lots shall be drained and surfaced with crushed rock or pavement, except in those portions of the lot maintained as landscape area.

9. All new buildings constructed within the C-1 Downtown Commercial District shall have a brick or concrete/plaster style façade on the front face of the building and any exposed side facades. On metal buildings, this requirement applies to the lower half of the façade.

Section 5.15 C-2 General Commercial District**5.15.01 Intent:**

This district is established to provide for general commercial facilities which are to serve as convenient services to a geographic area of the community. Shops in this district should be useful to the majority of the neighborhood residents, pedestrian oriented, and economically supportable by a nearby population. The location of this district will be determined based upon the compatibility and design considerations of the limited geographic area affected.

5.15.02 Permitted Uses:

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

5.15.03 Conditional Uses:

Conditional uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the C-2 District as recommended by the Planning Commission and approved by the City Commission.

5.15.04 Temporary Uses:

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

5.15.05 Accessory Uses and Structures:

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

5.15.06 Height and Lot Requirements:

The height and minimum lot requirements shall be as follows unless otherwise noted:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	Minimum Lot Depth (feet)	A Front Yard (feet)*	B Rear Yard (feet)**	C Side Yard (feet)**	Max. Height (feet)	Max. Building Coverage (%)
Permitted Uses	-	-	-	25	25	5	35	-
Conditional Uses	-	-	-	25	25	5	35	-
Accessory Structures	-	-	-	25	5	5	15	-

* The front yard setback of 25 feet only required when no parking is present in the front yard. If parking is located in the front yard, then the front yard setback shall be increased to 50 feet.

** See Section 5.15.07 (2) below

5.15.07 Use Limitations:

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within 15 feet of such residential district.
2. When adjacent to any residential district, new construction shall provide permanent screen with a height of six feet of six feet four inches if a fence, or flora planting eight feet in height, in order to minimize impacts on residentially zoned property, pursuant to Section ***.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
4. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
5. All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building, unless screened from the residential district by a sight-obscuring fence permanently maintained at least six feet in height.
6. Openings to structures on sides adjacent to or across the street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise or other adverse effects on residential properties.
7. Motor vehicle, boat, or trailer rental or sales lots shall be drained and surfaced with crushed rock or pavement, except in those portions of the lot maintained as landscape area.
8. 35% of the required front yard shall be maintained in landscaping.

Section 5.16 C-3 Highway Commercial District**5.16.01 Intent:**

This district is applied to parcels along US Highway 75. The district permits a mixture of uses. Uses will tend to serve the traveling public or larger commercial properties needing space for parking and turning.

5.16.02 Permitted Uses:

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

5.16.03 Conditional Uses:

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the C-3 District as recommended by the Planning Commission and approved by the City Commission.

5.16.04 Temporary Uses:

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

5.16.05 Accessory Uses and Structures:

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

5.16.06 Height and Lot Requirements:

The height and minimum lot requirements shall be as follows unless otherwise noted:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	Minimum Lot Depth (feet)	A Front Yard (feet)*	B Rear Yard (feet)	C Side Yard (feet)	Max. Height (feet)	Max. Building Coverage (%)
Permitted Uses	-	-	-	25	25	10	35	-
Conditional Uses	-	-	-	25	25	10	35	-
Accessory Structures	-	-	-	25	5	5	15	-

* The front yard setback of 25 feet only required when no parking is present in the front yard. If parking is located in the front yard, then the front yard setback shall be increased to 50 feet.

5.16.07 Use Limitations:

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within 15 feet of such residential district.
2. When adjacent to any residential district, new construction shall provide permanent screen with a height of six feet of six feet four inches if a fence, or flora planting eight feet in height, in order to minimize impacts on residentially zoned property, pursuant to Section 9.08.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
4. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
5. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in a residential or mobile home district.
6. All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building, unless screened from the residential district by a sight-obscuring fence permanently maintained at least six feet in height.
7. Openings to structures on sides adjacent to or across the street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise or other adverse effects on residential properties.
8. Motor vehicle, boat, or trailer rental or sales lots shall be drained and surfaced with crushed rock or pavement, except in those portions of the lot maintained as landscape area.
9. 35% of the required front yard shall be maintained in landscaping.
10. Lots along the highways shall be required to gain access through a paved service road.

Section 5.17 I-1 Light Industrial District

5.17.01 Intent:

The "I-1" Light Industrial District is established to provide areas in the City in which light industrial or manufacturing firms can engage in processing, assembling, manufacturing, warehousing and storage, and for related incidental service facilities. The activities conducted in the "I-1" Light Industrial District will create no obnoxious sounds, glare, dust or odor.

5.17.02 Permitted Uses:

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

5.17.03 Conditional Uses:

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the I-1 District as recommended by the Planning Commission and approved by the City Commission.

5.17.04 Temporary Uses:

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

5.17.05 Accessory Uses and Structures:

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

5.17.06 Height and Lot Requirements:

The height and minimum lot requirements shall be as follows unless otherwise noted:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	Minimum Lot Depth (feet)	A Front Yard (feet)*	B Rear Yard (feet)**	C Side Yard (feet)***	Max. Height (feet)	Max. Building Coverage (%)
Permitted Uses	-	-	-	40	20	15	30	-
Conditional Uses	-	-	-	40	20	15	30	-
Accessory Structures	-	-	-	40	20	15	30	-

* The front yard setback of 40 feet only required when no parking is present in the front yard. If parking is located in the front yard, then the front yard setback shall be increased to 50 feet.

** The minimum rear yard setback is 20 feet; except when adjacent to a Residential District, then the rear yard setback shall be 45 feet. Exception, if a public alley is between the industrial use and the Residential District, then the setback may be reduced to 25 feet. Section 5.17.07 (2) below shall also apply.

*** The minimum side yard setback is 15 feet; except when adjacent to a Residential District, then the side yard setback shall be 25 feet. Section 5.17.07 (2) below shall also apply.

5.17.07 Use Limitations:

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within 15 feet of such residential district.
2. When adjacent to any residential district, new construction shall provide permanent screen with a height of six feet of six feet four inches if a fence, or flora planting eight feet in height, in order to minimize impacts on residentially zoned property, pursuant to Section 9.08.
3. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in a residential or mobile home district.
4. All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building, unless screened from the residential district by a sight-obscuring fence permanently maintained at least six feet in height.
5. Openings to structures on sides adjacent to or across the street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise or other adverse effects on residential properties.

5.17.08 Performance Standards:

See Section 9.09 of the Supplemental Regulations.

Section 5.18 I-2 Medium Industrial District

5.18.01 Intent:

The "I-2" Medium Industrial District is established to provide areas in the City where industrial or manufacturing firms can engage in processing, manufacturing, and related activities protected from the encroachment of commercial and residential uses. The "I-2" Medium Industrial District is intended to allow moderately obnoxious sounds, glare, dust or odor. Certain extremely obnoxious or hazardous uses will require special permission to locate in this District.

5.18.02 Permitted Uses:

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

5.18.03 Conditional Uses:

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the I-2 District as recommended by the Planning Commission and approved by the City Commission.

5.18.04 Temporary Uses:

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

5.18.05 Accessory Uses and Structures:

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

5.18.06 Height and Lot Requirements:

The height and minimum lot requirements shall be as follows unless otherwise noted:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	Minimum Lot Depth (feet)	A Front Yard (feet)*	B Rear Yard (feet)**	C Side Yard (feet)***	Max. Height (feet)	Max. Building Coverage (%)
Permitted Uses	-	-	-	25	25	15	30	-
Conditional Uses	-	-	-	25	25	15	30	-
Accessory Structures	-	-	-	25	25	15	30	-

* The front yard setback of 30 feet only required when no parking is present in the front yard. If parking is located in the front yard, then the front yard setback shall be increased to 50 feet.

** The minimum rear yard setback is 25 feet; except when adjacent to a Residential District, then the rear yard setback shall be 45 feet. Exception, if a public alley is between the industrial use and the Residential District, then the setback may be reduced to 25 feet. Section 5.18.07 (2) below shall also apply.

*** The minimum side yard setback is 15 feet; except when adjacent to a Residential District, then the side yard setback shall be 25 feet. Section 5.18.07 (2) below shall also apply.

5.18.07 Use Limitations:

- When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within 15 feet of such residential district.
- When adjacent to any residential district, new construction shall provide permanent screen with a height of six feet of six feet four inches if a fence, or flora planting eight feet in height, in order to minimize impacts on residentially zoned property, pursuant to Section 9.08.
- Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in a residential or mobile home district.
- All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building, unless screened from the residential district by a sight-obscuring fence permanently maintained at least six feet in height.
- Openings to structures on sides adjacent to or across the street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise or other adverse effects on residential properties.

5.18.08 Performance Standards:

See Section 9.09 of the Supplemental Regulations.

Section 5.19 PD Planned Development District**5.19.01 Intent:**

The purpose of the Planned Unit Development District is to encourage imaginative and efficient utilization of land by providing greater flexibility in the location of buildings, the consolidation of open spaces, and the clustering of dwelling units. The guidelines and objectives of this Section are intended to give a sense of the physical aspect of the village environment to those contemplating innovative and pedestrian-oriented development in the community. Pertinent to this physical appearance is the design of the site, buildings and structures, planting, signs, street hardware, and miscellaneous other objects that are observed by the public. These standards are not intended to restrict imagination, innovation, or variety, but rather to assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the City of Sabetha and the Planning Area, preserve taxable values, and promote the public health, safety, and general welfare.

5.19.02 Use Regulations

The Planned Unit Development District shall be used as an overlay district in combination with the existing conventional residential zoning districts and the "C-3" Zoning districts as designated herein, and the provisions of the Planned Unit Development District shall supplement or supersede the provisions of the district regulations. The Planned Unit Development Classification shall not be applied to a land area as an independent zoning district.

5.19.03 Development Standards.

1. A Planned Unit Development established under the provisions of this Article shall contain not less than three acres, unless expressly permitted by the Planning Commission.
2. The total number of dwelling units permitted in a Planned Unit Dwelling Unit shall be determined by dividing the net development area by the minimum lot area requirement of the zoning district in which the development is proposed to be located, minus the land used for commercial and office purposes. The area of land set aside for common open space or recreational land use shall be included in the net development area.
3. All open spaces and public areas shall be fully protected by recorded covenants running with the land or a development rights transfer to the City of Sabetha.
4. All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
5. Tract sizes, area, frontages and other dimensions may be freely arranged according to professional design standards. All standards should be appropriate to the site and the overall development plan should be appropriate to the surrounding neighborhood. The Developer and the Planning Commission should be guided by the carrying capacity of the site, the general physiography, and location.
6. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainageways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
7. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, cover, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject property.
8. Proposed development shall be related harmoniously to the terrain and to the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall be related to their surroundings.
9. The color, size, height, lighting, and landscaping of appurtenant signs and structures shall be evaluated for compatibility with the local architectural motif and the maintenance of views and vistas of natural landscapes, recognized historic landmarks, parks, and landscaping.

10. The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

5.19.04 Application for Planned Unit Development District

Preliminary Development Plan

1. Any applicant requesting a Planned Unit Development District classification shall submit to the Zoning Administrator the items specified in the subdivision ordinance for a preliminary plat. A plan application shall be complete for the purposes of commencing the applicable time period for action when so certified by the Zoning Administrator.
2. The application for a preliminary development plan shall be declared complete or incomplete within a 10-day period from the date of its submission. In the event such certification of the application is not made within 10 days of the date of its submission, the application shall be deemed complete upon the expiration of the 10 day period for the purposes of commencing the applicable time period unless: 1) the application lacks information indicated on the checklist of items to be submitted as specified in Article Twenty-Six and provided in writing to the applicant, and 2) the Zoning Administrator has notified the applicant, in writing, of the deficiencies in the application within 10 days of submission of the application. The Planning Commission and the City Engineer may subsequently require correction of any information found to be in error and submission of additional information not specified in the ordinance, as is reasonably necessary to make an informed decision. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the Planning Commission and the City Engineer.
3. The action of the Planning Commission under this Section must be taken at their regularly scheduled public hearing within 45 days of a complete application for a preliminary development plan as defined in subdivision ordinance for Sabetha, Kansas, or within such further time as is agreed to by the applicant and the Planning Commission. Failure of the Planning Commission to act within the period prescribed shall constitute preliminary development plan approval and a certificate of the Zoning Administrator as to the failure of the Planning Commission to act shall be issued on request of the applicant.
4. The Zoning Administrator shall cause the plan to be reviewed by the City Engineer to ensure, conformance with this ordinance and acceptable engineering and construction standards. The City Engineer shall review the plan application and prepare a summary statement indicating whether or not the preliminary development plan is in conformance with this ordinance. If the plan is not in conformance with this ordinance, the City Engineer shall indicate in the summary statement those items which need to be addressed or corrected to bring the plan to an acceptable standard of design. The City Engineer's review of the preliminary development plan shall be sent to the Zoning Administrator, who shall distribute copies to the Planning Commission and the applicant.
5. Approval, disapproval or continuance for cause of the preliminary development plan shall be conveyed to the applicant within five days after the Planning Commission's public hearing at which time the plan was considered. In case the plan is disapproved or continued, the applicant shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the Planning Commission. The Planning Commission may approve the plan according to the provisions of this Section but may impose additional requirements deemed reasonable and necessary. If approved, the applicant shall then revise the preliminary development plan as necessary to meet the requirements established by the Planning Commission and proceed with the preparation and submission of the final Planned Unit Development Plan.

Final Plan Approval

Following approval of the preliminary Planned Unit Development Plan, the applicant shall plat the land according to the Subdivision Regulations of the City of Sabetha, Kansas, however, the approved preliminary development plan shall be considered to be the approved preliminary plat of subdivision.

Therefore, the platting process shall commence with the submittal of a final plat of subdivision as set forth in the subdivision regulations.

1. If in the event the property is presently part of a subdivision plat, approved and recorded in the manner prescribed in the Subdivision Regulations of the City of Sabetha, Kansas, the requirements for platting and the references made to subdivision plats in the following subsections shall be disregarded.
2. The final Planned Unit Development plan and 15 copies thereof shall be submitted concurrently with the filing of the final subdivision plat so that both may be considered simultaneously by the Planning Commission. Submittal of the final Planned Unit Development plan and the final plat of subdivision shall be made in accordance with the provisions of Article Four, Section F of the Subdivision Regulations of the City of Sabetha, Kansas
3. The final Planned Unit Development plan shall be the approved preliminary development plan, with appropriate revisions as necessary, prepared on Paper, Mylar or similar material providing space for the date and signatures of the following, certifying approval:
 - a. Owners and developers of the subject property;
 - b. Chairman and Secretary of the Planning Commission;
 - c. The Mayor and City Clerk.

Filing and Recording

The signed and recorded Planned Unit Development linen shall be made part of the permanent file of the Zoning Administrator, and the Official Zoning Map shall be corrected to show the attachment of the Planned Unit Development District.

Amendments

A building permit shall not be issued for any building within a Planned Unit Development which does not conform to the development plan as approved and recorded, except that a reasonable variance to location and gross floor area of individual buildings may be granted after a review of said variation by the Planning Commission.

If the Planned Unit Development plan requires an amendment because the requested variation is deemed significant by the Planning Commission, then the applicant shall proceed in the same manner established for the application of a new Planned Unit Development plan.

Section 5.20AO Airport Overlay District**5.20.01 Intent:**

The regulations set forth in this Section set forth elsewhere in these Regulations when referred to in this Section, are the regulations in the "AO" Airport Overlay District. The Airport Overlay District is designed to establish an airport zone surrounding Sabetha Municipal Airport and to protect those using the airport from hazards that might be erected or constructed on surrounding properties. To this end, the District establishes additional restrictions on uses of property that may be stricter than those of the underlying district. When this occurs, the stricter requirements apply.

5.20.02 Definitions

As used in this Article, unless the context otherwise requires, the following words or phrases shall have the meanings herein defined:

AIRPORT shall mean the Sabetha Municipal Airport.

AIRPORT ELEVATION shall mean an elevation of 1,330 feet above mean sea level for Sabetha Municipal Airport.

AIRPORT HAZARD shall mean any structure, tree, or use of land which obstructs the airspace required for the flight of aircraft in landing and taking off at any airport, or is otherwise hazardous to such landing or taking off of aircraft.

APPROACH SURFACE shall mean a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 5.22.04 hereof. The perimeter of the approach surface coincides with the perimeter of the approach zone.

APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES shall mean the zones established in this Section.

CONICAL SURFACE shall mean a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

HAZARD TO AIR NAVIGATION shall mean an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

HEIGHT shall mean the height limits in all zones set forth in this Section and shown on the Airport Zoning Maps, the datum shall be mean sea level elevation unless otherwise specified.

HORIZONTAL SURFACE shall mean a horizontal plane 150 feet above the established airport elevation, the perimeter of which coincides with the perimeter of the horizontal zone.

LARGER THAN UTILITY RUNWAY shall mean a runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight, and jet-powered aircraft.

NONCONFORMING USE shall mean any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Article, or any amendment thereto.

NONPRECISION INSTRUMENT RUNWAY shall mean a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

OBSTRUCTION shall mean any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 5.20.04 hereof.

PERSON shall mean any individual, firm, co-partnership, company, association, joint stock association, or government entity, and includes any trustee, receiver, assignee, or other similar representative thereof.

PRECISION INSTRUMENT RUNWAY shall mean a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

PRIMARY SURFACE shall mean a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in Section 17-103 hereof. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

RUNWAY shall mean a defined area on an airport prepared for landing and taking off of aircraft along its length.

STRUCTURE shall mean any object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, tanks, cranes, smokestacks, earth formation, and overhead transmission lines.

TRANSITIONAL SURFACES shall mean these surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each 1 foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

TREE shall mean a woody perennial having a single usually elongate main stem, generally with few or no branches on its lower part.

UTILITY RUNWAY shall mean a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

VISUAL RUNWAY shall mean a runway intended solely for the operation of aircraft using visual approach procedures.

5.20.03 Establishment of Airport Zones

In order to carry out the provisions of this section, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Sabetha Municipal Airport. Such zones are shown on the Sabetha Airport Zoning Maps, which are hereby made a part of these Regulations. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Utility Runway Visual Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (This zone applies to Runway 1-19 and to Runway 12-30 at Sabetha Municipal Airport.)
2. Utility Runway Non-Precision Instrument Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (This zone applies to Runway 1-19 at Sabetha Municipal Airport.)
3. Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Non-precision Instrument Approach Zone: The inner edge of this approach zone coincides with the width of the primary

surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (This zone does not presently apply to any runways at Sabetha Municipal Airport.)

4. Transitional Zones: The transitional zones are the areas beneath the transitional surfaces.
5. Horizontal Zone: The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual, and 10,000 feet for all others, from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
6. Conical Zone: The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

5.20.04 Airport Zone Height Limitations

Except as otherwise provided in this Section, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Section to a height in excess of the applicable height herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. Utility Runway Visual Approach Zone: Slopes 20 feet outward for each 1 foot upward beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Utility Runway Non-Precision Instrument Approach Zone: Slopes 20 feet outward for each 1 foot upward beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
3. Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Non-Precision Instrument Approach Zone: Slopes 34 feet outward for each 1 foot upward beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
4. Transitional Zones: Slopes 7 feet outward for each 1 foot upward beginning at the sides of, and at the same elevation as, the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. In addition to the foregoing, there are established height limits sloping 7 feet outward for each 1 foot upward beginning at the sides of, and the same elevation as, the approach surface and extending to where they intersect the conical surface or horizontal surface.
5. Horizontal Zone: Established at 150 feet above the airport elevation.
6. Conical Zone: Slopes 20 feet outward for each 1 foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
7. Excepted Height Limitations: Except in the Approach Zones, nothing in this Section shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree, to a height up to 50 feet above the surface of the land.

5.20.05 Use Restrictions

Notwithstanding any other provisions of this Section no use may be made of land or water within any zone established by this Section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport. No sanitary landfill may be established, operated, or maintained within 2 miles of any airport boundary.

5.20.06 Plan Approval Guidelines

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

5.20.07 Nonconforming Uses

1. Regulations Not Retroactive: The regulations prescribed in this Section shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations at the effective date of these Regulations, or otherwise interfere with the continuation of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these Regulations and is diligently pursued.
2. Marking and Lighting: Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Zoning Administrator to indicate the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner.

5.20.08 Permits

1. Future Uses: Except as specifically provided in a., b., and c. hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone herein created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Section shall be granted unless a variance has been approved in accordance with Section 5.20.04(4.) hereof.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Section, except as set forth in Section 5.20.04 (4.).

- a. In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground; except when, because of terrain, land contour, or topographical features, such tree or structure would extend above the height limits prescribed for such zones.
 - b. In areas lying within the limits of the approach zones but a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet height above the ground; except when such tree or structure would extend above the height limit prescribed for such approach zone.
 - c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground; except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.
2. Existing Uses: No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of these Regulations or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
 3. Nonconforming Uses Abandoned or Destroyed: Whenever the Zoning Administrator determines that a nonconforming tree or structure has been abandoned or more than 50 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the Zoning Regulations.
 4. Variances: Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in accordance with the regulations prescribed in this Section, may apply to the BZA for a variance from such regulations. Each application for variance shall be accompanied by a determination from the FAA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship, and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in

accordance with the spirit of this Section. Additionally, no application for variance to the requirements of this Section may be considered by the BZA unless a copy of the application has been furnished to the airport owner for advice as to the aeronautical effects of the variance. If the airport owner does not respond to the application within 30 days after receipt, the BZA may act on its own to grant or deny said application.

5. Obstruction Marking and Lighting: Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Section and be reasonable in circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the BZA and approved by the Governing Body, this condition may be modified to require the owner to permit the Airport owner, at its own expense, to install, operate, and maintain the necessary markings and lights.

5.20.09 Enforcement

It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed in this Article. Applications for permits and variances shall be made to the Zoning Administrator upon a form published for that purpose. Applications required by this Section to be submitted to the Zoning Administrator shall be promptly considered and granted or denied. Application for action by the BZA shall be forthwith transmitted by the Zoning Administrator.

5.20.010 Conflicting Regulations

Where there exists a conflict between any of the regulations or limitations prescribed in this Section and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

Article 6: Conditional Use Permits

Section 6.01 Application of Conditional Uses

Recognizing that certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district, certain Conditional Uses listed herein, when found to be in the interest of the public health, safety, morals, and general welfare of the community, may be permitted, except as otherwise specified, in any district from which they are prohibited.

Before the location or establishment thereof, or before any change or use of the premises existing at the time of the effective date of this Code or permitted as herein provided is made, a development plan in sufficient detail and a statement as to the proposed use of the buildings, structures, and premises shall be submitted to the Planning Commission as specified in Article 11.07 of this Code. The Planning Commission shall hold a public hearing following the provisions also outlined in K.S.A. 12-756 (b) and shall review such development plan and statements and shall, after a careful study of the effect that such buildings, structures, or uses will have upon the surrounding property, submit a recommendation to the Governing Body.

Following receipt of the Planning Commission's recommendation, the Governing Body may, within the specifications herein provided, permit such buildings, structures, or uses where requested, provided that the public health, safety, morals, and general welfare will not be adversely affected, that ample off-street parking facilities will be provided, and that necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values. In this regard, the Governing Body may impose reasonable conditions on the approval of a Conditional Use Permit including, but not limited to, those items identified in Section 6.08 of this Ordinance.

Section 6.02 Additions and Changes to Conditional Uses

All requests for additions and structural alterations to Conditional Uses previously approved by the Governing Body shall be considered in the same procedure as outlined in Section 6.01 herein.

Section 6.03 Conditional Uses Enumerated

All Conditional Uses are listed by District within the Table in Section 5.06 herein.

Section 6.04 Continuance of a Conditional Use

A Conditional Use shall be allowed to continue, unless specified otherwise as a condition of authorization, as long as all conditions placed on it are met. If that particular use ceases to exist for a period of six months, it will forfeit its approved Development Plan and will not be allowed to exist again unless a new Development Plan is approved.

Section 6.05 Decisions

A majority vote of the City Commission shall be necessary to grant a Conditional Use Permit.

The applicant shall have 12 months from the approval of the Conditional Use Permit to commence the use, unless specifically granted a longer period of time.

All decisions by the City Commission shall be required to provide findings of fact for their decision for either approval or denial.

Section 6.06 Transferability

Any approved Conditional Use Permit is automatically transferable upon sale of the property from the original applicant to another party. However, the new owner shall assume the responsibility for complying with:

1. the conditions of the granted permit,
2. The use shall not change or be expanded unless a new Conditional Use Permit is approved,
3. Failure to comply with the conditions of the permit shall subject the new owner to the revocation process of this Article.

Section 6.07 Revocation

Any approved Conditional Use Permit may be revoked for failure to comply with the conditions approved by the Board of Zoning Appeals. Revocation shall require that the City notify the applicant of any noncompliance, in writing, and provide the applicant 30 days to correct the issue(s).

Failure to comply with the notice shall cause a Public Hearing to be scheduled by the Board of Zoning Appeals, to review the permit and the approved conditions and the failure to act by the applicant. If the applicant is found to be noncompliant with the issued permit and conditions, the Board of Zoning Appeals shall revoke the permit and order the use to cease and desist.

Failure to follow a Cease and Desist order shall cause action to be filed by the City Attorney in Municipal Court.

Revocation may also occur, if the City documents that the use has ceased operations for 12 consecutive months. The City shall notify the applicant of the revocation in writing. The permit shall become invalid within 30 days.

Section 6.08 Standards

Because of particular conditions associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts, but are permitted as Conditional Uses when their proposed location is supplemented by additional requirements so as to make the use requested compatible with the surrounding property, the neighborhood and the zoning jurisdiction.

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

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

- A. Whether approval of the Conditional Use would be consistent with the intent and purpose of this Code.
- B. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood.
- C. Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided.
- D. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected.
- E. The length of time the subject property has remained vacant or undeveloped as zoned.
- F. Whether the applicant's property is suitable for the proposed use.
- G. The recommendations of permanent or professional staff.
- H. Whether the proposed Conditional Use would be in conformance to and further enhance the implementation of the Comprehensive Plan.
- I. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed on the applicant by not upgrading the value of the property by approving the proposed Conditional Use; and,
- J. Whether the proposed Conditional Use, if it complies with all the conditions upon which the approval is made contingent (as authorized in Article 3 of this Code), will not adversely affect the property in the area affected.
- K. Such other factors as may be relevant from the facts and evidence presented in the application.

Article 7: Parking Requirements

Section 7.01 Purpose

The Off-Street Parking Regulations require developments provide parking in proportion to the need created by each use. The regulations further establish standards for the functional design of parking facilities. These regulations are intended to accommodate vehicles in a functionally satisfactory manner and to minimize external effects on neighboring properties.

Section 7.02 Off-Street Automobile Storage

- 7.02.01 Off-street automobile storage or standing space shall be provided on any lot on which any of the uses or similar uses found in Section 7.03.
- 7.02.02 All off-street parking facilities shall be so designed and constructed to meet the requirements set forth by the City Engineer.
- 7.02.03 All areas used for parking shall be maintained in good condition free of holes, dust, and debris.
- 7.02.04 Off-street automobile storage or standing space shall be provided with vehicular access to a street or an alley.
- 7.02.05 For purposes of computing the number of parking spaces available in a given area, the ratio of 250 square feet per parking space shall be used. Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
- 7.02.06 All parking spaces for single-family, two-family, and multi-family dwellings, rooming and boarding houses, convalescent homes, and mobile homes shall be either gravel or paved with asphalt or concrete.
- 7.02.07 In Districts R-1, R-2, R-3 and R-4 required off-street parking for residential uses shall be provided on the lot on which the use is located. In all other Districts, if the vehicle storage space or standing space required in section 7.03 cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the Planning Commission and City Commission, the City Commission may permit such space to be provided on another off-street property, provided such space lies within 400 feet of an entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.
- 7.02.08 Where off-street parking is located on a lot other than the lot occupied by the use, which requires it, site plan approval for both lots is required.
- 7.02.09 Some uses may require two different use types to be calculated together in order to determine the total parking requirement, i.e. primary schools may require one a calculation for classrooms and another for assembly areas.
- 7.02.10 The parking requirements herein do not apply to the C-1 Downtown Commercial District.
- 7.02.11 All off-street parking conditions shall meet the ADA requirements in Section 7.05 of this Ordinance.

Section 7.03 Schedule of Minimum Off-Street Parking and Loading Requirements

Uses		Parking Requirements	Loading Requirements
Commercial and Office including but not limited to:			
	Adult entertainment establishments	1 space/2 persons of licensed capacity	None required
	Agricultural Sales/Service	1 space/500 s.f. of gross floor area	1 space/establishment
	Auditoriums/Stadiums/arenas	1 space/4 seats in main assembly area	None required
	Automotive Car Wash	5 spaces/car wash bay	1 space/establishment
	Automotive Rental/Sales	1 space/400 s.f. of gross floor area+ 1 space per each item in inventory	1 space/establishment
	Automotive Servicing	4 spaces/repair stall	None required
	Banks and Business offices	1 space/200 sf of floor area to 1000 sf; then 1 space/400 sf of add. floor space	1 space/establishment
	Boarding Houses/Bed and Breakfasts	1 space/rental units	None required
	Body Repair	5 spaces/repair stall	None required
	Bowling Alleys	5 spaces/alley plus 1 space per 2 employees	1 space/establishment
	Child Care Centers	1 space/employee + 1 space or loading stall/5 persons of licensed capacity	None required
	Churches, Synagogues, and Temples	1 space/3 seats in main worship area or 1 space/17 classroom seats; whichever is greater	None required
	Clubs, including fraternal organizations	1 space/500 s.f. of gross floor area	None required
	Commercial Recreation	1 space/2 persons of licensed capacity	1 space/establishment
	Construction Sales/Service	1 space/500 s.f. of gross floor area	1 space/establishment
	Dance Hall, skating rink	1 space/100 square feet of floor area + 1 space/2 employees	None required
	Dental Clinics or Offices	2 spaces/each examination chair + 1/dentist and employee	None required
	Equipment Rental/Sales	1 space/500 s.f. of gross floor area	1 Space/establishment
	Food sales	1 space/200 s.f. of gross floor area	2 spaces/establishment
	Funeral homes, Mortuaries and Chapels	1 space/4 seats in any chapel or parlor room, or 1 space/each 50 sf of floor area, whichever is greater.	2 spaces/establishment
	Furniture and Appliance Stores	1 space/800 sf of floor area	1 space/establishment
	General retail sales establishments	1 space/200 s.f. of gross floor area	1 space/establishment
	Home Occupations	2 spaces, in addition to those required for dwelling purposes.	None required
	Hospitals	1 space/2 licensed beds + 1 space/3 employees + 1space/staff doctor	3 spaces/structure
	Hotels and Motels	1 space/rental unit + 1 space/each 200 s.f. of public meeting area	1 space/establishment
	Libraries	1 space/4 seats in rooms for public use, or 1 space/50 sf of gross floor area for use by the public, whichever is greater + 1 space/each 2 employees.	1 space/structure
	Medical Clinics	3 spaces/exam room + 1 space/doctor and employee	None required
	Offices not providing customer services or sales on the premises	1 space/400 s.f. of gross floor area	None required
	Personal Service Establishments in Commercial Districts, including: (a) Barber and Beauty Shops. (b) Tailor and Shoe Shops. (c) Apparel and Accessory Shops.	1 space/200 sf of gross floor area.	1 space/structure
	Professional Offices of Attorneys C.P.A.'s, Architects, Engineers, etc.	3 spaces/1000 sf of gross floor area. For offices less than 1000 sf, the minimum requirement shall be 4 spaces.	None required
	Public buildings	1 space/ 3 employee, + 1 space/100 sf used for public assembly.	1 space/establishment
	Restaurants w/ drive-thru	Greater of the two: 1 space/40 s.f. of dining area, or 1 space/150 s.f. of gross floor area	1 space/establishment
	Restaurants and Night Clubs	1 space/3 seats.	2 spaces/establishment
Roadside stands	4 spaces/establishment	None required	
Schools; Elementary and Intermediate	2 spaces/classroom; but not less than 1 space/teacher and staff.	1 space/establishment	
Schools; Secondary and Vocational	1 space/teacher and staff, + 1 space/3 students of driving age.	1 space/establishment	
Service Oriented Establishments	1 space/200 s.f. of gross floor area	1 space/establishment	
Taverns, Poll and Billiard Halls	1 space/3 seats, or 3 spaces/50 sf of gross floor area used for assembly, whichever is greater.	None required	
Theaters/Auditoriums/Places of Assembly	1 space/4 seats up to 800 seats, + 1 space/8 seats over 800 seats	1 space/establishment	
Veterinary Establishments	1 spaces/500 square feet/staff doctor	None required	
Residential/Housing including but not limited to:			
	Assisted-living facilities	.5 space/dwelling unit	1 space/structure
	Convalescent & Nursing Home Services	1 space/3 beds + 1/employee on the largest shift	2 space/structure
	Duplex	2 spaces per dwelling unit	None required
	Group Care Facility	1 space/4 persons of licensed capacity	2 space/structure
	Group Home	1 space/4 persons of licensed capacity	2 space/structure
	Multi-family / Apartments	1.5 space/dwelling unit for studios or units containing 1 bedroom 2 spaces/dwelling unit for units containing 2 or more bedrooms	None required
	Mobile Home Park	2/dwelling unit	None required
	Residential (Single-family, attached and detached)	2 spaces/dwelling unit (1 may be enclosed or semi-enclosed)	None required
Industrial Uses including but not limited to:			
	General Manufacturing	1 space/2 employee on maximum shift + 1 space/company vehicle	2 spaces/establishment
	Manufacturing Uses, Research and Testing Laboratories, Creameries, Bottling Establishments, Bakeries, Canneries, Printing and Engraving Shops, Etc.	1 space/2 employee on maximum shift + 1 space/company vehicle.	2 spaces/establishment
	Wholesaling / Distribution Operations	2 spaces/employee on maximum shift + 1 space/company vehicle	2 spaces/establishment

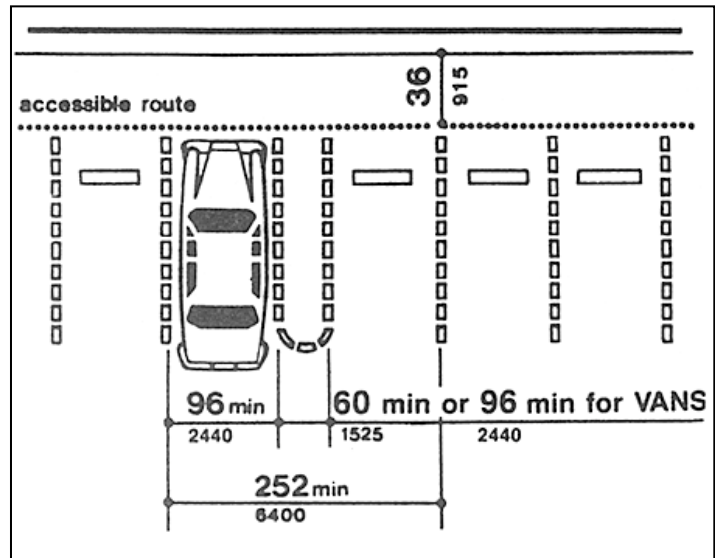
Section 7.04 Off-Street Parking: Shared Parking Requirements

7.04.01 Notwithstanding the provisions of Section 7.03, in cases where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in a common parking lot is likely to occur, compliance with the standard parking ratios may be decreased by the Planning Commission and City Commission.

Section 7.05 Off-Street Parking: Parking for Individuals with Disabilities

7.05.01 In conformance with the Americans with Disabilities Act (ADA), if parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces shall be provided in each parking area in conformance with the table in this section. Spaces required by the table need not be provided in the particular lot. They may be provided in a different, if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience, is ensured.

Total Parking Spaces	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of the total
1,001 and over	20 plus 1 for each 100 over 1,000



Source: <http://www.ada.gov/adastd94.pdf>

- 7.05.02 Access aisles adjacent to accessible spaces shall be 60 inches wide at a minimum.
- One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 inches wide minimum and shall be designated "van accessible" as required by Section 7.05.04 of this Ordinance. The vertical clearance at such spaces shall comply with 7.05.05 of this Ordinance. All such spaces may be grouped on one level of a parking structure.
 - Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle.
 - Parked vehicle overhangs shall not reduce the clear width of an accessible route.
 - Parking spaces and access aisles shall be level with slopes not exceeding two percent in all directions.
 - If passenger-loading zones are provided, then at least one passenger loading zone shall comply with 7.05.06 of this Ordinance.
 - At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 7.05 of this Ordinance shall be provided in accordance with 7.05.01 of this Ordinance; except as follows:
 - Outpatient units and facilities: 10 percent of the total number of parking spaces provided serving each such outpatient unit or facility.
 - Units and facilities that specialize in treatment or services for persons with mobility impairments: 20 percent of the total number of parking spaces provided serving each such unit or facility.
 - Valet parking: valet parking facilities shall provide a passenger loading zone complying with 7.05.06 of this Ordinance located on an accessible route to the entrance of the facility. Sections 7.05.01, 7.05.02 (1), and 7.05.02 (3) of this Ordinance do not apply to valet parking.

7.05.03 Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.

1. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
2. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.

7.05.04 Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying with Section 7.05.02 (1) shall have an additional sign stating the stall is "Van Accessible" mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.

7.05.05 Minimum vertical clearance of 114 inches at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 7.05.02 (1), provide minimum vertical clearance of 98 inches at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).

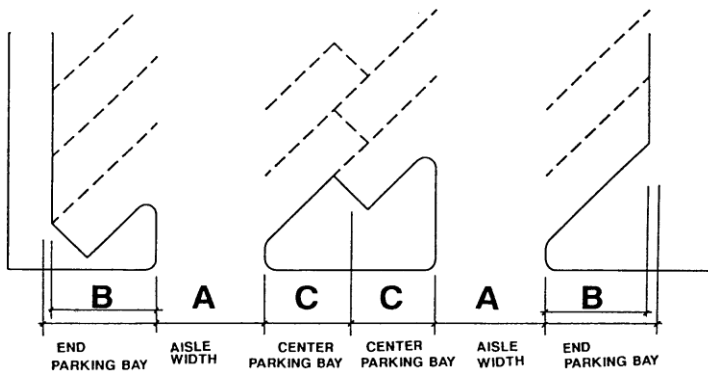
7.05.06 Passenger Loading Zones shall provide an access aisle at least 60 inches wide and 240 inches long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding two percent in all directions.

Section 7.06 Off-Street Parking Design Criteria

7.06.01 Standard parking stall dimensions shall not be less than nine feet by 18 feet, plus the necessary space for maneuvering into and out of the space. Where the end of the parking space abuts a curbed area at least five feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two feet. Such overhang shall be measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

Parking Configuration

	90-degree	60-degree	45-degree
Aisle Width (A)			
One-way traffic	-----	18 feet	14 feet
Two-way traffic	24 feet	20 feet	20 feet
End Parking Bay Width (B)			
Without overhang	18 feet	20 feet	19 feet
With overhang	16 feet	18 feet	17 feet
Center Parking Bay Width (C)	18 feet	18 feet	16 feet



7.06.02 Minimum dimensions for a parallel parking space shall be nine feet by 18 feet.

7.06.03 Off-street parking areas shall be oriented to and within a reasonable walking distance of the buildings they are designed to serve.

7.06.04 Access to parking areas shall be designed so as not to obstruct free flow of traffic. There shall be adequate provision for ingress to and egress from all parking spaces to ensure ease of mobility, ample clearance, and safety of vehicles and pedestrians.

7.06.05 Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning Commission and City Commission upon recommendation of the City Engineer.

- 7.06.06 Parking facilities shall be designed to provide visibility of and between pedestrians and vehicles when circulating within or entering or leaving the facility; and shall not create blind, hidden, or hazardous areas.
- 7.06.07 Where sidewalks occur in parking areas, parked vehicles shall not overhang the sidewalk unless an additional one foot is provided in order to accommodate such overhang.
- 7.06.08 Parking areas shall be suitably landscaped to minimize noise, glare, and other nuisance characteristics as well as to improve the environment of the site and surrounding area. Large parking lots shall be broken down into sections as appropriate for the type and size of the development. Sections shall be separated by landscaped dividing strips, berms, and similar elements.
- 7.06.09 Circulation patterns shall be designed in accord with accepted standards of traffic engineering and safety.
- 7.06.10 All parking facilities shall be maintained to assure the continued usefulness and compatibility of the facility. Acceptable maintenance includes keeping the facility free of refuse, debris, and litter; maintaining parking surfaces in sound condition; and providing proper care of landscaped areas.
- 7.06.11 Lighting:
1. Any lighting used to illuminate any off-street parking area shall be arranged to direct light away from adjoining properties in any residential district.
 2. Lighting standards or shall not exceed 22 feet in height and shall be equipped with top and side shields when necessary to prevent glare onto adjacent properties.
 3. The average maintained lighting levels for multi-family units shall not exceed 10 foot-candles at buildings/parking lots/other areas within a residential district. The maximum to average ratio shall not exceed 2.5 to 1.

Article 8: Sign Regulations

Section 8.01 Compliance with Sign Regulations

All signs constructed, erected, modified or moved after the effective date of this Ordinance shall comply with the regulations herein, unless expressly exempted.

Section 8.02 Sign Definitions

The following are the definitions relating to signs within the Sabetha zoning jurisdiction.

ADVERTISING SIGN shall mean a sign which directs attention to any product, activity, or service; provided, however, that such sign shall not be related or make reference to the primary use, business activity, or service conducted on the premises.

AERIAL SIGN shall mean a balloon or other airborne flotation or inflatable device which sits on a surface or is tethered to the ground or to a building that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered, regardless of whether it does or does not contain text or advertising copy.

ANIMATED SIGN shall mean any sign that uses movement or change of lighting to depict action or create a special effect or scene.

ARCHITECTURAL CANOPY SIGN shall mean an enclosed, illuminated or non-illuminated structure that is attached to the wall of a building with the face of the sign approximately parallel to the wall and with the sign's area integrated into its surface.

AUDIBLE SIGN shall mean any sign that conveys either a written message supported by an audible noise including music, spoken message, and/or sounds to attract attention to the sign. Audible signs also include signs conveying only the audible noise including music, spoken message, and / or sounds to attract attention.

AWNING OR CANOPY SIGN shall mean any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

BACK-LIT SIGN shall mean a sign whose light source is located behind fully opaque letters and/or graphics in the interior of the sign so that the rays go through the face of the sign.

BALLOON SIGN shall mean one or more balloons used as a permanent or temporary sign or as a means of directing attention to any business or profession, or to a commodity or service sold, offered, or manufactured, or to any entertainment.

BANNER SIGN shall mean any sign of lightweight fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges. National flags, state or municipal flags, or official flag of any institution or business shall not be considered banners.

BILLBOARD SIGN shall mean a sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

BUILDING SIGN shall mean any sign supported by, painted on or otherwise attached to any building or structure.

BUILDING MARKER SIGN shall mean any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

CENTER IDENTIFICATION SIGN shall mean a sign indicating direction to a multi-tenant commercial building, building complex, shopping center or similar center which may include multiple uses and/or structures within the development. Center Identification signs shall include the name of the development and, the names of major tenants of the development.

CHANGEABLE COPY SIGN shall mean a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without, altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance.

CLOSED SIGN shall mean a sign in which more than 50 percent of the entire area is solid or tightly closed or covered.

COMMUNITY OR CIVIC SIGN shall mean a sign containing business logos and/or logos of civic organizations. The sign is intended to provide space for several businesses and/or organizations on one sign, and all advertising is similar in size. The primary intent of the community or civic sign is for informational purposes and to communicate information to the motoring public as to businesses and organizations that are active in the community. Community or civic signs are owned and operated by the local chamber of commerce or other civic organization or non-profit entity.

DESTINATION SIGN shall mean a sign used to inform and direct the public to important public places and buildings, landmarks, and historical sites in the most simple, direct, and concise manner possible.

DIGITAL MESSAGE SIGN shall mean a combination sign which includes a digital changeable copy component.

DIRECT LIGHTING shall mean illumination by means of an external source.

DIRECTIONAL/INFORMATIONAL SIGN shall mean an on-premise sign which provides direction for the safe and efficient flow of vehicular or pedestrian traffic to an activity on the premise. Directional/Informational signs shall include signs marking entrances, exits, parking areas, loading areas or other operational features of the premise.

DIRECTORY SIGN shall mean an on-premise sign identifying an activity, operational feature, or business name upon such premise. Directory signs shall include building names, offices, or activities in same size letters, colors and general design and shall be limited to one sign per street entrance.

DWELL TIME shall mean the duration or interval of time during which each individual advertisement or message is displayed on any sign which is capable of sequentially displaying more than one advertisement or message on its display surface.

ELECTRONIC MESSAGE BOARD SIGN shall mean a sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

EXTERNALLY ILLUMINATED SIGN shall mean a sign whose illumination is derived entirely from an external source.

FLASHING SIGN shall mean a sign, which, by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of being on or off.

FREESTANDING SIGN shall mean any sign supported by uprights or braces placed on or in the ground, which is used principally for advertising or identification purposes and is not supported by any building.

GROUND SIGN shall mean a sign mounted directly to the ground with a maximum height not to exceed six feet.

ILLUMINATED SIGN shall mean a sign illuminated in any manner by an artificial light source.

INCIDENTAL SIGN shall mean a sign, generally informational, that has a purpose secondary to the use on the lot which it is located.

INDIRECTLY ILLUMINATED SIGN shall mean illumination of a sign that is affected by a source of light not contained within the sign itself.

INFLATABLE SIGN shall mean any sign designed or constructed with the ability to be mechanically filled with air or gas that displays a commercial message or an identifiable corporate character or logo.

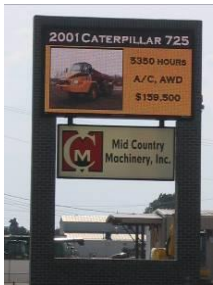














INTERNALLY ILLUMINATED SIGN shall mean a sign that is illuminated by means of a light source in the interior of the sign so that light passes through the face of the sign.


















MARQUEE SIGN shall mean any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

NAMEPLATE SIGN shall mean a sign not exceeding 2 square feet for each dwelling.

NON-CONFORMING SIGN shall mean any sign that does not conform to the requirements of this ordinance.

OBSOLETE SIGN shall mean a sign that advertises a business no longer in existence or a product no longer offered for sale and has advertised such business or product for a period of six months after the termination of the existence of such business or the termination of sale of the product advertised.

 <p>Animated Sign</p>	 <p>Awning Sign</p>	 <p>Balloon Sign</p>	 <p>Banner/Flag Sign</p>	 <p>Banner Sign - Temporary</p>
 <p>Blade Sign - Temporary</p>	 <p>Building Marker Sign</p>	 <p>Canopy Sign</p>	 <p>Changeable Copy Sign</p>	 <p>Commemorative Sign</p>
 <p>Destination Sign</p>	 <p>Double-faced Sign</p>	 <p>Electronic Message Sign</p>	 <p>Freestanding Sign</p>	 <p>Ground Monument Sign</p>

				
Incidental Sign	Inflatable Sign	Marquee Sign	Off-Premises Sign	Painted Wall Sign
				
Parapet Sign	Pole Sign	Projecting Sign	Public/Traffic Information Sign	Roof Sign
				
Roof (Integrated) Sign	Sign Stacking	Subdivision Identification	Suspended Sign	Wall Sign
				
Warning Sign	Window Sign			

OFF-PREMISES SIGN shall mean a sign including the supporting sign structure which directs the attention of the general public to a business, service, or activity not usually conducted, or a product not offered or sold, upon the premises where such sign is located. Off-premises signs are subject to KDOT regulations.

ON-PREMISE SIGN shall mean a sign, display, or device-advertising activities conducted on the property on which such sign is located.

OPEN SIGN shall mean a sign attached to or hung from a marquee, canopy, or other covered structure, projecting from and supported by the building and extending beyond the building wall, building line, or street lot line.

PENNANT SIGN shall mean any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

POLE SIGN shall mean a sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.

PORTABLE SIGN shall mean a sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character.

PROJECTING SIGN shall mean a projecting sign attached to a building in such a manner that its leading edge extends more than eight inches beyond the surface of such building or wall.

ROOF SIGN shall mean a sign identifying the name of a business, enterprise, or the product sold on the premises and erected on and over the roof of a building and extending vertically above the highest portion of the roof.

ROOF (INTEGRAL) SIGN shall mean any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

SIGN, DIGITAL shall mean a sign which displays an advertisement or message which is generated electronically and commonly utilizes computerized or electronic digital technology, including but not limited to digital display boards, electronic variable message signs and light emitting diode (LED) signs.

SIGN AREA shall mean the entire area including the background of a sign on which copy can be placed but not including the minimal supporting framework or bracing. The area of individually painted letter signs, individual letter signs or directly or indirectly illuminated individual letter signs, shall be calculated on the basis of the smallest geometric figure that will enclose the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminated.

SIGN COPY, CHANGEABLE shall mean copy or other images that electronically or physically change.

SIGN SETBACK shall mean the horizontal distance from the property line to the nearest projection of the existing or proposed sign.

SIGN SURFACE shall mean the entire area of a sign.

STATIC DWELL TIME (see Dwell Time)

STATIC MESSAGE shall mean an advertisement or message which, when displayed contains no motion, flashing, changeable copy, running lights, variations in brightness, or animation.

SUSPENDED SIGN shall mean a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

TEMPORARY SIGN shall mean a sign constructed of cloth, fabric, or other material with or without a structural frame intended for a limited period of display, including displays for holidays or public demonstrations. Temporary signs shall include portable signs as defined in this section.

TIME AND TEMPERATURE SIGN shall mean an electrically controlled sign which contains only public service, time, temperature, and/or date information.

TRANSITION TIME shall mean the duration or interval of time between which each individual advertisement or message is displayed on any sign which is capable of sequentially displaying more than one advertisement or message on its display surface.

VIDEO SIGN shall mean any on-premises or off-premises sign that conveys either a commercial or non-commercial message, including a business or organization name, through means of a television or other video screen.

WALL SIGN shall mean any sign attached parallel to, but within eight inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

WINDOW SIGN shall mean any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the windowpanes of glass and is visible from the exterior of the window.

Section 8.03 Sign Area Computation

8.03.01 Computation of Area of Individual Signs

The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning regulations and is clearly identical to the display itself.

8.03.02 Computation of Height

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, parcel, or tract of land, whichever is lower. When a sign is placed on a berm, the height of the sign shall include the height of the berm above grade level at the base of the berm.

Section 8.04 Sign Schedules

8.04.01 Signs shall be permitted in the various districts according to the following schedule:

	AG-1	SR	R-1	R-2	R-3	R-4	RM	C-1	C-2	C-3	I-1	I-2
Animated	-	-	-	-	-	-	+	+	+	+	+	
Architectural Canopy	+	-	-	-	-	-	+	+	+	+	+	
Audible Sign	-	-	-	-	-	-	-	-	-	-	-	
Balloon Sign	T	-	-	-	-	-	T	T	T	T	T	
Center Identification Sign	+	-	-	-	-	-	-	+	+	+	+	
Changeable Copy	+	-	-	-	-	-	+	+	+	+	+	
Digital Message Sign	+	+	+	+	+	+	+	+	+	+	+	
Directional/Informational Sign	+	-	-	-	-	-	+	+	+	+	+	
Directory Sign	-	-	-	-	-	-	-	+	+	+	+	
Electronic Message Board	+	-	-	-	-	-	+	+	+	+	+	
Flashing	-	-	-	-	-	-	-	-	-	-	-	
Freestanding	T	T	T	T	T	T	T	T	T	T	T	
Ground	+	+	+	+	+	+	+	+	+	+	+	
Illuminated	+	-	-	-	-	-	+	+	+	+	+	
Incidental	+	+	+	+	+	+	+	+	+	+	+	
Inflatable Sign	T	-	-	-	-	-	T	T	T	T	T	
Marquee	-	-	-	-	-	-	+	+	+	+	+	
Nameplate	+	+	+	+	+	+	+	+	+	+	+	
Off-Premises (Billboard)	-	-	-	-	-	-	-	-	-	-	-	
On-Premises (Billboard)	+	-	-	-	-	-	+	+	+	+	+	
Pennant	+	-	-	-	-	-	-	-	+	+	+	
Pole	-	-	-	-	-	-	-	-	+	+	+	
Projecting	+	-	-	-	-	-	+	+	+	+	+	
Portable	T	T	T	T	T	T	T	T	T	T	T	
Roof	+	-	-	-	-	-	-	-	+	+	+	
Roof-Integrated	+	-	-	-	-	-	-	-	+	+	+	
Subdivision	+	+	+	+	+	+	+	+	+	+	+	
Suspended	+	-	-	-	-	-	+	+	+	+	+	
Temporary	T	T	T	T	T	T	T	T	T	T	T	
Video Sign	-	-	-	-	-	-	-	-	-	-	-	
Wall	+	-	-	-	-	-	+	+	+	+	+	
Window	+	-	-	-	-	-	+	+	+	+	+	

+: permitted -: not permitted T: Temporary

8.04.02 Signs shall be permitted in the various districts at the listed square footage and heights according to the following schedule:

	AG-1	SR	R-1	R-2	R-3	R-4	RM	C-1	C-2	C-3	I-1	I-2
Animated												
Max. Square Ft.	-	-	-	-	-	-	-	-	200	200	200	200
Max. Height Ft.	-	-	-	-	-	-	-	-	45	45	45	45
Max. Number	-	-	-	-	-	-	-	-	1	1	1	1
Architectural Canopy												
Max. Square Ft.	250	-	-	-	-	-	-	-	250	250	250	250
Max. Height Ft.	45	-	-	-	-	-	-	-	45	45	45	45
Max. Number	17	-	-	-	-	-	-	-	17	17	17	17
Balloon												
Max. Square Ft.	NA	-	-	-	-	-	-	-	NA	NA	NA	NA
Max. Height Ft.	NA	-	-	-	-	-	-	-	NA	NA	NA	NA
Max. Number	NA	-	-	-	-	-	-	-	NA	NA	NA	NA
Banner												
Max. Square Ft.	32	-	-	-	-	-	-	-	32	32	32	32
Max. Height Ft.	NA	-	-	-	-	-	-	-	NA	NA	NA	NA
Max. Number	NA	-	-	-	-	-	-	-	NA	NA	NA	NA
Changeable Copy												
Max. Square Ft.	32	-	-	-	-	-	-	-	32	32	32	32
Max. Height Ft.	NA	-	-	-	-	-	-	-	NA	NA	NA	NA
Max. Number	NA	-	-	-	-	-	-	-	NA	NA	NA	NA
Digital Message Sign												
Max. Square Ft.	32	32	32	32	32	32		32	32	32	32	32
Max. Height Ft.	4	4	4	4	4	4		4	4	4	4	4
Max. Number	1	1	1	1	1	1		1	1	1	1	1
Directional/Informational Sign												
Max. Square Ft.	32	-	-	-	-	-		-	32	32	32	32
Max. Height Ft.	NA	-	-	-	-	-		-	8	8	8	8
Max. Number	NA	-	-	-	-	-		-	NA	NA	NA	NA
Directory Sign												
Max. Square Ft.	32	-	-	-	-	-		-	32	32	32	32
Max. Height Ft.	NA	-	-	-	-	-		-	8	8	8	8
Max. Number	NA	-	-	-	-	-		-	NA	NA	NA	NA
Electronic Message Board												
Max. Square Ft.	100	-	-	-	-	-		-	100	100	100	100
Max. Height Ft.	20	-	-	-	-	-		-	20	20	20	20
Max. Number	1	-	-	-	-	-		-	1	1	1	1
Flashing												
Max. Square Ft.	-	-	-	-	-	-		-	-	-	-	-
Max. Height Ft.	-	-	-	-	-	-		-	-	-	-	-
Max. Number	-	-	-	-	-	-		-	-	-	-	-
Freestanding												
Max. Square Ft.	32	32	32	32	32	32		32	32	32	32	32
Max. Height Ft.	4	4	4	4	4	4		4	4	4	4	4
Max. Number	1	1	1	1	1	1		1	1	1	1	1
Ground												
Max. Square Ft.	50	-	-	-	-	-		-	32 ²	32 ²	50 ³	50 ³
Max. Height Ft.	10	-	-	-	-	-		-	10	10	10	10
Max. Number	1	-	-	-	-	-		-	1	1	1	1
Illuminated												
Max. Square Ft.	NA	NA	NA	NA	NA	NA		NA	NA	NA	NA	NA
Max. Height Ft.												
Max. Number												
Incidental												
Max. Square Ft.	25 each	-	-	-	-	-		-	25 each	25 each	25 each	25 each
Max. Height Ft.	45	-	-	-	-	-		-	45	45	45	45
Max. Number	1/40*	-	-	-	-	-		-	1/40 ⁶	1/40 ⁶	1/40 ⁶	1/40 ⁶
Inflatable Sign												
Max. Square Ft.	NA	-	-	-	-	-		-	NA	NA	NA	NA
Max. Height Ft.	NA	-	-	-	-	-		-	NA	NA	NA	NA
Max. Number	NA	-	-	-	-	-		-	NA	NA	NA	NA
Marquee												
Max. Square Ft.	-	-	-	-	-	-		-	250	250	250	250
Max. Height Ft.	-	-	-	-	-	-		-	45	45	45	45
Max. Number	-	-	-	-	-	-		-	1	1	1	1
Nameplate												
Max. Square Ft.	2	2	2	2	2	2		2	2	2	2	2
Max. Height Ft.	-	-	-	-	-	-		-	-	-	-	-
Max. Number	1	1	1	1	1	1		1	1	1	1	1
Off-Premises												
Max. Square Ft.	-	-	-	-	-	-		-	-	-	-	-
Max. Height Ft.	-	-	-	-	-	-		-	-	-	-	-
Max. Number	-	-	-	-	-	-		-	-	-	-	-
On-Premises												
Max. Square Ft.	640	-	-	-	-	-		-	320	320	320	320
Max. Height Ft.	30	-	-	-	-	-		-	30	30	30	30
Max. Number	1	-	-	-	-	-		-	1	1	1	1

	AG-1	SR	R-1	R-2	R-3	R-4	RM	C-1	C-2	C-3	I-1	I-2
Pennant												
Max. Square Ft.	32	-	-	-	-	-		-	32	32	32	32
Max. Height Ft.	NA	-	-	-	-	-		-	NA	NA	NA	NA
Max. Number	NA	-	-	-	-	-		-	NA	NA	NA	NA
Pole												
Max. Square Ft.	-	-	-	-	-	-		-	100 ⁴	100 ⁴	200 ⁴	200 ⁴
Max. Height Ft.	-	-	-	-	-	-		-	40	40	40	40
Max. Number	-	-	-	-	-	-		-	1	1	1	1
Projecting												
Max. Square Ft.	16	-	-	-	-	-		-	16	16	16	16
Max. Height Ft.	45	-	-	-	-	-		-	45	45	45	45
Max. Number	1	-	-	-	-	-		-	1	1	1	1
Portable												
Max. Square Ft.	32	32	32	32	32	32		32	32	32	32	32
Max. Height Ft.	4	4	4	4	4	4		4	4	4	4	4
Max. Number	1	1	1	1	1	1		1	1	1	1	1
Roof												
Max. Square Ft. ⁴⁵	250	-	-	-	-	-		-	250	250	250	250
Max. Height Ft.	45	-	-	-	-	-		-	45	45	45	45
Max. Number	1	-	-	-	-	-		-	1	1	1	1
Roof-Integrated												
Max. Square Ft.	250	-	-	-	-	-		-	250	250	250	250
Max. Height Ft.	45	-	-	-	-	-		-	45	45	45	45
Max. Number	1	-	-	-	-	-		-	1	1	1	1
Subdivision												
Max. Square Ft.	500	500	500	500	500	500		500	500	500	500	500
Max. Height Ft.	35	35	35	35	35	35		35	35	35	35	35
Max. Number	1	1	1	1	1	1		1	1	1	1	1
Max. Lot area s.f.	5,000	5,000	5,000	5,000	5,000	5,000		5,000	5,000	5,000	5,000	5,000
Suspended												
Max. Square Ft.	20	-	-	-	-	-		-	20	20	20	20
Max. Height Ft.	10	-	-	-	-	-		-	10	10	10	10
Max. Number	1	-	-	-	-	-		-	1	1	1	1
Temporary												
Max. Square Ft.	NA	NA	NA	NA	NA	NA		NA	NA	NA	NA	NA
Max. Height Ft.												
Max. Number												
Video Sign												
Max. Square Ft.	NA	NA	NA	NA	NA	NA		NA	NA	NA	NA	NA
Max. Height Ft.												
Max. Number												
Wall												
Max. Square Ft.	200 ¹	-	-	-	-	-		-	200 ¹	200 ¹	200 ¹	200 ¹
Max. Height Ft.	15	-	-	-	-	-		-	45	45	45	45
Max. Number	1	-	-	-	-	-		-	1	1	1	1
Window												
Max. Square Ft.	200 ¹	-	-	-	-	-		-	200 ¹	200 ¹	200 ¹	200 ¹
Max. Height Ft.	15	-	-	-	-	-		-	15	15	15	15
Max. Number	1	-	-	-	-	-		-	1	1	1	1

¹ Wall/Window signs shall not exceed 10 percent of the total wall area or the number indicated whichever is greater.

² Ground signs may be increased from 32 square feet in area to 50 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.

³ Ground signs may be increased from 50 square feet in area to 75 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.

⁴ Pole signs may be increased from 100 square feet in area to 150 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.

⁵ Pole signs may be increased from 200 square feet in area to 300 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.

⁶ One Incidental sign per 40 lineal feet of storefront

⁷ One Canopy per window – canopy shall meet all minimum height requirements for accessibility.

NA = Not Applicable – Refer to specific structural sign types

8.04.03 A building or use having frontage on a second street may install a sign on the second street side no greater in size than 20 percent of the total allowed on one facade.

Section 8.05 Signs, Special Conditions

8.05.01 *Billboard Signs.* Billboards, signboards, and other similar advertising signs shall be subject to the same height and location requirements as other structures in the district and shall also be subject to the following conditions and restrictions.

1. No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
2. No billboard, signboard, or similar advertising signs shall be located within 50 feet of any lot in a residential district.

3. No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.

8.05.02 *Stand-alone ATM's may have the following:*

1. One wall sign on each exterior wall provided each wall sign does not exceed 10 percent of the applicable exterior wall and the total shall not exceed 40 square feet in size.
2. Where a canopy is integrated into the ATM, a canopy sign may be placed on each face of the ATM, provided the overall height of the canopy and sign do not exceed 24 inches. In addition, the overall size of all canopy signs shall not exceed 40 square feet.
3. Directional signage shall be contained on the ATM, painted within a drive lane or in any curbing defining a drive lane.
4. All signs are subject to the required permitting process of these Regulations.
5. Said signage may be incorporated with lighting plan and backlit in order to provide for greater security on the premises.

8.05.03 *Coffee Kiosks and other Kiosks may have the following:*

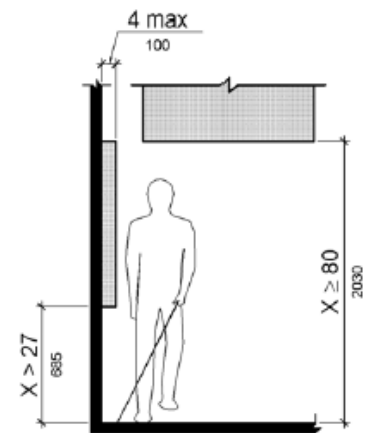
1. One wall sign on each exterior wall not used for drive-up service, provided each wall sign does not exceed 10 percent of the applicable exterior wall and the total shall not exceed 40 square feet in size.
2. Where a canopy is integrated into the Coffee Kiosks/Kiosks, a canopy sign may be placed on each face of the Coffee Kiosk/Kiosks, provided the overall height of the canopy and sign do not exceed 24 inches. In addition, the overall size of all canopy signs shall not exceed 40 square feet.
3. Directional signage shall be contained on the Coffee Kiosk/Kiosk, painted within a drive lane or in any curbing defining a drive lane
4. Window signs limited to menu boards and daily specials shall not require a sign permit.
5. All signs are subject to the required permitting process of these Regulations, unless otherwise noted.

8.05.04 Signs hung from canopies and awnings shall maintain 80 inches of clear space, as measured from the bottom edge of the sign to the grade below.

8.05.05 *Temporary Signs*

Temporary signs for which a permit has been issued shall be issued only for signs meeting the following criteria:

1. Temporary signs may be for a continual period. Said temporary signs shall not be in place for more than four days prior to the event and shall be removed within 36 hours of the conclusion of said event.
2. Temporary signs may be allowed in a manner where they are put in place during certain periods of time (set up in the morning and taken down in the evening) without a specific end date to the permit and these signs may advertise an off-premises business and/or organization.



Limits of Protruding Objects
Source: <https://www.ada.gov>

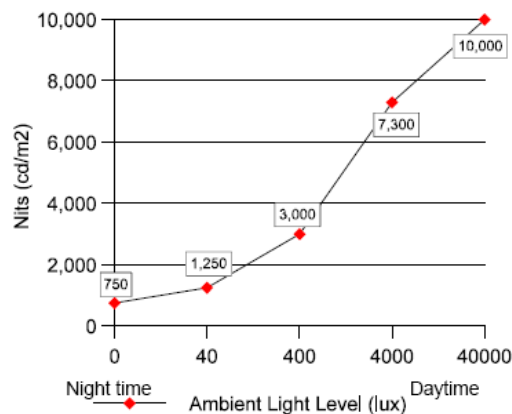
8.05.06 *Digital Message Sign require the following:*

1. Maximum sign face is 32 square feet
2. The maximum sign height is eight feet
3. Digital message signs shall be similar to ground-monument signs
4. The digital portion of the sign face is limited to 1/3 the sign height
5. No sign shall blink or flash, display an animated message, nor be illuminated by any device so as to appear to blink or flash or simulate animation.
6. Transition between messages are permitted but such transitions may only fade, scroll, travel, or reveal, and the transition shall not exceed a duration of one second.
7. Static Dwell Time
 - During the static dwell time for a message, there shall be no animation, movement (including moving messages, scrolling text, or full-motion or streaming video), segmented messages, or variation in light or color.
 - Digital message signs shall provide a static dwell time of at least two seconds per message.

8. Sign Illumination

- Signs may be illuminated subject the conditions herein, except in residential districts unless otherwise provided; however, the surface/face illumination of any sign shall not exceed the levels shown in Figure 1 below for different conditions of ambient light. Prior to the issuance of a sign permit, the applicant shall provide written evidence from the sign manufacturer that the light intensity will not exceed the illumination levels below, and if computerized, the preset intensity level is protected from end user manipulation by password protected software or other method approved by the Zoning Administrator. Any computerized illuminated sign shall be equipped with a sensor and/or timer or other device to automatically adjust the day/night light intensity levels in accordance with Figure 1 below.

- Figure 1 - Maximum Sign Brightness with Varying Ambient Light**



- Lighting facilities used to light signs shall be so arranged that the source of light is concealed from adjacent residential properties and does not interfere with traffic and shall be measured at the property line closest to the sign.
- When a light source has elements such as shields, reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than 90 degrees, the maximum permitted height shall be 30 feet.
- When a light source has a cutoff angle of 90 degrees or greater, the maximum permitted height shall be 15 feet.
- Signs shall be shaded wherever necessary to avoid casting bright light upon property located any residential district or upon any public street. Signs may not be illuminated unless permitted these Regulations or designated by Permit. The lighting shall be controlled by an automatic timing device.
- The ambient light levels of this section shall also apply to all Digital and Electronic Message signs.

8.05.07 Emergency Signs (Permitted)

Emergency warning signs erected by a governmental agency, public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

8.05.08 Other Signs Forfeited

Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition, to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

8.05.09 Signs Exempt from Regulation Under this Ordinance

The following signs shall be exempt from regulation under this ordinance, except no sign in this provision shall create an obstruction to vision, as per Section 4.05 of this Ordinance and/or a collision hazard to the public:

- Any public notice or warning required by a valid and applicable federal, state, or local law, regulation or ordinance.
- Signs associated with an agricultural operation.
- Any religious symbol.
- Construction signs when equal to six square feet or less.
- Any sign identifying a public facility or public/civic event.
- Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the zone lot or parcel on which such sign is located
- Holiday lights and decorations with no commercial message.
- Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meets the Manual on Uniform Traffic Control Devices standards and which contain no commercial message of any sort; and
- A political sign exhibited in a residential zone in conjunction with the election of political candidates. Such signs may not exceed six square feet in any zone. Only four political signs shall be allowed per zone lot at any one time. All such political signs shall not be erected more than 30 days before the election and shall be removed no later than 10 days after the election. Political signs shall not create an obstruction within the R.O.W.

8.05.10 Signs Prohibited Under These Regulations

All signs not expressly permitted in these regulations or exempt from regulation hereunder in accordance with the previous section are prohibited in the City. Such signs include, but are not limited to:

1. Beacons.
2. Marquee signs.
3. Roof signs.
4. Suspended signs.
5. Strings of lights not permanently mounted to a rigid background, except those exemptions under the previous section; and
6. Audible Signs

Article 9: Supplemental Regulations**Section 9.01 Home Occupations and Home-Based Businesses in Residential Districts****9.01.01 Intent:**

A home occupation or home-based business shall be permitted when said occupation or business is conducted on residentially used and/or zoned property and is considered customary, traditional, and incidental to the primary use of the premises as a residence and shall not be construed as a business.

9.01.02 Procedure:

1. Home Occupations: An application for a home occupation, within residentially zoned areas shall be made to the Sabetha Zoning Administrator on a form provided. Said application shall be approved, provided the performance criteria are met.
2. Home Based Businesses: An application for a home-based business, within residentially zoned areas shall be made to the Sabetha Zoning Administrator on a form provided. Said application shall be approved, provided the performance criteria are met.

9.01.03 Permitted home occupations:

1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, dentists, doctors, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons, and travel agents.
3. Child Nurseries or Child Care
4. Personal services, including Barber and Beauty Shops (limited to one chair), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
5. Instructional services, including music, dance, art and craft classes and tutoring.
6. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines (limited to garage areas).
7. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
8. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.
9. Kennels, stables, veterinarian clinics/hospitals.

9.01.04 Prohibited home occupations:

1. Medical and dental clinics, hospitals.
2. Restaurants, clubs, drinking establishments.
3. Motor vehicle / small engine repair.
4. Adult Entertainment Uses

9.01.05 Performance Standards for Home Occupations:

1. The primary use of the structure or dwelling unit shall remain residential, and the operator of the home occupation shall remain a resident in the dwelling unit.
2. The operator conducting the home occupation shall be the sole entrepreneur, and the operator shall not employ any other person other than a member of the immediate family residing on the premises.
3. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.
4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home occupation.
5. Such home occupations shall be conducted entirely within the primary building or dwelling unit used as a residence.
6. Additional and/or separate entrance(s) that do not match the residential structural design shall not be constructed for the purpose of conducting the home occupation or home-based business.
7. Additional off-street parking or loading facilities, including additional driveway construction, other than the requirements for the permitted residence, shall be permitted.

8. The display of goods and/or external evidence of the home occupation shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
9. No retail sales are permitted from the site other than incidental sales related to services provided.
10. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
11. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
12. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Kansas State Statutes.

9.01.06 Permitted home-based businesses:

1. Workrooms for custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons, and travel agents.
3. Personal services, including Barber and Beauty Shops (limited to two Chairs), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
4. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines (limited to garage areas).
5. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
6. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.
7. Child Nurseries or Child Care
8. Kennels, stables, veterinarian clinics/hospitals.

9.01.07 Prohibited home based businesses:

1. Medical and dental clinics, hospitals.
2. Restaurants, clubs, drinking establishments.
3. Motor vehicle / small engine repair.
4. Adult Entertainment Uses

9.01.08 Performance Standards for Home Based Businesses:

1. The primary use of the structure or dwelling unit shall remain residential, and the operator of the home-based business shall remain a resident in the dwelling unit.
2. The operator conducting the home-based business shall be the sole entrepreneur. However, the operator may employ immediate family members residing on the premises, as well as, an additional two unrelated individuals for purposes of conducting business.
3. Structural additions, enlargements, or exterior alterations may be completed in order to provide space for the home-based business. Any alterations and additions are limited to a one-time expansion and shall be limited to 25 percent of the floor area of the main floor at the time of application. All alterations and additions shall meet all building and zoning criteria of Sabetha.
4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home based business.
5. Such home based business shall be conducted entirely within the primary building or dwelling unit used as a residence. Home based businesses may also be located with an existing Accessory Building.
6. Home based businesses conducted within an Accessory Building shall be confined to the structure of the said Accessory Building. In addition, the applicant must prove that the Accessory Building meets all Life Safety Codes including electrical compliance for a commercial business.
7. All alterations and additions shall be completed in a manner that matches the existing structure and shall have a residential appearance to the exterior. All separate entrance(s) shall be discrete and match the residential design.

8. Additional off-street parking or loading facilities, beyond the parking provided for the residence, shall be provided and shall meet the following standards:
 - a. Two additional spaces for the unrelated employees.
 - b. Two additional spaces to be used for client/visitor parking.
 - c. The additional parking required in items (a) and (b) shall not be provided in any required Front, Side or Rear Yard setback.
 - d. All additional parking and loading spaces shall be screened using landscaping materials and opaque privacy fencing not more than six feet in height.
 - e. Applicant shall not relocate parking for the residence into any Front, Side or Rear Yard Setback in order to provide the additional parking.
 - f. All new off-street parking is encouraged to be toward the rear yard portion of the property and screened from view from the street.
9. The display of goods and/or external evidence of the home-based business shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
10. No retail sales are permitted from the site other than incidental sales related to services provided.
11. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
12. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
13. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Kansas State Statutes.

9.01.09 Revocation:

1. Conditions. A home occupation and home-based business permit granted in accordance with the provisions of this section may be terminated if the Zoning Administrator makes any of the following findings:
 - a. That any condition of the home occupation or home-based business permit has been violated.
 - b. That the use has become detrimental to the public health or safety or is deemed to constitute a nuisance.
 - c. That the permit was obtained by misrepresentation or fraud.
 - d. That the use for which the permit was granted has ceased or has been suspended for six consecutive months or more; and
 - e. That the condition of the premises, or the district of which it is a part, has changed so that the use may no longer be justified under the purpose and intent of this section.
2. Appeal. Within five working days of a revocation, an appeal may be made to the Sabetha Board of Zoning Appeals. The Zoning Administrator within ten working days of the receipt of an appeal of his or her revocation shall report his or her findings of fact and decision to the Sabetha Board of Zoning Appeals. The Sabetha Board of Zoning Appeals shall determine the facts and may revoke, modify or allow to remain unchanged the home occupation or home-based business permit in accordance with the Board's final determination.
3. Nontransferable. A home occupation or home based business permit granted in accordance with the provisions of this article shall not be transferred, assigned, nor used by any person other than the permittee, nor shall such permit authorize such home occupation at any location other than the one for which the permit is granted.

Section 9.02 Home Occupations and Home-Based Businesses within the AG-1 Districts

9.02.01 Intent:

A home occupation or home-based business shall be permitted when said occupation or business is conducted on agriculturally used and/or zoned property and is considered customary, traditional, and incidental to the primary use of the premises as a residence, and shall not be construed as a business.

9.02.02 Procedure:

1. Home Occupations: An application for a home occupation, within agriculturally zoned areas shall be made to the Sabetha Zoning Administrator on a form provided. Said application shall be approved, provided the performance criteria are met.
2. Home Based Businesses: An application for a home-based business, within agriculturally zoned areas shall be made to the Sabetha Zoning Administrator on a form provided. Said application shall be approved, provided the performance criteria are met.

9.02.03 Permitted home occupations:

1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, dentists, doctors, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractor services, landscape design, surveyors, cleaning services, salespersons, and travel agents.
3. Child Nurseries or Child Care.
4. Personal services, including Barber and Beauty Shops (limited to one Chair), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
5. Instructional services, including music, dance, art and craft classes and tutoring.
6. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines, and motor vehicles (limited to no more than two at one time).
7. Offices and shops in association to one another, including motorized and non-motorized racing vehicles, construction services with equipment storage and maintenance, monument sales and engraving, freight hauling with equipment storage and maintenance (not including warehousing of freight), aerial spraying with equipment storage and maintenance, welding, and excavating services with equipment storage and maintenance.
8. Warehousing and storage of products associated with agri-businesses, including seed sales, fertilizer sales (as allowed by state and federal regulations), and herbicide and pesticide sales (as allowed by state and federal regulations).
9. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
10. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.

9.02.04 Prohibited home occupations:

1. Medical clinics and hospitals.
2. Restaurants, clubs, drinking establishments.
3. Undertaking and funeral parlors.
4. Adult Entertainment Uses

9.02.05 Performance Standards for Home Occupations:

1. The primary use of the structure or dwelling unit shall remain residential, and the operator of the home occupation shall remain a resident in the dwelling unit.
2. The operator conducting the home occupation shall be the sole entrepreneur, and the operator shall not employ any other person other than a member of the immediate family residing on the premises.
3. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.

4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home occupation when contained within the principal structure.
5. Home occupations may be located within an accessory structure including machine sheds, barns, and garages. Said accessory structure shall be required to meet all pertinent State codes for Life Safety including electrical wiring depending upon the nature of the business.
6. When a home occupation is located in an accessory structure there shall not be any additional storage allowed in the open. All storage shall be contained within appropriate facilities and out of site.
7. Home occupations focused on repairs and maintenance of vehicles and motors shall not be allowed to store damaged, unlicensed, salvaged, vehicles or parts on site and outside the structure where said home occupations are taking place.
8. When storage of chemicals associated with agricultural businesses are stored on site, the storage shall comply with all state and Federal regulations and shall be kept in a place that is secured, dry and locked from general access.
9. Additional and/or separate entrance(s) that do not match the residential structural design shall not be constructed for the purpose of conducting the home occupation or home-based business.
10. Additional off-street parking or loading facilities, including additional driveway construction, other than the requirements for the permitted residence, shall be permitted.
11. The display of goods and/or external evidence of the home occupation shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
12. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
13. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
14. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Kansas State Statutes.

9.02.06 Permitted home-based businesses:

1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, dentists, doctors, draftspeople, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractor services, landscape design, surveyors, cleaning services, salespeople, and travel agents.
3. Child Nurseries or Child Care.
4. Personal services, including Barber and Beauty Shops (limited to one Chair), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
5. Instructional services, including music, dance, art and craft classes and tutoring.
6. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines, and motor vehicles (limited to no more than two at one time).
7. Offices and shops in association to one another, including motorized and non-motorized racing vehicles, construction services with equipment storage and maintenance, monument sales and engraving, freight hauling with equipment storage and maintenance (not including warehousing of freight), aerial spraying with equipment storage and maintenance, welding, and excavating services with equipment storage and maintenance.
8. Warehousing and storage of products associated with agri-businesses, including seed sales, fertilizer sales (as allowed by state and federal regulations), and herbicide and pesticide sales (as allowed by state and federal regulations).
9. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
10. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.

9.02.07 Prohibited home based businesses:

1. Medical clinics and hospitals.
2. Restaurants, clubs, drinking establishments.
3. Undertaking and funeral parlors.
4. Adult Entertainment Uses

9.02.08 Performance Standards for Home Based Businesses:

1. The primary use of the structure or dwelling unit shall remain residential, and the operator of the home-based business shall remain a resident in the dwelling unit.
2. The operator conducting the home-based business shall be the sole entrepreneur. However, the operator may employ immediate family members residing on the premises, as well as, an additional two unrelated individuals for purposes of conducting business.
3. Structural additions, enlargements, or exterior alterations may be completed in order to provide space for the home-based business. Any alterations and additions are limited to a one-time expansion and shall be limited to 25 percent of the floor area of the main floor at the time of application. All alterations and additions shall meet all building and zoning criteria of Sabetha.
4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home based business when contained within the principal structure.
5. Home based businesses may be located within an accessory structure including machine sheds, barns, and garages. Said accessory structure shall be required to meet all pertinent State codes for Life Safety including electrical wiring depending upon the nature of the business.
6. When a home-based business is located in an accessory structure there shall not be any additional storage allowed in the open. All storage shall be contained within appropriate facilities and out of site.
7. Home based businesses focused on repairs and maintenance of vehicles and motors shall not be allowed to storage damaged, unlicensed, salvaged, vehicles or parts on site and outside the structure where said home based business is taking place.
8. When storage of chemicals associated with agricultural businesses are stored on site, the storage shall comply with all state and Federal regulations and shall be kept in a place that is secured, dry and locked from general access.
9. All alterations and additions shall be completed in a manner that matches the existing structure and shall have a residential appearance to the exterior. All separate entrance(s) shall be discrete and match the residential design.
10. Additional off-street parking or loading facilities, beyond the parking provided for the residence, shall be provided and shall meet the following standards:
 - a. Two additional spaces for the unrelated employees.
 - b. Two additional spaces to be used for client/visitor parking.
 - c. The additional parking required in items (a) and (b) shall not be provided in any required Front, Side or Rear Yard setback.
 - d. All additional parking and loading spaces shall be screened using landscaping materials and opaque privacy fencing not more than six feet in height.
 - e. Applicant shall not relocate parking for the residence into any Front, Side or Rear Yard Setback in order to provide the additional parking.
 - f. All new off-street parking is encouraged to be toward the rear yard portion of the property and screened from view from the street.
11. The display of goods and/or external evidence of the home-based business shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
12. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
13. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
14. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Kansas State Statutes.

9.02.09 Revocation:

1. Conditions. A home occupation and home-based business permit granted in accordance with the provisions of this section may be terminated if the Zoning Administrator makes any of the following findings:
 - a. That any condition of the home occupation or home-based business permit has been violated.
 - b. That the use has become detrimental to the public health or safety or is deemed to constitute a nuisance.
 - c. That the permit was obtained by misrepresentation or fraud.
 - d. That the use for which the permit was granted has ceased or has been suspended for six consecutive months or more; and
 - e. That the condition of the premises, or the district of which it is a part, has changed so that the use may no longer be justified under the purpose and intent of this section.
2. Appeal. Within five working days of a revocation, an appeal may be made to the Sabetha Board of Zoning Appeals. The Zoning Administrator within ten working days of the receipt of an appeal of his or her revocation actions, shall report his or her findings of fact and decision to the Sabetha Board of Zoning Appeals. The Sabetha Board of Zoning Appeals shall determine the facts and may revoke, modify or allow to remain unchanged the home occupation or home-based business permit in accordance with the Board's final determination.
3. Nontransferable. A home occupation or home-based business permit granted in accordance with the provisions of this article shall not be transferred, assigned, nor used by any person other than the permittee, nor shall such permit authorize such home occupation at any location other than the one for which the permit is granted.

Section 9.03 Radio, Television and Wireless Communication Towers**9.03.01 Intent:**

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 and the Spectrum Act of 2012 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the City in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. Telecommunication facilities, towers and antennas in the City, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging, to promote and encourage shared use/collocation of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

9.03.02 Definitions:

All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996, the Spectrum Act of 2012 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

Base Station shall mean a structure that supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station at the time of the application is filed.

Broadcasting Tower shall mean a structure for the transmission or broadcast of radio, television, radar, microwaves or other electromagnetic frequencies which exceeds the maximum height permitted in the district in which it is located; provided, however, that noncommercial towers not exceeding 50 feet in height shall not be considered broadcast towers.

Collocation shall mean the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Conforming commercial earth station shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.

Eligible facilities request is defined as any request for modification of an existing wireless tower or base station that involves (a) collocation of new transmission equipment; (b) removal of transmission equipment; or (c) replacement of transmission equipment.

In Writing refers to the means in which an applicant for a telecommunications tower is notified. The "in writing" clause has been defined to include the minutes of the governing body's proceedings including findings of fact.

Owner shall mean any person with a fee simple title or a leasehold exceeding ten years in duration to any tract of land within the zoning jurisdiction of the County who desires to develop, construct, modify, or operate a tower upon such tract of land.

Replacement shall mean the removal and upgrade of transmission equipment and not the structure on which it is located.

Specific and absolute timeframe this refers to the timeframe allowed for processing a telecommunication application under Section 6409 (a) of the Spectrum Act of 2012.

Stealth: Any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.

Telecommunications Facilities shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include a. Any Conforming Commercial Earth Station antenna two meters or less in diameter. b. Any earth station antenna or satellite dish antenna of one meter or less in diameter.

Tower shall mean any structure built for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities.

Tower owner shall mean any person with an ownership interest of any nature in a proposed or existing tower.

Transmission Equipment: any equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas and other relevant equipment associated with and necessary to their operation, including coaxial or fiber-optic cable, and regular and backup power supply.

9.03.03 Tower Construction Standards:

Listed below are tower construction standards.

1. Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed and authorized in this regulation.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the City prior to approval of its application for a Conditional Use Permit by the City Commission and issuance of the permit by the City.
3. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the City after the effective date of this regulation shall conform to the Building Codes and all other construction standards set forth by the City, County, federal, and state law and applicable American National Standards Institute (ANSI). Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed with the Zoning Administrator.

9.03.04 Application to Develop a Tower:

1. Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Administrator for a Conditional Use Permit and shall include the following:

- A. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
- B. The legal description and address of the tract of land on which the tower is to be located.
- C. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one-mile radius of the proposed tower, including publicly and privately owned towers and structures.
- D. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants' telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants' telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
- E. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the City Commission and federal and state and ANSI standards.
- F. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and / or zoned property and nearest roadway, street or highway.
- G. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
- H. The application, based upon the specific and absolute timeframe established by the FCC, shall be processed and decided within 60 days of the application becoming completed. However, the 60-application processing period may be extended only:
 - i. By mutual agreement between the City of Sabetha and the applicant, or
 - ii. By Sabetha's determination that the application is incomplete.
 - 1. If the City of Sabetha deems the application to be incomplete, the City shall notify the applicant of the incompleteness within 30 days of the initial filing.
 - 2. The City shall clearly and specifically delineate writing the missing information.
 - 3. The clock shall resume when the information is provided but may tolled again if the City of Sabetha notifies the applicant within 10 days that the application remains incomplete.
 - 4. The City shall not request new information beyond what is already required.
 - iii. If the application is not acted upon within 60 days, the application shall be deemed to be approved by the governing body.

9.03.05 Setbacks and Separation or Buffer Requirements

Listed below are setbacks and separation requirements for towers and exception to height restrictions of towers.

- 1. All towers up to 50 feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of 50 feet in height shall be set back one additional foot for each foot of tower height in excess of 50 feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
- 2. Freestanding and guyed towers shall be located so that the distance from the base of the tower to any adjoining property line or the supporting structure of a separate neighboring tower is a minimum of 100 percent of the tower height. The Planning Commission and City Commission may reduce the setback with a conditional use permit if it determines that such reduction does not constitute a hazard to safety or property on adjacent properties or rights-of-way.
- 3. Towers exceeding 100 feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of 200 feet or 100 percent of the height of the proposed tower, whichever is greater.

4. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of one hundred percent (100%) of the height of the tower.
5. Towers must meet the following minimum separation requirements from other towers:
 - A. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 750 feet.
 - B. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1,500 feet.
6. Towers shall be held to all height requirements as prescribed in the Airport Hazard Area District.
7. As part of its conditional use approval process, the Planning Commission and City Commission may, after public notice and hearing, permit the tower to exceed the height restrictions otherwise allowable in the district.

9.03.06 Structural Standards for Towers Adopted:

The Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, 1991 Edition (ANSI/EIA/TIA 222-E-1991) is hereby adopted, together with any amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by regulation and set forth in this Article of the Zoning Regulation.

9.03.07 Illumination and Security Fences:

1. Towers shall not be artificially lighted except as required by the FAA. Any tower subject to this Section that is required to be lit under FAA requirements and using a strobe light shall be equipped with dual mode lighting. In no case shall said tower be allowed to operate a strobe lighting system after sunset and before dawn.
2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

9.03.08 Exterior Finish:

Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the Planning Commission and City Commission as part of the application approval process. All towers that must be approved as a conditional use shall be stealth design unless stealth features are impractical, or the cost of such features represents an undue burden on the applicant.

9.03.09 Landscaping:

All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the City.

9.03.10 Prohibitions

According to the FCC, "[A] state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station."

9.03.11 Substantial Change

The City of Sabetha may only require an amended conditional use permit for changes/modifications on a telecommunication tower/system that are defined by the FCC as substantial.

1. **Substantial Change** shall mean any of the following:
 - A. Towers outside the public right-of-way, a "substantial change"
 - increases the height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, or
 - Protrudes from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.
 - B. Towers in the right-of-way, and all base stations, a "substantial change"

- increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater, or
- protrudes from the edge of the structure more than 6 feet

C. All Towers and base stations, a substantial change:

- involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets.
- entails any excavation or deployment outside the current site of the tower or base station;
- defeats the existing concealment elements of the tower or base station; or
- does not comply with conditions associated with the prior approval of construction or modification of the tower or base station unless the non-compliance is due to any of the "substantial change" thresholds identified above.

2. **Changes in Height**

- A. Changes in height are to be measured from the original support structure in cases where the deployments are or will be separated horizontally.
- B. In other circumstances, changes in height are to be measured from the dimensions of the original tower or base station and all originally approved appurtenances, and any modifications approved prior to the passage of the Spectrum Act.
- C. Note, the changes are measured cumulatively; otherwise a series of small changes could add up to a cumulative change that exceeds the "substantial change" threshold.

9.03.12 Inspections

The City reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the City's Zoning Codes and any other construction standards set forth by the City, federal, and state law or applicable ANSI standards. Inspections shall be made by either an employee of Sabetha's Zoning Office, or a duly appointed independent representative of the City.

9.03.13 Maintenance

The towers, antenna support structures, telecommunications facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to or a danger to the life or property of any person or the public.

9.03.14 Abandonment

If any tower shall cease to be used for a period of one year, the Zoning Administrator shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have 75 days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee and a written request shall be directed to the City Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Kansas State Statutes and City of Sabetha codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

9.03.15 Approval Denial Procedures for Tower Development Permit

1. Any decision to deny an application to place, construct or modify a wireless facility must be "in writing" and supported by substantial evidence contained in a written record.
2. The regulation of placement, construction, and modification of personal wireless services facilities by the City of Sabetha shall not unreasonably discriminate among providers of functionally equivalent services.

3. The regulation of the placement, construction, and modification of personal wireless service facilities by the City of Sabetha shall not prohibit or have the effect of prohibiting the provision of personal wireless services.
4. The City of Sabetha shall not regulate the placement, construction, or modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such emissions comply with FCC regulations.

Section 9.04 Residential Design Manufactured Homes

In order for residential design manufactured homes to have substantially the appearance of an on-site, conventionally built, single-family dwelling, the following criteria and standards shall apply:

1. The pitch of the roof of the manufactured home has a minimum vertical rise of 2.2 inches for each 12 inches of vertical run, and the roof is finished with a type of shingle that is commonly used in standard residential construction.
2. All roof structures shall provide an eave projection of no less than eight inches, which may include a gutter.
3. The exterior siding consists predominantly of vinyl or metal horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in residential construction.
4. The manufactured home is set up in accordance with the recommended installation procedures of the manufacturer and the standards set by the National Conference of States on Building Codes and Standards and published in "Manufactured Home Installations, 1994 (NCS BCS A225.1), and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access which may include walk-out basements and garages, is installed under the perimeter of the manufactured home.
5. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the manufactured home shall be installed or constructed firmly to the primary structure and anchored securely to the ground.
6. The moving hitch, wheels and axles, and transporting lights shall be removed.

Section 9.05 Group Boarding Home, Group Day Care Home, Child Care Center, Day Care Center, Detention Center, Family Day Care Home, or Residential Center

These facilities shall be required to meet the following requirements:

1. The applicant shall submit, as a part of the application, the plans for the proposed facility giving the type of services to be rendered, the number of persons to be placed in the facility, the number of staff to be employed and other information that will help in determining the extent of services to be provided.
2. A letter from the Nemaha County or Brown County Health Officer shall be submitted by the applicant, giving the current status of the applicant's license to operate the proposed facility and listing all requirements yet to be met in order for the proposed facility to be granted authorization to begin its operation.
3. Off-street parking at a rate of one space per employee plus two additional spaces for guests.
4. When operated out of an existing or proposed residential structure, the following standards shall be met:
 - A. That only one non-illuminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
 - B. Outside play areas shall be fenced.

Section 9.06 Hospital or clinic for large or small animals

These uses shall meet the following criteria:

1. such hospital or clinic and treatment rooms be maintained within a completely enclosed, soundproof building, and
2. Such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls.

Section 9.07 Kennels (Boarding or breeding)

These uses shall meet the following criteria:

1. Pens or open kennels shall be located at least 50 feet from the front lot line and at least 30 feet from any side or rear lot line.

2. Open pens shall not be required to be served by sanitary sewer facilities unless soil conditions will not support adequate percolation.

Section 9.08 Fences

No fence shall be constructed within the zoning jurisdiction of the City of Sabetha unless a permit is approved and issued by the Zoning Administrator and is constructed in conformance with the following requirements:

1. Unless otherwise provided, no fence shall be built on any lot or tract outside the surveyed lot lines, or adjacent to any municipal property, excluding public streets.
2. Unless otherwise provided, any fence built on residential property within required front or street side yards shall contain openings constituting no less than 50 percent of the surface area of the fence. Fences constructed of PVC resin are exempt from this requirement.
3. No solid fence permitted or required by this regulation shall be built within a triangle formed by the adjacent side lines of two intersecting streets and a line connecting points 40 feet on each leg from their point of intersection; or otherwise in any manner create a traffic hazard or obstruction to visibility.
4. The finished surfaces of any fence shall face toward adjacent properties and street frontage.
5. Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions.
 - A. The maximum height of a fence within a required front yard or street side yard setback shall be 42 inches not exceeding 50 percent closed construction, or 48 inches not exceeding 25 percent closed construction.
 - B. The maximum height for any fence outside of a required front yard shall be six feet six inches unless otherwise approved by the Board of Zoning Appeals.
 - C. On corner lots, a fence built parallel to the street side yard line but set back in conformance with the required street yard setback may have a maximum height of six feet six inches.
 - D. Fences shall be constructed of wood, chain-link, PVC/ resin, stone or masonry materials only. Wood fences shall utilize standard pre-treated building lumber only or be finished.
6. Where it is demonstrated that for security purposes the perimeter fencing around a plant or building located in an area zoned as an Industrial District must be higher than six feet in height may be approved by a Conditional Use Permit.
7. Fences constructed along and parallel to a lot lines separating a residential lot from property located in a Commercial or Industrial District shall not exceed eight feet in height.
8. Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Kansas Department of Transportation, shall not exceed eight feet in height.
9. No fence or vegetation shall be situated or constructed in such a way as to obstruct the vehicular traffic or otherwise create a traffic safety hazard.
10. The use of barbed wire in the construction of any fence is prohibited within the corporate limits except as perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the City before commencement of construction.
11. All fences shall be maintained in good repair.
12. *Electric Fences.* No electric fence, except for underground invisible fence for animal control, shall be constructed or maintained within the City of Sabetha. An owner or lessee of such property may, upon application to the City and approval by the Zoning Administrator, maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals. Before the Zoning Administrator shall approve any electrified fencing, it shall be determined that non-electrified fencing will not adequately protect the owner's property and the owner's application for approval of electrified fencing shall set forth in detail the reasons why non-electrified fencing will not adequately protect his property.

Section 9.09 Performance Standards for Industrial Uses

9.09.01 Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.

9.09.02 Fire hazard: No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of the City of Sabetha.

9.09.03 Vibration Standards: No activity or operation shall cause or create vibrations in excess of the displacement values given below. Measurements shall be made at or slightly beyond the adjacent lot line, or the nearest adjacent resident boundary line as described below. Vibration displacement shall be measured with an instrument capable of simultaneously measuring in three mutually perpendicular directions.

The maximum permitted displacement shall be determined by the following formula:

Where: $D=k/f$

"D" = Displacement in inches

"k" = A constant value to be determined by reference to Table 9.05.01

below

"f" = The frequency of the vibration transmitted through the ground in cycles/ second

Table 9.09.01 Constant "k" by Type of vibration

District	Place of Measurement	Continuous	Impulsive	8 pulses per 24 hr. period
I-1	On or beyond any adjacent property lines	.003	.006	.015
I-2	On or beyond any residential	.006	.012	.030

9.09.04 Noise:

- No industrial operation or activity shall cause or create noise in excess of the sound levels given in Table 9.09.02.
- An octave band analyzer and an impact noise analyzer shall be utilized to measure the intensity and frequency of sound.
- The following noises and activities shall be exempt from the noise level regulations.
 - Construction and maintenance activities.
 - Emergency vehicles.
 - Transient noises from moving sources such as motor vehicles and trains.
 - Noises not directly under the control of the property owner.

Table 9.09.02 Noise Standards in Industrial Districts

Center Frequency in Cycles/second	District I-1 measured on or beyond adjacent boundaries	District I-2 measured on or beyond adjacent boundaries	District I-2 between hours of 9:00 a.m. and 6:00 p.m.
31.5	65	76	90
63	67	74	81
125	66	68	71
250	59	63	66
500	52	57	61
1,000	46	52	56
2,000	37	47	52

9.09.05 Sewage and Liquid Wastes: No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.

9.09.06 Air Contaminants:

- Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four-minute period in each one-half hour.

Light colored contaminants of such a capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.

2. All particulate matter standards are regulated by the Kansas Department of Health and Environment and shall apply to all industrial districts in Sabetha.
3. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.
4. **Odor:** The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Regulations.
5. **Gasses:** The gasses sulphur dioxide and hydrogen sulphide shall not exceed five parts per million (5ppm), carbon monoxide shall not exceed five parts per million (5ppm). All measurements shall be taken at the zoning lot line.
6. **Glare:** In I-1 and I-2 industrial districts, any operation producing intense glare shall be performed in enclosed buildings in such a manner so as to not create a public nuisance or hazard along lot lines. All lights, other than streetlights, shall be so situated and installed so as to reflect away from adjacent streets and residential property.
7. **Toxic Hazards:** All toxic hazards and hazardous materials are regulated by the State Board of Health of the Kansas Department of Health and Environment and shall apply to all industrial districts in Sabetha.

9.09.07 Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts

displays the maximum permitted sound levels that may be generated by uses in the I-1, or I-2 zoning districts where adjacent to residential zoning districts. All measurements shall be taken at or within the boundary between the originating district and the adjacent residential zoning district with a sound level meter meeting ANSI specification for a Type II or better general purpose sound level meter. The A-weighted response shall be used.

Section 9.10 Small Wind Energy Systems

9.10.01 Purpose

It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

9.10.02 Definitions

The following are defined for the specific use of this section.

Small Wind Energy System shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

Tower Height shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

9.10.03 Requirements

Small wind energy systems shall be permitted as an Accessory Use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met:

1. Tower Height
 - a. For property sizes between ½ acre and one acre the tower height shall be limited to 80 feet.
 - b. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.

2. Setbacks
 - a. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.
3. Noise
 - a. Small wind energy systems shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling unit.
 - b. The noise level may be exceeded during short term events such as utility outages and/or severe windstorms.
4. Approved Wind Turbines
 - a. Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.
5. Compliance with Building and Zoning Codes
 - a. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.
 - b. An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Kansas and certified by a licensed professional engineer shall also be submitted.
 - c. The manufacturer frequently supplies this analysis.
 - d. Wet stamps shall not be required.
6. Compliance with FAA Regulations
 - a. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
7. Compliance with National Electrical Code
 - a. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
 - b. The manufacturer frequently supplies this analysis.
8. Utility Notification
 - a. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
 - b. Off-grid systems shall be exempt from this requirement.
9. Setbacks

All towers shall adhere to the setbacks established in the following table:

Wind Turbine – Non Commercial WECS	
Property Lines	One times the total height
Neighboring Dwelling Units	One times the total height
Road Rights-of-Way*	One times the tower height.
Other Rights-of-Way	One times the tower height.
Wildlife Management Areas and State Recreational Areas	NA
Wetlands, USFW Types III, IV, and V	NA
Other structures adjacent to the applicant's sites	NA
Other existing WECS not owned by the applicant.	NA
River Bluffs	

* The setback shall be measured from any future Rights-of-Way if a planned change or expanded right-of-Way is known.

Section 9.11 Solar Energy Use

No solar panel, neighborhood solar or solar farm shall be installed or constructed within the zoning jurisdiction of the City of Sabetha unless a Conditional Use Permit, if applicable, and a Building Permit have been issued. All solar units shall be constructed in conformance with all state and national building and fire codes. For those devices that include electrical, plumbing and/or heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the requirements found in this section.

9.11.01 General Solar Definitions

ACCESSORY SOLAR ENERGY SYSTEMS: include any photovoltaic, concentrated solar thermal, or solar hot water devices that are accessory to, and incorporated into the development of an authorized use of the property, and which are designed for the purpose of reducing or meeting on-site energy needs.

CONCENTRATED SOLAR POWER: A solar conversion system (SCS) that generates power by using mirrors or lenses to concentrate a large area of sunlight, or solar thermal energy, unto a small area. These include but are not limited to the following technologies: Parabolic trough, Solar power tower, enclosed trough, Fresnel reflectors and Dish Stirling.

DEVELOPMENT: Any plat, subdivision, or planned unit development created under the City of Sabetha subdivision and zoning regulations.

ELECTRIC UTILITY: The public electric utility providing retail service to a given area.

NET EXCESS GENERATION: On an ISCS, net excess generation means the net amount of energy, if any, by which the output of a qualified facility exceeds a customer-generator's total electricity requirements during a billing period;

NET METERING: Net metering means a system of metering electricity in which a local distribution utility:

- A. Credits a customer-generator at the applicable retail rate for each kilowatt-hour produced by a qualified facility during a billing period up to the total of the customer-generator's electricity requirements during that billing period. A customer-generator may be charged a minimum monthly fee that is the same as other noncustomer-generators in the same rate class but shall not be charged any additional standby, capacity, demand, interconnection, or other fee or charge; and
- B. Compensates the customer-generator for Net Excess Generation during the billing period at a rate equal to the electric utility avoided cost of electric supply over the billing period. The monetary credits shall be applied to the bills of the customer-generator for the preceding billing period and shall offset the cost of energy owed by the customer-generator. If the energy portion of the customer-generator's bill is less than zero in any month, monetary credits shall be carried over to future bills of the customer-generator until the balance is zero. At the end of each annualized period, any excess monetary credits shall be paid out to coincide with the final bill of that period;

SOLAR ACCESS: the ability to receive sunlight across real property for any solar energy device.

SOLAR ACCESS EASEMENT: A right, expressed as an easement, covenant, condition, restriction or other property interest in any deed, will or other instrument executed by or on behalf of any landowner or in any order of taking, appropriate to protect the solar skyspace of a solar collector at a particularly described location to forbid or limit any or all of the following where detrimental to access to solar energy: structures on or above ground; vegetation on or above ground; or other activities. Such right shall specifically describe a solar skyspace in three-dimensional terms in which the activity, structures or vegetation are forbidden or limited or in which such an easement shall set performance criteria for adequate collections of solar energy at a particular location.

SOLAR CONVERSION SYSTEM (SCS): An assembly, structure, or design, including passive elements, used for gathering, concentrating or absorbing direct or indirect solar energy, specifically designed for holding a substantial amount of useful thermal energy and to transfer that energy to a gas, solid or liquid or to use that energy directly; this may include, but is not limited to, a mechanism or process used for gathering solar energy through thermal gradients, or a component used to transfer thermal energy to a gas, solid or liquid or to convert into electricity.

SOLAR CONVERSION SYSTEM, COMMERCIAL: A commercial solar conversion system (CSCS) is a series of solar panels and equipment connected together in order to commercially supply the converted energy to a community and/or power grid. A CSCS shall have a one-way connection to the power grid.

SOLAR CONVERSION SYSTEM, GROUND-MOUNTED: Any SCS which is directly supported and attached to the ground.

SOLAR CONVERSION SYSTEM, INDIVIDUAL: An individual solar conversion system (ISCS) shall be for the specific use of an individual residential, commercial, public or industrial use.



Example of a Solar Conversion System, Ground-mounted

SOLAR CONVERSION SYSTEM, NEIGHBORHOOD: A neighborhood solar conversion system (NSCS) is a series of solar panels and equipment connected together in order to supply converted energy to a specific neighborhood and its uses.

SOLAR CONVERSION SYSTEM, STRUCTURE-MOUNTED: Any SCS which is directly connected to and supported by a building.



Example of a Solar Conversion System, Structure-mounted

SOLAR SKYSPACE: The maximum three-dimensional space extending from a solar collector to all positions of the sun necessary for efficient use of the collector.

- A. Where a solar energy system is used for heating purposes only, solar skyspace shall mean the maximum three-dimensional space extending from a solar energy collector to all positions of the sun between nine o'clock (9:00) A.M. and three o'clock (3:00) P.M. local apparent time from September 22 through March 22 of each year.
- B. Where a solar energy system is used for cooling purposes only, solar skyspace shall mean the maximum three-dimensional space extending from a solar collector to all positions of the sun between eight o'clock (8:00) A.M. and four o'clock (4:00) P.M. local apparent time from March 23 through September 21 of each year.

SOLAR ORIENTED SUBDIVISION: A subdivision in which a minimum of 65 percent of the lots are solar-oriented lots.

SOUTH OR SOUTH-FACING: True south, or 20 degrees east of magnetic south.

9.11.02 General Provisions Applying to ISCS, NSCS, and/or CSCS

The following provisions shall apply, typically, to two or more of the different solar conversion systems in this Section

1. For commercial and neighborhood SCS: Applicant shall provide evidence that the project meets commonly-accepted management practices for avian, wildlife, and environmental protections in place at the time of application.
2. For commercial and neighborhood SCS: Applicant shall comply with specific requirements of the Sabetha Fire Department or the appropriate Rural Fire District.
3. Maintenance: All system and components shall be kept in operational condition, including appearance of all components; plus, the ground beneath the SCS shall be kept in a presentable manner based upon the ground cover decided.
4. Decommissioning: All systems when they are no longer generating power and will no longer be used shall follow a decommissioning plan that has been agreed to upfront by the City of Sabetha, the electric utility, and the owner/developer.
5. Repowering: If any SCS is no longer operating for purposes of Repowering, replacement, or maintenance, Decommissioning provisions will not apply for up to six months. However, an SCS that is not operating or is operating at a substantially reduced capacity for more than six months will be considered abandoned and Decommissioning provisions will apply.
6. Repowering does not require a new Conditional Use permit or permit amendment if the

footprint of the SCS is the same or reduced. Any increase in the footprint of the facility will require a permit amendment.

7. Any applicant for a SCS project shall meet with and shall indicate they have met the requirements of the electric utility and have in place an interconnection agreement with the electric utility.
8. All NSCS and CSCS operations shall have located at key access points signage stating specific language as outlined by the electric utility.
9. SCS may be installed in the floodway fringe subject to the city's floodplain regulations, as may be amended from time to time, given that all components are installed a minimum of one foot above base flood elevation and subject to written authorization of the Floodplain Administrator.
10. No SCS shall be constructed in the identified Floodway.
11. Concentrated Solar Power (CSP) systems are prohibited within the City of Sabetha and the Extraterritorial Jurisdiction (ETJ) boundary.
12. Financial assurances shall be in place as part of the Decommissioning Plan.

9.11.03 Individual Solar Conversion Systems

1. General Requirements for ISCS

ISCS's shall conform to the required front, side and rear lot setback requirements except as provided herein:

- A. An SCS which is attached to an integral part of the principal building shall meet all local, state, and federal codes for building, electrical, plumbing, and accessibility.
- B. A ground-mounted SCS may be located only in the required rear yard provided it does not exceed 12-feet in height and is located not less than five feet from the rear lot line and not closer than one foot to any existing easement as measured from the closest point of the structure including its foundation and anchorage.
- C. No ground mounted SCS shall be located in the required side yard or front yard.
- D. All ISCS's shall have an agreed to solar access easement, on the south side of the yard, from any neighboring properties. Said easement shall be filed as an instrument to each property's deed and said easement shall stay in place as long as the ground mounted SCS is in place and operational.
- E. The applicant for any ISCS shall provide evidence that they have a working Net Metering agreement with the electric utility.

2. Structural Requirements:

The physical structure and connections to existing structures shall conform to the applicable local, state, and federal codes.

3. Plot Plan:

The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.

4. Preexisting Solar Panels:

Notwithstanding noncompliance with the requirements of this section, a solar panel erected prior to the adoption of these Regulations, pursuant to a valid building permit issued by the City of Sabetha, may continue to be utilized so long as it is maintained in operational condition.

5. Decommissioning

- A. Whenever an SCS ceases operation on a property, it shall be required to report this to the City of Sabetha Development Services Office and the electric utility.
- B. Whenever, a ground mounted SCS is no longer operating, the property owner shall have six months to completely remove the structure and wiring. The location of the SCS shall be returned to a usable state based upon the surrounding property.

9.11.04 Neighborhood Solar Conversion Systems

1. General Requirements for NSCS:

NSCS's shall meet the following requirements as provided herein:

- A. An NSCS shall be set on its own lot within the neighborhood/development.
- B. The NSCS shall be designed and constructed for no more than the anticipated maximum solar usage in the designated neighborhood or development.
- C. No excess power generated shall be sold or given to a user outside the agreed upon neighborhood or development, except via a Net Metering agreement.
- D. The developer shall provide the City of Sabetha with all solar easements established; however, the City of Sabetha shall not be responsible for enforcing said easements.
- E. All solar easements shall be enforced by an establish Homeowners Association for the development/neighborhood.
- F. A ground mounted NSCS shall be protected with fencing and/or bollards.
- G. All connections to the uses within the neighborhood shall be made underground.
- H. An access agreement between the developer, Homeowners Association, and any other necessary other entity and the electric utility shall exist in case of an emergency.
- I. A Net Metering agreement between the developer, Homeowners Association, and any other entity and the electric utility shall exist in case of excess electricity; and
- J. All ground mounted NSCS's shall have an agreed to solar access easement from any neighboring properties. Said easement shall be filed as an instrument to each property's deed and said easement shall stay in place as long as the ground- mounted NSCS is in place and operational.

2. Structural Requirements:

The physical structure and connections to existing structures shall conform to the applicable local, state, and federal codes.

3. Solar Oriented Subdivision/Plot Plan:

- A. Whenever a NSCS is part of a proposed new subdivision, the developer shall outline the specific lot or outlot where the NSCS will be placed.

Specific developments/neighborhoods initially designed with an NSCS shall identify all solar easements on the preliminary and final plats and shall be recorded the same as other utility easements. In addition, the subdivision plats shall indicate, in addition to all other requirements in the subdivision regulations, the location of all proposed underground conduits serving the other lots in said subdivision.

- (i) The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.
- (ii) The developer shall install all underground wiring as prescribed by the electric utility.
- (iii) All underground wiring shall be protected by a utility easement or located within prescribed rights-of-way.
- (iv) The developer shall provide the City of Sabetha with As-builts of the wiring locations within the subdivision.

4. Decommissioning

- A. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. The City of Sabetha may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

9.11.05 Commercial Solar Conversion Systems:

1. Applicability

The purpose of this subsection is to provide standards for fixed-panel photovoltaic solar farms or CSCS consisting of ground-mounted solar panels capturing energy from the sun and converting it to electricity. The provisions of this section are based on a ground-mounted photovoltaic facility using a rammed post construction technique and panels supporting the flow of rainwater

between each module and the growth of vegetation beneath the arrays and limiting the impacts of stormwater runoff. The rammed post construction technique allows for minimal disturbance to the existing ground and grading of the site. Based on the assumed solar farm design, the City of Sabetha finds the use to be low intensity with minimal trip generation, low amounts of impervious cover, and low emission thus the use is compatible in urbanized, non-urbanized, or low-density areas with other uses.

2. Site Development Standards:

- A. Lot coverage: No more than one percent of the gross site area shall be occupied by enclosed buildings and structures.
- B. Setbacks: A thirty-foot side and rear setback shall apply only to the setback area measured from a lot line that abuts a residential use or residential zoning district. The side or rear setback shall be eliminated where the use does not abut a residential use or residential zoning district, or the two districts are separated by a public right-of-way.
- C. Height: The average height of the solar panel arrays shall not exceed 12 feet.
- D. Landscaping Buffer: The primary use of the property shall determine the buffer requirement. Where a ground-mounted photovoltaic solar farm is the primary use the property shall be considered industrial or agricultural for the purposes of buffer requirements, there are no requirements for screening from public streets.
- E. Stormwater Management: Fixed panel solar arrays shall be considered pervious and the property shall be designed to absorb or detain specific runoff. The impervious cover calculation shall include the support posts of the panels, any roads or impervious driveway surfaces, parking areas and buildings on the site.
- F. A property developed pursuant to this subsection shall be required to plat however water and sewer connections shall not be required. Suitable fire department access shall be required.
- G. Signage shall conform to the City of Sabetha Sign Code.
- H. Customer owned on-site power lines shall be buried except where connecting to existing overhead utility lines. This requirement shall not apply to fiber optic connections.
- I. Fencing: Due the unique security requirements of this land use, and to facilitate the educational value of seeing this land use, fencing up to eight (8) feet in height is permitted provided the fencing material is predominantly open.
- J. All State and Federal codes and provisions not specified in this subsection are required including but not limited to tree preservation, traffic impact analysis and historic preservation.

3. Districts

See Section 5.06 of the City of Sabetha Zoning Ordinance

4. Submittal Requirements:

All Plans shall contain the following:

- A. These requirements shall apply to both the Conditional Use Permit and Building Permit.
- B. A plot plan, drawn to scale, of the property indicating the total site acreage, landscape and buffer areas, tree preservation, location of all structures, the proposed location of the solar panels, the distances of the solar panels to structures on the property as well as distances to the property lines;
- C. The plot plan shall include any roads, electric lines and/ or overhead utility lines;
- D. A description of the electrical generating capacity and means of interconnecting with the electrical grid as coordinated and pre-approved with the appurtenant Power District;
- E. A copy of the interconnection agreement with the local electric utility
- F. Drawings or blueprints of solar panels and arrays in conjunction with the application for a building permit for a solar farm/solar power plant;
- G. Structural engineering analysis for a solar panel, array and its foundation, as applicable.
- H. Manufacturer's recommended installations, if any; and

- I. Documentation of land ownership and/or legal authority to construct on the property.
- J. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. The City of Sabetha reserves the right to require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

5. Compliance with Other Regulations:

- A. Zoning permit applications for CSCS's shall be accompanied by a line drawing of electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the State's adopted electrical code and that has been pre-approved by the associated power district meeting their Distribution Generation Requirements and Guidelines; and
- B. This subsection does not waive any requirements of any state or Federal codes, electrical codes or other technical codes as applicable.

6. Discontinuation.

A CSCS shall be considered abandoned after one year without energy production. The solar equipment owner shall remove all SCS equipment and appurtenances within 90 days of abandonment.

Section 9.12 Self-Storage Units (Mini-Warehouses)

- 1. Minimum lot size of the Self-Storage facility shall be 5,000 square feet.
- 2. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
- 3. All driveways, parking, loading and vehicle circulation areas shall be surfaced with concrete, asphalt, asphaltic concrete, crushed rock or other approved rock other than gravel. All driveways within the facility shall provide a hard surface with a minimum width of 25 feet.
- 4. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
- 5. No storage may open into the front yards.
- 6. The total area covered by buildings shall not exceed 50 percent of the site.
- 7. The storage of hazardous, toxic, or explosive substances, including, but not limited to, hazardous waste, industrial solid waste, medical waste, municipal solid waste, septage, or used oil.
- 8. Facilities must maintain landscape buffer yards of 50 feet adjacent to any public Right-of-Way and 20 feet adjacent to other property lines, unless greater setbacks are required, a total of 35 percent of all yards shall be landscaped.
- 9. Site development shall include provisions for stormwater management in accordance with the Regulations of the City of Sabetha
- 10. Height limitations shall require a maximum height of 20 feet for any structure in the facility.

Section 9.13 Auto Repair, Equipment Repair, and Body Repair

- 1. Where permitted in commercial districts, all repair activities must take place within a completely enclosed building. Outdoor storage is permitted only where incidental to Auto Repair and Body Repair, provided that such storage is completely screened so as not to be visible from residential areas or public rights-of-ways.
- 2. Any spray painting must take place within structures designed for that purpose and approved by the Zoning Administrator.

Section 9.14 Automobile and Equipment Rental and Sales

- 1. All outdoor display areas for rental and sales facilities shall be hard surfaced.
- 2. Body repair services are permitted as an accessory use to automobile rental and sales facilities, provided that such repair services shall not exceed 25% of the gross floor area of the building.

Section 9.15 Bed and Breakfasts

Bed and Breakfasts shall meet the following requirements:

1. Maintain a residential exterior appearance
 2. Rooms may not be rented for more than seven consecutive days and no more than 14 days per person in any 30-day period.
 3. Breakfast must be served on premises and included within the room charge for guest of the facility and shall be the only meal provided.
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Section 9.16 Outdoor Storage Containers

Outdoor Storage Containers are subject to the regulations outlined for Accessory Buildings in Article 4, except as provided below:

1. Outdoor storage containers within each district shall be limited to two containers per business.
 2. Containers shall be located to the rear 50 percent of the site.
 - A. Containers shall not be located in any required setback or yard area, required landscape area, required drive aisle, driveway, or parking area.
 - B. Containers shall not encroach upon spaces necessary to satisfy the minimum parking requirement, nor shall they block, impede, or divert traffic in or access to emergency, snow removal, and circulation and fire lanes.
 - C. Containers shall not be stacked upon one another and shall be located an appropriate distance from all structures, in accordance with the Fire Code.
 3. Storage containers should not be visible from an adjoining property or from a public or private street. Storage containers not so located may be placed on a site if the containers are adequately screened and buffered.
 - A. Screening shall be provided so that the outdoor storage container is not visible or is buffered from surrounding properties or public or private streets or the container shall be architecturally compatible with the primary buildings and the nature of the business.
 - B. Enhanced fencing, landscaping, buffering and/or architectural treatments shall be required for visible containers.
 - C. Buffering may include the use of decorative design features including painting, murals, etc.
 4. The exterior of the storage containers shall be kept free of rust, holes, dents, or other corrosion and shall be painted or otherwise maintains such that they are consistent with the character of adjacent buildings and secured at all times.
 5. Conditional use permits for storage containers shall be allowed for one year.
 - A. Renewals are subject to Board of Zoning Appeals approval.
 - B. Storage containers must be removed no later than five working days after the expiration of the permit.
 6. Exemptions The temporary use of construction trailers or containers at a building site is exempt from this requirement.
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Section 9.17 Mobile Food Units

Mobile Food Units are allowed in specific zoning districts; however, these uses shall be required to abide by the following requirements:

1. All units shall be located on vacant lots except in the C-1 Downtown Commercial District where on-street parking may be permitted. On-street parking shall only be allowed during times of operation.
 2. All units shall only operate during hours identified on the temporary permit. In no case shall a unit be open for more than one hour after the legal closing time of local bars.
 3. All refuse shall be transported off-site unless an agreement with the property owner is submitted to the City identifying an alternate.
 4. All units shall not be allowed to use intense lights in order to attract customers.
 5. During non-operation hours, these units shall be stored on a vacant lot or in an enclosed structure.
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Section 9.18 Roadside Stands not including sanctioned Farmer's Markets

1. A roadside stand is a facility used on a temporary or seasonal basis for the retail sale of produce grown largely on adjacent or surrounding agricultural lands.
 2. A roadside stand may be located within a required front yard but no closer than 20 feet to the edge of
-

a traveled roadway.

3. A roadside stand may operate for a maximum of 180 days in any one year.

Section 9.19 Parking or Storage of Pleasure Vehicles, Recreational Vehicles, Travel Trailers, Campers, Boats, Boat Trailers

1. Any recreational vehicle or pleasure vehicle, as defined in this Ordinance, may be parked, stored or maintained anywhere on a lot except that when parked, stored, or maintained in any Residential District, they shall be:
 - A. parked, stored, or maintained on a driveway when so parked in the front or exterior side yard areas; provided no more than two such vehicles shall be parked, stored, or maintained in the required front and side yard areas;
 - B. no pleasure vehicles or recreational vehicles parked or stored in the front or side yard areas shall be parked or stored within 10 feet of any public right-of-way, sidewalk or other area of the street at the entrance of the driveway; however, the 10 feet limitation shall not apply to alleys.
 - C. Provided further, no pleasure vehicle shall be parked or stored on any corner lot within the vision clearance area as defined in Section 4.05.
2. No pleasure vehicle or recreational vehicle as defined shall be parked, stored or maintained within 10 feet of any residential structure on adjoining property except when such vehicle is stored inside of a garage or other storage structure or upon obtaining the written consent of the adjoining property owner.
3. No pleasure or recreational vehicle as defined may be parked, stored or maintained on any public street, thoroughfare, right-of-way or other public area; provided:
 - A. Said vehicles may be parked in exception to this Section for a temporary period not to exceed 24 hours for loading and unloading purposed; or
 - B. For temporary storage or parking not to exceed 14 days if such vehicle is owned by a bona fide guest of the occupants of the premises, provided:
 - (i) When stored, parked or maintained on any public street, thoroughfare, right-of-way or other public area no person shall sleep, live or otherwise inhabit any recreational or pleasure vehicle.
 - C. Any person or persons may live or sleep in a recreational or pleasure vehicle for a period not to exceed 14 days when said vehicle is parked or stored on a lot and said persons are bona fide guests of the occupants of the premises.
 - D. No non-motorized travel trailers or boat, when on a trailer, shall be left unattached when parked or stored on any public street.
5. The Board of Zoning Appeals may permit an exception on appeal, to the foregoing requirements if it should find that in the particular case appealed the location of existing structures, the exceptional shape and size of the property, or other exceptional situation or condition not generally applicable to other properties justifies such action.

Section 9.20 Swimming Pools

Swimming pools of permanent construction which are not enclosed within a building shall be set back at least 10 feet from all property lines and shall be completely surrounded by a fence or wall having a height of at least six feet. There shall be no opening larger than 36 square inches except for gates which shall be equipped with self-closing and self-latching devices.

Section 9.21 Chemical or Fuel Storage

1. Petroleum (gasoline and diesel fuels) and propane used for cars, trucks, machinery and home uses shall not be stored in underground, on-the-ground or above-ground tanks in any Residential District or in the C-1 Downtown Commercial District unless in conjunction with an already existing auto service station. Residential and Central Business District storage of petroleum is limited to containers manufactured and clearly marked for such storage.
2. No Agricultural, Commercial (except the "C-1" Downtown Commercial District), nor Industrial Districts shall be restricted on petroleum storage by the above requirements except that all such storage facilities shall comply with the Occupational Safety and Health Administration (OSHA) and State of Kansas requirements.

Section 9.22 Adult Entertainment Establishments

9.22.01 Purpose; Findings and Rationale

1. *Purpose.* It is the purpose of this resolution to regulate adult establishments in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult establishments within the City. The provisions of this resolution have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this resolution to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this resolution to condone or legitimize the distribution of obscene material.
2. *Findings and Rationale.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Board of Supervisors, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and

Farkas v. Miller, 151 F.3d 900 (8th Cir. 1998); *Jakes, Ltd. v. City of Coates*, 284 F.3d 884 (8th Cir. 2002); *BZAPS, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *SOB, Inc. v. County of Benton*, 317 F.3d 856 (8th Cir. 2003); *Scope Pictures v. City of Kansas City*, 140 F.3d 1201 (8th Cir. 1998); *ILQ Invs. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *City of Lincoln v. ABC Books, Inc.*, 470 N.W.2d 760 (Neb. 1991); *Xiong v. City of Moorhead*, 2009 WL 322217 (D. Minn. Feb. 2, 2009); *Entm't Prods., Inc. v. Shelby County*, 721 F.3d 729 (6th Cir. 2013); *Lund v. City of Fall River*, 714 F.3d 65 (1st Cir. 2013); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *Ocello v. Koster*, 354 S.W.3d 187 (Mo. 2011); *84 Video/Newsstand, Inc. v. Sartini*, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); *Plaza Group Properties, LLC v. Spencer County Plan Commission*, 877 N.E.2d 877 (Ind. Ct. App. 2007); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby County*, 588 F.3d 372 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Peek-a-Boo Lounge v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Heideman v. South Salt Lake City*, 348 F.3d 1182 (10th Cir. 2003); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville*, 635 F.3d 1266 (11th Cir. 2011); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *DCR, Inc. v. Pierce County*, 964 P.2d 380 (Wash. Ct. App. 1998); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Fantasyland Video, Inc. v. County of San Diego*, 505 F.3d 996 (9th Cir. 2007); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); *Major Liquors, Inc. v. City of Omaha*, 188 Neb. 628 (1972); *DLH Inc. v. Nebraska Liquor Control Commission*, 266 Neb. 361 (2003); *Village of Winslow v. Sheets*, 261 Neb.203 (2001),

and based upon reports concerning secondary effects occurring in and around adult establishments, including, but not limited to, "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," *Journal of Urban Health* (2011); "Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analysis," *Crime &*

Delinquency (2012) (Louisville, KY); Metropolis, Illinois – 2011-12; Manatee County, Florida – 2007; Hillsborough County, Florida – 2006; Clarksville, Indiana – 2009; El Paso, Texas – 2008; Memphis, Tennessee – 2006; New Albany, Indiana – 2009; Louisville, Kentucky – 2004; Fulton County, GA – 2001; Chattanooga, Tennessee – 1999-2003; Jackson County, Missouri – 2008; Ft. Worth, Texas – 2004; Kennedale, Texas – 2005; Greensboro, North Carolina – 2003; Dallas, Texas – 1997; Houston, Texas – 1997, 1983; Phoenix, Arizona – 1995-98, 1979; Tucson, Arizona – 1990; Spokane, Washington – 2001; St. Cloud, Minnesota – 1994; Austin, Texas – 1986; Indianapolis, Indiana – 1984; Garden Grove, California – 1991; Los Angeles, California – 1977; Whittier, California – 1978; Oklahoma City, Oklahoma – 1986; New York, New York Times Square – 1994; the Report of the Attorney General's Working Group On The Regulation Of Adult establishments, (June 6, 1989, State of Minnesota); Dallas, Texas – 2007; "Rural Hotspots: The Case of Adult Businesses," 19 Criminal Justice Policy Review 153 (2008); "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsoopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; "Adult establishments: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Sex Store Statistics and Articles; and Law Enforcement and Private Investigator Affidavits (Adult Cabarets in Forest Park, GA and Sandy Springs, GA), McLeary and Weinstein; Do "Off-Site Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory and Empirical Evidence, Law and Policy, Vol. 31, No. 2 (April 2009), Adult Business Study: Town and Village of Ellicottville, Cattaraugus County, New York (January 1998), the City Commission finds:

- A. Adult establishments, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
- B. Adult establishments should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other adult establishments, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of adult establishments in one area.
- C. Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. Additionally, the City's interest in regulating adult establishments extends to preventing future secondary effects of either current or future adult establishments that may locate in the City. The City finds that the cases and documentation relied on in this resolution are reasonably believed to be relevant to said secondary effects.

The City Commission hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of adult establishments, including the judicial opinions and reports related to such secondary effects.

9.22.02 Definitions

Adult Arcade shall mean any place to which the public is permitted or invited in which coin-operated, slug-operated or for any form of consideration, electronically, electrically or mechanically controlled still or motion picture machines, projectors, video or laser disc players or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas. (K.S.A. 12-740)

Adult Bookstore Or Adult Video Store shall mean a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "principal business activity" exists where the commercial establishment meets any one or more of the following criteria:

1. At least 35% of the establishment's displayed merchandise consists of said items, or

2. At least 35% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items, or
3. At least 35% of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items, or
4. The establishment maintains at least 35% of its floor area for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor area" maintained for the display, sale, or rental of said items); or
5. The establishment maintains at least 500 square feet of its floor area for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor area" maintained for the display, sale, or rental of said items); or
6. The establishment regularly offers for sale or rental at least 2,000 of said items; or
7. The establishment maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

Adult Cabaret shall mean a nightclub, bar, juice bar, restaurant, bottle club, lounge, or similar commercial establishment that regularly features live conduct characterized by semi-nudity. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

Adult Establishment shall mean an "adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theater," or an "adult paraphernalia store."

Adult Motion Picture Theater shall mean a commercial establishment to which the public is permitted or invited wherein an image-producing device is regularly maintained to show images to more than five persons at any one time, and where the images so displayed are characterized by their emphasis upon "specified sexual activities" or "specified anatomical areas."

Adult Paraphernalia Store shall mean a commercial establishment that regularly offers 100 or more sexual devices for sale. This definition shall not be construed to include any establishment located within an enclosed regional shopping mall. For purposes of this definition, "sexual device" means any three-dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. "Sexual device" shall not be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

Employee of an Adult Establishment shall mean any person who performs any service on the premises of an adult establishment, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Enclosed Regional Shopping Mall means a group of retail and other commercial establishments that is planned, developed, and managed as a single property, with on-site parking provided around the perimeter of the shopping center, and that is generally at least forty acres in size and flanked by two or more large anchor stores, such as department stores. The common walkway or mall is enclosed, climate controlled and lighted, usually with an inward orientation of the stores facing the walkway.

Nudity means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

Operator of Adult Establishment means any person on the premises of an adult establishment who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner, part owner, or licensee of the business.

Semi-Nude or Semi-Nudity means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

Specified Anatomical Areas shall mean less than completely and opaquely covered human genitals, pubic region, buttock, and/or female breast below a point immediately above the top of the areola.

Specified Sexual Activities shall mean intercourse, oral copulation, masturbation or sodomy.

9.22.03 Performance Standards

1. No person shall establish, operate, or cause to be operated an adult establishment in City of Sabetha within:
 - A. 1,000 feet of another adult establishment;
 - B. 500 feet of a business licensed to sell alcohol at the premises; or
 - C. 500 feet of a residential district, residential use, residence, church, educational institution, park, or recreational facility.
 - D. For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of the structure containing the adult establishment to the closest point on a property boundary of another adult establishment, a business licensed to sell alcohol at the premises, a residential district, a residential use, a residence, a church, an educational institution, park, or a recreational facility.
2. No adult establishment shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.
3. No patron, employee of an adult establishment, or any other person shall knowingly or intentionally, in an adult establishment, appear in a state of nudity or engage in a specified sexual activity.
4. No person shall knowingly or intentionally, in an adult establishment, appear in a semi-nude condition unless the person is an employee of an adult establishment who, while semi-nude, remains at least six feet from all patrons and on a stage at least 18 inches from the floor in a room of at least 600 square feet.
5. No employee of an adult establishment who appears semi-nude in an adult establishment shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of an adult establishment. No customer shall knowingly or intentionally touch such an employee of an adult establishment or the clothing of such an employee of an adult establishment on the premises of an adult establishment.
6. No person shall possess alcoholic beverages on the premises of an adult establishment.
7. No person shall knowingly or recklessly allow a person under the age of 18 years to be or remain on the premises of an adult establishment.
8. No operator of an adult establishment shall knowingly or recklessly allow a room in the adult establishment to be simultaneously occupied by any patron and any employee of an adult establishment who is semi-nude or who appears semi-nude on the premises of the adult establishment, unless an operator of the adult establishment is present in the same room.
9. A person who operates or causes to be operated an adult establishment which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.
 - A. The operator of the adult establishment shall, within one week of opening the adult establishment for business, submit to the Zoning Administrator a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. A professionally prepared diagram in the nature of an engineer's or architect's

blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches.

- B. It shall be the duty of the operator of the adult establishment, and of any employees of the adult establishment present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
 - C. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five foot candles as measured at the floor level. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
 - D. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.
 - E. It shall be the duty of the operator of an adult establishment to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - i. That the occupancy of viewing rooms less than 150 square feet is limited to one person.
 - ii. That specified sexual activity on the premises is prohibited.
 - iii. That the making of openings between viewing rooms is prohibited.
 - iv. That violators will be required to leave the premises.
 - v. That violations of these regulations are unlawful.
 - F. It shall be the duty of the operator of an adult establishment to enforce the regulations articulated in 9.22.04 (9)(E)(i). through 9.22.04 (9)(E)(v) above.
 - G. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator of the adult establishment's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of floor area. If the premises have two or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator of an adult establishment to ensure that at least one employee of an adult establishment is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator of an adult establishment, and it shall also be the duty of any employees of an adult establishment present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
 - H. It shall be the duty of the operator of an adult establishment to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.
 - I. It shall be unlawful for a person having a duty under subsections 9.22.04 (9)(A) through 9.22.04 (9)(H) above to knowingly or recklessly fail to fulfill that duty.
 - J. No patron shall knowingly or recklessly enter or remain in a viewing room less than 150 square feet in area that is occupied by any other patron.
 - k. No patron shall knowingly or recklessly be or remain within one foot of any other patron while in a viewing room that is 150 square feet or larger in area.
 - L. No person shall knowingly or recklessly make any hole or opening between viewing rooms.
10. It shall be the duty of the operator of an adult establishment to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five-foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.
11. Unless a culpable mental state is otherwise specified herein, a showing of a reckless mental state shall be sufficient to establish a violation of a provision of this section 9.22.04.

Section 9.23 Special Events**9.23.01 Purpose and Intent**

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

9.23.02 Special Event Defined

The term "special event" shall mean a temporary, short-term use of land or structures, not otherwise included as a permitted or accessory use by this Land Development Code, for one or more of the following types of activities:

1. **Type 1** shall mean fund-raising or non-commercial events for nonprofit religious, educational, or community service organizations; including any on-site signs and structures in conjunction with the event.
2. **Type 2** shall mean temporary banners attached to the wall of a building or placed across street rights-of-way.
3. **Type 3** shall mean promotional activities or devices intended to attract attention to a specific place, business, organization, event or district, such as signs, searchlights or balloons.
4. **Type 4** shall mean commercial activities intended to sell, lease, rent or promote specific merchandise, services or product lines, such as a tent sale, trade show, farmers market, Christmas tree sales, or product demonstration. This type includes special activities such as film productions, outdoor play productions and similar type of events.
5. **Type 5** shall mean public events intended primarily for entertainment or amusement, such as concerts, festivals, carnivals, circuses or parades, or which are temporarily established for commercial reasons such as filming for movies or other such events. In addition, the temporary placement of a portable asphalt plant and attendant materials and equipment during construction work on any public road when such placement is not adjacent to said construction but will be placed within 1 and 1/4 miles of said construction.

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

9.23.03 Special Events Not Requiring a Permit

Special events meeting the Type 1 definition are allowed without a Special Event Permit, provided all of the following performance standards are met:

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

9.23.04 Special Events Subject to an Administrative Permit

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

1. Special events meeting the Type 2 definition may be permitted administratively by the Zoning Administrator, providing that all of the following performance standards are met:
 - A. An application is made, and a fee paid in accordance with Section 4.21.
 - B. No more than one banner will be displayed when attached to the wall of a building.

- C. The size and design of the banners will be appropriate given the size of the building to which they are attached and the character of the surrounding neighborhood.
- D. The banner will be displayed for a maximum duration of 15 days per permit.
- 2. Special events meeting the Type 3 or Type 4 definition, and Type 1 events not meeting the standards of Section 9.25.04, may be permitted administratively by the Zoning Administrator subject to the prior review and approval of special arrangements for traffic and crowd control by the Chief of Police and Fire Chief. No such administrative permit shall be issued unless all of the following performance standards are met:
 - A. An application is made and a fee paid in accordance with Section 4.21.
 - B. The special event will not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
 - C. The activity shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces caused by the event itself.
 - D. The special event shall not endanger the public health, safety, or welfare given the nature of the activity, its location on the site, and its relationship to parking and access points.
 - E. The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.
 - F. Any structure used in conjunction with the special event shall meet all sight distance requirements, shall be the subject of a valid building permit, and shall be promptly removed upon the cessation of the event.
 - G. The special event shall be conducted on private property in a commercial or industrial zoning district, except that nonprofit organizations may conduct events on any property where the property owner has granted the appropriate permission.
 - H. The duration and hours of operation of the special event shall be consistent with the intent of the event and the surrounding land uses, but in no case shall the duration exceed 10 days.

9.23.05 Special Events Subject to Governing Body Approval

Any Type 5 special event or special event not meeting the criteria may be granted a Special Event Permit by the Governing Body. Such permit may be subject to such conditions and safeguards as the Governing Body may deem necessary to protect the public health, safety and welfare. These conditions may include, but shall not be limited to:

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

9.23.06 Application and Fee

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

Section 9.24 Dwelling Unit, Special Types

This section is intended to establish special conditions by which Special types of dwelling units may be established within the jurisdiction of Sabetha.

9.24.01 Tiny Houses

Tiny houses fall under two separate categories, Site Built and RV/Park Model/Camper.

Site Built Tiny Houses

1. Tiny homes shall have at least one habitable room with not less than 120 sf of gross floor area;
2. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
3. Habitable rooms shall not be less than seven feet in any horizontal dimension;
4. Ceiling height effect on room area:
 - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
 - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
5. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
6. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
7. Tiny homes shall have a kitchen area and sink;
8. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
9. All electrical shall be in compliance with all local, state and/or federal electrical codes;
10. The unit shall meet all egress requirements found in local, state, and/or federal codes;
11. All foundations shall meet local, state, and/or federal building codes;
12. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.
13. No Site Built Tiny House shall be constructed in any floodplain.

RV/Park Model/Camper

1. The unit shall be constructed upon a single chassis;
2. The unit shall have 400 sf or less when measured at the largest horizontal projections;
3. The unit shall be self-propelled or permanently towable by a light duty truck;
4. The unit shall not be considered to be designed for use as a permanent dwelling but as a temporary living quarter;
5. All electrical, including temporary hook-ups, shall be in compliance with all local, state and/or federal electrical codes;
6. All plumbing and other mechanical systems shall not be permanently connected to a supply or discharge source;
7. The wheels and axles shall remain on the unit at all times;
8. Accessory structures shall not be supported by these units;
9. No RV/Park Model/Camper shall be constructed in any floodplain.

Tiny House Villages/Communities

Tiny house villages/communities may be allowed in identified areas and shall be designed using the PDO-Planned Development Overlay process within this Regulation.

9.24.02 Grain Bin Homes

Any residential structure meeting the definition of a grain bin home shall meet the following criteria:

1. Grain bin homes shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Grain bin homes shall have at least one habitable room with not less than 120 sf of gross floor area;
3. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
4. Habitable rooms shall not less than seven feet in any horizontal dimension;
5. Ceiling height effect on room area:
 - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
 - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;

6. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
7. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
8. Grain bin homes shall have a kitchen area and sink;
9. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
10. All electrical shall be in compliance with all local, state and/or federal electrical codes;
11. The unit shall meet all egress requirements found in local, state, and/or federal codes;
12. Any and all extensions off the grain bin home shall be structurally designed regarding all attachments and cantilevers';
13. All modifications needed to convert the grain bin(s) into a dwelling unit shall be required to have all modifications designed and engineered by a licensed architect and/or engineering;
14. All items requiring the structure to be structurally designed/modified shall be sealed by a structural engineer;
15. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.

9.24.03 Cargo Container Homes

Any residential structure meeting the definition of a cargo container home shall meet the following criteria:

1. Cargo container homes shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Multiple containers shall be structurally and permanently attached to each other;
3. Cargo container homes shall have at least one habitable room with not less than 120 sf of gross floor area;
4. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
5. Habitable rooms shall not less than seven feet in any horizontal dimension;
6. Ceiling height effect on room area:
 - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
 - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
7. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
8. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
9. Cargo container homes shall have a kitchen area and sink;
10. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
11. All electrical shall be in compliance with all local, state and/or federal electrical codes;
12. The unit shall meet all egress requirements found in local, state, and/or federal codes;
13. Any and all extensions off the cargo container home shall be structurally designed regarding all attachments and cantilevers';
14. All modifications needed to convert the cargo container(s) into a dwelling unit shall be required to have all modifications designed and engineered by a licensed architect and/or engineering;
15. All items requiring the structure to be structurally designed/modified shall be sealed by a structural engineer;
16. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.
17. No Cargo Container Homes shall be constructed in any floodplain.

9.24.04 Tree house Homes

Any residential structure meeting the definition of a tree house home shall meet the following criteria:

1. Tree house homes shall only be permitted as an accessory use to a primary structure;
2. Tree house homes shall have at least one habitable room with not less than 120 sf of gross floor area;
3. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
4. Habitable rooms shall not less than seven feet in any horizontal dimension;
5. Ceiling height effect on room area:
 - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
 - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
6. Ceiling heights shall be a minimum of seven feet in habitable spaces, and hallways;

7. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
8. All electrical shall be in compliance with all local, state and/or federal electrical codes;
9. The unit shall meet all egress requirements found in local, state, and/or federal codes;
10. All tree house homes designed as recreational structures and/or sleeping quarters shall be structurally designed prior to construction and sealed by a structural engineer.

9.24.05 Quonset Homes

Any residential structure meeting the definition of a Quonset home shall meet the following criteria:

1. Quonset homes shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Quonset homes shall have at least one habitable room with not less than 120 sf of gross floor area;
3. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
4. Habitable rooms shall not less than seven feet in any horizontal dimension;
5. Ceiling height effect on room area:
 - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
 - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
6. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
7. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
8. Quonset homes shall have a kitchen area and sink;
9. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
10. All electrical shall be in compliance with all local, state and/or federal electrical codes;
11. The unit shall meet all egress requirements found in local, state, and/or federal codes;
12. Any and all extensions off the Quonset home shall be structurally designed regarding all attachments and cantilevers';
13. All modifications needed to convert the Quonset into a dwelling unit shall be required to have all modifications designed and engineered by a licensed architect and/or engineering;
14. All items requiring the structure to be structurally designed/modified shall be sealed by a structural engineer;
15. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.

9.24.06 Shouses

Any residential structure meeting the definition of a Shouse shall meet the following criteria:

1. Shouses shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Once a Shouse has been established, the overall structure, including the shop area will no longer be considered an agricultural structure/building;
3. Shouses homes shall have at least one habitable room with not less than 120 sf of gross floor area;
4. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
5. Habitable rooms shall not less than seven feet in any horizontal dimension;
6. Ceiling height effect on room area:
 - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
 - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
7. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
8. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
9. Shouses shall have a kitchen area and sink;
10. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
11. All electrical shall be in compliance with all local, state and/or federal electrical codes;
12. The unit shall meet all egress requirements found in local, state, and/or federal codes;
13. Any and all extensions off the Shouse shall be structurally designed regarding all attachments and cantilevers';

14. All modifications needed to convert the machine shed into a dwelling unit shall be required to have all modifications designed and engineered by a licensed architect and/or engineering;
15. All items requiring the structure to be structurally designed/modified shall be sealed by a structural engineer;
16. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.

Article 10: Site Development Plans

Section 10.01 Purpose and Intent

1. Good site design is a process that involves the active participation of the municipality and developers working together. The design process is an opportunity for the municipality and developers to work together to ensure that a development meets both the design goals of the community and the requirements of the developer. Site design technically consists of the arrangement of buildings, structures, lot lines, roads, utilities and plantings on a particular piece of property, laid out as a functional system in a two-dimensional space. In a broader sense however, the total environment of a development consists not only of two-dimensional forms, but also of the spaces around them: buildings, streets, and landscaping exist in three-dimensional space.
2. Site design should then be concerned with three-dimensional spatial arrangements: the location and placement of buildings, infrastructure, roads and walkways, landscaping, and other design elements within their surroundings. Implicit in such a definition of site design is the importance of relating design to the contextual setting of the entire community. It is the intent of the site development plan review and approval process that the needs and desires of the community, defined by the fundamental principles of subdivision and site design established in these regulations and in Article Five of *The Subdivision Regulations of the City of Sabetha, Kansas*, are accomplished through orderly, sustainable and harmonious growth and development.

Section 10.02 Application for Site Plan

1. Assignment.

The applicant shall have the option of seeking the direction of the Zoning Administrator as to which submittals and approvals are required for a site plan. The Zoning Administrator's determination shall be presumed to be correct. Subdivision or individual lot applications for detached single-family and two-family dwelling units shall be exempt from the site development plan review and approval procedure as set forth herein.

2. Content.

An application for site plans shall include the items specified in this ordinance which constitutes a checklist of items to be submitted for site plan review. The Zoning Administrator and/or City Engineer may subsequently require the correction of any information found to be in error and submission of additional information not specified in this ordinance, as is reasonably necessary to make an informed decision.

Section 10.03 Site Development Plan Procedure

1. Approval of Site Plan.

The Zoning Administrator, upon receipt of a complete site plan application in accordance with the provisions herein, shall cause the site plan to be reviewed by the City Engineer to ensure conformance with these regulations and acceptable engineering and construction standards. The City Engineer shall review the application and prepare a summary statement indicating whether or not the site plan is conformance with the requirements of these regulations. If the plan is not in conformance with these regulations, the City Engineer shall indicate in the summary statement those items which need to be addressed or corrected to bring the site plan to an acceptable standard of design. The City Engineers' review of the site plan application shall be sent to the Zoning Administrator, who shall distribute copies of the City Engineers' review to the applicant and to the applicant's engineer or architect.

2. Effect of Site Plan Approval.

Approval of a site plan by the City Engineer shall confer upon the applicant the following rights for a 12-month period from the date of the site plan approval:

- A. That the general terms and conditions on which site plan approval was granted shall not be changed;
- B. That the applicant may apply for construction permits as required; and
- C. That the applicant may apply for and the Zoning Administrator may grant extension on such site plan approval for additional periods of at least one month but not to exceed a total extension of 12 months.

Section 10.04 Landscape Standards**1. Purpose**

- A. Landscaping shall be provided as part of site plan design. It shall be conceived in a total pattern throughout the site design, integrating the various elements of site design, preserving and enhancing the particular identity of the site, and creating a pleasing site character.
- B. Landscaping may include plant materials such as trees, shrubs, ground covers, perennials and annuals, and other materials such as rocks, water, sculpture, art, walls, fences, paving materials, and street furniture.

2. Landscape Plan.

A landscape plan shall be submitted with each site plan application, unless an exception is granted pursuant to this Article. The plan shall identify existing and proposed trees, shrubs, and ground covers; natural features such as rock outcroppings; and other landscaping elements. The plan shall show where they are or will be located and planting and/or construction details. Where existing plantings are to be retained, the applicant shall include in the plans proposed methods of protecting them during construction.

3. Site Protection and General Planting Requirements.

- A. Topsoil preservation. Topsoil moved during the course of construction shall be redistributed on all regraded surfaces so as to provide at least four inches of even cover to all disturbed of the development and shall be stabilized by seeding or planting.
- B. Removal of debris. All stumps and other tree parts, litter, brush, weeds, excess or scrap building materials or other debris shall be removed from the site and disposed of in accordance with the law. No tree stumps, or portions of tree trunks or limbs shall be buried anywhere in the development. All dead or dying trees, standing or fallen, shall be removed from the site. If trees and limbs are reduced to chips, they may be used as mulch in landscaped areas, subject to approval by the City Engineer.
- C. Protection of existing plantings. Maximum effort should be made to save fine specimens. No material or temporary soil deposits shall be placed within four feet of shrubs or 10 feet of trees designated on the landscape plan to be retained.
- D. Additional landscaping. In non-residential developments, all areas of the site not occupied by buildings and required improvements shall be landscaped by the planting of grass or other ground cover, shrubs, and trees as part of the site plan approved by the City Engineer.
- E. Planting specifications. Size of trees and shrubs shall be allowed to vary depending on setting and type of shrub. All trees, shrubs, and ground covers shall be planted according to accepted horticultural standards. Dead and dying plants shall be replaced by the developer during the following planting season.
- F. Plant species. The plant species selected should be hardy for the particular climatic zone in which the development is located and appropriate in terms of function and size.

4. Shade Trees

- A. Location. Shade trees shall be installed on both sides of all streets, public and private, in accordance with the approved construction plans. Trees shall be planted along streets using the following spacing criteria as a guide:

Tree Size (Max. Height, in feet)	Planting Interval (in feet)
Large trees (40+)	50-70
Medium trees (30-40)	40-50
Small trees (up to 30)	30-40

The trees shall be planted so as not to interfere with utilities, roadways, sidewalks, sight easements, or street lights. Tree location, landscaping design, and spacing plan shall be approved by the planning commission as part of the landscape plan.

- B. Tree type. Tree type may vary depending on overall effect desired, but as a general rule, all trees on a street shall be the same kind except to achieve special effects.
- C. Planting specifications. All trees shall be of substantially uniform size and shape, and have straight trunks. Trees shall be properly planted and staked and provision made by the applicant for

regular watering and maintenance until they are established. Dead and dying trees shall be replaced by the applicant during the next planting season.

5. Buffering

- A. Function and materials. Buffering shall provide a year-round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds, or combinations thereof to achieve the same objectives.
- B. When required. Every development shall provide sufficient buffering when topographical or other barriers do not provide reasonable screening and when the Planning Commission determines that there is a need 1) to shield neighboring properties from any adverse external effects of a development; or 2) to shield the development from negative impacts of adjacent uses such as streets or railroads. In high-density developments, when building design and siting does not provide privacy, the Planning Commission may require landscaping, fences, or walls to screen dwelling units for privacy. Buffers shall be measured from side and rear property lines, excluding driveways.
- C. Amount required.
 - 1) Where more-intensive land uses abut less-intensive uses, a buffer strip 25 feet in width shall be required.
 - 2) Parking lots, garbage collection and utility areas, and loading and unloading areas should be screened around their perimeters by a buffer strip a minimum of five feet wide.
 - 3) Where residential subdivisions abut higher-order streets (collectors or arterials), adjacent lots shall front on lower-order streets, and a landscaped buffer area shall be provided along the property line abutting the higher-order street. The buffer strip shall be a minimum of 25 feet wide or wider where necessary for the health and safety of the residents. It shall include both trees and shrubs.
- D. Design. Arrangement of plantings in buffers shall provide maximum protection to adjacent properties and avoid damage to existing plant material. If planted berms are used, the minimum top width shall be four feet, and the maximum side slope shall be 3:1.
- E. Planting specifications. Plant materials shall be sufficiently large and planted in such a fashion that a year-round screen at least eight feet in height shall be produced within three growing seasons. All plantings shall be installed according to accepted horticultural standards.
- F. Maintenance. Plantings shall be watered regularly and in a manner appropriate for the specific plant species through the first growing season, and dead and dying plants shall be replaced by the applicant during the next planting season. No buildings, structures, storage of materials, or parking shall be permitted within the buffer area; buffer areas shall be maintained and kept free of all debris, rubbish, weeds, and tall grass.

6. Parking Lot Landscaping

- A. Amount required. In parking lots, at least five percent on the interior parking area shall be landscaped with plantings, and one tree for each 10 spaces shall be installed. Parking lot street frontage screening shall be a minimum of five feet wide. Planting required within the parking lot is exclusive of other planting requirements, such as for shade trees planted along the public street.
- B. Location. The landscaping should be located in protected areas, such as along walkways, in center islands, at the ends of bays, or between parking stalls. All landscaping in parking areas and on the street frontage shall be placed so that it will not obstruct sight distance.
- C. Plant type. A mixture of hardy flowering and/or decorative evergreen and deciduous trees may be planted. The evergreens should be used along the perimeter of the lot for screening, and the deciduous trees for shade within the lot. The area between trees shall be mulched, planted with shrubs or ground cover, or covered with approved paving material. Any area that will be under the overhang of vehicles shall be mulched or covered with paving material.

7. Paving Materials

- A. Design and choice of paving materials used in pedestrian areas shall consider such factors as function, climate, characteristics of users, availability, cost, maintenance, glare, drainage, noise, appearance, and compatibility with surroundings.
- B. Acceptable materials shall include, but are not limited to, concrete, brick, cement pavers, asphalt, and stone.

8. Walls and Fences

- A. Walls and fences shall be erected where required for privacy, screening, separation, security, erosion control, or to serve other necessary and reasonable functions.
- B. The design and materials used shall be functional and compatible with existing and proposed site architecture.
- C. No fence or wall shall be so constructed or installed as to constitute a hazard to traffic or safety.

Section 10.05 Waiver of Site Plan Application

The City Engineer may recommend the Zoning Administrator waive the requirement for site plan approval where there is a change in use or occupancy and no extensive construction or improvements (or de minimis construction or improvements) is sought. The waiver may be granted only upon a finding by the City Engineer that the use will not affect existing drainage, circulation, relationship of buildings to each other, landscaping, buffering, lighting, and other considerations of site plan approval, and that the existing facilities do not require upgraded or additional site improvements. The application for a waiver of site plan shall include a discussion of the prior use of the site, the proposed use, and its impact.

Section 10.06 Exception of Site Plan Requirements

1. The Zoning Administrator and the City Engineer, when acting upon applications for site development plans, shall recommend such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions for site plan review and approval of this ordinance, if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.
2. The Zoning Administrator and the City Engineer shall not recommend exceptions unless they shall make findings based upon the evidence presented to it in each specific case that:
 - A. The granting of the exception will not be detrimental to the public safety, health, or welfare, or injurious to other property or improvements in the neighborhood in which the property is located;
 - B. The conditions upon which the request for an exception is based are unique to the property for which the exception is sought, and are not applicable generally to other properties;
 - C. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out.
3. Conditions
In recommending variations and exceptions, the Zoning Administrator and the City Engineer may propose such conditions as will, in their judgement, secure substantially the objectives of standards or requirements of these regulations.
4. Procedures
A petition for any such variation or exception shall be submitted in writing by the applicant at the time when the site development plan is filed for consideration review by the Zoning Administrator and the City Engineer. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

Article 11: Board of Zoning Appeals

Section 11.01 Board of Zoning Appeals

The Governing Body of the City of Sabetha has established a Board of Zoning Appeals pursuant to K.S.A. 12-759 and amendments thereto, and pursuant to City Ordinance No. 1047.

Section 11.02 Members and Terms

The Board of Zoning Appeals for the City of Sabetha shall consist of not less than three nor more than seven members, at least one of whom shall be a resident of the planning area outside of the corporate city limits of Sabetha, Kansas. One member of the Planning Commission shall be a member of the Board of Zoning Appeals. This member shall be elected by the Planning Commission annually in July, or when necessary to fill interim appointments. Other members of the Board of Zoning Appeals shall be appointed by the Governing Body for terms of three years.

Section 11.03 Powers

1. To hear and decide appeals where it has been alleged that there is an error in any order, requirement or decisions of the Zoning Administrator. The Board of Zoning Appeals may, after hearing an appeal, affirm, reverse or alter any such order of the Zoning Administrator upon a finding of conflict between the order and the requirements of this ordinance.
2. To hear and pass upon all applications for variances and exceptions from the Zoning Ordinance under the powers and terms granted to the Board of Zoning Appeals by K.S.A. 12-759 and by this ordinance.

Section 11.04 Meetings

1. All meetings of the Board shall be at the call of the Chairman of the Board of Zoning Appeals or the Zoning Administrator.
2. All notices of public hearings shall be published once in the official city newspaper at least 20 days in advance of a hearing. All meetings and hearings shall be open to the public. Written notice of such public hearing shall be mailed by certified mail with return receipt at least 20 days before the public hearing to all owners of record of lands located within at least 1000 feet of the area property; provided, said notice shall extend only 200 feet in those areas where the notification area extends within the incorporated limits of the City of Sabetha, Kansas. The applicant shall pay costs of all certified mailing notices to said owners of record. All notices shall include a statement that a complete legal description is available for public inspection in the office of the Zoning Administrator. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Board of Zoning Appeals. The applicant shall provide a certified list of the owners of record of said lands at the time of the filing of the application or appeal.
3. A record (audiotape recording) shall be kept of all public hearings held before the Board of Zoning Appeals. These records shall be summarized in the minutes, copies of which shall be kept in the Office of the City Clerk.

Section 11.05 Appeals

1. All decisions of the Board of Zoning Appeals shall be final; any person aggrieved by any decision of the Board of Zoning Appeals may bring an action in the district court of the county within thirty (30) days of a decision.
2. An appeal to the district court shall stop all proceedings and actions of the zoning administration, for the case in question.

Section 11.06 Variances

1. Authorization
 - A. The Board of Zoning Appeals may authorize variances to the requirements of the Zoning Ordinance from time to time following the terms of these regulations and in accordance with the provisions of K.S.A. 12-759(e).
 - B. All applicants shall submit those items specified herein, which constitutes a checklist of items to be submitted for consideration for a variance by the Board of Zoning Appeals.

2. Granting a Variance
 Variances may be granted in the following specific instances:
 - A. To permit a reduction in front, side or rear yard setbacks. Variances for setbacks shall not be granted as a benefit to the applicant (by giving the applicant more rights than others) but rather to grant the applicant the same rights enjoyed by similar property owners. Variances of this type may also be granted because of unique physical circumstances or because of difficulty in lot or street arrangement.
 - B. To permit the full use and enjoyment of a lot that is non-conforming because of inadequate frontage, width or size. All such lots considered for variances shall be existing lots of record.
3. Standards for a Variance
 All variances shall be issued in accordance with the following standards:
 - A. A variance must be due to conditions unique to the property and not ordinarily found throughout the district.
 - B. Granting a variance must not adversely affect the rights of adjacent owners or residents.
 - C. Strict application of the zoning regulations without a variance would otherwise constitute an unnecessary hardship.
 - D. The granting of the variance will not be opposed to the general spirit or intent of the zoning regulations.
 - E. The variance desired will not adversely affect the public health, safety, morals order, convenience, prosperity, or general welfare.
4. Conditions, Restrictions and Limitations Imposed
 The Board of Zoning Appeals, in granting variances, may impose conditions, restrictions and limitations, that may be required for the protection of health, safety and general property values.

Section 11.07 Exceptions/Conditional Use Permits

1. Procedure
 - A. The Board of Zoning Appeals may issue conditional use, permits that are specifically authorized in the various zoning districts of these regulations, and in accordance with the provisions of K.S.A. 12-759(e).
 - B. A conditional use is a specific use of the land that may be permitted if the Board of Zoning Appeals finds, after a fact-finding hearing, the property rights of nearby owners will not be adversely affected.
 - C. Responsibilities of the Board of Zoning Appeals
 - i) If the proposed conditional use complies with all applicable regulations of the zoning district in which it is located, and does not reduce neighborhood property rights, then the Board of Zoning Appeals may issue a permit making the conditional use valid and fully permitted.
 - ii) The Board of Zoning Appeals shall grant conditional use status to those uses which contribute to the overall orderly development of the city and needs of the residents - and not a mere granting of benefit to the applicant.
 - iii) The Board of Zoning Appeals shall grant conditional use status only when road and parking conditions are adequate to service the proposed use.

Article 12: Administration and Procedures

Section 12.01 Zoning Administrator

1. Establishment

- A. The Governing Body of the City of Sabetha has established a Zoning Administrator pursuant to the provisions of this Ordinance. The Zoning Administrator shall be given the responsibility for ensuring orderly and expeditious processing of rezoning and site plan applications.
- B. The duties of the Zoning Administrator shall include all those duties established in said City Ordinance and all amendments or revisions thereto, as well as all those duties outlined in these regulations.

2. Qualifications

The Zoning Administrator shall be selected in the manner proscribed by the Governing Body and Administration. The Zoning Administrator must be well versed in the procedures and regulations in the this Ordinance and the Subdivision Regulations, in order to assist the Planning Commission and the Governing Body in the proper and expeditious handling of all subdivision and zoning matters brought before the city.

3. Duties

- A. In general, the Zoning Administrator shall be responsible for processing, reviewing and recommending to the Planning Commission all subdivisions, site plans, public improvement plans, and zoning cases applied for, pursuant to the provisions of this Ordinance and the Subdivision and Site Plan Regulations of the City of Sabetha.
- B. The duties of the Zoning Administrator shall also include those duties specifically defined below:
 - (i) Issue all certificates, keep all records and certificates.
 - (ii) Conduct all inspections.
 - (iii) Report to the City Attorney for prosecution all violations of these regulations and to sign all complaints to the City Attorney.
 - (iv) The Zoning Administrator shall have, after obtaining the necessary court orders, the power to enter all properties within the jurisdiction of this ordinance, at reasonable times, for the purpose of inspection.
 - (v) To issue orders, in the case of violations, requiring a use or activity to cease and desist.
 - (vi) To post at proper times a notice (by sign) to the public showing: BUILDING PERMIT ISSUED BY ORDER OF THE ZONING ADMINISTRATOR.
- C. The Zoning Administrator, in concert with the Planning Commission, shall be authorized to select and recommend for the City of Sabetha the services of any professional consultant as he may see fit to successfully carry out the duties of his office. These consulting services may include, but are not limited to:
 - (i) Legal Counsel;
 - (ii) Architecture;
 - (iii) Landscape Architecture;
 - (iv) Surveying;
 - (v) Engineering; and
 - (vi) Community and Regional Planning.
- D. The Governing Body shall review all proposals by the Zoning Administrator to retain any professional consulting services for the City of Sabetha. The hiring of any private consultant to serve the city in this capacity shall require a majority vote by the Governing Body.

Section 12.02 Enforcement

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

Section 12.03 Building Permit

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

Section 12.04 Application for Building Permit

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

1. Legal description of the real estate involved.
2. Location and size of all buildings, structures, yards and open space.
3. Width and length of all entrances and exits to and from said real estate.
4. All adjacent and adjoining roads or highways.
5. Sufficient grades and elevations to establish the proper placement of buildings, adequate sewage disposal systems, the proper drainage of the property, and the applicability of possible floodplains.
6. Location and specifications of all signs, lighting, fencing, screening, landscaping and other such site improvements.

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

Section 12.05 Issuance of Building Permit

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

Section 12.06 Revocation of Building Permit

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

Section 12.07 Stop Order

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

Section 12.08 Period of Validity

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

Section 12.09 Certificate of Occupancy

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

Section 12.10 Reports

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

Section 12.11 Administrative Permit

A manufactured home on an individual lot may be authorized by the Zoning Administrator by issuance of an Administrative Permit on an emergency basis for a period not to exceed one year, on any lot where the permanent dwelling unit has been destroyed by fire, storm or other such calamity and the dwelling unit has been rendered uninhabitable. If the need for the emergency placement of such mobile home unit lasts longer than one year, a Special Exception may be granted by the Board of Zoning Appeals for an additional period of time, provided, the procedures in Article 11 herein are followed.

Section 12.12 Vesting of Development Rights

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

1. The rights of landowners of properties platted or subdivided for residential development shall be protected for use of said land for the intended residential purposes for a period of five years from the time in which such property was first platted or subdivided, provided:
 - A. Verifiable evidence is presented showing the date in which said plat or subdivision of land was first created. Acceptable evidence shall be in one of the following forms:
 - 1) signed and sealed certificates or plats of survey from a Registered Land Surveyor showing the several lots proposed to be created, dated and recorded with the Register of Deeds; or,
 - 2) recorded Restrictive or Protective Covenants for the development which describes the individual lots said Covenants are applicable to; or,
 - 3) recorded deeds conveying land; or,
 - 4) recorded Affidavits of Equitable Interest on contracts for deed for said tracts of land.
 - B. Within said five-year period actual sales occur resulting in separate owners on the tracts of land.
 - C. The division of land was legally done in conformance with the then Sabetha Subdivision Regulations.
2. Except for lots in a recorded plat, any remaining contiguous tracts of land within the area divided under this rule held in common ownership at the conclusion of said five-year period shall be considered an unplatted lot and subsequent divisions of said lot shall be in conformance with the Sabetha Subdivision Regulations then in effect.
3. Properties divided or platted for any use other than agricultural or residential purposes shall not be permitted to develop or further develop except in conformance with this Code and the Sabetha Subdivision Regulations. Persons who obtain a validly issued permit under any previous rules of the City of Sabetha shall be permitted to develop the property so long as the permit issued under the previous rules does not expire. Failure to start construction under said permit before the expiration of the permit shall not protect the owner from the provisions of this Code or the Sabetha Subdivision Regulations then in effect.

Article 13: Amendments and Application Process

Section 13.01 Who May Petition or Apply

1. Applications for amendments, revisions or changes to the district boundaries on the Official Zoning Map in effect for the City of Sabetha and any area identified within the extraterritorial jurisdiction, may be made by any person who owns land for which such an amendment, revision or change is sought, or by the owner's agent.
2. If such application is made by the owner's agent, said agent shall enter upon the application the name and current mailing address of the owner and shall submit written authorization to act as agent for said owner prior to the setting of any public hearing.
3. Applications for amendments, revisions or changes to the Zoning Ordinance or the Official Zoning Map may also be made by the Planning Commission or the Governing Body; provided, such, proposed amendments, revisions or changes shall first be submitted to the Planning Commission for public hearing, recommendation and report and the final decision is made by the Governing Body.

Section 13.02 Procedures for Consideration of Request for Amendments, Revisions or Changes.

1. All applications or requests for amendments, revisions or changes to the Zoning Ordinance or the Official Zoning Map shall be made to the Zoning Administrator on such forms as provided and acceptable to the Zoning Administrator.
2. The payment of the application fee, as established by the Governing Body by separate resolution, shall be made at the time of the submission of the application.
3. Immediately upon receipt of an application for rezoning by the owner, or his agent, and the payment of the appropriate fee, the Zoning Administrator shall note thereon the date of filing and make a permanent record thereof.
4. An application shall be deemed complete when the Zoning Administrator has received:
 - A. a completed application form,
 - B. any required development plan,
 - C. the application fee, and
 - D. such other documents necessary to process the application without further delay.
5. All such proposed applications for amendment, revisions or changes to the Zoning Ordinance or the Official Zoning Map shall be submitted to the Planning Commission for recommendation.
6. The Planning Commission shall hold a public hearing thereon and shall cause a written summary to be made of the proceedings.
7. Notice of such hearing shall be published once in the official city newspaper at least 20 days prior to the date of the hearing.
 - A. Said notice shall fix the time and place for such hearing,
 - B. shall give the name address of the applicant, and
 - C. shall contain a statement regarding the proposed changes in the regulations or restrictions, or in the boundary or classification of any zone or district.
 - D. If the application is not a general amendment, revision or change to the Zoning Ordinance, but is for a rezoning affecting specific property, the property affected shall be designated by legal description and a general description sufficient to identify the property under consideration.
 - E. In addition to such publication notice, written notice of such proposed rezoning shall be mailed by certified mail with return receipt at least 20 days before the public hearing to all owners of record of lands located within at least 1000 feet of the area proposed to be altered; provided, said notice shall extend only 200 feet in those areas where the notification area extends within the incorporated limits of the City of Sabetha, Kansas.
 - F. The applicant shall pay costs of all certified mailing notices to said owners of record.
 - G. All notices shall include a statement that a complete legal description is available for public inspection in the office of the Zoning Administrator.
 - H. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or the Governing Body.
 - I. The applicant shall provide a certified list of the owners of record of said lands at the time of the filing of the application.
8. In the case of an application by the Planning Commission or the Governing Body, all the above stated requirements shall be followed except:
 - A. No fee shall be required.

- B. If the application is for an amendment or revision to the text of the Zoning Ordinance, notice of the public hearing shall not be required to be mailed to all affected persons; therefore, a certified list of the owners of land shall not be required.
 - C. The Planning Commission shall hold the public hearing at the place and time so stated within the legal notice.
 - D. The hearing may be adjourned from time to time, and at the conclusion of the same, the Planning Commission shall take action on the request by preparing a recommendation either to approve, approve with conditions as authorized by these regulations, or disapprove the application by a majority of the members of the Planning Commission present and voting at the hearing.
 - E. When the Planning Commission fails to make a recommendation on an application, the Planning Commission shall be deemed to have made a recommendation for disapproval.
 - F. Any such hearing may, for good cause at the request of the applicant, or in the discretion of the Planning Commission, be continued.
 - G. No member of the Planning Commission shall take part in any discussion or action if he holds an interest in the land under consideration (or has ever held an interest in the property in question) or holds an interest in the property which is adjacent to the subject property.
 - H. When the Planning Commission submits a recommendation of approval or disapproval of such amendment, revision or change and the reasons therefor, the Governing Body may:
 - (i) adopt such recommendation by resolution
 - (ii) override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or
 - (iii) return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove.
 - (iv) If the Governing Body returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation.
 - (v) Upon receipt of such recommendation, the Governing Body, by a simple majority thereof, may adopt, may revise or amend and adopt, or may disapprove such recommendation by resolution, or it need take no further action thereon.
 - (vi) If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.
 - (vii) The proposed amendment, revision or change, if approved with or without conditions, shall become effective upon publication of the adopting resolution.
 - I. If such amendment affects the boundaries of any zone or district:
 - (i) the resolution shall describe the boundaries as amended, or
 - (ii) if provision is made for the fixing of the same upon the Official Zoning Map which has been incorporated by reference:
 - a) the amending resolution shall define the change or the boundary as amended,
 - b) shall order the Official Zoning Map changed to reflect such amendment,
 - c) shall amend the section of the resolution incorporating the same; and
 - d) shall reincorporate such map as amended.
9. Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment, supplement or change, if a protest is filed in the office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, duly signed and acknowledged by the owners of record of 20% or more of any property proposed to be rezoned, or by the owners of record of 20% or more of the total area required to be notified of the proposed amendment, supplement or change of a specific property, excepting public streets and highways, the resolution of approval shall not be passed except by 3/4 majority vote of the Governing Body.

Section 13.03 Traffic and/or Other Studies

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

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

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

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

Section 13.04 Factors to be Considered

1. When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based using the following guidelines:
 - A. Whether the change in classification would be consistent with the intent and purpose of these regulations;
 - B. The character and condition of the surrounding neighborhood and its effect on the proposed change;
 - C. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and if so, the nature of such changed or changing conditions;
 - D. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification;
 - E. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity;
 - F. The suitability of the applicant's property for the uses to which it has been restricted;
 - G. The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as a viable use of land and not be considered as allowing the land to be vacant or undeveloped;
 - H. Whether adequate sewer and water facilities, and all other needed public services including transportation, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified;
 - I. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such land available or not available for development;
 - J. The recommendations of public and private staff;
 - K. Whether the proposed amendment would be in conformance to and further enhance the implementation of the Comprehensive Plan;
 - L. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such a reclassification; and
 - M. Such other factors as may be relevant from the facts and evidence presented in the application.

2. Because of particular conditions associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts but are permitted as Conditional Uses when their proposed location is supplemented by additional requirements so as to make the use requested compatible with the surrounding property, the neighborhood and the zoning jurisdiction.

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

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

- A. Whether approval of the Conditional Use would be consistent with the intent and purpose of this Code.
- B. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood.
- C. Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided.
- D. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected.
- E. The length of time the subject property has remained vacant or undeveloped as zoned;
- F. Whether the applicant's property is suitable for the proposed use;
- G. The recommendations of permanent or professional staff;
- H. Whether the proposed Conditional Use would be in conformance to and further enhance the implementation of the Comprehensive Plan;

Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed on the applicant by not upgrading the value of the property by approving the proposed Conditional Use; and,

Whether the proposed Conditional Use, if it complies with all the conditions upon which the approval is made contingent (as authorized in Article 11 of this Code), will not adversely affect the property in the area affected.

- I. Such other factors as may be relevant from the facts and evidence presented in the application.

Section 13.05 Limitations on Reapplication for Amendments

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

Article 14: Legal Status Provisions**Section 14.01 Severability**

Should any article, section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 14.02 Purpose of Catch Heads

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

Section 14.03 Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 14.04 Effective Date

This Ordinance shall take effect and be in force from and after its passage and publication according to law.

ADOPTED AND APPROVED by the Governing Body of Sabetha, Kansas,

This _____ day of _____, 2021.

(Seal)

ATTEST: _____
City Clerk

Mayor