

# ZONING

## ORDINANCES

Tonganoxie, Kansas

Adopted by Reference, Ordinance 1138  
Revised, January 2003

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Kathy Graveman  
Steve Gumm  
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Amended by Ordinances  
Ordinance 1184 – May 9, 2005  
Ordinance 1186 & 1189 – May 23, 2005  
Ordinance 1208 – May 22, 2006

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Amended by Ordinances  
Ordinance 1230 – May 29, 2007  
Ordinance 1243 – September 24, 2007

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## TABLE OF CONTENTS

### ZONING ORDINANCES

<u>Section</u>		<u>Page</u>
<b>1-0</b>	<b>TITLE, AUTHORITY AND ADOPTION</b>	
	1-010 Title	1-1
	1-011 Statutory Authority	1-1
	1-012 Purpose	1-1
	1-013 Ordinance Adoption	1-1
	1-014 Jurisdiction	1-1
	1-015 Zoning District Map	1-2
	1-016 Rules of Construction and Interpretation	1-4
	1-017 Annexation of Territory	1-5
	1-018 Vested Rights	1-5
	1-019 Compliance with District Provisions	1-6
<b>2-0</b>	<b>GENERAL PROVISIONS</b>	
	2-010 Duties of Zoning Administrator	2-1
	2-011 Building Permits	2-1
	2-012 Exemptions	2-2
<b>3-0</b>	<b>"R-R" RURAL DISTRICT</b>	
	3-010 Purpose	3-1
	3-011 Allowed Use Groups	3-1
	3-012 Development Standards	3-2
	3-013 Area & Height Regulations	3-2
	3-014 Required Yard	3-2
	3-015 Parking	3-2
	3-016 Signs	3-2
<b>4-0</b>	<b>"R-E" RESIDENTIAL ESTATE DISTRICT</b>	
	4-010 Purpose	4-1
	4-011 Allowed Use Groups	4-1
	4-012 Development Standards	4-1
	4-013 Area & Height Regulations	4-2
	4-014 Required Yard	4-3
	4-015 Parking	4-3
	4-016 Signs	4-3
<b>5-0</b>	<b>"R-SF" SINGLE FAMILY DISTRICT</b>	
	5-010 Purpose	5-1
	5-011 Allowed Uses	5-1
	5-012 Development Standards	5-1
	5-013 Area & Height Regulations	5-2
	5-014 Required Yard	5-2
	5-015 Parking	5-2
	5-016 Signs	5-2

<u>Section</u>		<u>Page</u>
<b>6-0</b>	<b>"R-I" INFILL DISTRICT</b>	
	6-010 Purpose	6-1
	6-011 Allowed Uses	6-1
	6-012 Development Standards	6-1
	6-013 Area, Height & Yard Regulations	6-2
	6-014 Parking	6-2
	6-015 Signs	6-2
<b>7-0</b>	<b>"R-MF1" MULTI FAMILY 1 DISTRICT</b>	
	7-010 Purpose	7-1
	7-011 Allowed Uses	7-1
	7-012 Development Standards	7-1
	7-013 Area & Height Regulations	7-1
	7-014 Required Yard	7-2
	7-015 Parking	7-2
	7-016 Signs	7-2
<b>8-0</b>	<b>"R MF2" MULTI FAMILY 2 DISTRICT</b>	
	8-010 Purpose	8-1
	8-011 Allowed Uses	8-1
	8-012 Development Standards	8-1
	8-013 Area & Height Regulations	8-2
	8-014 Required Yard	8-2
	8-015 Parking	8-2
	8-016 Signs	8-2
<b>9-0</b>	<b>"R-MF3" MULTI FAMILY 3 DISTRICT</b>	
	9-010 Purpose	9-1
	9-011 Allowed Uses	9-1
	9-012 Development Standards	9-1
	9-013 Area & Height Regulations	9-2
	9-014 Required Yard	9-2
	9-015 Parking	9-2
	9-016 Signs	9-2
<b>10-0</b>	<b>"MHP" MANUFACTURED HOME PARK DISTRICT</b>	
	10-010 Purpose	10-1
	10-011 Permitted Uses	10-1
	10-012 Mobile Homes, Where Permitted	10-1
	10-013 Site Location Requirements	10-1
	10-014 Permits and Zoning	10-2
	10-015 Area and Height Regulations	10-2
	10-016 Required Facilities	10-3
	10-017 Landscaping and Screening	10-4
	10-018 Parking Standards	10-4
	10-019 Management of Mobile Home Park	10-4
	10-020 Signs	10-4

<u>Section</u>		<u>Page</u>
<b>11-0</b>	<b>"PUD-R" PLANNED RESIDENTIAL DISTRICT</b>	
	11-010 Purpose	11-1
	11-011 Use Regulations	11-1
	11-012 Accessory Uses and Buildings	11-1
	11-013 Height Regulations	11-1
	11-014 Location and Height of Accessory Buildings	11-2
	11-015 Area Regulations	11-2
	11-016 Minimum Off-Street Parking Requirements	11-2
	11-017 Minimum Lot Coverage of All Buildings	11-2
	11-018 Minimum Open Space Coverage	11-3
	11-019 Minimum Floor Area	11-3
	11-020 Density	11-3
	11-021 Applying for Rezoning	11-3
	11-022 Planning Commission Procedures	11-3
	11-023 Governing Body Action	11-3
	11-024 Procedure for Submitting Plans	11-3
	11-025 Outline Development Plan	11-4
	11-026 Preliminary Development Plans	11-4
	11-027 Final Development Plans	11-5
	11-028 Building Permits	11-5
	11-029 Change of Ownership	11-6
	11-030 General Requirements	11-6
<b>12-0</b>	<b>"HBD" HISTORIC BUSINESS DISTRICT</b>	
	12-010 Purpose	12-1
	12-011 Development Standards	12-1
	12-012 Allowed Uses	12-1
	12-013 Area Regulations	12-2
	12-014 Height Regulations	12-2
	12-015 Required Setbacks	12-2
	12-016 Parking	12-2
	12-017 Signs	12-2
<b>13-0</b>	<b>"LBD" LIMITED GENERAL BUSINESS DISTRICT</b>	
	13-010 Purpose	13-1
	13-011 Development Standards	13-1
	13-012 Allowed Uses	13-2
	13-013 Area Regulations	13-2
	13-014 Height Regulations	13-2
	13-015 Required Setbacks	13-2
	13-016 Parking	13-2
	13-017 Signs	13-2

<u>Section</u>		<u>Page</u>
<b>14-0</b>	<b>"GBD" GENERAL BUSINESS DISTRICT</b>	
	14-010 Purpose	14-1
	14-011 Development Standards	14-1
	14-012 Allowed Uses	14-2
	14-013 Area Regulations	14-2
	14-014 Height Regulations	14-2
	14-015 Required Setbacks	14-2
	14-016 Parking	14-2
	14-017 Signs	14-2
<b>15-0</b>	<b>"PUD-C" PLANNED COMMERCIAL DISTRICT</b>	
	15-010 Purpose	15-1
	15-011 General Conditions	15-1
	15-012 Use Regulations	15-1
	15-013 Height Regulations	15-1
	15-014 Area Regulations	15-1
	15-015 Additional Regulations	15-2
	15-016 Exceptions	15-2
	15-017 Applying for Rezoning	15-2
	15-018 Planning Commission Procedures	15-2
	15-019 Governing Body Action	15-2
	15-020 Procedure for Submitting Plans	15-3
	15-021 Outline Development Plan	15-3
	15-022 Preliminary Development Plans	15-3
	15-023 Final Development Plans	15-4
	15-024 Building Permits	15-4
	15-025 Change of Ownership	15-4
	15-026 General Requirements	15-5
<b>16-0</b>	<b>"I-LT" LIGHT INDUSTRIAL DISTRICT</b>	
	16-010 Purpose	16-1
	16-011 Development Standards	16-1
	16-012 Allowed Uses	16-1
	16-013 Area Regulations	16-2
	16-014 Height Regulations	16-2
	16-015 Required Setbacks	16-2
	16-016 Parking	16-2
	16-017 Signs	16-2
<b>17-0</b>	<b>"I-MD" MODERATE INDUSTRIAL DISTRICT</b>	
	17-010 Purpose	17-1
	17-011 Development Standards	17-1
	17-012 Allowed Uses	17-1
	17-013 Area Regulations	17-2
	17-014 Height Regulations	17-2
	17-015 Required Setbacks	17-2
	17-016 Parking	17-2
	17-017 Signs	17-2

<u>Section</u>		<u>Page</u>
<b>18-0</b>	<b>"I-H" HEAVY INDUSTRIAL DISTRICT</b>	
	18-010 Purpose	18-1
	18-011 Development Standards	18-1
	18-012 Allowed Uses	18-2
	18-013 Area Regulations	18-2
	18-014 Height Regulations	18-2
	18-015 Required Setbacks	18-2
	18-016 Parking	18-2
	18-017 Signs	18-2
<b>19-0</b>	<b>COMMUNITY UNIT PLAN</b>	
	19-010 Community Unit Plan	19-1
	19-011 Note of Explanation	19-1
<b>20-0</b>	<b>OFF STREET PARKING/LOADING REGULATIONS</b>	
	20-010 Regulations	20-1
	20-011 Parking Regulations	20-3
	20-012 Loading & Unloading Off-Street Parking Regulations	20-4
	20-013 Dimensions of Parking Areas	20-5
	20-014 Parking Lot Lighting	20-5
<b>21-0</b>	<b>NONCONFORMING USES</b>	
	21-010 Non-Conforming Uses	21-1
	21-011 Status of Special Use Permits	21-2
	21-012 Definitions	21-2
	21-013 Unsafe Buildings	21-3
<b>22-0</b>	<b>SPECIAL USES</b>	
	22-010 General Considerations	22-1
	22-011 Standards for Issuance of Special Use Permits	22-1
	22-012 Signs	22-3
	22-013 Procedures	22-3
	22-014 Time Limit	22-4
<b>23-0</b>	<b>ADDITIONAL HEIGHT AND AREA REGULATIONS</b>	
	23-010 Additional Height & Area Regulations	23-1
	23-011 Open Storage	23-3
<b>24-0</b>	<b>LANDSCAPING AND SCREENING</b>	
	24-010 Purpose	24-1
	24-011 Plan Requirements	24-1
	24-012 General Requirements & Guidelines	24-2
	24-013 District Requirements	24-6
	24-014 Existing Plant Material	24-6
	24-015 Planting Requirements	24-6
	24-016 Maintenance	24-7
	24-017 Landscape Material & Screening Installed Prior to Final Occupancy	24-7

<u>Section</u>		<u>Page</u>
<b>25-0</b>	<b>SIGNS</b>	
	25-010 Purpose	25-1
	25-011 Definitions	25-1
	25-012 Administration	25-6
	25-013 General Standards	25-8
	25-014 Signs Permitted in All Districts	25-13
	25-015 Signs Permitted in Residential Districts	25-15
	25-016 Signs Permitted in the Historic Business District	25-16
	25-017 Signs Permitted in Commercial Districts	25-17
	25-018 Signs Permitted in Industrial Districts	25-19
	25-019 Oversized Signs	25-20
	25-020 Creative Signs	25-21
	25-021 Prohibited Signs and Devices	25-22
	25-022 Abandoned Signs	25-23
	25-023 Nonconforming Signs	25-23
	25-024 Enforcement	25-24
	25-025 Declaration of Nuisance	25-25
	25-026 Noncommercial Messages	25-25
	25-027 Sign Permit Process	25-25
	25-028 Table of Permitted and Specially Permitted Signs	25-26
 <b>26-0</b>	 <b>BOARD OF ZONING APPEALS</b>	
	26-010 Board of Zoning Appeals	26-1
	26-011 Power & Duties of the Board	26-1
	26-012 Procedures for Appeals	26-3
	26-013 Time Limit on Permits	26-3
	26-014 Records	26-4
	26-015 Fee	26-4
 <b>27-0</b>	 <b>AMENDMENTS</b>	
	27-010 Who May Petition or Apply	27-1
	27-011 Procedure for Consideration of Request for Amendments, Revisions or Changes	27-1
	27-012 Action by the Planning Commission and Governing Body	27-3
	27-013 Limitations on Reapplication for Amendments	27-4
	27-014 Accompanying Data	27-4
 <b>28-0</b>	 <b>ENFORCEMENT VIOLATION &amp; PENALTY</b>	
	28-010 Enforcement	28-1
	28-011 Violation and Penalty	28-1
 <b>29-0</b>	 <b>SEPARABILITY CLAUSE</b>	
	29-010 Separability Clause	29-1

<u>Section</u>		<u>Page</u>
<b>30-0</b>	<b>CITY PLANNING COMMISSION</b>	
	30-010 Planning Commission	30-1
	30-011 By-Laws	30-1
	30-012 Actions	30-2
	30-013 Committees	30-2
<b>31-0</b>	<b>MANUFACTURED HOMES AND RESIDENTIAL-DESIGN MANUFACTURED HOMES</b>	
	31-010 Manufactured Homes	31-1
	31-011 Requirements Ordinance #1030	31-1
	31-012 Restrictive Covenants	31-1
<b>32-0</b>	<b>DEFINITIONS</b>	
	32-010 Definitions	32-1
<b>33-0</b>	<b>TEMPORARY USES</b>	
	33-010 Uses Allowed	33-1
	33-011 Signs	33-2
	33-012 Authority	33-2
	33-013 Application Process	33-2
	<b>APPENDIX “A” – USES/USE GROUPS</b>	<b>A-1</b>
	<b>APPENDIX “B” – USE GROUPS BY CATEGORY</b>	<b>B-1</b>

## SECTION 1

### TITLE, AUTHORITY AND ADOPTION

#### 1-010 TITLE

These regulations for the City of Tonganoxie, Kansas, including the text herein as well as the appendices and zoning district maps attached and made a part thereof, shall be known, and may be cited and referred to as the Tonganoxie Zoning and Subdivision Regulations.

#### 1-011 STATUTORY AUTHORITY

The Development Regulations are adopted pursuant to the provisions of Chapter 12, Article 7 of the Kansas Statutes Annotated (KSA. 12-741 et seq.), and amendments thereto, for the state of Kansas.

#### 1-012 PURPOSE

The provisions herein set forth are enacted to implement the land use portion of the comprehensive plan for the City and to promote the health, safety, morals and general welfare of the citizens of the City. They are intended to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to divide the City into zones and districts; to regulate and restrict the location and use of buildings and the uses of land within each district or zone; and to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other requirements.

#### 1-013 ORDINANCE ADOPTION

- A. These Zoning and Subdivision Regulations shall become effective on January 15, 2003, the date of publication of Ordinance # 1138, as approved by the Governing Body for the City of Tonganoxie.
- B. The approval of these regulations shall serve to repeal Ordinance No. 867 Zoning Ordinance and Subdivision Regulations of the City of Tonganoxie, Ks, 1992 and all ordinances amending the zoning and subdivision regulations contained within the ordinance.
- C. The passage of these regulations does not affect the right of the City to prosecute any violation of the previous ordinance, if the violation occurred while that ordinance was in effect.

#### 1-014 JURISDICTION

- A. The provisions of these Zoning and Subdivision Regulations shall apply to all uses, structures and land within the corporate limits of the City of Tonganoxie, Kansas.

However, nothing contained within these regulations shall be construed to preclude the City from engaging in extraterritorial planning activities pursuant to KSA 12-743, and amendments thereto.

B. The jurisdictional area shall be shown on the Official Zoning District Map.

1-015 ZONING DISTRICT MAP

A. The Official Zoning District Map for the City of Tonganoxie, kept on permanent public display at the Tonganoxie City Hall, with all explanatory notations, references, and other information shown thereon, is hereby incorporated into this ordinance as if the same were set forth in full herein.

B. Establishment of Districts:

The City of Tonganoxie is hereby divided into the following zoning districts:

- (1) R-R RURAL DISTRICT: A district designed for a variety of agricultural and related uses and permits single family residential and public uses.
- (2) R-RE RESIDENTIAL ESTATE DISTRICT: A district providing for single family residential development at a density not less than 32,670 square feet per lot.
- (3) R-I INFILL DISTRICT: A district providing for residential and limited commercial development similar in size, lot coverage, massing, density and character to those on surrounding lots. This overlay district is bounded by Washington Street, East Street, and 24/40 Highway, plus the Elm Park Subdivision.
- (4) R-SF SINGLE FAMILY DISTRICT: A district providing for single family residential development at a density not less than 6,000 square feet per lot.
- (5) RMF-1 MULTI-FAMILY I DISTRICT: A district providing for one (1) to four (4) family dwelling units at a density of not less than 7,500 square feet per lot or 3,000 square feet per dwelling unit, whichever is larger.
- (6) RMF-2 MULTI-FAMILY II DISTRICT: A district providing for two (2) to sixteen (16) family dwelling units at a density of not less than 10,000 square feet per lot or 1,500 square feet per dwelling unit, whichever is larger.
- (7) RMF-3 MULTI-FAMILY III DISTRICT: A district providing for multi-family development (16 units or more) at a density of not less than 10,000 square feet per lot or 1,500 square feet per dwelling unit, whichever is larger.

- (8) "R-MHP" MANUFACTURED HOME PARK DISTRICT: A district providing for manufactured home park development according to the "Mobile Home Code."
- (10) "HBD" HISTORIC BUSINESS DISTRICT: This district is intended to provide for businesses, which are compatible with the existing character and design standards of the Tonganoxie Central Business District. Warehousing and manufacturing are strictly discouraged.
- (11) "LBD" LIMITED GENERAL BUSINESS DISTRICT: This district is designed to provide a broad range of retail shopping and personal service uses consistent with neighborhood uses.
- (12) "GBD" GENERAL BUSINESS DISTRICT: A district designed to permit business use which is primarily oriented toward highway and arterial streets for their customers, including very light industrial uses.
- (14) "I-LT" LIGHT INDUSTRIAL DISTRICT: A district designated for light manufacturing, processing, warehousing and wholesale distributing.
- (15) "I-MD" MODERATE INDUSTRIAL DISTRICT: A district similar in use to "I-LT" except providing for lower density and more off-street parking.
- (16) "I-H" HEAVY INDUSTRIAL DISTRICT: This district may provide for industrial operations of all types where compatibility with adjacent districts is sensitive.

C. In addition to the districts listed above, the following zoning may be invoked upon specific parcels of land as provided in this ordinance:

"PUD-R" PLANNED RESIDENTIAL DEVELOPMENT DISTRICT: A district providing for flexibility of design standards for multi-family residential use. Extensive development plans are required.

"PUD-C" PLANNED COMMERCIAL DISTRICT: This district is to provide for and encourage the grouping of business buildings into "centers" in keeping with the modern concepts of office, service and shopping center design.

"COMMUNITY UNIT PLAN" This Plan provides for flexibility of design standards for mixed-use development allowing for residential and accessory uses such as churches, schools and daycare facilities.

D. Interpretation of the Zoning District Map:

- 1. Boundaries indicated as approximately following city limits shall be construed as following such city limits.

2. Where the designation of a district boundary line coincides with a street alley, waterway, or railroad right-of-way, the boundary lines shall be the centerline of said indicated element unless otherwise stated.
3. Where the district boundaries do not coincide with the location of streets, waterways, or railroad rights-of-way but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.
4. Where the centerline of a street, alley, public way, waterway or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline
5. Whenever any street, alley or other public way is vacated, a zoning district adjoining either side of said street, alley or other public way shall automatically be extended to its centerline if ownership is split along the centerline.
6. Where none of the above rules apply, the district boundaries shall be determined by the use of the scale shown on the zoning map.

1-016 RULES OF CONSTRUCTION AND INTERPRETATION

A. The following rules shall hold true for all regulations contained in this ordinance, unless the context clearly requires otherwise:

1. Words used in the present tense shall include the future.
2. Words in the singular number include the plural number, and words in the plural number include the singular number.
3. Words used in the masculine gender include the feminine and neuter.
4. The phrase 'used for' shall include the phrases 'arrange for', 'designed for', 'intended for', 'maintained for' and 'occupied for'.
5. The words 'shall' and 'must' are mandatory. The words 'may' and 'should' are permissive.
6. Unless otherwise specified, all distances shall be measured horizontally.
7. The word 'City' refers to the City of Tonganoxie, Kansas.

B. Interpretation of these regulations shall be guided by the following:

1. In their interpretation and application, the provisions made by these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare.
2. Where the conditions imposed by any portion of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by other provisions of any other law, ordinance, resolution, rule or regulations of any kind, the regulation which is more restrictive shall govern.
3. These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement of legal relationship. Provided, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than such easements, covenants or other

private agreements or legal relationships, the provisions of these regulations shall govern.

4. No structure or use, which was not lawfully existing at the time of the adoption of these regulations, shall become or be made lawful solely by reason of the adoption of these regulations. To the extent that, and in any respect that, said unlawful structure or use is in conflict with the requirements of these regulations, said structure or use remains unlawful hereunder.
5. Where this ordinance permits or requires an act on the part of an 'owner' or 'landowner', said designation shall include all owners, partners, tenants in common, or any other person with ownership interests.

### C. Time Computation

1. In computing any period of time the day of the act, event, or default from which the designated period of time begins to run shall not be included.
2. The last day of the time period shall be counted unless it falls on a Saturday or Sunday or a legal holiday observed by the City of Tonganoxie.
3. When the prescribed time period is 7 days or less, Saturdays, Sundays and legal holidays observed by the City of Tonganoxie shall be excluded.
4. Whenever a notice, petition or document must be filed within a specified period of time or prior to a specified date or day, it shall be filed with the appropriate city official no later than 4:00PM.

### 1-017 ANNEXATION OF TERRITORY

All newly annexed properties shall retain the City equivalent to their prior zoning status when taken into the City.

### 1-018 VESTED RIGHTS

- A. For all subdivision and planned unit development, development rights for land shall vest upon recording of the final plat for such land. If construction of infrastructure has not been completed within five years of recording the plat, the development rights shall expire unless an extension is granted by the Planning Commission.
- B. The Planning Commission may, for good cause as presented by the applicant, grant a single extension of vested rights in a subdivision or planned unit development. Vested rights shall not be extended for more than one year. Applicants seeking an extension shall submit a statement in writing, justifying the extension. In considering an extension, the Planning Commission shall examine the following factors, as well as other relevant considerations:
  1. The undue or unnecessary hardship placed upon the property owner;
  2. Any amendments or changes to the regulations that have occurred since issuance of the permit;
  3. The amount of construction that has been completed;
  4. Estimated period of time needed to complete construction; and

5. Conformance with the general spirit and intent of the zoning and subdivision regulations.
- C. Nothing in this subsection shall be construed to exempt development from the provisions of the Development Regulations except to the extent that the construction or development is expressly shown on the approved final plat or site plan. For example, the right to complete a building in accordance with a previously-approved site plan shall not include the right to erect signs or make other site improvements not shown on the approved plan.
- D. Development rights for individual lots, platted or unplatted, shall vest upon approval of the site plan or development plan for such site and the issuance of all applicable building permits. Building permits shall expire within one year for residential construction and two years for multi-family or commercial construction. An extension may be granted by the Building Inspector only if construction is substantially completed.

#### 1-019 COMPLIANCE WITH DISTRICT PROVISIONS

- A. The regulations set forth in this ordinance shall be interpreted as the minimum allowable and shall apply uniformly to each class or kind of structure or land use, except as hereinafter provided:
  1. No site, lot or parcel of land or part thereof shall hereafter be used, occupied or divided, except in conformity with all the regulations applicable for the district in which it is located.
  2. No building or other structure shall hereafter be erected, constructed, reconstructed, remodeled, moved, or structurally altered except in conformity with all of the regulations and requirements of this ordinance.
  3. No part of a yard or other open space required about or in connection with any building for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space similarly required for any other building.
  4. Every building hereafter erected, enlarged or structurally altered shall be located on a lot as herein defined, and in no case shall there be more than one main building on one lot, unless specifically provided for in these regulations.
  5. No lot of record shall be reduced or diminished in size nor shall the density of population be increased in any manner except in conformity with these Development Regulations for the City of Tonganoxie.
  6. No use of the site shall be commenced and no accessory buildings shall be allowed on a site prior to the construction of a main structure.

7. Lots that were legally created shall remain legal and considered buildable for any purpose allowed within the designated zoning district.
8. Any structure rebuilt or restored after damage or destruction by fire or other casualty shall be considered to be a structure built hereafter, unless Article 21 of these regulations permits such structures to be rebuilt or restored.
9. If a use of any structure is hereafter changed to another, then the new use must comply with the Use Regulations of these zoning regulations, but the mere establishment of the new use does not require the existing structure to conform to the Lot Size Requirements of the Bulk Regulations of these zoning regulations.
10. No building or other structure shall hereafter be erected or altered: to exceed the height of bulk; to accommodate or house a greater number of families; to occupy a greater percentage of lot area; and to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this ordinance.
11. No lot area shall be reduced or diminished so that yards or other open spaces shall be smaller than prescribed by this ordinance.

## SECTION 2

### GENERAL PROVISIONS

#### 2-010 DUTIES OF THE ZONING ADMINISTRATOR

- A. A Zoning Administrator shall be appointed by the Governing Body to implement the zoning process.
- B. Said Administrator shall be expected to attend all Planning Commission and Board of Zoning Appeals meetings as an advisor concerning the zoning and subdivision regulations for the City. Such Administrator shall also attend such other meetings as necessary to represent the City concerning the application of the zoning and subdivision regulations.
- C. The Zoning Administrator shall
  1. Respond to all questions of interpretation and enforcement of the zoning ordinance either in person or when an application for an action is submitted. He/she shall review all applications for such actions for compliance with the adopted regulations.
  2. Shall be responsible for official public notification when required on applications and proposals.
  3. Shall collect all fees due to the City for such applications.
  4. Shall issue building permits for new buildings or renovations
- D. If an application does not meet the zoning and subdivision regulations for the City, the Zoning Administrator shall deny the request and issue a written response stating the reasons for such denial.
- E. The Zoning Administrator shall also be responsible for enforcement of the Zoning and Subdivision Regulations. They shall investigate complaints, issue notices of violations and take action to correct said violations.

#### 2-011 BUILDING PERMITS

- A. It shall be unlawful to commence the construction or the excavation for the construction of any building or structure or to commence the moving or alteration of a structure as defined in the City Building Code of any building within the City of Tonganoxie until the Building Inspector or Zoning Administrator has issued a building permit for such work. This shall also apply to accessory structures or buildings. Except upon written authorization of the Board of Zoning Appeals, no such building permit shall be issued for any building where said construction, moving, alteration, or use thereof would be in violation of any provisions of this Ordinance.
- B. Any building permit issued by the Building Inspector or Zoning Administrator prior to the effective date of this Ordinance, or any amendment thereto, and which permit,

by its own terms and provision, is in full force and effect at said date, shall not be invalidated by the passage of this Ordinance, or any amendment thereto, but shall remain a valid permit subject only to its own terms and provisions and any other ordinances or regulations pertaining thereto in effect at the time of the issuance of said permit.

- C. The application for a building permit in the City of Tonganoxie shall be as prescribed in the Building Code for the City of Tonganoxie.
- D. The application fee for a building permit shall be as prescribed by the Governing Body for the City of Tonganoxie.
- E. Certificate of Occupancy
  1. No land shall be occupied or used, nor buildings structurally altered until a Certificate of Occupancy has been issued by the Building Inspector or Zoning Administrator which certifies that the use complies with the regulations of the zoning district in which the property is located.
  2. No new or altered building shall be occupied until application is made for an Occupancy Permit. No such permit shall be issued until the structure is approved by the Building Inspector or City Administrator as complying with the appropriate zoning district regulations, the building codes, and any other applicable codes or ordinances.
  3. A temporary Occupancy Permit may be issued for a use in lieu of completion of landscaping or other requirements that cannot be completed through no fault of the owner, such as inclement weather conditions. Such Temporary Occupancy Permit shall contain an expiration date. If all conditions of the Temporary Occupancy Permit have not been met by the expiration date, occupancy of said premises shall be revoked and all utilities disconnected.

## 2-012 EXEMPTIONS

- A. Poles, wires, cables, conduits vaults, laterals, pipes, mains, valves or other similar equipment for distribution to consumers of telephone or other communications, electricity, gas or water, or the collection of sewage or surface water operated or maintained by the City or a public utility but not including substations located on or above the surface of the ground.
- B. Railroad tracks, signals, bridges and similar facilities and equipment located on a railroad right-of-way, and maintenance and repair work on such facilities and equipment. This exemption shall not include any facilities and equipment listed as a permitted use in the I-H Heavy Industrial District.
- C. Agriculture structures or land used for agriculture. In the event that any structure or land ceases to be used only for agriculture, then such structure or land shall be subjected to the applicable regulations of this ordinance.
- D. Other structures as noted elsewhere in these regulations. See Section 25, Signs.

## SECTION 3

### "R-R" RURAL DISTRICT

#### 3-010 PURPOSE

To protect residential areas with a rural or agricultural character and to protect those areas that have become surrounded by urban uses but are not yet ready to be more intensely developed.

#### 3-011 ALLOWED USE GROUPS

- a. Residential Uses
  1. Various General or Moderate Agricultural uses with the exception of the following:
    - Intensive feeding operations and/or agribusiness
    - The spreading, accumulation, feeding or use of garbage in any manner on the open surface of the land
    - Any use within three hundred (300) feet of a residential or retail business structure that results in offensive odor, dust or noise.
  2. Group Home
  3. Secondary Residential Uses (such as pool houses, guest houses, servants quarters)
  4. Single Family Residential
  5. Accessory Uses 1, 2, 5 that are related, customary and subordinate to the existing use of the site.
  6. No single farm building shall exceed 1,000 square feet
  7. No single farm building shall occupy more than 1% of the total square footage of a lot
- b. Institutional and Service Uses that are incidental to and compatible with the general existing or planned uses in the area.
  1. Education: School & Other
  2. Internment Facilities 1 & 2
  3. Religious Institution
  4. Aviation
  5. Municipal Services
  6. Safety Services
  7. Local and Major Utilities
- c. Recreational Uses that are compatible with the uses in the surrounding area.
  1. Athletic Facilities, Outdoor
  2. Open space
  3. Recreation Entertainment II & III
- d. Commercial uses: Lodging Facilities I
- e. Signs as regulated in Section 25.
- f. Special Uses as allowed in Section 22; (Personal Care Facility, Lodging Facilities II & III, Recreation Entertainment II & III, Home Occupation)

- g. Temporary Uses:
  - 1. Roadside stand for the sale of products generated on site. Said stand to be removed when not in use.
  - 2. Other Temporary Uses as approved by the Governing Body. See Section 33.
- h. Please refer to Appendix A for a list of suggested, permitted uses.

3-012 DEVELOPMENT STANDARDS

- a. No temporary storage structures or moveable containers except for temporary dumpster rentals during construction process.

3-013 AREA AND HEIGHT REGULATIONS

- a. Lot Area
  - 1. Minimum lot area is one acre excluding public right of way.
  - 2. Newly annexed properties are automatically zoned R-R Rural until an application for rezoning can be submitted and approved.
  - 3. For purposes of constructing a dwelling, lots shall maintain a minimum of 160 feet of frontage measured at the setback line.
- b. Height Regulations
  - 1. No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height except as provided in Section 23, Additional Height and Area Regulations.
- c. Floor Area. Minimum finished floor area for a main dwelling unit shall be 1000 square feet

3-014 REQUIRED YARDS

- a. Front Yard. Minimum depth of fifty (50) feet on all street rights-of-way.
- b. Side Yard. Minimum depth of twenty (20) feet.
- c. Rear Yard. Minimum depth of fifty (50) feet.

3-015 PARKING

Please refer to Section 20, Off-Street Parking and Loading, of this Ordinance.

3-016 SIGNS

Please refer to Section 25, Signs, of this Ordinance.

## SECTION 4

### “R-E” RESIDENTIAL ESTATE DISTRICT

#### 4-010 PURPOSE

To allow for the development of large lot residential uses in environmentally sensitive areas such as floodplain fringe, forested areas, places with steep slopes, etc. Lot arrangement shall be geared toward reserving large areas for open space/communal uses. Dwelling unit density shall be no more than 1 unit per acre. Development agreements and homeowner’s associations may be required.

#### 4-011 ALLOWED USE GROUPS

- a. Residential and Accessory Uses.
  - Single-family residential dwellings.
  - Secondary Residential Uses (such as pool houses, guest houses, servants quarters)
  - Limited Animal Husbandry as described in Section 32, Definitions
  - Accessory uses 1 & 5 that are related, customary and subordinate to a large-lot, single-family subdivision such as detached garage, barn, etc.
- b. Institutional and Service Uses that are incidental to and compatible with the general existing or planned uses in the area.
  - Education: School & Other
  - Religious Institution
  - Safety Services
  - Local Utilities
- c. Recreational Uses such as park, playground, golf course, stable or other appropriate and compatible recreational uses as an accessory or subsidiary use to a large-lot single-family residential area.
- d. Signs as regulated in Section 25.
- e. Special Uses as allowed in Section 22. (Education, Other; Personal Care Facility; Home Occupation)
- f. Temporary Uses as approved by the Governing Body. See Section 33.
- g. Please refer to Appendix A for a list of suggested, permitted uses.

#### 4-012 DEVELOPMENT STANDARDS

This zoning may be invoked in any area designated as environmentally at risk or as a natural area of value to the community. Building site locations and densities may be limited at the discretion of the City. Clustering and open space preservation techniques are encouraged to make the best use of the land and increase the preservation of open space.

- a. Right-of-Way.
  1. Streets. It is recommended that streets be constructed to City standards and dedicated as defined in the Subdivision regulations, however they may remain in private ownership under the following conditions

- a. Right-of-way width to be reserved as an easement will meet the width established by the City subdivision regulations.
  - b. Only local roads may remain in private ownership. If at any time the street connects to another area or is improved to a collector or arterial status, said street must be brought up to the City standards in effect at that time and dedicated to the City.
  - c. Private ownership of the road/street must be maintained by a mandatory homeowners association. A copy of the association agreement must be submitted to the City for review.
  - d. If at any time the homeowner's association wishes to dedicate the street to the City, said street must be brought to the minimum City standards existing at the time of transfer.
- 2. Curbs are required on all streets dedicated to the City.
  - 3. Sidewalks will be provided unless an alternate walking/riding path system is proposed that allows easy access from/to all lots and recreational areas.
- b. Water - All lots shall be connected to the City water system. It is the responsibility of the developer to negotiate terms of compensation with the Rural Water District prior to annexation of land by the City. The developer shall pay said compensation. The City reserves the right, on an individual lot basis, to request that the Rural Water District provide service.
  - c. Wastewater - All lots must be connected to the City's wastewater treatment system.
  - d. Stormwater provisions shall be calculated according to the City's Stormwater Management Plan.
  - e. A development agreement will be required to establish specific responsibilities of the developer, the City and future owners of the subdivision or any portion thereof.
  - f. No temporary storage structures or moveable containers except for temporary dumpster rentals during construction process.

4-013 AREA AND HEIGHT REGULATIONS

- a. A minimum 3/4-acre per lot (32,670 square feet) is required, with no more than 1 dwelling unit per acre.
- b. Impervious surface area on any given lot shall not exceed 25% of the lot area.
- c. Amenity Space. A minimum amount of space shall be required for amenities such as walking/biking paths, parks, water features, recreation areas or similar uses. Space designated for rights-of-way or utility easements does not count toward the amenity space requirement.
  - 1. For subdivisions less than 20 acres in area, a minimum of 1 acre of public/private amenity space shall be provided for amenities.
  - 2. For subdivisions greater than 20 acres, a minimum of 15% of the land area in the subdivision shall be reserved for amenities. Rights-of-way and utility easements are exempted from the total land area figure for this calculation.
  - 3. Additional amenity space may be required at the discretion of the Planning Commission for areas of environmental concern.

- d. Floor area: Minimum finished floor area for a main dwelling unit shall be 1,200 square feet.
- e. Minimum width of lot shall be 100 feet.

4-014 REQUIRED YARDS

- a. Front Yard. Minimum depth of fifty (50) feet on all street rights-of-way.
- b. Side Yard. Minimum depth of twenty (20) feet.
- c. Rear Yard. Minimum depth of fifty (50) feet.

4-015 PARKING

Please refer to Section 20, Off-Street Parking and Loading, of this Ordinance

4-016 SIGNS

Please refer to Section 25, Signs, of this Ordinance

## SECTION 5

### "R-SF" SINGLE FAMILY DISTRICT

#### 5-010 PURPOSE

To allow for residential development at a low density that is protected from encroachment of uses not performing a function necessary to the residential environment.

#### 5-011 ALLOWED USES

- a. Residential Uses
  1. Accessory Uses 1 & 5 that are related, customary and subordinate to the existing use of the site.
  2. Group Home
  3. Secondary residential Uses (such as pool houses, guest houses, servants quarters)
  4. Single-family dwellings
- b. Institutional and Service Uses that are incidental to and compatible with the general existing or planned uses in the area.
  1. Community or Social Service/Groups
  2. Education: – School
  3. Religious Institution
  4. Safety Services
  5. Local Utilities
- c. Recreational uses that are compatible with the uses in the surrounding area
  1. Athletic Facilities, Outdoor
  2. Open Space or Areas
- d. Commercial Uses: Lodging Facilities I
- e. Signs as regulated in Section 25.
- f. Special Uses as allowed in Section 22. (Group Living, Education-Other, Personal Care Facility, Home Occupation)
- g. Temporary Uses as approved by the Governing Body. See Section 33.
- h. Please refer to Appendix A for a list of suggested, permitted uses.

#### 5-012 DEVELOPMENT STANDARDS

The following standards are required for placement of a site-built or pre-manufactured residential structure in this district:

1. The minimum dimension of either the width or length of the home shall be 22 feet.
2. The minimum roof pitch shall be 3 inches of rise in 12 inches of run. Lesser pitches may be allowed with the approval of the City Planning Commission. (Amended by Ordinance # 1184 5/9/05)
3. The home shall be sided in wood, masonry, composition board or finished aluminum lap siding. Other materials will be allowed if they are normally used in site built residential construction.

4. The roofing material shall be wood shingles, composition or fiberglass shingles, asphalt shingles, clay or concrete tile or slate. Other materials will be allowed if they are normally used in site built residential construction.
5. The home must be permanently mounted on a foundation or basement.
6. A garage is required if 70% of the homes on the block where the home is to be placed have garages.
7. No temporary storage structures or moveable containers except for temporary dumpster rentals during construction process.

For non-residential structures refer to Article 9, Site Review regulations of the Subdivision Regulations.

5-013 AREA AND HEIGHT REGULATIONS

- a. Area Regulations
  - Minimum lot area is 6,000 square feet.
  - All lots shall have a minimum width at the setback line of 65 feet.
- b. All lots shall have frontage on a right-of-way
- c. Height Regulations
  - No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height except as provided in Section 23 Supplemental Regulations
- d. Minimum finished floor area for a single-family home shall be 1,000 square feet

5-014 REQUIRED YARDS

- a. Front Yard. Minimum depth of 30 feet on all street rights-of-way.
- b. Side Yard. Minimum depth of 10 feet.
- c. Rear Yard. Minimum depth of 30 feet.

5-015 PARKING

Please refer to Section 20, Off-Street Parking and Loading, of this Ordinance

5-016 SIGNS

Please refer to Section 25, Signs, of this Ordinance

## SECTION 6

### "R-1" INFILL DISTRICT

#### 6-010 PURPOSE

To provide for residential and limited commercial development that is compatible with other development in the nearby area in terms of lot size, structure size and required yard setback.

#### 6-011 ALLOWED USES

- a. Residential Uses
  1. Single-Family Residential dwellings
  2. Group Homes
  3. Accessory Uses 1 & 5 that are related, customary and subordinate to the existing use of the site.
  4. Two-Family Residential dwellings
- b. Institutional and Service Uses that are incidental to and compatible with the general existing or planned uses in the area.
  1. Community or Social Service/Groups
  2. Education: School & Other
  3. Religious Institution
  4. Safety Services
  5. Local Utilities
- c. Recreational Uses that are incidental to and compatible with the general existing or planned uses in the area.
  1. Athletic Facilities, Outdoor
  2. Open Space or Areas
- d. Commercial – Lodging Facilities I
- e. Signs as regulated in Section 25.
- f. Special Uses as allowed in Section 22. (Education-Other, Personal Care Facility, Home Occupation)
- g. Temporary Uses as approved by the Governing Body. See Section 33.
- h. Please refer to Appendix A for a list of suggested, permitted uses.

#### 6-012 DEVELOPMENT STANDARDS

- a. This is an overlay zoning district that may be invoked upon any currently platted lot in an area bounded by Washington Street, East Street, and 24 Highway plus the Elm Park Subdivision.
- b. The application for this zoning requires submittal of examples and locations to support the request.
- c. A minimum of 1 off-street exterior parking space per dwelling unit will be required.
- d. No temporary storage structures or moveable containers except for temporary dumpster rentals during construction process.

6-013 AREA, HEIGHT AND YARD REGULATIONS

- a. Area Regulations - Lot size and width as well as finished building area shall be similar to those in immediately adjacent areas to the proposed site as approved by the Planning Commission.
- b. Height Regulations - No building shall exceed two and one half (2½) stories or thirty five (35) feet in height except as provided in Section 23 Supplemental District Regulations.
- c. Required Yard setbacks shall be similar to those in immediately adjacent areas to the proposed site as approved by the Planning Commission.
- d. Floor Area: minimum finished floor area for a single-family home shall be 1,000 square feet

6-014 PARKING

Please refer to Section 20, Off-Street Parking and Loading, of this Ordinance

6-015 SIGNS

Please refer to Section 25, Signs, of this Ordinance

## SECTION 7

### "R-MF1" MULTIPLE FAMILY 1 DISTRICT

#### 7-010 PURPOSE

To be used as a transition area or buffer area between single-family residential uses and more intense uses such as those allowed in R-MF2 Multi-Family and the commercial districts. This is considered a low-density residential district.

#### 7-011 ALLOWED USES

- a. Residential.
  1. Multi-Unit dwelling: (Amended by Ordinance # 1184 5/09/05)  
Two-, three-, and four-family dwelling structures
  2. Single Family Dwelling
  3. Group Homes as defined in Section 32 Definitions;
  4. Group Living
  5. Accessory Uses I and III that are related, customary and subordinate to the existing use of the site.
- b. Institutional and Service uses that are incidental to and compatible with the general existing or planned uses in the area.
  1. Community or Social Services/Groups
  2. Religious Institution: Place of worship and other related religious uses
  3. Public utility buildings and services
  4. Municipal and Safety Services
  5. Early learning, elementary and preparatory schools
  6. Long-term health care facilities
- c. Recreational uses that are compatible with the uses in the surrounding area.
  1. Athletic Facilities, Outdoor
  2. Open Space or Areas including forest, wetland, historical marker or archeological site.
- d. Signs as regulated in Section 25.
- e. Special Uses as allowed in Section 22. (Education, Other; Personal Care Facility; Home Occupation)
- f. Temporary Uses as approved by the Governing Body. See Section 33.
- g. Please refer to Appendix A for a list of suggested, permitted uses.

#### 7-012 DEVELOPMENT STANDARDS

- a. No temporary storage structures or moveable containers except for temporary dumpster rentals during construction process.

#### 7-013 AREA AND HEIGHT REGULATIONS

- a. Area Regulations
  1. Minimum lot area: There shall be an area provided of not less than 3,000 square feet per dwelling unit or 7,500 square feet per lot.

2. Maximum 4 dwelling units per structure
  3. Minimum lot width is 75 feet measured at the setback line or a minimum 37 ½ feet per unit for two-, three-, and four-family dwelling structures.  
(Amended by Ordinance 1230, 5/29/07)
- b. Height Regulations
1. No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height except as provided in Section 23 Supplemental Regulations
- c. Minimum finished floor area per dwelling unit is 750 square feet.

7-014 REQUIRED YARD

Front Yard. Minimum depth of 30 feet on all street rights-of-way

Side Yard. Minimum depth of 7 feet, or 0 feet for interior side yards of attached residential units (Amended by Ordinance 1230, 5/29/07)

Rear Yard. Minimum depth of 30 feet

7-015 PARKING

Please refer to Section 20, Off-Street Parking and Loading, of this Ordinance

7-016 SIGNS

Please refer to Section 25, Signs, of this Ordinance

## SECTION 8

### "R-MF2" MULTIPLE FAMILY 2 DISTRICTS

#### 8-010 PURPOSE

Provide the convenience of multi-family living with the amenities available to residential development. This is considered moderate density residential housing. All higher density housing shall require Planned Unit Development (PUD) zoning.

#### 8-011 ALLOWED USES

##### a. Residential:

1. Multi-Unit dwelling: Two-,three-, and four-family dwelling structures and structures containing two(2) to sixteen (16) dwelling units or more. (Amended by Ordinance # 1184 5/9/05).
2. Assisted Living
3. Group Home
4. Group Living
5. Accessory uses 1, 4 and 5 that are related, customary and subordinate to the existing use of the site.

##### b. Institutional and Services: Uses that are incidental to and compatible with the general existing or planned uses in the area.

1. Community or Social Services/Groups
2. Short- and Long-Term Health Care Facilities
3. Religious Institutions: Place of worship and other related religious uses
4. Local public utility uses
5. Safety Services
6. Public and private schools, institutions of higher learning; and related facilities

##### c. Recreational uses that are compatible with the uses in the surrounding area.

1. Outdoor athletic facilities
2. Open Space or Areas such as forests, orchards, and wetlands, fishing lakes, historic or archeological areas.

##### d. Commercial

1. Lodging Facilities I

##### e. Signs as regulated in Section 25.

##### f. Special Uses as allowed in Section 22. (Education, Other; Personal Care Facility; Lodging Facilities II, Home Occupation)

##### g. Temporary Uses as approved by the Governing Body. See Section 33.

##### h. Please refer to Appendix A for a list of suggested, permitted uses.

#### 8-012 DEVELOPMENT STANDARDS

- a. No temporary storage structures or moveable containers except for temporary dumpster rentals during construction process.

8-013 AREA AND HEIGHT REGULATIONS

a. Area Regulations

1. Minimum 10,000 square feet per lot or 1,500 square feet per dwelling unit, whichever is larger.
2. Minimum lot width is 100 feet measured at the setback line or a minimum 35 feet per unit for two-, three-, and four-family dwelling structures (Amended by Ordinance 1230, 5/29/07)

b. Height Regulations

1. No building shall exceed (3) stories or forty-five (45) feet in height except as provided in Section 23 Supplemental Regulations

c. Minimum finished floor area per dwelling unit shall be 500 square feet.

8-014 REQUIRED YARDS

- a. Front Yard. Minimum depth of 30 feet on all street rights-of-way
- b. Side Yard. Minimum depth of 10 feet, or 0 feet for interior side yards of attached residential units (Amended by Ordinance 1230, 5/29/07)
- c. Rear Yard. Minimum depth of 30 feet

8-015 PARKING

Please refer to Section 20, Off-Street Parking and Loading, of this Ordinance

8-016 SIGNS

Please refer to Section 25, Signs, of this Ordinance

## SECTION 9

### “R-MF3” MULTIPLE FAMILY III DISTRICT

#### 9-010 PURPOSE

Provide the convenience of multi-family living with the amenities available to residential development. This is considered high density residential housing. All higher density housing shall require Planned Unit Development (PUD) zoning.

#### 9-011 ALLOWED USES

- a. Residential:
  1. Multi-unit dwelling Two-, three-, and four-family dwelling structures, and structures containing 16 dwelling units or more.(Amended by Ordinance # 1184 5/9/05)
  2. Assisted Living
  3. Group Home
  4. Group Living
  5. Accessory uses I, IV and V that are related, customary and subordinate to the existing use of the site.
- b. Institutional and Services Uses that are incidental to and compatible with the general existing or planned uses in the area.
  1. Community or Social Services/Groups
  2. Short- and Long-Term Health Care Facilities
  3. Religious Institutions: Place of worship and other related religious uses
  4. Local public utility uses
  5. Safety Services
  6. Public and private schools, institutions of higher learning; and related facilities
- c. Recreational uses that are compatible with the uses in the surrounding area.
  1. Outdoor athletic facilities
  2. Open Space or Areas such as forests, orchards, wetlands, fishing lakes and historic or archeological area.
- d. Commercial
  1. Lodging Facilities I
- e. Signs as regulated in Section 25.
- f. Special Uses as allowed in Section 22. (Education, Other; Personal Care Facility; Lodging Facilities II)
- g. Temporary Uses as approved by the Governing Body. See Section 33.
- h. Please refer to Appendix A for a list of suggested, permitted uses.

#### 9-012 DEVELOPMENT STANDARDS

No temporary storage structures or moveable containers except for temporary dumpster rentals during construction process.

9-013 AREA AND HEIGHT REGULATIONS

a. Area Regulations

1. Minimum 10,000 square feet per lot or 1,500 square feet per dwelling unit, whichever is larger.
2. Minimum lot width is 100 feet measured at the setback line or a minimum 35 feet per unit for two-, three-, and four-family dwelling structures (Amended by Ordinance 1230, 5/29/07)

b. Height Regulations

1. No building shall exceed (3) stories or forty-five (45) feet in height except as provided in Section 23 Supplemental Regulations

Minimum finished floor area per dwelling unit shall be 500 square feet.

9-014 REQUIRED YARDS

a. Front Yard. Minimum depth of 30 feet on all street rights-of-way

b. Side Yard. Minimum depth of 10 feet, or 0 feet for interior side yards of attached residential units in two-, three-, and four-family dwelling structures (Amended by Ordinance 1230, 5/29/07)

c. Rear Yard. Minimum depth of 30 feet

9-015 PARKING

Please refer to Section 20, Off-Street Parking and Loading, of this Ordinance

9-016 SIGNS

Please refer to Section 25, Signs, of this Ordinance.

## SECTION 10

### “MHP” MANUFACTURED HOME PARK DISTRICT

#### 10-010 PURPOSE

This district provides for mobile home park development. The purpose of this district is to accommodate the particular needs and requirements of mobile homes in areas where such needs can be reasonably and efficiently met. Special consideration must be given to the movement of traffic both within the mobile home park and of the mobile homes themselves on public streets, to the provision of safety features peculiar to the needs of mobile homes, to the provision of amenities suitable to the density of mobile home parks, and to the safeguarding of the public health, safety, and general welfare.

- a. Mobile Home Parks are subject to compliance to Mobile Home Code.

#### 10-011 PERMITTED USES

In the MHP, Manufactured Home Park District, no building, structure, or land shall be used and no building or structure shall be hereafter erected, converted, or structurally altered unless otherwise provided in this article, except for one or more of the following uses:

- a. Mobile home dwellings in a mobile home park of at least ten acres which shall be designed for a maximum density of 6 mobile homes per acre. Each mobile home shall be placed on its own mobile home space.

#### 10-012 MOBILE HOMES, WHERE PERMITTED

- a. Except as provided below, a mobile home may be permitted in the City only in an area zoned "MHP" Manufactured Home Park District.
- b. A mobile home may be permitted elsewhere in the City by the Governing Body for the purpose of providing temporary housing following a disaster, such as fire, windstorm, flood or other emergency or hardship provided such mobile home is removed from its location within one year of its original placement.
- c. One or more mobile homes may be used as a temporary office or other non-residential structure on the site of a construction project, provided such structure is removed upon completion of the project.

#### 10-013 SITE LOCATION REQUIREMENTS

No site shall be zoned the MHP Manufactured Home Park District unless the following location requirements are met:

- a. On a minimum 24 feet wide paved Public Street no more than 500 feet from a street designated and improved as a collector or thoroughfare on the Major Street Plan.
- b. All intersecting streets from the collector or thoroughfare to the mobile home court shall have intersections adequate to accommodate maneuvering with a 16 feet by 80 feet mobile home.

#### 10-014 PERMITS AND ZONING

It shall be unlawful for any person to construct, alter, or extend any mobile home park unless a valid permit has been issued by the Governing Body of the City of Tonganoxie in the name of the owner for the specific construction, alteration, or extension proposed.

Applications for permits and/or rezoning shall have attached preliminary site plan prepared by a licensed professional engineer of the State of Kansas. The site plan shall contain the following as a minimum:

- a. Name, address, and telephone number of applicant.
- b. Acreage and dimensions of the land.
- c. Contour intervals of not more than five feet.
- d. North arrow, scale, and date of plan.
- e. The layout and dimensions of all mobile home lots, streets, walkways, and recreational or open space areas.
- f. An enlarged detail of a typical mobile home lot plan to show street, off-street parking, mobile home stand, patio, storage, walkways, and on-site utility lines.
- g. Location of existing and proposed utility lines.
- h. Location and size of all proposed buildings and their designated use.
- i. Preliminary drainage plan and location of all areas subject to flooding.
- j. Detail of trash enclosures and disposal areas.
- k. Location of all buildings and streets within 200 feet of the site.
- l. Proposed development schedule.

All applications for a Mobile Home Park permit shall pay the current application fee at the time application is made.

If the permit is approved by the City Planning Commission, no permit shall be issued until completed final engineering plans are approved by the City Engineer. Final engineering plans are approved by the City Engineer. Final engineering plans and specifications shall cover all items called for in the preliminary site plan and any other details or items deemed necessary by the City Engineer.

Permits shall become void if construction is not completed within one year of the date of the permit.

#### 10-015 AREA AND HEIGHT REGULATIONS

- a. Area and Lot Width
  1. Mobile Home Space Size - Not less than 45 feet by 100 feet.
- b. Height
  1. Not more than 1 story.
- c. Setback from Property Lines
  1. Setbacks around the perimeter of the mobile home park - Not less than 25 feet when abutting on a public street and 15 feet from other boundary lines.
  2. Front Yard - Not less than 25 feet from any public or private street or drive.

3. Side Yard, Interior - Not less than 20 feet on the entry side of the mobile home and not less than 5 feet on the non-entry side from the side lot line.
4. Side Yard, Corner - Not less than 25 feet.
5. Rear Yard - Not less than 15 feet from any lot line and not less than 25 feet from any street line.

#### 10-016 REQUIRED FACILITIES

In the MHP, Manufactured Home Park District, the following minimum facility requirements shall be provided:

- a. A concrete patio 180 square feet or larger with a minimum width of 8 feet for each mobile home space convenient to the entrance of the mobile home and appropriately related to the open area of the space.
- b. A concrete or asphalt mobile home pad of adequate size for each mobile home space to fit the outside dimensions of the mobile home to be placed thereupon. Each home shall be equipped with skirts on all sides, such skirts to be of material harmonious to the mobile home and installed within ten days of home placement.
- c. Where public streets are provided, they will meet all City standards and specifications. All private streets shall be built to City standards and shall be at least 24 feet wide. The City may at any time require traffic control devices to be installed and maintained by the developer or owner on private streets as are deemed necessary to protect the public safety.
- d. A paved individual walkway not less than two (2) feet wide shall be provided from each mobile home to a paved driveway or parking space. A common walk not less than 3 1/2 feet wide shall be provided of all streets within the park.
- e. Appropriate recreational areas at a rate not less than 200 square feet per mobile home space shall be provided. Required recreational areas shall not be less than 2,000 square feet in size.
- f. If tenant storage facilities are to be provided outside the mobile home for or by the occupants, the location and design of the storage facilities shall be made a part of the final development plan. Storage facilities may be provided on each mobile home lot or in compounds located within 100 feet from each mobile home lot. If private fences between mobile home lots are to be allowed, they shall be of uniform height and approved as a part of the final development plan.
- g. A storm shelter shall be provided for persons living in the mobile home park. The storm shelter shall be adequately designed to protect occupants, and shall have an area of not less than 12 square feet per mobile home lot. The storm shelter shall have adequate fresh air ducts to accommodate the occupants, and storm shelters shall be so located to provide a reasonable degree of safety for all residents. Design and construction of the storm shelter shall be subject to approval of the City Engineer.

- h. All mobile homes newly installed shall be anchored to the ground by means of anchors attached both to the frame and with straps extending over the top and completely surrounding sides and roof in accordance with K.S.A. 75-1230 or updates.

#### 10-017 LANDSCAPING AND SCREENING

A reasonable amount of landscaping is required on all projects with emphasis on softening the visual impact of unsightly areas and enhancing the overall appearance. Trees are required at not less than one per 4,500 square feet of site area, and buffer planting is required adjacent to single-family and two-family zoned property. Planting schedules shall be shown on the final site plan and shall be subject to the approval of the Planning Commission.

#### 10-018 PARKING STANDARDS

Two off-street parking spaces shall be provided for each dwelling unit. In addition, mobile home parks which do not have public streets shall provide visitor parking at a rate of one-fourth parking space for each mobile home lot, appropriately located and dispersed in separate parking lots having no more than eight parking spaces each.

#### 10-019 MANAGEMENT OF MOBILE HOME PARKS

Each mobile home park shall have a resident manager on staff and shall be operated in a sanitary, orderly, and efficient manner, and shall maintain a neat appearance at all times. No damaged or deteriorated mobile home shall be permitted to remain; and suitable and effective rules for regulating the outside storage of equipment, the removal of wheels and installation of skirting, the collection of trash and garbage, and the attachment of appurtenances to the mobile homes shall be continually enforced. All drives, playground area and equipment, lawn and trees, and any recreational or accessory buildings shall be maintained at a level at least equal to the average residential neighborhood in the City. All portions of the mobile home park shall be open and accessible to fire, police, and other emergency and protective vehicles and personnel, including City, County, and State inspectors.

#### 10-020 SIGNS

Each such project shall be permitted one wall sign and one monument sign. For additional standards and information, see Section 25.

#### 10-021 UTILITY SERVICE

In the MHP, Manufactured Home Park District, the following minimum utility services shall be provided.

- a. Water Supply - A public water supply shall be provided to serve the entire mobile home park. Water piping within the park shall comply with City and Kansas Department of Health & Environment standards.
  - 1. Adequate fire protection shall be provided by the installation of fire hydrants at minimum spacing of 500 feet between hydrants. Hydrants shall be served by minimum 8-inch diameter water mains.

2. A minimum 3/4 -inch diameter service line shall be extended to each mobile home lot. The service line shall end with a riser pipe with screwed cap to above ground level. A shutoff valve in a pit shall be installed below frost line. The meter setter and meter pit shall be installed as approved by the City Engineer.
- b. Sewage Disposal - A public sewer system shall be installed to serve all occupied buildings and mobile homes within the park. The sewer system shall be connected to the City sewer system. On-site treatment system shall not be permitted. Design and construction of the sewer system shall be subject to the approval of the City Engineer and the Kansas Department of Health & Environment. All sewer discharge shall meet City specifications and SDR-35 minimum shall be used.
    1. Each mobile home shall be provided with a 4-inch diameter sewer service in accordance with City specifications and the City Engineer's approval. The sewer service shall end with a capped vertical riser, which shall extend to the ground surface and SDR-35 or equivalent shall be used.
  - c. Electrical Distribution - Each mobile home park shall be served by an underground electrical system. The system shall be designed and constructed in accordance with current City electrical codes and the requirements of the local electric utility.
    1. Each mobile home lot shall be provided with a minimum 120/240 v. 100-ampere service. Connection shall be provided by a main disconnect housed in a weatherproof outlet box. All mobile homes shall be grounded with an approved grounding conductor.
  - d. Natural Gas Distribution - Each mobile home park shall be served with a natural gas distribution system installed and operated by the local natural gas utility. Private systems shall not be permitted.
    1. Each mobile home lot shall have an approved manual shutoff valve and screwed cap.
  - e. Refuse Handling - The storage, collection, and disposal of refuse in the mobile home park shall be conducted so as to prevent health hazards, rodent harborage, insect breeding, fire hazards, or air pollution.
    1. Refuse shall be stored in water-tight containers located no more than 150 feet from any mobile home lot. Common refuse containers shall be set on concrete stands and properly screened. Refuse shall be collected and transported in covered containers. Collection shall be at least once a week.

## SECTION 11

### “PUD-R” PLANNED RESIDENTIAL DISTRICT

#### 11-010 PURPOSE

This district provides for elements of flexibility in design, placement, arrangement, bulk and other considerations involved in a planned multiple family project; together with a framework within which the buildings and uses in the planned project may be interrelated with adjacent developments and areas, to maintain the desired overall intensity of land use, desirable population densities, and desirable areas of open space. The purpose of this district is to accommodate low-rise, multiple family housing at moderate densities. Building units shall be clustered and be carefully planned to provide for the maximum of privacy and preserving adequate open space to serve as a buffer between commercial and districts with different zoning.

#### 11-011 USE REGULATIONS

##### Principles Uses and Buildings

- a. Apartment houses or townhouses. (Flats)
- b. Row-houses - containing 2 units or more
- c. Two-family dwellings.

Please refer to Appendix A for a list of suggested, permitted uses.

#### 11-012 ACCESSORY USES AND BUILDINGS

- a. Incidental commercial services within an apartment house provided the following conditions are complied with.
  1. Limited to tenants.
  2. Contained within a principal building and shall not exceed (10%) of gross floor area.
  3. No advertising signs or window displays visible from the outside of the building.
  4. No direct access from the outside of the building.
- b. Garages, for the purpose of storing tenant's automobiles, having no repair facilities.
- c. Such accessory buildings and uses as are customarily incidental to the permitted principal use, i.e., storage, recreation, public utilities, etc.

#### 11-013 HEIGHT REGULATION

No building shall exceed 2 1/2 stories or 35 feet in height, except that of an apartment house or portion thereof may be increased to 6 stories or 65 feet provided the building is set back from each required yard line at least one foot for each foot of additional building height above forty-five (45) feet.

#### 11-014 LOCATION AND HEIGHT OF ACCESSORY BUILDINGS

Garages and other accessory buildings shall not exceed one (1) story or fifteen (15) feet in height. No unattached building shall be located in a front yard, and; if located in a rear yard shall not be less than five (5) feet from the rear lot line or side lot line, and; if located in the side yard it shall not be nearer than five (5) feet from the side lot line.

#### 11-015 AREA REGULATIONS

##### a. Minimum Size Parcel

1. Area - shall contain a minimum of 2 acres.
2. Frontage - shall be a minimum of 200 feet.
3. Depth - shall be a minimum of 200 feet.

##### b. External Requirements

1. Front and Rear - Set back shall be 1 foot for every foot of building height, but not less than 50 feet.
2. Side Yard - shall be 1 foot for every 2-1/2 feet of building height, but not less than 20 feet.
3. Corner Lots - shall have front yards on each street equivalent to the above front yard requirements.

##### c. Internal Requirements

1. The minimum horizontal distance between buildings shall be twenty (20) feet, provided:
  - a) Walls containing main window exposures or main entrances shall be located no closer to another building than (75) feet, and generally no closer than twice the difference in elevation between the lowest ground elevation of the buildings and the greatest roof elevation of the buildings.
  - b) Other walls containing secondary windows (side of buildings) shall be located no closer to another building than thirty (30) feet.

#### 11-016 MINIMUM OFF-STREET PARKING REQUIREMENTS

- a. Apartment - 1-1/2 parking spaces per dwelling unit that has one bedroom or less containing 180 square feet (9' x 20') per space on right angle parking or equivalent for 30, 45 and 60 degree parking. Two parking spaces shall be provided for each dwelling unit with two bedrooms or more.
- b. Row houses - 1-1/2 parking spaces per dwelling unit, provided condominiums shall be required only 1 (one) parking space per unit with the additional 1/2 parking space per unit located within the project.
- c. Two family dwellings and row houses shall conform to the requirements of Section 20.

#### 11-017 MINIMUM LOT COVERAGE OF ALL BUILDINGS

All buildings, including accessory buildings, at ground level shall not cover more than twenty (20) percent of the gross lot area.

11-018 MINIMUM OPEN SPACE COVERAGE

At least forty-five (45) percent of the gross lot area, including front side and rear yards, shall be devoted to open space; such as landscaped areas, pedestrian walks, malls, swimming pools, play grounds, bicycle trails, etc. Public streets access ways and parking areas shall not be included as part of the open space requirements.

11-019 MINIMUM FLOOR AREA

Each dwelling unit shall contain a minimum of 380 square feet of habitable floor area for apartments. Minimum floor area for row houses, town-homes and two-family dwellings shall conform to other areas required in RMF1 and RMF2 zoning districts.

11-020 DENSITY

There shall be a minimum lot area of 2,178 square feet per family or a maximum of 20 families per acre.

11-021 APPLYING FOR REZONING

A petition to change to a "PUD-R" Planned Residential District shall be filed in accordance with the application and review procedures provided in Section 27. Included with the petition shall be an Outline Development Plan a Preliminary Development Plan, in accordance with this ordinance. (Amended by Ordinance 1230, 5/29/07)

11-022 PLANNING COMMISSION PROCEDURES

After a petition for "PUD-R," Planned Residential District is filed; it shall be referred to and considered by the City Planning Commission in accordance with the procedures set forth by Section 27. The Planning Commission shall hold a public hearing and after the conclusion of the hearing shall submit its recommendations to the Governing Body, based on the zoning of the land and the Outline Development Plans or the Preliminary Development Plan. (Amended by Ordinance 1230, 5/29/07)

11-023 GOVERNING BODY ACTION

If the City Council is in favor of rezoning, they shall, by ordinance rezone the property, but before any building permits may be issued the Preliminary and Final Development Plans shall be approved by the Governing Body after recommendation by the City Planning Commission according to the requirements under these regulations.

11-024 PROCEDURE FOR SUBMITTING PLANS

If the Outline Development Plans were submitted with the petition, a Preliminary Plat and the Preliminary Development Plans shall be submitted to the Planning Commission Office within six (6) months after the Governing Body rezone the property and approve the Outline Development. The Final Plat and Final Development Plans shall also be submitted in the same manner and with the same considerations as the Preliminary Development Plan procedure, except the applicant shall be given one (1) year to submit it. If the final plat and final development schedule is not submitted within one (1) year, all previous approval shall be voided.

#### 11-025 OUTLINE DEVELOPMENT PLAN

The Outline Development Plan shall include maps and written statements, and shall show enough of the area surrounding the proposed planned development to demonstrate its relationship to adjoining uses, existing and proposed. The maps shall contain the following information:

- a. Boundary of project with dimensions to scale.
- b. Existing topography.
- c. Existing and proposed land use showing the approximate location and dimensions of buildings, open space, parking and drives and other structures.
- d. The character and approximate density of dwellings.
- e. The approximate location of major thoroughfares.
- f. Proposed recreational areas and other open spaces.

The written statements to accompany the outline development plan shall contain the following information:

- a. An explanation of the character of the development.
- b. A general indication of the expected schedule of development.

#### 11-026 PRELIMINARY DEVELOPMENT PLANS

At a scale dimension of not more than 1" = 100' and shall include:

- a. Proposed size, location and area coverage figures of all buildings.
- b. Parking areas and drives with proposed arrangement of stalls, number of cars, entrance and exits driveways and their relationship to existing and proposed streets, and area coverage figures.
- c. Landscape plans, including location and height of all walls, fences and screen plantings and open space coverage figures.
- d. Accessory uses and buildings showing location and dimensions.
- e. Sufficient proposed control grades to interpret the intent of the developer.
- f. Drainage plan, having contour intervals of two (2) feet.

- g. Location of existing and proposed fire hydrants and utilities with a statement from the Fire Chief and the various utility companies involved confirming and approving the locations.
- h. Land use and development within two hundred (200) feet outside the project area, excluding streets and alleys.
- i. Architectural sketches showing building height, bulk, interior layout and proposed use.
- j. Name of owner, name and seal of engineering firm licensed in the state of Kansas developing plan, scale, north point and date of plan.

#### 11-027 FINAL DEVELOPMENT PLANS

The final Development Plans shall conform to the approved Preliminary Development Plans, shall be in final form for the issuance of a building permit, shall have been previously approved by the City Administrator and the City Engineer, and shall include a construction schedule of development. It shall be submitted to the Planning Commission at least seven (7) days before the scheduled meeting for approval and recommendation to the Governing Body. A final approval by the Governing Body shall authorize construction to begin. Any land reserved for public use (utility easements, streets, drives, ways, etc.) shall be processed and approved in accordance with the rules and regulations for platting contained in the "Subdivision Regulations for Tonganoxie, Kansas". Construction of a least the first stage of development shall begin within eighteen (18) months from the date the ordinance of the zoning change was published in the paper. If construction does not begin within this period and no effort is made of an extension of time by the owner, the Planning Commission shall recommend to the City Commission that the ordinance should be voided, and when voided said property shall revert back to its original zoning district.

#### 11-028 BUILDING PERMITS

On final approval by the Governing Body, the owner shall provide a copy of the approved Final Development Plans to the following:

- a. City Planning Commission
- b. City Administrator
- c. City Engineer.

Building permits shall be issued in accordance with the approved final development plan and the procedures set forth by Section 2-011. If any variation or rearrangement of buildings, parking area and drives, entrances, heights or open spaces is requested by the owner, he shall proceed by following the same procedure previously followed and outlined in the "Preliminary Development Plan". (Amended by Ordinance 1230, 5/9/07)

11-029 CHANGE OF OWNERSHIP

- a. In the event of a sale of property approved for rezoning under this ordinance, no development shall take place except according to the approved Final Development Plan.
- b. If new ownership requests a change in the Final Development Plan, they shall be required to file revised Preliminary Development Plans and Final Development Plans, and a construction schedule of improvements in accordance with this ordinance, except no further rezoning will be required. If there is a revision in the location of utility easements, streets, drives, ways, etc., the area shall be re-platted.

11-030 GENERAL REQUIREMENTS

- a. The proposed development shall constitute a residential environment of sustained desirability and stability so that the property contiguous to the development will not be unreasonably affected.
- b. The proposed development shall provide streets, drives or ways that are accessible to the major street system in such a way that the traffic generated by the development will not cause an unreasonably hazardous condition or unusual inconvenience to the neighborhood.
- c. A building group shall be so arranged that all principal buildings shall be made reasonably accessible to emergency vehicles.
- d. Parking shall be provided in a manner, which reduces to a minimum its adverse physical impact in the area. Screening areas with landscaping or walls, breaking parking areas into smaller units by introducing landscaped areas or other physical separators are minimum requirements. The parking areas should be appropriately spaced to serve those units they represent.
- e. The availability of service and location of public utilities shall have the approval of each agency involved. Evidence to this effect shall be presented with Preliminary Development Plans.
- f. All streets, drives, and right-of-ways shall be established as permanent easements whether public or private, provided through platting procedures, and shall be improved according to the City Engineer's specifications.
- g. The location, design and calculations of the storm drainage and sanitary sewers shall meet the specifications of the City Engineer.

## SECTION 12

### “HBD” HISTORIC BUSINESS DISTRICT

#### 12-010 PURPOSE

This district provides for small-scale retail, entertainment, municipal and personal service uses that meet the regular needs of the City. Uses that require larger scale structures or spaces than those generally found in the district or that will generate excessive parking needs should locate in one of the General Business Districts. All uses shall preserve the structural fabric and scale of the district. To preserve or recapture the original character and integrity of this district, all new development or rehabilitation of existing structures shall be held to the standards defined in the *Design Guidelines for Tonganoxie’s Central Business District*.

#### 12-011 DEVELOPMENT STANDARDS

##### a. General Requirements

1. Temporary exterior display of merchandise shall be allowed only during the regular business hours of the business for which they are displayed.
2. Items must be arranged or placed so as not to block pedestrian traffic. No exterior display yards allowed.
3. Placement of fixtures required in connection with a designated patio or courtyard eating area adjacent to a restaurant shall be allowed.
4. All business except for parking and loading/unloading shall be conducted within a completely enclosed building. Any drive-in or drive-thru business shall be subject to Site Review approval.
5. All buildings shall incorporate windows and/or showcases into sidewalk facades at the street level to encourage pedestrian traffic.
6. Sites or parcels where structures have been severely damaged, destroyed or removed due to deterioration shall be considered buildable for re-development purposes. All re-development shall conform to all use and development standards for this district except for minimum lot size or width.
7. Service vehicles or equipment parked or stored on site shall be within an enclosed structure or fully screened yard. All vehicles and equipment must be licensed and/or registered as required by the State of Kansas.
8. No temporary storage structures or moveable containers except for industrial uses. All other uses apply. A temporary permit for industrial uses is required.

#### 12-012 ALLOWED USES

##### a. Residential Uses

1. Limited lodging facilities such as bed & breakfast, rooming or boarding house
2. Limited residential use shall be allowed in the form of upper level apartments
3. Accessory uses as subordinate, incidental and compatible to the efficient operation of the main use of the site.
4. Please refer to Appendix A for a list of suggested, permitted uses.

- b. Institutional:
  - 1. General uses such as museum, library, art center, church, lodge or fraternal organization, mortuary or funeral home
  - 2. Educational uses such as private or group instruction in the arts or athletics, technical and professional training classes, university or college satellite classes.
  - 3. Municipal and governmental service offices or centers
  
- c. Commercial:
  - 1. Retail, office and service businesses such as medical or dental office or clinic, legal and administrative services, financial institution, restaurant, retail outlet, clothing store, specialty shop, tradesmen, and other similar uses.
  
- d. Prohibited:
  - 1. Any business using highly flammable or hazardous material is prohibited unless the business files an approved Fire Plan with the City Fire Department.

12-013 AREA REGULATIONS

Any existing parcel as of the approval of this ordinance shall be considered buildable. All remaining development regulations shall be enforced.

Minimum area for new lots is 3000 square feet

Minimum width for new lots shall be thirty (30) feet

12-014 HEIGHT REGULATIONS

No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height except as provided in Section 23 Supplemental District Regulations.

12-015 REQUIRED SETBACKS

No setbacks are required unless abutting a residential use or zone. In that case, the minimum side setback shall be ten (10) feet and the minimum rear setback shall be fifteen (15) feet.

12-016 PARKING

There are no off-street parking requirements in the Historic Business District, except there shall be one (1) parking space for each dwelling unit, and except for the requirements for special parking set out in Section 20.

12-017 SIGNS

Please refer to Section 25, Signs, of this Ordinance

## SECTION 13

### “LBD” LIMITED GENERAL BUSINESS DISTRICT

#### 13-010 PURPOSE

This district is intended for retail trade and service businesses to serve the needs of the surrounding neighborhoods. Businesses located in this area act as a median or buffer between residential areas and large scale commercial centers. Because they are closely connected to neighborhoods, more restrictive requirements for light, air, open space, and off-street parking are provided than in other commercial districts.

#### 13-011 DEVELOPMENT STANDARDS

- a. No use shall produce noise levels higher than that which normally prevails in the adjacent neighborhood.
- b. An 8-foot architectural screen shall be required for all sites where the rear or side property line abuts a residential zone or use. “Best side towards the residential use.” (Amended by Ordinance 1230, 5/29/07)
- c. Exterior mechanical equipment, refuse handling and storage of materials or equipment shall be well screened from both the right-of-way and any adjacent residential areas.
- d. All exterior display yards shall be paved.
- e. All accessory buildings or enclosures shall be constructed in a compatible manner and with similar materials as the main structure on the property.
- f. No use of a site shall commence prior to the construction of a main structure.
- g. All commercial and industrial uses shall be of sound structural quality, be maintained in good repair, have a clean and neat appearance, and land adjacent shall be kept free from debris, weeds and trash. If the business or industry is not maintained as described and the Codes Enforcement Officer deems them a public safety hazard or nuisance, they shall be fined and given notice to correct the nuisance within 30 days.
- h. No temporary storage structures or moveable containers except for Industrial uses. All other uses apply. A temporary permit for industrial uses is required.
- i. All activity shall be conducted within a fully enclosed building, except for the display and sale of landscaping and gardening plants supplies.
- j. All business except for parking and loading/unloading shall be conducted within a completely enclosed building.

- k. Beverages containing alcohol may not be dispensed on the premises.
- l. No use is permitted that involves the parking, storage, or keeping of any vehicle or equipment of over 5,000 pounds weight.

13-012 ALLOWED USES

- a. Uses shall focus upon retailing of goods and services, offices, personal services, institutional uses, restaurants and transient (i.e. motel, boarding room, etc...) lodging facilities.
- b. Private, public or semi-public recreational, religious or administrative uses that are appropriate and compatible in the area due to space or intensity needs.
- c. Accessory uses as subordinate, incidental and compatible to the efficient operation of the main use of the site.
- d. Please refer to Appendix A for a list of suggested, permitted uses.

13-013 AREA REGULATIONS

- a. Minimum lot area is 10,000 square feet
- b. Maximum gross floor area is 7000 square feet
- c. Minimum lot width shall be seventy-five (75) feet

13-014 HEIGHT REGULATIONS

- a. No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height except as provided in Section 23 Supplemental District Regulations.

13-015 REQUIRED SETBACKS

- a. Right-of-way setback: Thirty (30) feet.
- b. Side setback: Twenty (20) feet when abutting a residential use or zone, otherwise ten (10) feet.
- c. Rear setback: Thirty (30) feet when abutting a residential or rural zone or use, otherwise only twenty (20) feet.

13-16 PARKING

Please refer to Section 20, Off-Street Parking and Loading Regulations, of this Ordinance.

13-017 SIGNS

Please refer to Section 25, Signs, of this Ordinance

## SECTION 14

### “GBD” GENERAL BUSINESS DISTRICT

#### 14-010 PURPOSE

This district is intended for retail trade shall be located along arterial and collector streets and highways within the City. The district provides access for businesses serving the local and regional market. Businesses located in this area are of a higher intensity and require a larger area than those allowed in the HBD District.

#### 14-011 DEVELOPMENT STANDARDS

- a. Loading docks, exterior mechanical equipment and refuse handling shall be at the rear of the site and/or well screened from both the right-of-way and any adjacent residential areas.
- b. No exterior storage of materials or equipment.
- c. All business except for parking and loading/unloading shall be conducted within a completely enclosed building or on an improved (paved) display yard intended for that purpose.
- d. All accessory buildings shall be constructed in a compatible manner and with similar materials as the main structure on the property.
- e. No use of a site shall commence prior to the construction of a main structure.
- f. An 8-foot architectural screen shall be required for all sites where the rear or side property line abuts a residential zone or use. “Best side towards the residential use.” (Amended by Ordinance 1230, 5/29/07)
- g. No temporary storage structures or moveable containers except for Industrial uses. All other uses apply. A temporary permit for industrial uses is required.
- h. Placement of fixtures required in connection with a designated patio or courtyard eating area adjacent to a restaurant shall be allowed.
- i. All commercial and industrial uses shall be of sound structural quality, be maintained in good repair, have a clean and neat appearance, and land adjacent shall be kept free from debris, weeds and trash. If the business or industry is not maintained as described and the Codes Enforcement Officer deems them a public safety hazard or nuisance, they shall be fined and given notice to correct the nuisance within 30 days.

14-012 ALLOWED USES

Uses shall focus upon retailing of goods and services, office groupings, large institutional uses, restaurants and temporary lodging facilities and those businesses requiring large display yards.

- a. Private, public or semi-public recreational, religious or administrative uses that are appropriate and compatible in the area due to space or intensity needs
- b. Accessory uses as necessary to the efficient operation of the main use on the site.
- c. Please refer to Appendix A for a list of suggested, permitted uses

14-013 AREA REGULATIONS

- a. Minimum lot area is 10,000 square feet
- b. Minimum lot width shall be seventy-five (75) feet

14-014 HEIGHT REGULATIONS

- a. No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height except as provided in Section 23 Supplemental District Regulations.

14-015 REQUIRED SETBACKS

- a. Right-of-way setback: Thirty (30) feet.
- b. Side set back: Twenty (20) feet when abutting a residential area, otherwise ten (10) feet.
- c. Rear setback: Thirty (30) feet when abutting a residential or rural zone or use, otherwise only twenty (20) feet

14-016 PARKING

Please refer to Section 20, Off-Street Parking and Loading Regulations, of this Ordinance.

14-017 SIGNS

Please refer to Section 25, Signs, of this Ordinance.

## SECTION 15

### “PUD-C” PLANNED COMMERCIAL DISTRICT

#### 15-010 PURPOSE

This district is to provide for and encourage the grouping of business buildings into centers in keeping with the modern concepts of office, service and shopping center design. The intent is to reduce the need for strips of commercial development.

#### 15-011 GENERAL CONDITIONS

The owner or owners of any tract of land comprising an area not less than two (2) acres may submit to the Governing Body a petition and Preliminary Development Plan for a planned commercial district in compliance with the requirement set forth in this article. The application and plan shall be referred to the Planning Commission for study and report and for public hearing in accordance with Section 27, (Amendments). If no report is transmitted by the Planning Commission within ninety (90) days of notification, the Governing Body may take action without said report. If the Planning Commission approves the plans, they shall then be submitted to the Governing Body for their consideration and action. The Planning Commissioners approval and recommendations shall be accompanied by a report stating the reasons for approval and that the application meets the requirements of the "PUD-C" Planned Commercial District as set forth in Section 15. The location of any "PUD-C" Planned Commercial District shall be on property which has direct access to a collector or arterial street as designated on the official comprehensive plan for the City of Tonganoxie. The Plan for the proposed development must present a unified and organized arrangement of buildings and service facilities and shall not adversely affect the uses of property immediately adjacent to the proposed development. (Amended by Ordinance # 1189 5/23/05)

#### 15-012 USE REGULATIONS

The use regulations are similar to those found in the "LBD" Limited General Business District and in the "HBD" Historic Business District except that there shall be no limit to the square footage of floor area to be devoted to any specific use.

Please refer to Appendix A for a list of suggested, permitted uses.

#### 15-013 HEIGHT REGULATIONS

No building or structure shall exceed six (6) stories except as provided in Section 23.

#### 15-014 AREA REGULATIONS

##### a. Front Yard

There shall be a setback from any street of at least fifty (50) feet for any building and ten (10) feet for any parking lot.

b. Side Yard

1. Along any other property line within or adjoining the district, there shall be a setback from any building or structure of at least ten (10) feet.
2. Along any property line abutting or adjoining a residential district, there shall be a setback of at least twenty (20) feet.

c. Parking and Loading Regulations - Whenever a structure is erected, moved, converted, or structurally altered, the regulations shall apply. See Section 20.

15-015 ADDITIONAL REGULATIONS

The planned commercial district shall be permanently screened from abutting property zoned for residential use by a suitable fence, wall or shrub border, the height of such screen to be at least four (4) feet. The requirements are as found in Section 24.

15-016 EXCEPTIONS

The requirements and regulations herein prescribed pertaining to height, open spaces, set-back, parking and loading may be adjusted or modified by the Planning Commission so that the property in question may be developed in a reasonable manner and at the same time will not be detrimental to the public welfare and the interest of the community, but in keeping with the general intent and spirit of the Zoning Ordinance.

15-017 APPLYING FOR REZONING

A petition to change to a "PUD-C" Planned Commercial District shall be filed in accordance with the application and review procedures provided in Section 27. Included with the petition shall be an Outline Development Plan or a Preliminary Development Plan, in accordance with the submittal requirements of this ordinance. (Amended by Ordinance # 1186 5/23/05 & Ordinance 1230, 5/29/07)

15-018 PLANNING COMMISSION PROCEDURES

After a petition for "PUD-C" Planned Commercial District, is filed with the City Clerk, it shall be referred to and considered by the City Planning Commission. The Planning Commission shall hold a public hearing and after the conclusion of the hearing shall submit its recommendations to the Governing Body, based on the zoning of the land and the Outline Development Plans or the Preliminary Development Plan. (Amended by Ordinance 1230, 5/29/07)

15-019 GOVERNING BODY ACTION

If the Governing Body is in favor of rezoning, they shall, by ordinance, rezone the property, but before any building permits may be issued the Preliminary and Final Development Plans shall be approved by the Governing Body after recommendations by the City Planning Commission according to the requirements of this zoning ordinance.

#### 15-020 PROCEDURE FOR SUBMITTING PLANS

If the Outline Development Plans were submitted with the petition, a Preliminary Development Plan shall be submitted to the Planning Commission within one (1) year after the Governing Body rezones the property and approved the Outline Development Plan.

The Final Development Plans shall be submitted in the same manner and with the same considerations as the Preliminary Development Plan procedure, except the applicant shall be given two (2) years to submit it or all previous approval shall be voided.

#### 15-021 OUTLINE DEVELOPMENT PLAN

The Outline Development Plan shall include site plans and written statements and shall show all land use and development within two hundred (200) feet, of the planned development to demonstrate its relationship to adjoining uses and shall also show:

- a. Boundary of project with dimensions to scale.
- b. Existing topography.
- c. Existing and proposed land uses showing the approximate location and dimensions of buildings, open space, parking, drives and other structures.
- d. The location of existing streets and utilities.
- e. The written statements to accompany the plan shall contain the following information:
  1. An explanation of the character of the development.
  2. A general indication of the expected schedule of development.

#### 15-022 PRELIMINARY DEVELOPMENT PLANS

The preliminary development plan shall be submitted to the City Administrator and City Engineer for review and approval. The approved preliminary plan shall then be submitted to the Planning Commission for recommendation to the Governing Body. At a scale dimension of not more than 1" = 100' and shall include:

- a. Boundary of project with dimensions to scale.
- b. Contour intervals of two (2) feet of existing topography and final elevations or contours.
- c. Proposed size location and arrangement of building, parking areas with proposed arrangement of stalls and number of cars, entrance and exit driveways and their relationship to existing and or proposed street.

- d. Storm Drainage plan.
- e. General landscape plan to include location and height of all walls, fences, screening and plantings.
- f. Note provision for dedication of additional right-of-ways if needed for the widening of streets, such to be dedicated to the City prior to approval of Final Development Plan.
- g. Stages of development.
- h. Name of owner, name and seal of professional engineering firm licensed in the State of Kansas developing the plan, scale, north point and date of plan.

15-023 FINAL DEVELOPMENT PLANS

The Final Development Plans shall conform to the approved Preliminary, shall be in final form for the issuance of a building permit, shall have been previously approved by the City Administrator and the City Engineer and shall include a construction schedule of development. It shall be submitted to the Planning commission at least thirty (30) days before the scheduled meeting for approval and recommendations to the Governing Body. A final approval by the Governing Body shall authorize construction to begin according to the construction schedule. Construction of at least the first stage of development shall begin within three (3) years from the date the ordinance of the zoning change was published in the official city paper. If construction does not begin within this period and no effort is made for an extension of time by the owner, all previous plans and zoning shall be voided.

15-24 BUILDING PERMITS

On final approval by the Governing Body, the owner shall provide a copy of the approved Final Development Plans to the following:

- a. City Planning Commission
- b. City Administrator
- c. City Engineer

Building permits shall be issued in accordance with the approved final development plan and the procedures set forth by Section 2-011. If any variation or rearrangement of buildings, parking area and drives, entrances, heights or open spaces is requested by the owner, he shall proceed by following the same procedure previously followed and outlined in the "Preliminary Development Plan." (Amended by Ordinance 1230, 5/9/07)

15-025 CHANGE OF OWNERSHIP

- a. In the event of a sale of property approved for rezoning under this ordinance, no development shall take place except according to the approved Final Development Plan.

- b. If new ownership requests a change in the Final Development Plan, they shall be required to file revised Preliminary Development Plans and Final Development Plans, and a construction schedule of improvements in accordance with this ordinance, except no further rezoning will be required. If any portion of the Planned Commercial District is sold, a plat of the entire district shall be filed in accordance with the Subdivision Regulations of the city.

15-026 GENERAL REQUIREMENTS

- a. The proposed development shall provide access to the major street system in such a way that the traffic generated by the development will not cause an unreasonably hazardous condition or inconvenience in the area.
- b. A building group shall be so arranged that all principal buildings shall be made reasonably accessible to emergency vehicles.
- c. Parking shall be provided in a manner, which reduces to a minimum its adverse physical impact in the area. Screening parking areas with landscaping walls, breaking parking areas into smaller units by introducing landscaped areas or other physical separators are suggested approaches and may be required. The parking areas should be appropriately spaced to serve those units they represent.
- d. The availability of service and location of public utilities shall have the approval of each agency involved. Evidence to this effect shall be presented with the Preliminary Development Plans.

## SECTION 16

### “I-LT” LIGHT INDUSTRIAL DISTRICT

#### 16-010 PURPOSE

This area is designed to accommodate a wide range of low level industrial activities as well as to protect and buffer nearby commercial and residential districts from more intense industrial uses. Uses in this district will be held to a higher aesthetic standard than other industrial zones.

#### 16-011 DEVELOPMENT STANDARDS

- a. No land use shall be allowed that produces vibration, concussion, impact, shock, dust, fly-ash, odor, noxious gases, temperature differential or glare at any point on the lot line in excess of limits normally encountered in surrounding, non-industrial districts.
- b. No land use shall be allowed that produces a noise level at the lot line that is greater than that produced by the average traffic in the area.
- c. Exterior mechanical equipment and refuse handling shall be at the rear of the site and well screened from both the right-of-way and any adjacent residential areas (Amended by Ordinance # 1184 5/9/05).
- d. All outside storage of equipment or materials must be well screened from view from either residential areas or rights-of-way.
- e. Only one main structure allowed per site. Exception--individual storage units when no administrative functions are on the site.
- f. No use of a site shall commence prior to the construction of a main structure.
- g. Accessory structures shall be compatible with the main structure both in design and materials.
- h. A minimum 20' landscaped strip shall be maintained along all rights-of-way.
- i. The use of trailers or other non-permanent structures for storage or other purposes is prohibited in this district.
- j. A buffer area shall be provided along side and rear property lines common to or across an alley from residentially zoned property. Please refer to Section 24, Landscaping and Screening, for details.

#### 16-012 ALLOWED USES

- a. Uses shall focus upon administrative facilities, research institutions, light manufacturing activities, warehousing and wholesaling of goods; tradesman's workshops.

- b. Businesses requiring large equipment display yards.
- c. Accessory uses as necessary to the efficient operation of the main use on the site.
- d. Please refer to Appendix A for a list of suggested, permitted uses.

16-013 AREA REGULATIONS

- a. Minimum lot area is one (1) acre
- b. Minimum lot width shall be one hundred (100) feet
- c. Minimum lot depth shall be one hundred and fifty (150) feet

16-014 HEIGHT REGULATIONS

No building shall exceed three (3) stories or fifty (50) feet in height except as provided in Section 23 Supplemental District Regulations.

16-015 REQUIRED SETBACKS

- a. Right-of-way setback: Minimum thirty-five (35) feet for buildings up to 26' in height, then 1 additional foot of setback is required for each additional foot of building height.
- b. Side setback: Twenty (20) feet
- c. Rear setback: Twenty-five (25) feet

16-016 PARKING

All structures shall have parking on a hard-surface or paved lot. A minimum of 1 space for every 1,000 square feet of building is required. Additional or fewer spaces may be recommended by The City Planning Commission. Parking is allowed within the setback area up to within ten (10) feet of the property line. These requirements must be met as a condition of obtaining an occupancy permit.

16-017 SIGNS

Please refer to Section 25, Signs, of this Ordinance

## SECTION 17

### “I-MD” MODERATE INDUSTRIAL DISTRICT

#### 17-010 PURPOSE

For the conversion of raw materials into partially finished or completed goods, for distribution of goods and the provision of industrial level services.

#### 17-011 DEVELOPMENT STANDARDS

- a. No land use shall be allowed that produces a noise level at the lot line that is greater than that produced by the average traffic in the area.
- b. Exterior mechanical equipment and refuse handling shall be at the side or rear of the site and well screened from both the right-of-way and any adjacent residential areas (Amended by Ordinance #1184 5/9/05).
- c. All outside storage of equipment or materials must be well screened from view from either residential areas or rights-of-way.
- d. Only one main structure allowed per site. Exception--Individual storage units when no administrative functions are on the site.
- e. No use of a site shall commence prior to the construction of a main structure.
- f. Accessory structures shall be compatible with the main structure both in design and materials.
- g. A minimum 10' landscaped strip shall be maintained along all rights-of-way.
- h. The use of non-permanent structures for storage or any other purpose is prohibited in this district without a temporary use permit.
- i. A buffer area shall be provided along side and rear property lines common to or across an alley from residentially zoned property. Please refer to Section 24, Landscaping and Screening, for details.

#### 17-012 ALLOWED USES

- a. Uses include manufacturing of goods and products; storage and transfer of goods and products; wholesaling of raw materials; intensive utility uses; trades contractors.
- b. Accessory uses as necessary to the efficient operation of the main use on the site.
- c. Please refer to Appendix A for a list of suggested, permitted uses.
- d. No residential use shall be permitted

17-013 AREA REGULATIONS

- a. Minimum lot area is one and one quarter (1 ¼ ) acre
- b. Minimum lot width shall be one hundred (100) feet
- c. Minimum lot depth shall be one hundred and fifty (150) feet

17-014 HEIGHT REGULATIONS

No building shall exceed three (3) stories or fifty (50) feet in height except as provided in Section 23 Supplemental District Regulations.

17-015 REQUIRED SETBACKS

- a. Right-of-way setback: Minimum fifty (50) feet for buildings up to 26' in height, then 1 additional foot of setback is required for each additional foot of building height.
- b. Side setback: Twenty-five (25) feet
- c. Rear setback: Twenty-five (25) feet

17-016 PARKING

All structures shall have parking on a hard-surface or paved lot. A minimum of 1 space for every 1,000 square feet of building is required. Additional or fewer spaces may be recommended by The City Planning Commission. Parking is allowed within the setback area up to within ten (10) feet of the property line. These requirements must be met as a condition of obtaining an occupancy permit.

17-017 SIGNS

Please refer to Section 25, Signs, of this Ordinance.

## SECTION 18

### “I-H” HEAVY INDUSTRIAL DISTRICT

#### 18-010 PURPOSE

The extraction and/or processing of raw materials in preparation for manufacturing into finished goods and products.

#### 18-011 DEVELOPMENT STANDARDS

- a. Uses in this zoning district require a Special Use Permit.
- b. No land use shall be permitted that produces airborne particles, gases, or odors exceeding limits of the local air quality regulations.
- c. No use is permitted that produces noise greater than 85 db(A) at any point on the property line.
- d. Uses producing industrial wastes of a type or volume which are not amenable to treatment by the public sewage facility must be disposed of in a proper and legal fashion.
- e. Exterior mechanical equipment and refuse handling shall be at the side or rear of the site and well screened from both the right-of-way and any adjacent residential areas (Amended by Ordinance # 1184 5/9/05).
- f. All outside storage of equipment or materials must be completely screened from view from either residential areas or rights-of-way.
- g. Only one main structure allowed per site.
- h. No use of a site shall commence prior to the construction of a main structure.
- i. Accessory structures shall be compatible with the main structure both in design and materials.
- j. A minimum 10' landscaped strip shall be maintained along all rights-of-way.
- k. The use of non-permanent structures for storage or any other purpose is prohibited in this district without a temporary use permit.
- l. A buffer area shall be provided along side and rear property lines common to or across an alley from residentially zoned property. Please refer to Section 24, Landscaping and Screening, for details.

18-012 ALLOWED USES

- a. Uses include extraction and processing of raw materials; waste disposal and related uses;
- b. Accessory uses as necessary to the efficient operation of the main use on the site.
- c. Please refer to Appendix A for a list of suggested, permitted uses.

18-013 AREA RUGULATIONS

Subject to Site Review Committee.

18-014 HEIGHT REGULATIONS

No building shall exceed six (6) stories or seventy-five (75) feet in height except as provided in Section 23 Supplemental District Regulations.

18-015 REQUIRED SETBACKS

- a. Right-of-way setback: Minimum fifty (50) feet for buildings up to 26' in height, then 1 additional foot of setback is required for each additional foot of building height.
- b. Side setback: Twenty-five (25) feet
- c. Rear setback: Twenty-five (25) feet

18-016 PARKING

All structures shall have parking on a hard-surface or paved lot. A minimum of 1 space for every 1,000 square feet of building is required. Additional or fewer spaces may be recommended by The City Planning Commission. Parking is allowed within the setback area up to within ten (10) feet of the property line. These requirements must be met as a condition of obtaining an occupancy permit.

18-017 SIGNS

Please refer to Section 25, Signs, of this Ordinance.

## SECTION 19

### COMMUNITY UNIT PLAN

#### 19-010 COMMUNITY UNIT PLAN

The owner or owners of any tract of land comprising an area of not less than twenty (20) acres may submit to the Governing Body of Tonganoxie City a plan for the use and development of the entire tract of land for residential purposes. The Development Plan shall be referred to the City Planning Commission for study and report and for public hearing. If the Planning Commission approves the Development Plan, the plan, together with the recommendation of the Planning Commission, shall be accompanied by a report stating the reason for approval of the application and specific evidence and facts showing that the proposed community unit plan meets the following conditions:

- a. That property adjacent to the area included in the plan will not be adversely affected.
- b. That the plan is consistent with the intent and purpose of this ordinance to promote public health, safety, morals and general welfare.
- c. That the buildings shall be used only for single family dwellings, two family dwellings or multiple dwellings and the usual accessory uses such as garages, storage space and community activities, including but not limited to, churches, schools, day care facilities, parks, playgrounds, and recreational facilities.
- d. That the average lot area per family contained in the site, exclusive of the area occupied by streets, will be no less than the lot area per family required in the district in which the development is located.

If the Governing Body approves the Community Unit Plan, building permits and certificates of occupancy may be issued even though the use of land, the location of the buildings to be erected in the area and the yards and open spaces contemplated by the plan do not conform in all respects to the district regulations of the district in which it is located.

#### 19-011 NOTE OF EXPLANATION

The "Community Unit Plan" is for mixed uses in that it allows all types of residential uses plus any uses directly related to residential uses such as churches, schools, day care facilities, parks, playgrounds, recreational facilities, etc. There are few regulations, only guidelines making it possible for a creative developer to bring in a plan for a 'community' or a neighborhood. Cluster development could also be incorporated into this zone.

The Planned Residential district is for multi-family development only and is regulated in order to maintain a suitable development that buffers between commercial and single-family residential uses. Cluster development for multi-family dwellings is encouraged.

## SECTION 20

### OFF STREET PARKING AND LOADING REGULATIONS

#### 20-010 OFF-STREET PARKING AND LOADING REGULATIONS

Whenever a structure is erected, converted, structurally altered or moved, off-street parking and or loading spaces shall be provided in the form of garages or areas made available exclusively for that purpose. Such parking space shall be located entirely on private property with no portion, except the necessary drives, extending into any street or other public way. In addition, no parking shall be permitted in the required front and side yard in district "R-E" through "LBD" inclusive, except that parking of motor vehicles shall be permitted in customary driveways of single and two family dwellings. All off-street parking in fulfilling multiple family, commercial and industrial development or as in fulfilling a special use permit requirement, may be located within 200 feet of said development, if requirements can not be fulfilled on site, and if the following requirements are approved and passed in accordance with Section 22, Special Uses:

- a. Enclosed with a fence, wall or other suitable enclosure having a height of not less than three (3) feet, and maintained in good condition.
- b. No parking within six (6) feet of an adjoining lot in a residential district.
- c. Any lights used to illuminate said parking areas shall be so arranged as to direct the light away from any adjoining premises in a residential district.
- d. Nature of Use: Required off-street parking areas shall not be used for the sale, repair, dismantling, storage, or servicing of any vehicles, equipment, materials or supplies.
- e. Computation: When determination of the number of off-street parking spaces required by this ordinance results in a requirement of a fractional space, this shall be counted as one parking space.
- f. Parking spaces in lots of more than six (6) spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be used as necessary to ensure efficient traffic operation of the lot.
- g. Off-street parking facilities shall be drained to eliminate ponding water and prevent damage to abutting property and/or public streets and alleys. No surface water from such parking area shall be permitted to drain onto adjoining private property without adequate drainage precaution being taken by the developer.
- h. Approval of site plan, to scale, showing a proposed parking lot. All off-street parking and or loading spaces shall be permanently surfaced with bituminous or concrete pavement meeting the standards and specifications of the City of Tonganoxie, Kansas. (Ordinance # 985 3/8/99) All off street parking and

connecting driveways for new construction or structures moved onto a lot for multifamily, commercial or industrial use and on residential lots with an area of one-half acre or less shall be permanently surfaced. For residential lots greater than one-half acre, driveways must be paved from the curb or edge of the street to the setback line and enough paved area at or near the residence provided for the required 2 parking spaces per dwelling unit. This shall apply to any new construction, homes moved onto a lot, or existing homes that are structurally altered or converted. Existing multi-family, commercial and industrial properties must be brought into compliance if they are structurally changed according to Section 2 – General Provisions of these regulations. Non-conforming uses that change or are discontinued must also be brought into compliance. Compliance shall consist of paving all access drives from the curb or edge of the street to the setback line and providing sufficient paved area for the required number of the parking spaces for the intended use.

Access drives for residential and commercial uses shall be surfaced with a minimum of 6” reinforced concrete or 8” asphaltic concrete pavement constructed to the Right-of-Way Line. Details for construction are included in the City standard details for street construction.

Parking areas for residential uses shall be surfaced with a minimum of:

1. Four inches reinforced Portland cement concrete, or
2. Five inches granular rock base with two inches of asphaltic concrete, or
3. Seven inches granular rock with a double asphaltic prime and seal, or
4. Five inches full depth asphaltic concrete

Alternative materials or paving systems may be used upon approval by the City Engineer for residential areas or low use parking areas such as fire safety lanes or overflow parking. Alternative driveway paving systems such as ribbon and pervious driveway surfaces may be used for single-family and two-family dwellings in the R-I Infill District upon approval by the City Engineer. Access drives and parking for business and industrial uses shall meet the City Engineer’s specifications. (Amended by Ordinance #985 and Ordinance 1230, 5/29/07)

- i. A portion of the parking area required under this Section may remain unimproved until such time as the City Council deems it must be improved to serve the parking demand adequately. Such delayed improvement may be permitted only after the Planning Commission is satisfied that the initial occupancy of the premises will be adequately served by the lesser number of spaces and only after approval of a site plan indicating clearly the location, pattern and circulation to and from the delayed parking spaces. The land area so delineated for future parking shall be brought to finished grade, be landscaped and shall not be used for building, storage, loading or other purposes. (Amended by Ordinance 1230, 5/9/07)

## 20-011 PARKING REGULATIONS

Off-street parking spaces shall be provided in accordance with the following schedule:

- |    |  |  |
|----|--|--|
| a. | Single Family Dwellings  | 2 spaces per dwelling unit                               |
| b. | Two Family Dwellings   | 2 spaces per dwelling unit                               |
| c. | Multiple Family Dwellings  | 1.5 spaces per dwelling unit                             |
| d. | Mobile Home Parks  | 2 spaces per mobile home                                 |
| e. | Churches, Theaters,<br>Auditoriums, Schools, etc.                    | 1 space per 4 seats or 1 space<br>per 17 classroom seats |
| f. | Hospitals, Clinics   | 1 space per 3 beds                                       |
| g. | Nursing Homes, Rest Homes  | 1 space per 4 beds                                       |
| h. | Lodging & Rooming Houses   | 1 space per bed  |
| i. | Dance halls, assembly halls<br>exhibition halls, libraries,          | 1 space per 100 sq. ft. used<br>for assembly etc.        |
| j. | Medical or Dental Offices or<br>Clinics                              | 5 spaces per Doctor                                      |
| k. | Home Occupations   | 2 spaces   |
| l. | Business and Professional<br>Office Buildings, Banks,<br>Post Office | 1 space per 200-sq. ft. of<br>gross area                 |
| m. | Motels, Hotels, Bed & Breakfast                                      | 1 space per sleeping unit                                |
| n. | Funeral Homes  | 1 space per 50-sq. ft. of floor area                     |
| o. | Personal Services  | 1 space per 150-sq. ft. of floor area                    |
| p. | Retail Stores & Shops  | 1 space per 250-sq. ft. of gross floor<br>space          |
| q. | Restaurants, Taverns, Night<br>Clubs                                 | 1 space per 2.5 seats                                    |
| r. | Automobile Sales and Service<br>Garages                              | 1 space per 400-sq. ft. of floor area                    |

- s. Bowling Alleys 5 spaces per alley
- t. Wholesale Establishments 1 space per 2 employees on maximum shift
- u. all other commercial uses Minimum of 1 space per 500 square feet. Additional spaces as required by the Planning Commission (Ordinance 1045 11/00)
- v. Industrial Uses See regulations provided in individual Industrial Zoning District Sections(Ordinance 1045 11/00)
- w. Uses in the Historic Business In the Historic Business District (HBD), for the purposes of minimizing disruptive curb cuts and driveways, and to encourage the consolidation of parking space in appropriate locations, accessory off-street parking is not required unless determined necessary by the Planning Commission with approval of a site plan. (Amended by Ordinance 1230, 5/29/07)

**20-012 LOADING AND UNLOADING OFF-STREET PARKING REGULATIONS**

Loading and unloading spaces shall be provided off-street and in the side or rear yard for such uses involving receipt or distribution of materials or merchandise by motor vehicle or rail. All loading and unloading operations shall be so located to avoid undue interference with public use of streets, alleys and walkways. Such space shall include a 12-foot by 50-foot load area for loading and unloading operations and shall have a minimum height clearance of 14 feet. The number of spaces shall be provided as follows:

<u>Gross Floor Area</u>	<u>Loading Spaces Required</u>
Under 3,000 sq. ft.	1 space
3,001 to 30,000 sq. ft.	2 spaces
30,001 to 90,000 sq. ft.	3 spaces
90,001 to 150,000 sq. ft.	4 spaces
150,000 to 230,000 sq. ft. and for each additional 30,000 sq. ft.	5 spaces 1 space

#### 20-013 DIMENSIONS OF PARKING AREAS

- a. Parking space dimensions shall be not less than 9 feet by 18 feet measured normal to the outside boundary lines.
- b. Minimum dimensions for parking lots shall be as follows:
  1. 90 degree pattern single row parking - 40 feet wheel stop to opposite curb.
  2. 90 degree pattern double row parking - 56 feet wheel stop to opposite curb.
  3. 60 degree pattern single row parking - 39 feet wheel stop to opposite curb.
  4. 60 degree pattern double row parking - 53 feet wheel stop to opposite curb.
  5. Parallel space - 9 feet by 23 feet.  
The minimum space between wheel stops with bumper to bumper parking shall be 5 feet.
- c. In self-contained office or other low turnover parking, 30 percent of the required spaces may be designated for small cars and spaces 8 feet by 16 feet may be utilized.

#### 20-014 PARKING LOT LIGHTING

The purpose of the parking lot lighting standards is to protect the users of parking lots and to regulate the spill of light and glare on operators of motor vehicles, pedestrians, and land uses near light sources. (Amended by Ordinance # 1186 5/23/05)

- a. Illumination of parking areas used after dark shall be required for all parking areas with more than ten (10) parking spaces. The illumination must be provided through the use of light fixtures on a pole, and may not be provided by building mounted light fixtures except for industrial areas where the fixture is designed and located in a manner to generally not be visible from street right-of-way or residential properties. Any building mounted fixtures shall be for aesthetic and security purposes only. No fixtures that shine outward and create a glare from street right-of-way or residential properties shall be permitted. Lighting used to illuminate parking areas shall be arranged, located or screened to direct light away from adjoining or abutting residential districts or any street right-of-way. Light poles and fixtures shall meet the following criteria:
  1. The maximum pole height in nonresidential zoned properties adjacent to residential zoned properties shall be twenty-five (25) feet.
  2. Light fixtures shall be nonadjustable, horizontally mounted fixtures, or fixtures with less than ninety (90) degree luminaire cutoff. Fixtures that project light or glare toward street right-of-way or adjoining properties shall not be permitted.
  3. Parking lot poles/fixtures within a planned development shall be of the same style, height, color and intensity of lighting throughout the development area. Varying styles of fixtures may be permitted if it is demonstrated that the styles contribute to an overall theme for the area.

b. Illumination for parking areas shall be provided as follows:

1. Average Maintained Foot-candles: The maximum average maintained foot-candles for all parking lots shall be three (3), unless otherwise approved by the Planning Commission. For purposes of this ordinance the average maintained foot-candles shall be calculated at eight-tenths (0.8) of initial foot-candles. Exceptions to the maximum foot-candles may be granted by the Planning Commission for facilities with unique requirements for nighttime visibility and their limited hours of operation, such as ball fields, playing fields, tennis courts, and other similar athletic facilities.

2. Minimum Foot-candles and Uniformity Ratio: The minimum amount of maintained illuminations for open parking shall be as provided in the following table. For purposes of interpreting the table, the following rules shall apply: high activity uses include athletic events, cultural or civic events, shopping centers and similar uses; medium activity uses include fast food facilities, neighborhood-scale shopping centers, hospitals, residential complex parking and similar uses; low activity uses include local merchant parking, industrial employee parking, educational parking and similar uses.

<u>Uses</u>	<u>Foot Candles</u>	<u>Uniformity Ratio</u>
Low Activity	0.5	4.1
Medium activity	1.0	3.1
High activity	2.0	3.1

3. The light fixtures shall be arranged in order to provide uniform illumination throughout the parking lot.

4. The maximum maintained vertical foot-candle at an adjacent residential property line shall be one-half (0.5) foot-candle measured five (5) feet above grade.

5. The required illumination within a nonresidential development shall be measured at grade.

c. No flicker and flashing lights shall be permitted.

d. Plan Submission Requirements: A point-by-point photometric plan shall be required when deemed necessary by the City Planner or City Planning Commission. Typically, a plan will be required for properties visible from an arterial roadway, areas adjacent to residential, or site sensitive locations in order to show compliance with the lighting standards. The calculation shall be measured at grade for lighting levels within the parking lot. (Amended by Ordinance #1186 5/23/05)

## SECTION 21

### NONCONFORMING USES

#### 21-010 NONCONFORMING USES

The lawful use of a building or premises existing at the time of the effective date of this ordinance may as a non-conforming building or premises be continued although such use does not conform to the provisions hereof. If no structural alterations are made, a non-conforming use of the same or of a more restricted classification shall apply. Whenever a non-conforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use. Generally, nonconformities are of three types: nonconforming lots of record, nonconforming structures, and nonconforming uses. \* See Definition Section

- a. Whenever the use of a building or premises becomes non-conforming through a change in the zoning ordinance or district boundaries, such use may be continued and, if no structural alterations are made, it may be changed upon approval to another non-conforming use of the same or of a more restricted classification.
- b. In the event that a non-conforming use of any building or premises is discontinued for a period of twelve (12) months, the use of the same shall thereafter conform to the use permitted in the district in which it is located. (Amended by Ordinance # 1184 5/9/05)
- c. No existing building or premises devoted to a use not permitted by this ordinance in the district in which such building or premises is located, except when required to do so by law or order, shall be enlarged, extended, reconstructed or structurally altered, unless such use is changed to a use permitted in the district in which such building or premises is located.
- d. The casual, intermittent, temporary, or illegal use of land or buildings shall not be sufficient to establish the existence of a non-conforming use and the existence of a non-conforming use on the part of a lot or tract shall not be construed to establish a non-conforming use on the entire lot or tract.
- e. If a building is damaged by more than 50% of its fair market value, such building shall not be restored if the use of such building is not in conformance with this Zoning Ordinance.
- f. Whether a non-conforming use exists shall be question of fact and shall be decided by the Board of Zoning Appeals after public notice and hearing and in accordance with the rules of the Board.
- g. Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be

performed on any structure that is devoted in whole or in part to a nonconforming use.

- h. No structure that is devoted in whole or in part to a nonconforming use and no nonconforming use of land shall be moved in whole or in part for any distance whatever, to any location on the same or other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.
- i. The lawful use of any sign existing at the time of the passage of these ordinances, in conjunction with a nonconforming use, may be continued. Any sign installed subsequent to the passage of this Zoning Ordinance for a nonconforming use must conform to Section 25 of this Ordinance and in compliance with the district in which the nonconforming use is located.
- j. No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

#### 21-011 STATUS OF SPECIAL USE PERMITS

a. Status of Existing Special Use Permits:

Where a special use permit exists at the effective date of these ordinances and is permitted by these regulations as a special use permit in the zoning district in which it is located, such use shall be deemed a lawful conforming use in such zoning district, as provided by prior approval. Where a special use permit exists at the effective date of these ordinances and is not permitted as a special use permit in the zoning district in which it is located, such use shall be deemed a continuing nonconforming use.

b. Status of Future Special Use Permits:

Any use for which a special use permit has been approved, as provided in these regulations shall be deemed to be a lawful conforming use.

#### 21-012 DEFINITIONS

- a. Dimensional Nonconformity: A nonconforming situation that occurs when the height, size, or minimum floor area of a structure, or the relationship between an existing building or buildings and the other buildings or lot lines, does not conform to the regulations applicable to the zoning district in which the property is located.
- b. Nonconforming Lot of Record: A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.
- c. Nonconforming Structure: Any existing structure, dwelling unit, or undertaking which does not comply with the lot coverage, height or yard requirements which are applicable to new structures or dwelling units in the zoning district in which it is located.

- d. Nonconforming Site Improvement: A situation that occurs when, on the effective date of this ordinance, an existing site improvement on a lot, including but not limited to parking areas, storm drainage facilities, sidewalks and landscaping, no longer conforms to one (1) or more of the regulations of this ordinance applicable to the property.
- e. Nonconforming Use: An existing use of a structure, dwelling unit, or of land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.
- f. Nonconforming Situation: A situation that occurs when, on the effective date of this ordinance, an existing lot, structure or improvement, i.e. parking and landscaping, or the use of an existing lot, structure or improvement no longer conforms to one (1) or more of the regulations applicable to the zoning district in which the lot, structure or improvement is located.
- g. Nonconforming Sign: A sign that, on the effective date of this ordinance, does not conform to one (1) or more of the regulations set forth in Section 25.

#### 21-013 UNSAFE BUILDINGS

Nothing in this article shall prevent the strengthening and restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

## SECTION 22

### SPECIAL USES

#### 22-010 GENERAL CONSIDERATIONS

##### Delegation of Power

The following uses may be located in any district by ordinance under such conditions as the Governing Body may impose after review and recommendation of the City Planning Commission and after public hearing in accordance with Section 27, as amended, provided that in their judgment such use will not seriously injure the appropriate use or safety of neighboring property and will conform to the general intent and purpose of this ordinance and shall comply with the height and area regulations of the district in which it may be located. The governing Body shall decide whether special use permits shall be granted only after having received a recommendation from the Planning Commission. In no event shall a special use permit be granted where the proposed use is not authorized by the terms of these regulations, or where the standards of this article are not found to exist.

The Special Use Permit is issued to the specific business use and if the business is to change hands, the special use shall continue; provided that the following two conditions are met. First, the business must remain open continually during the change. Secondly, no additions or alterations may be made without filing a new site and Special Use Permit application.

Special Use Permits in Residential Districts: In no event shall special use permits in residential districts be transferable from an owner applicant to a subsequent owner of the subject real estate or structure.

#### 22-011 STANDARDS FOR ISSUANCE OF SPECIAL USE PERMITS

Generally, before any permit shall be granted, the Planning Commission shall make written findings certifying that adequate provision has been made for the following:

- a. The location and size of the proposed use in relation to the site and to adjacent sites and uses of property, and the nature and intensity of operations proposed thereon.
- b. Accessibility of the property to police, fire, and refuse collection and other municipal services; adequacy of ingress and egress to and within the site; traffic flow and control; and the adequacy of off-street parking and loading areas.
- c. Utilities and services, including water, sewer, drainage, gas and electricity, with particular reference to location, availability, capacity and compatibility.

- d. The location, nature and height of structures, walls, fences, and other improvements; their relation to adjacent property and uses; and the need for buffering or screening.
- e. The adequacy of required yard and open space requirements and sign provisions.
- f. The general compatibility with adjacent properties, other properties in the district, and the general safety, health and comfort and general welfare of the community and surrounding neighborhood.

*The following is a list of permitted special uses allowed in all zoning districts. However, if the permitted use is allowed in a specific zoning district, then the special use permit request for said use can be waived if it will be located in the zoning district for which the use is permitted.*

- a. Amusement parks, commercial baseball or athletic fields, racetracks, circuses, carnivals or fairgrounds.
- b. Aviation fields or airports.
- c. Buildings or the use of premises for public utility services which are necessary for public convenience and welfare.
- d. Camping areas including minor and incidental concession facilities for patrons only.
- e. Cemetery, mausoleum, or crematory.
- f. Private clubs (establishments which dispense alcoholic beverages).
- g. Conservation or flood control projects.
- h. Day nursery or preschool, and daycare facility.
- i. Extraction of raw materials such as ore, rock, gravel, sand, clay and the like, including screening, crushing, washing or storage.
- j. Golf driving ranges, commercial.
- k. Gun clubs, skeet shoots or target ranges.
- l. Hospitals, clinics, correctional institutions and nursing homes.
- m. Nurseries and greenhouses. (Wholesale or retail)
- n. Parking lots on land within two hundred (200) feet of and serving multiple families, commercial and industrial development.

- o. Philanthropic or eleemosynary (charitable organizations) institutions.
- p. Water Reservoirs, water wells, water tower, filter beds or water supply plants.
- q. Riding stables and commercial dog kennels.
- r. Sewage, refuse, garbage disposal plants and sanitary land fills.
- s. Communication Towers, radio antennas, and similar appurtenances.
- t. Home occupations.
- u. Any use located within the flood plain as defined on the official Flood Insurance Rate Map of the City as issued by the Federal Emergency Management Agency.
- v. Uses requiring special permit as enumerated in Section 18 - "I-H" Heavy Industrial District.
- w. Group homes, adult day care centers, and boarding homes for the elderly and/or infirm.
- x. The use of an accessory building for any use other than as defined in Section 23 and which requires the extension of public water or sanitary sewer service.
- y. Dance Studios.
- z. Senior Citizens Center
- aa. Bed and Breakfast Facility
- bb. In-Home Beauty Salon

22-012 SIGNS

Refer to Section 25 of this Zoning Ordinance for sign regulations.

22-013 PROCEDURES

- a. Application: Special Use Permits shall only be considered upon the applicant's submittal of a completed application. A written application for a special use permit shall be filed with the Planning and Zoning Department and shall include a statement indicating the section of the ordinance which the permit is sought, the grounds upon which it is requested, and sufficient evidence to show that the use will conform to the standards set forth in this Zoning Ordinance. The application shall include an area map, site plan and timeline of the subject

property. The applicant shall submit a site plan along with his application, which shall show the uses and location of uses with respect to the existing buildings and uses in the surrounding area. The site plan will be used to determine what effect such use will have on the character of the neighborhood, traffic conditions, public utility facilities and other matters pertaining to the general welfare.

- b. Fees: Every application for a special use permit shall be subject to a filing fee which is in effect at the time of application and as established by the Governing Body.
- c. Hearing: Upon receipt of the formal application and all required material, the Planning and Zoning Department shall call a public hearing for the next scheduled meeting of the Planning Commission; provided, however, that notice must be published in the official city newspaper at least 20 days prior to the date set for the hearing. In addition, notice must be sent by mail to each property owner within 200 feet of the subject property at least 20 days prior to the date set for the hearing.
- d. Findings: In making a recommendation to the Governing Body, the Planning Commission shall specify the particular grounds relied upon and their relation to the proposed use and shall make affirmative that the proposed use conforms with the general standards set forth in this article. In no case shall an exception be granted if the proposed use will constitute a nuisance, public health, or safety hazard to adjacent properties or to the community at large.
- e. Action by Governing Body: The Governing Body shall consider the Planning Commission's recommendation at the next regular scheduled Governing Body meeting after a 14 day waiting period for which the agenda item can be docketed. The Governing Body shall consider the recommendation of the Planning Commission and act in accordance with the procedures for amending zoning district boundaries.
- f. Publication: The final decision by the Governing Body, if approved, must be published in the official city newspaper within 30 days.

22-14 TIME LIMIT

- a. Sunset: A special use permit shall expire unless a building permit is taken within 12 months to effectuate such specially permitted use; or if no building permit is required, evidence of use is filed with building inspector.
- b. Abandonment: Once a specially permitted use ceases or is abandoned for a period of more than 12 months, the special use permit shall expire.
- c. Home Occupation: A special use permit for a home occupation shall not be transferable to a new owner of the real estate.

## SECTION 23

### ADDITIONAL HEIGHT AND AREA REGULATIONS

#### 23-010 ADDITIONAL HEIGHT AND AREA REGULATIONS

This district regulation hereinafter set forth in this article shall qualify or supplement, as the case may be, the district regulations appearing elsewhere in this ordinance.

- a. Public, semi-public or public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding seventy-five (75) feet, and churches and temples may be erected to a height not exceeding ninety (90) feet, if the building, or the portion thereof exceeding the height limit, is set back from each property line one (1) foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is built provided, however, that such exceptions shall not be permitted within three thousand (3,000) feet of any airport or landing field.
- b. Except as provided in Paragraph D of this article, single family dwellings and two family dwellings in the dwelling districts may be increased in height by not more than ten (10) feet when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than ten (10) feet, but they shall not exceed three (3) stories in height; provided, however, that such additional heights shall not be permitted within two thousand (2,000) feet of an airport or landing field.
- c. Except as hereinafter provided, especially in Paragraph D of this article, chimneys, cooling towers, elevators, bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers, and spires, church steeples, wireless towers, silos, farm buildings, or necessary mechanical appurtenances, may be erected to any lawful and safe height.
- d. No building or structure or any portion thereof shall be erected within the approach zone of any existing runway or landing strip in excess of a height above the elevation at the end of said runway, equal to one-fortieth (1/40) of the horizontal distance from the end of said runway, measured along the centerline of said runway extended. The approach zone is considered to be a trapezoidal area extending from the end of, and in the same direction as said runway for a distance of two (2) miles. Such area is, in the case of an instrument runway, one thousand (1,000) feet wide at the end of the runway for four thousand (4,000) feet wide two (2) miles from the end of the runway, and in the case of a non-instrument runway, five hundred (500) feet wide at the end of the runway and twenty-five hundred (2,500) feet wide two (2) miles from the end of the runway. Engineering calculations shall be verified by federal and state regulatory agencies.  
Further, no building or structure or any portion thereof shall be erected in the transition zones on either side of an approach zone of any existing runway or landing strip in excess of a height above the elevation at the end of said runway, computed as

follows: one-fortieth (1/40) of the horizontal distance from the end of said runway measured along the centerline of said runway extended, plus one seventh (1/7) of the horizontal distance to the near edge of the approach zone, measured perpendicular to the centerline of said runway extended. For the purpose of computing glide angles for the zoning of approaches to any airport in Tonganoxie City, Kansas, in all cases where an airport is bounded by a public road the effective length of runways directed over any such public road shall be computed (using a slope of 40 feet horizontal to one foot vertical) to produce a height of fourteen (14) feet at the right-of-way line of such road nearest to the airport.

- e. Buildings on through lots and extending through from street to street may waive the requirements for a rear yard by furnishing an equivalent open space in lieu of such required rear yard.
- f. In computing the depth of a rear yard or the width of a side yard where the rear or side yard opens onto an alley, none of the alley width may be included as a portion of the rear or side yard as the case may be.
- g.
  - 1. Accessory buildings which are not a part of the main building may be built in a rear yard not closer than two (2) feet to the rear lot line. Total square footage of all accessory buildings which are not part of the main building shall not occupy more than thirty (30) percent of the required rear yard. A swimming pool is not considered an accessory building. *The rear yard shall be computed by multiplying the lot width times the rear setback.*
  - 2. Accessory buildings which are not a part of the main building may be built two (2) feet from the side lot line when located on the rear twenty-five (25) percent of the lot. Except for corner lots, in such cases where the side lot abuts a street right-of-way the accessory building must be setback not closer than thirty (30) feet to the side lot line. (Amended by Ordinance # 1184 5/9/05)
- h. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes.
- i. Every part of required yard not utilized by accessory buildings shall be open to the sky unobstructed, except for the ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed twelve (12) inches. (Amended by Ordinance #1233, May 29, 2007)
- j. Open or lattice-enclosed fire escapes fireproof outside stairways, and balconies opening upon fire tower projecting into a rear yard not more than five (5) feet, and the ordinary projection of chimneys and flues are permitted.
- k. One directional name sign or sign advertising products sold on the premises may occupy required yards in a district where such sign is permitted by the use

regulations of this ordinance, provided such sign is of not more than 30 square feet in area, does not contain flashing, moving, or intermittent illumination and provided the requirements of other ordinances or regulations are complied with.

- l. For the purpose of side yard requirements, a two family dwelling shall be considered as one building occupying a single lot, except that 2 single family attached dwellings may be built along common lot lines, when located in a two family or multiple family district and when both lots are owned by one person, provided all other Area and Parking Regulations are adhered to, in accordance with "RMF-1" requirements.
- m. In the event that a lot is to be occupied by a group of two or more related buildings to be used for residential, institutional, hotel or motel purposes, there may be more than one main building on the lot when such buildings are arranged around a court having direct street access; provided, however:
  1. That said court between buildings that are parallel or within 45 degrees of being parallel, shall have a minimum width of 30 feet for one story buildings, 40 feet for two story buildings, and 50 feet for three story buildings, and in no case may such building be closer to each other than 15 feet.
  2. Where a court having direct access is more than 50 percent surrounded by a building, the minimum width of the court shall be at least 30 feet for one story buildings, 40 feet for two story buildings, and 50 feet for three story buildings.
- n. Accessory, open and uncovered, swimming pools and home barbecue grills may occupy a required rear yard, provided they are not located closer than five (5) feet to the rear lot line nor closer than three (3) feet to a side lot line. All swimming pools must be fenced and secured
- o. An open unenclosed, paved porch or paved terrace, deck or /patio may project into a front or rear yard for a distance not exceeding sixteen (16) feet.
- p. Filling station pumps and pump islands may occupy the required yards; provided, however, that they shall not be less than twenty (20) feet from street right-of-way lines.
- q. Condominium ownership shall not constitute violation of the lot and yard requirements of this ordinance (Amended by Ordinance 1230, 5/29/07)

#### 23-011 OPEN STORAGE

The storage of salvage or scrap materials, inoperable motor vehicles, household goods or furniture, or business equipment or supplies for more than nine (9) consecutive days shall not be allowed unless such items are stored in a completely enclosed building and are clearly secondary to the primary use of the property.

## SECTION 24

### LANDSCAPING AND SCREENING

#### 24-010 PURPOSE

- a. To integrate the project with the site, in the particular relating to natural topography and existing vegetation.
- b. To enhance the architecture of the site structures and soften the view of paved areas.
- c. To minimize the environmental effect of a development by providing shade, erosion control, noise, glare and heat abatement.
- d. To protect the character and value of surrounding neighborhoods.
- e. To buffer or screen uncomplimentary land uses and their service areas, equipment and appurtenances.

#### 24-011 PLAN REQUIREMENTS

- a. Landscape Plan Requirements. A landscape plan is required for all new multifamily, office and professional, commercial, and light industrial developments, and major additions to such developments, and shall include the following information:
  - b. North point and scale (a scale of not less than 1" = 50' is desirable 1" = 20' may be required).
  - c. Topographic information and spot elevations sufficient to adequately identify and properly specify landscaping for slope stabilization and required screening.
  - d. The location, size and notation of site elements such as buildings, walks, parking areas, and above ground and underground utilities.
  - e. The location, type and size of existing plant material to be retained.
  - f. The location, type, size and quantity of all proposed plant material and related structural and decorative features. Common and botanical names shall be provided for all proposed plant material. Size at time of planting shall be specified according to American Association of Nurserymen Standards.
  - g. The location of all trees 12-inch diameter or larger, measured at 1 foot above ground level, to be provided whether the tree is to be retained or is proposed for removal.
  - h. Location of all watering sources.

- i. Screening Plan Requirements. When landscape screening is proposed, the screening plan shall be included in the landscape plan or include the same plan components. When architectural screening is proposed, construction details must be submitted.
- j. Approval. All landscape and screening plans shall be submitted to the City Planning Commission for review and approval as to adequacy, prior to the issuance of a building or land use permit. In case of disapproval of a permit for reasons of unacceptable landscape and/or screening plans, the applicant may appeal the decision to the Appeals Board for review and final determination.

#### 24-012 GENERAL REQUIREMENTS AND GUIDELINES

##### a. Landscaping

- 1. The area between the curb of a public street and the property line shall be brought to finish grade and planted in grass. In no case may this area be paved or covered with materials other than grass or an appropriate ground cover, except at approved driveways which shall be paved. Approved street trees may also be planted.
- 2. All areas not covered by buildings, paved area, or other acceptably improved areas shall be landscaped with such landscaping continuously maintained. Where healthy plant material exists on a site prior to its development and where such plant material is not damaged by site development procedures, such plant material may be credited toward the minimum number specified for each zoning category. Such existing plant material must, however, be in keeping with the intent of this ordinance. This will be determined by its type, size and location as noted in the required landscape plan.
- 3. No landscaping in street rights-of-way or in the required sight distance on corner lots shall be allowed to exceed 24 inches in height, except for approved street trees.

##### b. Screening

- 1. Screening setback. Screening shall not extend into the sight distance or beyond the required parking or paving setback where side or rear lot lines approach a street right-of-way.
- 2. Existing screening. If existing screening on either side of a property line meets or exceeds screening requirements, no additional screening will be required. However, if at any time such screening fails to conform to ordinance requirements, compliance shall be provided by the owner of property in the less restrictive zoning district.
- 3. Screening of outside trash bins or trash containers. All outside trash bins or trash container areas must be completely enclosed by an architectural screen to a height not less than the height of the bin or container. No trash enclosures may be located in required yards adjacent to street right-of-way.

In commercially and industrially zoned areas where the trash container will not be visible from off the property due to other screening or topographic conditions and will not be visible from public parking or pedestrian areas on the site, such trash bin screening need not be provided.

4. Screening of Mechanical Equipment. Mechanical equipment or other utility hardware whether on the ground or on a building shall be screened from public view. Such screening shall be harmonious with building design and materials.
  5. Screening of Parking Areas. Where a parking lot serves other than single family or two family dwellings and is adjacent to or across an alley from property zoned for single family or two family use, such parking lot shall be provided with an architectural screen at least 4 feet in height above the paving surface. Buffer plantings or landscape screening may be substituted if protection from headlights is not determined to be necessary. Where more stringent requirements exist, they shall apply.
- c. Fences, walls or hedges. Except as otherwise specifically provided in other Codes and regulations, the following regulations and design criteria shall apply to all fences, walls, or hedges. Any fences, walls, or hedges established according to ordinances prior to March 26, 2007 and made nonconforming upon adoption of these regulations may be continued subject to Section 21. (Amended by Ordinance #1233, May 29, 2007)
1. Maximum height. Fences, walls, or hedges may be constructed or planted to a maximum height of six (6) feet in residential districts and eight (8) feet in commercial and industrial districts, as measured above the average grade level on the property line. Fencing around tennis courts and other recreational facilities shall be exempt from these maximum height limitations.
  2. Corner Visibility. No fence, wall or hedge shall be constructed, planted, reconstructed or replaced in a manner which obstructs the intersection sight triangle as defined in Section 32.
  3. Setbacks in Residential Districts. No fences or walls shall be permitted in the front yard.

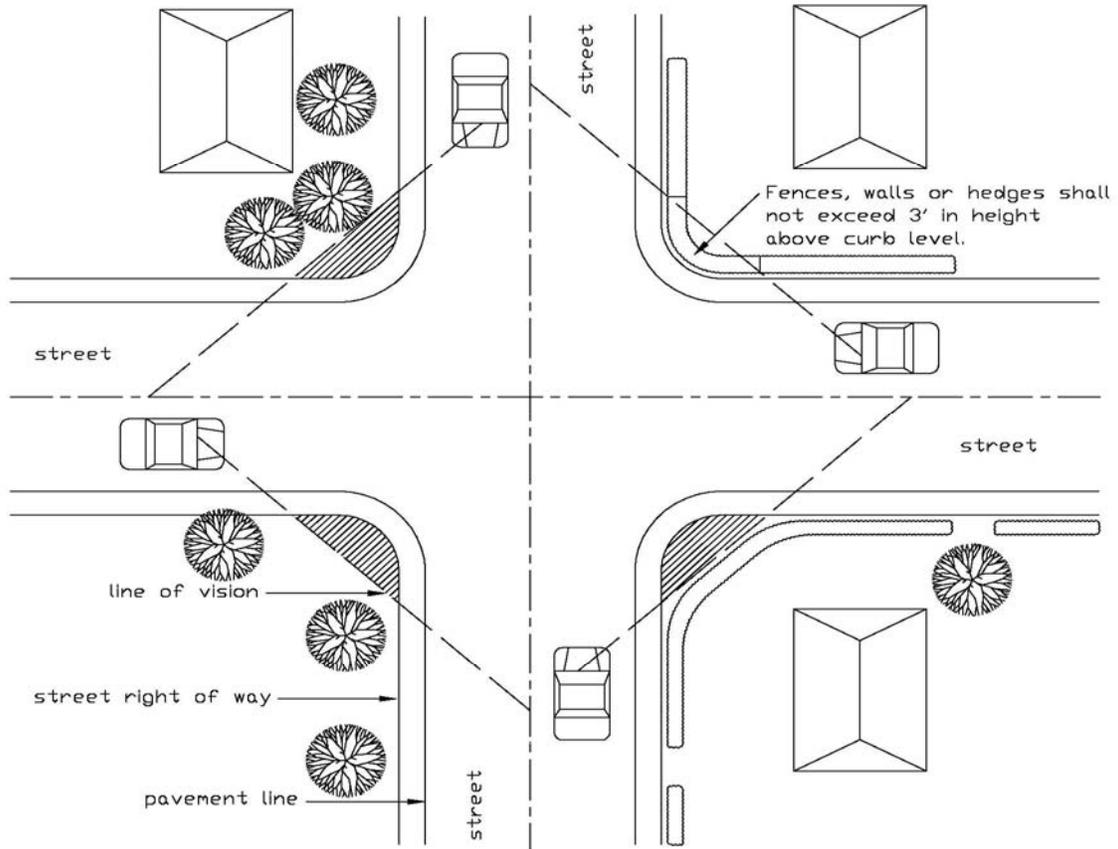
Fences, walls, and hedges may be permitted in interior side yards and corner side yards. However, no fence or wall shall be located within 8-feet of street right-of-way in corner rear yards or corner side yards.

Fences or walls shall maintain a minimum setback of ten (10) feet from arterial street right-of-way. Residential properties along arterial streets may have fences or walls within the rear setback only when approved as part of the master fence/landscape screening plan.

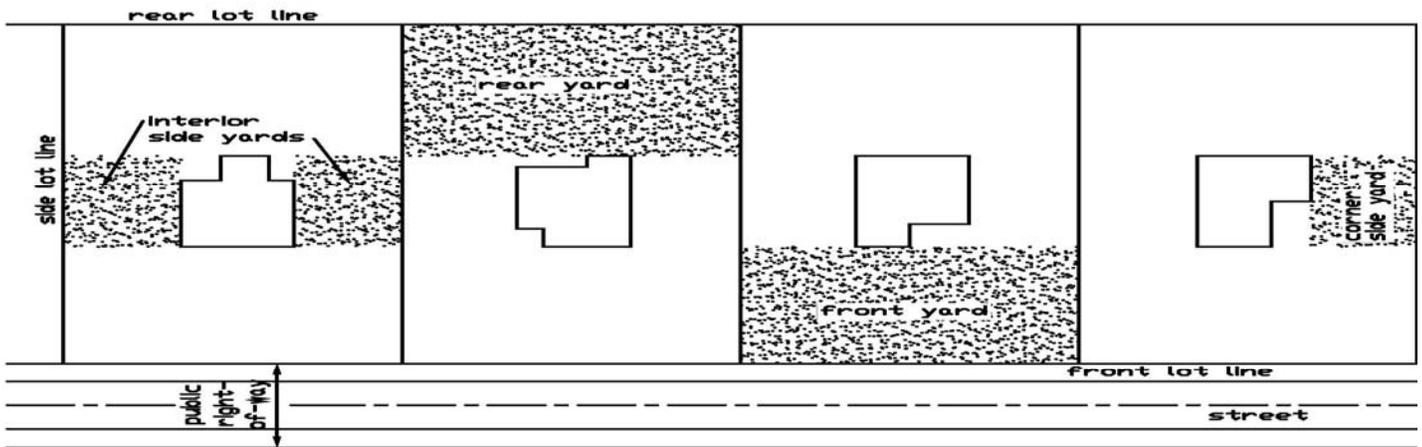
Nothing herein shall discourage or prohibit the landscaping, planting, or screening and erection of stand alone decorative fences no taller than three (3) feet in the front yard or corner side yard that are not hazardous to traffic. Such decorative fences shall not include chain-link or wire type fencing materials.

4. Setbacks in nonresidential districts. Fences and/or walls shall not be placed in the setback area from street rights-of-way or within the perimeter landscape areas for screening. Landscape screening shall be located between a property line and a fence or wall, unless otherwise approved by the Planning Commission.
5. Construction and Materials. Fences or walls shall be limited, or similar, to one of the following types of construction: brick or stone walls or pillars, solid board, shadow box, basket weave and lattice, crossed, chain-link, wood stockade, split rail, wood rail, wrought iron, spaced picket fence, imitation vinyl or other similar decorative material as approved by the Planning Commission.  
Barbed wire and electric fencing (above ground) is prohibited in residential (except agricultural) and commercial districts.  
All fences and walls shall be constructed with a finished surface facing outward from the property (e.g. in the case of a wooden fence, a “finished surface” means a surface of the fence where the pickets or slats are fully exposed to view). The posts and support beams shall be on the inside of the finished surface. However, the posts and support beams may be outside the finished surface if compliance with this standard is deemed impractical by the City Planner.  
Retaining walls are permitted where the wall is reasonable necessary due to topography, where the wall is located at least two (2) feet from any street right-of-way, and where the wall does not extend more that six (6) inches above the ground level of the land being retained. Retaining wall construction is subject to approval by the City Engineer and City Building Inspector.
6. Maintenance. All fences and walls shall be maintained in their original upright condition. Fences or walls designed to be painted or have other surface finishes shall be maintained in their original condition as designed. Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quantity.

7. Graphics  
1. Line of Sight



2. Required Yards



#### 24-013 DISTRICT REQUIREMENTS

Refer to Site Review Regulations (Ordinance #1020) for more detail.

- a. In the R-R, R-E, R-1, and R-SF Districts, one shade tree per dwelling unit is required in the front or corner side yard, and one tree per 7,000 square feet of site area for uses other than residences.
- b. In the RMF-1, and R-MF2 Districts, buffer plantings, which shall include the equivalent of a minimum of 1 evergreen tree or 1 shade tree and 3 large shrubs for each 30 feet of adjacent project boundary, shall be provided for such development adjacent to single family or two family zoned properties. Such buffer plantings may be arranged on any portion of the property. One tree and one shrub shall be provided in addition to the buffer planting for each 4 living units. Buffer plantings may be required to be concentrated along potentially unsightly areas or where sensitive areas exist on adjacent property.
- c. Districts GBD and LBD: A 6' fence is required along any property line adjacent (or across the alley from) to any residential property.
- d. Districts I-LT, I-MD and I-H: A buffer area shall be provided along side and rear property lines common to or across an alley from residentially zoned property and shall consist of an area 15 feet in width improved with a six foot architectural screen adjacent to the property line and one row of shade trees spaced not more than 40 feet on center and one row of large shrubs spaced not more than eight feet on center.
- e. District I-H and Special Use Districts. Trees may be required depending on the particular location and surroundings of the project up to a maximum of 1 tree per 15,000 square feet of site area. Auto salvage yards shall be enclosed by a minimum 8 feet tall architectural screening fence, and nothing shall be stored to a height greater than the height of the fence.

#### 24-014 EXISTING PLANT MATERIAL

Where healthy plant material exists on a site prior to its development and where such plant material is not damaged by site development procedures, such plant material may be credited toward the minimum number specified for each zoning category. Such existing plant material must, however, be in keeping with the intent of this ordinance. This will be determined by its type, size, and location as noted in the required landscape plan. No artificial plants or vegetation shall be used to meet any standards of this section

#### 24-015 PLANTING REQUIREMENTS

The following include minimum planting sizes.

- a. Trees
  1. Shade trees - two-inch caliper as measured 12 inches above ground. Nuisance trees should be avoided.

2. The City encourages the planting of native materials which require less water and maintenance.
  3. Ornamental deciduous trees - 6 feet to 8 feet in height.
  4. Evergreen trees - 5 feet to 6 feet in height.
  5. Trees down to 75% of the minimum planting sizes may be permitted if a proportionately greater number of trees are planted.
- b. Shrubs (deciduous and evergreen) - size varies determined by function.
  - c. Ground cover and vines used for ground cover - to be planted in size and number needed to provide 75% coverage after two full growing seasons. Areas intended for ground cover and subject to erosion must be provided with a form of temporary soil surface stabilization until vegetative cover can be established.
  - d. Turf Grass - grass areas may be sodded, plugged, sprigged or seeded. Areas subject to erosion must be sodded or, if other methods are used, proper soil stabilization must be provided until complete vegetative cover is achieved. Complete coverage must be established in the first growing season.
  - e. Landscape Screening - plant material used for screening shall provide coverage of at least 50% of the required screening area in the first growing season. Total coverage must be accomplished by the third growing season. Deciduous plant material used for screening purposes shall have a twig or branch structure dense enough to provide a solid winter screen. Plant material used for screening purposes may exceed screening height requirements provided such plant material does not adversely affect adjacent properties. At the discretion of The City Planning Commission, plant selection for screening purposes shall be certified by a registered, licensed landscape architect or nurseryman that such plant material will conform to the standards and objectives of this ordinance.

#### 24-016 MAINTENANCE

The owner, developer, their agents and successors shall be responsible for all maintenance. All landscaping must be maintained in a healthy and orderly appearance, and kept free of debris and dead plant material. All plant material which has died or has been severely damaged by insects, diseases, vehicular traffic, acts of God, vandalism, etc., must be replaced by the next planting period. Architectural screening shall be maintained in good repair.

#### 24-017 LANDSCAPE MATERIAL AND SCREENING INSTALLED PRIOR TO FINAL OCCUPANCY

All landscape elements and screening must be in place and in proper condition prior to issuance of final certificate of occupancy. In instances where adverse weather or seasonal restriction precludes planting, a temporary occupancy may be granted by the City Administrator.

SECTION 25  
SIGNS

Updated by Ordinance 1208 on May 22, 2006  
Updated by Ordinance 1243 on September 24, 2007

25-010 PURPOSE

- a. The purpose of this section is to recognize the community's need for effective individualized identification, to prevent confusing and objectionable clutter, to promote traffic safety, to protect property values by enhancing the harmony between residential and commercial uses, and to preserve, protect and promote the public health, safety and general welfare.
- b. These regulations are adopted to assure fair and consistent regulation of signs within the City. No land, building or structure shall be used for signage purposes except as specified herein.

25-011 DEFINITIONS.

1. “A” Frame Sign: A freestanding sign which is ordinarily in the shape of an "A" or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure.
2. Abandoned Sign: A sign which no longer advertises or identifies a business, lessee, owner, product, activity, message or location that is available to the public.
3. Animated Sign: A sign that has movement or the appearance of movement of either the sign content or components, which is produced either mechanically or electronically.
4. Attention-Attracting Device: Any device intended to attract the attention of the public to an establishment, location, product or service, except signs as permitted by this ordinance. Such device or sign may include balloons, flags or pennants, search lights, twirling signs, inflatable objects, etc.
5. Average Grade: The area immediately below and within a radius of 20 feet of a sign.
6. Awning: A roof-like cover that projects from the wall of a building for the purpose of shielding a doorway, walkway, or window from the elements. Awnings are often made of fabric or flexible plastic supported by a rigid frame, and may be retracted into the face of the building.
7. Awning/Canopy/Marquee Sign: A sign painted, stamped, perforated, stitched, mounted or otherwise applied on the valance of an awning or canopy.

8. Billboard: A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than on the premises on which the sign is located.
9. Bulletin or Poster Case Sign: A sign that indicates the name of the organization, institution, or business on whose premises it is located and which contains the name or names or persons connected with it, and announcements of persons, events or activities occurring on the premises. Such sign may also present a greeting or similar message.
10. Canopy:
  - a. Building Canopy: A roof-like structure attached to a building covering the entrance, exit, walkway, or loading dock, not including the building roof line extension. For the purpose of this ordinance, when the pitch of a building canopy is 1:4 or less (twenty-five [25] degrees or less from vertical), the face of the canopy shall be considered part of the wall.
  - b. Freestanding Canopy: A self-supported, detached roof-like structure, such as a structure covering gas fueling stations.
11. Community Information Signs: A sign located within a planned community, that serves to direct people to a residential subdivision, public building, or community facility such as, but not limited to, a recreational area, nature trail, golf course, information area, etc.
12. Community Interest Signs: A sign that is sponsored by a recognized local non-profit organization whose purpose is to display messages of public interest and which does not display any advertising for any goods or services offered by any business, retailer or commercial interest.
13. Complex: A group of freestanding buildings, or buildings constructed in such a manner as to give an appearance of being interrelated because of architectural similarity and/or interconnected drives and parking areas; or a building divided into three (3) or more separate offices, businesses, or apartments provided that building is not part of a large complex. A complex shall be limited to apartment, office or business complexes, shopping centers and/or industrial parks.
14. Directory Sign: A single-faced, non-illuminated wall sign that displays only the name and occupation of the person or persons occupying space in the building.
15. Directional Sign: A sign that indicates the distance, direction, or activity on the premises, such as “exit,” “one-way,” “drive-in,” “auto service,” etc.
16. Electronic Message Board: Uses changing lights to form a sign message(s) or symbols that are electronically programmed and can be modified by electronic processes.

17. Flashing Sign: A sign that gives the effect, either directly or indirectly, of intermittent movement, or changes to give two or more visual effects.
18. Identification Sign: A sign giving the name and address of a structure, business development, or establishment. Such signs may be a wholly or partly devoted to a readily recognized symbol.
19. Illuminated Sign: A sign illuminated in any manner by an artificial light source.
20. Incidental Sign: A sign providing information about the occupancy or conduct of business permitted on a premises, such as logos of credit cards accepted on the premises, hours of operation, a “closed” or “open” sign, emergency contact name and phone number, street address, “help wanted”, “no loitering or solicitations”, security system notices, notices required by law, and similar signs shall be construed to be incidental signs.
21. Indirectly Illuminated Sign: A sign which is illuminated by a shielded light source.
22. Internally Illuminated Sign: A sign illuminated by an internal light source diffused through a translucent material.
23. Inflatable Sign: A sign that is intended to be expanded by air or other gas for its proper display or support.
24. Lights: The following lights are not allowed on a sign, as a sign, or in conjunction with a sign within the City of Tonganoxie:
  - a. Search Light: A projected beam of light.
  - b. Twirling or flashing lights: Lights that flash or twirl either erratically or rhythmically for the purpose of drawing attention to an object or event.
  - c. Strobe Light: A device that utilizes a flash-tube for high-speed illumination.
  - d. Disco Balls: A sphere with miniature mirrored or reflective tiles attached to the surface for the purpose of reflecting light in many directions.
25. Monument Sign: A freestanding sign mounted on the ground and having a solid appearance and a low profile, normally consisting of a face and base. The width and length of the supporting base shall be no less than the sign face.
26. Mural: Any picture, scene, or diagram on an exterior wall or fence generally for the purposes of decoration or artistic expression, including painting, fresco, or mosaic, and not interpreted by the City Planner to be advertising. Murals with advertising shall be considered oversized wall signs.
27. Name Plate: See Directory Sign.

28. Off-Site Sign: Signs advertising businesses, services or products that are not located on the same legal parcel of property as the sign. A “complex sign” as defined and permitted by this Section shall not be considered an off-site sign.
29. Oversized Wall Sign: See Wall Sign, Oversized.
30. Pole Sign: A sign, placed so that the bottom edge of the sign face is six feet or more above the average surrounding grade, and supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structure.
31. Portable Sign: A sign which is not permanently affixed to the ground, building or other structure, which may be mounted on wheels, and can easily be transported from place to place, but does include permitted temporary signs. Portable signs may be with or without electrical power.
32. Private Sale or Event Sign: A temporary sign advertising private sales of personal property such as garage sales, rummage sales, etc., or private not-for-profit events such as picnics, carnivals, bazaars, game nights, art fairs, craft shows and Christmas tree sales.
33. Project Construction Sign: A sign erected on the premises on which development is taking place during the period of such development. Such sign may indicate the names of architects, engineers, landscape architects, contractors, or similar individuals, and the owners, financial supporters, sponsors or similar individuals or firms having a role or interest with respect to the structure or project.
34. Projecting Bracket Sign: A sign that is wholly or partly dependent upon a building for support and which projects away from the building face. The sign shall not extend more than three (3) feet from the face of the building.
35. Real Estate Sign: A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located.
36. Roof Sign: Any sign erected upon, against, or above a roof or roof eave, or on top or above the parapet, or on a functional architectural appendage above the roof or roof eave.
37. Sight Triangle: 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 2½ feet and 8 feet above the grades of the outside edge of the street surface of the intersection streets, measured from the point of intersection of the centerline of the streets, 90 feet in each direction along the centerline of the streets. The City Engineer shall establish sight distance triangles based upon standards in the policy manual published by the American Association of State Highway and Transportation Officials (AASHTO).

38. Sign: Any identification, description, illustration, message, symbol, logo, or device used to inform or attract attention to an object, product, place, activity, person, institution, organization or business, with the exception of an official notice, flag, pennant, emblem or insignia of any official political unit--nation, state, etc. A sign shall not include a similar structure or device located within a building except illuminated signs within a window.
39. Sign Alteration: The replacement, enlargement, rewording, and reduction, reshaping, or repainting using different colors, of a sign to serve an establishment or business.
40. Sign Face: The area within a line including the outer extremities of all letters, figures, characters and logos; or within a line including the outer extremities of the framework or background.
41. Sign Maintenance: The normal care and minor repair that is necessary to retain a safe, attractive sign and supporting structures. Repainting with the same colors, or repairing copy or logo shall be considered maintenance if the name, product, service, place, activity, person, etc., depicted remains the same.
42. Sign Structure: The base, supports, uprights, braces, framework, and face of a sign.
43. Snipe Sign: A sign constructed of any kind of material that is attached to a utility pole, tree, fence, or similar object located or situated on public or private property.
44. Temporary Event: An activity having a specific duration or the end of which is related to a specific action, usually lasting for a period of a few weeks or a few months at a time. Temporary events include such activities as:
- a. The offering of a property or premises for sale or lease.
  - b. The construction of a building or development project, or the rehabilitation, remodeling or renovation of a building.
  - c. Each political campaign, referendum or ballot proposition put to the voters as part of county, state or federal governance.
  - d. Special, temporary event that requires attention-getting devices.
45. Temporary Event Sign: A temporary sign or banner for special events such as sidewalk sales, civic club events, school activities, garage sales, etc, not including attention attracting devices such as flags or pennants, balloons, search lights, twirling signs, inflatable figures, etc.
46. Temporary Freestanding Sign: A sign constructed of cloth, canvas, cardboard, plywood or other similar material, which is readily moveable and not permanently attached to the ground or any structure thereof, that does not constitute a structure, and which is intended to be displayed for a short period of time. Such a sign

includes by is not limited to “A” frame, “T” frame, sidewalk, and sandwich signs. Attention-attracting devices or signs and other temporary event signs are not included in this definition.

47. Tenant: One who possesses or occupies land or buildings by title, under a lease, or through payment of rent; an occupant, inhabitant, or dweller of a place.
48. Time and/or Temperature Sign: A sign displaying time and/or temperature information with no additional advertising or comments other than the name of the company which owns the sign.
49. Wall Sign: A sign painted on the outside of a building or structure, or attached to, and erected parallel to the face of a building, and supported throughout its length by such building.
50. Wall Sign, Oversized: A mural applied on a wall of a building determined to be a sign and shall be included in the calculations of allowable sign area. A mural that contains a brand name, product name, letters of the alphabet spelling or abbreviating the name of a product, company profession, or business, or any logo, trademark, trade name, or other commercial message shall be considered a sign.
51. Window Sign: A sign that is applied on or behind a windowpane or located in such a manner within a building that it can be seen from the exterior of the structure.
52. Yard Sign: A sign supported by one or more uprights, posts, or bases placed upon or affixed in the ground and not attached to any part of a building.

#### 25-012 ADMINISTRATION

- a. Applicability: Every sign shall conform to the requirements of this ordinance, irrespective of when such sign was established within the City limits unless otherwise allowed for in these sign regulations. Any sign shall, by definition, shall be considered a structure. All signs shall be constructed in such a manner and of such material that they shall be safe and substantial.
- b. Zoning District Requirements: Signs are allowed in each zoning district as described in this chapter and as further provided in Section 25-028 - Table of Permitted and Specially Permitted Signs. Signs may be permitted by right in a zoning district, conditionally permitted upon review and approval by the Planning Commission, prohibited in a zoning district, or permitted upon approval of a special use permit.
- c. Sign Permit Required:
  1. It shall be unlawful for any person to erect, or alter any sign as defined in this ordinance without first obtaining a sign permit from the City including signs permitted by right, conditionally permitted, or permitted upon approval of a

special use permit. This requirement shall not be construed to require a permit for sign maintenance as defined in Section 25-011, altering changeable copy on permitted signs, or signs exempted from a permit as described elsewhere in this ordinance.

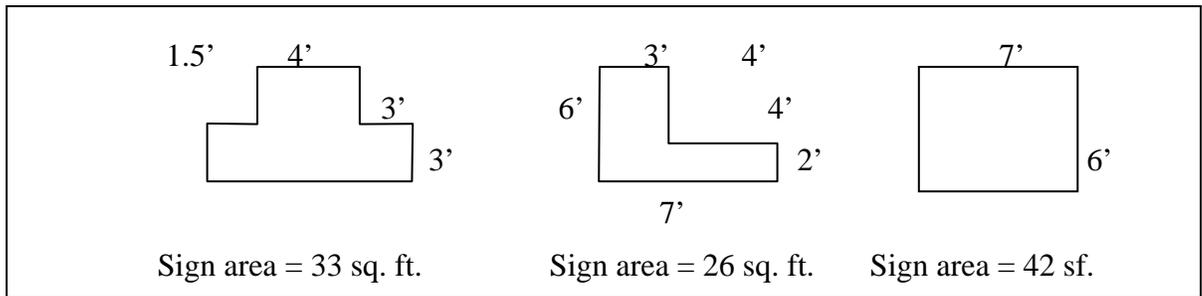
2. Applications: Sign permits shall be made on a form provided by the City and shall be accompanied by two (2) sets of plans drawn to scale indicating sign size, location, method of illumination, colors, materials of the sign and structure, and method of attachment. In addition, the applicant shall submit other information relating to the placement, construction, design, etc., of the sign as may be required.
  3. Issuance: The City shall issue a permit for the erection, alteration, or relocation of a sign when an application has been properly made and the sign complies with all appropriate laws and ordinances. The City shall approve or deny the sign permit application not later than thirty (30) days following the date of its submission.
  4. Revocation and Denial: The City may, in writing, suspend or revoke a permit issued on the basis of a misstatement of material fact or fraud. When a sign permit is denied by the City, a written notice of the denial shall be provided to the applicant, together with a brief written statement of the reasons for the denial.
  5. Sign Permit Appeals: An appeal of denial may be made to the Board of Zoning Appeals upon denial of a sign permit. Said appeal shall be filed within thirty (30) days of the denial of the sign permit. The Board of Zoning Appeals shall consider the appeal not later than forty-five (45) days after the appeal has been filed unless a request for continuance is submitted by city staff or the applicant.
  6. Effect of Permit Issuance: No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign nor shall any permit hereunder constitute a defense in an action to abate an unlawful sign.
- d. Removal of Sign:
1. If it has been determined that any sign or other advertising structure regulated herein is unsafe, or has been constructed, erected or is being maintained in violation of the provisions of this ordinance, written notice shall be given to the sign owner. The owner shall immediately remove or repair the sign to bring it into compliance and/or make it safe. If the owner fails to remove or repair the sign so as to comply within five (5) days after the notice, the City may cause the sign to be removed or repaired to make it safe, at the expense of the permittee or owner.

2. The City Clerk shall mail a statement of the costs for removal or repair of the unsafe or unlawful sign to either the last known address of the owner of record of the property, the person in charge of such property, or the sign permittee. If said costs are not paid within ten (10) days from the time of mailing the notice, the Governing Body of the City may proceed to pass an ordinance levying a special assessment for the cost against the subject lot or parcel of land. The City Clerk shall certify the assessment to the County Clerk for collection and payment to the City in the same manner as other assessments and taxes are collected and paid to the City.

25-013 GENERAL STANDARDS

a. Area Measurement:

1. The surface area of a sign shall be calculated by enclosing the extreme limits of all lettering, background, emblem, logo, representation, or other display within a single continuous perimeter composed of squares or rectangles with no more than eight lines drawn at right angles. (See below)



2. Supporting framework or bracing that is clearly incidental to the display itself shall not be computed as sign area.
3. Double-faced (back-to-back) signs shall be regarded as a single sign only if mounted on a single structure, and the distance between each sign face does not exceed two feet at any point. Only one face of a double-faced sign shall be measured when determining maximum allowable area. In the case of different sign faces, the face with the largest computed sign area shall be used.
4. Three-dimensional objects, sculpture or trademarks that project from the face of the sign shall be measured at their maximum projection upon a vertical plane. No object may project more than six (6") inches from the sign face.
5. Time and temperature devices shall be excluded from the computation of sign area unless they are an integral part of the sign
6. Maximum sign area is per site, not per sign.

- b. Content: The text of permanent signs shall relate only to the name and/or nature of the business or service. Permanent signs that advertise continuous sales or special prices shall not be allowed except as in bulletin signs or service station signs. It shall be unlawful to display any sign that is deemed by the Governing Body to be obscene, indecent or immoral.
  
- c. Height Measurement: The height of a sign shall be measured as the vertical distance from the uppermost point of the structural to the average grade immediately below and within a radius of 20 feet of the supporting structural member(s) of the sign.
  
- d. Illumination: The following standards are applicable for all illuminated signs to reduce any negative impacts upon surrounding neighborhood or right-of-way areas.
  - 1. External light sources shall be directed and shielded to limit direct illumination of any object other than the sign.
  - 2. The light from an illuminated sign shall not be of an intensity or brightness that will create a negative impact on residential properties in direct line of sight to the sign.
  - 3. Signs shall not have blinking, flashing, or fluttering lights, or other illuminating devices that have a changing light intensity, brightness or color.
  - 4. Colored lights shall not be used at a location or in a manner so as to be confused or construed as traffic control devices.
  - 5. Reflective type bulbs and incandescent lamps that exceed 15 watts shall not be used on the exterior surface of signs so that the face of the bulb or lamp is exposed to a public right-of-way or adjacent property.
  
- e. Maintenance: All signs shall be of sound structural quality, be maintained in good repair, have a clean and neat appearance, and land within ten (10) feet in any direction from the base of the structure or wall shall be kept free from debris, weeds and trash.
  - 1. General maintenance of said sign shall include the replacement of nonfunctional, broken, or defective parts, painting, cleaning and upkeep of the premises immediately surrounding the sign or advertising structure, and any other action required for the maintenance of said sign or advertising structure. All signs and supporting structures shall be kept painted or treated in some manner to prevent rust, decay or deterioration.
  - 2. If signs are not maintained as described and the Code Enforcement Officer deems them a public safety hazard or nuisance, such signs shall be removed. All costs for removal of said sign shall be assessed against the property owner.
  - 3. Should any sign, which is placed in a public easement, be damaged due to maintenance of utilities in that easement by the City or others, the cost for repairs or replacement of said sign shall be borne by the sign owner.

- f. Removal or Replacement: A sign shall be removed by the owner or lessee of the premises within 90 days of the discontinuance of the business that it advertises. When a sign is removed, all brackets, poles, and other structural elements that supported the sign shall also be removed. Affected building surfaces shall be restored to match the adjacent portion of the structure.
- g. Placement on Easement or Right-of-Way: No privately-owned sign shall encroach into a public right-of-way, except as noted under projecting building signs. No private sign shall be placed on a public easement, unless, in the opinion of the City Engineer, such placement will not interfere with the intended use of said easement.
- h. Setbacks: Unless otherwise stated, all signs shall observe a minimum fifteen (15) foot setback from the property line.
- i. Sight Distance at Intersections: No sign, which obstructs the view, shall be allowed within the sight triangle of a street intersection as described in Section 32-010.
- j. Canopy or Awning Sign: This type sign is permitted as an integral part of the awning or canopy to which they are attached or applied.
  - 1. Signs may be lettered on awnings located on a one- or two-story building. Awnings may be at either level of the building, and may face a parking lot, street right-of-way or a pedestrian walkway.
  - 2. Sign area shall occupy no more than thirty-five (35) percent of the canopy/awning.
  - 3. The lower edge of a canopy shall be no closer than ten (10) feet to any sidewalk nor fourteen (14) feet to any street or alley surface where vehicles may pass below.
  - 4. Awnings or canopy signs may not be internally lighted. Lighting directed downward and not illuminating a sign is allowed.
  - 5. Awnings and canopies shall be regularly cleaned and kept free of excessive dust or visible defects.
- k. Changeable Copy Sign: These include marquees, electric/electronic/mechanical signs, service station signs, etc. Due to the highly distracting nature of many such signs, they must be approved by the Planning Commission. The Commission shall consider affect on area, location and sign format or programming when evaluating. Allowed (with approval) in all districts, but limited to church, school, public and semi-public uses in residential areas. These signs may be strictly limited in areas where they may cause a traffic hazard or nuisance or disruption to the surrounding neighborhood.
- l. Monument Sign:
  - 1. A monument sign may be located only within a site frontage adjoining a public street.
  - 2. A monument sign may be single or double-faced. Maximum area of a sign shall be sixty (60) square feet, with no sign face exceeding thirty (30) square

feet. Maximum overall height of a monument sign and structure shall be six (6) feet.

3. Monument signs may be mounted upon a solid base.
4. The design of a sign shall be consistent with the overall scale of the building or location.
5. The design and placement of the sign shall not interfere with the sight triangle at any intersection as set forth in Section 32.

m. Multi-Tenant Centers: In the case of an office park, hotel or motor hotel, shopping center, industrial park, or other grouping of five (5) or more buildings, tenants or establishments, the developer shall prepare a set of sign standards for all exterior signs. Such standards shall run with all leases or sales of portions of the development. The size, colors, materials, styles of lettering, appearance, or any logo, type of illumination and location shall be set out in such standards. Said standards shall be designed within the stated zoning regulations building codes and shall be for the purpose of assuring harmony and visual quality throughout a project. Standards shall be submitted to the Planning Commission for review and approval.

n. Pole Sign: Pole signs shall not be permitted, except upon approval of a special use permit for properties zoned GBD with direct frontage along U.S. 24-40 Hwy.

1. No more than one pole sign shall be allowed per business property or development complex.
2. Maximum area of a sign for business identification purposes shall be 85 square feet.
3. Maximum overall height for pole signs is fifteen (15) feet above the average grade.

o. Projecting Bracket Sign:

1. The maximum sign area of a projecting bracket sign shall be twenty (20) square feet per sign face, with two (2) sign faces permitted.
2. No projecting building sign shall project more than four (4) feet or one-third (1/3) of the sidewalk width from the wall of the supporting building, whichever is greater.
3. The lower edge of a projecting bracket sign shall be no closer than ten (10) feet to any sidewalk nor fourteen (14) feet to any street or alley surface where vehicles may pass below.
4. The upper edge of a projecting building sign shall not extend vertically above the eave line of a single-story structure or above the second story sill line of a multistory structure.
5. Supports and brackets shall be compatible with the design and scale of the sign.

p. Wall Signs:

1. A sign may not obstruct any portion of a window, doorway, transom, or other architectural detail. However, these elements may be incorporated into the sign content.

2. The top of the sign when placed on a parapet or a canopy shall not extend more than five (5) feet above the actual roofline.
3. In shopping centers and business and professional office buildings one (1) wall sign per storefront (tenant space) or façade section shall be permitted, not to exceed ten (10) percent of the exterior wall area of the tenant space upon which it is mounted. The maximum sign area for such tenant space wall signs may be further restricted in accordance with the provisions of Sections 25-016, 25-017, and 25-018.
4. The sign shall not project above the edge of the roof.
5. Sign shall not project more than twelve (12) inches from the wall surface of the building and shall not extend more than twelve (12) inches above the top of the wall, parapet, or canopy.

q. Temporary Event Signs: Temporary special events, such as sidewalk sales, civic club events, school activities, fundraisers, etc., shall be permitted to have temporary signs or banners without a permit. General requirements are applicable to all temporary signs.

1. No temporary sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, fire hydrant, or any other type of street furniture, or otherwise create a hazard, including a tripping hazard. In all cases such signs shall be placed outside the sight triangle.
2. The temporary event signs shall be designed, constructed or mounted so as to be reasonably stable under all weather conditions, including high winds.
3. No temporary event sign shall be illuminated or painted with light-reflecting paint.
4. Temporary event signs shall only be posted with the consent of the property owner or occupant.
5. No temporary event sign shall advertise or promote any commercial enterprise or event not conducted on the same building lot.
6. Attention-attracting devices, such as flags or pennants, balloons, search lights, twirling signs, inflatable figures, etc. shall not be allowed with a temporary event sign unless a permit is obtained.
7. Removal or replacement of temporary event signs:
  - a. The person who has posted or directed the posting of a temporary event sign is responsible for the removal or replacement of that sign in accordance with this chapter.

- b. If that person does not remove or replace the temporary event sign in accordance with this chapter, then the property owner or occupant of the building lot where the sign is posted is responsible for the sign's removal or replacement.
- c. City staff is authorized to remove any temporary event signs posted in violation of this chapter that are not removed or replaced in accordance with the provision above. Temporary signs posted on private property in violation of this chapter shall be deemed a public nuisance, and the Code Enforcement Officer may abate that nuisance in accordance with Section 25-022.
- d. The Code Enforcement Officer may immediately remove temporary event signs posted on public property or rights-of-way in violation of this chapter.
- r. Attention-Attracting Devices or Signs: Such devices or signs shall be permitted upon approval by the Planning Commission as a temporary, limited condition. Approval of such devices or signage shall contain a specified time limit, including a date for removal of the devices or signage and restoration of the site.

#### 25-014 SIGNS PERMITTED IN ALL DISTRICTS

The following signs shall be permitted in all districts and shall not require a sign permit, unless otherwise noted. The signs must be in conformance with all other regulations and ordinances of the City.

- a. Address Numbers: Address numbers shall not exceed four (4) square feet.
- b. Bulletin boards / Poster Case: These signs when placed on the exterior of a building are limited to church, school, public and semi-public uses as well as, theaters and auditoriums upon approval by the Planning Commission. Such signs shall not exceed sixteen (16) square feet in area.
- c. Community Interest Signs: Such signs may only be placed on property owned by the sponsoring organization. A request may be presented to place such sign in public right-of-way. An application to place a community interest sign must be presented to and approved by the Tonganoxie City Council who shall consider each request on a case-by-case basis including considerations such as size, appearance, location for placement, liability, and commitments from the sponsor limiting the content of displayed messages. The sponsoring organization shall be responsible for installation and maintenance of such signs.
- d. Directional Signs: Such signs shall not exceed four (4) square feet per face with two (2) faces permitted. The sign shall not exceed four (4) feet in height if freestanding.
- e. Flags and insignia of any government jurisdiction, including flags indicating weather conditions and flags which are emblems of religious, charitable, public, and

non-profit organizations, except when displayed in connection with commercial promotion. No flag shall exceed fifty (50) square feet in area.

- f. Garage and Rummage Sales or Auctions: Signs not to exceed two (2) square feet, with two (2) faces per sign, may be posted a maximum of two (2) days prior to the beginning of a sale and removed within two (2) days following the end of the sale. Such signs may only be placed at the site of the sale.
- g. Legal notices, identification, informational, or directional signs erected or required by governmental bodies, signs directing and guiding traffic and parking on private property--but bearing no advertising matter, railroad crossing signs, danger or temporary emergency signs.
- h. Memorial signs or tablets, containing the names of buildings and date of erection and/or other pertinent information, when cut into any masonry surface or when constructed of bronze or other incombustible materials and attached flush with the wall surface.
- i. Nameplate Signs: Such signs shall not exceed four (4) square feet in area.
- j. Political signs not exceeding sixteen square feet in area restricted to posting six (6) weeks prior to the beginning of the campaign/election and removed no later and two weeks following the election. No political signs may be placed in the public right-of-way and all signs posted on private property must have the permission of the owner or occupant of said property.
- k. Project Construction and Subdivision Signs: One (1) temporary freestanding, non-illuminated sign shall be permitted on any site on which development or construction activities are taking place. Residential subdivision signs shall not exceed thirty-two (32) square feet in area per sign face, with two (2) faces permitted. Such sign may not be erected until the Final Plat for the subdivision has been approved by the City Council and filed with the Register of Deeds. Project construction signs for nonresidential developments shall not exceed sixty-four (64) square feet in area per sign face. The signs may have two (2) sign faces.
- l. Real estate signs: (updated by Ordinance #1243 - 9/24/2007)
  - 1. Single-Family and Two-Family Districts: Such signs shall not exceed eight (8) square feet per face, with two (2) faces per sign permitted. The maximum height of the sign shall not exceed six (6) feet. A maximum of one (1) sign per lot shall be permitted.
  - 2. Multifamily, Commercial, and Industrial Properties: Such signs shall be non-illuminated and not exceed thirty-two (32) square feet in area per face with two (2) faces permitted. The sign shall not exceed eight (8) feet in height. A maximum of two (2) signs shall be permitted for each property and

shall be located on the property to be subdivided or developed. Sign(s) may be displayed for a period of one (1) year from the date of erection.

3. Temporary Off-Site Residential Subdivision Directional Signs: Such signs shall be non-illuminated and not exceed thirty-two (32) square feet in area per face, with two (2) faces permitted. The sign shall not exceed eight (8) feet in height. Such signs shall be subject to the permit and removal requirements of Section 25-012, as well as the following standards.
  - (a) The sign shall be located on private property, and shall not encroach into the public right-of-way or on a public easement per Section 25-013.G.
  - (b) The sign shall not encroach in the sight triangle at a street intersection.
  - (c) The minimum spacing between such signs shall be three hundred (300) feet.
  - (d) A maximum of one such sign shall be permitted per development.
  - (e) Such sign may be displayed for a period of one (1) year from the date of installation, unless an extension is granted by the Planning Commission. Extensions may be granted for a period not to exceed one (1) year, per extension.
  - (f) A notarized affidavit from the owner of property on which the temporary sign will be located shall be submitted indicating authorization to place the sign on said property.
4. Undeveloped Properties: Undeveloped and unplatted land shall be permitted two (2) "For Sale" signs not to exceed thirty-two (32) square feet in area per face, with two (2) faces permitted. The sign shall not exceed eight (8) feet in height. Such signs shall be located on the property "for sale".
- m. Temporary Event Signs: Temporary special events, such as sidewalk sales, civic club events, school activities, fundraisers, etc., shall be permitted to have temporary signs or banners without a permit. Associated attention-attracting devices or signs shall not be allowed with a temporary event sign unless a permit is obtained upon approval by the Planning Commission.
- n. Window and Interior Signs: Such signs mounted on interior building surfaces, such as signs mounted on the inside of windows and doors. No sign shall occupy more than 75% of the window area.

#### 25-015 SIGNS PERMITTED IN RESIDENTIAL DISTRICTS

The following signs shall be permitted in residential districts R-R, R-E, R-SF, R-I, R-MF1, R-MF2, R-MF3, R-MHP, PUD-R:

- a. Wall Signs:
  1. Residential Structures: One (1) non-illuminated wall sign per building, not more than one (1) square foot in area, mounted on the building, indicating a permitted home occupation.

2. Public or Semi-Public Buildings: One (1) non-illuminated wall sign per building. Wall signs shall not exceed ten (10) percent of the wall upon which it is placed or one hundred (100) square feet, whichever is less.
- b. Subdivision Entry Markers: Each residential subdivision shall be permitted permanent monument type neighborhood entry markers on each side of an entrance street of the subdivision. The entry markers may include a sign not to exceed thirty-two (32) square feet in area. Such signs shall be restricted to the subdivision name. Illumination of such signs may only be from an indirect light source.
  - c. Identification Signs: One (1) identification or monument sign shall be permitted for a multifamily complex. If the complex fronts on two (2) streets, one (1) identification sign shall be allowed on each frontage.
  - d. Monument Signs: Every building constructed for a permitted nonresidential, public, or semi-public uses shall be permitted one (1) monument sign upon approval by the Planning Commission.
  - e. Special Event Signs:
    1. In addition to signs permitted in this chapter, a maximum of two (2) temporary signs may be displayed at any time. All such signs shall be yard signs and the total surface area of each sign face shall not exceed four (4) square feet per face, with a maximum of two (2) sign faces per sign.
    2. Special Real Estate Signs: Special real estate events shall be allowed the use of pennants or flags under the following conditions:
      - a. In conjunction with area-wide tour events.
      - b. The opening of a new subdivision or the new phase of an existing subdivision. In this instance, pennants and business flags shall only be permitted for one (1), fifteen- (15)-day period every six (6) months.
      - c. One (1) other special event similar to (a) above and limited to one (1), fifteen-(15)-day period per year such as open house or model house.

#### 25-016 SIGNS PERMITTED IN THE HISTORIC BUSINESS DISTRICT

The following signs shall be permitted in the HBD District. Signs in the HBD District shall comply with the *Design Guidelines for Tonganoxie's Central Business District* and may be more restrictive than the standards provided in this Chapter.

- a. A sign may be a wall sign, awning sign, projecting sign, or under canopy sign. A monument sign may be permitted in the HBD District only if approved by the Planning Commission.

- b. Due to the unique character and special circumstances related to development patterns in the HBD District, the Planning Commission may grant modifications to the General Standards of Section 25-013 to provide signage compatible with the historic character of the area.
- c. Wall Signs: Each business or establishment shall be permitted not more than two (2) wall signs, limited to one (1) per wall. The area of the wall sign shall not exceed ten (10) percent of the area of the wall, upon which it is mounted, with the maximum sign area per wall not to exceed fifty (50) square feet, whichever is less.
- d. Projecting Bracket Signs: In lieu of a permitted wall sign, one (1) projecting sign shall be permitted. The projecting sign shall be allowed on a structure having a zero (0) setback from the front property line.
- e. Under Canopy Signs: Under canopy signs shall be permitted in addition to the signage described above. One (1) such sign shall be permitted per business. Under canopy signs shall not exceed two (2) square feet in area.
- f. Time and Temperature: Such a sign shall be permitted in the HBD districts as part of a wall sign, only if approved by the Planning Commission. The sign display shall include only the time and/or temperature and shall not include any advertising except the name of the business that owns the sign. When used as an attachment to another sign, area is excluded from overall sign area calculations. The maximum area allowed is ten (10) square feet. Height maximum is fifteen (15) inches. It shall be compatible in design and materials with other signs on the site and with the structure on which it is placed.
- g. Temporary Event Signs:
  1. One (1) sign per street frontage or building.
  2. The maximum size shall be no larger than that permitted for permanent wall signs.
  3. Signs shall be permitted to be displayed a maximum of either one (1), sixty-(60)-day period per year or two (2) thirty-(30)-day periods per calendar year.
- h. Temporary Freestanding Signs: Such a sign may be permitted upon approval by the Planning Commission for purposes of advertising a daily special, sale, or other activity. Such signs shall not exceed nine (9) square feet, and may be further limited in size by the Planning Commission to ensure compatibility with the HBD District.
- i. Attention-Attracting Devices or Signs: Such devices or signs may be permitted upon approval by the Planning Commission.

**25-017 SIGNS PERMITTED IN COMMERCIAL DISTRICTS**

The following signs shall be permitted in commercial districts LBD, GBD, and PUD-C:

- a. Wall Signs: Each business or establishment shall be permitted not more than three (3) wall signs, limited to one (1) per wall. The area of the wall sign shall not exceed ten (10) percent of the area of the wall, upon which it is mounted, with the maximum sign area per wall not to exceed fifty (50) square feet in LBD and one hundred (100) square feet, whichever is less. Wall signs in the PUD-C district shall comply with those of the GBD district unless further regulated by the zoning and site plan approval.
- b. Monument Signs:
1. In lieu of one (1) of the above permitted wall signs, one (1) monument sign shall be permitted for each freestanding building housing one (1) tenant.
  2. In addition to the signs permitted above, each complex as defined by Section 25-011 shall be permitted one (1) monument (identification) sign with the names of tenants.
  3. Complexes or single business sites on property more than ten (10) acres and more than one (1) street frontage or more than one thousand (1,000) linear feet of street frontage shall be permitted a second monument sign.
  4. When a complex is located on a site more than ten (10) acres in area, one (1) of the two (2) permitted monument signs may be increased to a maximum height of twenty-one (21) feet and a maximum face area of ninety-five (95) square feet; on a site more than twenty (20) acres, both of the two (2) monument signs may be increased in height to twenty-one (21) feet and a maximum face area of ninety-five (95) square feet.
- c. Projecting Bracket Signs: One (1) projecting sign shall be permitted, in lieu of one (1) permitted wall sign, monument sign, or pole sign. In business districts where more than one business is in the same connected or general location, one (1) projecting building sign per separate business/storefront shall be allowed in addition to a grouped pole or monument sign. Sign shall be not larger than 12 square feet in area.
- d. Under Canopy Signs: In complexes with three (3) or more tenants, under canopy signs shall be permitted in addition to the signage described above. One (1) such sign shall be permitted per business. Under canopy signs shall not exceed two (2) square feet in area.
- e. Time and Temperature: Such a sign shall be permitted in the GBD and PUD-C districts as part of a permitted monument sign. The sign display shall include only the time and/or temperature and shall not include any advertising except the name of the complex or business that owns the sign. When used as an attachment to another sign, area is excluded from overall sign area calculations. The maximum area allowed is ten (10) square feet. Height maximum is fifteen (15) inches. It shall

be compatible in design and materials with other signs on the site and with the structure on which it is placed.

f. Menu Boards:

1. Each drive-up, drive-through, or drive-in restaurant shall be permitted signage in addition to that described above. The additional signage shall be limited to one (1) freestanding or wall-mounted menu board per lane. The menu board shall not exceed six (6) feet in height or thirty-two (32) square feet in total surface area. Total surface area shall include the face of the menu board, the trim, the base, and other appurtenances. Whenever a menu board is visible from a public street, additional landscaping shall be used to screen the menu board from view from the street.
2. In lieu of one (1) freestanding or wall menu board, a restaurant may have a menu board located at each order station. Such menu board at each order station shall not exceed four (4) square feet in surface area per face.

g. Freestanding Canopy Signs: Signs may be placed on freestanding canopies provided they meet the requirements of wall signs for buildings. Only the fascia of the canopy upon which the sign is placed shall be used for determining the size of the sign.

h. Temporary Event Signs:

1. One (1) sign per street frontage or building.
2. The maximum size shall be no larger than that permitted for permanent wall signs.
3. Signs shall be permitted to be displayed a maximum of either one (1), sixty-(60)-day period per year or two (2) thirty-(30)-day periods per calendar year.
4. Pennants, banners, flags, balloons, inflatable figures, or other similar objects shall be permitted to be displayed a maximum of four (4), thirty-(30)-day periods per calendar year. In no case shall a thirty-(30)-day period be carried over from month-to-month consequently.

i. Attention-Attracting Devices or Signs: Such devices or signs may be permitted upon approval by the Planning Commission.

## 25-018 SIGNS PERMITTED IN INDUSTRIAL DISTRICTS

Signs permitted in industrial districts I-LT, I-MD, I-H shall be the same as permitted in Section 25-017, except as follows:

a. Wall Signs: Each business or establishment shall be permitted not more than three (3) wall signs, limited to one (1) per wall. The area of the wall sign shall not exceed

ten (10) percent of the area of the wall, upon which it is mounted, with the maximum sign area per wall not to exceed one-hundred fifty (150) square feet.

b. Monument Signs:

1. In lieu of one (1) of the above permitted wall signs, one (1) monument sign shall be permitted for each freestanding building housing one (1) tenant.
2. In addition to the signs permitted above, each complex as defined by Section 25-011 shall be permitted one (1) monument (identification) sign with the names of tenants.
3. Commercial complexes or single business sites on property more than ten (10) acres and more than one (1) street frontage or more than one thousand (1,000) linear feet of street frontage shall be permitted a second monument sign.
4. When a commercial complex is located on a site more than ten (10) acres in area, one (1) of the two (2) permitted monument signs may be increased to a maximum height of twenty-one (21) feet and a maximum face area of ninety-five (95) square feet; on a site more than twenty (20) acres, both of the two (2) monument signs may be increased in height to twenty-one (21) feet and a maximum face area of ninety-five (95) square feet. Monument signs for industrial park complexes shall be limited to the size, height, and sign face area as defined in Section 25-013.

c. Temporary Event Signs: Same as permitted in Section 25-017.

d. Attention-Attracting Devices or Signs: Same as permitted in Section 25-017.

25-019 OVERSIZED SIGNS

- a. This section provides for both standard and creative signs as follows: business district or multi-tenant center signs, large screen video signs and oversized wall signs. **Additional billboards shall not be allowed within the City limits.** All applications for an oversized sign must be reviewed and approved by the Planning Commission according to the following criteria.
1. Sign is in character with the surrounding area and will not negatively impact surrounding properties.
  2. Sign shall not interfere with pedestrian or vehicular safety as determined by the City Engineer and/or the City Superintendent.
  3. Sign does not detract from the pedestrian quality of the surrounding area.
  4. Sign shall not contribute to an over-proliferation of signs on one property or in an area.
  5. Sign shall be maintained in a safe and aesthetically pleasant condition.
  6. To guarantee removal of the sign should it be abandoned or become in a state of disrepair, the owner shall post a bond equal to the cost of removal of the sign.

- b. Oversized Wall Signs. Located in areas such as along fences at the fairgrounds or other sports fields in the city, and including murals covering large areas of a building's surface.
  - 1. Fairgrounds/Sports Arenas/Athletic Fields.
    - a. Signs shall be allowed along the enclosing fences at the Leavenworth County Fairgrounds or along the fencing of other sports fields and athletic complexes.
    - b. All signs must face inward toward playing fields and have limited visibility from surrounding properties
    - c. Such signs shall not extend above the upper edge of the fence or a maximum of eight (8) feet in height as defined in Section 25-013.C, whichever is least.
    - d. Lighting may be provided according to the conditions in Section 25-013.D.
  - 2. Mural Type Signs.
    - a. Such signs may be allowed at the discretion of the Planning under the guidelines for Creative Signs in this section.
- c. Large Screen Video Signs and Scoreboards.
  - 1. This type of sign shall be intended for sports complexes or other public facilities. The screen or scoreboard shall be directed principally toward the site, not off-site.
  - 2. No more than one large screen or scoreboard shall be permitted per development/site.

## 25-020 CREATIVE SIGNS

- a. Purpose. This section is provided in order to encourage signs of unique design that exhibit a high degree of thoughtfulness, imagination, inventiveness and spirit. Creative signs will be allowed when they are use to make a positive visual contribution to the overall image of the City.
- b. Application. A separate application is required that addresses the specific standards in this section. Materials submitted must be able to depict the following criteria sufficiently for a review to be made. This application must be approved by the Planning Commission
- c. Design Criteria.
  - 1. Design Quality.
    - a. The sign shall constitute a substantial aesthetic improvement to the site and provide a positive visual impact on the surrounding area.
    - b. It shall be of unique design and exhibit a high degree of thoughtfulness, imagination, inventiveness, and spirit.
    - c. The sign shall provide strong graphic character through the imaginative use of graphics, color, texture, quality materials, scale, and proportion.
  - 2. Context. The sign shall contain at least one of the following elements:

- a. Creative image reflecting the current or historic character of the City; or
  - b. Symbols or imagery relating to the entertainment or design industry; or
  - c. Inventive representation of the use, name or logo of the structure or business.
3. Architectural Criteria. All signs shall:
- a. Utilize and/or enhance the architectural elements of the building; and
  - b. Be placed in a logical location in relation to the overall composition of the building's façade or the arrangement of the site and not cover any key architectural features/details of the façade/site.
  - c. No more than twenty-five (25) percent of an architectural element may be used for sign area.

### 25-021 PROHIBITED SIGNS AND DEVICES

It shall be a violation of these regulations to erect, install, place or maintain the following signs:

- a. Any sign which is not otherwise included under types of signs permitted in this Chapter.
- b. Any sign located in public right-of-way, except those signs required by governmental authority or political signs as may be permitted.
- c. Any sign which, by reason of its size, location, movement, content, coloring, or manner of illumination, may be confused with or construed as a traffic control sign, signal or device, or the light of an emergency vehicle, or which hides from view any traffic or street sign or signal or device.
- d. Animated signs or elements of signs, that are animated, moving, flashing, blinking, reflecting, revolving and/or rotating including search lights, strobe lights, and disco balls.
- e. Signs emitting audible sounds (except menu boards), odors, or visible matter.
- f. Offsite signs and/or billboards.
- g. Any sign or advertising structure with words, scenes or graphics which are obscene, indecent and prurient, within the meaning of K.S.A. 21-4301, as amended.
- h. Any sign or advertising structure which is erected, installed or maintained that obstructs any fire escape, required exit, window or door opening intended as a means of ingress or egress.
- i. Portable signs or signs mounted on a platform, trailer, or motor vehicle. Such prohibition shall not extend to trucks or other legitimate carriers and delivery vehicles that may be parked on said premises in the course of their normal operations.
- j. The following signs or sign elements are prohibited unless specifically reviewed and approved by the Planning Commission:
  - 1. Internally illuminated awnings.
  - 2. Changeable copy signs or electronic graphic signs greater than 3 square feet in area.

- k. "A" Frame Sign, sandwich, sidewalk or curb signs, and other similar signs, except as approved by the Planning Commission in the HBD District.
- l. Abandoned Signs.
- m. Roof signs.
- n. Snipe Signs.
- o. Vehicle Signs, except that company or corporation name or logo painted on a motor vehicle or semi-trailer normally in motion during use shall not be considered a vehicular sign when moved at least one (1) time during a twenty-four (24) hour period.
- p. Yard signs, except as permitted temporary signs.
- q. Any sign not specifically, or by reasonable implication, permitted herein.

#### 25-022 ABANDONED SIGNS

Except as may be otherwise provided for in this ordinance, any sign which is located on a building, structure, or real property which becomes vacant and unoccupied for a period of thirty (30) days or more, or any sign which pertains to a time, event, or purpose which no longer applies, shall be deemed to have been abandoned. An abandoned sign is prohibited and shall be removed by the owner of the sign or the owner of the premises. When a wall sign is removed, the wall of the building or structure shall be restored to its normal appearance. Removal of a ground based sign shall include the face and base. Any sign structure that is in conformance with this chapter may remain as long as it is maintained and does not become unsafe or unsightly.

If after the thirty (30) day time period has elapsed and the sign has not been removed, the City shall notify, in writing, the property owner of record that the sign shall be removed within thirty (30) days after the date of the notice. If the sign has not been removed within thirty (30) days after the date of the notice, the Code Enforcement Officer may have the sign removed and the associated costs assessed to the property.

The City Clerk shall mail a statement of such cost for the removal of said sign to the last known address of the owner of record of the property, or person in charge of such property. If such costs are not paid within ten (10) days from the mailing of such notice, the Governing Body of the City shall proceed to pass an ordinance levying a special assessment for such cost against the lot or piece of land. The City Clerk shall certify such assessment to the County Clerk for collection and payment to the City in the same manner as other assessments and taxes are collected and paid to the City.

#### 25-023 NONCONFORMING SIGNS

Nonconforming signs are declared by this zoning ordinance to be incompatible to, and inconsistent with, land development and other permitted signs set forth within any particular zoning district. It is the intent of this section to allow those nonconforming signs to continue until they are removed under the terms of this ordinance, but not to encourage their survival.

- a. Alterations of Nonconforming Signs: No nonconforming sign or advertising structure shall be expanded, relocated or restored unless said sign or advertising structure is brought into conformance with the provisions of this section or any other applicable City code requirement.
- b. Replacement, Restoration or Reconstruction: In the event that any existing nonconforming sign, as provided for in this section, is damaged by any means, including, but not limited to, fire, flood, wind, explosion, act of God, or act of a public enemy, to an extent of fifty (50) percent or more of the replacement, restoration or reconstruction value of the sign, or fifty (50) percent of the square footage of the sign copy area, said sign shall not be replaced, restored or reconstructed unless it is brought into full compliance with the provisions of this Zoning Ordinance. Any nonconforming sign which remains damaged or in disrepair, regardless of the percentage of construction (or damage) value or area of square footage which is damaged, for a period of thirty (30) days following the date of damage without the issuance of a valid sign permit, shall not be replaced, restored or reconstructed unless it is brought into full compliance with all applicable codes and ordinances.
- c. Repairs and Maintenance: Routine repairs and maintenance of nonconforming signs necessary to maintain health and safety may be permitted. Said repairs and maintenance shall include such activities as painting and the replacement of a damaged or deteriorated sign face. The cost of said repairs and maintenance shall not exceed fifty (50) percent of the value of the sign which is to be repaired or maintained. Said value shall be that which is current at the time of the repair or maintenance. Prior to said repair and maintenance taking place, the Code Enforcement Officer shall be consulted to determine if a sign permit is necessary. If such determination is made, then all applicable work performed shall be accomplished through the issuance of a valid sign permit as required by this ordinance.
- d. Termination of Nonconforming Signs: Upon the discontinuance of a use, to which any nonconforming sign or advertising structure is accessory to, the tenant or property owner shall remove all nonconforming signs, supports and structures upon the building or property upon which said use was located.

#### 25-024 ENFORCEMENT

- a. Signs erected without an approved permit shall incur a \$50 fine. Each day the sign remains in place without an approved permit shall constitute a separate offense.
- b. All sign permits are revocable by the City if all conditions or agreements are not met or upheld by the owner or any future owner of the sign. If a permit is revoked, subject sign must be removed within 30 days of certified notice of said revocation.

- c. All signs must be maintained in accordance with Section 25-013.E. Signs not kept maintained may be deemed a public nuisance or safety hazard by the Code Enforcement Officer and removed from the site. All costs for removal shall be assessed against the subject property.

#### 25-025 DECLARATION OF NUISANCE

The Governing Body hereby determines that the public peace, safety, health and welfare require that all signs and sign structures hereafter constructed or erected shall conform and comply with such requirements forthwith. All signs which shall hereafter be constructed or erected in violation of the provisions of this ordinance shall be declared public nuisance, and shall be removed and abated in the manner provided by law.

#### 25-026 NONCOMMERCIAL MESSAGES

Any commercial sign permitted under this chapter is allowed to contain noncommercial speech in lieu of any commercial speech, subject to all applicable restrictions and performance standards.

#### 25-027 SIGN PERMIT PROCESS

In addition to a building permit as may be required under the City of Tonganoxie Building Code, a sign permit shall be obtained from the City prior to installation or construction of any sign regulated under this Code, except for those signs specifically exempted under this Code. All applications for a sign shall be made in writing upon forms furnished by the City. Each application shall include all information or attachments needed for City Staff or Planning Commission to make a determination on the permit.

**25-028 – TABLE OF PERMITTED AND SPECIALLY PERMITTED SIGNS**

SIGN TYPE	Zoning District																Sign Standards
	Residential									Non-Residential							
	R-R	R-E	R-SF	R-I	R-MF1	R-MF2	R-MF3	R-MHP	PUD-R	HBD	LBD	GBD	PUD-C	I-LT	I-MD	I-H	
<b>Functional Sign Types</b>																	
<b>Attention-Attracting Device or Sign</b>	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
<b>Bulletin / Poster Case</b>	C	C	C	C	C	C			C	C	C	C	C				Limited uses, see Section 25-014.
<b>Changeable Copy Signs</b>	C	C	C	C	C	C			C								Limited to public and semi-public uses
<b>Creative Signs</b>	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
<b>Directional Sign</b>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
<b>Directory Sign</b>	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	
<b>Electronic Message Board</b>												P	C	P	P	P	
<b>Flags</b>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Not exceeding 50 sq. feet
<b>Identification Sign</b>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	

SIGN TYPE	Zoning District																
	Residential										Non-Residential						
	R-R	R-E	R-SF	R-I	R-MF1	R-MF2	R-MF3	R-MHP	PUD-R	HBD	LBD	GBD	PUD-C	I-LT	I-MD	I-H	Sign Standards
<b>Functional Sign Types</b>																	
<b>Incidental Sign</b>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
<b>Inflatable Sign</b>	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
<b>Menu Boards</b>											P	P	P	P			
<b>Multi-tenant (Complex) Signs</b>											P	P	P	P	P	P	
<b>Oversized Wall Signs – Murals</b>	C	C	C	C	C	C	C		C	C	C	C	C	C	C	C	
<b>Project Construction Sign</b>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
<b>Residential Subdivision Sign</b>	P	P	P	P	P	P	P	P	P								
<b>Real Estate Sign</b>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
<b>Temporary or Special Event Display Sign</b>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Sign Duration Limited by Event
<b>Time and/or Temperature Sign</b>										P	P	P	P	P			
<b>Window Signs</b>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	

SIGN TYPE	Zoning District																Sign Standards
	Residential									Non-Residential							
	R-R	R-E	R-SF	R-I	R-MF1	R-MF2	R-MF3	R-MHP	PUD-R	HBD	LBD	GBD	PUD-C	I-LT	I-MD	I-H	
<b>Structural Sign Types</b>																	
<b>Awning, Canopy, or Marquee Sign</b>	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P
<b>Monument Sign (Exclusive of Elevated Signs)</b>	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P
<b>Elevated Sign (Exclusive of Monument Signs)</b>												P	P	P	P	P	
<b>Pole Sign</b>													SUP				
<b>Temporary Free Standing Sign</b>										C							Sign Duration Limited by Event
<b>Projecting Bracket Signs</b>										P	P	P	P	P	P	P	
<b>Wall Sign</b>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	

## SECTION 26

### BOARD OF ZONING APPEALS

#### 26-010 BOARD OF ZONING APPEALS

- a. Appointment: A Board of Zoning Appeals is hereby created. The Board shall consist of the members of the Planning Commission and may also include Members of the Public at Large. (Amended by Ordinance # 1184 5/9/05). Appointment procedures shall be the same as observed by that body. (See Section 30, Planning Commission.) All requirements regarding quorums and majorities shall be based on the planning commission requirements outlined in Section 30 of this ordinance. (Ordinance #906 8/22/94)
- b. The board shall consist of seven (7) members appointed by the Mayor with approval by the Governing Body for the City of Tonganoxie. Members of the Board shall serve without compensation.(Amended by Ordinance # 1184 5/9/05)
- c. Replacement of Board Members: All replacement of Board members shall be accomplished by the procedure outlined in Section 30 of this ordinance (Ordinance #906 8/22/94).
- d. Officers and Duties: The Board of Zoning Appeals shall annually elect a chairman and a vice-chairman. The chairman, or in his absence the vice-chairman, shall preside at all meetings and shall decide all points of order or procedure.
- e. Rules and Meetings: The Board may adopt rules to govern its proceedings in accordance with the provisions of this ordinance. Meetings of the board shall be held at any time at the call of the Chairman and at such other times as the board may determine. All meetings of the Board shall be held at such place or places within the City as the Board may designate. All meetings shall be open to the public. The board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the board, decision of the board, and the vote upon each question. Records of all official actions of the board shall be filed with the City Clerk at City Hall and shall be a public record.
- f. Staff Support: Staff members for the Board of Zoning Appeals shall consist of the City Planner and a Secretary, which shall be employees of the City.

#### 26-011 POWERS & DUTIES OF THE BOARD

- a. Zoning Ordinance Appeals: The Board of Zoning Appeals shall administer the details of appeals from the provisions of the zoning ordinance, or other matters referred to it regarding the application of the zoning ordinance as hereinafter provided. In exercising these powers the Board, in conformity with the provisions of this ordinance, may reverse or affirm, wholly or partly, or may modify the order,

requirement, decision, or determination. To that end, the Board shall have all the powers of the officer from whom the appeal is made to attach appropriate conditions to, issue or direct the issuance of a permit.

- b. Interpretation Upon appeal from a decision by the building inspector or other administrative official, the Board may decide any question involving the interpretation of any provision of the zoning ordinance, including:
- 1) The determination of the exact location of any district boundary, if there is uncertainty with respect thereto, and
  - 2) The determination of an appropriate use group for a use that is not listed in the ordinance, and that the use is a similar use to the uses already in the use group.
- c. Exceptions: The board may grant exceptions to the provisions of this ordinance in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning ordinance. In no event shall exceptions to the provisions of the zoning ordinance be granted where the use or exception contemplated is not specifically listed as an exception in the zoning ordinance. Further, under no conditions shall the board have the power to grant an exception when conditions of this exception, as established in the zoning ordinance by the city commission, are not found to be present.
- d. Variances: The Board may authorize in specific cases a variance from the specific terms of this ordinance which will not be contrary to public interest and where, owing to special conditions, a literal enforcement of the provisions of this ordinance, in an individual case, result in unnecessary hardship, and provided that the spirit of this ordinance shall be observed, public safety and welfare secured; and substantial justice done. Such variance shall not permit any use not permitted in the zoning ordinance in such district. A request for a variance may be granted in such case, upon finding of the board that all of the following conditions have been met:
- 1) That the variance request arises from such conditions which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or applicant.
  - 2) That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
  - 3) That the strict application of the provisions of this ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
  - 4) That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare, and
  - 5) That granting the variance desired will not be opposed to the general spirit and intent of the zoning ordinance.

- e. Appeals: The board may hear and decide appeals where it is alleged that there is an error of law in any order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance. Such appeal shall be taken within ten (10) days after the order of action appealed from has been made by filing written notice of such appeal, specifying the grounds thereof, with the Board of Zoning Appeals.
- f. Powers Specified Elsewhere in the Ordinance: The board shall also have those powers and duties specifically set forth in other parts of this ordinance.

#### 26-012 PROCEDURE FOR APPEALS

- a. Application: Applications to the Board for any type of proceeding may be taken from any person aggrieved, from any officer of the city or from any governmental agency or body affected by any decision of the officer administering the provisions of the zoning ordinance. All applications shall be made to the Board in writing on forms prescribed by the Board within ten (10) days following the decision has been rendered by the building inspector or other administrative officer. Each application shall be accompanied by a current certified list (provided by a licensed abstractor/title company) of the names and mailing addresses of all property owners of record within two hundred (200) feet of the exterior boundaries of the property to be considered in the application.
- b. Public Hearing and Notice: The Board shall fix a reasonable time for the public hearing on each application. The Secretary of the Board of Zoning Appeals, shall cause to be published in the official paper of the City, a notice as to the time, place and date and subject of the hearing for each application. Such notice shall appear at least once in the official city paper no less than twenty (20) days prior to the date of hearing. The Secretary through the City Clerk shall also cause notice to be given by mail no less than twenty (20) days prior to the date of the public hearing to each of the property owners of record within two hundred (200) feet of the exterior boundaries of the property to be considered in the application, as such owners are listed on the current certified list accompanying the application. Mailed notice shall also be given to each party to the appeal.
- c. Effect of Appeal An appeal shall stay all proceedings of the action appealed from, unless the person affected by such appeal certified to the board that, by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or a Court of record on application and notice to the person from whom the appeal was taken.

#### 26-013 TIME LIMIT ON PERMITS.

No order of the board permitting the erection or alteration of a building, or the use of a building or premises shall be valid for a period longer than one hundred twenty (120) days, unless a permit for such erection, alteration or use is obtained within

such period and work started in accordance with the building or use permit. The Board may, at their discretion, extend the period for obtaining a permit in increments of ninety (90) days without re-advertising or additional application.

26-014 RECORDS. Every decision or determination by the board of zoning appeals shall be filed in the office of the City Clerk not more than ten (10) working days following the date of hearing and shall become a public record.

26-015 FEE. The fee for an application for appeal to the board shall be the current fee as set by the governing body of Tonganoxie and no part shall be refundable. The City Clerk shall be responsible for the collection of the application fee.

## SECTION 27

### AMENDMENTS

#### 27-010 WHO MAY PETITION OR APPLY

Applications for amendments, revisions or change in the Zoning District Map or Zoning Regulations in effect for the City of Tonganoxie may be made by any person who owns the land sought to be rezoned or an agent, as defined by these regulations, provided that such is not a general revision of the existing regulations and provided that it affects specific property. If such application is made by the owner's agent, the agent must attach a letter signed and notarized by the owner or other legal documentation authorizing that person as the owner's agent.

Recommendations for amendments, revisions or changes to the Zoning Regulations or Zoning District Boundary Map may also be made by the Tonganoxie City Planning Commission on its own motion, for final determination by the City Council. Likewise, the City Council may amend the Zoning Regulation or the Zoning District Boundary Map upon its own motion, provided, however, that such proposed amendments shall first be submitted to the Planning Commission for recommendation and report.

#### 27-011 PROCEDURES FOR CONSIDERATION OF REQUEST FOR AMENDMENTS, REVISIONS OR CHANGES

All applications or requests for amendments, revisions or changes to the zoning Regulations of Zoning District Boundary Map shall be filed with the City Clerk on such forms as provided in conformance therewith. All such proposed amendments first shall be submitted to the Planning Commission for recommendation. Upon receipt of an application for rezoning or for a special use permit by the owner or the owner's agent of a particular tract of land the payment of the appropriate fee, as established by the City council, the City Clerk shall note thereon the date of filing and make a permanent record thereof. Recommendations for amendments, revisions or changes to the Zoning Regulations or Zoning District Boundary Map by the City Planning Commission or the City Council, the City Clerk shall note thereon the date of filing and make a permanent record thereof. No filing fees shall be assessed for recommendations for amendment, revision or change by the Tonganoxie City Planning Commission or the City Council

All such proposed amendments first shall be submitted to the Planning Commission for recommendation. All such applications shall be set for hearing before the Planning Commission not later than sixty (60) days after receipt of a fully completed application if by an owner or the owner's agent of a particular tract of land.

The Planning Commission shall hold a public hearing thereon, and shall cause an accurate written summary to be made of the proceedings.(Ordinance #967 11/9/99) Notice of such hearing shall be published not less than twenty (20) days prior to the date of said hearing in the official city newspaper of the City of Tonganoxie, Kansas.

In addition to the publication notice, written notice of the proposed amendment shall be mailed at least twenty (20) days before the hearing to all owners of record of land located within at least two hundred (200) feet of the area proposed to be altered. Such notice shall fix the time and place for the hearing and contain a statement regarding the proposed changes and regulations or restrictions or in the boundary of any classification of any zone or district. If such proposed amendment is not a general revision of the existing regulations and affect specific property, the property shall be designated by legal description or a general description sufficient to identify the property under consideration. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate that such information is available at the office of the City Clerk. 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. Such notice shall be deemed sufficient to permit the Planning Commission to recommend amendments to Zoning Regulations which affect only a portion of the land described in the notice or which give all or any part of the land described a zoning classification that is more restrictive than that set forth in the notice. A recommendation of a zoning classification that is more restrictive than that set forth in the notice shall not be valid without republication and, where necessary, another mailing, unless the Planning Commission has previously established a table or publication available to the public which designates what zoning classification or more restrictive changes are authorized.

The applicant shall provide a list of the owners of record of said properties within the two-hundred (200) feet of the area proposed to be altered at the time of the filing of the application. If the property for alteration is located adjacent to the City limits, the area of notification shall be extended to one-thousand (1,000) feet in the unincorporated area. The applicant shall furnish proof that he or she is the owner of record, or the owner's agent. The list of owners may be obtained from Leavenworth County, or a certified list shall be provided by a licensed abstractor/title company. (Amended by Ordinance # 1186 5/23/05)

At any public hearing held to consider a proposed rezoning, an opportunity shall be granted to interested parties to be heard.

Any amendment, if in accordance with the City of Tonganoxie Land Use Plan or the Land Use Element of the City of Tonganoxie Comprehensive Plan, shall be presumed to be reasonable. The following matters shall be considered when approving or disapproving a rezoning request:

- a. The character of the neighborhood;
- b. The compatibility with the zoning and uses of properties nearby;
- c. The suitability of the subject property for the uses to which it has been restricted;

- d. The extent to which removal of the restrictions will detrimentally affect nearby property;
- e. The length of time the subject property has remained vacant as zoned;
- f. The gain if any, to be public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application; (Amended by Ordinance # 1184 5/9/05)
- g. The adequacy of public utilities and infrastructure; (Amended by Ordinance #1184 5/9/05)
- h. Recommendations of permanent or professional staff; (Amended by Ordinance #1184 5/9/05)
- i. Conformance of the requested change to the adopted or recognized comprehensive plan of Tonganoxie, KS; (Amended by Ordinance # 1184 5/9/05)

27-012 ACTION BY THE PLANNING COMMISSION AND THE GOVERNING BODY

- a. A majority of the members of the Planning Commission present and voting at the hearing shall be required to recommend approval or denial of the amendment to the governing body. If the planning commission fails to make a recommendation on a rezoning request, the planning commission shall be deemed to have made a recommendation of disapproval. When the planning commission submits a recommendation of approval or disapproval of such amendment and the reasons therefore, governing body may: (1) Adopt such recommendation by ordinance; (2) override the planning commission's recommendation by a 2/3 majority vote of the membership of the governing body; or (3) return such recommendation to the Planning Commission with a statement specifying the basis for the governing body's failure to approve or disapprove. If the governing body returns the planning commission's recommendation, the planning commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit new and amended recommendation. Upon receipt of such recommendation, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by the respective ordinance or resolution, or it need take no further action thereon. If the planning commission fails to deliver its recommendation to the governing body following the planning commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendation and proceed accordingly. The proposed rezoning shall become effective upon publication of the adopting ordinance or resolution.
- b. If such amendment affects the boundaries of any zone or district, the respective ordinance or resolution shall describe the boundaries as amended, or if provision is

made for the fixing of the same upon the official map which has been incorporated by reference, the amending ordinance or resolution shall define the change or the boundary as amended, shall order the official map to be changed to reflect such amendment, shall amend the section of the ordinance or resolution incorporating the same and shall reincorporate such map as amended.

- c. Regardless of whether or not the planning commission approves or disapproves a zoning amendment, if a protest petition against such amendment is filed in the office of the city clerk within fourteen (14) days after the date of the conclusion of the public hearing before the Planning Commission pursuant to the publication notice, signed by the owners of record of 20% or more of any real property proposed to be rezoned or by the owners of record of 20% or more of the total area required to be notified by this act of the proposed rezoning of a specific property, excluding streets and public ways, the ordinance or resolution adopting such amendment shall not be passed except by at least 3/4 vote of all of the members of the governing body.
- d. In its discretion the Planning Commission may provide for additional notice by providing for the posting of signs on land which is the subject of a proposed rezoning, for the purpose of providing notice of such proposed rezoning

#### 27-013 LIMITATIONS ON REAPPLICATION FOR AMENDMENTS

Whenever an application is requesting an amendment, supplement, change or rezoning and has been denied by the City Council, such application shall not be reconsidered sooner than six (6) months after the previous denial.

#### 27-014 ACCOMPANYING DATA

An application for an amendment shall be accompanied by:

- a. A drawing to scale showing the boundaries of the property, the existing street and utilities presently serving the property, the proposed new streets and utilities to serve the property and the dimensions and location of the improvements.
- b. A copy of the deed showing fee simple title in the owner of record.
- c. In applicable cases, a letter signed and notarized by the owner or other appropriate legal documentation authorizing the person as an agent.
- d. A certified list (provided by a licensed abstractor/title company) of the property owners located within two hundred (200) feet of the area proposed to be altered or rezoned. Any error in the list of property owners will result in reapplication accompanied by a second application fee to be paid by the applicant and a new public hearing.

## SECTION 28

### ENFORCEMENT VIOLATION AND PENALTY

#### 28-010 ENFORCEMENT

It shall be the duty of the Building Inspector or City Administrator or other designated officer to enforce the zoning ordinance through proper legal channels and to refuse to issue any permit for any building or structure or the use of any premises which violate any of the provisions hereof. Appeal from decision of the Building Inspector, or other designated officer, may be made to the Board of Zoning Appeals as previously provided herein.

#### 28-011 VIOLATION AND PENALTY

Any person, firm or corporation who shall violate any of the provisions of this Ordinance or fail to comply with any order or regulation, or who shall build in violation of any specifications or plans submitted and approved, or any certificate or permit issued hereunder, shall, for each and every violation and non-compliance respectively be deemed guilty of a misdemeanor, and upon conviction therefore shall be fined a sum not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense. Each and every day a violation is permitted to exist shall be deemed a separate offense.

In accordance with KSA 12-759, Section D, appeals to the board of zoning appeals may be taken by any person aggrieved, or by any officer of the city, county or any governmental agency or body affected by any decision of the officer administering the provisions of the zoning ordinance or resolution. Such appeal shall be taken within a reasonable time as provided by the rules of the board, by filing a notice of appeal specifying the grounds thereof and the payment of the fee required therefore.

Any person, company, corporation, institution, municipality or agency of the state that violates any provision of any regulation relating to floodplain zoning shall be subject to the penalties and remedies stated in this section.

SECTION 29

SEPARABILITY CLAUSE

29-010 SEPARABILITY CLAUSE

In case any section, clause, sentence or paragraph or part of this ordinance shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair or invalidate the remainder of this ordinance.

## SECTION 30

### CITY PLANNING COMMISSION

#### 30-010 PLANNING COMMISSION

- a. Appointment The Planning Commission shall consist of seven (7) members of which five members shall be residents of the city and two members shall reside outside the city limits, but within the designated planning area of the city which is within at least three miles of the corporate limits of the city. K.S.A 12-744(a).The members of the Planning Commission shall be appointed by the Mayor with approval of the Governing Body for the City of Tonganoxie. Members of the Commission shall serve without compensation.
- b. Terms and Vacancies: Terms for Commissioners shall be three (3) years, with the members divided as evenly as possible so that terms end on alternating years. Vacant, unexpired terms shall be filled by appointment by the Mayor with the consent of the Governing Body and such appointment shall be for the remainder of the unexpired term. Terms shall begin in April and expire in March. The Governing Body should provide by Ordinance or Resolution for the term of the members of the Planning Commission and for the filling of vacancies.

#### 30-011 BY-LAWS The Planning Commission shall adopt bylaws for the transaction of business and hearing procedures.

- a. Officers and Duties The Commission shall annually elect a chairman, a vice-chairman and a secretary. The chairman, or in his absence the vice-chairman, shall preside at all meetings and shall decide all points of order or procedure. The secretary will be responsible for signing approved plats and perform the duties of the Chairman during the absence or disability of the Chairman and Vice-Chairman. The chairman, vice-chairman and secretary shall serve for one year and until a successor is selected.
- b. Staff: A recording secretary who is not a member of the Commission shall be recommended by the chairman to the mayor for appointment with the consent of the city council. The recording secretary shall record the minutes of each meeting showing evidence presented findings of fact by the board, decision of the board, and the vote upon each question. Further staff support will also be provided by the City Planner.
- c. Meetings: The Bylaws shall fix a regular time and place for meetings. Special meetings may be called at any time by the chairperson or in the chairperson's absence by the vice-chairman. All meetings of the Board shall be held at such place or places within the City as the Board may designate. All meetings shall

be open to the public. Records of all official actions of the board shall be filed with the City Clerk at City Hall and shall be a public record.

d. Rules: The Commission shall adopt bylaws to govern its proceedings.

30-012 ACTIONS: Except as otherwise provided in the Zoning ordinance, no action by the Planning Commission shall be taken except by majority vote of the membership thereof.

30-013 COMMITTEES: If the Planning Commission deems appropriate, from time to time, it may establish sub-committees, advisory committees or technical committees to advise or assist in its activities.

## SECTION 31

### MANUFACTURED HOMES AND RESIDENTIAL - DESIGN MANUFACTURED HOMES

#### 31-010 MANUFACTURED HOMES

Nothing in this ordinance shall have the effect of excluding manufactured homes from the entire zoning jurisdiction set forth in this ordinance.

Nothing in this zoning ordinance shall be interpreted to have the effect of excluding residential-design manufactured homes from single-family residential districts solely because they are a manufactured home.

#### 31-011 REQUIREMENTS (ORDINANCE #1030 4/24/00): The following standards are required for placement of a manufactured home in a residential district:

- a. The minimum dimension of either the width or length of the home shall be 22 feet.
- b. The minimum roof pitch shall be 3 inches of rise in 12 inches of run.
- c. The home shall be sided in wood, masonry, composition board or finished aluminum lap siding. Other materials will be allowed if they are normally used in site built residential construction.
- d. The roofing material shall be wood shingles, composition or fiberglass shingles, asphalt shingles, clay or concrete tile or slate. Other materials will be allowed if they are normally used in site built residential construction.
- e. The main floor shall be no higher than 20 inches above the finished grade at the foundation.
- f. The home must be permanently mounted on a foundation or basement similar in appearance to other site built homes. Foundation must be constructed to meet the Uniform Building Code as adopted by the City of Tonganoxie.
- g. If 70% of the homes on the block where the home is to be placed have garages, the manufactured home will need to also provide a garage constructed according to the Uniform Building Code as adopted by the City of Tonganoxie.

#### 31-012 RESTRICTIVE COVENANTS

Nothing in this section shall be construed to preempt or supersede valid restrictive covenants running with the land.

## SECTION 32

### DEFINITIONS

#### 32-010 DEFINITIONS

For the purpose of this ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure" and the word "shall" is mandatory and not directory.

Accessory Building: A subordinate building having a use customarily subordinate, incidental to or customarily found in connection with the main use of the premises. An accessory building must be located on the lot occupied by the main building. A building housing an accessory use is considered to be an integral part of the main building when it has any part of a wall in common with the main building, or is under an extension of the main roof and designed as an integral part of the main building.

Accessory Use: A use of a building or land that is clearly incidental to or customarily found in connection with the principle use of the premises. An accessory use must be located on the lot occupied by the main use.

Addition: Any change to a structure that increases its bulk or footprint including a porch, deck or carport.

Adult Entertainment: Any business that receives 25% of the business's revenue from the sale of literature of the type or nature regulated by the Federal or State government as profane or obscene; movies or theatrical performances that are rated at any level beyond an R-rating, as established by the American Motion Picture Association, or would not reasonably qualify for an R-rating as established by the American Motion Picture Association; or a club or business that charges admission to patrons to view nude (topless) or naked adults, whether admission is charged per capita or as a gratuity to a performer; or any combination of the sale of literature, sale or renting of motion pictures, or admission charge for viewing nude or naked adults that constitute 25% of the business's gross revenues. See Section 13 Special Use for additional regulations. (Ord. #894)

Adult Entertainment Business: Any business including but not limited to:

1. Adult media outlet;
2. Adult motion picture theaters;
3. Juice bars; and
4. Establishments providing live dancers, models entertainers or other performers, having as a material portion of its business the offering of entertainment, stock in trade or materials, scenes or other presentations predominantly distinguished or characterized by emphasis or depiction or description of an erotic nature including, but not limited to, depiction or descriptions of "specified sexual activities" or "specified anatomical areas" (as defined by the adopted adult entertainment ordinance) to which the public, patrons or members are invited or admitted and

wherein an entertainer, manager, or server provides adult entertainment to a member of the public, patron or a member.

Alley: A public or private right-of-way which affords only a secondary means of access to abutting property.

Alteration: A change or rearrangement in the structural parts of an existing structure.

Enlargement, whether by extending a side, increasing in height, or the moving from one location or position to another shall be considered an alteration. For the purpose of this regulation, the following shall not be considered a structural alteration.

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

Amusement Device: Any machine, game, table or device which is designed, intended or used as entertainment, and may be operated by the public upon the insertion of a coin or token. This does not include food vending machines, televisions, phonographs, soft drink and cigarette vending machines.

Animal Husbandry, Limited.

1. The keeping, feeding and maintenance of animals are permitted for non-profit purposes only.
2. No animals, other than household pets, shall be kept within twenty (20) feet of a dwelling or within 60 feet of all property lines.
3. Housing or caging of animals shall be adequate and sanitary and subject to all State requirements for health and sanitation. All animal food except hay and straw shall be stored in rodent proof containers.

Apartment: A room or suite of rooms in a dwelling or building that is intended or designed for use as a residence by a single family.

Apartment Hotel: A building arranged for or containing apartments and individual guest rooms, with or without housekeeping facilities, and which furnishes services ordinarily provided by hotels, such as maid, bellboy, desk, and laundry service, and may include a dining room with internal entrance and primarily for use of tenants of the building, the building shall not include public banquet halls, ballrooms, or meeting rooms.

Apartment Building/House: A building or portion thereof designed or arranged for occupancy by more than two families.

Arcade: Any establishment displaying for public patronage or keeping for operation four or more amusement devices including, but not limited, to pool tables, air hockey tables, 'pong' games, mechanical rides (including children's), electronic games and shooting gallery games.

**Basement:** A story having part but not more than one-half its height below grade. A basement is counted as a story for the purpose of height regulation and gross floor area measurement.

**Bed and Breakfast:** A house or dwelling in which a portion, or all, is used by transient guests who are lodged with one or more meals provided for compensation. Rooms or suites shall not be occupied by the same persons for more than (30) thirty consecutive nights. There shall be no more than 10 rooms available in the facility for this commercial use.

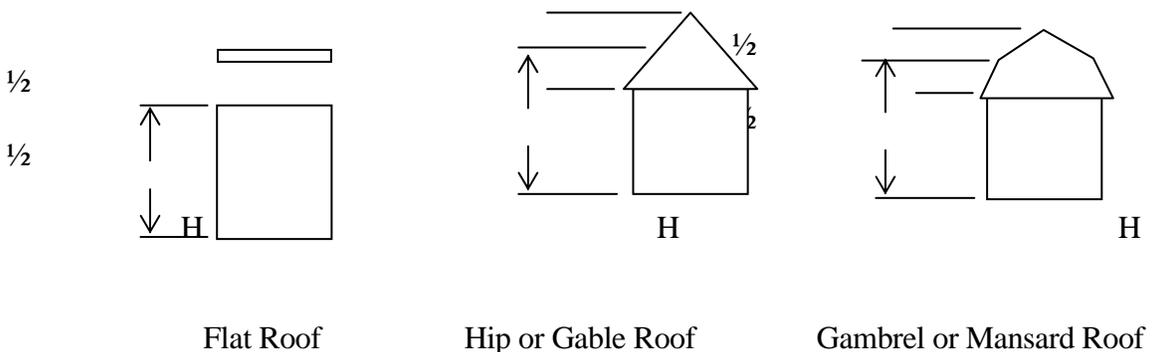
**Block:** A tract or parcel of land entirely surrounded by public highways or streets or a combination of streets and public parks, railroad rights-of-way, shorelines of waterways or drainage ways, or municipal boundary lines.

**Boarding or Lodging House:** A building or part thereof, other than a hotel where, for compensation, lodging and/or meals, are provided for not more than ten persons, not transients.

**Buffer Strip:** An area established to protect one type of land use from another with which it is incompatible. Additional use, yard or height restriction may be imposed but normally a properly screened area can provide a buffer.

**Building:** Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property.

**Building, Height:** The vertical distance from the ground surface to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable, hip and gambrel roofs.



**Building/Setback Line:** A line parallel to the respective lot line that defines the building setback area.

- a. Front and rear setback lines shall extend from side lot line to side lot line.
- b. Side setback line shall extend from front lot line to rear lot line.

**Camper:** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation or vacation.

Canopy or Awning: A roof-like cover having no supporting walls but supported otherwise from the ground, deck, floor, or walls of the building.

Cellar: A story having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height regulations.

Certificate of Occupancy: Official certification that a premises and its identified use conforms to the provisions of the zoning ordinance and building codes and may be used or occupied. This certificate is granted for new construction.

City Council: Governing Body for the City of Tonganoxie, Kansas.

Common Open Space: An area of land or water or combination thereof planned for passive or active recreation, which does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts shuffleboard courts, etc., may be included as common open space.

Comprehensive Plan: Named Vision 2020 and also called the Plan, this document sets forth recommendations for annexation, zoning, transportation routes, and public improvements for future growth.

Conversion: Changing, by alteration or renovation, the current use of a building to a different use.

Covenant. A private legal restriction on the use of land contained in the deed of the property or otherwise formally recorded.

Cul-de-Sac: A minor street with only one outlet and culminated by a turnaround

Day Care Center or Nursery: A structure or place where care, supervision custody or control is provided for more than six (6) children, infants or adults for any part of a 24-hour day up to twelve (12) hours.

Design: The arrangement elements and improvements on a plat.

Developer: A person, firm, or corporation engaged in subdivision development, zoning, or installation of public or private improvements

Disability: A record of having or being regarded as having a physical or mental impairment which substantially limits one or more of such person's major life activities. Such term shall not apply to current, illegal use of or addiction to a controlled substance or any person assigned to a community corrections program or diversion program, on parole from a correctional institution or on probation for a felony offense, or in a state mental institution following a finding of not guilty by reason of insanity.

District: A section or sections of the City of Tonganoxie for which the regulations governing the use of land and buildings are uniform.

Drinking Establishment: An establishment in which the primary function is the public sale and serving of alcoholic and/or cereal malt beverages for consumption on the premises, including private clubs, tavern, bar, etc.

Dwelling: Any building, or portion thereof, which is designed or used for residential purposes, including one-family, two-family and multiple-family dwellings, manufactured homes, boarding and lodging houses, but not including hotels, apartment hotels, motels, or trailers.

Dwelling, Elderly or Handicapped: A residential structure—single, double or multi-family-- having accommodations for and occupied exclusively by elderly or handicapped residents. This may include attendant support/maintenance personnel.

Dwelling Unit: A room or group of rooms occupied or intended to be occupied as separate living quarters by a person or household.

Earth Sheltered Residence. A complete structure below or partially below ground level, whose perimeter walls comply with the yard requirements of the district in which it is located.

Easement: A permanent or temporary grant of right by a landowner to the public, a corporation or other persons, of the use of a portion of a lot or tract of land for specified purposes where title to said portion of the lot or tract of land remains with the landowner.

Elderly Person: Those people who are at least sixty-two (62) years of age.

Entrance Directional Frontage: The directional orientation of any source of ingress and egress from an establishment (Ord. 894).

Family: A group of not more than four persons who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit, plus any domestic servants. A family may include any number of gratuitous guest or minor children not related by blood, marriage or adoption.

Farm: A site which is used for the growing of the usual farm products such as vegetables, fruit, trees and grain, and their storage on the site, as well as for the raising thereon of the usual farm animals, such as horses, cattle, sheep, fowl or poultry and swine. The term farming includes the operating of such an area for one or more of the above uses.

Farmers' Market: An establishment or premises where the farm products of a local farming community are sold at retail from uncovered or open air areas designated for individual retailers.

Fence: A structure used as a barrier to prevent escape/intrusion onto property, to mark property boundaries, to add decorative accent to a site, or to provide a screen/buffer between diverse uses.

Filling Station/Service Station: Any building, structure, or land used for the dispensing sale, or offering for sale at retail of any automobile fuels, oils, or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories but not including major repair work such as motor replacement, body, and fender repair or painting.

Floor Area – Commercial buildings: For commercial, business and industrial buildings or buildings containing mixed uses. The sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings but not including:

- a. Attic space providing headroom less than seven (7) feet;
- b. Basement space not used for retailing;
- c. Uncovered steps or fire escapes;
- d. Accessory water towers or cooling towers;
- e. Accessory off-street parking spaces; and
- f. Accessory off-street loading berths.

Floor Area--Residential Buildings: The gross horizontal areas of the several floors of a dwelling, exclusive of garages, unfinished basement areas and open porches, measured from the exterior faces of the exterior walls.

Foster Home: A dwelling or structure in which more than twelve (12) hour care is provided to no more than six (6) children, one or more of which are unrelated to the foster parents. Foster homes shall be permitted in all residential structures.

Garage, Private: An accessory building not exceeding 900 square feet in area designed or used for the storage of not more than four motor driven vehicles owned and used by the occupants of the premises to which it is an accessory, and not used solely for the storage of materials. Not more than one of the vehicles may be a commercial vehicle of two tons capacity or less. Legal vehicular access shall be provided from a public right-of-way. (Updated by Ordinance 1230, May 29, 2007)

Garage, Public: Any building or premises that is operated for commercial purposes and used for equipping, repairing, hiring, selling or storing motor driven vehicles.

Gross Floor Area: The measurement of all floor area of a structure as measured from the exterior of the wall. Floors include basement and attic space with a headroom clearance of 7' or more.

Group Home: Any dwelling licensed by the state and occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability and no more than two (2) staff residents, none of which need be related by blood or marriage. **(K.S.A. 12-736)**

Guest House: Living quarters within a detached, accessory building located on the same lot with the main building for use by temporary guests of the occupants of the premises, such quarters having no more than two (2) bedrooms and no kitchen facilities, no garage and not rented or otherwise used as a separate dwelling.

Half-Street: A street bordering one or more property lines of a subdivision tract to which the subdivider has allocated only a portion of the required street right-of-way width with the full intent that when the adjoining property is developed the remaining portion of the ROW will be dedicated.

Handicapped Person: Those people having an impairment which is expected to be of long, continuous and indefinite duration, is a substantial limitation to their ability to live independently.

Home Occupations: An accessory use of a service character, having no outwardly appearance that the building or premises is being used for any use except for dwelling purposes and which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character, thereof; and provided that there is:

- a. No separate outside entrance.
- b. No keeping of stock in trade.
- c. No persons employed other than the immediate family residing on the premises.
- d. No mechanical or electrical equipment, except such used for purely domestic or household purposes.
- e. No window display or sign over one (1) square foot.
- f. No use occupying more than 25% of the gross floor area on one floor or more than 400 square feet of gross floor area, whichever is least.
- g. Provisions for at least two (2) off-street parking spaces.

It is further provided that no group instruction or gatherings such as dancing and band instrument instruction, tea rooms, tourist homes, convalescent homes or mortuary establishments shall be deemed to be a Home Occupation.

Hospital: A building or group of buildings used for providing services for the inpatient medical or surgical care of sick or injured humans, and which may include related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices. Such related facility or facilities must be incidental and subordinate to the main use and must be an integral part of the hospital operation.

Hotel: A building in which lodging or boarding and lodging are provided for more than 10 persons primarily transient and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. A hotel may include such accessory uses

or buildings as restaurants, taverns, or clubrooms, public banquet halls, ballrooms or meeting rooms.

Improvements: Streets, sidewalks, pedestrian ways, storm drainage work, utilities, permanent street monuments, trees, and other items to be installed, or agreed to be installed, as per the Development Regulations, by the subdivider on the land to be used for public or private use of the lot owner's in the subdivision, as a condition precedent to the approval and acceptance of the final plat.

Inoperative Vehicle: A vehicle that is wrecked, partially dismantled and/or damaged to the extent that the equipment required by State statute on any such vehicle used on the streets and highways is not present or is not in good condition or proper adjustment or such vehicle is in an inoperable condition or a condition that would render the operation on the streets and highways a hazard to public safety.

Junk Yard/Salvage Yard: A lot, land or structure or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal, or discarded material, or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

Kennel, Commercial: Any place where more than two (2) dogs, cats or other domesticated animals are boarded, bred and/or offered for sale in the operation of a business. The occasional raising and sale of a litter of puppies shall not constitute a commercial kennel.

Loading Space or Loading Berth. A space within the main building or on the same lot, providing for the standing, loading or unloading of trucks, having a minimum dimension of 12 by 35 feet and a vertical clearance of at least 14 feet.

Lot: A lot which is a part of a subdivision, the map of which has been recorded in the office of the Register of Deeds of Leavenworth County; or a parcel of land described by metes and bounds, the deed to which was recorded in the office of the Register of Deeds.

- a. Corner Lot. A lot situated at the intersection of two or more streets, rights-of-way or any combination thereof.
- b. Depth of Lot. The mean horizontal distance between the front and rear lot lines.
- c. Double Frontage Lot. A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.
- d. Front of Lot. When a lot has an ambiguous shape or fronts two streets, the lot front shall be along the right-of-way side with the narrower dimension.
- e. Reserved Frontage Lot. A lot on which the frontage is at right angles or at approximate right angles to the general pattern of lots in a block.

Lot of Record: A lot which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds of Leavenworth County; or a parcel of land described by metes and bounds, the deed to which was recorded in the office of the Register of Deeds.

Lot Split or Plat of Survey: A diagram drawn to scale showing all essential data pertaining to the boundaries and subdivisions of a tract of land, as determined by a boundary survey. Survey must be performed according to Kansas Minimum Standards for Boundary Surveys # 1.

Maintenance Bond: A fully executed bond, which is required to be furnished by the developer to cover the costs of construction completions, repair or replacement of new construction arising from problems in construction or installation of any public appurtenances by the developer for a period of one (1) year after acceptance by the City.

Manufactured Home: A structure, which is subject to and built in accordance with the Federal Manufactured Home Construction and Safety Standards, established pursuant to 42 U.S.C. Section 5403 and constructed after June 15, 1976. (**K.S.A. 12-742**)

Manufactured Home Park or Court: A continuous parcel of land which is planned and developed for the placement of manufactured homes, provided, no manufactured home park shall be construed to include a manufactured home sales lot.

Manufactured Home, Residential Design: The following standards are required for placing a manufactured home or modular home in a residential district.

- a. The minimum dimension of either width or length of the home shall be twenty-two (22') feet;
- b. The minimum roof pitch shall be three (3'') inches of rise in twelve (12'') inches of run;
- c. The home shall be sided in wood, masonry, composition board, finished aluminum lap siding, or other materials commonly found in site built residential construction;
- d. The roofing material shall be wood shingles, composition or fiberglass shingles, asphalt shingles, clay or concrete tile or slate, or other materials commonly found in site built residential construction;
- e. The main floor shall be no higher than twenty (20'') inches above the finished grade at the foundation;
- f. The home must be permanently mounted on a foundation or basement similar in appearance to other site built homes. Foundation must be constructed to meet the adopted building codes for the City of Tonganoxie.
- g. If 70% of the homes on the block where the home is to be placed have garages, the manufactured home will need to also provide a garage constructed according to the adopted building codes for the City of Tonganoxie.

Massage Therapy (Therapeutic). The practice of therapeutic massage as the application of various techniques to the muscular structure and soft tissues of the human body, as a healing art, strictly non-sexual, requiring proof of training or education from an institution or business with accreditation recognized by the State, or as an apprentice to a licensed therapeutic massage therapist.

Mobile Home: A transportable structure larger than 320 square feet in floor area designed for year-round residential use and built prior to June 15, 1976.

Modular Home: A manufactured residential structure built to a nationally recognized and accepted construction standard published by the Building Official Conference of America (BOCA) or the International Conference of Building Officials (ICBO) and the unit is inspected and certified at the factory that it meets said standard. A modular home shall have exterior structure materials and appearance similar to the customary single-family structures in the neighborhood and shall be permanently situated on a concrete foundation.

Motel, Motor Court, Motor Hotel or Motor Lodge: Same as "Hotel", except that the building or buildings are designed primarily to serve tourists traveling by automobile and that ingress and egress to rooms need not be through a lobby or office.

Multi-Family Residential: Any single building or group of buildings containing connected single-family dwelling units including, but not limited to, apartments, townhouses or flats. Any subdivision platted with 3 or more contiguous duplex lots shall be considered multi-family residential for the purposes of landscaping and buffering.

Non-Conforming Use: Any building or land lawfully occupied by a use at the time of passage of this ordinance or amendments thereto, which does not conform after the passage of this ordinance or amendments thereto with the use regulations of this district in which it is situated.

Nursing or Convalescent Home: An institution or agency licensed by the State for the reception, board, care, or treatment of three (3) or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

Open Porch. A roofed space attached to a building on no more than two sides, with the remaining sides left open.

Open Space, Common. An area of land or water or combination thereof, reserved for the passive and active recreation of the residents of a designated area. Such areas shall not include areas used for streets, alleys, driveways, private roads, off-street parking or loading areas, utility easements, trash collection points or private yard areas not open to common use by all designated residents.

Open Use of Land: A use which does not involve improvements other than grading, drainage, fencing, surfacing, signs or utilities. Open uses of land include, but are not limited to, auction yards, auto wrecking yards, junk and salvage yards, dumps. They are permitted as an accessory use for sale yards, storage yards, or racetracks.

Parking Lot: A parcel of land devoted to unenclosed parking spaces for motor vehicles.

Parking Space: A permanently surfaced area, enclosed or unenclosed, sufficient in size to store one automobile, together with a permanently surfaced driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

Pedestrian Way: A right-of-way, dedicated for public use, which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

Performance Bond: A surety bond or an irrevocable letter of credit or a cash escrow account made out to the City of Tonganoxie in an amount equal to the full cost of the improvements which are required by these regulations, said costs being estimated by the City Engineer and said surety bond or letter of credit or cash escrow account being legally sufficient to secure to the City of Tonganoxie that the said improvements in lieu of completion will be constructed in accordance with these regulations.

Performance Standard: Criteria to control noise, odor, smoke, toxic or noxious matter, vibration, fire, explosive hazards, glare, heat, or other affects generated by or inherent in uses of land and buildings.

Permanent Foundation: A foundation of formed and poured-in-place concrete, placed masonry units, or pressure treated material having concrete footings or piers extending below the frost line, laid up with such reinforcing materials as may be required for residential or commercial construction, which ever is applicable.

Planned Unit Development (PUD): A single parcel or contiguous parcels of land intended to be developed in accordance with an overall design plan which may include residential, commercial, industrial or public land uses or a mixture thereof.

Plat. A diagram drawn to scale showing all essential data pertaining to the boundaries and subdivisions of a tract of land, as determined by survey. A plat will show all data required for a complete and accurate description of the land that it delineates, including the bearings and lengths of the boundaries of each subdivision. A plat may constitute a legal description of the land and be used in lieu of a written description. A plat must meet all state plat statutes, local subdivision regulations and those set forth by Kansas Minimum Standards for Boundary Surveys # 1

Preliminary Plat: A map made for the purpose of showing the proposed subdivision and the existing conditions in and around it. The exterior boundary must be established according to Kansas Minimum Standards for Boundary Surveys #1. This map need not be based on an accurate or detailed final survey of the lots in the subdivision. See also "Plat".

Premises: A lot, together with all buildings and structures thereon.

Principle Structure: One in which the dominant use of the lot occurs.

Principle Use: The main or dominant use of a premise.

Private Club. A non-profit association of persons who are bona fide members paying annual dues, which own, hires, or leases a building or premises, or portion thereof, the use of such building or premises being restricted to members and their guests. The affairs and management of such private club are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. It shall be permissible to serve goods and meals on such premises providing adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed, provided it is secondary and incidental to the promotion of some other common objective by the organization, and further provided that such sale of alcoholic beverages is in compliance with the applicable Federal, State and Municipal laws. (See Zoning Bulletin, Vol. 49, #8, 6/10/ 2001, pg 3)

Recreational Vehicle: A manufactured, transportable, single family dwelling unit suitable for year round occupancy and containing water supply, waste disposal and electrical conveniences.

Re-plat. A map made as a revision to a previously recorded plat. Such map must meet all state plat statutes, local subdivision regulations and those set forth by Kansas Minimum Standards for Boundary Surveys #1.

Re-subdivision (also Re-plat): The further subdivision of a tract of land which has previously been lawfully subdivided and for which a plat of such prior subdivision has been duly recorded. This procedure must follow the same procedure as a re-plat.

Right-of-Way: A public way established or dedicated by duly recorded plat, deed, grant, governmental authority or by operation of the law.

Roadway: That portion of the street available for vehicular traffic, and where curbs are laid the portion from back to back of curbs.

Screening: A solid or semisolid fence or wall at least six (6) feet high but not more than eight (8) feet high, having a density of not less than eighty (80) percent per square foot. A landscaping screen that meets the density requirements may be used in lieu of a fence or wall. All screens must be maintained in good condition by the owner(s).

Setback or Required Yard: The required minimum horizontal distance between the structure line and the related front, side, or rear property line. All parts of the required yard or setback area shall remain open to the sky.

Shed: A subordinate structure or building used primarily for storage purposes, of a height no greater than eight feet, and the total square footage of which does not exceed 120 square feet. (updated by Ordinance 1230, May 29, 2007)

Sight Triangle: 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 2½ feet and 8 feet above the grades of the outside edge of the street surface of the intersection streets, measured from the point of intersection of the centerline of the streets, 90 feet in each direction along the centerline of the streets. The City Engineer shall establish sight distance triangles based upon standards in the policy manual published by the American Association of State Highway and Transportation Officials (AASHTO).

Signs: Any structure or part thereof, or any device attached to, painted on, or represented on a building, fence or other structure, upon which is displayed or included any letter, work, model, banner, flag, pennant, insignia, decoration, device, or representation used as, or which is in the nature of, an announcement, direction, advertisement, or other attention directing device. A sign shall not include a similar structure or device located within a building except illuminated signs within show windows. A sign includes billboards, but does not include the flag or pennant, or insignia of any nation or association of nations, or of any state, city or other political entity, or of any charitable, educational, philanthropic, civic, political, or religious organization. See Section 25, Signs

Small Limited Business: A secondary use permitting the keeping of stock-in-trade, the sale of economic goods, and/or office in connection with a commercial or industrial enterprise, provided the person engaged in the business is the resident/owner of the dwelling unit, that no person other than members of the immediate family residing in the dwelling unit shall assist in the operation of the business, and in no way shall the appearance of the structure be altered or the occupation within the dwelling unit be conducted in a manner which would cause the premises to differ from its residential character.

Stable, Private: A stable for horses, ponies or mules which are owned by the occupants of the premises and which are not kept for remuneration, hire or sale.

Stable, Riding: A structure in which horses or mules used exclusively for pleasure riding or driving are housed, boarded, or kept for hire; including riding tack.

Story. That portion of a building included between the surface of any floor and the surface of the ceiling next above it.

Story, Half. A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use. A half-story containing an independent apartment or living quarters shall be counted as a full story.

Street. All property dedicated for the purpose of providing right-of-way for public streets, highways freeways, toll-ways, or roadways purposes. The term "street" shall be construed in all cases to include the lands dedicated for the right-of-way purpose, as described above, and the physical improvement constructed or scheduled for construction within the limits of said right-of-way. In any case, the street shall be

approved and accepted only through due process by the City Engineer and the Governing Body.

Street Network:

- a. Boulevard. A supplementary designation to the functional classification indicating that such a street, in addition to the standards for the right-of-way and paving width, shall be developed with the following additional standards:
  1. Vertical face curbs
  2. Sidewalks a minimum of five (5) feet in width located six (6) inches from the property line in the city right-of-way.
  3. Street trees planted at intervals of forty (40) feet.
  4. Ornamental poles for street lighting with all utility service lines underground.
- b. Collector. A street located within a neighborhood or other land use area which collects and distributes traffic from local streets to arterial streets. Access to community or neighborhood facilities may be provided. Collectors are identified by their function. While some are designated specifically in Vision 2020, the Planning Commission may designate others in the review of plats as areas develop.
- c. Freeway/Expressway/Highway. A divided multi-lane arterial street designed for rapid, unimpeded movement of large volumes of traffic with full control of access and grade separations at intersections. An expressway differs from a freeway in that intersections are at grade and generally speed limits are lower.
- d. Frontage Street/Road. A minor street which is generally parallel to and adjacent to major streets, traffic ways, highways, or railroad rights-of-way, and which provides access to abutting properties from through traffic.
- e. Local or Minor Street. One that serves the function of providing access to abutting property
- f. Parkway. A supplementary designation to a primary thoroughfare or expressway to provide a multi-lane arterial street designed to physically and visually tie together parks and recreational areas through additional wide rights-of-way, planted medians and roadside landscaping to enhance the thoroughfare's visual quality. All trees and landscape plantings shall be planted in accordance with Landscaping and Screening Section of the Zoning Ordinance.
- g. Primary Arterial. A multi-lane arterial street designed primarily for traffic movement and secondarily for providing access to abutting properties with a minimum number of at grade intersections.
- h. Secondary Arterial. A multi-lane street intended for both traffic movement and for access to abutting property. Such a street may provide a connection between local and collector streets to primary thoroughfares or freeways.

Street, Local. A street that provides access to individual properties.

Street, Collector. A street that conducts traffic from local streets to arterials, with access to properties

Street, Arterial. A street that carries traffic out of, and through the area, subject to certain control of entrances, exits and curb cuts. Allows limited access to individual property and no access to residential properties without the benefit of a variance.

Structural Alteration: (See Alteration)

Structure: Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having permanent location on the ground, including, but not limited to, manufactured homes and advertising signs.

Subdivider: Any person, individual, firm, partnership, association, corporation, estate, trust, or any other group or combination acting as a unit dividing or proposing to divide land so as to constitute a subdivision as defined herein, and includes any agent of the subdivider.

Subdivision:

- a. The division of any contiguous unit or parcel of land into two or more parcels, sites or lots, for the purpose, whether immediate or future, of transfer of ownership;
- b. The improvement of one or more parcels of land for residential, commercial, or industrial structures involving the division or allocation of land for the opening, widening, or extension of any street or streets, except private streets serving industrial structures;
- c. The division or allocation of land as open spaces for common use by owners, occupants or leaseholders, or as easements for the extension and maintenance of public sewer, water, storm drainage, and other public facilities.

“Subdivision” (as Amended March 16<sup>th</sup>, 1998)

The division of a tract of land into two or more parts, lots or parcels for the purpose of transfer of ownership or building development.

- a. The pending transfer of ownership any part of an existing lot or parcel of land through “contract” sale or similar agreement is a subdivision of the original tract.
- b. If a new street or additional right-of-way is involved, any division of a tract of land.
- c. The term “subdivision” includes resubdivision, and the term "resubdivision", as used herein, shall include any further subdivision of a lot or parcel of land previously subdivided for sale, use, or other purposes, which varies from the latest approved subdivision of the same.

The following shall be exempt from the requirements of these regulations:

- a. A division of ownership of a single parcel or tract as the result of the

culmination of a legally recognized will, shall not be defined as a subdivision until improvements for any use are initiated or procedures commenced on any one of the separate plots or tracts so divided.

- b. Any parcel vacated by the Governing Body.
- c. Any parcel divided, either by a natural barrier, such as a river or stream or a man-made barrier, such as a railroad track or state, county, or township road which creates a natural division of land, because of its characteristics.
- d. Any lot, parcel, or tract of land that has been ordered by law to be partitioned.
- e. Land that is to be used for cemetery purposes.
- f. A transaction between owners of adjoining land involving only a change in the boundary between the land owned by such persons and which does not create an additional lot or which does not result in the creation of a substandard lot by either owner according to any applicable development regulations.
- g. Land used for a public purpose including the dedication of land for a public use or instruments relating to the vacation of land for a public use.
- h. Land used for street or railroad right-of-way, a drainage easement or other public utility subject to local, state, or federal regulations, where no new street or easement of access is involved and therefore not creating additional buildable lots.

Subdivision Regulations: A portion of the Development Regulations that regulates the subdivision of land and infrastructure improvement thereon.

Tower: A structure situated on a nonresidential site that is intended for transmitting or receiving television, radio, or telephone communications, excluding those used exclusively for dispatch communications.

Travel Trailer. A unit designed as a temporary dwelling for travel, recreation or vacation, having body width not exceeding 8 feet and its body length does not exceed 32 feet. Said unit may be a vehicular, portable structure built on a chassis (travel trailer), an integral part of a self-propelled vehicle (motor home), or a canvas, folding structure, mounted on wheels (camping trailer).

Variance: A variation from a specific requirement or allowed use in an ordinance that is not a rezoning.

Yard: An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Yard, Front: A yard extending across the front of a lot between the side lot lines and being a minimum horizontal distance between the street line and the main building or any projection thereof, other than the projection of the usual steps or entranceway.

Yard, Rear: A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension.

Zoning Regulations: A portion of the Development Regulations governing the use of land.

## SECTION 33

### TEMPORARY USES

(Ordinance #1016 01/21/2000)

#### 33-010 USES ALLOWED

The following Temporary uses are permitted in any district upon review and finding of the Governing Body that the proposed use is in the public interest. The use shall be approved for a specific short-term duration. This permit is not to be used as a method to avoid the process for those uses normally allowed in zoning districts or under Special Use Permit. (As adopted 1/26/2000)

- a. Batching Plant, asphalt or Portland cement concrete plant in connection with a large-scale road or building project. Term to be for no more than the expected duration of a specific project and the plant to be completely removed and the site restored to its original condition at completion of the project.
- b. Off-site construction structure or construction materials yard in connection with a large-scale building or road project. The term shall be for no more than the expected duration of a specific project and the operation to be completely removed and the site restored to its original condition at completion of the project. Temporary use permits shall not be required for this type of use when located wholly on the construction site.
- c. Commercial flea markets, swap meets or auctions. Exempt: Those events held at the Leavenworth County Fairgrounds or other similar location that provides sufficient services and amenities for events of this type. Also exempted: garage sales, rummage sales, farm sales or one-time estate-type auctions held by private individuals or non-profit organizations. A permit shall be issued for the duration of a single event or for the duration of a specified number of events per year – not to exceed four (4) events per year or one per quarter.
- d. Concerts or other entertainment events: Exempted: Events sponsored by Tonganoxie municipal or non-profit organizations unless event is expected to last more than three (3) days or draw an expected attendance of 5,000 people or more overall.
- e. Movie or video filming operations involving a combined cast, crew and extras of greater than ten (10) persons, except that one (1) permit may be acquired for a single movie or video filming operation at different locations over a (6) month period provided the applicant informs the Police Department of each filming location twenty-four (24) hours prior to commencing filming operations.

- f. Other temporary uses which are similar to the listed uses in function, traffic-generating capacity, and effects on other land uses.
- g. Farmer's market or similar activity for no more that two (2) days per week for the traditional summer season.

### 33-011 SIGNS

Signs erected in connection with a temporary use require a sign permit (Filing fee required for a sign permit). The sign may be erected one (1) week prior to the event and must be removed within 48 hours of the close of the event. The sign permit fee will be assessed one-time only, but must be renewed annually upon approval or renewal of the temporary use permit.

### 33-012 AUTHORITY

A temporary use permit may be issued by the City Council without the requirements of public hearing. An effective time period shall be set for each permit. Conditions may be attached to the permits that are deemed necessary to protect the health, safety and welfare of the citizens of Tonganoxie. In case of an emergency, approval may be obtained via a special meeting of the governing body.

### 33-013 APPLICATION PROCESS

Application for a temporary use permit shall be made to the City Planner at least fifteen (15) days prior to the set –up for the event. A flat fee of \$50.00 is set for each permit and includes review of the request by the City Planner. All or part of the fee may be waived at the discretion of the City Council when an event is sponsored by a Tonganoxie municipal or non-profit organization or when the event is staged as a benefit. Issues examined shall include but not be limited to the following:

- a. Noise and or nuisance levels created by the use.
- b. Visual impact on surrounding properties.
- c. Methods of waste disposal to be used.
- d. Level of traffic generation.
- e. Food and water service for event.
- f. Buffering or screening for projects of long duration.
- g. Bond or deposit to insure conditions of permit.
- h. Restoration of the site.
- i. Set-up and dismantling time and needs.
- j. Emergency services provided.
- k. Requires a sign permit.

USES/USE GROUPS	R-R	R-E	R-SF	R-I	R-MF1	R-MF2	R-MF3	R-MHP	PUD-R	HBD	LBD	GBD	PUD-C	I-LT	I-MD	* I-H	Com. Plan
Accessory Uses I - V	1, 2, 5 (s)	1, 5 (s)	1, 5 (s)	1, 5 (s)	1, 3	1, 4, 5	1, 4, 5		1, 3, 4			4	4				1
Adult Entertainment												X					
Agriculture, General/Moderate	X																
Assisted Living						X	X		X								
Athletic Facility, Indoor										X		X	X	X			
Athletic Facility, Outdoor	X	X	X	X	X	X			X			X	X	X			X
Aviation	X																
Community/Services/Groups	X	X	X	X	X	X			X	X	X	X	X				X
Education, College	X									X	X	X	X				
Education, Other	X (s)	X (s)	X (s)	X (s)	X (s)	X (s)			X (s)	X	X	X	X				
Education, School	X	X	X	X	X	X			X	X	X	X	X				X
Healthcare, Short/Long Term					X	X			X			X	X				
Home Occupations (Special Use Permit required)	X	X	X	X	X	X	X	X	X								X
Industrial Service															X	X (s)	
Internment Facilities I	X									X	X	X	X				
Internment Facilities II	X												X				
Internment Facilities III																X (s)	
Lodging Facilities I, II, III	X (s)		X (s)	X (s)		X (s)			X (s)	X		X	X				
Manufactured Home Park								X									
Manufacturing Production I, II, III														X	X	X (s)	

USE GROUPS	R-R	R-E	R-SF	R-I	R-MF1	R-MF2	R-MF3	R-MHP	PUD-R	HBD	LBD	GBD	PUD-C	I-LT	I-MD	I-H	Com. Plan
Municipal Services	X	X			X					X	X	X	X				
Private Planned Development									X								
Open Space/Areas	X	X	X	X	X	X			X	X	X	X	X	X	X	X (s)	X
Parking Facilities										X	X	X	X	X			
Personal Care Facility (S)	X (s)	X (s)	X (s)	X (s)	X (s)	X (s)			X (s)	X	X	X	X				
Professional Offices										X	X	X	X				
Public Transpiration												X	X	X			
Rec/Entertainment I, II, III	X (s)									X	X	X	X	X			
Religious Institution	X	X	X	X	X	X			X	X	X	X	X				
Research Laboratory I, II												X	X	X	X	X (s)	
Residential, Group Living			X (s)		X	X			X								
Residential, Group Home	X		X	X	X	X			X								
Residential, Multi-Unit Living I, II, III					X	X	X		X								X
Residential Assisted Living						X	X		X								
Residence, Single Family	X	X	X	X					X								X
Residence, Two-Family				X	X	X			X								
Residential, Secondary	X	X	X						X								
Restaurant I, II										X	X	X	X	X			
Retail Sales/Service I, II										X	X	X	X	X			
Retail Sales/Service, Industrial														X	X		

USE GROUPS	R-R	R-E	R-SF	R-I	R-MF1	R-MF2	R-MF3	R-MHP	PUD-R	HBD	LBD	GBD	PUD-C	I-LT	I-MD	I-H	Com. Plan
Safety Services	X	X	X	X	X	X			X	X	X	X	X	X	X	X (s)	
Self-Service Storage														X	X		
Trades Contractor, Small/Large										X	X	X	X	X	X		
Utilities, Local/Major	X	X	X	X	X	X			X	X	X	X	X	X	X	X (s)	
Vehicle Repair/Service										X	X	X	X	X	X		
Vehicle/Equipment Repair - Industrial															X		
Warehouse														X	X		
Freight Transfer															X		
Waste Processing																X (s)	
Wholesale Sales														X			

\* All uses in this district (I-H) require a special use permit

(s) = special use permit

**APPENDIX B –USE GROUPS BY CATEGORY**

CATEGORY	DEFINITION	USES	R-R	R-E	R-SF	R-I	R-MF1	R-MF2	R-MF3	MHP	PUD-R	HBD	LBD	GBD	PUD-C	ILT	IMD	IH	Com. Plan
<b>RESIDENTIAL</b>																			
Accessory Uses I	Normal residential accessory uses allowed in most districts. Uses shall be for personal needs and scaled to the neighborhood. Also see Supplemental Regulations.	Swimming Pool; Cabana; Detached garage(s)/carport; Storage building(s); Antenna/dish; Boat house/dock; Patio/deck/porch/balcony; Gazebo; Greenhouse; Sauna/; Tree house; Workshop; Art studio	X	X	X	X	X	X	X		X								X
Accessory Uses II	Accessory uses associated with rural living	Storage buildings for machinery/tools, agricultural uses, equipment, etc.; Animal shelter; Arena; Gas pump island;	X																
Accessory Uses III	Accessory uses associated with multi-family living	News rack; Recreational amenities					X				X								
Accessory Uses IV	Uses associated with temporary living uses	Meeting rooms; Convention center; Exhibition hall; Restaurant/food service; Recreation/athletic areas and equipment; News rack/stand;						X	X		X				X	X			
Accessory Uses V	Building/area for production of goods or services for personal use. (Commercial uses require a Special Use Permit)	Workshop; Art Studio;	X	X	X	X		X	X										
Agriculture, General	Raising, producing or keeping plants or animals	Accessory Buildings; Ag Produce Warehouse (no retail); General Ag Uses/Farming; Apiary/Bee-keeping; Aquaculture; Boarding Stable/Riding Academy/Event Arena; Irrigation System; Forestry; Sod Farm; Veterinary Clinic w/large animal yard; commercial fishing lake; farm and truck gardens	X																
Agriculture, Moderate	Propagation of special crops or the keeping/ breeding of animals that may be more extensive or specialized than normal agricultural uses.	Kennels; Mushrooms; Commercial Greenhouse	X																

**APPENDIX B –USE GROUPS BY CATEGORY**

CATEGORY	DEFINITION	USES	R-R	R-E	R-SF	R-I	R-MF1	R-MF2	R-MF3	MHP	PUD-R	HBD	LBD	GBD	PUD-C	ILT	IMD	IH	Com. Plan
Assisted Living	An area developed exclusively for the residential use of a specialized group--older adults, handicapped adults and any reasonable accessory use thereof.	Detached Homes, Attached Units, Multi-Unit structures, Group home, Assisted Care Facilities, Nursing Home, Rest Home						X	X		X								
Group Home	Residential occupancy of a single-family dwelling unit by a group of disabled persons who do not meet the definition of 'household'.	Group home for handicapped persons or endangered youth/adults	X		X	X	X	X			X								
Group Living	Multi-unit residential buildings consisting of living units with one or more communal spaces.	Dormitory; Student residence; Fraternity/sorority house; Convent/monastery; Shelter/mission; Rooming/boarding/lodging house;			X (s)		X	X			X								
Manufactured Home Park	An area developed exclusively for the placement of housing units that are partially or wholly manufactured off-site according to the HUD Minimum Standards.	Single or double-wide manufactured homes; Modular homes; Prefabricated home								X									
Multi-Unit Living I	A single structure containing 1 to 4 separate living units	Duplex; Four-plex; Townhouses; Apartments; Condominiums					X				X								X
Multi-Unit Living II	A single structure containing 2 - 16 separate living units. No Single Family dwellings	Apartments; Condominiums						X			X								X
Multi-Unit Living III	A single structure containing 16 + separate living units	Apartments; Condominiums							X										
Private Planned Development	Homes developed around a recreational theme	Fly-in Development; Golf course development; Lake development; Arena development									X								
Secondary Residential	A secondary residential use in addition to a main dwelling unit for use on a temporary, seasonal or subsidiary basis. Main dwelling unit must be occupied by the owner of the property.	Guest house; Bunkhouse; Caretaker's dwelling; Granny flat	X	X	X						X								
Single Family Residential	Independent, detached dwelling unit designed for occupation by a single family	Residence; Single or Double-wide manufactured homes; Modular homes; Prefabricated home	X	X	X	X					X								X
Two-Family Residential	Single structure designed to house two families in separate living quarters	Duplex				X	X	X			X								

**APPENDIX B –USE GROUPS BY CATEGORY**

CATEGORY	DEFINITION	USES	R-R	R-E	R-SF	R-I	R-MF1	R-MF2	R-MF3	MHP	PUD-R	HBD	LBD	GBD	PUD-C	ILT	IMD	IH	Com. Plan
<b>INSTITUTIONAL &amp; SERVICES</b>																			
Aviation	Facilities for the landing and takeoff of flying vehicles, including loading and unloading areas	Airport; Airfield; Hangars; Flying School; Heliport; Helistop	X																
Community or Social Services/Groups	Public, non-profit, or charitable uses, generally providing a local service to a specified group or the community at large	Lodge/Club/Fraternal Hall; Art Gallery; Museum; Library; Cultural Facility; Senior Citizens Center; Community Center; Social Services Center	X	X	X	X	X	X			X	X	X	X	X				X
Education, College	Institutions of higher learning or specialized education	College; University; Trade School	X									X	X	X	X				
Education, Other	Institution offering classes or tutelage or instruction in the arts or athletics	Schools for dance/music/arts; Athletic instruction; Learning Center or Tutoring Services; Adult Education	X (S)			X (S)	X	X	X	X									
Education, School	Institution offering education for children and youth from the pre-school level through college preparatory. Includes parochial, private or public instruction.	Elementary/Grade School; Middle/Junior High School; Senior High School; Day School; Prep-School;	X	X	X	X	X	X			X	X	X	X	X				X
Health Care, Short Term	Medical or surgical care to patients	Day Surgery; Hospital; Clinic						X							X	X			
Health Care, Long Term	Medical or surgical care to patients	Nursing Home; Sanitarium; Home Health Care					X	X			X				X				
Internment Facilities I	Buildings and/or site for preparation of the human body for internment.	Morgue; Funeral home; Undertaker.	X									X	X	X	X				
Internment Facilities II	Site for the internment of the human body.	Cemetery; Columbarium, Mausoleum. Special Use permit required.	X												X				
Internment Facilities III	Facilities for cremation of the human body	Crematorium. Special Use permit required.																X (S)	
Municipal Services	Provides services to large areas of the City or the City at large	Post Office; Administrative/Governmental Offices and Services	X	X			X					X	X	X	X				
Personal Care Facility	Care, protection, tutelage and/or supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day.	Nursery; Day Care Center or Facility; Adult Care Facility; Pre-School; Kindergarten	X (S)			X (S)	X	X	X	X									

**APPENDIX B –USE GROUPS BY CATEGORY**

CATEGORY	DEFINITION	USES	R-R	R-E	R-SF	R-I	R-MF1	R-MF2	R-MF3	MHP	PUD-R	HBD	LBD	GBD	PUD-C	ILT	IMD	IH	Com. Plan
Public Transportation	Land/bldgs for facilities for loading/unloading freight & passengers & normal accessory uses	Bus terminal/station; Train station												X	X	X			
Religious Institution	Meeting area/site for religious activities to include worship and secular activities connected with a recognized organized religious organization	Church/Synagogue/Temple; Bible Institute; Christian Science Reading Room; Religious sponsored schools/libraries/educational institutions; Social or recreational center	X	X	X	X	X	X			X	X	X	X	X				
Safety Services	Public safety and emergency response services	Police Station; Fire Station; Ambulance/paramedic services	X	X	X	X	X	X			X	X	X	X	X	X	X	X	
Utilities, Local	Infrastructure services that need to be located in or near the area where the service is provided.	Substation or pump station; Transformer station for electric or communication services; Well--oil, gas, water; Water Tower	X	X	X	X	X	X			X	X	X	X	X	X	X	X	
Waste Processing	1. Uses that receive solid or liquid wastes from others for processing or disposal on site or for transfer to another location. 2. Uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the processing of organic material.	Grinding pit; Sewage works/facility; Packing/bailing site; Incinerator; Landfill																X (S)	
Utilities, Major	Large-scale facilities providing services for regional areas.	Flood control project; Railroad facilities; Power generating station; Energy storage facility; Reservoir, Water supply plant/filter beds; Maintenance facility; Recycling center; Animal shelter/ pound	X													X	X		

**APPENDIX B –USE GROUPS BY CATEGORY**

CATEGORY	DEFINITION	USES	R-R	R-E	R-SF	R-I	R-MF1	R-MF2	R-MF3	MHP	PUD-R	HBD	LBD	GBD	PUD-C	ILT	IMD	IH	Com. Plan
<b>RECREATIONAL</b>																			
Athletic Facilities, Indoor	Building(s)/facilities for indoor athletic activities	Skating Rink; Hockey Field/Rink; Bowling Alley; Swimming Pool; Health Club/Fitness Center; Racquetball/ Handball Courts										X		X	X	X			
Athletic Facilities, Outdoor	Site and facilities for outdoor athletic activities	Athletic/Sports Field(s); Driving Range; Golf Course; ; Skateboard Park; Playground; Recreational Community Buildings	X	X	X	X	X	X			X				X	X			X
Lodging Facilities III	Lodging facilities provided for tourists, travelers and short-term recreational use	Campground; Summer camp; Base lodge or hunting camp/lodge; Ski resort; Vacation farm/dude ranch; Retreat; Cabins; Recreational vehicle park; Country inn	X (S)								X (S)				X				
Open Space or Areas	Natural areas consisting mostly of vegetative landscaping	Historical Marker; Conservation & Wildlife Sanctuary/Park; Natural Area; Forest; Wooded Area; Walking/Biking paths; Archeological Site; Nurseries; Orchards; Public Parks	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X
Recreation/ Entertainment I	Commercial uses that provide moderate to large sized space or facilities for recreation- or entertainment-oriented activities in an indoor or outdoor format.	Banquet hall; Assembly Hall; Auditorium; Exhibition Hall; Conference Center; Convention hall/facility; Arcade; Billiard Parlor; Game room; Pavilion; Bar; Private Club; Nightclub/Cabaret/ Dance hall; Miniature Golf course; Theater										X	X	X	X				
Recreation/ Entertainment II	Large, generally commercial uses that provide for recreation- or entertainment-oriented activities in an outdoor format	Stadium; Fairground; Aquarium; Adventure Game; Gun Club/Skeet Shoot/Target Range; Marina; Yacht Club; Drive-in or Amphi-theater	X (S)												X	X	X		
Recreation/ Entertainment III	Commercial recreation/entertainment sites in excess of twenty acres	Race Track; Ski Slope/Facilities; Amusement Park; Theme park; Recreational Lake; Casino; Zoo	X (S)																

**APPENDIX B –USE GROUPS BY CATEGORY**

CATEGORY	DEFINITION	USES	R-R	R-E	R-SF	R-I	R-MF1	R-MF2	R-MF3	MHP	PUD-R	HBD	LBD	GBD	PUD-C	ILT	IMD	IH	Com. Plan
<b>COMMERCIAL</b>																			
Adult Entertainment	Adult bookstore, adult cinema or adult entertainment facility. Activities involving nudity or partial nudity.	Exotic Cabaret; Adult video rental/viewing; Adult books/goods												X					
Lodging Facilities I	Lodging facilities provided for tourists, travelers and short-term residential use (less than 6 months)	Rooming/boarding/lodging house	X		X	X		X			X	X							
Lodging Facilities II	Lodging facilities provided for tourists, travelers and short-term recreational use	Hotel; Motel; Hostel; Resort	X (S)					X (S)			X (S)			X	X				
Parking Facility	Parking when it is the main use, not an accessory use, of a piece of property.	Municipal or private garage or parking lot										X	X	X	X	X			
Professional Offices	Activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services	Doctor offices, Dentist offices, Administrative Offices; Radio/Television production studio/ offices-no tower; Publishing-no production										X	X	X	X				
Restaurant I	Site for preparation of food for service to the public for consumption at tables on-site or for drive-thru/carry-out service either inside or outside of the building.	Restaurant; Fast-Food Restaurant w/o drive-through facilities										X	X	X	X	X			
Restaurant II	Site for preparation of food for service to the public for consumption at tables on-site or for drive-thru/carry-out service either inside or outside of the building.	Drive-In or Drive-Thru Restaurant										X	X	X	X	X			
Retail Sales/Service I	The sale, lease or rental of new or used products to the general public. Also personal services, product repair or services for consumer and business goods.	Veterinary Clinic-no exterior pens; Bakery/Bake Shop/Caterer; Jeweler/Clockworks; Bicycle Repair; Beauty/Barbershop; Dry Cleaner; Laundry; Shoe Repair; Manicure; Massage; Haberdashery; Dressmaker/Tailor; Day Care; Mail/Packaging; Travel/Tour Guide; Locksmith; Photo Developing Outlet; Photography Studio; Upholstery/Furniture Refinishing; Engraving; Financial Institutions, Gun Shop												X	X	X			

**APPENDIX B –USE GROUPS BY CATEGORY**

CATEGORY	DEFINITION	USES	R-R	R-E	R-SF	R-I	R-MF1	R-MF2	R-MF3	MHP	PUD-R	HBD	LBD	GBD	PUD-C	ILT	IMD	IH	Com. Plan
Retail Sales/Service II	The sale, lease or rental of new or used products to the general public. Provision of personal services, product repair or services for consumer and business goods.	Farmer's Open-Air Market; Garden Ctr/Nursery; Agricultural Supply Store; Agricultural Chemicals; Farm Implement Sales/Service w/display yard; Landscaping Service; Motor Vehicle Dealership-Used/ New w/display yard; Vehicle or machinery rental or leasing agency; Restaurant; Hotel/Motel; Restaurant/Hotel/Motel Supplies; Retail Warehouse/Outlet; Office Equipment/Machinery; Data Processing; Printing/Photocopying; Courier/ Messenger Service; Taxicab; Detective/ Protective services; Veterinary w/exterior pens; Exterminating; Employment Agency												X	X	X			
Trades Contractors, Small Scale	Retail outlets for service businesses with limited on-site product or equipment storage	Electrical, Plumbing Carpentry, HVAC, Communications, Welding; Trades Workshop, Painter; Remodeling										X	X	X	X	X			
Vehicle Repair	Vehicle repair firms servicing passenger vehicles, light and medium trucks and other consumer vehicles such as motorcycles, boats and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed.	Motor Vehicle Repair Garage; Auto Body Repair												X	X	X	X		
Vehicle Service, Limited	Provide direct services to motor vehicles where the driver/passengers generally wait in the car or nearby while the service is performed.	Car Wash; Gas Bar; Service Station; Oil Change Service; Tire Service											X	X	X	X			

**APPENDIX B –USE GROUPS BY CATEGORY**

CATEGORY	DEFINITION	USES	R-R	R-E	R-SF	R-I	R-MF1	R-MF2	R-MF3	MHP	PUD-R	HBD	LBD	GBD	PUD-C	ILT	IMD	IH	Com. Plan
<b>INDUSTRIAL</b>																			
Industrial Service	Firms engaged in the provision of services geared toward industrial uses or services that have the potential of impact upon the community.	Specialized or custom cleaning or maintenance services; Paint Shop; Vending Machine supplier; Dry cleaning/dyeing or laundry plant; Photo processing lab; Auto tow lot															X	X	
Manufacturing/ Production I	Firms involved in the final stages of manufacturing, processing, fabrication, packaging, or assembly of goods	Publishing--books, newspaper, periodicals, music, recordings, art, etc; Commercial Bakery; Mfg of Jewelry/Optical goods; Production of paper goods, stone products														X			
Manufacturing/ Production II	Firms involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Moderate scale uses.	Products from glass, metals, plastics, wood; Textile or apparel mfg; Ice; Vegetable/Food products or processing; Milk distribution															X		
Manufacturing/ Production III	Firms involved in the processing of raw materials for manufacturing purposes. Also large scale manufacturing uses.	Asphalt or concrete batching plant; Mfg of rubber, plastic, paint/paint products; metals, paper/pulp, lumber, porcelain/china, tobacco; Rubber reclamation; Distillation Plant; Processing plant for fish, animals or their by-products; Foundry; Grain/mill products; Gas or petroleum refining or production; Mfg of aircraft, pre-fabricated homes, vehicles, soap/cleaners/ toiletries/detergents; Mineral processing; Pharmaceutical Factory; Storage of unsightly equipment/ materials; Tanning & Leather processing																X (S)	
Research Laboratory I	Facilities for the scientific study, testing and analysis of ideas/products, etc.	Research laboratory												X	X	X	X		
Research Laboratory II	Facilities for the scientific study, testing and analysis of ideas/products, etc. where either the materials or the methods used for testing have the potential to cause harm to people or the environment.	Research laboratory																X (S)	
Retail Sales/Service, Industrial	The sale, lease or rental of products that could have a detrimental effect on the general public.	Industrial chemicals; Sales/leasing of heavy equipment, construction equipment, farm machinery ; Bus/train garaging or equipment maintenance; Fuel storage tank(s); Landscaping service w/equipment storage; Truck Stop														X	X		

**APPENDIX B –USE GROUPS BY CATEGORY**

CATEGORY	DEFINITION	USES	R-R	R-E	R-SF	R-I	R-MF1	R-MF2	R-MF3	MHP	PUD-R	HBD	LBD	GBD	PUD-C	ILT	IMD	IH	Com. Plan
Self-Service Storage	Providing separate storage areas for individual or business uses.	Storage units/building(s)														X	X		
Trades Contractors, Large Scale	Sites for service contractors including storage yards for equipment and supplies	General trades contractor w/equipment yard; Roofing/siding/sheet metal contractor												X	X	X	X		
Vehicle/Equipment Repair, Industrial	Large scale facilities providing repair services for large or oversized vehicles and equipment.	Large scale equipment or machinery repair shops; Fleet service shops; Farm or construction equipment repair															X		
Warehouse	Storage of goods or merchandise for sale	Warehouse, Mini warehouse, Storage business														X	X		
Freight Transfer	Temporary storage and movement of goods or merchandise in transit, usually on a large scale	Cartage or transport depot; Freight handling; Cold storage locker plant															X		
Wholesale Sales	Firms involved in the sale, lease, or rental of products primarily intended for industrial, institutional, or commercial businesses.	Alcoholic Beverages; Groceries; Manufactured goods distributors														X			
<b>OTHER</b>			X	X	X	X	X	X			X	X	X	X	X	X	X	X	
Temporary Uses	Uses established for a limited amount of time that may create a negative impact upon the public well-being.	Food booth/stall for an event; Portable Processing Plant for aggregate processing/concrete batching/asphalt production; Construction Office Temporary Housing during construction or repair to home or business; Large-Scale Event; Auction																	
			<b>(s) = Special Use Permit Required</b>																
<b>The following uses can only be located in the I-H Zoning District and require a Special Use Permit:</b>																			
Disposal of dead animals; Offal reduction; Fat/Oil Rendering Intensive agricultural uses such as feedlots, large-scale production of animals, poultry Fish processing plant Foundry or steel works Hazardous waste disposal Mining, quarrying Detention facilities Salvage Yard, Junk Yard																			