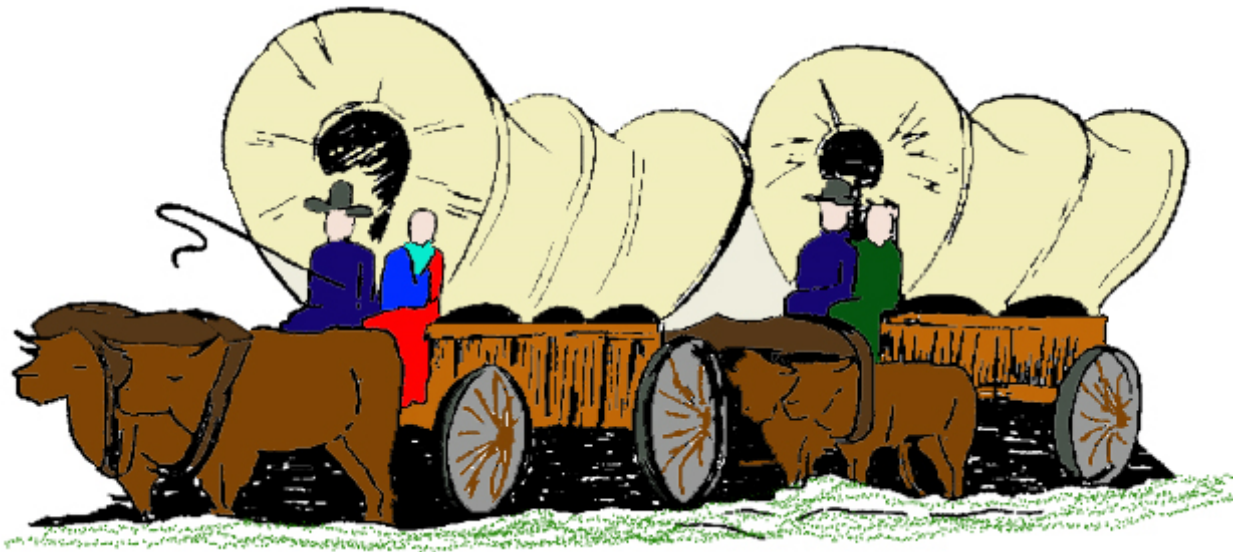


CITY OF OVERBROOK



Zoning Regulations

Overbrook Planning and Zoning Commission

Adopted:

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Overbrook Planning and Zoning Commission

Zoning Regulations

Article 1 - Title and Jurisdiction

This document, including the zoning maps made a part hereof, shall be known and may be cited and referred to as the “Overbrook Zoning Regulations”, and shall hereinafter be referred to as “these regulations”.

These regulations shall apply to all structures and land within the corporate limits of the City of Overbrook as shown on the approved zoning map, and may be amended by annexation of new territory into the City or by action of the Planning and Zoning Commission.

Article 2 - Purpose and Intent

These regulations adopted pursuant to the provisions of KSA 12-741, *et. seq.*, are intended to serve the following purposes:

- A. To promote the health, safety, integrity, comfort and general welfare of the City;
- B. To preserve and protect property values throughout the City;
- C. To restrict and regulate the height, number of stories and size of structures; the percentage of lot coverage; the size of yards, courts and other open spaces; and the density of population;
- D. To divide the City into zones and districts; and
- E. To regulate and restrict the location and use of structures and land within each district or zone.

Article 3 - Rules

A. Rules:

1. In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise:
2. Words used in the present tense shall include the future.
3. Words in the singular number include the plural number, and words in the plural number include the singular number.
4. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
5. The word "shall" is mandatory.
6. The word "may" is permissive.
7. The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies and all other legal entities.
8. The word "Board" means the Board of Zoning Appeals.
9. Unless otherwise specified, all distances shall be measured horizontally.
10. The word "City" means the City of Overbrook, Kansas.
11. The abbreviation N/A means non applicable.
12. Any word or phrase which is defined in these regulations shall have the meaning as so defined whenever the word or phrase is used in these regulations, unless such definition is expressly limited in its meaning or scope.

B. Interpretation:

1. Minimum Requirements: In their interpretation and application, the provision of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, integrity and welfare.

2. Overlapping or Contradictory Regulations: Where the conditions imposed by any provision 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 regulations which are more restrictive shall govern.
 3. Private Agreement: 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. Unlawful Uses: 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; and 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.
- C. Separability: It is hereby declared to be the intention of the City that the several provisions of these regulations are separable in accordance with the following rules;
1. If any court of competent jurisdiction shall adjudge any provision of these regulations to be invalid, such judgment shall not affect any other provisions of these regulations.
 2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular property or structure, such judgment shall not affect the application of said provisions to any other property or structure.

Article 4 - Definitions

For the purpose of these Zoning Regulations, certain terms or words use herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

Abandoned Vehicle - Any inoperable motor vehicle to which the last registered owner of record thereof has relinquished all further dominion and control.

Access - The right to cross between public and private property allowing pedestrians and vehicles to enter and leave the property.

Accessory Apartment - An accessory use residential unit that is located detached from a principal single-family residential unit.

Accessory Structure - A subordinate structure which serves an incidental function to that of the main use of the premises. Customary accessory uses include, but are not limited to, garages carports, greenhouses and storage sheds.

Accessory Use - A subordinate use which serves an incidental function to that of the main use of the premises. Customary accessory use includes tennis courts, swimming pools, air conditioners, barbecue oven, and fireplaces. In terms of land use, the term “accessory” may be used interchangeably with “incidental” or “ancillary”.

Adult Entertainment Establishment - An establishment used for presenting material selling material, or featuring entertainment that is distinguished or characterized by an emphasis on displaying, depicting, describing, or relating to sexual activities or anatomical areas that are sexual in nature and which excludes minors by virtue of age. This shall include massage parlors, rap centers, nude wrestling studios, body painting studios, nude modeling studios, nude photography studios, peep shows, strip shows, escort services, and other similar uses. This shall also include any activity identified or addressed within KSA 12-770 and amendments thereto.

Agricultural Use – Crops - The use of a tract of land of not less than 40 acres for the growing of crops or nursery, including the structures necessary for carrying out farming operations and the dwellings of those owning or operating the premises, including a member of the family thereof, or persons employed thereon , and the family thereof.

Agricultural Use – Livestock - The use of a tract of land of not less than 40 acres for the raising or breeding of livestock or pasturage including the structures necessary for carry out farming operations and the dwelling of those owning or operating the premises, a member of the family thereof, or person employed thereon, and the family thereof, but such use shall not include feedlots as defined by State Statute. For the purpose of this code, livestock means animals that

are bred, hatched, raised, housed pastured or otherwise kept by an individual for the purpose of producing animal products (e.g. milk, wool or honey), sales or for value increase. Includes, but is not limited to cattle, hogs, sheep, goats, poultry, horses, rabbits and bees. May include such animals that are kept as family pets or show animals.

Airport or Airstrip - An establishment that provides facilities that support the landing and taking off of aircraft. Typically includes landing areas, runway, taxiway, hangers, aprons, aircraft storage and tie-down areas, aircraft repair and fueling facilities. May also include passenger air terminals.

Alley - A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property, said right-of-way being twenty (20) feet or less in width.

Alteration - Alteration as applied to a structure, is 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 as an alteration.

Amendment - The process of change or alteration to the Zoning Regulations in one of the following forms:

- A. A comprehensive revision or modification of the zoning text and/or maps.
- B. A text change in the zone requirements.
- C. A change in the maps, i.e., the change in the zoning designation of a particular parcel or parcels. This form is also known as “Rezoning”.

Applicant - The owner of a tract of land, or his duly designated representative, for which an amendment has been requested.

Auction Sales Yard - Tract of land and accompanying buildings and/or other structures arranged or designed to be used for the sale by auction of merchandise offered on consignment.

Banking - Drive Through - An establishment primarily engaged in deposit banking and lending services that includes facilities, such as windows, and intercom systems, for provision of services to individuals in automobiles. Typical uses include banks, savings and loans and credit unions.

Basement - That portion of a structure having more than one-half of its height below grade and having a measurable height of greater than four (4) feet.

Bed and Breakfast - A family home, occupied as a permanent dwelling by the proprietor, in which lodging and meals are provided for time-limited durations to not more than nine groups of patrons in a 24-hour period.

Board of Zoning Appeals - The Board which has been created by the Governing Body having jurisdiction and which has the statutory authority to hear and determine appeals and variances to the zoning regulations.

Body Art Studio - A commercial establishment primarily engaged in the practice of tattooing a person's skin, piercing body parts and other forms of body art. This does not include establishments that offer piercing services only for ears. Such activities shall take place within an enclosed building.

Breezeway - An architectural structure, often a simple roof connecting two independent and separate structures (*i.e.* a house and a garage). Excludes passages between two single-family dwellings, between single-family and multiple-family dwellings or between two multiple-family dwellings.

Business Support Services - An establishment primarily engaged in services that support the operation of businesses/offices and the carrying out of personal business. Typical uses include photocopying, reproduction photo developing, blueprinting services, parcel/postal pick up, business machine repair, small sign and banner fabrication, security services, building cleaning and janitorial services. Incidental sales of office supplies and stationery may be included. This does not include outdoor storage of materials and scrap.

Buffer Area - Open and unobstructed ground area of a plot in addition to required yards or road widening around the perimeter of any plot.

Buildable Width - The width of that part of a lot not included within any required open space.

Building - Any structure built for the support, shelter, or enclosure of persons, animals, chattels or movable property of any kind and which is permanently affixed to the land exclusive of fences.

Building Heights - The vertical distance from the established grade to the highest point on the roof or parapet wall.

Building Line - A line, usually fixed parallel to the lot line, beyond which a building cannot extend under the terms of these regulations.

Building, Principal - A building in which the main or principal use of the plot on which said building is situated. In any residential district, any dwelling shall be deemed to be the principal building on the plot on which it is located.

Campground - Establishment primarily engaged in providing overnight or short term camping sites for recreational vehicles, travel trailer, campers or tents.

Car Wash - An establishment primarily engaged in the cleaning or detailing of motor vehicles whether self-service or automated. This does not include truck washes intended for semi-trucks and heavy equipment.

Cemeteries and Mausoleums - Establishments primarily engaged in subdividing real property into cemetery lots and developing it for resale. Typical uses include cemeteries, animal cemeteries and mausoleums.

Church - A building used for public worship services; a house of worship.

City Attorney - The City Attorney, or such licensed attorney designated by the Governing Body, responsible for the prosecution of all violations of these regulations in accordance with the provisions contained herein, and as established by law.

City Engineer - The City Engineer, or such licensed engineer designated by the Governing Body, to provide engineering assistance in administering these and other regulations governing areas of normal responsibilities assigned to the City Engineer.

Clean Rubble - Inert, uncontaminated construction and demolition waste which includes concrete and concrete products, brick, soil or rock.

Clinic - A building designed and used for the medical, dental or surgical diagnosis or treatment of patients under the care of doctors and/or nurses, with no overnight boarding.

Club - Buildings and facilities owned or operated by a corporation, association, person or persons for social, educational, or recreational purposes, but not primarily for profit which benefits any individual and not primarily to render a service which is customarily carried on as a business.

Club Membership - Membership clubs, including private clubs, as defined by KSA 41-2601 *et seq* and succeeding amendments, including but not limited to such clubs as the American Legion, VFW, and the Elks.

Cluster Housing - The site planning technique of grouping dwelling units around courts, parking areas, common open spaces and private drives as opposed to fronting all on a public street.

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

Comprehensive Plan - The adopted Comprehensive Plan for City of Overbook, Kansas, and amendments thereto.

Conditional Use - A use of any building, structure or parcel of land that, by its nature, is perceived to require special care and attention in siting so as to assure compatibility with surrounding properties and uses. Conditional uses are allowed only after public notice, hearing, and approval as prescribed in these regulations and may have special conditions and safeguards attached to assure that the public interest is served.

Conditional Use Permit (Special Use Permit) - A Special (Conditional) Use Permit is a permit issued by the Zoning Administrator with the authorization of the City Council. A Special (Conditional) Use Permit provides permission under special conditions to make certain special uses of land in certain zoning districts as stipulated in each of the district zoning regulations and permits the construction, alternation or establishment of a conditional use of the land.

Condominium - A single dwelling unit under individual ownership within a multiple dwelling unit structure. A building containing two (2) or more dwelling units which are designed and intended to be separately owned under the Townhouse Ownership Act (KSA 58-3710 *et seq*) of the State of Kansas.

Convenience Store - A commercial establishment primarily engaged in the retail sale of gasoline, food, beverages, and other household and automotive merchandise. This may include a car wash as an accessory use (see "Car Wash"). This does not include vehicle repair services.

County - The Board of County Commissioners of Osage County, Kansas, or its delegated staff, boards or agencies.

Crawl Space - That portion of a structure having more than one-half of its height below grade and having a measurable height of less than four (4) feet.

Dance/Entertainment Club - An establishment primarily engaged in providing entertainment and/or social gathering space for person under the age of 21 years. Such establishment shall not be eligible to sell or serve alcoholic or cereal malt beverages. Typical use may include dancing, billiards, video arcades, vending machines, snacks, and non-alcoholic beverages such as coffees, teas, soda pops and juices.

Day Care Center - A commercial establishment appropriately licensed and operated under the regulations of the Kansas Department of Health and Environment where care, supervision, custody or control is provided for a part of a 24 hour day up to twelve (12) hours.

Day Care, Church - Any day care facility appropriately licensed and operated under the regulations of the Kansas Department of Health and Environment where care, supervision, custody or control is provided for a part of a 24 hour day up to twelve (12) hours which is located on the campus of a legally recognized religious organization and operated by the same organization.

Day Care, Home - A day care establishment operated by an individual within a home appropriately licensed and operated under the regulations of the Kansas Department of Health and Environment where care, supervision, custody or control is provided for a part of a 24 hour day up to twelve (12) hours appropriately licensed by the Kansas Department of Health and Environment. Such uses shall only be allowed in single-family and two-family residential dwellings.

Disability - A physical or mental impairment which substantially limits one or more of such person's major life activities, a record of having such impairment or being regarded as having such impairment. Such terms do not include current, illegal use of or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 USC 802); 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 zoning area for which these regulations governing the use of land, the height of structures, the size of yards and the intensity of use are uniform.

Dog - Any canine species.

Dwelling - A structure or portion thereof which is designed and used exclusively for residential purposes.

Dwelling, Earth-Sheltered - A dwelling designed as 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.

Dwelling, Multiple Family - A residential structure having accommodations for and occupied exclusively by more than two families, independently.

Dwelling, Single Family - A residential structure having accommodations for and occupied exclusively by one family.

Dwelling, Two Family - A residential structure having accommodations for and occupied exclusively by two families, independently.

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.

Educational Centers, Parks and Gardens - A publicly or privately owned facility that provides educational services and opportunities for the general public. Typical uses include zoos, aquariums, botanical gardens, observatories and planetariums.

Educational Institutions - Public or private establishments and campuses primarily engaged in educational processes. Typical uses include libraries, elementary schools, middle schools, junior and senior high schools, technical schools, professional training schools, community colleges, universities and support offices and facilities. May also include accessory uses such as dormitories, gymnasiums, etc. Does not include sports arenas and stadiums.

Equipment Rental, General - Establishments primarily engaged in renting or leasing equipment that does not require special training or licensure for operation, such as moving trucks, pickup trucks, vans, automobiles, tools, power tools, moving equipment and yard maintenance equipment. May include the outdoor storage and incidental sales of such equipment.

Equipment Rental, Heavy - Establishments primarily engaged in renting or leasing large equipment that normally requires special training or licensure for operation, such as heavy equipment, construction equipment, earth moving equipment and semi-trucks. May include the outdoor storage and incidental sales of such equipment.

Equipment Storage Yard - An outdoor facility primarily used for the storage of construction or industrial equipment. Such uses are typically associated with businesses in the construction or building trades. Ancillary uses such as offices, storage building, guard shacks, etc. are often associated with the primary use.

Established Setback - The average setback on each street on which a lot fronts established by three (3) or more buildings; provided, only those properties that are within the same district and within 300 feet on each side of said lot along the same side of the street, but not beyond any intersecting street, are used in determining the established setback.

Exotic Birds or Animals - Birds or animals not commonly kept domestically or that are not native to Osage County and/or the United States. Exotic birds or animals includes, but are not limited to, bears, lions, tigers, cougars, wolves, half-breed wolves, and snakes. Birds in the ratite family, llamas and bison or North American buffalo shall not be considered as exotic birds or animals.

Family - One or more persons related by blood or marriage or adoption, living together as a single housekeeping unit plus usual domestic servants; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit, plus in either case, usual domestic servants. A family shall under no circumstances be construed as a boarding house, fraternity or sorority house, club, lodging house, hotel, motel or commune. This shall not include a "group home" as defined herein.

Family Day Care Home - A facility licensed by the State of Kansas to provide children under eighteen (18) years of age with food and lodging for less than twenty-four (24) hours per day. This term is further construed to include similar units with different names.

Farmer's Market - The seasonal selling or offering for sale at retail of home-grown vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables or produce, or have taken the same on consignment for retail sale. Also an outdoor place or market area where individuals primarily engage in the sale of produce or agricultural products they have typically grown or raised. Other items offered for sale may include dried flowers, crafts that are made in the home original artwork and prepared foods such as baked goods, jellies and preserves, pickles and cheese.

Feed Lot, Commercial - A livestock feedlot or feedyard as defined by KSA 47-1501 *et seq*, licensed by and operated under standards set forth by the State of Kansas.

Fence - A protective, confining or decorative barrier separate from any structure and not including any living plant material.

Flood Plain - That area of land subject to a 1% chance of inundation of water.

Floor Area (For Computing Off-Street Parking Requirements) - Shall mean the gross floor area of the structure measured from the exterior faces of the exterior walls or from the centerline of walls separating two structures and shall include the following areas:

- A. The basement floor area.
- B. The area of each floor of the structure.
- C. The attic space having headroom of seven (7) feet or more.

Floor Area - The square foot area of all space within the outside line of a wall, including the total area of all floor levels, but excluding porches, garages, or unfinished space in a basement or cellar.

Foster Home, Family - Family foster home means a child care facility that is a private residence, including any adjacent grounds, in which a licensee provides care for 24 hours a day for one or more children in foster care and for which a license is required by K.A.R. 28-4-801.

Front - The part or side of any building or structure facing the street or frontage road which is used as the basis for establishing the permanent address for the building or structure.

Frontage – The length of the property abutting on one side of a street measured along the dividing line between the property and the street.

- A. **Street Frontage:** All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street; or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

- B. **Lot Frontage:** The distance for which the front boundary line of the lot and the right-of-way are coincident.

Funeral Home - An establishment primarily engaged in preparing the human deceased for burial or cremation and arranging and managing funerals. May also include incidental sales of caskets, urns, etc.

Gas and Fuel Storage - An establishment primarily engaged in the bulk storage and distribution of flammable liquids, gas, solid fuel or chemicals. May include the wholesale or retail sales of such fuels. Does not include petroleum refining.

Gasoline Service Station - An establishment engaged in the refueling of automotive vehicles, whether self or full service. Such establishments shall not include major vehicle repair service.

Golf Course - A tract of land developed for the purpose of providing private and/or public golf recreation and support facilities. May include other recreational amenities such as locker rooms, tennis courts and swimming pools. May also include sport pro shops, restaurants and bars, when such uses are legally licensed.

Governing Body - The City Council of the City of Overbrook.

Grain Storage - Facilities for the warehousing of harvested agricultural products and grains. Typical uses include grain elevators.

Group Home - Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability who need not be related by blood or marriage and not to exceed two (2) staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of the State of Kansas. For purposes of this definition, **disability** shall mean a condition, with respect to a person, which means:

- A. A physical or mental impairment which substantially limits one or more of such persons major life activities;
- B. A record of having such an impairment; or,
- C. Being regarded as having such an impairment.

Such terms do not include current, illegal use or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).

Group Day Care Home - A facility licensed by the State of Kansas for the care of seven (7) to twelve (12) children under fourteen (14) years of age, and which is maintained for less than twenty-four (24) hours per day.

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

Hair and Beauty Services - Commercial establishments primarily engaged in providing services to individuals intended to improve their personal appearance. Typical uses include barber shops, beauty shops, hair dressers, ear piercing, manicure/pedicure salons, day spas, massage parlors and cosmetology studios. May include incidental sales of hair and beauty products. Does not include medical therapies, acupuncture or body art studios.

Hazardous Waste - Any waste meeting the definition of KSA 65-3430 and amendments thereto.

Hazardous Waste Disposal Facility - Any facility which meets the requirements as defined in KSA 65-3430, as amended.

Home Improvement Center - A commercial establishment primarily engaged in the selling of lumber and other building materials such as paint, glass, hardware, wallpaper, nursery stock, lawn and garden supplies, plumbing supplies, flooring materials, electric supplies and tools. Such activities occur within a space greater than 50,000 square feet and may occur either indoors or outdoors.

Home Occupation – A business, profession, service or trade conducted for gain or support entirely within a residential structure maintained as the primary residence of the business owner and that is accessory to the residential use.

Hospital - An institution that offers medical services more intensive than is typically provided in a medical office or clinic. Such institutions provide room, board, personal services and general nursing care for the diagnosis, treatment or care of illness, injury, deformities, infirmity, abnormality, disease or pregnancy. Available services typically include clinical laboratory services, diagnostic nuclear medicine services, therapeutic treatments, surgical procedures, obstetrical care and other medical treatment of a similar extent. May also include medical or dental offices, pharmacies, gift shops, cafeterias or restaurants, medical laboratories and other related uses typically found in such establishments.

Hotel, Motel or Tourist Court - A structure which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests and which is kept, used, maintained, advertised or reserved for transient guests for periods of not more than 28 consecutive days; and having more than two bedrooms furnished for the accommodations of such guests. Also, a structure or portion thereof, or a group of structures, used as a transient abiding place which may or may not serve meals and whether such establishments are designated as a hotel, inn, automobile

court, motel, motor inn, motor lodge, motor court, tourist cabin, tourist court or other similar designation.

Industrial Landfill - A permitted solid waste disposal area used exclusively for the disposal on land of industrial solid waste.

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

Industrial Solid Waste - Non-toxic, non-hazardous solid waste generated from industrial processing and acceptable as material for disposal in an industrial landfill as determined by the Kansas Department of Health and Environment.

Intensity - The degree or level of concentration to which land is used for commercial, industrial or any other nonresidential purpose.

Junk - Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.

Junkyard - An establishment which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of a motor vehicle graveyard. This term shall include salvage yards.

Kennel, Boarding - Any place, area, building or structure where dogs, cats or other domesticated animals (including those under one year of age) are boarded, housed, cared for, fed or trained by other than the owner.

Kennel, Hobby Breeder - Any place, area, lot, building or structure where more than four dogs are kept for any purpose.

Kennel, Class 1 Commercial – Any place, area, building or structure, licensed by the Department of Agriculture and authorized to house five or more dogs or cats for the purpose of selling puppies or kittens for economic gain. No commercial kennels may be located in residential zone unless grandfathered in by any of Overbrook’s Animal Control Ordinances.

Landscaping - The improvement of a lot, parcel or tract of land with grass, shrubs and/or trees. Landscaping may include pedestrian walks, flowerbeds, ornamental features such as fountains, statuary, and other similar natural and artificial objects.

Livestock Sales Yard - An enclosure or structure designed or used for holding livestock for purpose of sale or transfer by auction, consignment, or other means.

Lodging or Boarding House - A structure which meets the definition of a “hotel”, except that such a house shall contain no more than four bedrooms for the accommodation of guests.

Lot - A parcel of land occupied or intended for occupancy by a use permitted in these Regulations, including one (1) main building or unit group of buildings together with permitted accessory buildings and required yard areas and parking spaces, having its principal frontage upon a public street. A lot may include one (1) or more platted lots or metes and bounds described tracts, but must be under single ownership and, when more than one (1) parcel, be contiguous.

Lot Area - The area of a horizontal plane bounded by the front, side and rear lot lines, excluding any road right-of-way or road easements.

Lot, Corner - A lot abutting upon two or more streets at their intersection.

Lot Coverage - The percentage of a lot which, when viewed directly from above, would be covered by a structure or structures or any part thereof, excluding projecting roof eaves.

Lot, Depth of - The mean horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

Lot, Double Frontage - A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

Lot, Interior - A lot whose side line or lines do not abut upon any street.

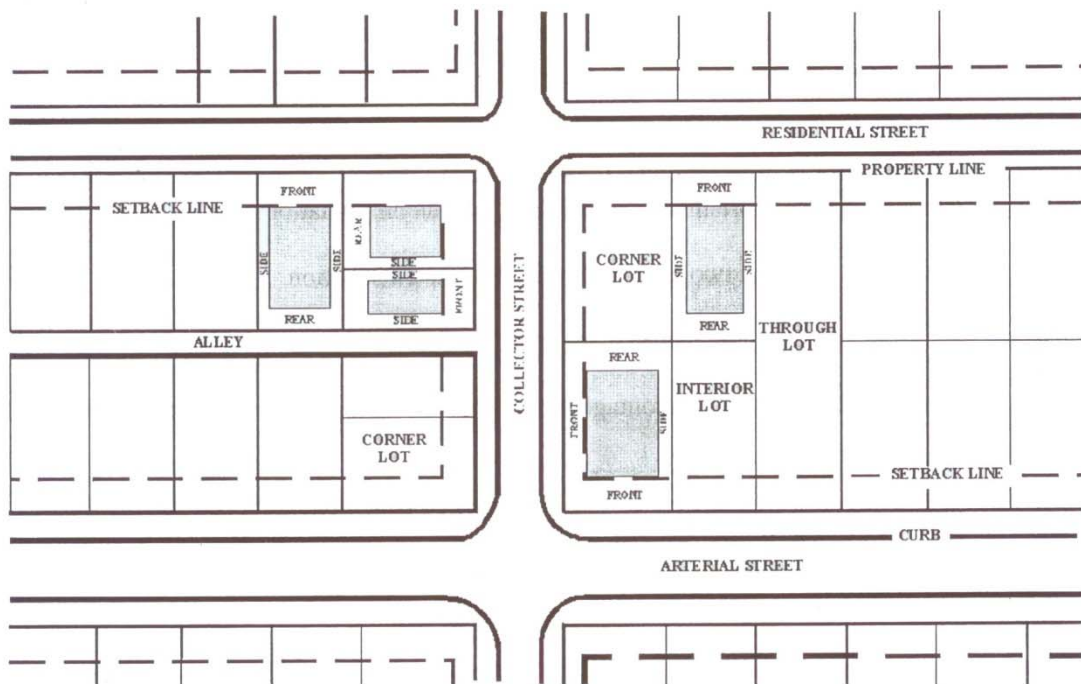
Lot Lines - The lines bounding a lot as defined herein.

Lot of Record - A lot which is part of a subdivision, or plat of which has been recorded in the office of the County Register of Deeds; or a lot described by metes and bounds, the description of which has been recorded in the office of the County Register of Deeds prior to the adoption of the various zoning regulations for the City as set out in Article 5, General Provisions of these regulations.

Lot, Width of - The distance, measured on a horizontal plane, between the side lot lines, measured at right angles to the lot depth at the established front building line.

Lot, Zoning- A parcel or tract of land used, developed, or built as a unit under single ownership or control. Said zoning lot may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof; and shall be contiguous parcels (See Figure 1).

FIGURE 1 – Lot Types and Setbacks



Manufacture - Any method of processing, developing, fabricating or assembling either raw material, semi-finished materials or parts into semi-finished or finished products.

Manufacturing, General - A establishment engaged in the manufacture, predominantly from previously prepared or finished materials, of finished goods, products or parts. Typical uses include garment factories, laundry/dry cleaning plants, furniture and fixture production, machine shops, rubber and plastics product manufacturing, bakeries, food production, vehicle assembly plants, pharmaceutical/toiletry production, beverage production and bottling (not including breweries), electrical equipment and electronics production, printing/publishing (except copy shops), etc. Generally includes ancillary uses such as storage, offices, guard shacks, etc.

Manufactured Home - A dwelling unit substantially assembled in an off-site manufacturing facility for installation or assembly at the dwelling site, bearing a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards (24 CFR 3280 *et seq*) promulgated by the U.S. Department of Housing and Urban Development which became effective June 15, 1976, and was manufactured after the date of promulgation. Mobile Homes and Manufactured Homes are essentially the same except that a Manufactured Home is manufactured in compliance to a uniform code described above. For purposes of clarification, these manufactured homes are divided into three classes;

Class A: A manufactured home meeting or exceeding the US Department of Housing and Urban Development standards built after June 14, 1976 which is a multisectional or double-wide design and meets the following appearance criteria:

1. Has a minimum width of sixteen (16) feet;
2. Has exterior siding, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction, consisting of one or more of the following:
 - a. Vinyl or aluminum lab siding whose reflectivity does not exceed that of flat white paint;
 - b. Cedar or other wood siding;
 - c. Wood grain, weather resistant press board siding;
 - d. Stucco siding; or
 - e. Brick or stone siding;
3. Has a gable roof having a pitch with a minimum vertical rise of three and one-half (3.5) feet for each twelve (12) feet of horizontal run;
4. Has a roof finished with roofing material with a fire rating of Class C or better and that is commonly used in standard residential construction; and
5. Has a roof structure that provides an eave projection of no less than six (6) inches, which may include a gutter.

Class B: A manufactured home constructed to meet or exceed US Department of Housing and Urban Development code requirements for manufactured homes built after June 14, 1976, and which has a gable roof having a pitch with a minimum vertical rise of three and one-half (3.5) feet for each twelve (12) feet of horizontal run.

Class C: Any manufactured home which does not meet the definitional criteria of a Class A or Class B manufactured home. These are normally manufactured homes constructed prior to June 14, 1976. Class C manufactured homes are not permitted within the Overbrook city limits.

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

Manufactured Home, Residential Design - A manufactured home is a Class A or Class B manufactured home which satisfies the following additional criteria. Class C manufactured homes are not included in this definition:

- A. The manufactured home shall have minimum dimension of 16 feet in width and 40 feet in length

- B. The pitch of the manufactured home shall have a minimum vertical rise of four feet for each 12 feet of horizontal run and the roof finished with a type of shingle that is commonly used in standard residential construction.
- C. All roof structure shall provide an eave projection of no less than 12 inches, exclusive of any guttering.
- D. The exterior siding shall consist of vinyl or metal horizontal lap siding (whose reflectivity does not exceed that of low luster white paint) wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction in the city.
- E. The manufactured home shall be set up in accordance with the recommended installation procedures of the manufacturer and the standard set by the National Conference of State on Building Code and Standards and published in "Manufactured Home Installations, 1987" (NCS BCSA225.1) and a continuous permanent masonry foundation or masonry curtain wall, or poured concrete wall, not pierced except for required ventilation and access, is installed under the perimeter of the Residential-Design Manufactured Home.
- F. Stairs, porches, entrances platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the building code and attached firmly to the primary structure and anchored securely to the ground.
- G. A Residential Design Manufactured Home, when installed, shall be substantially the appearance of an on-site conventionally built, single-family dwelling.
- H. Moving hitch, wheel and axles and transporting lights must be removed.
- I. The manufactured house shall have been constructed within 15 years of the date of the application for the building permit.
- J. No additions or alterations shall be made to the manufactured house that affect the structural integrity of the original.

Manufacturing, Limited – An establishment engaged primarily in the on-site production, finishing, assembly or packaging of crafts and goods by hand, hand tool or small machinery. Typical uses include ceramic shops, candle making, fabrication of advertising signs and billboards, custom jewelry manufacturing, electronic and computer products assembly, millwork, cabinetry, custom carpentry shops, monument/stone carving, engraving shops, upholster shops, scientific and medical instrument production, microbrewery, precision

machining of tools, etc. Generally includes ancillary uses such as incidental sales of items produced on-site, offices, storage, etc.

Manufacturing, Processing – An establishment engaged in the processing of predominantly extracted or raw materials into finished, or partially finished goods, products or parts. Also includes those industries that have the potential to produce commonly recognized offensive conditions, such as noxious fumes or odors. Typical uses include fat rendering plants, poultry plants, slaughterhouses, meat processing, brewery, textile mills, pet food production, tanneries pulp processing, paper products manufacturing, chemical plants, cement plants, fertilizer, production, stockyards and feedlots, garbage incineration, metal foundries and petroleum refineries. Generally includes ancillary uses such as storage, offices, guard shacks, etc.

Medical Clinic - Any structure designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to doctors of medicine, dentists, chiropractors, osteopaths, optometrists, podiatrists, and in which no patients are lodged overnight, but which may include a pharmacy.

Microbrewery - An appropriately licensed brewery that produces no more than 5,000 barrels of beer per year and does so in a completely enclosed building. May also include restaurants and sales of alcoholic and cereal malt beverages as legally licensed.

Mining or Quarrying - The extraction, processing and/or storage of metallic and non-metallic minerals, excluding oil or natural gas. Includes, but not limited to sand, soil and gravel pit operations; concrete plants; asphalt plants; quarries and mines. May also include the crushing grinding, washing, preparing and bulk sales of such materials.

Mobile Home - A transportable, factory-built structure designed to be used as a year-round residential dwelling, built prior to enactment of the National Manufactured Home Construction and Safety Standards Act, which became effective June 15, 1976, or which fails to meet this standard. A Manufactured Home which was manufactured after the enactment of the National Manufactured Home Construction and Safety Standards Act, which became effective June 15, 1976 may also be referred to as a Mobile Home except that a Manufactured Home is manufactured in compliance to a uniform code.

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

Motion Picture Theater - A commercial establishment primarily engaged in the indoor exhibition of motion pictures. May include incidental concessions, restaurants or arcades.

Motor Freight Terminal - Establishments primarily engaged in the shipping or transfer of materials, equipment or products within a building. Typical uses include trucking terminals, parcel terminals (UPS, Fed Ex, USPS, etc.), moving companies, etc. Does not include post offices or rail yards.

Motor Vehicle - A motorized vehicle with rubber tires for use on highways, including passenger cars, pick-ups and trucks.

Motor Vehicle Graveyard - Any establishment which is maintained, used, or operated for storing, keeping, buying, or selling three (3) or more wrecked, scrapped, ruined, dismantled or inoperative motor vehicles. Distinguished from a junk yard by the fact that only motor vehicles are involved. A motor vehicle graveyard shall not include any location where motor vehicle bodies are placed along stream banks for purposes of bank stabilization and soil erosion control, if such placement conforms with guidelines established by the Chief Engineer of the Division of Water Resources of the State Board of Agriculture and has been permitted accordingly.

Museums, Studios and Galleries - An establishment primarily engaged in the creation or display of works of fine art and/or the display of collectible or historic items. Typical uses include history museums, art museums, art studios, photographic studios, art galleries, etc.

Nonconforming Buildings, Land and/or Use - The use of a building or land which was lawful at the time these Regulations became effective but which, because of the passage of these Regulations, does not conform to the regulations of the district in which it exists.

Nonconforming Lot - An unimproved lot which does not comply with the lot size requirements for any permitted use in the district in which it is located.

Nonconforming Structure - A structure which does not comply with the lot size requirements or bulk regulations applicable to new structure in the zoning district in which it is located.

Nursery and Garden Centers - Commercial establishments primarily engaged in the sale of plants, trees, seeds, sod and garden supplies and tools. May also include services such as gardening classes and landscaping design. May include plant and tree nurseries and greenhouses.

Nursing or Convalescent Home - An institution or agency licensed by the State for the reception, board, care or treatment of five (5) or more unrelated individuals, but not including group boarding homes for minors or group homes for adults or facilities for the care and treatment of mental illness, alcoholism or narcotics addiction.

Oil or Gas Extraction - Activities that include the subsurface removal of gas or oil and other actions that support such activities. This includes, but is not limited to exploration, drilling, oil and gas well operation and maintenance.

Open Space - Useable open space designed and intended for use by all residents of a residential area, including publicly dedicated space.

Overlay District - A district which acts in conjunction with the underlying zoning district or districts.

Owner - Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to a tract of land.

Parking Lot - An area, other than a private parking area, street or alley, used for parking of motor vehicles and available for public or semi-public use.

Parking Space - Any area surfaced for all-weather use, including gravel, sand, or comparable materials, used for the purpose of storing one parked motor vehicle.

Parks and Recreation - A park, playground, gymnasium, trail, recreation center or other publicly-owned community facility that provides opportunities for active or passive recreational activities.

Passenger Transportation Services - Establishments engaged primarily in transporting people by vehicular means. Typical establishments would include services provided by bus depots, rail depots and airport passenger terminals. Does not include vehicle storage yards or bus barns.

Person - Any individual, partnership, joint venture, corporation, or other business or legal entity.

Personal Services - Commercial establishments engaged primarily in providing services that maintain or care for an individual's personal clothing items or belongings. Typical uses include laundry services, laundromats, dry cleaning services, shoe shine services, shoe repair, tailors and clothing alteration services. Does not include industrial dry cleaning or laundering plants.

Pipelines - Structures built specifically for the pipeline transportation of petroleum, natural gas and other commodities.

Planning Commission - The Overbrook Planning and Zoning Commission.

Post Office - A facility or structure operated by the United States Postal Service that is used for the collection, sorting and distribution of mail and parcels. May have limited retail services for the general public, such as the sale of stamps and postcards.

Private Club - A non-profit association of persons who are bona fide members paying annual dues, which owns, hires or leases a structure or premises, or portion thereof, the use of such structure 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.

Professional or Government Office - An establishment primarily engaged in providing executive, administrative, management, professional or governmental services that take place within an office environment. Typical uses include engineering, architecture, accounting, insurance sales and brokerage, real estate sales and brokerage, stock sales and brokerage, deposit banking without drive-through services, advertising agencies, travel agencies, attorneys and legal services private investigations, bail bonds, social services, local government agencies, state government agencies, federal government agencies, court rooms, etc. Does not include retail sales, medical clinics, hospitals or drive-through banking.

Preschool - A facility which:

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

The term “preschool” shall include educational preschools, Montessori schools, nursery schools, church sponsored preschools, and cooperatives. A facility may have fewer than 13 children and be licensed as a preschool if the program and facility meet preschool regulations. This term is further construed to include "Day Nursery School" and other similar uses.

Public Assembly Venue - An establishment that primarily provides sufficient space and facilities for more than 20 people to congregate for a singular purpose or event. Typical uses include public or private auditoriums, houses of worship, meeting halls, community centers, performing arts theaters and concert halls. Does not include motion picture theaters, sports arenas and stadiums, conference rooms associated with businesses or offices. May include incidental concessions, gymnasiums, non-commercial kitchens and offices.

Public Safety Facilities - A typically publicly-owned facility providing services that provide for the safety of the general public. Typical uses include police or law enforcement stations, fire stations and ambulance services.

Public Utility, Major - A facility associated with producing or supplying the general public with (a) telephone service; (b) internet service; (c) electricity; (d) natural gas; (e) water; (f) sewer; or

(g) cable television. Does not include the minor infrastructure by which such utilities are distributed, such as poles and lines, structures not exceeding 150 cubic feet in size and six feet in height that do not generate discernible noise, odor or vibration and that otherwise comply with these regulations.

Recreational Equipment - An item which is not used in connection with customary accessory residential uses on a lot. Included in the meaning of recreational equipment are such large items as slide-in campers, boat trailers, hang gliders, ski jets, houseboats, pontoons, and boats over fourteen (14) feet in length which require a trailer for transportation.

Recreation and Entertainment, Indoor - A privately-owned establishment offering recreation, entertainment or games of skill that is wholly enclosed in a building. Typical uses include bowling alleys, bingo parlors, pool halls, video game arcades and amusement rides. May include incidental concessions.

Recreation and Entertainment, Outdoor - A privately-owned establishment offering recreation, entertainment or games of skill to the general public or members wherein any portion of the activity takes place outdoors. Typical uses include archery ranges, batting cages, golf driving ranges, motion picture drive-ins, skeet and trap clubs, shooting ranges, miniature golf courses, go cart tracks, theme parks and amusement rides. Does not include golf courses, parks, open space and recreation facilities.

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

Recreational Vehicle or Travel Trailer - A vehicular-type unit built on or for use on a chassis and designed as living quarters, both permanent and temporary, for recreational, camping or travel use, and which has its own motive power, or is mounted on, or which can be drawn by another vehicle. The term recreational vehicle shall include, but not be limited to, motor homes, travel trailers, camper trailers, pickup truck campers, hauling trailers, and camper buses.

Recreational Vehicle Campground - A lot or tract of land designed for occupancy by recreational vehicles for temporary or transient living purposes, including the use of camping spaces for tents.

Recycling Processing Center - An establishment primarily engaged in the receipt, separation, storage, baling, conversion and/or processing of recyclable materials. Does not include salvage yards (junkyards, motor vehicle graveyards).

Recycling/Refuse Collection and Transfer Center - A facility primarily engaged in the collection and temporary storage of recyclable materials and garbage.

Residential Center - A facility licensed by the State of Kansas providing residential care for more than ten (10) persons unrelated to the operator(s).

Restaurant – An establishment whose primary purpose is the sale, dispensing or service of food, refreshments or beverages, other than in automobiles, including those establishments where customers may serve themselves. Ancillary use may also include the legally licensed sales of alcoholic and cereal malt beverages for consumption on premises, whose food and non-alcoholic beverage sales comprise of at least fifty percent (50%) of their monthly sales.

Restaurant, Drive Through - An establishment whose primary purpose is the sale, dispensing or service of food, refreshments or beverages, including service and/or consumption of food and includes the facilities, such as windows and intercom systems, to service persons in automobiles.

Retail, General - An establishment primarily engaged in the sale or rental of commonly used goods and merchandise for personal or household use. Typical uses include grocery stores, department stores, furniture stores, clothing stores, pawn shops, pay day loans, check cashing services and establishments providing the following products or services: household electronics, sporting goods, bicycles, office supplies, home furnishings, household appliances, video tapes and discs, hardware, wallpaper, carpeting and flooring materials, flowers, medical supplies, art supplies, books, drugs, jewelry, cosmetics, antiques, liquor, cereal malt beverages, automotive parts and accessories, etc. Does not include deposit banking, vehicle sales, heavy equipment sales, manufactured home sales, malls, supercenters or home improvement centers.

Retail, Malls and Supercenters - Any establishment that meets the definition of “Retail, General” in these regulations wherein such activities take place within an enclosed building or structure under common ownership/proprietorship of over 50,000 square feet.

Right of Way - A strip of land dedicated or reserved for use as a public way which normally includes streets, sidewalks, or other public utility or service area.

Sale, Retail - The sale of goods, merchandise and/or commodities to the ultimate consumer.

Sale, Wholesale - The sale of goods for resale, or the sale of goods produced or processed from raw materials which require bulk delivery of the product.

Salvage Yard – A place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, handled or prepared for recycling, which shall include auto wrecking yards and motor vehicle graveyards, but shall not include retail secondhand furniture stores or the purchase and storage of used or salvaged materials as a part of a manufacturing operation.

Sanitary Landfill - A disposal site in which the method of disposing of solid waste and/or industrial solid waste is by landfill, dump or pit and which has a solid waste disposal permit issued under KSA 65-3401 *et seq.*, and amendments thereto.

Self-Storage Facilities - A storage facility of a commercial nature containing individual, fully enclosed bays that are leased to persons exclusively for the storage of their household goods or personal property. Does not include outdoor storage of vehicles, boats or equipment.

Setback - The required minimum horizontal distance between the structure line and the related front, side or rear property line.

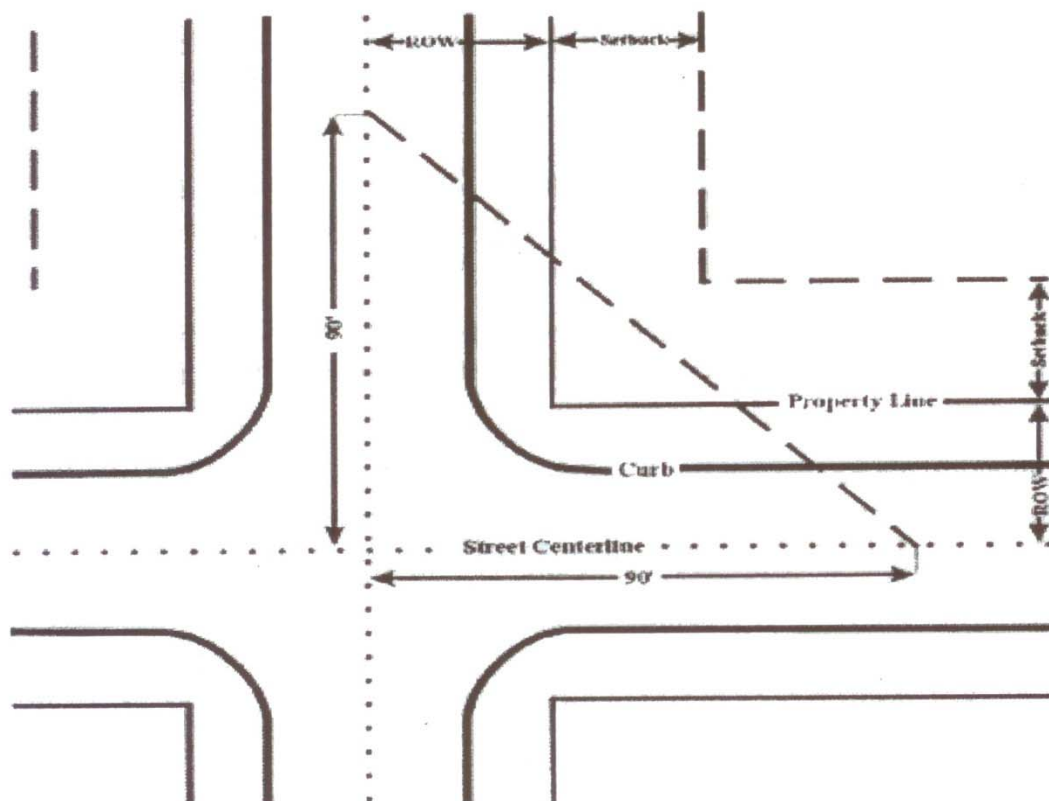
School - Any building or buildings housing public or private elementary, junior high, high school, college, university, post-graduate, technical or vocational school, offering courses in general instruction at least three days per week.

Screening - Fencing or vegetation maintained for the purpose of concealing from view.

Sign - Any device which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an advertisement or announcement which directs attention to an object, product, place, activity, person, institution, organization or business.

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).

FIGURE 2 – Sight Triangle



Solid Waste - Garbage, refuse and other discarded materials including, but not limited to solid, semisolid, sludge, liquid and contained gaseous waste materials resulting from commercial, agricultural and domestic activities. Such term shall not include hazardous wastes.

Special Use Permit (Conditional Use Permit) - A Special (Conditional) Use Permit is a permit issued by the Zoning Administrator with the authorization of the City Council. A Special (Conditional) Use Permit provides permission under special conditions to make certain special uses of land in certain zoning districts as stipulated in each of the district zoning regulations and permits the construction, alternation or establishment of a conditional use of the land.

Sports Arenas and Stadiums - An indoor or outdoor structure primarily intended to provide space for teams and individuals to practice or compete in sporting events, which includes adequate seating and facilities for spectators. May also be used for ancillary events and gatherings, such as concerts and performing arts events. Typical uses include football stadiums, baseball stadiums, horse arenas, rodeo arenas, ice rinks and basketball arenas. Does not include public sports field bleachers or gymnasiums associated with schools, houses of worship or health clubs.

Street - A right-of-way, dedicated to the public use, which provides vehicular and pedestrian access to adjacent properties.

Street Line - A dividing line between a lot, tract or parcel of land and the contiguous street.

Street Network –

- A. Local Street – provides access to properties.
- B. Collectors – conducts traffic from local streets to arterials, with access to properties.
- C. Arterials – carries traffic out of and through the area, subject to certain control of entrances, exits and curb cuts.

Stockyard, Commercial - A penned enclosure, or structure, where livestock are maintained temporarily for the purpose of slaughtering, marketing or shipping.

Storage Facility, Outdoor – A storage facility primarily used to store vehicles, boats, equipment, etc. The facility may be totally or partially covered or open.

Story - That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Story, Half - A story under a gable, hip or gambrel roof of which the wall plates on at least two opposite exterior walls are not more than 2 feet above the floor of such story.

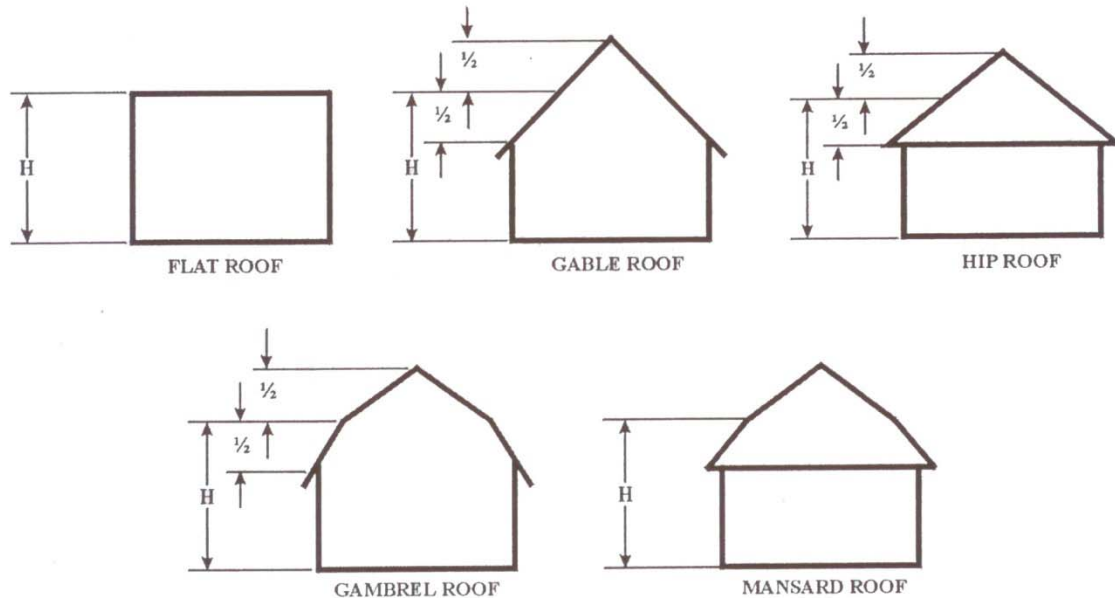
Structural Alterations - Any change in the supporting members of a structure, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this regulation, the following shall not be considered a structural alteration:

- A. Attachment of a new front façade where structural supports are not changed.
- B. Addition of fire escapes where structural supports are not changed.
- C. New windows where lintels and support walls are not materially changed.
- D. Repair or replacement of non-structural members.

Structure - Anything constructed, erected or placed on the property, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures and street signs.

Structure Height - The vertical dimension measured from the average elevation of the finished lot grade at the front of the structure to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a measured roof; and to the average height between the plate and ridge of a gable, hip or gambrel roof.

FIGURE 3 – Vertical Dimensions of Structure Heights



Tavern, Bar or Night Club - A legally licensed establishment in which the primary function is the public sale and serving of alcoholic and cereal malt beverages for consumption on the premises. Ancillary use may also include dancing, billiards, darts, vending machines, video games and the legally licensed sales of food and non-alcoholic beverage sales, which comprise less than fifty percent (50%) of the monthly sales.

Townhouse - A single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by common walls or are located immediately adjacent thereto with no visible separation between walls or roofs and with no other dwelling unit located above or below another and with each dwelling unit having at least one interior common wall and a private exterior entrance.

Townhouse Structure - A grouping of three or more townhouses.

Townhouse Site - A townhouse, the total land area beneath the townhouse and the facilities associated with the townhouse.

Truck Stop/Truck Wash - An establishment primarily engaged in the sale of diesel fuel for semi-trucks and heavy equipment and providing goods and services for over-the-road truck drivers and the travelling public. Such establishments may include convenience stores, restaurants, car washes, truck washes, vehicle repair services, locker rooms/showers, etc. that are otherwise permitted by these regulations.

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

Urban or Loft Apartment - A residential dwelling unit located in the core downtown area that is typically attached to a structure that contains other dwelling units or land uses.

Use - The specific purpose for which land or a building is used.

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

Vehicle and Equipment Sales - An establishment primarily engaged in the sales of new and used automotive vehicles, semi-trucks, agricultural equipment, heavy equipment, recreational vehicles and/or manufactured homes. May include the auction of such vehicles and equipment and limited or major vehicle repair services.

Vehicle Repair, Limited - Establishments providing specialized motor vehicle repair or maintenance services, which activities take place within an enclosed building, excluding paint and body shops or other major vehicle repair services. Typical services include electronic tune ups, brake repairs, air conditioning repairs, tire repairs, front end alignments, battery recharging and oil/lubrication services. May also include the sales, repair or installation of parts and accessories such as tires, batteries, windshield wipers, hoses, windows, etc.

Vehicle Repair, Major - Establishment providing major motor vehicle, recreational vehicle, semi-truck or heavy equipment painting, body work and repair services. Typical services include major engine repairs and rebuilding, painting, body work, frame repairs, etc.

Veterinary Services, Large Animal - Establishments operated by doctors of veterinary medicine offering on-site veterinary services for large livestock or zoo animals.

Veterinary Services, Small Animal - Establishments operated by doctors of veterinary medicine offering veterinary services for animals that are generally considered to be household pets. Does not include overnight boarding except as required for emergency cases.

Visibility Triangle - The triangular area formed by the intersecting street right-of-way lines and a straight line joining said street right-of-way lines at points which are thirty (30) feet distant from the point of intersection, measured along said right-of-way lines.

Warehousing and Wholesaling - Establishments primarily engaged in the indoor storage, distribution or sales of materials, equipment or products within a building. Typical uses include wholesale distributors, beer/liquor distributors, indoor vehicle storage, commercial warehousing, etc. Does not include self-storage facilities.

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

Wind Energy Conversion System, Commercial - A single Wind Energy Conversion System exceeding 100 kW or exceeding 120 feet in height above grade, or more than one Wind Energy Conversion System of any size proposed and/or constructed by the same person or group of persons on the same or adjoining parcels or as a unified or single generating system.

Wind Energy Conversion System Height - The distance measured from the ground level at the base of the tower structure to the highest point on the Wind Energy Conversion System, including the rotor blades.

Wind Energy Conversion System, Small - A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW, which is less than 120 feet in height above grade and which is intended to primarily reduce on-site consumption of utility power.

Yard – A space on the same lot with a main structure, open, unoccupied and unobstructed by structures from the ground upward.

Yard, Front - A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way and the structure setback line.

Yard, Rear - A yard extending across the full width of the lot between the rear building line and the rear lot line, the depth of which is the least distance between the rear lot line and the rear setback line.

Yard, Side - A yard extending from the front yard, or front lot line where no front yard is required, to the rear yard.

Zone or District – See District. A section of the zoning area for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land and open space about buildings are herein established.

Zoning Administrator - The person or persons authorized and empowered by the City Governing Body to administer the requirements of these Regulations.

Zoning Area - The area to be zoned as set out on the official Zoning Map filed of record.

Zoning Regulations - The term “zoning regulations” or “this or these regulations” shall mean the requirements stipulated in the regulations herewith attached, and shall mean the lawfully adopted zoning ordinances of the City of Overbrook.

Article 5 - General Provisions

Jurisdictional Area: The provisions of these regulations shall apply to all structures and land in the incorporated area of the City of Overbrook, Kansas. The jurisdictional area shall be shown on the Official Zoning District Map.

Establishment of Districts: The jurisdictional area is hereby divided into six (6) zoning districts:

- R-1 Residential – Single Family Dwelling
- R-2 Residential - Multiple-Family Dwelling District
- MP Manufactured Home Park Residential District
- P-1 Public Use District
- C-1 Commercial District
- I-1 Industrial District

Zoning District Map: The boundaries of the districts are shown on the Official Zoning District Map which is filed in the office of the City Clerk. Each of the zoning maps, with all notations, references, and other information shown thereon, is as much a part of these zoning regulations as if such notations, references, and other information were specifically set forth herein. Such map shall be marked “Official Copy of the City of Overbrook Zoning Map.”

Rules Where Uncertainty May Arise: Where uncertainty exist with respect to the boundaries of the various districts as shown on the Official Zoning District Maps, incorporated herein, the following rules apply.

- A. The district boundaries are the centerline of streets, alleys, waterways, and railroad right-of way, unless otherwise indicated and where the designation of a boundary line on the zoning map coincided with the location of a street, alley, waterway, or railroad right-of-way, the centerline of such street, alley, waterway or railroad right-of way shall be construed to be the boundary line of such district.
- B. Where the district boundaries do not coincide with the location of streets, waterways or railroad right of way but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.
- C. Where none of the above rules apply, the district boundaries shall be determined by the Osage County Cartographer or licensed surveyor.

Exemptions: The following structures and uses shall be exempt from the provisions of these regulations:

- A. Poles, wires, cables, conduits, vaults, lateral, pipes, mains, valves or other similar equipment for the distribution to consumers of telephone or other communication, electricity, gas, or water or the collection of sewage or surface water operated or maintained by the public utility but not including substation located on or about the surface of the ground.
- B. Railroad tracks, signals, bridges and similar facilities and equipment located on railroad right-of-way, and maintenance and repair work on such facilities and equipment.
- C. Agriculture as defined by these regulations. In the event that any structure of land ceases to be used only for agriculture, then such structure or land shall be subject to the applicable sections of these regulations.
- D. Retaining walls on public property
- E. Public Signs

Application of Regulations: The following general requirements shall apply to all zoning districts. No structure or land shall hereafter be used or occupied, and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with these regulations.

Annexed Land: All land which may hereinafter be annexed to the City of Overbrook shall be classified as R-1, Residential, Single Family Dwelling and shall be re-classified only after a public hearing by the Planning and Zoning Commission and recommendation to the Governing Body as provided in these regulations for zoning district amendments. The public hearing by the Planning and Zoning Commission to adopt a recommendation may be held prior to annexation of the subject parcel of land to the City.

Article 6 - District Regulations

It is noted that these regulations are updated from a previous version of zoning regulations which have subsequently been repealed. However, because of changes brought about through the implementation of these regulations, there may be some instances in zoning where some actions were approved in the past but are now not in conformance with these regulations. In those instances alone, the property owner has the right to apply for a conditional use permit based on the approval under the repealed regulations provided that action was taken prior to the implementation date of these regulations. Any zoning issues which may arise which were implemented after the approval date of these regulations will be governed by these regulations.

Residential Districts

R-1 Residential – Single Family Dwelling

- A. Intent: The intent of this district is to provide for low density residential development including those uses which reinforce residential neighborhoods.
- B. Permitted Uses: Generally, single-family dwellings and parks are permitted. For a specific listing of permitted uses, see Appendix A of these regulations. Class A and Class B manufactured homes are not permitted.
- C. Special Uses: For a specific listing of special uses, see Appendix A of these regulations.
- D. Intensity of Use Regulations: Except as hereinafter provided, all dwelling hereafter erected, enlarged, relocated, or reconstructed shall be located upon lots containing the following areas:
 - 1. Minimum lot area: 10,000 square feet
 - 2. Height Regulations: Maximum structure height is 35 feet
 - 3. Front Yard: 30 feet from property line
 - 4. Side Yard: 10 feet from property line
 - 5. Rear Yard: 5 feet from property line and or utility easement. A corner lot Shall also be required to have a side yard width of 30 feet the street side
 - 6. Percentage of Lot Coverage: The principal and accessory buildings on any lot shall not cover more than 50 percent of the area of such lot
 - 7. Signs: One sign permitted not exceeding 4 square feet

R-2 Residential – Multiple Family Dwelling District

- A. Intent: The intent of this district is to allow high residential density land use with the co-mingling of compatible single-family and two-family dwellings, and apartments for moderate density residential development including two-family and higher density single-family dwellings in a manner that will encourage a strong residential neighborhood.
- B. Permitted Uses: Generally, single-family dwellings and parks are permitted. Class A and Class B manufactured homes are not permitted.
- C. Special Uses: For a specific listing of special uses, see Appendix A.
- D. District Regulation: In District R-2, no structure or land shall be used, and no structure altered, enlarged, or erected which is arranged, intended or designed for other than one of the uses listed in the Use Regulations.
- E. Intensity of Use Regulations: Except as hereinafter provided, all dwelling hereafter erected, enlarged, relocated, or reconstructed shall be located upon lots containing the following areas:
 - 1. A lot on which there is erected a single-family dwelling shall contain an area of not less than 6500 square feet. No lot shall be less than 50 feet in width; corner lots shall not less the 70 feet in width.
 - 2. A lot on which there is erected a two-family dwelling shall contain an area of not less than 3,000 square feet per dwelling unit. No lot shall be less than 60 feet in width; corner lots shall be not less the 80 feet in width.
 - 3. A lot on which there is erected a multi-family dwelling shall contain an area of not less than 7,500 square feet, or 2500 square feet per dwelling unit, whichever area is the larger, except that this regulation shall not apply to rooming, and lodging houses where no cooking is done in individual rooms or apartments.
 - 4. Height Regulations: Maximum structure height is 35 feet
 - 5. Front Yard: 25 feet from property line
 - 6. Side Yard: 7 feet from property line
 - 7. Rear Yard: 5 feet from property line and or utility easement. A corner lot shall also be required to have a side yard width of 30 feet on the street side
 - 8. Percentage of Lot Coverage: The principal and accessory buildings on any lot shall not cover more than 50 percent of the area of such lot
 - 9. Parking Regulations: Adequate space shall be allowed for parking on the property
 - 10. Signs: One sign permitted not exceeding 4 square feet

MP Manufactured Home Park Residential District

- A. Intent: It is the intent of this district to provide medium density manufactured home park development which is compatible with the character of the surrounding neighborhood in which it is located. Manufactured home parks are considered as a residential use and should be located in areas where services and amenities are available such as those found in conventional residential areas.
- B. Permitted Uses: Class A and Class B manufactured homes. Class C manufactured homes are not permitted. The listing of permitted uses is set out in Appendix A.
- C. Special Uses: For a specific listing of special uses, see Appendix A of these regulations.
- D. Intensity of Use Regulations:
- E. Minimum park area: 3 acres.
- F. Minimum park width: 225 feet.
- G. Height Regulations: Maximum structure height: 20 feet.
- H. Yard Regulations: Except as modified by the provisions of Article 6, minimum yard depths for each manufactured home space shall be as follows:
 - 1. Front Yard: 10 feet.
 - 2. Side Yard: 10 feet.
 - 3. Rear Yard: 15 feet.
- I. Use Limitations: Each manufactured home park shall be designed in accordance with all city codes and to the following minimum design standards:
- J. Minimum Design Standards:
 - 1. The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.
 - 2. Manufactured home parks hereafter approved shall have a maximum density of eight (8) manufactured homes per gross acre, and a minimum area of 5,000 square feet shall be provided for each manufactured home space.
 - 3. Each manufactured home space shall be at least 50 feet wide and be clearly defined.
 - 4. All manufactured homes and additions thereto shall be so located to maintain a clearance of not less than 20 feet from another manufactured home or 25 feet from any permanent structure within the park.
 - 5. All manufactured home spaces shall front upon a private roadway of not less than 25 feet in width, including curbs on each side; provided, however, that no on-street parking is permitted. If parallel parking is permitted on one side of the street, the width shall be increased to 30 feet, and if parallel parking is permitted on both sides

of the street, the width shall be increased to 36 feet. All roadways shall have unobstructed access to a public street.

6. All roadways and sidewalks within the manufactured home park shall be of all-weather surfacing and shall be adequately lighted at night.
7. A community structure may be provided which may include recreation facilities, laundry facilities, and other similar uses.
8. The perimeter of all manufactured homes shall be fully skirted.
9. A safe room shall be required, big enough to accommodate all of the residents, based on no fewer than three persons per manufactured home space. A safe room may include recreation facilities, laundry facilities, safe room, and other similar uses. The safe room will comply with FEMA 361.
10. Sidewalks shall be required on one side of all streets.
11. Landscaping shall be shown on the development plan.
12. All roadways shall meet the design standards as adopted by the City for private streets in manufactured home parks.
13. A structure permit for the park shall be obtained before moving a manufactured home into an MP district.

K. Water Supply:

1. Water shall be supplied to the park by a public water system.
2. The size, location and installation of water lines shall be in accordance with the requirements of the City.
3. Individual water service connections shall be provided at each manufactured home space.

L. Sewage Disposal: Individual sewer connections shall be provided for each manufactured home space and shall be installed in accordance with the building codes of the City. A public sewer system shall be used.

M. Tie-Downs and Ground Anchors: All manufactured homes shall be secured to the ground by tie-downs and ground anchors in accordance with the Manufactured Home and Recreational Vehicle Code, K.S.A. 75-1211 to 75-1234, as amended.

N. Electrical: Each manufactured home space shall be provided with an individual electrical outlet supply which shall be installed in accordance with the building codes of the City and requirements of the electric supplier.

O. Gas: Natural gas hookups, when provided, shall be installed in accordance with the Building Codes of the City and the regulations of the gas supplier.

P. Refuse and Garbage Handling: Storage, collection and disposal of refuse in a park shall be in accordance with City code.

- Q. Blocking: All manufactured homes shall be blocked at a maximum of ten (10) foot centers around the perimeter of each manufactured home in accordance with the Manufactured Home and Recreational Vehicle Code, K.S.A. 75-1211 to 75-1234, as amended; and in accordance with the manufacturer’s guidelines.
- R. Pad Requirements: Shall be a flexible surface with a minimum of five (5) inch thick gravel, stone or compacted surface, treated to discourage plant growth, constructed to discharge water and edged to prohibit fraying or spreading of surfacing materials; or shall be of a hard surface of a minimum of two 18-inch wide concrete ribbons or slabs capable of carrying the weight and of sufficient length to support all blocking points of the manufactured home.
- S. Application Requirements:
1. An applicant for “MP” Manufactured Home Park District shall prepare or cause to be prepared a preliminary Manufactured Home Park Plan, drawn to a scale of not less than 1” = 100’, and 10 copies of said plan shall be submitted to the Planning and Zoning Commission for its review and recommendations. Said plan shall be designed in accordance with the Minimum Design Standards herein and shall have contours shown at two (2) foot intervals.
 2. Upon approval of the preliminary Manufactured Home Park Plan by the Planning and Zoning Commission, the applicant shall prepare and submit a final plan which shall incorporate any changes or alterations requested. The final plan and the Planning and Zoning Commission recommendation shall be forwarded to the Governing Body for their review and final action.
 3. Any substantial deviation from the approved plan, as determined by the Zoning Administrator, shall constitute a violation of these regulations. Changes in plans shall be resubmitted for reconsideration and approval by the Planning and Zoning Commission and Governing Body prior to the occupancy of the Manufactured Home Park.
 4. Construction of an approved Manufactured Home Park shall begin only after the use permit has been granted by the Governing Body.

Business Districts – General

C-1 Commercial

- A. Intent: The intent of this district is to provide a zone for those commercial uses which are intensive in nature and which require large lots and direct access to major streets.

- B. Permitted Uses: Generally, automobile and implement sales, lumber yards, contractor's yards, offices, neighborhood retailing and similar uses are permitted. For a specific listing of permitted uses, see Appendix A of these regulations.
- C. Special Uses: For a specific listing of special uses, see Appendix A of these regulations.
- D. Intensity of Use Regulations:
- E. Minimum lot area: 6,000 square feet.
- F. Minimum lot width: 50 feet.
- G. Height Regulations: Maximum structure height: 50 feet.
- H. Yard Regulations: Except as modified by the provisions of Article 6, minimum yard depths shall be as follows:
 - I. Frontage: 25 feet.
 - J. Side Frontage: 10 feet if abutting a residential district; otherwise no side yard is required.
 - K. Rear Frontage: 20 feet.
- L. Use Limitations:
- M. No outdoor storage, except for the display of merchandise priced and packaged for immediate sale to the public shall be permitted, except as otherwise permitted by Article 6, Section 13.
- N. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
- O. Site Plan Review: Development in the C-1 District shall be subject to site plan review requirements and procedures.

I-1 Industrial District

- A. Intent: The intent of the district is to permit industrial uses that are not obnoxious due to appearance, noise, emissions, or odor; that do not require intensive land coverage; and that can be compatibly developed with adjacent districts through site plan review.

- B. Permitted Uses: Generally, light manufacturing, wholesaling, trucking and warehousing uses, with limited retail and service uses permitted, as well. For a specific listing of permitted uses, see Appendix A of these regulations.
- C. Special Uses: The listing of special uses is set out in Appendix A of these regulations.
 - 1. Intensity of Use Regulations:
 - 2. Minimum lot area: Subject to site plan review.
 - 3. Minimum lot width: Subject to site plan review.
- D. Height Regulations: Maximum height of structure: 100 feet.
- E. Yard Regulations: Except as modified by the provisions of Article 6, minimum yard depths shall be as follows:
 - 1. Frontage: 35 feet.
 - 2. Side Frontage: The total of side yards shall be not less than 40 feet, except that no side yard shall be less than 10 feet, and no less than 20 feet when abutting a street or residential district.
 - 3. Rear Frontage: 20 feet.
- F. Use Limitations:
 - 1. All operations and activities shall be conducted within a structure or structures. Storage may be maintained outside said structure or structures provided the view of said storage area is properly screened from adjacent residential areas. Storage within I-1 Industrial shall be exempt from screening of exterior storage from local streets as classified by the Comprehensive Plan (See Article 6, Section 13).
 - 2. A solid or semi-solid fence or wall at least six feet high and having a density of not less than 70 percent per square foot shall be provided adjacent to an adjoining residential district unless the adjacent residential district and the industrial district are separated by a street right-of-way. Said fence or wall shall be maintained in good condition by the owner or owners of the property in the "I-1" District.
 - 3. No structure shall be used for residential purposes except that a watchman may reside on the premises.
- G. Site Plan Review. Development in the "I-1" District shall be subject to site plan review requirements and procedures.

Public Use Districts

P-1 Public Use District

- A. Intent: The intent of the district is to permit specified areas within the City to provide space for the retention of public lands necessary for open spaces, parks, playgrounds, trails and structures designed for public recreation and to provide areas for the location of buildings and structures for public education, recreation and other public and semi-public uses. This zoning classification is intended to be applied to those portions of the City that are designated as developed open spaces and public facilities under the City of Overbrook's Comprehensive Plan and are to be applied to natural open spaces for the retention of publicly owned, natural open spaces that, due to their proximity to wetlands, shorelines, floodplains or critical habitat areas, which are too sensitive for intensive use or development.
- B. Permitted Uses: Generally, public or semi-public land uses would include the following: alternative schools; churches; clubs or fraternal organizations; cultural institutions; general park or maintenance operations; public golf courses; passive open spaces; power transmission, irrigation, wastewater or utility easements; public agency facilities and buildings; public campgrounds; public parks; schools; special events (including concerts, tournaments, competitions, fairs, festivals and similar public gatherings); trail head facilities; equestrian, pedestrian or non-motorized vehicle trails; public art galleries and public boat mooring facilities.
- C. Special Uses: Other miscellaneous uses such as micro- and macro-antennas, on-site public hazardous waste treatment and storage, cemeteries, and public retail uses such as ball park concessionaires and public parking lots.
 - 1. Intensity of Use Regulations:
 - a. Minimum lot area: Subject to site plan review.
 - b. Minimum lot width: Subject to site plan review.
- D. Height Regulations: Maximum height of structure: 100 feet.
- E. Yard Regulations: Except as modified by the provisions of Article 7, minimum yard depths shall be as follows:
 - 1. Frontage: 35 feet.
 - 2. Side Frontage: The total of side yards shall be not less than 40 feet, except that no side yard shall be less than 10 feet, and no less than 20 feet when abutting a street or residential district.
 - 3. Rear Frontage: 20 feet.
- F. Use Limitations:
 - 1. No structure or any portion of the land shall be used for residential purposes.

G. Site Plan Review. Development in the “P-1” District shall be subject to site plan review requirements and procedures.

Article 7 - Supplementary District Regulations

- A. Height Regulations: Chimneys, cooling towers, elevator headhouses, fire towers, grain elevators, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers, spires, church steeples, and necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy, are not subject to the height limitations contained in the District Regulations. In all districts, one additional foot of height above the specified height limitation shall be permitted for each foot of additional yard provided over the minimum requirement on all sides of the lot.
- B. Yard Regulations:
1. Minimum Yard Requirements: The yard requirements heretofore established shall be adjusted in the following cases:
 - a. Where the property fronts on a collector or an arterial street, as identified in the Overbrook Comprehensive Plan, the required front yard shall be modified as follows:
 - i. Arterial Street: The front yard setback shall be measured from the centerline of the street and shall be equal to the requirement of the particular zoning district plus 50 feet.
 - ii. Collector Street: The front yard setback shall be measured from the centerline of the street and shall be equal to the requirement of the particular zoning district plus 30 feet.
 - iii. Local Street: The front yard setback shall be measured from the centerline of the street and shall be equal to the requirement of the particular zoning district plus 30 feet.
 2. Where the property fronts on two intersecting streets (a corner lot), such lot shall maintain a front yard setback on both streets, except in the following cases:
 - a. Where no lots within the same block front on one of the two intersecting streets, the side yard requirement along such street shall be 15 feet, subject to the provisions of paragraph B(1)(a)(iii) above.
 - b. Double frontage lots shall maintain the required front yard setback along both frontages.

3. Where 50 percent or more of the frontage on one side of a street between two intersecting streets is developed with structures that have observed a front yard greater than required, then:
 - a. Where a structure is to be erected on a parcel of land that is within 100 feet of existing structures on both sides, the minimum front yard setback shall be a line drawn between the two closest front corners of adjacent structures on the two sides; or,
 - b. Where a structure is to be erected on a parcel of land that is within 100 feet of an existing structure on one side only, such structure may be erected as close to the street as the existing adjacent structure.

- C. Accessory Structures: Unless otherwise provided, no accessory structure shall be erected in any required or established front yard, or a required side yard and no detached accessory structure shall be erected closer than five feet to the principal structure on the lot. Accessory structures may be located in the rear yard, but shall not be closer than five feet to the rear lot line and shall not be closer to the side lot line than the required side yard setback of the district. No accessory structure shall cover more than 30 percent of the required rear yard. The following permitted accessory structures and uses shall be allowed in any zoning district in connection with any permitted principal use:
 1. A structure for storage incidental to a permitted use; provided, however, that no storage structure that is accessory to a residential building shall exceed 200 square feet in gross floor area, the use shall be in keeping with the principal structure, and no part of such structure shall be located in the front yard setback.
 2. A child's playhouse, provided it shall not be more than 120 square feet in gross floor area, and it shall not be located in the front yard setback.
 3. A detached garage or other accessory structure, no greater in gross floor area than ten percent of the lot area, provided that no part of such structure exceeds 800 square feet in gross floor area; and shall not exceed 12 feet in height at the sidewall.
 4. A private swimming pool and bathhouse, provided that a swimming pool shall be allowed within required rear and side yards.
 5. Statuary, arbors, trellises, flagpoles, fences; walls and hedges shall be allowed within the required setback areas.
 6. Signs, when permitted by these Regulations and by the individual district regulations.

7. Off-street parking and loading spaces, as permitted by of these regulations.
 8. Restaurants, drug stores, gift shops, clubs, lounges and newsstands, when located in a permitted hotel, motel or office structure.
 9. Employee restaurants and cafeterias, when located in a permitted business, manufacturing or industrial structure.
 10. Storage or use of accessory uses, such as boats, boat trailers, camping trailers, or converted buses or trucks; except that such uses shall be allowed within required rear yards and within established side yards if placed upon a hard surface as defined in Article VIII. Such uses shall not include the outdoor storage or parking of commercial trucks or buses which exceed a three ton manufacturer's rating hauling capacity in a residential district.
 11. Satellite dish antennas, except that such accessory structures shall not be allowed within established front yards.
 12. Home occupations subject to limitations set forth in Section K of this Article.
- D. Use Limitations of Accessory Structures: Accessory structures and uses shall comply with the use regulations applicable in the zoning district in which they are located, but no accessory structure shall be occupied on any lot prior to the time of the completion of the construction of the principal structure to which it is accessory.
1. No accessory structure shall be used for dwelling purposes.
 2. Portable storage metal container/c-van in "R-1" and "R-2" Districts are allowed only for the duration of the building permit.
- E. Number of Structures and Uses on a Zoning Lot: Where a lot or tract is used for other than a single-family dwelling, more than one principal use and structure may be located upon the lot or tract, but only when the structure or structures conform to all requirements for the district in which the lot or tract is located.
- F. Sight Triangle: On a corner lot in any district, except "C-1", development shall conform to the requirements of the sight triangle as defined by this regulation.
- G. Access to Business and Industrial Districts: No land which is located in a residential district shall be used for a driveway, walkway or access to any land which is located in any business or industrial district.
- H. Temporary Uses Permitted:

1. Christmas Tree Sales: Christmas tree sales in any business or industrial district for a period not to exceed 60 days. Display of Christmas trees need not comply with the yard and setback requirements of these regulations, provided that no trees shall be displayed within 30 feet of the intersection of the curb line of any two streets.
2. Contractor's Office: Contractor's office and equipment sheds (containing no sleeping or cooking accommodations) accessory to a construction project and to continue only during the duration of such project.
3. Real Estate Office: Real estate office (containing no sleeping or cooking accommodations unless located in a model dwelling unit) incidental to a new housing development to continue only until the sale or lease of all dwelling units in the development.
4. Seasonal Sales: Seasonal sale of farm produce grown on the premises, in an "R-1" District. Structures incidental to such sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard setback line at the end of the season during which they are used.
5. Carnivals and Circuses: A carnival or circus, but only in an "P-1", "C-1" or "I-1" District, and then only for a period that does not exceed three weeks. Such use need not comply with the front yard requirements, provided that structures or equipment which might block the view of operators of motor vehicles on the public streets shall conform to the requirements of the sight triangle as defined by these regulations.
6. Housing: During construction of the principal residential structure, a basement, garage, camper or manufactured home may be utilized for temporary housing of full-time, regular workers for a period not to exceed six months. The Zoning Administrator may extend the period six additional months upon showing of good cause by the owner. Upon conclusion of the permitted time period or completion of the principal structure, whichever occurs first, the owner shall remove the temporary housing or make the necessary changes for the property to be in conformance with the regulations of the district in which the property is located.
7. Garage or Porch Sales: The sale of used or second-hand merchandise shall be permitted in any district providing that such use shall not exceed three consecutive days in duration nor shall it occur more than twice each year at any particular location.
 - I. Determination of Structure Setback Line: The structure setback line shall be determined by measuring the horizontal distance between the property line and the vertical plane of the furthest architectural projection of the existing or proposed structure; except that certain architectural projections listed below may extend beyond the structure setback line, subject to the following conditions:

ALTERNATE A

1. Projections for new construction shall conform to the provisions of the adopted International Building Code in effect at the time of application, with regard to construction details, property setbacks and public property encroachment.
2. Projections shall be defined as: Any structural or non-structural portion or appendage attached to the main structure which by design protrudes outward beyond the structure floor; wall, roof or foundation line. Projections include, but are not limited to:
 - a. Roof eaves
 - b. Dormers/Cornices
 - c. Combustible or Non Combustible Ornamentation
 - d. Porches
 - e. Soffits
 - f. Stairs
 - g. Balconies
 - h. Bay and Egress Windows
3. Architectural or structural projections from structures shall be measured from the outside of the structure floor, wall, roof or foundation line, which is directly adjacent or parallel to the projection.

ALTERNATE B - Projections into Required Yards:

1. Certain architectural features may project into required yards or courts as follows:
 - a. Cornices, canopies, eaves or other architectural features may project a distance not exceeding two and one-half feet.
 - b. Fire escapes may project a distance not exceeding four and one-half feet.
 - c. An uncovered stair and necessary landings may project a distance not to exceed three feet; provided that such stair and landing shall not extend above the entrance floor of the structure except for a railing not exceeding four feet in height.
 - d. Bay windows, balconies, and chimneys may project a distance not exceeding two feet; provided that such features do not occupy, in the aggregate, more than one-third of the length of the structure wall on which they are located.

2. Patios may be located in side and rear yards; provided further, that they are not closer than three feet to any adjacent property line.
 3. Fences, walls and hedges may be located in required yards as follows:
 - a. If not exceeding at any point six feet in height above the elevation of the surface of the ground at such point, they may be located in any required yard or court, provided that on a corner lot, abutting in the rear the side lot line of another lot in a residential district, no such fence, wall or hedge within 25 feet of the common lot line shall be closer to the side street lot line than one-half the least depth of the front yard required on such other lot fronting the side street.
 - b. On any corner lot, no fence, wall, hedge, or other structure or planting more than three feet in height above curb level shall be erected, placed, or maintained within the triangular area defined as the sight triangle.
- J. Fences: Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:
1. No fence shall be constructed which will constitute a traffic hazard.
 2. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.
 3. No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation, or which fence shall adversely affect the public health, safety and welfare.
 4. No fence except fences erected upon public or parochial school grounds or in public parks and in public playgrounds shall be constructed of a height greater than four feet in the front yard or side street line; or six feet elsewhere; provided, however, that the Planning and Zoning Commission may, as a special use, authorize the construction of a fence higher than eight feet if the Planning and Zoning Commission finds the public welfare is served. A fence may not be constructed in the front yard or beyond the front platted building line of any lot containing a residential use.
 5. The following fencing shall be prohibited from use as perimeter fencing in residential developments.
 - a. Fencing materials of a temporary or short-lived nature such as safety fencing, snow fencing, "T post" construction, netting or other similar fencing as determined by the Planning and Zoning Commission;

- b. Chain link fencing with installed slats of vinyl or similar material; and
 - c. Barbed wire, razor wire or other material that is determined to pose a safety concern as determined by the Planning and Zoning Department.
 - 6. No fencing shall be constructed beyond platted lot lines. For unplatted property, no fence shall be constructed within fifteen (15) feet of any street right-of-way.
 - 7. All fences shall be constructed with the finished side facing outward from the property. The posts and support beams shall be on the inside or shall be designed as an integral part of the finished surface.
 - 8. A permit to install or modify a fence shall be obtained from the Zoning Administrator. Pre-existing, nonconforming fence shall be exempt unless 50% or more of the fence is replaced or repaired, which shall require the entire fence to come into compliance with these regulations.
- K. Home Occupations: Home occupations shall be permitted in all districts permitting dwellings.
 - 1. Restrictions and Limitations:
 - a. The home occupation shall be incidental and subordinate to the principal residential use of the premises and not more than 25 percent of the floor area of any one floor of a dwelling unit shall be utilized for a home occupation.
 - b. All materials or equipment used in the home occupation shall be stored within an enclosed structure.
 - c. No alteration of the exterior of the principal residential structure shall be made which changes the character thereof as a dwelling.
 - d. No sign shall be permitted except as allowed by Article 9 of these regulations or unless required by State Statute. If required by State Statute, shall not exceed two 2 feet in any one direction, shall not be illuminated and shall not be placed closer to the front property line than one-half the distance of the front yard.
 - e. Owner of the home occupation business shall be an occupant of the home.
 - f. No equipment shall be utilized that creates a nuisance due to noise, odor, emissions or electrical interference.

- g. Vehicular traffic generated by the home occupation shall not be abnormal for local residential traffic volumes.
 - h. Parking generated by the home occupation shall not be permitted in the required front yard except that the existing driveways may be used.
2. Particular Home Occupations Permitted: Customary home occupations include, but are not limited to, the following list of occupations; provided, however, that each listed occupation is subject to the requirements of (a) through (h) above:
- a. Art, dancing, and music schools provided that instruction is limited to five pupils at one time.
 - b. Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers, and similar professions.
 - c. Offices for realtors, insurance agents, brokers, sales representatives, and manufacturing representatives when no exchange of tangible goods is made on the premises.
 - d. Barber and beauty services, by special use permit, with certain conditions.
 - e. Watch, clock, and jewelry repair services.
 - f. Radio, television, electronics, and small appliance repair services.
 - g. Registered family day care homes, licensed day care homes, group day care homes, child care centers, and preschools as defined by the Kansas Department of Health and Environment (KDHE), are permitted by special use permit. In addition, proper licensing by KDHE and/or the Osage County Health Department or other such agencies as may be required by law, shall be required.
 - h. Home crafts and hobbies such as model making, rug weaving, lapidary work, cabinet making, etc.
 - i. Tailoring, alterations, and seamstresses.
 - j. Tool sharpening and filing.
 - k. Bed and breakfast, by special use permit, with certain conditions.
3. Particular Home Occupations Prohibited: Permitted home occupations shall not in any event include the following:

- a. Antiques – retail
- b. Funeral services
- c. Groceries – retail
- d. Second-hand merchandise – retail
- e. Equipment rental
- f. Automobile and other motor vehicle repair services
- g. Physicians.
- h. Dentists.
- i. Chiropractors.

L. Swimming Pools:

- 1. Shall be located at least ten feet from the nearest property line.
- 2. Shall be screened by a solid or semi-solid wall or fence at least six feet, and no closer than four feet from any edge of the pool; and having a density of not less than 80 percent per square foot, where the property on which the pool is located abuts a residential district.

M. Landscaping, Screening and Buffering Regulations:

- 1. Intent and Purpose: It is the intent and purpose of this article to establish minimum landscaping, screening, and buffering requirements for new development within the jurisdiction of the City of Overbrook Zoning Ordinance.
- 2. Applicability: Landscaping, screening and buffering, as required in this article, shall be provided for all new development, except as specifically exempted in Section 3 of this article.
- 3. Transition Buffer General Provisions
 - a. Location of Buffers. Transition buffers shall be located along those portions of a site adjoining lots with a different zoning classification.
 - b. Responsibility for Installing Buffers. The developing property shall always be responsible for providing required buffers.

4. Transition Buffer Specifications: When a transition buffer is required by this code, such transition buffer shall consist of a planting screen meeting the specifications herein. A landscaped berm or a fence screen meeting the specifications herein may be used in lieu of such planting screen if an exception for such substitution is granted by the Planning and Zoning Commission.
 - a. Planting Screens: shall consist of trees, bushes or shrubs of a variety and so planted and kept as to be achieved within thirty-six (36) months after occupancy of the premises to be screened.
 - i. Such screen shall have a minimum height of six (6) feet above grade at any particular point along its length.
 - ii. Any two (2) foot square segment of a planting screen shall contain no more than thirty percent (30%) open space affording a direct horizontal view through such screen if such segment is over two (2) feet above grade.
 - b. Landscaped Berm. Adequate evidence shall be furnished demonstrating that the construction of such berm, along with any necessary culverts and ditching, will not create adverse drainage and flooding conditions on adjacent property.
 - i. Such berm shall be at least thirty (30) feet in width at the base and at least four (4) feet in height, as measured perpendicular to grade level at any point along its length. Side slopes shall have a gradient no steeper than three to one.
 - ii. Side slopes of such berm shall be sodded so as to prevent erosion. The top of the berm shall contain a planting screen above except that the minimum height of such planting screen need be no more than three feet above the top of the berm at any particular point along its length. Construction and material of such berm shall be as approved by the Planning and Zoning Commission.
 - c. Fence Screen: shall not be less than eight (8) feet, nor more than ten (10) feet in height above grade level, at any particular point along its length. Any two (2) foot square segment of such screen shall contain no more than thirty percent (30%) open space affording a direct horizontal view through such screen. Construction and material of such fence screen shall be as approved by the Planning and Zoning Commission.
5. Transition Buffer Requirements: Landscape buffers shall be provided and maintained when certain land uses are adjacent to one another. This requirement is intended to

help ease the land use transition between areas of varying development intensity and to ensure land use compatibility.

- a. Determination Transition Buffer Requirements. The following procedure shall be followed in determining if a transition buffer is required. Using the matrix in subsection *d. Transition Buffer Requirements* of this article:
 - i. Identify the minimum zoning classification required to accommodate the proposed use. These classifications are listed under "Proposed Zoning" in the first column.
 - ii. For Transition Buffer Requirements, identify the actual zoning classification of the abutting site(s). These classifications are listed under the heading "Adjacent Zoning."
 - iii. Determine if a transition buffer is required by crossing the previously identified proposed zoning with the adjacent zoning. The letter "R" indicates that a transition buffer is required, otherwise, no transition buffer is required.
- b. Street Trees: One (1) street tree per every forty (40) lineal feet of street frontage shall be required. Street trees shall be installed outside the required right-of-way. Trees shall be placed at fairly even intervals to create a uniform "street tree" appearance along the street frontage. Street trees shall be spaced at fairly even intervals, with the exception of allowances to accommodate physical obstructions such as the location of utilities and driveways. Street trees shall not be located within intersection site triangles as defined by these regulations.
- c. Existing Trees: Existing high quality trees and shrubs shall be preserved to the extent possible. Where a proposal to remove this vegetation could be avoided through modification of site layout and design or where proposed tree and vegetation removal would be detrimental to a site's overall appearance, function or environmental condition. The Planning and Zoning Commission may require preservation of such trees and vegetation. No preservation beyond twenty-five (25) percent of the gross acreage of the site may be required. Preservation of high quality vegetation should not restrict the use of property, but should be integrated into overall site design in a manner that will achieve both preservation and functionality.
- d. Transition Buffer Requirements.

TRANSITION BUFFER REQUIREMENTS						
Zoning of Proposed Development	ADJACENT ZONING R = Required					
	R-1	R-2	MP	P-1	C-1	I-1
R-1			R	R	R	R
R-2			R	R	R	R
MP	R	R	R	R	R	R
P-1	R	R	R	R	R	R
C-1	R	R	R	R		
I-1	R	R	R	R		

6. Landscaping Plans: Required landscaping, screening and buffering shall be shown on the required site plans, building plans or as an attached landscape plan or plot. These plans shall include material type, quantity, location, size and dimension.
7. Exterior Storage: Except as otherwise permitted by these regulations or during permitted construction on any tract, all exterior storage of equipment, raw materials or finished products shall be fully screened from the view of adjacent parcels and streets by a solid screen fence at least six (6) feet in height. Storage within I-1 Industrial District shall be exempt from screening of exterior storage visible from abutting streets.

Screening and enclosure required for permitted outdoor storage shall be by means of a fence, wall or berm, in combination with landscaping designed to create a minimum of seventy-five (75) percent opacity. Crates, boxes, trailers or other temporary storage facilities shall not be considered appropriate screening materials. Outdoor storage shall not interfere with the required and/or approved operation of the site, including but not limited to traffic circulation, parking, open space or aesthetics.

The permitted display of merchandise for sale to the public shall be restricted to a maximum of twenty-five (25) percent of the area of either the front, side or rear yard exclusive of any area of required setback. In no case shall merchandise for sale be displayed in any required set back or parking area, or interfere with pedestrian or vehicular access or parking.

Existing businesses in non-compliance with the requirements of this section shall be required to be in full compliance within one year from the effective date of these regulations, subject to the following considerations:

- a. In order to bring an existing business into compliance, an application shall be made to the Zoning Administrator. The application shall include the details of proposed site plan amendments or revisions needed to bring the business into compliance with these regulations. Staff may require the applicant to submit copies of existing site plans and other materials necessary to provide adequate consideration. The Zoning Administrator, as appropriate, shall approve applications and site plan amendments.
- b. If following review, the Zoning Administrator determines that these regulations cannot reasonably be met an exception to these regulations shall be granted. Such exception shall be based upon the following considerations:
 - i. The exception is unique to the property in question and will not ordinarily be found in the same zone or district; and is not created by an action or actions of the property owner or applicant.
 - ii. The exception is the minimum exception necessary.
 - iii. The granting of the exception will not create unfair competition with similar uses in the same zone or district.
 - iv. The granting of the exception will not adversely affect the rights of adjacent property owners.
 - v. The exception will not be opposed to the general spirit and intent of these regulations.
- c. Refuse: Except during permitted construction on any tract, all waste materials, debris, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes, and located on a paved surface designed for adequate vehicle and removal equipment access and operation. Containers shall be screened from view from adjacent parcels and any streets. Unless the container is contained within the building until time of collection, screening shall be provided by dense landscaping, landforms, by housing the container in a refuse enclosure at least as tall as the container, or a combination there of. This screen shall provide complete visual screening of the dumpster and be compatible in material and color with the principal structure on the lot.

The owner of any land parcel shall be responsible for keeping that land free of refuse. All exterior storage not included as a permitted accessory use, a permitted use, included as part of a Special Use Permit, or otherwise permitted by these regulations or other City code shall be considered refuse.

N. Wireless Communication Facilities:

1. Definitions: For the purpose of this section, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

Amateur Radio. Radio equipment and associated antennas or support structures operated for the purpose of receiving or transmitting communications by a radio station as described in Section 153(g) of Title 47 of the U.S. Code and which is operated under license by the FCC.

Antenna. A whip (omni-directional antenna), panel (direction antenna), disc (parabolic antenna) or similar device used for transmission and/or reception of radio frequency signals.

Antenna Array. More than one whip, panel, disc or similar device used for the same carrier at the same frequency.

Applicant. A person or entity with an application before the City or County for a permit for a wireless communication facility.

AGL (above ground level). The actual height of the wireless communication facility from the ground to the highest part of the mount or the antenna, whichever is higher.

Broadcast Systems. Wireless communication systems that are licensed for the broadcast of AM/FM radio or television.

Camouflage. To paint or mount a wireless communication facility in a manner that requires minimal changes to the host structure and hides the facility in the context of its surroundings on the host structure.

Carrier. A company licensed by the Federal Communications Commission (FCC) that provides wireless communication. A tower builder is not a carrier.

Cellular. A personal wireless service capable of transmitting and receiving voice that operates in the 800 MHz spectrum.

Co-location. The use of a common wireless communication facility or common site by two or more carriers or by one carrier for more than one type of wireless communication technology and/or placement or two or more wireless communication facilities on adjacent properties.

Commercial Mobile Radio Services (CMRS). Per Section 704 of the Telecommunications Act of 1996, any of several wireless communication technologies using radio signals at various frequencies to send and receive voice, data and video. According to the FCC, these services are "functionally equivalent services." Section 704 of the Telecommunications Act of 1996 prohibits unreasonable discrimination among functionally equivalent services.

Common Carrier Wireless Exchange Access Services. Services by which wireless communication is interconnected with wired communication infrastructure.

Conceal. To enclose a wireless communication facility within a natural or man-made feature resulting in the facility being either hidden from view or made part of the feature enclosing it.

Design. The appearance of wireless communication facilities as determined by selection of materials, colors, size, and shape.

Disguise. To design and construct a wireless communication facility to be an architectural feature of an existing or proposed structure in such a manner that the wireless communication facility not discernible from the remainder of the structure.

Elevation. The measurement of height above sea level. Also AMSL, or above mean sea level.

Enhanced Specialized Mobile Radio (ESMR). Private land mobile radio with telephone services.

Equipment Shelter. An enclosed structure, cabinet, shed, or box at the base of or in the general proximity of a support structure within which are housed the equipment for the wireless communication facility such as radios, batteries, and electrical equipment.

Federal Communications Commission (FCC). An independent federal agency charged with licensing and regulating wireless communication at the national level.

Functionally Equivalent Services. Cellular, PCS, Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging. Section 704 of the Telecommunications Act of 1996 prohibits unreasonable discrimination among functionally equivalent services.

Guyed Tower. Any type of support structure that is supported in whole or in part by cables anchored to the ground or other surface.

Lattice Tower. A type of support structure that consists of an open network of braces forming a tower that is usually triangular or square in cross section.

Location. The area where a wireless communication facility is located or proposed to be located.

Modification. The changing of any portion of a wireless communication facility from its description in a previously approved permit. The FCC definitions for "modification" are different than local government rules.

Monopole. A type of support structure that consists of a vertical pole fixed into the ground and/or attached to a foundation.

PCS (Personal Communication Services). A personal wireless service capable of transmitting and receiving voice, data, text, and video messaging that operates in the 1850-1990 MHz range.

Paging. A personal wireless service that provides tone, text, and limited voice messaging that operates on several frequency ranges, usually in a limited geographic area.

Personal Wireless Services. Any personal wireless service defined in the Federal Telecommunications Act of 1996 which includes Federal Communications Commission (FCC) licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and unlicensed wireless services, and common carrier wireless exchange access services.

Private Dispatch System. Wireless communication systems that are licensed to one user for exclusive use and not to be shared with, or leased to, other users.

Public Service and Emergency System. Wireless communication systems operated by or for a governmental agency for the delivery of emergency or other public services.

Radio Frequency (RF) Engineer. Someone with a background in electrical engineering or microwave engineering who specializes in the study of radio frequencies.

Radio Frequency Radiation (RFR). The propagation of electromagnetic waves through space.

Radio Frequency (RF) Signal. The actual beam or radio waves sent and received by a wireless communication facility. A signal is the deliberate product of a wireless communication facility. The RF emission is the byproduct.

Screening. Decorative fencing or other materials, evergreen vegetation, or landscaped earth berms constructed and maintained for the purpose of concealing a wireless communication facility from view.

Separation. The distance between one carrier's antenna array and another carrier's antenna array.

Siting. The method and form of placement of wireless communication facilities on a specific area of a subject property.

Specialized Mobile Radio (SMR). A form of dispatch or two-way communication used by companies that rent space or time from an SMR carrier. Used primarily for delivery vans, truckers or taxis within a small, definable geographic area.

Support Structure. The structure or surface upon which antennas are mounted.

Roof-mounted. Mounted on the roof of a building.

Side-mounted. Mounted on the side of a building.

Ground-mounted. Mounted on the ground.

Structure-mounted. Mounted on a structure other than a building.

Tower. Generally used to describe all wireless communication facilities or sometimes is used to refer only to those wireless communication facilities at high elevations above grade. Also used as a modifier (e.g., tower builder) or when modified (e.g., lattice tower).

Tower Builder. A company or individual that builds or manages support structures for wireless communication facilities.

Unlicensed Wireless Services. Wireless communication services operating on public domain frequencies using duly authorized devices which do not require an FCC license for their sites.

Wireless Cable System. Wireless communication services that provide point-to-multipoint communication for the provision of voice, data, text, and video that operate in the 2.1 to 2.8 GHz range.

Wireless Communication. Comprehensive term describing the wireless services covered by the location/design guidelines of the Plan. Includes the following terms as defined herein: broadcast systems, cellular, commercial mobile radio services, common carrier wireless access exchange services, enhanced specialized mobile

radio, functionally equivalent services, personal communication services paging, personal wireless services, public service and emergency systems, specialized mobile radio, tower builder, unlicensed wireless services, and wireless cable system. Does not include amateur radio or private dispatch system.

Wireless Communication Facility. Comprehensive term describing the facilities covered by the location/design guidelines of the Plan. Includes the following terms as defined herein: antenna, antenna array, equipment shelter, guyed tower, lattice tower, location, monopole, site, support structure, and tower.

2. Location/Height Guidelines: The term "guidelines" is used in recognition that deviations from these guidelines can be considered on a case-by-case basis, if consistent with the general spirit and intent of this Regulation.
 - a. The following wireless communication facilities are permitted by right in any zoning district, subject to the issuance of a building permit, if they conform to the Location/Design Guidelines in this section.
 - i. New facilities that are concealed in or mounted on top of or the side of existing buildings (excluding single-family and multiple-family residences) and other structures, including support structures up to 20 feet above the building or the maximum height permitted in the underlying zoning district, whichever is greater.
 - ii. Modification and/or replacement of support structures (light poles, flag poles, electrical poles, private dispatch towers, etc.) that are not significantly more visible or intrusive, including cumulative height extensions of up to 25 percent above the original structure height.
 - iii. New or modified lattice towers no larger than 18 inches wide on any side up to 80 feet in height measured from grade.
 - iv. New disguised ground-mounted facilities up to 85 feet in height.
 - v. New undisguised ground-mounted facilities up to 65 feet in height in any Residential District.
 - vi. New undisguised ground-mounted facilities up to 85 feet in height in the C-1 District.
 - vii. New ground-mounted facilities up to 150 feet in height in the I-1 District.

If the Zoning Administrator determines that the wireless communication facility does not conform to the Location/Design Guidelines, the building

permit should be denied. Denied building permits may be appealed by applying for a Conditional Use.

- b. Wireless communication facilities that exceed the maximum height for a building permit should be reviewed through the Conditional Use process. Conditional Use approvals typically should be subject to conditions that maintain conformance with the Location/Design Guidelines in this chapter; however, wireless communication facilities that do not conform to the Location/Design Guidelines may be approved for a Conditional Use on a case-by-case basis as circumstances warrant.
- c. There shall be no nighttime lighting of or on wireless communication facilities except for aircraft warning lights or similar emergency warning lights required by applicable governmental agencies. No strobe lights shall be used. Lighting for security purposes should be permitted at the base of wireless communication facilities. Temporary lighting for nighttime repairs is permitted.
- d. No signs shall be allowed on an antenna support structure other than those required by applicable governmental agencies.
- e. At the time of requesting a Permit for a new ground-mounted wireless communication facility, the applicant shall demonstrate to the satisfaction of the approving authority that:
 - i. There is no available space on existing or approved wireless communication facilities or other structures that can be utilized to meet the applicant's communication needs; and
 - ii. There is no other economically and technically feasible opportunity to modify or rebuild an existing structure on which the communication equipment may be located (a rebuilding opportunity will be considered economically feasible if the cost of rebuilding an existing facility is no more than the cost of building a new facility on a new site).
- f. At the time of requesting Permit for a wireless communication facility, the owner of a proposed new undisguised ground-mounted wireless communication facility, and the owner of the land, if not the same, shall agree in writing that:
 - i. The support structure is designed, and the ground area is adequate or can be made adequate, to accommodate at least one (1) other carrier, if more than eighty (80) feet in height, and at least two (2) other carriers, if more than 100 feet in height;

- ii. Reasonable accommodations will be made to lease space on the facility to other carrier so as to avoid having a proliferation of support structures that are not fully utilized; and
 - iii. The owner(s) will make available in the future the opportunity for another party to pay the cost to modify or rebuild the structure to support additional communication equipment where economically and technically feasible. Lattice towers no larger than 18 inches on any side are excluded from the co-location requirements of subsection a) of this paragraph.
- g. The owner shall be responsible for the removal of unused facilities, including the uppermost 20% of support structures that are unused (except where removal of the uppermost 20% would require the removal of a lower portion the support structure that is in use, in which case the required removal will be raised to the next highest portion of the support structure not in use), within 60 days if the wireless communication facility, or a portion thereof, has been unused for 12 consecutive months. If such a facility or portion of a facility is not removed by the owner, then the City may employ all legal measures, including, if necessary, obtaining authorization from a court of competent jurisdiction, to remove it, and after removal may place a lien on the subject property for all direct and indirect costs incurred in its dismantling and disposal, including court costs and reasonable attorney fees. Under this paragraph, "owner" includes both the owner of the real property and the owner of the wireless communication facility, whether such ownership is divided or in the same person.
- h. New support structures shall not be located in the flight paths of local airports where they would constitute a potential hazard to air safety.
- i. All wireless communication facilities shall comply with all federal, state, and local rules and regulations. Wireless communication providers are particularly encouraged to seek the following new locations for new facilities:
- i. Mounted on top or the side of multistory buildings and other structures, appropriately concealed, screened, disguised or camouflaged.
 - ii. On existing poles in street rights of way, including telephone poles, electrical transmission and distribution poles, street lights, and traffic signal stanchions; on existing parking lot and athletic field/stadium light standards; and on modified or rebuilt poles that are substantially similar in appearance.
 - iii. On existing support structures, including those constructed for personal wireless services, AM/FM radio and television broadcast, school district microwave antennas and private dispatch systems.

- iv. In wooded areas.
- v. At certain City owned properties, where the size and nature of the use does not interfere with other functions and allows for compatible siting; these may include water towers, large park areas, sewer treatment plant sites and maintenance yards.

3. Design Guidelines

As a general rule, the less visible and obtrusive a proposed wireless communication facility is, the more acceptable it will be to the community. The visibility of facilities can be minimized by techniques such as concealment, disguise, camouflage, and sensitive design and siting. Specific guidelines include:

- a. Preserving the pre-existing character of the area as much as possible.
- b. Minimizing the height, mass or proportion of the facility to minimize conflict with the character of its proposed surroundings.
- c. Minimizing the silhouette presented by new support structures and antenna arrays. Generally, monopoles are favored over lattice-type support structures to a height of at least 150 feet, and antennas mounted flush to the support structure are favored over triangular "top-hat" antenna arrays.
- d. Using colors, textures and materials that blend in with the existing environment; under some circumstances, surfaces should be painted, or otherwise treated, to match or complement existing background structures and surfaces, or the sky, as appropriate, and to minimize reflection. Painting support structures red and white may also be necessary to avoid strobe lighting that would otherwise be required by applicable governing agencies.
- e. Concealing facilities within potential space in or on existing structures, or disguised to look like another type of facility, like a flagpole, clock tower, or church steeple.
- f. Placing facilities in areas where trees and/or buildings obscure some or all the facility from view, and installing new plantings/screening around the site where visible from major street or residential areas.
- g. Placing facilities on existing walls, flush-mounted, or on roofs building (excluding single-family and multiple-family) and structures, up to 20 feet above the existing structure, as opposed to building new ground-mounted support structures. Facilities on rooftops generally should be set back from roof edges or screened from view.

- h. Screening equipment shelters and cabinets through landscaping, walls and/or fencing, as appropriate to the surroundings and generally consistent with the City's screening regulations. In most cases, ground-level equipment should respect the setbacks for accessory uses in the applicable zoning district and be enclosed by 6-8 foot height security fencing, of a material compatible with its surroundings. Equipment should be encouraged indoors if space is available nearby. Burying equipment in an underground vault, to keep most of the equipment out of sight, may be necessary in rights of way and in some other visually/environmentally sensitive locations, such as tourist attractions, historic landmarks/districts, museum district, river corridor, and other locations of civic importance or architectural significance.

Ground level shelters/equipment, appropriately screened and generally landscaped with trees and/or shrubs, should be permitted on lots adjacent to rights of way, to facilitate the use or reconstruction of utility poles in those rights of way.

- i. Permitting lighting on facilities only if required by federal regulations, and not by strobes (except by variance).

4. Submittal Requirements

The following information shall be submitted at the time of filing an application for a building permit.

a. General:

- i. Name/signatures of applicants, owners of land and/or facilities if different, and agents if any.
- ii. Written statement acknowledging and agreeing to the responsibilities under the zoning regulations (e.g., allowing co-location opportunities on the support structures and at ground level; allowing modification/rebuilding of support structures; removal upon abandonment, etc.).

b. Siting and design:

- i. A one-inch-equals-200 feet vicinity plan, dimensioned and identifying existing buildings, trees, and other features within 200 feet of the wireless communication facility.
- ii. A one-inch-equals-200 feet site plan, dimensioned.

- iii. Typical elevations of all facility elements, dimensioned.
- iv. Specification of all exterior materials and colors, with drawings, photos or samples as appropriate.
- v. Landscape/screening plan, with all materials and sizes specified.

Appearance shown by at least two photo-simulations for proposed facilities that do not adhere to the location/design guidelines or facilities located in designated visually/environmentally sensitivity locations.

Article 8 - Off-Street Parking and Loading Regulations

Applicability: Off-street parking and loading space, as required in this article, shall be provided for all new structures, and for alterations and additions to existing structures. Off-street parking and loading space shall be required for any existing structure or structure which is altered in any manner so as to enlarge or increase capacity by adding or creating dwelling units, guest rooms, floor area or seats. Existing parking area previously required shall not be used to satisfy required off-street parking for any new structures, alterations, or additions to existing structures or uses of land. Such existing parking space shall be maintained and shall not be reduced so long as the main structure or use remains, unless an equivalent number of such spaces are provided elsewhere as provided in this article; except that no off-street parking or loading space shall be required for any use located in the "C-1" Commercial District. All new parking and expansions of existing parking, including that in the "C-1" Commercial District shall meet the General Provisions and Layout and Design Requirements herein.

General Provisions:

- A. Utilization: Required accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants, or employees of such uses.
- B. Front Yard Setbacks: Unless excepted by site-plan review, off-street parking spaces shall be provided in other than the front yard in all districts, except that in the event an attached garage is converted to a livable room of the dwelling, the parking space may occupy the existing concrete, gravel or asphalt drives when located within the required front yard.
- C. Accessory Use: Off-street parking shall be considered as an accessory use of the use for which the parking is provided. Parking not located on the same tract on which the main use is located must be located within the zoning district in which parking or storage lots are permitted as a main use; or be located in accordance with the provisions of this article relating to off-street parking exceptions.

In no instance shall off-street parking required by this article be located more than 300 feet (as measured along lines of public access) from the use which it serves.

- D. Repair Service: No motor vehicle repair work or service of any kind shall be permitted in association with any off-street parking facilities.
- E. Computation: When determination of the number of off-street parking spaces required by this regulation results in a requirement of a fractional space, the fraction of

1/2 or less may be disregarded, and a fraction in excess of 1/2 shall be counted as one parking space.

- F. Mixed Uses: When a structure or development contains mixed uses, the off-street parking requirements shall be calculated for each individual use and the total parking requirement shall be the sum of individual parking requirements.

Layout and Design Requirements: Off-street parking and loading improvements in other than "R-1" Districts shall be subject to site plan review. Parking improvements shall include all parking stalls, aisles, driveways and other areas used for vehicular parking, loading or circulation. The construction and renovation of certain structures and facilities must conform to the provisions of the Americans with Disabilities Act (ADA) Title III of 1990. Structure plans for construction, alteration or remodeling permits must identify how compliance to the ADA parking and other site requirements are to be met. Permits for new construction must comply with the entire Title III of the Act as it relates to the structure and site.

The Planning and Zoning Commission will provide information upon request to assist the public in interpreting the requirements of the ADA, which generally provide for at least one accessible route within the boundary of the site from a parking space or street to an accessible structure entrance. Accessible spaces and access aisles are required, as well, among other detailed provisions.

Except as otherwise superseded by ADA requirements, parking layout and design shall be subject to the following standards.

- A. Area: Unless otherwise approved by the Planning and Zoning Commission, all required off-street parking spaces other than those required for handicapped access shall be at least nine (9) feet in width and at least twenty (20) feet in length. Off-street parking required for handicapped access shall be a minimum of thirteen (13) feet in width and at least twenty (20) feet in length. Dimensions are exclusive of access drives or aisles, ramps and columns.
- B. Access: Access from streets to parking lots shall be by means of paved driveways not more than thirty (30) feet wide, unless otherwise required by Kansas Department of Transportation. Access to each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. Parking spaces shall not have direct access from any public street or highway.
- C. Design: Off-street parking spaces shall comply with the design standards relating to curb length, stall depth, driveway width, island width, barriers, and ingress and egress as contained in the Off-Street Parking Standards of this article.

- D. Surfacing: All open off-street parking surfacing shall be hard surfaced with asphalt, concrete, or concrete on a compacted subgrade as approved by the Zoning Administrator. Off street parking accessed from a gravel street may be surfaced with washed gravel on compacted subgrade as approved by the Zoning Administrator.

Uses that are agricultural in nature and which produce low volumes of traffic, shall not be required to pave and curb their parking lots and entry drives except for the following:

1. Seventy-five (75) feet of the drive approach from a public right-of-way shall in all cases be hard surfaced;
2. Surfacing as required to meet ADA requirements; and
3. All other surfacing shall be designed and regularly treated as necessary to minimize dust nuisance.

An existing parking area which does not conform with these surfacing regulations shall not be required to be paved unless its area is increased by more than 50 percent, or 50 percent or more of the surface is required to be replaced or repaired.

4. Lighting: Any lighting used to illuminate off-street parking and loading areas shall be directed away from residential properties in such a way as not to interfere with the residential use.
5. Curbing: The perimeter of all off-street parking and loading areas and their access drives shall be curbed, with the exception of driveways for single-family and duplex residences. Curbs shall also protect landscape islands and other interior parking features. Curbs shall meet the City of Overbrook's minimum construction standards.
6. Off-street parking areas shall be defined as parking stalls, drives, and other access ways to said parking stalls, all loading areas and access thereto, and all exterior storage area. Storage and work areas within secured perimeters in the Industrial Zoning District shall be exempt from surfacing requirements, however, in no case shall less than a fifty (50) foot paved access way from a public street be provided.

Maintenance: Off street parking improvements as required by these regulations shall be maintained in safe and operable conditions as required to meet the intent of both these regulations and ADA requirements. Any parking improvement that is deemed to pose a

threat to the public health, safety or welfare or is in violation of any other City of Overbrook code or ordinance shall be subject to penalties specified in Article 17 of these regulations.

Required Spaces: Off-street parking spaces shall be provided as follows:

A. Dwelling and Lodging Uses:

1. Boarding or lodging houses: One parking space per three sleeping rooms.
2. Dormitories, fraternities, and sororities: Two parking spaces for each three occupants based on the maximum design capacity of the structure.
3. Hotels and motels: One space per each rental unit plus one space per each two employees in the largest working shift and such spaces as are required for restaurants, assembly rooms, and other affiliated facilities provided.
4. Manufactured home parks: Two parking spaces per each manufactured home.
5. Nursing homes, rest homes, etc.: One parking space for every five beds, plus one parking space for each two employees based on the largest working shift in any 24- hour period.
6. Single-family: Two spaces per dwelling unit.
7. Two-family and multiple-family: Two spaces per dwelling unit. Two-family and multiple-family dwelling units designed specifically for the elderly, one space per two dwelling units.

B. Business, Commercial, and Industrial Uses:

1. Automobile, truck, recreational vehicle and manufactured home sales and rental lots: One parking space for each 3,000 square feet of open sales lot area devoted to the sale, display and rental of said vehicles, plus one parking space for each employee.
2. Automobile salvage yards: One parking space for each employee, plus one parking space for each 10,000 square feet of storage area.
3. Financial, business, and professional offices: One parking space for each 300 square feet of gross floor area.
4. Bowling alleys: Four parking spaces for each lane.

5. Cartage, express, parcel delivery and freight terminal establishments: One parking space for each two employees in the largest working shift in a 24-hour period, plus one parking space for each vehicle maintained on the premises.
6. Automobile wash: Three holding spaces for each car washing stall plus two drying spaces for each car washing stall.
7. Funeral homes and mortuaries: One parking space for each four seats based upon the designed maximum capacity of the parlor, plus one additional parking space for each employee and each vehicle maintained on the premises.
8. Furniture and appliance stores, household equipment or furniture repair shop: One parking space for each 400 square feet of floor area.
9. Manufacturing, production, processing, assembly, disassembly, cleaning, servicing, testing or repairing of goods, materials or products: One per three employees based upon the largest working shift in any 24-hour time period.
10. Medical and dental clinics or offices: One parking space for each 200 square feet of gross floor area.
11. Restaurants, private clubs and taverns: One parking space for 2.5 seats based on the maximum designed seating capacity; provided, however, that drive-in restaurants shall have a minimum of at least ten parking spaces.
12. Retail stores and shops: One space per 200 square feet of floor area.
13. Service stations: One parking space for each employee plus two spaces for each service bay.
14. Theaters, auditoriums, and places of assembly with fixed seats: One space for each 3.5 seats.
15. Theaters, auditoriums, and places of assembly without fixed seats: One parking space for each four people, based upon the computed occupant load of the structure or the assembly area.
16. Warehouse, storage and wholesale establishments: One parking space for each two employees based upon the largest working shift in any 24-hour period.
17. All other business and commercial establishments not specified above: One parking space for each 300 square feet of floor area.

C. Other Uses:

1. Churches: One parking space for each six seats based upon the maximum designed seating capacity, including choir lofts.
2. Elementary, junior high and equivalent parochial and private schools: Two spaces for each classroom.
3. High schools, colleges, universities and other similar public or private institutions of higher learning: Eight parking spaces for each classroom, plus one space for each two employees.
4. Hospitals: One parking space for every four beds, plus one parking space for each resident or staff doctor plus one space for each two employees based on the largest working shift in any 24-hour period.
5. Nursery schools and day care centers, public or private: One parking space for each employee.
6. Fraternal associations and union headquarters: One parking space for each three seats based upon the design maximum seating capacity.
7. Swimming pools and clubs: One parking space for each 50 square feet of water area.
8. Trade and commercial schools: One parking space for each three students and employees.

Special Uses

- A. District Permitted: In order to provide off-street parking areas, the Planning and Zoning Commission may, after public notice and hearing, grant as a special use the establishment of parking areas in any zoning district under the provisions further set forth in this section.
- B. Location: Parking provided under this section must be within 300 feet (along lines of public access) from the boundary of the use for which the parking is provided.
- C. Use: The parking area shall be used for passenger vehicles only, and in no case shall it be used for sales, repair work, storage, dismantling or servicing of any vehicles, equipment, materials, or supplies. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.

Loading and Unloading Regulations: Loading and unloading space shall be provided off-street and on the same premises with every structure or part thereof, hereafter erected, established or enlarged and occupied for goods display, retail operation, department store, market, hotel, mortuary, laundry, dry cleaning, office uses or warehouses, manufacturing or other uses, involving the receipt or distribution of materials or merchandise by motor vehicles. The loading and unloading space or spaces shall be so located to avoid undue interference with public use of streets, alleys and walkways.

A. Spaces Required

1. For all uses in the "C-1" Commercial District, loading facilities shall be provided in accordance with the following table:

<u>Gross Floor Area of Establishments in Thousands of Sq. Ft.</u>	<u>Required Number and Size of Loading Berths</u>
1-10	1-(10' x 25')
10-25	2-(10' x 25' each)
25-40	2-(10' x 70' each)
40-100	3-(10' x 70' each)

2. For all uses in the "I-1" Industrial District, loading facilities shall be provided in accordance with the following table:

<u>Gross Floor Area of Establishments in Thousands of Sq. Ft.</u>	<u>Required Number and Size of Loading Berths</u>
1-10	1-(10' x 25')
10-40	1-(10' x 70')
40-100	3-(10' x 70' each)

For each additional 100,000 square feet of gross floor area or any fraction thereof over 100,000 square feet of gross floor area, one additional berth shall be provided. Each such additional berth shall be at least 10 feet in width by 60 feet in length.

Article 9 - Sign Regulations

Intent and Purpose: It is the intent and purpose of these sign regulations to qualify, supplement or define the allowable uses of functional and structural signs allowed in the City of Overbrook.

Applicability: Any sign shall, by definition, be a structure. No land, personal property or structure shall be used for sign purposes except as specified herein.

Nonconforming Signs: All signs legally existing at the time of passage of these regulations may remain in use under the conditions of legal nonconformance. Signs in legal nonconformance shall not be enlarged, moved, lighted, or reconditioned; however, the change of the advertising display shall not be restricted except as previously stated.

Removal of Nonconforming Signs: All nonconforming signs not otherwise prohibited by the provisions of these regulations shall be removed or shall be altered to conform to the provisions of this regulation when:

- A. The nature of the business conducted on the premises changes and the sign is changed or modified either in shape, size, or legend;
- B. The name of the business changes and the sign is changed or modified either in shape, size, or legend;
- C. A principal structure is destroyed or removed due to natural or man-made circumstances, unless a building permit has been issued to replace the structure within 90 days;
- D. The sign is damaged by any means to an extent of more than 50 percent of its replacement cost at the time of damage; or
- E. The building or use to which the sign applies is vacated, abandoned or otherwise dormant for a period of more than twelve (12) months.

All nonconforming signs required to be removed by these regulations shall be removed within 90 days of notification by the Zoning Administrator.

Permit Required: No sign except temporary real estate or construction signs as defined in this article may be erected or altered until a sign permit has been issued by the Zoning Administrator.

A. Application for permits required under this Article shall be made on forms provided by the Zoning Administrator and accompanied by the following, if required by the Zoning Administrator or if required by the provisions hereof:

1. Plans and specifications of the proposed sign; the right to inspect all permanent signs and marquees prior to their installation and erection and prior to the issuance of a permit.
2. A certificate of Accident Public Liability Insurance issued to the person or firm installing or erecting a sign or marquee over public property and providing coverage of \$50,000 per person, \$100,000 per accident and \$25,000 property damage.
3. Permit Fees: Every application before being granted a permit hereunder, shall pay to the City Clerk the following permit fee for each such sign or other advertising structure regulated by this article:
 - a. Fees are to be set by the governing body.
 - b. Inspection: As soon as a sign has been erected, the permittee shall notify the Zoning Administrator who shall inspect such sign and approve the same if it is in compliance with the provisions of this article. The Zoning Administrator may, from time to time, as he/she deems necessary, inspect all signs or other advertising structure regulated by this article for the purpose of ascertaining whether the same is secure or insecure or whether it is in need of removal or repair.

B. Permit Revocable at Any Time: All rights and privileges acquired under the provisions of this article or any amendment thereto, are mere licenses revocable at any time by the Zoning Administrator; and all such permits shall contain this provision.

Review and Action: The Zoning Administrator shall review the Sign Permit application in detail for the purpose of determining whether the proposed sign complies with all the applicable sign regulations of this Article, if applicable. Within 15 days of the submission of a complete application for a Sign Permit, the Zoning Administrator shall either:

- A. Issue the Sign Permit, if the sign complies in every respect with the standards of this Article, if applicable; or
- B. Deny the Sign Permit if the sign fails in any way to comply with the standards of this Article. The Zoning Administrator shall specify all reasons for the denial.

Classification of Signs:

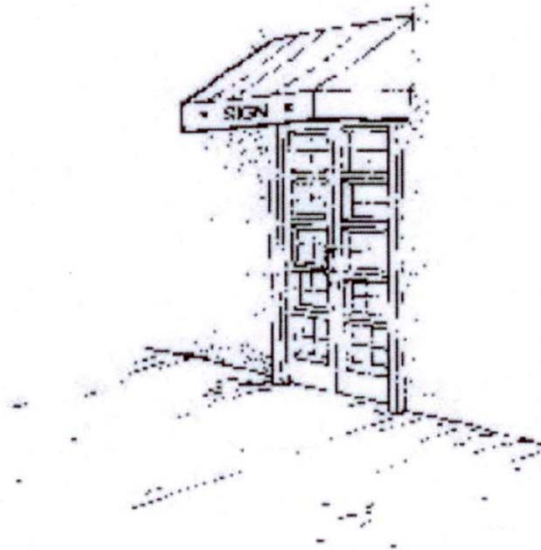
A. Functional Types:

1. Advertising Signs: (Billboards) A sign which directs the attention of the public to any goods, merchandise, property, business, service, entertainment or amusement conducted or produced which is bought or sold, furnished, offered or dealt in elsewhere than on the premises where such sign is located or to which it is affixed.
2. Bulletin Board Sign: A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcement of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.
3. Business Sign: A sign which directs attention to a business or profession conducted, or to products, services or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.
4. Identification Sign: A sign giving only the name and address of a structure, business, development or establishment. Such signs may be wholly or partly devoted to a readily-recognized symbol.
5. Name Plate Sign: A sign giving the name and/or address of the owner or occupant of a structure or premises on which it is located and, where applicable, a professional status.
6. Memorial Sign: A sign, monument or statue serving to help people remember some person or event.
7. Temporary Sign: A display sign as listed below that is limited in time that such sign may remain in use either by the limitations of these regulations or the conditions of a sign permit.
8. Real Estate Sign: A temporary sign pertaining to the sale or lease of a lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof on which the sign is located.
9. Construction Sign: A temporary sign indicating the names of the architects, engineers, landscape architects, contractors and similar artisans involved in the design and construction of a structure, complex or project only during the construction period and only on the premises on which the construction is taking place.
10. Political Campaign Sign: Any sign relating to a candidate, political party, ballot issue, or other issue to be voted upon in any public election.

B. Structural Sign Types:

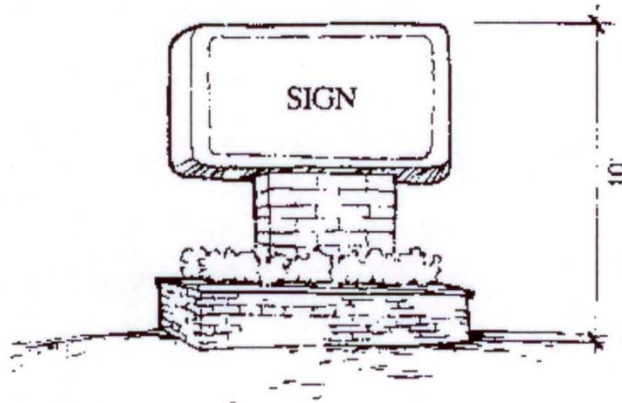
1. Awning, Canopy or Marquee Sign: A sign that is mounted on, painted on, or attached to, an awning, canopy or marquee. No such signs shall project above, below or beyond the awning, canopy or marquee.

Canopy Sign



2. Ground Sign: Any sign placed upon, or supported by, the ground independent of the principal structure on the property, where the bottom edge of the sign is less than six feet above the ground, the height is no greater than 10 feet, and the base is no less than 50 percent of the width of the face of the sign, presenting a monolithic structure, landscaped with appropriate ground cover.

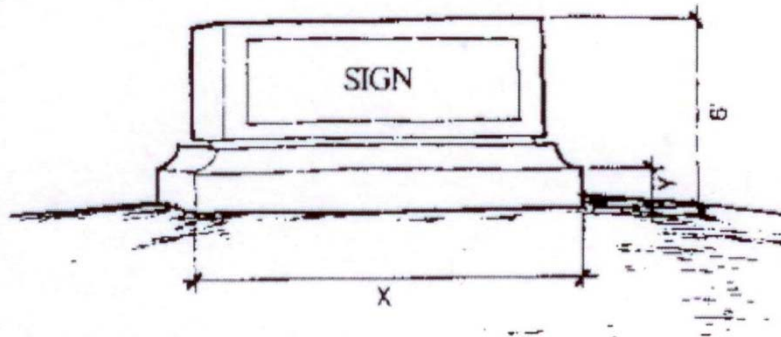
Ground Sign



- 10' maximum height
- If base of sign is greater than five (5) feet height, no planter is required.

3. Monument Sign: Any sign whose base is greater in width than the face of the sign, and whose height is no greater than 6 feet.

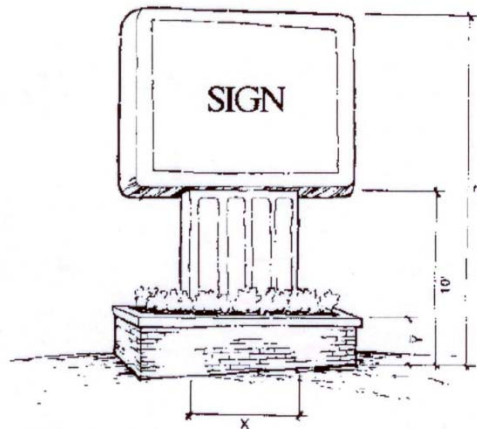
Monument Sign



- $X = \pm 110\%$ of the width of the sign face.
- $Y = \pm 10\%$ of the width of the sign face.
- 6' maximum height.

4. Elevated Sign: Any sign placed upon, or supported by, the ground independent of the principal structure on the property where the bottom edge of the sign is ten feet or more above the ground level, and the base is no less than 50 percent of the width of the face of the sign, landscaped with appropriate ground cover.

Elevated Sign



- X = ½ of the sign face.
- Y = ¼ of the base width.
- Z = maximum of 30 feet above the ground elevation.
- Bottom of sign base to be minimum of 10 feet above the ground elevation to provide adequate clearance, unless excepted by the Planning Commission.

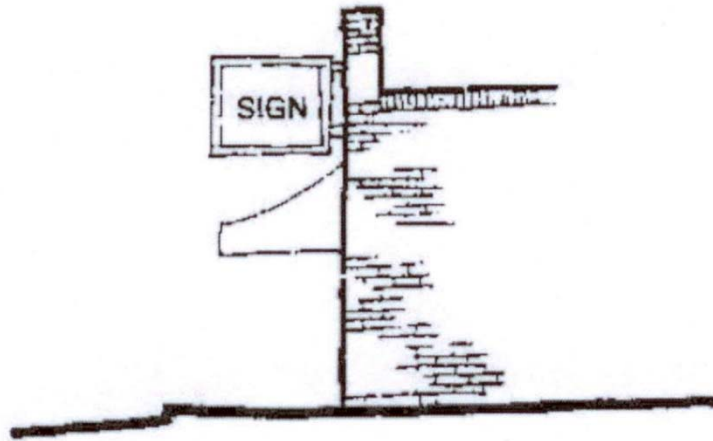
5. Portable Display Sign: Any movable display structure, capable of relocation, under its own power, or towed by a motor vehicle. The display message of the sign may be painted or non-painted and capable of being readily altered. Portable display signs may be with or without electrical illumination and power, and with or without wheels.

Portable Display Sign



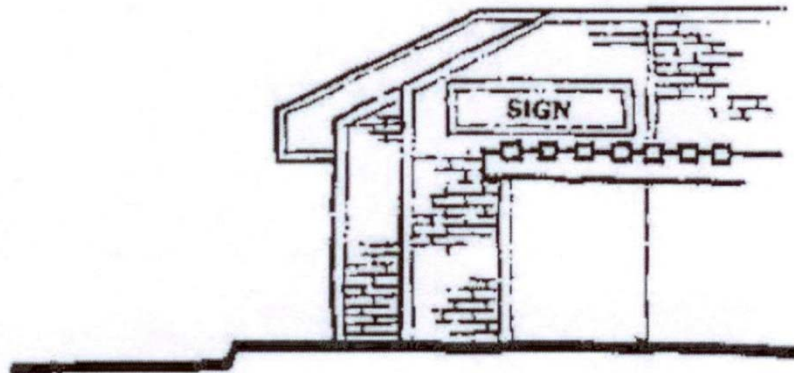
6. Projecting Sign: A sign that is wholly or partly dependent upon a structure for support and which projects more than 12 inches from such structure.

Projecting Sign



7. Wall Sign: A sign fastened to or painted on a wall of a structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than 12 inches from such structure.

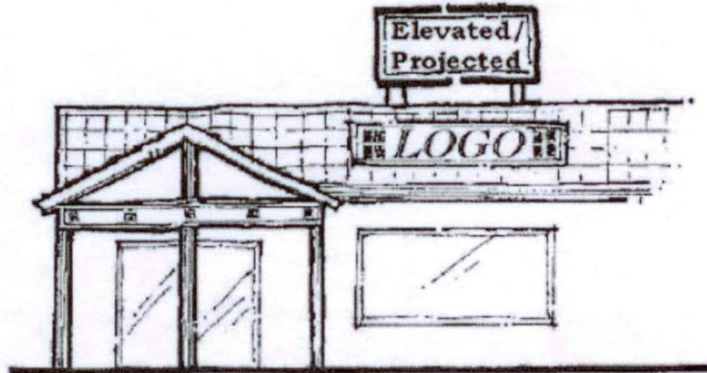
Wall Sign



8. Flush-Mounted Logo Roof Sign: A sign totally supported on the roof of a structure that displays the logo of the tenant of such structure. Flush-mounted logo roof signs shall be mounted parallel to and flush with the roof's surface. In no case shall a flush-mounted logo roof sign project above the highest point of the roof (compare to "elevated/projecting roof sign").
9. Elevated/Projecting Roof Sign: A sign totally supported on the roof of a structure, not including flush-mounted logo roof signs. Elevated/projecting roof signs shall

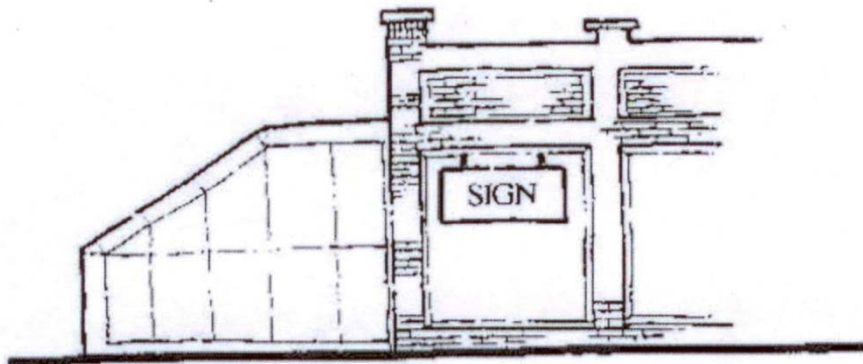
not project more than 12 inches beyond the face of the structure. In no case shall an elevated/projecting roof sign project more than 10 feet beyond the highest point of the portion of the roof on which the sign is located (compare to “flush-mounted logo roof sign”).

Roof Signs



10. Window Sign: Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Window Sign



General Standards:

- A. **Gross Area of Sign:** Gross area shall include the entire area within a single continuous perimeter enclosing the extreme limits of the sign, exclusive of the base on which it is mounted or from which it is suspended. If more than one side of a sign is utilized as a sign, then only the largest side shall be computed and shall be counted as a portion of the gross area. On lots where more than one sign is located, the total gross area of all the signs shall not exceed the maximum gross area for one sign permitted by this regulation.

For computing the gross area of any wall sign which consist of letters mounted or painted on a wall, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters.

- B. **Sign Height:** Sign height shall be measured from the ground elevation at the base of the sign to the highest element of the sign.
- C. **Illuminated Signs:** A sign designed to give forth artificial light or designed to reflect light derived from any source.
1. Illuminated signs shall be designed as to reflect or direct light away from any residential dwelling district and any illuminated sign located on a lot adjacent to, in front of or across the street from any residential district, which sign is visible from such residential district, shall not be illuminated between the hours of 11 p.m. to 7 a.m.
 2. Illuminated signs in direct vision of a traffic signal shall not be in red, amber or green illumination.
- D. **Flashing or Moving Signs:** For the purpose of this regulation, any sign that is revolving, rotating, moving, animated, has moving lights or creates the illusion of movement shall be considered a moving sign. Any illuminated sign on which the artificial light is not constant in intensity and color at all times is considered a flashing sign.
1. Flashing signs shall not be permitted which are in any way similar to traffic signals or emergency vehicle lights.
 2. A sign which displays the current time and/or temperature by use of intermittent lighting shall not be deemed a flashing sign if the lighting changes are limited to text indicating time, temperature or other public messages. Such sign shall not in any case exceed 32 square feet in area.
- E. **Accessway or Window:** No sign shall block any required accessway or window.

F. Signs on Trees or Utility Poles: No sign shall be attached to any tree or utility pole, including light poles.

G. Traffic Safety:

1. No sign shall be maintained at any location where by reason of its position, size, shape or color, may obstruct, impair, obscure, interfere with the view of, or be confused with any traffic or railroad control sign, signal or device, or where it may interfere with, mislead, or confuse traffic.
2. Any sign located within three (3) feet of a driveway, alley, or within a parking area shall have its lowest elevation at least ten (10) feet above the curb level; however, in no event shall any sign be placed so as to project over any public right-of-way, except in the "C-1, Central Commercial District, where signs may project over a sidewalk.
3. Signs placed in the site triangle shall not materially impede vision per requirements listed in the vision triangle definitions. (See Article 3)

H. Lineal Street Frontage: In those districts where gross sign area is allocated based on lineal street frontage and the tract or parcel is adjacent to more than on one street, the lineal street frontage shall be the distance of that property line abutting a major street, or one-half of the sum of all the street frontages if the property does not abut a major street.

I. Landscaping: Ground signs, monument signs and elevated signs shall be landscaped in order to make the signage a more integral element of the overall site design. The landscaping shall be within a defined planting area and shall extend no less than three feet from the base of the sign. In general, a combination of ornamental deciduous trees, evergreen trees, shrubbery, ground cover, perennials and bulbs covering 25% of the area surrounding the sign base is appropriate. This material is intended to accent the signage, minimize its impact on surround development and separate the sign from traffic and parking.

J. Scale and Context: Signs shall be in scale with the site or structure where located and in context with the site, structure and service offered. (See illustrations on pages 88 & 89)

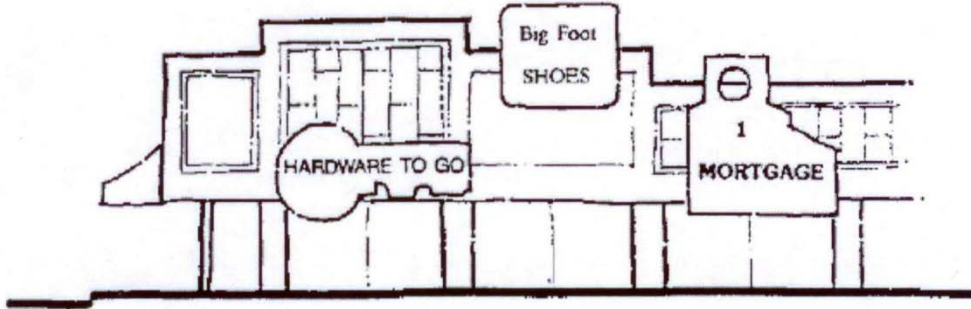
1. Scale includes both human scale and proportion. Signs shall be proportional to the element they are attached to and the façade as a whole.

2. Context includes form, style, color, balance and structure lines:

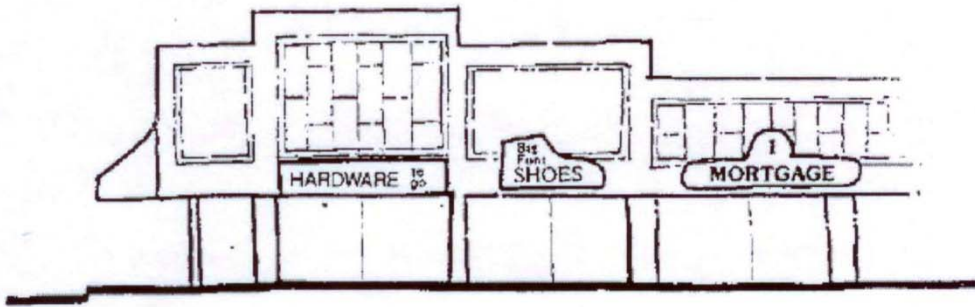
- a. Form: Sign shape and its relationship to the structure or service offered.

- b. Style: Historical, eclectic, modern or contemporary shapes, texts and colors.
 - c. Color: Analogous or complementary in relation to site or structure.
 - d. Balance: Location of sign in structure element relating to balance through location, mass and color.
 - e. Structure Lines: Major lines of building elements and compatibility to outlines horizontal and vertical lines such as roof line, ground line, window lines, etc.
- K. All signs must be constructed of permanent all-weather materials.

Sign Pattern

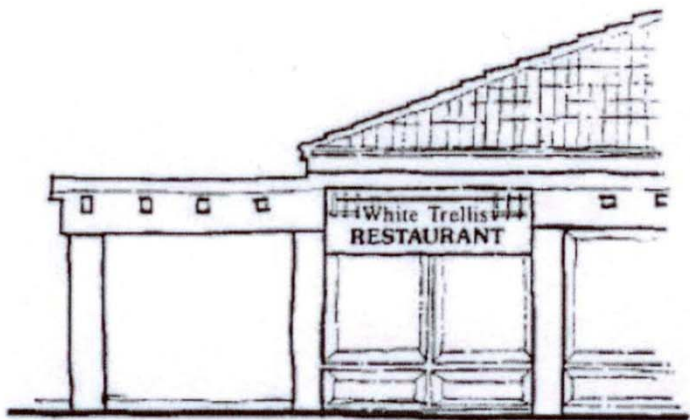


- Inconsistent sign patterns create confusion.

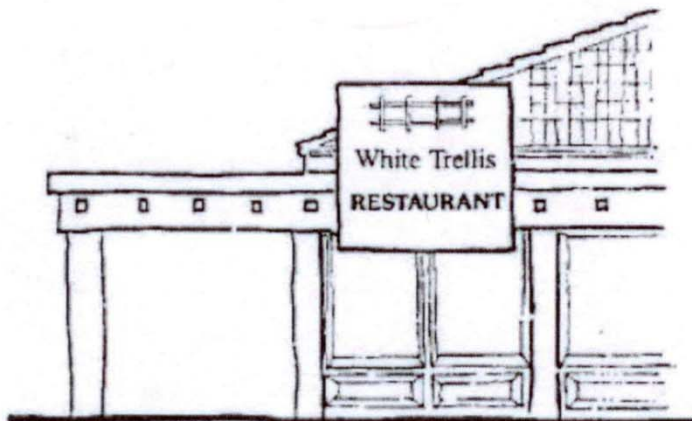


- Employ a consistent sign pattern.

Sign Scale and Character



Sign is in scale and character with building articulation.



Sign is out of scale and character with building articulation.

Exemptions:

- A. Total Exemptions: The following signs shall be exempt from the requirements of this article, except for the provisions of Sections 1 through 11 above.
 1. Flags or emblems of a government or of a political, civic, philanthropic, educational or religious organization, displayed on private property.
 2. Signs of a duly constituted governmental body, including traffic or similar regulatory signs, legal notices, warnings at railroad crossings and other instructional

or regulatory signs having to do with health, safety, parking, swimming, dumping, etc.

3. Memorial signs and tables displayed on public or private property.
4. Small signs, not exceeding three square feet in area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances, and other similar signs; except that such signs shall not display logos or other business advertisements.
5. Scoreboards in athletic stadiums.
6. "Political Election Signs", not exceeding a total of thirty-two (32) square feet in area on a lot of record zoned for non-residential purposes, or which is vacant and unplatted, regardless of the zoning district classification; and not exceeding a total of sixteen (16) square feet on a lot of record in a residential zone district. Political signs shall be displayed for no more than a 60-day period before during and after a public election. Political signs shall not be placed on or otherwise affixed to any public structure or sign, right-of-way, sidewalk, utility pole, street lamp post, tree or other vegetative matter, or any public park or other public property.

The City recognizes that the expression of political speech is an important and constitutionally protected right; that political election signs have certain characteristics that distinguish them from many of the other types of signs permitted and regulated by the City, including the fact that these signs generally do not meet the regular structural design of permanent signs, given their temporary nature; that political election signs therefore present a potential hazard to persons and property; and that the City must impose reasonable time limits on the display of political election signs for these reasons.

7. Temporary signs for the sale of household goods at a residence (for example, garage sales or auctions) for a period not to exceed ten (10) days.
 8. Temporary signs for the sale at auction of real estate for a period not to exceed twenty-one (21) days.
- B. Exemptions from Sign Permit: The following signs are exempt from the sign permit section of this article, but shall comply with all of the other regulations imposed by this article:
1. Name plate signs not exceeding two square feet in gross area accessory to a single-family or two-family dwelling.

2. Bulletin board signs not exceeding 100 square feet in gross accessory to a church, school, or public or non-profit institution.
3. Business signs when located on property used for agricultural purposes and pertaining to the sale of agricultural products produced on the premises.
4. Real estate signs not exceeding nine (9) square feet in area.
5. Construction signs not exceeding nine (9) square feet in area.

Prohibited Signs:

- A. Signs on Public Property: Any sign installed or placed on public property, except in conformance with the requirements, shall be forfeited to the public and subject to confiscation, except that logo signs on public athletic fields shall be allowed. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.
- B. Obscene or Indecent Advertisement: No person shall display upon any sign or other advertising structure any obscene, indecent, or immoral matter.
- C. Roof Signs Above Roofline: Roof signs mounted or projecting above the highest roofline.
- D. Located on Right-of-Way: Any sign located on public right-of-way, except those signs required by governmental authority or political signs as may be permitted.

Temporary Portable Display Signs: With or Without Wheels Attached: Portable display signs shall be allowed on premises in a commercial or industrial zoning district for not more than seven consecutive days, and no more than thirty (30) days in a 12-month period.

Temporary Signs: Temporary signs shall be erected and maintained in a safe and attractive manner and shall be subject to applicable regulations except as specifically modified herein.

- A. Real Estate Signs: Real Estate Signs shall be removed within one week of the date of sale, rental, lease or open house. Signs over thirty-two (32) square feet in area shall be authorized by the Planning and Zoning Commission, which shall base its decision on setback, traffic speed, sign design, and surroundings.
- B. Construction Signs: Construction signs shall be thirty-two (32) square feet or less. Such signs are subject to yard area requirements and may be erected at the start of construction and shall be removed upon project completion.

Maintenance:

- A. Existing Sign Maintenance: All signs shall be designed, constructed, and maintained in compliance with applicable provisions of the Building Code and the Electrical Code of the City. Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this regulation, all signs shall be constructed of permanent materials and shall be permanently attached to the ground or another structure by direct attachment to a rigid wall, frame, or structure.

- B. Removal of Unsafe or Illegal Signs: If the enforcement agency shall find that any sign or other advertising structure regulated herein is unsafe or insecure, or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this regulation, it shall give written notice to the permittee thereof. If the permittee fails to remove or alter the structure so as to comply with the standards herein set forth within thirty (30) days after such notice, such sign or other advertising structure may be removed or altered to comply by the enforcement agency at the expense of the permittee or owner of the property upon which it is located. The enforcement agency shall refuse to approve a permit to any permittee or owner who refuses to pay costs so assessed. The enforcement agency may cause any sign or other advertising structure that is in immediate peril to persons or property to be removed summarily and without notice.

- C. Sign Maintenance Enforcement:
 - 1. All signs within the City shall be maintained in a safe condition and in such a manner that they shall not become a visual detriment to the community at large. The designated official shall be charged with the responsibility and authority to inspect all signs within the City and direct the maintenance of said signs. Maintenance of signs is defined as keeping sign structures in a safe condition, free of rust, with broken glass or plastic replaced, electrical lights and other electrical operations in operable condition, letters and other sign components in the equivalent condition as on the sign permit or as approved.
 - 2. Should the enforcement agency find a non-maintained sign as defined above, it shall cause the owner of said sign to be notified as to the deficiency and the corrective action that needs to be taken.
 - 3. Should the owner fail to exhibit evidence of compliance within 30 days after the mailing of the letter of notification, the enforcement agency shall cause the owner to be cited for violation of this regulation.

- D. Painted Sign Maintenance: The owner of any sign as defined and regulated by this regulation shall be required to have properly painted at least once every two (2) years

all parts and supports of the sign, unless the same are galvanized or otherwise treated to prevent rust.

Office Parks, Shopping Centers and Planned Districts: In the case of a proposed office park, shopping center, or other grouping of three or more tenants or establishments (new or remodeled), the developer shall prepare and submit to the Planning and Zoning Commission a master signage plan for all permanent exterior signs. Such plan shall set standards that shall run with all leases or sales of portions of the development. A full and accurate description of all signs shall be included indicating location, placement, materials, graphic design styles, type of illumination, etc. The final development plan shall not be approved until the Planning and Zoning Commission has approved the sign standards. For purposes of this section the terms “shopping center, office park, or their groupings,” shall mean a project of one or more buildings that has been planned as an integrated unit or cluster of units on property under unified control or ownership. The sale, subdivision, or other partition of the site does not exempt the project or portions thereof from complying with these regulations.

- A. In the case of a “shopping center, office park or other grouping” which is occupied by more than one tenant, one (1) monument sign or ground sign may be permitted in addition to the wall mounted signs, which sign shall depict only the name of the center or grouping of shops or offices.

- B. Where all tenants and/or property owners within a building or “shopping center, office park or other grouping” agree in writing, one tenant may, in lieu of the wall sign permitted, have one (1) monument sign or ground sign depicting the business or product. The design and location of this sign shall be subject to approval of the Planning and Zoning Commission.

District Regulations:

- A. Permitted Signs: The following table identifies permitted signs by type and district. Permitted signs are designated (P) in the table. Signs that are not permitted are designated (N).

Sign Types	R1, R2, M-P	C-1	I-1
Function Types			
Advertising Sign	N	P	P
Bulletin Board Sign	P	P	P
Identification Sign	p ¹	P	P
Name Plate Sign	P	P	P
Memorial Sign	P	P	P
Temporary Sign	p ²	p ²	p ²
Structural Types			
Awning, Canopy or Marquee Sign	N	P	P
Ground Sign	p ³	P	P
Monument Sign	p ³	P	P
Elevated Sign	N	P	P
Portable Sign	N	P	P
Projecting Sign	N	P	P
Wall Sign	P	P	P
Flush-Mounted Logo Roof Sign	N	N	P
Elevated/Projecting Roof Sign	N	N	N
Window Sign	N	P	N
<p>¹ Limited to business signs pertaining to a home occupation and subject to the sign requirements of the home occupation section of this regulation.</p> <p>² Real estate signs for a period of not more than three years nor beyond the sale of 75% of the lots of a subdivision.</p> <p>³ Limited to identification of subdivision only. Not to be used for individual lot or home occupation identification.</p>			

- B. Special Use Permits: Exceptions to the following district regulations, including the number of signs, maximum gross area, maximum height and required setbacks may be granted through the approval of a Special Use Permit.
- C. “R-1” Residential, “R-2” Multiple-Family Dwelling, “M-P” Manufactured Home Park Residential Districts:
1. Number of Signs Permitted: One sign per zoning lot.
 2. Maximum Gross Area:

- a. Business signs – home occupations: 4 square feet.
 - b. Bulletin board and identification signs: 50 square feet.
 - c. Construction signs: 20 square feet.
 - d. Name plate signs: 4 square feet.
 - e. Real estate signs: 9 square feet, provided that one sign not more than 100 square feet in area announcing the sale of lots and/or houses in a subdivision may be located on said development. Said sign shall be removed at the end of three years or when 75 percent of the lots have been sold, whichever occurs sooner.
- 3. Maximum Height: 15 feet.
 - 4. Required Setback: No sign shall be placed closer to the front property line than one-half the distance of the front yard; except that real estate signs shall be exempt from setback requirements.
 - 5. Illumination: Bulletin board signs may be indirectly illuminated with incandescent or fluorescent lighting.

D. C-1 Commercial District:

- 1. Number of Signs Permitted:
 - a. Awning, canopy, marquee, portable signs or wall signs: No limitations
 - b. Ground, elevated, or projecting signs: One per zoning lot.
- 2. Maximum Gross Surface Area: 4 square feet for each lineal foot of street frontage, provided no single sign shall exceed a gross surface area of 300 square feet.
- 3. Maximum Height: Same as “C-1”, except elevated signs may not exceed 30 feet.
- 4. Required Setback: None, except that ground signs shall maintain a setback of 10 feet.
- 5. Illumination: Illuminated signs shall be permitted.

E. I-1 Industrial District

1. Number of Signs Permitted: Two per zoning lot.
2. Maximum Gross Surface Area: 4 square feet per lineal foot of street frontage provided no single sign exceeds a gross surface area of 300 square feet; except that advertising signs shall not exceed 700 square feet.
3. Maximum Height:
 - a. Roof Signs: Not to exceed the highest point of the structure on which the sign is located.
 - b. All Other Signs: 10 feet, except elevated signs shall not exceed 30 feet, and advertising signs shall not exceed 16 feet.
4. Require Setback: None, except that advertising signs shall maintain the same setback that is required for principal structures and shall be located no closer than 1,000 feet from any other advertising sign.
5. Illumination: Illuminated signs shall be permitted.

Article 10 - Nonconformities

General: Nonconformities are of three types: nonconforming lots of record, nonconforming structures and nonconforming uses. A definition of each type is as follows:

- A. Nonconforming Lot of Record: An unimproved 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 or parcel complies with the lot width or area requirements for any permitted use in the district in which it is located.
- B. Nonconforming Structure: An existing structure which does not comply with the height or yard requirements which are applicable to new structures in the zoning district in which it is located.
- C. Nonconforming Use: An existing use of a structure or of land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.

Nonconforming Lots of Record: The Building Inspector shall issue a building permit for any nonconforming lot of record, provided that:

- A. Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations, and
- B. Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulations, and
- C. Said lot can meet all yard regulations for the district in which it is located, and
- D. Said lot can meet minimum standards for sewage treatment as required by the County Health Office.

Nonconforming Structures:

- A. Authority to Continue: Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable yard and height regulations, may be continued, so long as it remains otherwise lawful.

- B. Enlargement, Repair, Alterations: Any nonconforming structure may be enlarged, maintained, repaired or remodeled; provided, however, no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure; provided further, existing mobile home parks not meeting the requirements of this ordinance shall be declared nonconforming and shall not be permitted to add spaces or make any improvements inconsistent with the terms and conditions of this ordinance.
- C. Damage or Destruction: In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than 50 percent of its market value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of 50 percent or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- D. Moving: No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

Nonconforming Uses:

- A. Authority to Continue: Any lawfully existing nonconforming use, part or all of a structure, or any lawfully existing nonconforming use of land, may be continued, so long as otherwise lawful.
- B. Ordinary Repair and Maintenance:
 - 1. Normal maintenance and incidental repair, or replacement, installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.
 - 2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition.
- C. Extension: A nonconforming use shall not be extended, expanded, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to:
 - 1. Extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these regulations, (or on the effective

date of subsequent amendments hereto that cause such use to become nonconforming).

2. Extension of such use within a structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of these regulations, (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming); provided, however, that such use may be extended throughout any part of such structure that was lawfully and manifestly designed or arranged for such use on such effective date.
- D. Enlargement: No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.
- E. Damage or Destruction: In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than 50 percent of its market value, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is 50 percent or less, no repairs or restoration shall be made unless a building permit is obtained, and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- F. Moving: No structure that is devoted in whole or in part to a nonconforming use and no conforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning districts in which it is located after being so moved.
- G. Change in Use: If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special use be changed to another nonconforming use provided that the Planning Commission either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Planning Commission may require appropriate conditions and safeguards in accordance with Article X, Nonconforming Uses, Sections 1-6. Once a change is made to a more appropriate use, the use shall not be returned to the original use or a less appropriate use.
- H. Abandonment or Discontinuance: When a nonconforming use is discontinued or abandoned for a period of 6 consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

- I. Nonconforming Accessory Uses: No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.
- J. Nonconforming Residential Uses: Notwithstanding the provisions of Article X, Nonconforming Uses, Section 3 (A and B), any structure which is devoted to a residential use and which is located in a business or industrial district, may be remodeled, extended, expanded, and enlarged; provided that after any such remodeling, expansion or enlargement, such structure shall not be used to accommodate a greater number of dwelling or lodging units than such structure accommodated prior to any such work.
- K. Nonconforming Uses: All existing mobile home or manufactured home parks not meeting the requirements of this ordinance shall be declared nonconforming and shall not be permitted to add spaces or make any improvements inconsistent with the terms and conditions of this ordinance; except that, any existing manufactured home park developed according to a valid special use permit or other approved development plan, shall become a legal, conforming use under these regulations.

Status of Special Uses:

- A. Status of Existing Special Uses: Where a use exists on the effective date of these regulations, and is permitted by these regulations only as a special use in the zoning district in which it is located, such use shall be deemed to be a nonconforming use. Such special use shall not be enlarged or expanded unless a special use application is approved as set out in Article 11 of these regulations.
- B. Status of Future Special Uses: Any use for which a special use permit has been issued, as provided in these regulations, shall be deemed to be a nonconforming use.

Article 11 - Special Use Permits

General Considerations:

- A. Delegation of Power: The Governing Body is hereby authorized to decide whether special use permits shall be granted subject to the general and specific standards contained in the ordinance; to grant special use permits with such conditions or restrictions as are appropriate to protect the public interest and to secure compliance with these regulations; and to deny requests which fail to satisfy the standards and requirements contained herein and which are not in harmony with the purposes and interest of these regulations and the health, safety, and welfare of the community. The Governing Body shall decide whether special use permits shall be granted only after having received a recommendation from the Planning and Zoning 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.
- B. Conditions and Guarantees: Prior to the granting of any special use permit, the Planning and Zoning Commission or Governing Body may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special use permit as is deemed necessary for the protection of the public interest and to secure compliance with the standards and conditions contained herein. In all cases in which a special use permit is granted, the Planning and Zoning Commission may recommend or the Governing Body may require such evidence and guarantees as may be deemed necessary to ensure that the conditions stipulated are being, and will be, fully complied with.
- C. 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.

Procedures:

- A. Application: A written application for a special use permit shall be filed with the Zoning Administrator and shall include a statement indicating the section of the ordinance under 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. The application shall be accompanied by an area map, a list of the owners of record of all property within 200 feet of the subject property and site plan of the subject property.
- B. Fees: Every application for a special use permit shall be subject to a filing fee.

- C. Site Plan: All applicants for a special use permit shall submit with their application ten copies of a development plan for the property which shall include the following:
1. A site plan showing:
 - a. Approximate size and locations of all structures.
 - b. Access from streets.
 - c. Parking arrangements and numbers of spaces.
 - d. Interior drives and service areas.
 - e. Landscaped areas.
 - f. All proposed signs.
 2. Location map showing development and zoning of adjacent property within 100 feet.
 - a. The full legal description of the boundaries of said development area.
 - b. A description of the general character of all structures.
- D. Hearing: Upon receipt of the formal application and all accompanying material, the Zoning Administrator shall call a public hearing for the next scheduled meeting of the Planning and Zoning Commission; provided, however, that notice shall be published in a newspaper of general circulation at least 20 days prior to the date set for hearing. In addition to such publication notice, written notice of such proposal shall be mailed to all the owners of lands located within 200 ft. of subject property. Failure to receive such notice shall not invalidate any subsequent action taken. The Planning and Zoning Commission shall submit a recommendation to their Governing Body within 30 days after the close of the public hearing.
- E. Findings: In making a recommendation to the Governing Body, the Planning and Zoning Commission shall specify the particular grounds relied upon and their relation to the proposed use and shall make affirmative findings 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 or a public health or safety hazard to adjacent properties or to the community at large.
- F. Action by Governing Body: The Governing Body shall consider the Planning and Zoning Commission's recommendation at the next regularly scheduled Governing Body meeting for which the agenda item can be docketed. The Governing Body may adopt or may

revise or amend and adopt such recommendation by resolution. If the Governing Body fails to act upon a recommendation within 120 days from the receipt thereof, the application shall be deemed to have been denied.

Standards for Issuance of Special Use Permits: Generally: Before any permit shall be granted, the Planning and Zoning 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, 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, comfort and general welfare of the community.

Additional Conditions for Particular Special Uses: In granting a special use, the City may impose such conditions, safeguards and restrictions upon the premises to reduce or minimize any potential injurious effect of such special uses upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations. The following additional conditions shall be requirements for the approval of the following special uses:

- A. Day care centers shall obtain a special use permit for the care of more than ten children in Zoning Districts R1 and R2, provided that:
 - 1. One off-street parking space is provided for each non-resident or non-family member employee, in addition to the two spaces per single-family or duplex unit required. The residential driveway is acceptable for this purpose.
 - 2. If located on an arterial or collector street, an off-street drop-off/pick-up area must be provided.
 - 3. The requirements for accessory uses for the proposed day care home are met.

- B. Auto wrecking yards, junk yards, salvage yards, and scrap processing yards:
 - 1. Shall be located at least 300 feet from a residential district zone.
 - 2. The operation shall be conducted wholly within a noncombustible structure within an area completely enclosed by a fence or wall at least eight feet high. The fence or wall shall be of uniform height, color and texture, and shall be maintained in good condition by the property owner. No scrap, junk or other salvaged materials shall be piled to exceed the height of this wall or fence.
 - 3. No junk or salvaged material shall be loaded, unloaded or stored, either temporarily or permanently, outside the enclosed structure, fence or wall.
 - 4. Burning of paper, trash, junk or other waste materials shall be permitted only after approval of the Fire Department, except when prohibited by the Kansas Department of Health and Environment.
- C. Funeral, mortuary or crematory services shall be located on a collector or arterial street as noted in these Regulations.
- D. Wind-powered generating systems shall conform to the following standards:
 - 1. No tower or propeller shall be located so as to be within a distance equal to its height of any structure, power line or antenna located on any other piece of property.
 - 2. The height of the tower and propeller shall not exceed by more than 50 percent the height limitation of the district in which it is located, and the bottom tip of any propeller shall be at least ten feet above any accessible pedestrian area.
 - 3. The system and its component parts shall be totally surrounded by a fence at least six feet and not more than eight feet in height unless otherwise physically inaccessible to the public.
 - 4. The system shall not cause interference to the radio and television reception on adjacent property.
 - 5. The system shall contain a breaking device for winds in excess of 40 miles per hour.
 - 6. The system shall be approved for safety by a testing laboratory and shall be covered by a homeowners or business insurance policy.
 - 7. The minimum lot width shall not be less than the required width in the underlying zone district.

- E. Travel trailer camps shall be permitted subject to the following conditions:
1. The site selected for travel trailer camp areas shall be well drained and primarily designed to provide space for short-term occupancy to the traveling public. Location of the site may not necessarily front on a major roadway or thoroughfare, but it shall be directly accessible to the major roadway by means of a private road or public road which it has frontage on. Short-term occupancy shall not exceed 30 days, except as approved by the Zoning Administrator.
 2. Minimum tract size shall be two (2) acres and be in one (1) ownership.
 3. The maximum number of travel trailer spaces allowed within the permitted districts shall not be more than 20 per acre. Consideration shall be given to whether the camp and the density level are designed accordingly. The densities of overnight use may be higher than destination type since it primarily serves as a short stopping point while the destination type camp located at or near a scenic historical or outdoor recreational area provides for longer and extended stays of several days or weeks.
 4. Minimum width of a trailer space shall be 25 feet and it shall be so designed to provide space for parking both the trailer and towing vehicle off the roadway. No trailer unit shall be closer than ten feet to any other adjacent unit, structure or roadway, and all spaces shall have direct access to the roadway. No unit shall be placed closer than 30 feet to any of the development property lines, and the ten feet nearest the property line shall be permanently maintained as a sodded and/or landscaped area.
 5. A central office or convenience establishment with an attendant shall be provided within the trailer camp to register guests and provide service and supervision to the camp for camps in excess of five acres.
 6. The applicant for a travel trailer camp shall submit a development plan to the Planning and Zoning Commission for approval. Such plan shall contain the information as required below and any other information the Board reasonably shall deem necessary to fully evaluate the proposed development. The applicant shall submit the information on a sheet size not to exceed 24" x 36" dimensions as a proposed development plan showing:
 - a. General layout of development with dimensions, depths, number of spaces and related sanitation accommodations.
 - b. Parking area location, sizes and capacity.

- c. Ingress and egress points for the project.
 - d. Use of structures.
 - e. General layout of typical travel trailer space showing size of space and proposed improvements.
 - f. Layout of roadway within the camp.
 - g. Net density of proposed project, expressed in terms of units per acre.
 - h. General landscaping plan indicating all new and retained plant material to be incorporated within the new development and layout of outdoor lighting system.
 - i. Plan and method of sewage disposal and water supply.
 - j. Location plan and number of proposed sanitary conveniences, including proposed toilets, washrooms, laundries and utility areas.
 - k. The development shall provide a general refuse storage area or areas which shall be provided with a paved concrete surface and shall be enclosed to screen it from view.
7. The travel trailer camps shall be planned and constructed in accordance with the minimum standards as established in this section and as outlined below:
- a. All parking areas and roadways shall be constructed and paved with a hard surface bituminous or concrete material.
 - b. All camps shall be provided with general outdoor lighting with a minimum of 0.3-foot candles of general illumination.
 - c. All yard areas and other open spaces not otherwise paved or occupied by structures shall be sodded and/or landscaped and shall be maintained.

F. Kennels-breeding and boarding:

- 1. The minimum lot size shall not be less than two acres.
- 2. No kennel structures or runs shall be located nearer than 75 feet to any property lines.

3. All kennel runs or open areas shall be screened around such areas or at the property lines to prevent the distraction or excitement of the dogs. Such screening may be mature, dense deciduous foliage (double row), solid masonry, brick, or stone wall, louvered wood, stockade, or chain link fence with aluminum strip intertwined or other equivalent fencing, providing a sight barrier to the dogs.

G. Bed and Breakfast: The following requirements shall apply:

1. Two off-street parking spaces with one additional off-street parking space per lodging room shall be provided.
2. The structure shall be no smaller than 1,800 square feet in living area.

H. Time Limit:

1. Sunset: A special use permit shall expire, upon public hearing, unless a building permit is taken within 6 months to effectuate such specially permitted use; or if no building permit is required, evidence of use is filed with the Building Inspector.
2. Abandonment: Once a specially permitted use ceases or is abandoned for a period of more than 6 months, the special use permit shall expire upon public hearing; except that the special use permit for an auto salvage yard shall automatically expire if the state license for operating the auto salvage yard lapses for a period of time more than six months.
3. Home Occupation: A special use permit for a home occupation shall not be transferable to a new owner of the real estate.

Article 12 - Site Plan Review and Building Permits

Site Plan Review

- A. Intent: The City of Overbrook recognizes that the very nature of land development creates potential for traffic congestion, overcrowding, adverse visual environmental impacts, and health problems. Also, the City strives to achieve the goal of promoting growth in Overbrook, while stabilizing the established residential patterns of the area. The City seeks to ensure that any location that must accommodate intense uses, shall be subject to Site Plan Review by the Zoning Administrator. The Planning and Zoning Commission shall serve as an appeals body from review by the Zoning Administrator.

Site Plan Reviews shall help ensure that the meaning and intent of the Zoning Regulations, and all portions thereof, are in full compliance.

1. The Site Plan Review regulates the development of structures and sites in a manner which considers the following concerns:
 - a. The balancing of landowners' rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g., noise, smoke, fumes, dust, odor, glare, stormwater runoff, etc.);
 - b. The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;
 - c. The adequacy of waste disposal methods and protection from pollution of surface or groundwater;
 - d. The protection of historic and natural environmental features on the site under review, and in adjacent areas; and
 - e. The stability of the built environment, particularly residential neighborhoods, by promoting urban development which is compatible with clearly identified natural resources.

- B. Applicability: The Zoning Administrator shall require that all applications for building permits for developments in the multiple-family, public use, commercial and industrial zoning districts shall be subject to Site Plan Review in accordance with these regulations with the exception of development that does not increase the size of the original structure by more than 50 percent in the case of a renovation or alteration. Further, any development that requires a plat and is proposed to locate in any portion of any Redevelopment Overlay

District shall submit an expanded Preliminary Plat which indicates the information called for on a Site Plan. Developers shall be encouraged to implement the objectives of the Future Land Use Plan in preserving natural resources and grid-pattern streets to secure a coherent urban design and foster compatibility among land uses in the City of Overbrook. Site Plan Reviews shall be performed by the Zoning Administrator.

In addition, all Site Plans may be submitted to the Overbrook Police Department for an advisory review and comment regarding the development in relation to the Crime Prevention Through Environmental Design principles. Crime prevention through environmental design (CPTED) is a multi-disciplinary approach to deterring criminal behavior through environmental design. CPTED strategies rely upon the ability to influence offender decisions that precede criminal acts. Generally speaking, most implementations of CPTED occur solely within the urbanized, built environment. Specifically altering the physical design of the communities in which humans reside and congregate in order to deter criminal activity is the main goal of CPTED. CPTED principles of design affect elements of the built environment ranging from the small-scale (such as the strategic use of shrubbery and other vegetation) to the overarching, including building form of an entire urban neighborhood and the amount of opportunity for "eyes on the street".

The applicant may appeal a site plan review determination to the Board of Zoning Appeals for approval in the event that an applicant alleges that there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of Site Plan Review. The request for review by the Board of Zoning Appeals shall be accompanied by a complete description of the error(s) alleged. The Board of Zoning Appeals shall perform their review at a scheduled meeting of the Board of Zoning Appeals and shall adjourn and reconvene as is determined necessary. The applicant may appeal the decision of the Board of Zoning Appeals to the District Court.

- C. Authority: Building permits shall not be issued for any use of land or proposed construction on a lot in the zoning districts in which Site Plan Review is applicable, unless Site Plan Review approval has been granted by the Zoning Administrator.
- D. Submission Requirements: The Site Plan or expanded Preliminary Plat shall include the data, details, and supporting plans which are found relevant to the proposal. The number of pages submitted will depend on the proposal's size and complexity. The applicant shall make notations explaining the reasons for any omissions.

Site Plans shall be prepared by a registered professional engineer, architect, or landscape architect at a scale of 1 inch equals 20 feet, on standard 24" x 36" sheets. Items required for submission include:

1. Name of the project, address, boundaries, date, north arrow and scale of the plan.

2. Name and address of the owner of record, developer, and seal of the engineer, architect or landscape architect.
3. Name and address of all owners of record of abutting parcels.
4. All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, abutting land uses and structures. The location and use of all existing and proposed structures within the development.
5. Include all dimensions of height and floor area, and show all exterior entrances and all anticipated future additions and alterations. For developments in the Central Business District (CBD), indicate design details to make new construction compatible with existing structures.
6. The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs and fences. Location, type, and screening details for all waste disposal containers shall also be shown.
7. The Zoning Administrator may require location, height, intensity, and bulb type (e.g., fluorescent, sodium incandescent) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
8. The location, height, size, materials, and design of all proposed signage.
9. The Zoning Administrator may require a landscape plan showing all existing open space, trees, forest cover and water sources, and all proposed changes to these features including size and type of plant material. Water sources will include ponds, lakes, brooks, streams, wetlands, flood plains, and drainage retention areas.
10. The location of all present and proposed utility systems including:
 - a. Sewerage system;
 - b. Water supply system;
 - c. Telephone, cable and electrical systems; and
 - d. Storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swells.
11. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive run-off, excessive raising or lowering of the water table, and flooding of other properties, as applicable.

12. Existing and proposed topography shown at not more than two-foot contour intervals. All elevations shall refer to the United States Geodetic Survey (USGS) datum. If any portion of the parcel is within the 100-year flood plain, the area shall be shown, with base flood elevations; and the developer shall present plans for meeting Federal Emergency Management Agency (FEMA) requirements.
13. Zoning district boundaries adjacent to the site's perimeter shall be drawn and identified on the plan.
14. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within 100 feet of the site.

The Zoning Administrator may require a detailed traffic study for mixed use and multitenant developments, or for developments in heavy traffic areas to include:

- a. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
 - b. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and
 - c. The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels, as well as road capacity levels, shall also be given.
15. For new construction or alterations to any existing structure, a table containing the following information must be included:
 - a. Area of structure to be used for a particular use, such as retail operation, office, storage, etc.;
 - b. Maximum number of employees;
 - c. Maximum seating capacity, where applicable;
 - d. Number of parking spaces existing and required for the intended use; and
 - e. A landscape plan for improving large areas of paved parking with appropriate landscaping may be required.

E. Standard of Review: The recommendations of the Zoning Administrator shall be based on the following standards:

1. The extent to which the proposal conforms to the previous sections of these regulations.
 2. The extent to which the development would be compatible with the surrounding area.
 3. The extent to which the proposal conforms to the provisions of the City's Subdivision Regulations.
 4. The extent to which the proposal conforms to customary engineering standards used in the City.
 5. The extent to which the location of streets, paths, walkways, and driveways are located so as to enhance safety and minimize any adverse traffic impact on the surrounding area.
- F. Development Standards, "Redevelopment Overlay District": The Site Plan shall demonstrate the extent to which the structures, walkways, roads, driveways, open space (if any), and parking lots in the "Redevelopment Overlay Districts" have been located to achieve the following objectives:
1. Conserve natural resources and amenities available on the site;
 2. Implement a neo-traditional urban design, such as grid-pattern streets;
 3. Ensure that proposed structures are located on suitable soils;
 4. Minimize any adverse environmental impact; and
 5. Minimize any present or future cost to the municipality and private providers of utilities in order to adequately provide public utility services to the site.
- G. Strip Commercial Design Guidelines:
1. The commercial strip centers serve as districts for commercial activity and focal points. These guidelines are intended to accomplish the following:
 - a. Provide for the proper sizing and location of new retail zoning requests and developments;
 - b. Improve on- and off-site vehicular and pedestrian circulation and safety;
 - c. Allow commercial strip centers to develop on arterial streets while at the same time preserving the capacity of the arterial street to carry city-wide traffic; and

- d. Improve the visual character and identity of retail centers, strip centers, and major transportation corridors.

These guidelines are intended to supplement the City of Overbrook's regulatory review process. Each of the nine design elements or sections includes a statement of purpose and a listing of key issues. The applicant will be expected to address these issues by: a) complying with the guidelines for each section; or b) proposing alternative solutions that specifically address the identified issues.

The guidelines should be officially coordinated with adopted zoning and subdivision regulation amendments; however, the process is intended to remain flexible. The applicant is encouraged to propose innovative alternatives that accomplish the stated purpose of the guidelines. The guidelines will be used by staff in its initial discussions with the applicant as the submission is prepared. Upon receipt of a zoning case, concept plan, or site plan, the staff will evaluate the request based on its compliance with guidelines or upon how effectively it addresses the intent of each section through alternative solutions. The applicant shall clearly show how they addressed the key issue(s) with supportive information and data.

When an applicable zoning case, circulation plan, land use plan, preliminary site plan, or site plan is presented to the Planning and Zoning Commission recommended action will be included. Staff's recommendation will be based on its determination of the proposal's conformance to the guidelines and/or its effectiveness in meeting the purposes and issues of the various design elements.

2. Site Appropriateness - Retail Strip Centers.

- a. Purpose: In order for the retail centers to best serve as corner neighborhood shopping centers, certain parameters need to be addressed. These include:
 - i. appropriate site location;
 - ii. efficient site shape and size; and
 - iii. site accessibility.
- b. Guidelines:
 - i. Retail centers should typically be located at the corner of two major thoroughfares.
 - ii. Sites for neighborhood commercial centers should be generally 6 to 10 acres to accommodate 30,000 - 100,000 SF of retail space including

serving a one (1) mile radius for 1 or 2 "anchor" stores. Community centers should be planned for a larger site.

- iii. Sites should generally be accessible from major thoroughfares at median breaks and located along at-grade intersections.
- iv. Sites should be accessed from local streets that are segregated from the street system of residentially zoned land.
- v. Topography and drainage should be addressed with regard to corner shopping locations.

3. Building Arrangement

a. Purpose: Proper arrangement of buildings on a site provides for efficient and viable long term use. Key issues include:

- i. storefront visibility and accessibility;
- ii. relationship of buildings to each other;
- iii. orientation to thoroughfares;
- iv. compatibility with surrounding land uses; and
- v. re-use of buildings and adaptability for new tenants.

b. Guidelines:

- i. Storefronts should generally be visible from main circulation aisles unless a "mall" or courtyard approach is used.
- ii. Pad sites, generally defined as freestanding structures of less than 5000 SF of floor area, should be limited to one per 5 acres of land area.
- iii. Buildings should be arranged to reduce visibility of service areas from streets, customer parking areas and adjacent properties.
- iv. Bay depth of buildings should be sized to accommodate a variety of potential uses.
- v. Two-story buildings should generally not be placed adjacent to single- or two-family residential districts, nor between the main building(s) of a center and streets.

- vi. Buildings should be grouped along one side lot line, with one end at the front yard building setback, and with the front setback landscaped, providing a 10' setback for all paved off-street parking.

4. Access

- a. Purpose: Safe and efficient access to the corner shopping center or commercial strip minimizes potential vehicular and pedestrian conflicts. The key issues include:

- i. location of median breaks along major thoroughfares;
- ii. number and location of entry drives;
- iii. design of entry drives; and
- iv. traffic visibility.

- b. Guidelines:

- i. Driveways should typically be spaced with a minimum of 125 feet from the intersections of major thoroughfares unless a one-way traffic flow used. All other driveway and median openings should adhere to a Driveway Access Standard.
- ii. The ingress side of the main entrance drive should be the largest radius allowed by ordinance for better access into the site, particularly at major centers.
- iii. Driveways should maintain an appropriate sight distance triangle at all perimeter entrances.
- iv. Main entrance drives should generally be located at median breaks providing left turn access to and from the site. Continuation left-turn lanes should be broken with medians at major intersections.
- v. Main entrance drives should connect to a "straightaway" aisle that does not dead end or require an immediate turn to approach the main building.
- vi. Aisles intersecting with entrance drives should be spaced a minimum of 20 feet from the entrance line to provide for smooth turning movements.

5. Circulation and Parking

a. Purpose: Proper circulation and parking systems minimize confusion and facilitate safe and easy pedestrian and vehicular movement within the corner shopping center. The key issues include:

- i. traffic aisle alignment;
- ii. traffic speed and safety;
- iii. parking location and layout;
- iv. service area parking and circulation;
- v. customer pick-up areas;
- vi. drive-thru building circulation; and
- vii. pedestrian circulation and safety.

b. Guidelines:

- i. Provide a 10' setback from street-side property lines for all off-street parking drives and spaces.
- ii. Main drive aisles should generally be free of parking when adjacent to large anchor tenants of 30,000 SF of floor area or more.
- iii. The direction of traffic flow should be identified.
- iv. Long circulation aisles (generally in excess of 500') should be offset (typically 45 degrees or more) to prevent excessive speed.
- v. Lanes should be provided for drive-thru facilities, including stacking space, that are physically separated from other circulation and parking aisles.
- vi. Parking aisles should be oriented toward anchor stores to minimize the number of parking lanes crossed by pedestrians.
- vii. Typically provide right angle intersections (80 to 100 degrees) with no more than 2 traffic lanes crossing at any interior intersection. Parking should be arranged to provide readily accessible spaces for each establishment.

- viii. The parking layout should maximize the amount of parking in front of the building and minimize the amount behind.
- ix. Separate service vehicle circulation from customer circulation routes. Allow for all tenants to be accessed from within the development through cross access agreements.
- x. Customer pick-up areas should be provided at "anchor" stores.
- xi. Pad sites shall be required to obtain mutual access and parking agreements within the remaining retail center. This shall be required in order to enhance safe on-site circulation and provide access to left-turn lanes.

6. Building Elements

- a. Purpose: In order to create a positive overall development character, all structure (including separate pad site structures) at shopping centers should have an attractive and uniform architectural treatment. The key issues include:
 - i. consistency of design between structures;
 - ii. materials standards; and
 - iii. rear façade treatment.
- b. Guidelines:
- c. Façade design plan of entire project should be submitted with site plan review.
 - i. Façades and rooflines facing streets or main parking areas should be consistent throughout the development in design, color and materials.
 - ii. Rooflines, overhangs, and the front fascia should be extended to the rear of the building(s).
 - iii. High quality, low maintenance building materials are recommended.
 - iv. Signage located on the buildings should be consistent in size, location and material throughout the project.
 - v. Rear façades should be of finished quality and should be of color and materials that blend with the remainder of the building(s).

7. Service Facilities

- a. Purpose: Service areas should be appropriately located and designed to efficiently and inconspicuously serve the corner shopping center development without disrupting on-site circulation or adjacent land uses while maintaining visibility for security purposes. The key issues include:
 - i. location of service areas;
 - ii. visibility of service areas;
 - iii. treatment of pad site service areas; and
 - iv. location of trash containers.

2. Guidelines:

- a. Service facilities should generally be located in a central area to be used by several retail establishments.
- b. Service and docking facilities should be separate from main circulation and parking functions.
- c. Trash containers should be located in appropriately screened central service areas, and not visible from the public street.
- d. All dumpsters should be screened on all sides exposed to street view. All dumpsters should be shown on the approved site plan and whenever possible shall be clustered.
- e. Service areas should be easily accessible by service vehicles.
- f. Pad site service areas should be screened from the remainder of the development and physically separated from the circulation aisles and parking areas serving the remainder of the site.
- g. Pad site service areas should typically be screened by an extension of the building. Service facilities should be screened from the remainder of the project, adjacent land uses and major thoroughfares. Extended wing walls from the building may be used to screen service areas. When used, these walls may be of solid construction if lighted on both sides, or a minimum of 30% of open construction if lighted on only one side. A combination of landscaping and screening walls may also be used.

8. Utilities/Mechanical/Outdoor Storage

- a. Purpose: The location and treatment of utilities, mechanical functions and outdoor storage areas should be managed and coordinated to achieve physical and visual order within the shopping center development. The key issues include:
 - i. location of facilities; and
 - ii. visual impact of utilities.
- c. Guidelines:
 - i. Typically, utilities should be underground from right-of-way to building to reduce visual clutter.
 - ii. Locate utility metering within a designated service area.
 - iii. Locate mechanical equipment in the designated service area and screen from the project and adjacent land uses.
 - iv. Limited outdoor storage will only be permitted in designated service areas that are screened from the remainder of the project, adjacent land uses and streets.
 - v. Utility conduit and boxes should be painted to match building color.
 - vi. Roof mounted mechanical units shall be screened from view with a parapet wall, mansard roof, or other architectural extension, equal in height to the unit(s) except when that distance exceeds five feet. In this case, an additional setback will be required at a ratio of two feet horizontal for each additional foot of vertical height above five feet.

9. Buffers and Screens

- a. Purposes: Proper use of buffers and screens will lessen the differences between land uses and diminish the visual impact of undesirable elements. The key issues include:
 - i. unified character;
 - ii. high quality construction;
 - iii. longevity of system;
 - iv. disparity between land uses; and

- v. visibility of undesirable elements.

b. Guidelines:

- i. Architectural screens should be an extension of the development's architectural treatment and consistent in color and design. The development of an office business park where there is high interstate visibility, affords a chance to create an attractive "front door" appearance.
- ii. Screening walls should be constructed of low maintenance, high quality materials that are consistent with the building façade material.
- iii. Screening walls should conform to the City of Overbrook's zoning and subdivision ordinances.
- iv. Painted or coated screening walls should be avoided.
- v. Landscape screens (typically 18" to 36" in height) should be provided between all parking areas and streets.
- vi. Landscape screens may include a combination of plant massing, earth berming and walls.
- vii. A 10-foot to 15-foot wide landscape buffer should be provided to separate the retail use from residential land uses. A masonry wall or combination wall and landscaping may be substituted for this buffer.

10. Landscaping

- a. Purpose: The location and design of landscaped areas, entrances and edges should effectively reinforce development's character and quality, identify its entry points and break the massiveness of a center's parking area. The key issues include:
 - i. unified development image and character;
 - ii. parkway treatment;
 - iii. identifiable entrances;
 - iv. visual dominance of parking area; and
 - v. existing mature trees.

b. Guidelines:

- i. Landscaped planting plan of the entire project should be submitted with site plan review.
- ii. Approximately 15% of the area between the main building face and the front property lines should be of a permeable landscaped surface. (Secondary buildings located between the main building and the front property line should not be included in the area calculation.)
- iii. Landscape areas should generally consist of a combination of trees, shrubs and ground cover.
- iv. Use landscape areas for transition and integration between pad sites and surrounding land uses.
- v. Minimum 4" caliper trees are recommended.
- vi. Artificial plants are prohibited.
- vii. Preserve existing mature trees where possible.
- viii. Special landscape treatment should be employed to highlight and identify entrances.
- ix. Landscape areas should be regularly spaced in parking lots to break up massiveness of pavement.
- x. Mechanical irrigation systems are typically required to ensure maintenance of plant materials.
- xi. Landscaping should be used in conjunction with screening walls when multistory buildings abut an adjacent property where topography lessens the effect of a wall alone. Where a building exceeds 15 feet in height, 4" caliper trees shall be required, spaced every 30 feet along the wall or spaced every 50 feet apart if an irrigation system is provided.

H. Downtown Design Guidelines:

1. In the downtown, C-1 Commercial District, no building shall be erected that does not meet the following minimum standards:
 - a. Careful consideration of durable materials, proportions, and shapes, emphasizing the importance of roofs as integral and embracing elements of the over-all design,

is particularly important. Building roof tops shall have at least two of the following features:

- b. Parapets concealing flat roofs and roof top equipment;
 - c. Overhanging eaves;
2. Roof mounted equipment, including ventilators and satellite dishes shall be screened from view (100% opacity) or isolated so as not to be visible from ground level of any adjacent public thoroughfare or residentially-zoned area, up to a maximum of three hundred feet (300') away. The appearance of roof screens shall be coordinated with the building to maintain a unified appearance.
 3. All electrical and mechanical equipment located adjacent to the building and visible from any adjacent public thoroughfare or a residentially-zoned area shall be screened from view (100% opacity), up to a maximum of three hundred feet (300') away. Such screens and enclosures shall be treated as integral elements of the building's appearance.
 4. All telephone and cable television lines, electrical services and distribution lines shall be placed underground, except that this provision shall not include meters, electric and telephone service pedestals, transformers, three-phase feeder lines, subtransmission and transmission lines (34.5kv and above), electrical substations and such other facilities as the utility may deem necessary to install utilizing "overhead" type construction.
 5. The form and proportion of new buildings or redevelopment shall be consistent or compatible with the scale, form and proportion of existing development in the downtown.
 6. Pedestrian Access: Pedestrian access shall be an integral part of the overall design of each commercial development. The pedestrian access should provide not only safe and convenient access to and from off-street parking areas but should also connect with abutting properties and developments so as to create an alternative means of transportation for residents of the downtown:
 - a. Sidewalks at least 5 feet in width shall be provided along all sides of a lot that abut a dedicated public or private street. A continuous internal pedestrian sidewalk shall be provided from the perimeter public sidewalk to the principal customer entrance(s). This internal sidewalk shall feature landscaping, benches, and other such materials and facilities for no less than 50 percent of its length.
 - b. Sidewalks shall be provided along the full length of the building along any façade featuring a customer entrance and along any façade abutting public parking areas.

Such sidewalks shall be located at the building façade to provide continuous edges; and shall incorporate planting areas for landscaping along the street.

- c. Internal pedestrian sidewalks shall be distinguished from driving surfaces through the use of special pavers, bricks, or scored concrete to enhance pedestrian safety and the attractiveness of the sidewalks.
- d. Architectural design should create visual interest through the use of different textures, complementary colors, shadow lines and contrasting shapes indigenous to the downtown. The use of walls in a single color, with little detailing or completely blank, is strongly discouraged.
- e. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest.
- f. Loading docks, trash enclosures, outdoor storage and similar facilities and functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are reduced to as great an extent as possible and are out of view from adjacent properties and public streets.
- g. Building facades that are 100 feet or greater in length shall incorporate recesses and projections along at least 20 percent of the length of the building façade, reflecting the archetype of the downtown. Windows, awnings, and arcades must total at least 60 percent of the facade length abutting any public street.
- h. When a building façade 100 feet or greater in length abuts a residential district, an earth berm of at least six feet in height shall be installed between the building façade and the abutting residential district. The earth berm shall be landscaped with evergreen trees at intervals of at least 20 feet on center, or in clusters.
- i. Minimum Exterior Building Material Standards: A minimum of 50% of each exterior wall shall consist of one or more of the following materials:
 - i. Masonry: Masonry construction shall include all masonry construction which is composed of solid cavity faced or veneered-wall construction, or similar materials.
 - ii. Stone material used for masonry construction may consist of granite, sandstone, slate, limestone, marble, or other hard and durable all-weather stone. "Ashlar", cut stone, and dimensioned stone construction techniques are acceptable.
 - iii. Brick material used for masonry construction shall be composed of hard fired (kiln fired) all-weather common brick or other all-weather facing brick.

- iv. Stucco or approved gypsum concrete/plaster materials.
- v. Glass Walls: Glass walls shall include glass curtain walls or glass block construction. A glass curtain wall shall be defined as an exterior wall that carries no floor or roof loads and which may consist of a combination of metal, glass, and other surfacing material supported in a metal framework.
- vi. Wood other than exposed plywood paneling.

I. Multifamily Standards:

Multifamily development shall be subject to the following design guidelines and standards:

1. Natural Features and Environment: Each site should be designed to preserve natural features and environmental resources, such as:
 - a. Flood plains and drainage ways.
 - b. Bodies of water.
 - c. Prominent ridges and rock ledges.
 - d. Existing tree cover including tree masses, windrows and significant individual trees.
2. Pedestrian Circulation: Pedestrian circulation systems (sidewalks, walkways, and paths) shall be located and designed to provide physical separation from vehicles along all public and private streets and within any parking area.
3. Building Separation: All buildings shall be separated by a minimum distance of 15 feet.
4. Lot Coverage: Each site plan should be designed to reflect unique site characteristics and strong neighborhood environments without overcrowding the site.
5. Access: All multifamily residential developments must have direct vehicular access to collector, arterial or higher classification streets. Multifamily residential development shall not take access to local streets.
6. Open Space: Open space should be provided to meet active and passive use requirements of the neighborhood.
 - a. At least ten (10) percent of the total site area shall be set aside as common open space. The common open space shall be suitable for active or passive recreational use. Common open space areas should be centrally placed within the neighborhood.

Common open space may include pools, tennis courts, and tot lots. Common open space may not be counted toward nor located in required zoning district setbacks.

- b. A minimum of 60 square feet of private open space shall be provided for each ground-level dwelling unit and each dwelling unit that is accessible from a walk out basement. Private areas should allow only limited access and be enclosed to ensure privacy. Private areas typically include yards, balconies and patios.

- 7. Building Clustering: Unusable and unassigned open space surrounding buildings should be reduced by clustering buildings. Buildings should be clustered around a central common area, and not have the primary orientation directed toward the parking area.

8. Building Orientation

- a. Individual Buildings: Individual buildings should be oriented in a way similar to established neighborhoods and sub-neighborhoods.
- b. Reduction of Unusable Open Space: Unusable open space should be reduced through building orientation, the use of low walls, fencing, landscaping and entry design.

9. Vehicular Circulation and Parking

- a. Street Layout: The layout of streets should provide for safe operation of vehicles within the neighborhood. Excessively straight and wide streets encourage highspeed traffic and should be avoided. Curvilinear designs, reduced street widths and cul-de-sacs create stronger neighborhood environments.
- b. Parking Area Layout: Double loaded parking areas along private streets or drives are generally not acceptable. Parking areas should be clustered and separated from the street.
- c. Parking Enclosures: Parking enclosures should be designed and sited so as to compliment the primary structures and to provide visual relief from extensive pavement area.

10. Pedestrian Circulation

- a. Pedestrian Linkages: Pedestrian access should be designed to provide reasonable linkages of dwelling units to neighborhood facilities such as recreation, services, mail and parking.
- b. Landscaping Details: Pedestrian systems should incorporate landscaping details to increase the visual interest and character of the neighborhood.

- c. Landscaping: Landscaping should be designed in sufficient form, quantity and location to reduce, to the greatest extent possible, negative impacts affecting the site and adjacent properties and to increase the sense of neighborhood scale, character and identify.
- d. Architectural Design: The architecture of multifamily housing is a key element in determining the character of a neighborhood. The architecture should create a strong feeling of identity through design principles of scale, harmony, rhythm and balance.
- e. Elongated sites with rectangular, double-loaded building footprints should be avoided. These designs typically lack interest and fail to create a strong sense of neighborhood.
- f. The architectural design of each unit or building should impart a feeling of neighborhood scale. Units should be designed with vertical and horizontal offsets to break up rooflines, define private outdoor areas, allow greater views, and admit light and air to unit interiors. Large, blank wall surfaces should be avoided. Windows and projecting wall surfaces should be used to break up larger wall surfaces and establish visual interest.
- g. The same level of architectural design and quality of materials should be applied to all sides of the building. The side and rear elevations, garages, carports, and all accessory structures should maintain the same level of design, aesthetic quality, and architectural compatibility.
- h. Screening from the street of all outdoor refuse areas, ground mounted mechanical equipment, utilities, and banks of meters shall be provided. The screening of these items is to be architecturally compatible with the major building components and may include landscaping.

Building Permits

1) Building permits shall be required for any of the following:

1. Structural Changes to Any Building which:

- a. Changes the overall footprint of the building or adds a basement or sub-basement
- b. Alters a bearing wall

- c. Adds or modifies a porch or deck such that the overall footprint of the structure changes
- d. Alters, adds to or subtracts from the foundation of the structure
- e. Modifies the roofline, adds or subtracts a gable, etc.

2. Construction or Addition of Any Auxiliary Structure to the Property

- a. Placement of any building 6' x 8' (48 sq ft) or greater in size on the property, whether permanently or temporarily affixed to the ground
- b. Addition of any in-ground swimming pool of any size
- c. Construction of any breezeway that links two existing buildings on the property

3. Construction of any Permanent Fence

- a. Placement of any fence longer than 8' in length permanently in the ground whether that fence be chain link, wood, composite, plastic, stone or any other suitable material
- b. Boundaries of plats must be verified by the landowner and provided to the Building Inspector

B. Costs Associated with Building Permits:

- 1. An application fee set by the governing body will be assessed for each building permit.
- 2. All applications for building permits will be made to the City Building Inspector at City Hall on a designated application form and shall be accompanied by plans or a sketch of the proposed building and a plat diagram or survey showing plat boundaries. Verification of plat boundaries is the responsibility of the landowner. The Building Inspector shall have the discretion to require any other documentation he deems necessary to insure compliance with existing setbacks, easements and other applicable laws or ordinances
- 3. The approved permit shall be posted on the property in a location that is visible from the adjacent roadway until the building project is completed. An approved permit shall expire twelve (12) months following the date of issuance.
- 4. No building permit shall be issued if a building or structure, its appurtenances, or its uses require approval prior to construction from an agency of the State of Kansas if such approval has not been given.

5. No building permit shall be approved by the Building Inspector or issued by the City Clerk until all city utility service connections have been paid for in full when said utility service connections are deemed necessary.

C. Building Permit Format – See Appendix B

Article 13 - Floodplain (FP) Management

Statutory Authorization: The Legislature of the State of Kansas has in K.S.A. 12-741 *et seq.*, and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the governing body of the City of Overbrook ordains the following:

- A. Flood Losses Resulting from Periodic Inundation. The special flood hazard areas of the City of Overbrook are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.
- B. General Causes of the Flood Losses. These flood losses are caused by:
 - 1. The cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and
 - 2. The occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

Intent and Purpose of District: It is the purpose of these regulations to promote the public health, safety, and general welfare; to minimize those losses described in Section 1, A; to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(b) and K.A.R. 5-44-4 by applying the provisions of these regulations to:

- A. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
- B. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

General Provisions:

- A. Lands to Which Regulations Applies. These regulations shall apply to all lands within the Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM) dated June 3, 1986 as amended, and Panel No. 6A of the FHBM for Osage County, dated August 9, 1977, and any future revisions thereto. In all areas covered by this ordinance, no development

shall be permitted except through the issuance of a floodplain development permit, granted by the Overbrook City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in this Article, Administration, Section 3(H).

- B. Compliance. No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of these or other applicable regulations.
- C. Abrogation and Greater Restrictions. It is not intended by these regulations to repeal, abrogate (abolish), or impair any existing easements, covenants, or deed restrictions. However, where these regulations impose greater restrictions, the provisions of these regulations shall prevail. All other ordinances inconsistent with these regulations are hereby repealed to the extent of the inconsistency only.
- D. Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.
- E. Warning and Disclaimer of Liability. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. These regulations do not imply that areas outside unnumbered A zones or land uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create a liability on the part of the City of Overbrook, any officer or employee thereof, for any flood damages that may result from reliance on these regulations or any administrative decision lawfully made thereunder.
- F. Severability. If any section, clause, provision, or portion of these regulations is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of the regulations shall not be affected thereby.

Administration:

- A. Floodplain Development Permit. A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Provisions for Flood Hazard Reduction, Section 3(A). No person, firm, corporation, or unit of government shall initiate any development or substantial improvement or cause the same to be done without first

obtaining a separate floodplain development permit for each structure or other development.

- B. Designation of Floodplain Administrator. The City of Overbrook Zoning Administrator shall be appointed by the mayor and approved by the City Council, in May of each year, to administer and implement the provisions of these regulations.
- C. Duties and Responsibilities of the Floodplain Administrator. Duties shall include, but not be limited to:
 - 1. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;
 - 2. Review of all applications for floodplain permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
 - 3. Review of all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
 - 4. Issue floodplain development permits for all approved applications;
 - 5. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
 - 6. Assure that maintenance is provided within the altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished; and
 - 7. Where base flood elevation from other sources is utilized within unnumbered A zones:
 - a. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures;
 - b. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been flood-proofed;

- c. When flood-proofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a registered professional engineer or architect.
- D. Application for Floodplain Development Permit. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:
 1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed building or work;
 2. Identify and describe the work to be covered by the floodplain development permit;
 3. Indicate the use or occupancy for which the proposed work is intended;
 4. Indicate the assessed value of the structure and the fair market value of the improvement;
 5. Identify the existing base flood elevation and the elevation of the proposed development;
 6. Give such other information as reasonably may be required by the floodplain administrator;
 7. Be accompanied by plans and specifications for proposed construction; and
 8. Be signed by the permittee or his/her authorized agent who may be required to submit evidence to indicate such authority.

Provisions for Flood Hazard Reduction:

- A. General Standards:
 1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any unnumbered A zone unless the conditions of this section are satisfied.
 2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this ordinance. If Flood Insurance Study data is not available, the community shall obtain, review, and

reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.

3. All new construction, subdivision proposals, substantial-improvements, prefabricated buildings, placement of manufactured homes, and other developments shall require:
 - a. Design or adequate anchorage to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. Construction with materials resistant to flood damage;
 - c. Utilization of methods and practices that minimize flood damages;
 - d. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - e. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and
 - f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
 - i. All such proposals are consistent with the need to minimize flood damage;
 - ii. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
 - iii. Adequate drainage is provided so as to reduce exposure to flood hazards; and
 - iv. All proposals for development, including proposals for manufactured home park and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.
 - g. Storage, material, and equipment.

- i. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
 - ii. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent floatation, or if readily removable from the area within the time available after a flood warning.
- h. Nonconforming Use.
 - i. A structure, or the use of a structure or premises that was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:
 - 1) If such structure, use, or utility service is discontinued for six (6) consecutive months, any future use of the building shall conform to these regulations.
 - 2) If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

B. Specific Standards:

- 1. In all areas of special flood hazard, once base flood elevation date is obtained, as set forth in Provisions for Flood Hazard Reduction, Section 1(B), the following provisions are required:
 - a. Residential Construction: New construction or substantial-improvement of any residential building, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood level. ***The elevation of the lowest floor shall be certified by a licensed land surveyor.***
 - b. Non-Residential Construction: New construction or substantial-improvement of any commercial, industrial, or other non-residential building (including manufactured home) shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood level, or together with attendant utility and sanitary facilities, be flood-proofed so that below the base flood level

the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in Administration, Section 4(C). ***The elevation of the lowest floor shall be certified by a licensed land surveyor.***

- c. Require, for all new construction and substantial-improvements, that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - i. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; and
 - ii. the bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- d. In all areas of special flood hazard, once floodway data is obtained, as set forth in Provisions for Flood Hazard Reduction, Section 1 (B), the following provisions are required:
 - i. The designated floodway shall be used on the standard that the area chosen for the floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation more than one foot at any point; and
 - ii. The community shall prohibit any encroachments, including fill, new construction, substantial-improvements, and other development within the designated regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in **any** increase in flood levels within the community during the occurrence of the base flood discharge.

C. MANUFACTURED HOMES

1. All manufactured homes to be placed within special flood hazard areas shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
2. Require manufactured homes that are placed or substantially improved within unnumbered A zones on the community's FIRM on sites:
 - a. Outside of manufactured home park or subdivision;
 - b. In a new manufactured home park or subdivision;
 - c. In an expansion to and existing manufactured home park or subdivision; or
 - d. An existing manufactured home park or subdivision on which a manufactured home has incurred "substantial-damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one foot above the base flood level and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. ***The elevation of the lowest floor shall be certified by a licensed land surveyor.***
3. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision within unnumbered A zones on the community's FIRM, that are not subject to the provisions of Provisions for Flood Hazard Reduction, Section 2(A) of these regulations, be elevated so that either:
 - a. The lowest floor of the manufactured home is a minimum of one foot above the base flood level; or
 - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor.

D. RECREATIONAL VEHICLES

1. Require that recreational vehicles placed on sites within unnumbered A zones on the community's FIRM either:

- a. Be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use*; or
- b. Meet the permitting, elevating, and the anchoring requirements for manufactured homes of this ordinance.

*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

Floodplain Management Variance Procedures:

1. **Establishment of an Appeal Board.** The Overbrook Planning and Zoning Commission, as established by the City of Overbrook, shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.
2. **Responsibility of Appeal Board**
 - a. Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the floodplain administrator, the applicant may apply for such floodplain development permit or variance directly to the Appeal Board, as defined in Article 14, Section 3(B)(a).
 - b. The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this ordinance.
3. **Further Appeals.** Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 and 12-760.
4. **Floodplain Management Variance Criteria.** In passing upon such applications for variances, the Appeals Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:
 - a. The danger to life and property due to flood damage;
 - b. The danger that materials may be swept onto other lands to the injury of others;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;

- e. The necessity to the facility of a waterfront location, where applicable;
- f. The availability of alternative locations, not subject to flood damage, for the proposed use;
- g. The compatibility of the proposed use with existing and anticipated development;
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
- k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets, and bridges.

5. Conditions for Approving Floodplain Management Variances

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items B through F below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provide the proposed activity will not preclude the structure's continued historic designation.
3. Variances shall not be issued within any designated floodway if **any** increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variance shall only be issued upon:
 - a. A showing of good and sufficient cause,

- b. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. A community shall notify the applicant in writing over the signature of a community official that:
- a. The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood; and
 - b. Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

Penalties for Violation: Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred (500) dollars or by imprisonment for not more than six (6) months for each offense or by both such fine and imprisonment, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein shall prevent the City of Overbrook or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

Amendments: The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Overbrook. At least 20 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of FEMA. The regulations of this ordinance are in compliance with the NFIP regulations.

Definitions: Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give the same meaning they have in common usage and to give these regulations the most reasonable application.

100-year Flood - See “Base Flood”.

Accessory Structure - Means the same as “appurtenant structure”.

Actuarial Rates - See “Risk Premium Rates”.

Administrator - Means the Federal Insurance Administrator.

Agency - Means the Federal Emergency Management Agency (FEMA).

Appeal - Means a request for review of the floodplain administrator’s interpretation of any provision of this ordinance or a request for a variance.

Appurtenant Structure – Means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

Area of Special Flood Hazard - Is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base Flood - Means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement - Means any area of the building having its floor subgrade (below ground level) on all sides.

Building - See “Structure”.

Chief Executive Officer or Chief Elected Official - Means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

Community - Means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

Development - Means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Elevated Building - Means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Eligible Community or Participating Community - Means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

Existing Construction - Means for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures”.

Existing Manufactured Home Park or Subdivision - Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an Existing Manufactured Home Park or Subdivision - Means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or Flooding - Means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM) - Means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

Flood Insurance Rate Map (FIRM) - Means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Floodplain or Flood-prone Area - Means any land area susceptible to being inundated by water from any source (see “flooding”).

Floodplain Management - Means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - Means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof that provide standards for the purpose of flood damage

prevention and reduction. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

Functionally Dependent Use - Means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

Historic Structure - Means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (a) by an approved state program as determined by the Secretary of the Interior or (b) directly by the Secretary of the Interior in states without approved programs.

Lowest Floor - Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building’s lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable flood-proofing design requirements of these regulations.

Manufactured Home - Means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. See Article IV, Definitions. The term “manufactured home” **does not include** a “recreational vehicle”.

Manufactured Home Park or Subdivision - Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map - Means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

Market Value or Fair Market Value - Means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

Mean Sea Level - Means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

New Construction - Means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

NFIP - Means the National Flood Insurance Program.

Participating Community - Also known as an "eligible community", means a community in which the Administrator has authorized the sale of flood insurance.

Person - Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

Principally Above Ground - Means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

Recreational Vehicle - Means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light-duty truck;
4. Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use; and
5. Any other definition provided as a part of Article IV, Definitions

Remedy A Violation - Means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

Risk Premium Rates - Means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. "Risk premium rates" include provisions for operating costs and allowances.

Special Flood Hazard Area - See "area of special flood hazard".

Special Hazard Area - Means an area having special flood hazards and shown on an FHBM or FIRM as zones (unnumbered or numbered) A, AO, AE, or AH.

Start of Construction - Includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The **actual start** means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the state of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor units or not part of the main structure. For a substantial-improvement, the **actual start of construction** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State Coordinating Agency - Means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in the State of Kansas.

Structure - Means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. "Structure" for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

Substantial Damage - Means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - Means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before “start of construction” of the improvement. This term includes structures which have incurred “substantial-damage”, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

Variance - Means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

Violation - Means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance structure’s continued designation as a “historic structure”.

Article 14 - Board of Zoning Appeals

- A. Formation: The word "Board" when used in this article shall mean Board of Zoning Appeals. In the City of Overbrook, the Overbrook Planning and Zoning Commission shall serve as the Board of Zoning Appeals. The Board shall adopt rules of procedure as may be necessary and proper to govern its own proceedings; such rules shall not be in conflict with other laws, regulations or ordinances. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing the description of evidence presented, the findings of fact by the Board, the decision of the Board, and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the City Clerk and shall be public record.
- B. Powers and Jurisdiction: The Board shall have the following powers and jurisdictions:
1. Appeals: To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of these regulations.
 - a. Appeals to the Board may be made by the person aggrieved, or by any officer, department, or bureau of the government affected by any decision of the Zoning Administrator. Such appeal shall be filed with the Zoning Administrator within a reasonable time. The Zoning Administrator shall forthwith transmit to the Secretary of the Board all papers constituting the record upon which the appeal is based.
 - b. An appeal stays all proceedings in furtherance of the action appealed, unless the Zoning Administrator certifies to the Board, after the Notice of Appeal has been filed based on the facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property.

In such case, proceedings shall not be stayed other than by a restraining order which may be granted by a court of record on application or notice to the Zoning Administrator.

2. Variances: To authorize in specific cases a variance from the specific terms of these regulations which are not contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning regulations in such district.

- c. The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the Zoning Regulations, or where by reasons of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the use of this property in the manner similar to that of other property in the zoning district where it is located.
 - d. Variances from these regulations may be granted only in the following instances:
 - i. To vary the applicable lot area and width, height and yard regulations.
 - ii. To vary the applicable off-street parking and off-street loading requirements.
3. A request for a variance may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.
- a. The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or applicant.
 - b. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners represented in the application.
 - c. The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
 - d. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
 - e. The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.
4. In granting a variance, the Board may impose such conditions, safeguards and restrictions upon the premises benefitted by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.
- a. Granting a Substitution of a Nonconforming Use: The Board may grant such substitutions as provided in Article 10, Nonconformities.

- b. Conditions of Determinations: In exercising the foregoing powers, the Board, in conformity with the provisions of this act, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken.
- c. A majority of the Board shall constitute a quorum for the transaction of business, and a concurring vote of a majority of the entire Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant upon any matter which it is required to pass under these regulations, or to affect any variation in such regulation.

C. Applications:

1. The procedure for requesting a hearing before the Board shall be as follows:
 - a. All applications to the Board shall be in writing on application forms provided by the Board.
 - b. All applications shall be accompanied by an ownership list, obtained from county records, listing the legal description and the name and address of the owners of all property located within 200 feet of the boundaries of the property included in the application.
 - c. The Board shall fix a reasonable time for the hearing of an application, and notice of the time, place and subject of each hearing shall be published in the official newspaper (as designated by the Governing Body) at least 20 days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be mailed to each party of interest, each person on the ownership list, and each Planning and Zoning Commission member.
 - d. An application shall be accompanied by a filing fee. A separate non-refundable filing fee, the amount to be set by the governing body, shall be required for each request. Applicant will also be responsible for all expenses incurred by the Board including all publication expenses.
2. In addition to the above requirements, certain applications require additional information as follows:
 - a. Appeals:
 - i. An application for an appeal shall be filed within 30 days after a ruling has been made by the Zoning Administrator.

- ii. A copy of the order, requirement, decision or determination of the Zoning Administrator which the applicant believes to be in error shall be submitted.
- iii. A clear and accurate written description of the proposed use, work or action in which the appeal is involved and a statement justifying the appellant's position shall be submitted. Where necessary, a plot plan, drawn to scale, in duplicate, showing existing and proposed plans for the area in question shall be submitted.

b. Variances:

- i. The applicant shall submit a statement, in writing, justifying the variance requested, indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the five conditions as set out in Section 2 (c) of this article.
- ii. The applicant shall submit a sketch, in duplicate, drawn to scale and showing the lot or lots included in the application; the structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the Board in consideration of the application should be included.

D. Performance: In making any decision varying or modifying any provision of the zoning regulations or in granting a variance from the district regulations, the Board shall impose such restrictions, terms, time limitations, landscaping, screening, and other appropriate safeguards as needed to protect adjoining property.

The Board may require a performance bond to guarantee the installation of improvements, such as parking lot surfacing, landscaping etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the Board, and shall be enforceable by or payable to the Governing Body in the sum equal to the cost of constructing the required improvements.

In lieu of the performance bond requirement, the Board may specify a time limit for the completion of such required improvements and, in the event the improvements are not completed within the specified time, the Board may declare the granting of the application null and void after reconsideration.

E. Who May Appeal the Board Decision: Any person, persons, department of the government, jointly or separately aggrieved by any decision of the Board may present to the District Court having jurisdiction, a petition, duly verified, stating that such decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom. Such

petition shall be presented to the Court within 30 days after the date of the decision of the Board is filed in the office of the City Clerk.

Article 15 - Amendments

- a. Amendments to Change Zoning District Boundaries: The City Council from time to time, may supplement, change or generally revise the boundaries or regulations contained in zoning regulations by amendment. A proposal for such amendment may be initiated by the Governing Body or the Planning and Zoning Commission. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the amendment may be initiated by application of the owner of property affected. Any such amendment, if in accordance with the adopted comprehensive plan, shall be presumed to be reasonable.
- b. Public Hearing: All such proposed amendments first shall be submitted to the Planning and Zoning Commission for recommendation. The Planning and Zoning Commission shall hold a public hearing thereon, shall cause an accurate written summary to be made of the proceedings, and shall give notice in like manner as that required for recommendations on the original proposed zoning regulations. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary or classification of any zone or district. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the property shall be designated by legal description or a general description sufficient to identify the property under consideration.
- c. Public Notice: In addition to such publication notice, written notice of such proposed amendment shall be mailed at least 20 days before the hearing to all owners of record of lands located within at least 200 feet of the area proposed to be altered. If the City proposes a zoning amendment to property located adjacent to or outside the City's limits, the area of notification of the City's action shall be at least 1,000 feet in the unincorporated area. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. When 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 and Zoning Commission or the Governing Body. Such notice is sufficient to permit the Planning and Zoning 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 of lesser change than that set forth in the notice. At any public hearing held to consider a proposed rezoning, an opportunity shall be granted to interested parties to be heard.
- d. Adoption: The procedure for the consideration and adoption of a recommendation to amend zoning district boundaries shall be in the same manner as that required for the consideration and adoption of the original zoning regulations. A majority of the members of the Planning and Zoning 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 and Zoning Commission fails to make a recommendation on a rezoning request, the

Planning and Zoning Commission shall be deemed to have made a recommendation of disapproval. When the Planning and Zoning Commission submits a recommendation of approval or disapproval of such amendment and the reasons therefore, the Governing Body may: (1) adopt such recommendation by ordinance; (2) override the Planning and Zoning Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or (3) return such recommendation to the Planning and Zoning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

If the Governing Body returns the Planning and Zoning Commission's recommendation, the Planning and Zoning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new and amended recommendation. Upon the receipt of such recommendation, the Governing Body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by the respective ordinance or it need take no further action thereon. If the Planning and Zoning Commission fails to deliver its recommendation to the Governing Body following the Planning and Zoning 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 and Zoning Commission as a resubmission of the original recommendation and proceed accordingly. The proposed rezoning shall become effective upon publication of the respective adopting ordinance or resolution.

5. Applications: Any party desiring any change in zoning district boundaries or regulations contained in this Zoning Ordinance, as to any lot, tract or area of land, shall file with the City Clerk an application, and such application shall be accompanied by such data and information as prescribed in these regulations.
6. Filing Fee: For the purpose of wholly or partially defraying the costs of the proceedings prescribed herein, including publication costs, the applicant, upon the filing of the application, shall pay to the City Clerk a fee as set forth by the governing body. Promptly upon the filing of any such application, the City Clerk shall refer the application to the Planning and Zoning Commission for study and recommendation and shall report to the Governing Body concerning the nature of the application and that said application has been referred to the Planning and Zoning Commission.
7. Adoption and Amendment of Comprehensive Plan and Other Actions of the Planning and Zoning Commission: An affirmative vote of a majority of the entire membership of the Overbrook Planning and Zoning Commission shall be required for actions of the commission, unless otherwise prescribed by state law.
8. Comprehensive Plan: Upon the adoption or amendment of any such plan or part thereof by adoption of the appropriate resolution by the Planning and Zoning Commission, a certified copy of the plan or part thereof, together with a written summary of the hearing thereon, shall be submitted to the Governing Body. No comprehensive plan, and no amendment thereto, shall be effective unless approved by the City Council of Overbrook. An attested

copy of the comprehensive plan and any amendments thereto shall be sent to all other taxing subdivisions in the planning area which request a copy of such plan.

9. Public Facilities and Improvements: Whenever the Planning and Zoning Commission has adopted and certified the comprehensive plan for one or more major sections or functional subdivisions thereof, no public improvement, public facility or public utility of a type embraced within the recommendations of the comprehensive plan or portion thereof shall be constructed without first being submitted to and being approved by the Planning and Zoning Commission as being in conformity with the plan. The Governing Body may override the plan and the recommendation of the Planning and Zoning Commission. When the Planning and Zoning Commission has reviewed a capital improvement program and found that specific public improvements, public facilities or utilities are consistent with the comprehensive plan, no further action is necessary.
10. Findings of Fact: In order to recommend, approve or disapprove a proposed zoning district amendment, the Planning and Zoning Commission shall make findings of fact to determine whether the application is found to be compatible with the following:
 1. Character of the neighborhood.
 2. Consistency with the comprehensive plan and ordinances of the City of Overbrook.
 3. Adequacy of public utilities and other needed public services.
 4. Suitability of the uses to which the property has been restricted under its existing zoning.
 5. Length of time property has remained vacant as zoned.
 6. Compatibility of the proposed district classification with nearby properties.
 7. The extent to which the zoning amendment may detrimentally affect nearby property.
 8. Whether the proposed amendment provides a disproportionately great loss to the individual land owners nearby relative to the public gain.
11. Protest: Regardless of whether or not the Planning and Zoning Commission approves or disapproves a zoning amendment, if a protest against such amendment is filed in the office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to said publication notice, signed by the owners of record of 20 percent or more of any real property proposed to be rezoned or by the owners of record of 20 percent or more of the total area required to be notified of the proposed rezoning, excluding public streets and ways, located within or without the corporate limits of the City of Overbrook, the

ordinance adopting such amendment shall not be passed except by at least a three-fourths (3/4) vote of the members of the Governing Body.

12. Publication: If the Governing Body approves an application, it shall adopt an ordinance to that effect, but said request shall not become effective until its publication in the official City newspaper.
13. Official Zoning Map: If the official zoning map has been adopted by reference, the amending ordinance shall define the change or boundary as amended, shall order the official zoning map to be changed to reflect such amendment and shall amend the section of the ordinance incorporating the same and shall reincorporate such map as amended.

Article 16 - Administration

- A. Legislative and Quasi-Judicial Regulation of Land Use: The City shall regulate land use as provided by K.S.A. 12-741, *et. seq.*, and appoint a Planning and Zoning Commission by City ordinance; said Commission shall prepare and adopt bylaws for the conduct of their business, including adoption of a comprehensive plan.
- B. Office of the Zoning Administrator:
1. Authorization: A Zoning Administrator shall be appointed by the City Council and shall be responsible for the enforcement of these regulations.
 2. Duties of the Zoning Administrator: The Zoning Administrator shall enforce these regulations and in addition thereto and in furtherance of said authority shall:
 - a. Approve and issue all zoning and occupancy certificates and make and maintain records thereof.
 - b. Conduct inspections of structures and uses of land to determine compliance with the provisions of the zoning regulations.
 - c. Receive, file, and forward to the Board of Zoning Appeals the records in all appeals and all applications for variances.
 - d. Maintain permanent and current records of the zoning regulations including, but not limited to, all zoning maps, amendments, variances, appeals, applications and records of hearings.
 - e. Maintain for distribution to the public a supply of copies of the zoning map or maps, the compiled text of the zoning regulations, and the rules of the Board of Zoning Appeals.
- C. Building Permits:
1. Building Permits: Unless a building permit shall first have been obtained from the Office of the Zoning Administrator:
 - a. The construction, moving, reconstruction or structural alteration of any structure shall not be commenced; and,
 - b. The improvement of land preliminary to any use of such land shall not be commenced.

- c. Any building permit issued in conflict with the provisions of these regulations shall be null and void.
2. Application for Building Permit: Every application for a building permit shall include at least the following:
 - a. A plat, in duplicate, of the piece or parcel of land, lot, lots, block or blocks, or parts or portions thereof, drawn to scale showing the actual dimensions of the piece or parcel, lot, lots, block or blocks, or parts or portions thereof, according to the recorded plat of such land.
 - b. A plot plan, in duplicate, drawn to scale and in such form as may, from time to time, be prescribed by the Zoning Administrator, showing the location, ground area, height, and bulk of all present and proposed structures, drives and parking lots, the structure lines in relation to lot lines, waste disposal areas, the use to be made of such present and proposed structures on the land, and such other information as may be required by the Zoning Administrator for the proper enforcement of these regulations.

One copy of both the plat and the plot plan shall be retained by the Zoning Administrator as a public record.

3. Issuance of Building Permit: A building permit shall be either issued or refused by the Zoning Administrator within ten days after the receipt of an application or within such further period as may be agreed to by the applicant. No building permit shall be issued unless all the zoning requirements of these regulations are met.
4. Period of Validity: A building permit shall become null and void six months after the date on which it is issued unless within such six-month period construction, structure, moving, remodeling or reconstruction of a structure is commenced or a use is commenced.
5. Occupancy Certificates: No structure or addition thereto constructed, built, moved, remodeled or reconstructed after the effective date of these regulations, shall be occupied or used for any purpose; and no land vacant on the effective date of these regulations shall be used for any purpose; and no use of any land or structure shall be changed to any other use, unless an occupancy certificate shall first have been obtained from the office of the Zoning Administrator certifying that the proposed use or occupancy complies with all the provisions of these zoning regulations.
6. Application for Occupancy Certificate: Every application for a building permit shall be deemed to be an application for an occupancy certificate. Every application for an occupancy certificate for a new or changed use of land or structures where no building permit is required shall be filed with the Office of the Zoning Administrator and be in

such form and contain such information as the Zoning Administrator shall provide by general rule.

7. Issuance of Occupancy Certificate: No occupancy certificate for a structure or addition thereto constructed, built, moved, remodeled or reconstructed after the effective date of these regulations, shall be issued until such work has been completed and the premises inspected and certified by the office of the Zoning Administrator to be in full and complete compliance with the plans and specifications upon which the building permit was issued. No occupancy certificate for a new use of any structure or land shall be issued until the premises have been inspected and certified by the office of the Zoning Administrator to be in full and complete compliance with all the applicable regulations for the zoning district in which it is located. Pending the issuance of a permanent occupancy certificate, a temporary occupancy certificate may be issued to be valid for a period not to exceed six months from its date pending the completion of any addition or during partial occupancy of the premises. An occupancy certificate shall be issued, or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, within ten days after the receipt of an application therefore, or after the office of the Zoning Administrator is notified in writing that the structures or premises are ready for occupancy.

Article 17 - Violations and Penalties

Violations: Any of the following shall be a violation of the City of Overbrook Zoning Regulations and shall be subject to the enforcement remedies and penalties provided by this article and by other applicable law:

1. **Development of Use Without Permit or Approval:** To engage in any development, use, construction, remodeling or other activity of any nature upon the land and improvements thereon subject to the jurisdiction of the City without all of the required permits, approvals, certificates and other forms of authorization required by the Zoning Regulations in order to conduct or engage in such activity
2. **Development or use inconsistent with Permit or Approval:** To engage in any development, use, construction, remodeling or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate or other form of authorization required in order to lawfully engage in such activity.
3. **Development or Use inconsistent with Conditions:** To violate, by act or omission, any terms, condition or qualification placed by the City upon a required permit, certificate, rezoning, plan approval or other form of authorization granted by the City to allow the use, development of other activity upon land or improvements thereon.
4. **Development of Use Inconsistent with Regulations:** To erect, construct, reconstruct, remodel, alter, maintain any land in violation or contravention of any zoning, subdivision or general regulation of the Zoning Regulations or any amendment thereof.
5. **Making Lot or Yard Nonconforming:** To reduce or diminish any lot area so that the yards or open spaces shall be smaller than prescribed by these requirements or the final plat or plan.
6. **Increasing Use Intensity:** To increase the intensity of use of any land or structure, except in accordance with the procedures and substantive requirements of the Zoning Regulations.
7. **Continuing Violation:** To continue any of the above violations. Each day of a violation shall be considered a separate offense.
8. **Removing, Defacing, Obscuring Notice:** To remove, deface or obscure any sign required by the Zoning Regulations or otherwise interfere with any notice required thereby.

Enforcement and Remedies:

The City shall have the following remedies and enforcement powers:

1. Withhold Permits or Approvals: The city may deny or withhold all permits, certificates, plan or plat approvals or other forms of authorization on any land or structure or improvements thereon upon which there is an uncorrected violation of a provision of this article or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the City. The City may, instead of withholding or denying an authorization, grant such authorization subject to the condition that the violation be corrected. The provisions of this subsection shall apply regardless of whether the current owner or applicant is responsible for the violation in questions.
2. Revoke permits: When it shall appear to the Zoning Administrator that:
 - a. There is a departure from the plans, specifications or conditions as required under the terms of a particular permit, plan or other approval;
 - b. That the same was procured by false representation or was issued by mistake; or
 - c. That any of the provisions of this article are being violated.

The Building Inspector may revoke a building permit or certificate of occupancy or initiate the revocation of any other permit or approval. Written notice of such revocation or initiation shall be mailed by U.S. Mail to the owner, his or her agent or contractor of upon any person employed on the building or structure for which such permit was issued or shall be posted in a prominent location and thereafter, no such construction shall proceed. Upon revocation of a building permit which was issued by mistake, the owner shall meet with the City to determine in what respect a mistake was made. Where plans are in conflict with ordinances, regulations or other city requirements, the plans may be required to be altered to conform to all applicable ordinances, regulations or requirements. When a mistake has been made calculating the fee for a building permit, the proper fee will be charged.

3. Stop Work: With or without revoking permits, the City may stop work on any building or structure on any land on which it has a good faith belief that there is an uncorrected violation of a provision of this article or of a permit or other form or authorization issued hereunder.
4. Revoke Plan or other Approvals: Where the violation of this article involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the Governing Body shall, upon notice to the applicant and after a hearing, revoke the plan or other approval or condition its continuance on strict compliance, the provision of security or such other conditions as the Governing Body may reasonable impose.

5. Injunctive Relief: The City may seek an injunction or other equitable relief to stop any violation of this article or of a permit, certificate or other form of authorization granted under the Zoning regulations.
6. Abatement: The City may seek a court order in the nature of mandamus, abatement or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.
7. Misdemeanor Penalties: The City may seek such criminal or civil penalties as are provided by Kansas law (KSA 12-761) for violation of this article or of any of the Zoning Regulations.
8. Other Remedies: The City shall have such other remedies as are and as may be, from time to time, provided by Kansas law for the violation of zoning, subdivision or related provisions.
9. Remedies cumulative: These remedies shall be cumulative.

Enforcement Procedures:

1. Notice: In the case of violations not involving continuing construction or development, or any emergency situation, the City shall give written notice of the nature of the violation to the owner, occupant, or agent of the property at the last known address.
2. Immediate Enforcement: If an authorized building or public officer makes a reasonable determination that an emergency situation exists in violation of this article, the City may immediately use the enforcement powers and remedies available to it under Section 2 of this article including, but not limited to, filing a complaint seeking criminal penalties in Municipal Court. No other notification procedures will be required as prerequisites to any such immediate action.

Article 18 - Approval and Effective Date

Approval and Effective Date.

1. This is to certify that these Comprehensive Zoning Regulations and the District Zoning Map (previously approved by the Commission and the City Council) referred to in these zoning regulations were duly approved by the Overbrook Planning and Zoning Commission on this _____ day of _____, 2015.

Chair, Overbrook Planning and Zoning Commission

Secretary, Overbrook Planning & Zoning Commission

2. These regulations shall become effective upon publication of the adopting ordinance in the official City newspaper.

PASSED this _____ day of _____, 2015

CITY COUNCIL OF OVERBROOK, KANSAS

ATTEST:

Mayor

City Clerk

Published: _____

Article 18 - Approval and Effective Date

Approval and Effective Date.

- 1. This is to certify that these Comprehensive Zoning Regulations and the District Zoning Map (previously approved by the Commission and the City Council) referred to in these zoning regulations were duly approved by the Overbrook Planning and Zoning Commission on this 23rd day of June, 2015.


 Chair, Overbrook Planning and Zoning Commission

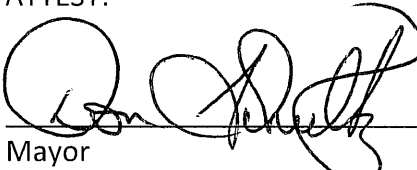

 Secretary, Overbrook Planning & Zoning Commission

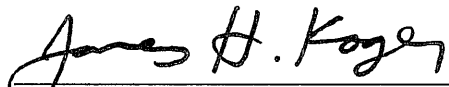
- 2. These regulations shall become effective upon publication of the adopting ordinance in the official City newspaper.

PASSED this 8th day of July, 2015

CITY COUNCIL OF OVERBROOK, KANSAS

ATTEST:


 Mayor


 City Clerk

Published: August 6, 2015

APPENDIX A

City of Overbrook, Kansas Zoning Regulations – Appendix A

Listing of Uses by Zoning District

P = Permitted Use; S = Special Use; N = Not Permitted

Use Description	R-1 Residential	R-2 Multi-Family	MP Mobile Home Park	P-1 Public Use	C-1 Commercial	I-1 Industrial
Agricultural Production - Crops	S	S	S	N	S	S
Agricultural Production - Livestock	N	N	N	N	N	N
Animal Services - Kennels	N	N	N	N	N	S
Agricultural Services	N	N	N	N	S	P
Forestry	N	N	N	N	N	S
Fishing, Hunting & Trapping	N	N	N	P	N	N
Metal Mining	N	N	N	N	N	N
Coal Mining	N	N	N	N	N	N
Oil & Gas Extraction	N	N	N	N	N	S
Nonmetallic Minerals, Except Fuels	N	N	N	N	N	S
Building Contractors	N	N	N	N	P	P
Construction - Special Trade	N	N	N	N	N	P
Food & Kindred Products	N	N	N	N	N	S
Textile Mill Products	N	N	N	N	N	S
Apparel & Other Textile Products	N	N	N	N	P	S
Lumber & Wood Products	N	N	N	N	N	S
Furniture and Fixtures	N	N	N	N	P	P
Paper & Allied Products	N	N	N	N	N	S
Printing & Publishing	N	N	N	N	P	P
Chemicals & Allied Products	N	N	N	N	N	S
Petroleum & Coal Products	N	N	N	N	N	S
Rubber & Misc Plastics Products	N	N	N	N	N	S
Leather & Leather Products	N	N	N	N	N	S

Use Description	R-1 Residential	R-2 Multi- Family	MP Mobile Home Park	P-1 Public Use	C-1 Commercial	I-1 Industrial
Stone, Clay & Glass Products	N	N	N	N	N	S
Primary Metal Products	N	N	N	N	N	S
Fabricated Metal Products	N	N	N	N	N	P
Ordinance & Accessories	N	N	N	N	N	N
Industrial Machinery & Equipment	N	N	N	N	N	P
Electronic & Other Electric Equipment	N	N	N	N	P	P
Transportation Equipment	N	N	N	N	N	P
Instruments & Related Products	N	N	N	N	N	P
Miscellaneous Manufacturing Industries	N	N	N	N	N	P
Railroad Transportation	N	N	N	N	S	P
Local Transportation	N	N	N	N	S	P
Motor Freight & Warehousing	N	N	N	N	N	P
Pipelines, Except Natural Gas	N	N	N	N	N	P
Transportation Services	N	N	N	N	S	P
Travel Agencies & Tour Operations	N	N	N	N	P	N
Communications	N	N	N	N	P	P
Electric, Gas & Sanitary Services	N	N	N	N	N	P
Sanitary Landfill	N	N	N	N	N	N
Wholesale Trade-Durable	N	N	N	N	N	P
Auto Wrecking, Junk & Salvage Yards	N	N	N	N	N	N
Wholesale Trade-Nondurable Goods	N	N	N	N	S	P
Farm-Product Raw Materials	N	N	N	N	P	S
Building Materials & Garden Supplies	N	N	N	N	P	S
Paint, Glass & Wallpaper Stores	N	N	N	N	P	N

Use Description	R-1 Residential	R-2 Multi- Family	MP Mobile Home Park	P-1 Public Use	C-1 Commercial	I-1 Industrial
Hardware Stores	N	N	N	N	P	N
Manufactured Home Dealers	N	N	N	N	P	P
General Merchandise	N	N	N	N	P	S
Food Stores	N	N	N	N	P	S
Automotive Dealers & Service Stations	N	N	N	N	P	S
Apparel and Accessory Stores	N	N	N	N	P	N
Home Furniture	N	N	N	N	P	N
Eating & Drinking Places	N	N	N	N	P	N
Miscellaneous Retail	N	N	N	N	P	N
Finance, Insurance and Real Estate	N	N	N	N	P	S
Insurance Agents, Brokers & Service	N	N	N	N	P	N
Real Estate	N	N	N	N	P	N
Cemeteries and Mausoleums	N	N	N	P	N	N
Holding & Other Investment Offices	S	S	S	N	P	N
Lodging Places	N	N	N	N	P	N
Bed & Breakfast Businesses	S	S	N	N	N	N
Camps & Recreational Vehicle Parks	N	N	N	N	N	N
Travel Trailer Camps	N	N	N	N	N	N
Personal Services	N	N	N	N	P	N
Photographic Studios	N	N	N	N	P	N
Beauty Shops	S	S	S	N	P	N
Barber Shops	S	S	S	N	P	N
Shoe Repair & Shoe Shine Parlors	N	N	N	N	P	N
Funeral Service & Crematories	N	N	N	N	P	N
Business Services	N	N	N	N	P	S
Services to Buildings	N	N	N	N	N	S

Use Description	R-1 Residential	R-2 Multi-Family	MP Mobile Home Park	P-1 Public Use	C-1 Commercial	I-1 Industrial
Miscellaneous Business Services	N	N	N	N	P	N
Heavy Construction Contractors	N	N	N	N	P	P
Auto Repair Services & Parking	N	N	N	N	P	P
Welding Shops	N	N	N	N	S	S
Miscellaneous Repair Services	N	N	N	N	S	N
Motion Picture Theaters	N	N	N	N	P	N
Video Tape Rental	N	N	N	N	P	N
Amusement & Recreation Services	N	N	N	N	P	P
Commercial Sports Facilities	N	N	N	N	S	N
Golf Courses (Including Country Clubs)	S	S	S	N	S	N
Golf Course Structures	S	S	S	N	S	N
Amusement Parks	N	N	N	N	S	N
Membership Sports & Recreation Clubs	N	N	N	N	S	S
Amusement & Recreation, NEC (Privately Owned)	N	N	N	N	S	S
Health Services	N	N	N	N	P	N
Nursing & Personal Care Facilities	N	N	N	N	S	N
Medical & Dental Laboratories	N	N	N	N	P	S
Health & Allied Services, NEC	N	N	N	N	S	N
Legal Services	N	N	N	N	P	N
Educational Services	S	S	S	S	S	N
Social Services, NEC	N	N	N	N	P	N
Residential Care, Group Homes	S	S	S	N	S	N
Day Care Home	S	S	S	N	S	N
Day Care Center	S	S	S	N	S	S
Museums, etc.	N	N	N	N	P	N

Use Description	R-1 Residential	R-2 Multi- Family	MP Mobile Home Park	P-1 Public Use	C-1 Commercial	I-1 Industrial
Membership Organizations	N	N	N	N	P	S
Religious Organizations	S	S	S	P	P	N
Engineering, Accounting, etc.	N	N	N	N	P	N
Services, NEC	N	N	N	N	P	N
Public Administration	N	N	N	N	P	S
Justice, Public Order & Safety	N	N	N	N	P	N
Police Protection	S	S	S	N	S	S
Correctional Institutions	N	N	N	N	S	S
Fire Protection	S	S	S	N	S	P
Non-classifiable Establishments	N	N	N	N	S	S
Single-Family Residential	P	P	P	N	S	N
Two-Family Residential	N	N	P	N	S	N
Multiple-Family Residential	N	N	P	N	S	N
Manufactured Homes	N	N	P	N	N	N
Group Home-Residential	P	P	P	N	N	N
Residential Design, Manufactured Home	P	P	N	N	N	N
Manufactured Homes	N	N	P	N	N	N

APPENDIX B

Application for a BUILDING PERMIT City of Overbrook, Kansas

DO NOT FILL IN HERE—FOR OFFICIAL USE ONLY

Fee	Receipt No.	Permit No.
Regional Area		County Area
District Zoning	Subdivided	Ownership Verified
Issued By		Date Permit Issued

This application is presented by _____ this _____ day of _____, 20____
Please Print Name of Property Owner

- For The Construction The Alteration The Relocation The Placement of a
- | | |
|--|--|
| <input type="checkbox"/> Single Family Dwelling No. of Bedrooms _____ | <input type="checkbox"/> Industrial Structure <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Multiple Family Dwelling No. of Units _____ | <input type="checkbox"/> Mobile Home _____ |
| <input type="checkbox"/> Official or Institutional Structure | <input type="checkbox"/> Fence _____ |
| <input type="checkbox"/> Commercial Structure | <input type="checkbox"/> Auxiliary Structure _____ |

The Structure To Be Located on the Following Described Property:

Legal Description: _____

(if additional space is required, attach separate sheet)

Attach a copy of all applicable drawings showing construction and/or building modifications proposed in this project.

Street Address of the Above _____ Estimated Cost \$ _____
 Estimated Starting Date of Construction _____ Estimated Date of Completion _____

Information Pertaining to the Requirement and/or Availability of Public Utilities and Facilities:

- Public Water _____
- Electricity _____
- Natural Gas _____
- Telephone/Data Communications _____
- Street Improvements _____
- Sanitary Sewage Treatment _____
- Garbage Disposal: Yes No

Other Information _____

Applicant Certifies That:

- 1) No bearing walls of existing structures will be altered unless otherwise noted as a part of this application.
- 2) All structures affected by this application, including fencing and auxiliary structures, lie within the plat boundaries of the applicant's property and the applicable zoning setbacks and that the property owner has verified this.
- 3) The property owner is aware that building any structure within the easement of any public utility may result in alteration or movement of that structure if required at the property owner's expense.
- 4) The property owner, as well as any of their contractors, meet all the requirements of any state or federal agencies that may have jurisdiction over this project and that the property owner is insured adequately to protect adjacent businesses and residents from destruction of property or injury during or after construction is complete.
- 5) The property owner has examined the applicable zoning regulations of the City of Overbrook and that this project complies with all applicable provisions of those regulations.

City of Overbrook, Kansas - Application for a
Building Permit



Plot (Lot) Plan:

1. Indicate the location of the structure on the lot, including lot dimensions, building set back, structure dimensions and street names.
2. Indicate the location of the septic line, if applicable
3. Indicate the location of a water meter, if applicable
4. Indicate any other information, such as building height, parking area, etc: _____

I hereby acknowledge that all the information presented in this application is correct and that I will comply of all applicable ordinances and regulations of the City of Overbrook, Kansas.

Signature of the Applicant (Property Owner) _____ Date _____

Current Address: _____

Current Phone Number: _____ Current Email Address: _____

Official
BUILDING PERMIT
Overbrook, Kansas

PERMIT NO. _____
Regional Area _____
County Area _____
District Zoning _____
Date Issued _____

This Permit Authorizes:

- The Construction The Alteration The Relocation The Placement of a
- Single Family Dwelling No. of Bedrooms _____ Industrial Structure Other _____
- Multiple Family Dwelling No. of Units _____ Mobile Home _____
- Official or Institutional Structure Fence _____
- Commercial Structure Auxiliary Structure _____

In accordance with the Planning and Zoning Regulations of the City of Overbrook, Kansas and in compliance with the approved application on property located at: _____

Said permit shall be valid for one (1) year from the date of issue or shall be valid while construction is in progress. Upon the completion of the construction, applicant hereby agrees to notify the Zoning Administrator in writing of said completion.

Applicant's Signature

Approved By:

Current Address: _____

Phone Number: _____

Building Inspector

If checked, this permit is subject to the issuance of an occupancy permit. Failure to secure the same may result in the enforcement of a penalty for violation.

Applicant Has Certified That:

- 1) No bearing walls of existing structures will be altered unless otherwise noted as a part of the application for this permit.
- 2) All structures affected by this application, including fencing and auxiliary structures, lie within the plat boundaries of the applicant's property and the applicable zoning setbacks and that the property owner has verified this.
- 3) The property owner is aware that building any structure within the easement of any public utility may result in alteration or movement of that structure if required at the property owner's expense.
- 4) The property owner, as well as any of their contractors, meet all the requirements of any state or federal agencies that may have jurisdiction over this project and that the property owner is insured adequately to protect adjacent businesses and residents from destruction of property or injury during or after construction is complete.
- 5) The property owner has examined the applicable zoning regulations of the City of Overbrook and that this project complies with all applicable provisions of those regulations.

ORDINANCE NO. 379

AN ORDINANCE OF THE CITY OF OVERBROOK, KANSAS, ADOPTING ZONING REGULATIONS PREPARED IN ACCORDANCE WITH K.S.A. 12-741 RELATING TO ZONING REGULATIONS ALONG WITH THE ZONING MAP OF THE CITY OF OVERBROOK, KANSAS THAT COORESponds TO IT.

The City Council of Overbrook, Kansas, does ordain as follows:

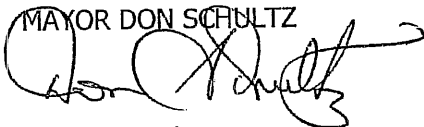
SECTION 1: There are hereby incorporated by reference as if set out fully herein, the zoning regulations adopted by the governing body of the City of Overbrook, Kansas, as prepared by the city entitled, "City of Overbrook Zoning Regulations". No fewer than three copies of the zoning regulations shall be filed with the city clerk to be open for inspection and available to the public at all reasonable business hours. These regulations are intended to serve the following purposes:

- A. To promote the health, safety, integrity, comfort and general welfare of the residents of the City;
- B. To preserve and protect property values throughout the City;
- C. To restrict the height, number of stories and size of structures; the percentage of lot coverage; the size of yards, courts and other open spaces; and the density of population;
- D. To divide the City into zones and districts; and
- E. To regulate and restrict the location and use of structures and land within each district or zone.

SECTION 2. The following ordinances of the City of Overbrook are hereby repealed: Ordinance 95, Ordinance 146, Ordinance 147, Ordinance 158, Ordinance 163, Ordinance 164, Ordinance 166, Ordinance 185, Ordinance 197, Ordinance 202, Ordinance 221, Ordinance 224, Ordinance 234, Ordinance 239, Ordinance 251, Ordinance 264, Ordinance 267 and Ordinance 310.

PASSED AND APPROVED ON THIS 8th Day of July, 2015.

Signed:

MAYOR DON SCHULTZ


Signed: 

CITY CLERK, JIM KOGER



These are the Planning and Zoning fees and rates approved by the Overbrook City Council on January 13, 2016.

FEES AND RATES

Development Plan Review - \$ 150 # (this is basically a site plan review)

Preliminary Plat Review \$ 100 # (these deal with subdivision development)

Final Plat Review - \$50.00 #

Building Permit - Residential \$.05 per square foot with a minimum fee of \$25 and a maximum fee of \$500

- Commercial \$.10 per square foot with a minimum of \$50 and a maximum fee of \$1,000

Fence Permit \$ 50 (approval by Zoning Administrator)

Conditional Use Permit \$ 200 (final approval by City Council)

Rezoning Request \$ 200

Variance \$ 100 (approval by Board of Appeals)

Appeals \$ 200

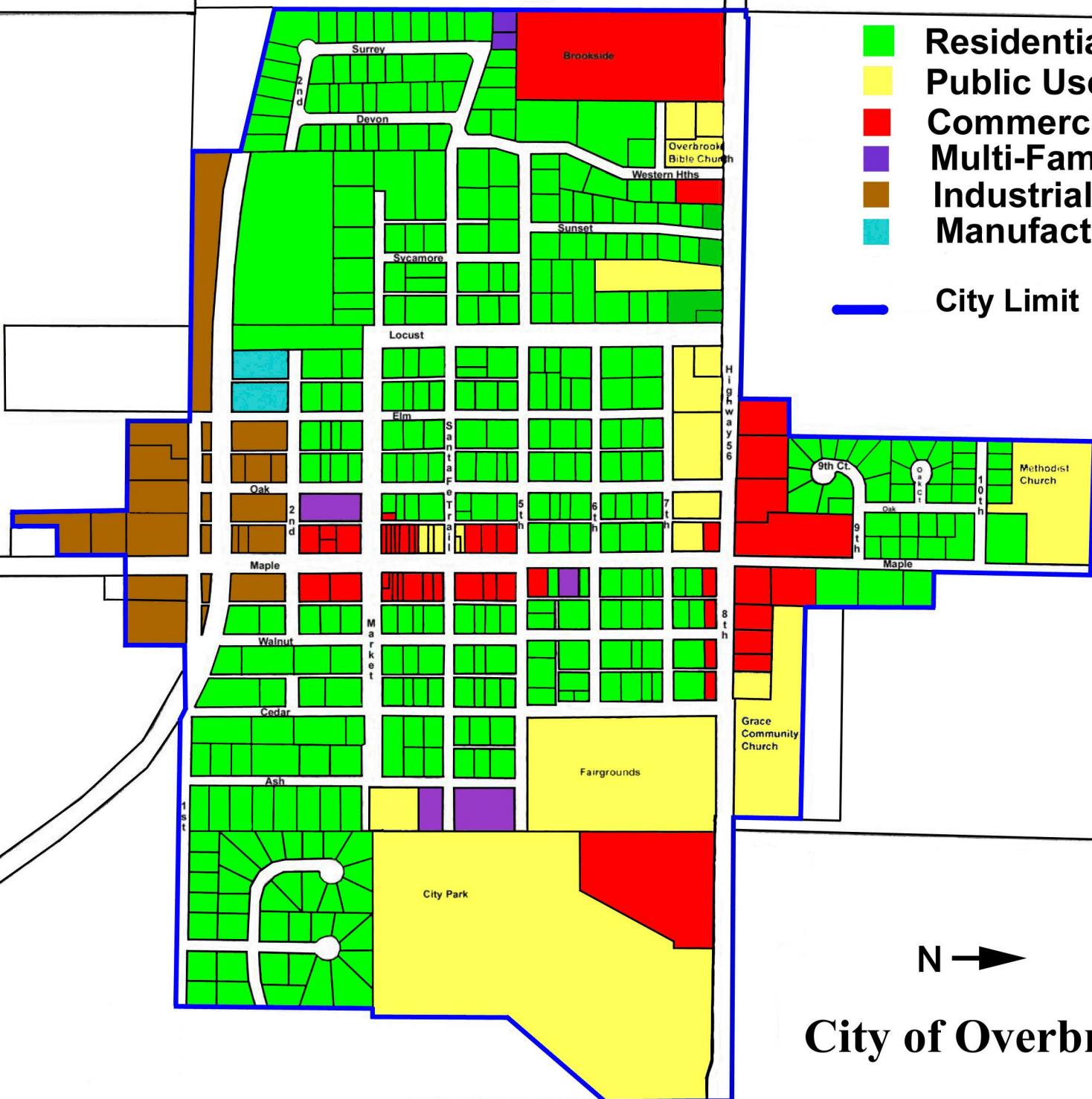
Sign Permit \$ 25/sign (approval by Zoning Administrator)

No Demolition Permit required

Applicants pay all costs associated with recording documents, placing legal publications, mailing notifications to adjoining landowners shall be payable in addition to the fees stated above. These will be billed separately to the applicant and must be paid prior to the final disposition of the application.

KEY

May be additional cost depending upon the complexity of the review and/or whether additional outside review is required.



- Residential - R-1
- Public Use
- Commercial
- Multi-Family - R-2
- Industrial
- Manufactured Home
- City Limit



City of Overbrook