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ARTICLE 1

GENERAL PROVISIONS

Sections:

- 1-1. Title and Scope**
- 1-2. Authority**
- 1-3. Purpose**
- 1-4. Applicability**
- 1-5. Administration**
- 1-6. Rules of Interpretation**
- 1-7. Activities Covered by these Regulations**
- 1-8. Zoning of Newly Annexed land**
- 1-9. Vesting of Development Rights**

Section 1- 1. Title and Scope

- 1-101** These zoning regulations and the maps depicting zoning district boundaries shall be known as the City of Herington Zoning Regulations.

Section 1-2. Authority

- 1-201** Except as otherwise provided for herein, these zoning regulations are adopted by the Governing Body of the City of Herington under powers conferred by K.S.A. 12-741 et seq.

Section 1-3. Purpose

- 1-301** These zoning regulations and districts have been established to promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity, and general welfare of the citizens of the City of Herington, Kansas, and to provide for efficiency and economy in the process of development, for the appropriate and best use of land, for convenience of traffic and circulation of people and goods, for the use and occupancy of structures, for healthful and convenient distribution of population, and for adequate public utilities and facilities by regulating the location and use of buildings, structures, and land for trade, industry, and residence, by regulating and limiting or determining the height and bulk of buildings and structures, and area of yards and other open spaces, and the density of use. These regulations have been made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of structures and encouraging the most appropriate use of land throughout the territory of Herington, Kansas.

Section 1-4. Applicability

- 1-401** These zoning regulations shall apply to the territory within the corporate city limits of the City of Herington, Kansas.

1-402 As provided in K.S.A. 12-758 and amendments thereto, these zoning regulations shall not apply to the use of land for agricultural purposes, nor for the erection or maintenance of buildings so long as such land and buildings are used for agricultural purposes and not otherwise

1-403 These zoning regulations shall not apply to poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephones or other communications, electricity, gas or water, or the collection of sewage or surface water, but not including utility substations located on or above the surface of the ground.

1-404 These zoning regulations shall not apply to railroad tracks, signals, bridges and similar facilities and equipment located on a railroad right-of-way and maintenance and repair work on such facilities and equipment.

Section 1-5. Administration

1-501 Except as otherwise provided for herein, these zoning regulations shall be administered by the Zoning Administrator.

1-502 Office of the Zoning Administrator. A Zoning Administrator shall be appointed by the City Manager. The Zoning Administrator shall be authorized to expend such funds to employ deputies and clerical assistants and to carry out his duties under these regulations as shall be approved from time to time by the City Manager.

1-503 Duties of Zoning Administrator. The Zoning Administrator, or his or her duly designated and acting deputy, shall enforce these regulations and in addition thereto and in furtherance of said authority, shall:

1. Approve and issue all zoning certificates and make and maintain records thereof;
2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of the zoning regulations;
3. Receive, file, and forward to the Planning Commission the records for all applications for conditional uses;
4. Receive, file, and forward to the Board of Zoning Appeals the records in all appeals, variances, and exceptions;
5. Maintain permanent and current records of the zoning regulations, including but not limited to, all zoning maps, amendments, conditional uses, variances, appeals and applications therefore and records of hearing thereon;
6. Prepare and have available in book, pamphlet or map form, on or before March 31 of each year.

- a. The compiled text of zoning regulations and amendments thereto, including all amendments adopted through the preceding December 31; and
 - b. A zoning map or maps, showing the zoning districts, divisions and classifications in effect on the preceding December 31.
7. Maintain for inspection by the public copies of the zoning map or maps, the compiled text of the zoning regulations, and the rules of the Board of Zoning Appeals; and
 8. Provide such clerical, technical and consultative assistance as may be required by the Planning Commission, Board of Zoning Appeals and other boards, commissions and officials in the exercise of their duties relating to these regulations.

Section 1-6. Rules of Interpretation

- 1-601** Where the conditions imposed by the provision of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.
- 1-602** The provisions of these regulations are not intended to abrogate any easement, deed restriction, covenant or other private agreement or legal relationship; provided, that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such private agreements, the requirements of these regulations shall govern.
- 1-603** 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.
- 1-604** Nothing contained in these regulations shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any structure or facility or to carry on any trade, industry, occupation or activity.

Section 1-7. Activities Governed by These Regulations

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with the useregulations herein specified for the district in which it is located.

Bulk Regulations: No building or other structure shall hereafter be erected or altered to exceed height or bulk requirements of this ordinance. Where the maximum structure height is given in both stories and feet, the lesser of the two requirements shall govern.

Yard Regulations: No part of a yard or other open space required about or in connection with any building for the purpose of complying with the provisions of these regulations shall be included as a part of a yard or other open space similarly required for any other building. Such yard shall be maintained for open space.

Lot Regulations: Every building hereafter erected, enlarged or structurally altered shall be located on a lot as herein defined:

1. No lot area shall be reduced or diminished so that yards or other open spaces shall be smaller than prescribed by these regulations;
2. No lot of record shall be reduced or diminished in size, nor shall the density of population be increased in any manner except in conformity with these regulations and regulations related thereto; and
3. 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 building or buildings conform to all requirements for the district in which the lot or tract is located.
4. In all districts a lot of record in excess of 45 feet in width shall be considered a buildable lot providing all applicable set backs are met.
5. In all districts a lot of less than 45 feet in width shall be considered an out lot and shall be considered unbuildable, with the exception of B-5 Central Business District and utility easements.

Use Limitations: If a use of any structure is hereinafter changed to another, then the new use must comply with these regulations.

Accessory Structures or Uses: No accessory structures or uses as defined in these regulations shall hereinafter be built, moved or remodeled, established, altered or enlarged unless such accessory structure or use is permitted by these regulations.

Temporary Structures or Uses: No temporary structure or use shall hereafter be built, established, moved, remodeled, altered or enlarged unless the temporary structure or use is permitted by these regulations.

1.708 Home Occupations: No home occupation as defined in these regulations shall hereafter be established, altered or enlarged in any residential district unless such home occupation:

1. Complies with the conditions and restrictions imposed by these regulations; and
2. Is not listed as a prohibited home occupation in these regulations.

1-709 Signs: No sign shall hereafter be built, and no existing signs shall be moved or remodeled unless such sign complies or will thereafter comply with the requirements of these regulations.

1-710 Off-Street Parking and Loading: No structure shall hereafter be built or moved and no structure or land shall hereafter be used, occupied, or designed for use or occupancy unless the minimum off-street parking and off-street loading spaces required by these regulations shall be provided. No structure or use already established on the effective date of these regulations shall be enlarged unless the minimum off-street parking and loading spaces which would be required by these regulations are provided for the whole structure or use as enlarged.

1-711 Yard Requirements for Open Land: If a zoning lot is or will be occupied by a permitted use without structures, then the minimum setback and minimum side and rear yards that would otherwise be required for said zoning lots shall be provided and maintained unless some other provisions of these regulations requires or permits a different minimum setback, for, side or rear yard. The front, side and rear yard shall not be required on zoning lots used for agricultural or garden purposes without structures, or on zoning lots used for open public recreation areas.

Section 1-8. Zoning of Newly Annexed Land

1-801 All land which may hereafter be annexed to the city shall be placed in the most restrictive zoning district currently in effect in the city's zoning ordinance at the time of the annexation.

Section 1-9. Vesting of Development Rights

1-901 Vested Rights: No structure or zoning permit lawfully issued prior to the effective date of these regulations, or of any change or amendment hereto, and which permit, by its own terms and provisions, is in full force and effect at said date, shall be invalidated by the passage of these regulations, or any such change or amendment, but shall remain a valid and subsisting permit, subject only to its own terms and provisions and in effect at the time of the issuance of said permit; provided that all such permits shall expire not later than 180 days from the effective date of these regulations, unless actual construction shall have theretofore begun and continued pursuant to the terms of said permit.

ARTICLE 2

DEFINITIONS

Sections:

2-1. Definitions

Section 2-1. Definitions

2-101 For the purpose of these Zoning Regulations, certain terms, words, and phrases are hereby defined and shall have the meaning assigned to them in this section when used or referred to throughout these regulations. Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations their most reasonable application.

In the construction of these regulations, the provisions and rules of this section shall be observed and applied, except when the context clearly requires otherwise:

- a. Words used in the present tense shall include the future.
- b. Words in the singular number include the plural number, and the plural number include the singular number.
- c. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- d. The word "shall" is mandatory.
- e. The word "may" is permissive.
- f. The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.

ACCESS: The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

ACCESSORY STRUCTURE: A detached structure which is customarily incident to or subordinate to the main structure located on the same tract or incidental or subordinate to the use of the land on which it is located. The term "accessory structure" shall include storage sheds and other such structures with over 20 sq. ft. of floor area. An "accessory structure" may or may not be permanently attached to a foundation.

ACCESSORY USE: The use of a structure which is customarily incident to and located on the same lot or premises as the main use of the premises. All "accessory uses" shall be conducted within a structure.

AGRICULTURAL PURPOSE: Land in excess of five (5) acres which is devoted to the production of plants, animals or horticultural products, including but not limited to: forages, grain and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horse; bees and apiary products; trees and forest products, fruits, nuts and berries; vegetables; or nursery, floral ornamental and greenhouse products. Land devoted to agricultural use shall not include those lands which are used for recreational purposes, suburban residential acreages, rural home sites or farm home sites and yard plots whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition. Agricultural uses shall not include the following:

1. Lands which are used for recreational purposes; suburban residential acreages; rural residential home site and yard plots which have a primary function for residential or recreational purposes even though such properties may produce or maintain some of the plants or animals listed herein.
2. The operation or maintenance of green houses, nurseries, or hydroponic farms operated as retail business.
3. Wholesale or retail sales as an accessory use unless the same are permitted by these regulations.
4. The operation or maintenance of a commercial stockyard or feedlot.
5. The operation of an auction sales yard.

Alley: A dedicated public right-of-way which provides a secondary means of access to and from street and lots.

Alteration: Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or 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.

Animal Hospital or Clinic: An establishment where animals are admitted principally for examination, treatment, board or care, by a Doctor of Veterinary Medicine. This includes kennels which are totally enclosed within the establishment and which have no outdoor facilities.

Apartment: A room or suite of rooms within an apartment house - arranged, intended or designed for, or used as the place of residence of a single family or group of individuals living together as a single housekeeping unit.

Apartment House: A building arranged, intended, or designed for, or occupied by more than two families.

Awning: A roof-like cover that is temporary in nature and that projects from the wall of a building for the purposes of shielding a doorway or window from the elements.

Basement: That portion of a structure which is partly or wholly below grade.

Bed and Breakfast: The term "Bed and Breakfast" shall include those establishments commonly known as bed and breakfasts, tourist homes, guest houses and historic inns. Such establishment provides lodging and one or more meals, provided for compensation, for one or more transient guests.

Block: A piece or parcel of land entirely surrounded by public highways or streets. In cases where the platting is incomplete or disconnected, the Zoning Administrator shall determine the outline of a block.

Board of Zoning Appeals: The City of Herington Board of Zoning Appeals.

Boarding/Lodging House: A building other than a hotel or motel, occupied as a single housekeeping unit where lodging and/or meals are provided for compensation, pursuant to previous arrangements, but not for the public or transients.

Building: See "Structure."

Building Heights: The vertical dimension measured from the average elevation of the finished lot grade at the front of the structure to the highest point on a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gable or hip roof. Chimneys, antennae, and other similar extensions above any of the above roof types shall not be considered part of a structure height.

Campgrounds: Any parcel of ground which provides space for transient occupancy and is used or intended to be used for the parking of one or more camping trailers, tents or similar recreational vehicles. The term campgrounds does not include sales lots on which unoccupied camping trailers, whether new or used, are parked for the purpose of storage, inspection or sale.

Camping Trailer: Any vehicular portable dwelling unit designed especially for short-term occupancy such as: travel trailers, tent trailer, truck or auto-mounted camping units, converted buses and trucks, and all other similar units whether self-propelled, pulled, or hauled, and designed primarily for highway travel without the necessity of a conditional permit.

Canopy: Any structure, moveable or stationary, attached to and deriving its support from framework or posts or other means independent of a connected structure for the purpose of shielding a platform, stoop or

sidewalk from the elements, or a roof-like structure of a permanent nature which projects from the wall of a structure.

Child Care Facilities: Standards and requirements for facilities which provide care for children are established by State law and promulgated by regulations of the Kansas Department of Health and Environment. They are not to be construed as Group Homes.

City: Herington, Kansas

Club, Private: Premises licensed by the State of Kansas in accordance with the Private Club Act, K.S.A. 41-2601 et seq. A building or premises used for social, recreations, dining or philanthropic purposes, the normal use of which is limited to specific members, patrons, or otherwise listed persons.

Common Open Space: A parcel of land or an area of water, or combination of both land and water, and designed and intended for the use and enjoyment of the residents of the development. Common open space does not include streets, alleys, parks, off-street parking or loading area, publicly owned open space or other facilities dedicated by the developer for public use. Common open space must be substantially free of structures.

Conditional Use: A use of any building, structure or parcel of land approved by the planning commission that, by its nature, is perceived to require conditional care and attention in siting so as to assure compatibility with surrounding properties and uses. Conditional uses may have conditional conditions and safeguards attached to assure that the public interest is served.

Developer: The owner, or any other person, firm or corporation authorized by the owner, undertaking proceedings under the provisions of these regulations for the purpose of rezoning or seeking a conditional use on land.

Disability: A condition, with respect to a person, which means:

1. A physical or mental impairment which substantially limits one or more of such person's major life activities;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment. Such terms do not include current, illegal use of or addition to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).

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

Drive-In Establishment: An enterprise which accommodates the patrons' automobiles and from which the occupants of the automobiles may make purchases, transact business or view motion pictures or other entertainment.

Dump: A lot or land or part thereof used primarily for the disposal, abandonment, dumping, burial, burning, or storage of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles, or parts thereof, or waste material of any kind.

Dwelling: Any structure or portion thereof which is designed and used exclusively for residential purposes. For the purposes of these zoning regulations, residential-designed manufactured homes, modular homes, and group homes shall be considered single-family dwellings; mobile homes shall not be considered single-family dwellings.

Dwelling, Attached: A residential structure which is joined to another dwelling at one or more sides by all or a substantial portion of a party wall or walls including walls of an attached garage.

Dwelling, Detached: A residential structure which is entirely surrounded by open space on the same lot.

Dwelling, Farm: Any structure or portion thereof which is designed and used exclusively for residential purposes and which is located on land used exclusively for agricultural purposes. A farm dwelling shall be considered use of the land for agricultural purposes.

Dwelling, Multi-Family: A structure designed for or occupied exclusively by three (3) or more families living independently of each other.

Dwelling, Single-Family: A detached dwelling, designed for or occupied by one single family.

Dwelling Two-Family: A structure designed for or occupied by two families independently of each other.

Family: One (1) or more persons related by blood, marriage or adoption, living together as a single housekeeping unit; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit.

Feedlot, Commercial: Any tract of land or structure, pen or corral wherein cattle, horses, sheep, goats or swine not raised on the tract of land and/or not owned by the owner of the land, structure, pen or corral are maintained in close quarters for the purpose of fattening such livestock for final shipment to market.

Fence: A free-standing structure of metal, masonry, composition

or wood or any combination thereof resting on or partially buried in the ground and rising *above* ground level, and used for confinement, screening or partition purposes.

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.

Frontage: That part of a lot or tract of land which borders along any *given* access to a public street or public right-of-way with a dead-end street, all property abutting one side of such street measured from the nearest intersecting street and the end of the dead-end street. Such public street or right-of-way shall not include an alley or access to the rear of such lot or tract.

Governing Body: The City Commission of the City of Herington, Kansas.

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 this state.

Hazardous Waste Disposal Facility: Any facility which meets the requirements as defined in K.S. A. 65-3402, as amended.

Home Occupation: Any occupation or activity which is clearly incidental and secondary to use of the premises for dwelling.

Hotel/Motel: The terms "hotel" or "motel" shall include those establishments commonly known as hotels, inns, automobile courts, motels, motor-inn, motor lodges, tourist courts, or otherwise. Such establishments provide sleeping accommodations for transients, with or without meals.

Junk: Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, iron, steel, and other old or scrap ferrous or nonferrous material.

Junk Yard: Premises or building which is maintained, operated, or used for storing, keeping, buying, or selling junk, and the term shall include garbage dumps.

Kennel-Boarding: Any place area, building, or structure where dogs (including those under 12 months of age) are boarded, housed, cared for, fed, or trained by other than the owner.

Kennel-Breeding: Any place, area, building, or structure where more than four dogs are kept for purposes of breeding, raising, or as pets.

Lot: A parcel of land occupied or intended for occupancy by one main structure or a complex of structures together with the accessory structures and including the open spaces and parking required by these regulations, which may include more than one (1) lot of record or metes and bounds described tract having its principal frontage upon a public street.

Lot Area: The total area within the property lines of a lot or tract.

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

Lot, Coverage: That portion of the net site area which is covered by the ground floor of any structure, parking lots, and private streets and drives. Swimming pools, tennis courts, sidewalks, plazas, and off-street parking are not counted toward lot coverage.

Lot, Depth Of: The mean (average) horizontal distance between the front and rear lot lines.

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

Lot Lines: The boundary lines of a lot.

Lot Of Record: A lot which is part of a subdivision, the map of which has been recorded in the office of the Dickinson County Register of Deeds, or a lot which is described by metes and bounds, the description of which has been recorded in the office of the Dickinson County Register of Deeds.

Lot, Width Of: The horizontal distance between the side lot lines as measured at the front structure line.

Lot, Zoning: A parcel or tract of land used, developed, or built upon as a unit under single ownership or control. Said parcel or tract may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof.

Manufactured Home: A structure which is subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. 5403, but which does not have additional standards or amenities of a residential design manufactured home.

Manufactured Home Park: Any plot of ground five (5) acres or larger upon which two or more mobile homes, and/or manufactured homes not placed on a permanent foundation, occupied as a dwelling and residence, are located, regardless of whether or not a charge is made for such accommodation.

Manufactured Home, Residential Design: A manufactured home on a permanent foundation which has: (a) minimum dimensions of 22 body feet width; (b) a pitched roof; (c) siding and roofing materials which are

customarily used on site-built homes; and (d) complies with the aesthetic standards set forth in Section 5-8 of these Regulations. Residential design manufactured homes are single-family dwellings, by operation of K.S.A. 12-763.

Mobile Home: Any structure having a width of less than 20 feet and which was designed with intent to be transported on its own axle or running gear whether in place or removed and is designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, and air-conditioning and electrical systems contained therein. The definition "mobile home" does not include any structure, which is subject to the Federal Manufactured Housing Construction and Safety Standards Act (42 U.S.C. 5403). All mobile homes hereafter erected in Herington shall comply with the Uniform Standards Code for Mobile Homes and Recreational Vehicles (K.S.A. 75-1211 et seq.) For purpose of these zoning regulations, a mobile is not considered a single-family dwelling. Mobile homes are permitted in the City of Herington only in designated mobile home parks, MHP.

Mobile Office and Mobile Construction Building - A structure designed to be moved on an axle or running gear, used for office, storage and similar uses but not designed or intended for residential use.

Nonconforming Lot: A lot that does not comply with the lot requirements for any permitted use in the zoning district in which it is located.

Nonconforming Structure: An existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which it is located.

Nonconforming Use: Any land occupied by a use at the time of the effective date of these zoning regulations which does not conform with the provisions of the same.

Nursing Home: An institution for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, but not including facilities for surgical care or institutions for the care and treatment of mental illness, alcoholism or narcotics addiction.

Overlay Zoning District: A zoning district that is described in the zoning regulations text, mapped, and imposed in addition to those in the underlying zoning district. Developments within an overlay zoning district must conform to the requirements of both zoning districts. If the requirements conflict, the more restrictive requirements apply.

Person: Any individual, firm, co-partnership, corporation, company, association, joint stock association or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

Planning Commission: The Planning Commission of the City of Herington, Kansas.

Residential Hotel: An apartment house with no cooking facilities in individual units, which furnishes for the use of its tenants services ordinarily furnished by hotels, but the privileges of which are not primarily available to the public.

Retirement Home: A building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons by age consistent with the Federal Fair Housing Act, 42 U.S.C. § 3607 (b), or to older or couples where either the husband or wife is eligible by age restriction consistent with 42 U.S.C. § 3607 (b). This does not include a development that contains convalescent or nursing facilities.

Salvage Yard: An area of land with or without structure, used for or occupied by a deposit, collection or storage, outside a completely enclosed structure, of used or discarded materials such as wastepaper, rags or scrap material; or used structure materials, house furnishings, machinery, motor vehicles or parts thereof with or without the dismantling, processing, salvage, sale or other use or disposition of the same. A salvage yard shall also include the dismantling or wrecking of used motor vehicles or trailer, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of 5 or more motor vehicles, which, for a period exceeding thirty (30) days, have not been capable of operating under their own power or from which parts have been or are to be removed for reuse or sale shall be considered to be a salvage yard.

Setback, Building or Yard: An area between a lot line and a line parallel to the respective lot line, and internal to the lot, which shall remain unobstructed by structures from the ground to the sky, except as may be specifically permitted by other provisions of these zoning regulations. The building 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.

Shipping Container: See Storage Container

Sight Triangle: A triangle area at a street intersection, other than an intersection within the B-5 Central Business District, in which nothing shall be erected, placed (including automobile, trucks and other large vehicles or trailers), planted or allowed to grow in such a manner as to impede vision and the safety of vehicles or pedestrians, between the height of 30 inches above the elevation bottom of the curb or where no curb exists, the surface of the street at the nearest edge. The sight triangle shall be measured 15 feet from the intersection of the property lines on all collector streets and 50 feet from the intersection of the property lines on all arterial streets.

Sign: Any device which shall display or include any letter, word, model, banner, flag, pennant, insignia, device, or representation used, 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, but shall not include any display of governmental notice or governmental, religious or fraternal flag.

Storage Containers: A metal shipping container is a storage unit once used in the shipping industry and is now being used for the storage of goods for business and industry. Truck boxes or trailers without wheel assembly will not be considered storage containers and are not permitted within the city limits.

Street, Arterial: A street or road that is designated in the City of Herington Comprehensive Plan for large volumes of traffic to *move* quickly and safely, and which provides service and access to abutting properties only as a secondary function.

Street, Collector: A street or road that is designated in the City of Herington Comprehensive Plan primarily to gather traffic from local streets and carry it to the arterial system.

Street, Dead End: A street or road having only one outlet and no vehicular turnaround, as distinguished from a cul-de-sac.

Street, Local: Any public street or road designed primarily to provide access to more than one property.

Street, Private: A right-of-way or easement which affords principal means of vehicular access to property abutting thereon, which right-of-way or easement is owned, controlled and maintained by persons other than the public.

Street, Public: A right-of-way which affords principal means of vehicular access to property abutting thereon, which right-of-way has been dedicated to the public for such use.

Street Side Yard: On corner lots the yard adjacent the street on which the property is addressed shall be considered the front yard and the side yard adjacent the street shall be considered the street side yard.

Structure: Anything constructed or erected, 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.

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

1. Attachment of a new front where structural supports are not changed.

2. Addition of fire escapes where structural supports are not changed.
3. New windows where lintels and support walls are not materially changed.
4. Repair or replacement on non°structural members.
5. Roof replacement and reshingling.

Swimming Pool: Any private pool, pond, lake or open tank not located within a completely enclosed building and capable of containing water of a depth of two (2) feet or greater.

Tavern: An establishment in which the primary function is the sale and serving of cereal malt beverages to the public for consumption on the premises.

Through Lot: A lot that has frontage streets on both the address side and rear side of the house.

Trailer: The term "Trailer" shall include a separate vehicle not driven or propelled by its own power, drawn by some independent power. The term "trailer" shall also include recreational vehicles which have their own motive power and are used as living quarters for recreational camping, vacation, or travel. For purposes of these regulations, the term "trailer" shall not include mobile, manufactured or modular homes.

Trailer Camp: Any piece, parcel, tract or plot of ground which provides space for transient occupancy and is used or intended to be used for the parking of one or more camping trailers. The term "trailer camp" does not include sales lots on which unoccupied camping trailers, whether new or used, are parked for the purpose of storage inspection, or sale.

Use: The specific purpose for which land or a structure is used.

Utility: Any governmental utility, nonprofit organization, corporation, or any entity defined as a utility for any purpose by Kansas state law engaged in the production, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil or electronic signals.

Yard: A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from the ground upward; provided however, that fences, walls, poles, posts, and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility. ·

Yard, Front: A yard extending across the full width of the lot, the depth of which is the least distance between the lot line or road easement or right-of-way line and the front structure line.

Yard, Rear: A yard extending across the **full** width of the lot between the rear structure line and the rear lot line, the depth of which is the least distance between the rear lot line and the rear structure line.

Yard, Side: A yard between the side structure line and the side lot line extending from the front yard to the rear yard and being the least distance between the side lot line and the side structure line.

Zone Or District: A section of the Zoning Area for which uniform regulations governing the use, height, area, size, and intensity of use of structures, land, and open space are herein established.

Zoning Administrator: The person or persons authorized and empowered by the Governing Body having jurisdiction to administer the requirements of these zoning 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.

ARTICLE 3

DISTRICTS AND DISTRICT MAPS

Sections:

3-1. Zoning Districts and Zoning District Map Established

Section 3-1. Zoning Districts and Zoning District Map Established

3-101 Zoning Districts: In order to regulate and restrict the location of trades, callings, industries, commercial enterprises, and the location of structures in designated "Zoning Districts", there shall be zoning districts know as:

1. Agriculture District (A)
2. Residential Suburban District (RS)
3. Single-Family Residential District (R-1)
4. Two-Family Residential District (R-2)
5. General Residential District (R-3)
6. Mobile Home Park District (MHP)
7. Office Transition District (B-1)
8. Neighborhood Commercial District (B-2)
9. Highway Business District (B-3)
10. General Commercial District (B-4)
11. Central Business District (B-5)
12. Light Industrial District (1-1)
13. Heavy Industrial District (1-2)
14. Airport Industrial District (1-3)
15. Planned Unit Development (PUD)

3-102 Zoning District Map: The incorporated territory of the City of Herington, Kansas, shall be divided into the above 15 districts, and the boundaries of such districts shall be shown upon the Zoning District Map of the territory of the City of Herington, Kansas, marked "official copy of Zoning District Map incorporated into zoning regulations by adoption of Ordinance 1490 by the Governing Body of the City of Herington on the 2nd day of July, 1996" and incorporated herein by reference as authorized by K.S.A. 12-753. Such map shall be on file in the office of the City Clerk and in the office of the Zoning Administrator.

3-103.1 Overlay Zoning Districts:

The boundaries of the Floodplain District are shown on the "Flood Hazard Boundary Maps" incorporated by reference at section 18-101 of these regulations.

3-104 Boundaries: In the event that uncertainties exist with respect to the intended boundaries of the various districts are shown on the zoning map(s), the following rules shall apply:

1. The district boundaries are the center lines of streets or alleys, unless otherwise indicated.
2. Where the district boundaries do not coincide with the location of streets or alleys, but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.
3. Where the district boundaries do not coincide with the location of streets, alleys or lot lines, the district boundaries shall be determined by the use of the scale shown on the zoning map unless an exact distance is shown.
4. When a lot held in one ownership on the effective date of these regulations is divided by a district boundary line, the entire lot shall continue to be within both districts until the zoning administrator notifies the property owner to declare in which zoning district the lot is located. If such declaration is not filed within 90 days after receipt of the notification, the planning commission may rezone any or all of the lot in accordance with these regulations.

ARTICLE 4

AGRICULTURAL DISTRICT (A)

Sections:

- 4-1. Intent**
- 4-2. Permitted Uses**
- 4-3. Conditional Uses**
- 4-4. Intensity of Use Standards**
- 4-5. Height Standards**
- 4-6. Yard Standards**
- 4-7. Uses Limitations**

Section 4-1. Intent

- 4-101** The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Agriculture District (A). The purpose of this district is to provide for agricultural and related uses and to preserve and protect agricultural resources. Allows residential use off fewer than 10.0 acres as a conditional use. The district is not intended to serve the homeowner who lives on a small suburban lot, but is designed to accommodate agricultural operations on substantial acreage.

Section 4-2. Permitted Uses

- 4-201** The listing of permitted uses in a Agriculture District (A) shall be as set out in Appendix A of these regulations.

Section 4-3. Conditional Uses

- 4-301** The listing of conditional uses in an Agriculture District (A) shall be as set out in Appendix A of these regulations.

Section 4-4. Intensity of Use Standards

- 4-401** The intensity of use standards for an Agricultural District (A) shall be set out in Appendix B of these regulations.

Section 4-5. Height Standards

- 4-501** The height standards for an Agricultural District (A) shall be set out in Appendix B of these regulations.

Section 4-6. Yard Standards

- 4-601** The yard standards for an Agricultural District (A) shall be set out in Appendix B of these regulations and below:
- a. The front yard shall be a minimum of 25 feet in depth measured from the front lot line, except on collector streets, the minimum front yard shall be 35 feet measured from the lot line;

and except on arterial streets, the minimum front yard shall be 35 feet measured from the lot line.

- b. Side street yard setbacks may be reduced to 15 feet where the front yard setback is 25 feet or in line with or behind the front yard setbacks of the nearest adjacent house.
- c. Through lot yards shall have setback of 25 feet or 20% of the rear yard depth.

Section 4-7. Use Limitations

No additional.

ARTICLE 5

RESIDENTIAL SUBURBAN DISTRICT (RS)

Sections:

- 5-1. Intent**
- 5-2. Permitted Uses**
- 5-3. Conditional Uses**
- 5-4. Intensity of Use Standards**
- 5-5. Height Standards**
- 5-6. Yard Standards**
- 5-7. Use Limitations**
- 5-8. Aesthetic Standards for Manufactured Homes**

Section 5-1. Intent

5-101 The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Residential Suburban District (RS). The purpose of this district is to provide for the platted development of the low-density residential neighborhoods that retain the character of the basically rural area and yet allow an influx of residential development. This district should be limited to designated growth areas where public water and other public infrastructure are present, and approved outside such designated growth areas only when adequate public infrastructure and delivery of support services can be demonstrated.

Section 5-2. Permitted Uses

5-201 The listing of permitted uses in a Residential Suburban District (RS) shall be as set out in Appendix A of these regulations.

Section 5-3. Conditional Uses

5-301 The listing of conditional uses in a Residential Suburban District (RS) shall be as set out in Appendix A of these regulations.

Section 5-4. Intensity of Use Standards

5-401 The intensity of use standards for a Residential Suburban District (RS) shall be set out in Appendix B of these regulations.

Section 5-5. Height Standards

5-501 The height standards for a Residential Suburban District (RS) shall be set out in Appendix B of these regulations.

Section 5-6. Yard Standards

5-601 The yard standards for a Residential District (RS) shall be set out in Appendix B of these regulations and below:

- a. The front shall be a minimum of 25 feet in depth measured from the front lot line, except on collector streets, the minimum front yard shall be 35 feet measured from the lot line; and except on arterial streets, the minimum front yard shall be 35 feet measured from the lot line.
- b. Side street yard setbacks may be reduced to 15 feet where the front yard setback is 25 feet or in line with or behind the front yard setbacks of the nearest adjacent house.
- c. Through lot yards shall have setback of 25 feet or 20% of the rear yard depth.

Section 5-7. Use Limitations

No additional.

Section 5-8. Aesthetic Standards

5-801 Manufactured Homes:

1. A residential-design manufactured home, as defined by these regulations and meeting the following architectural aesthetic design standards, shall be considered a single-family detached dwelling:
 - a. The roof shall be covered with material that is customarily used on site-built dwellings, including but not limited to approved wood, asphalt composition shingles, fiberglass, or approved residential metal roofing systems, but excluding corrugated metal or corrugated fiberglass.
 - b. Exterior siding shall be of a material customarily used on site-built dwellings, which does not have a high gloss finish, such as wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials, but excluding smooth, ribbed or corrugated metal or plastic panels. Siding materials shall extend below the top of the exterior of the foundation or curtain wall or the joint between siding.
 - c. At the main entrance door there shall be a landing that is a minimum of three feet by three feet.
 - d. All manufactured home running gear, tongues, axles, and wheels must be removed at the time of installation of the home on the lot.
 - e. The finished floor of the residential-design manufactured home shall be a maximum of 24 inches above the exterior finish grade of the lot on which it is located, as measured at main entrance into the dwelling.

- f. All principle residential structures in this district shall have a roof eave overhang.
- g. All principle residential structures in this district shall have a garage, if 50 percent or more of the existing residences on the same and/or opposite block face have garages.

ARTICLE 6

SINGLE FAMILY RESIDENTIAL DISTRICT (R-1)

Sections:

- 6-1. Intent**
- 6-2. Permitted Uses**
- 6-3. Conditional Uses**
- 6-4. Intensity of Use Standards**
- 6-5. Height Standards**
- 6-6. Yard Standards**
- 6-7. Use Limitations**

Section 6-1. Intent

- 6-101** The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Single Family Residential District (R-1). The purpose of this district is to provide for platted single-family residential development of a more urban character where sanitary sewers, adequate water and other necessary public utilities are present to support the development. As such, it is intended to be used only where such public utilities are present to serve such development. The district is also designed to protect and preserve existing development of a similar character

Section 6-2. Permitted Uses

- 6-201** The listing of permitted uses in a Single Family Residential District (R-1) shall be as set out in Appendix A of these regulations.

Section 6-3. Conditional Uses

- 6-301** The listing of conditional uses in a Single Family Residential District (R-1) shall be as set out in Appendix A of these regulations.

Section 6-4. Intensity of Use Standards

- 6-401** The intensity of use standards for a Single Family Residential District (R-1) shall be set out in Appendix B of these regulations.

Section 6-5. Height Standards

- 6-501** The height standards for a Single Family Residential District (R-1) shall be set out in Appendix B of these regulations.

Section 6-6. Yard Standards

- 6-601** The yard standards for a Single Family Residential District (R-1) shall be set out in Appendix B of these regulations and below.

- a. The front yard shall be a minimum of 25 feet in depth measured from the front lot line on collector streets, or the minimum front yard shall be 35 feet measured from the lot line on arterial streets; except that, the front yard dimension may be reduced with the approval of the Board of Zoning Appeals to a setback equal to the average setback of the immediately adjacent structures but in no case less than 15 feet.
- b. Side street yard setbacks may be reduced to 15 feet where the front yard setback is 25 feet or in line with or behind the front yard setbacks of the nearest adjacent house.
- c. Through lot yards shall have setback of 25 feet or 20% of the rear yard depth.

Section 6-7. Use Limitations

1. All principle residential structures in this district shall have a roof *eave* overhang and roof pitch of not less than three vertical inches for each 12 horizontal inches.
2. All principle residential structures in this district shall have a garage, if 50 percent or more of the existing residences on the same and/or opposite block face have garages.
3. Residential design manufactured housing is permitted subject to compliance with section 5-801.
4. Detached accessory structures shall not be located in any required front or side yard setback area, but may be located in the rear yard setback area provided that no such structure may be closer than 15 feet to any property line. The lot coverage of all detached accessory structures shall not exceed 50% of the total land area in the rear yard setback. No more than two detached structures shall be permitted.

ARTICLE 7

TWO-FAMILY RESIDENTIAL DISTRICT (R-2)

Sections:

- 7-1. Intent
- 7-2. Permitted Uses
- 7-3. Conditional Uses
- 7-4. Intensity of Use Standards
- 7-5. Height Standards
- 7-6. Yard Standards
- 7-7. Use Limitations

Section 7-1. Intent

- 7-101** The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Two-Family Residential District (R-2). The purpose of this district is to provide for the development of conventional attached dwellings, commonly known as duplexes. Due to the potential for reduced development costs, zoning of property as R-2 also promotes affordable housing in a low-density environment. Residential design manufactured housing is permitted subject to compliance with applicable state law.

Section 7-2. Permitted Uses

- 7-201** The listing of permitted uses in a Two-Family Residential District (R-2) shall be as set out in Appendix A of these regulations.

Section 7-3. Conditional Uses

- 7-301** The listing of conditional uses in a Two-Family Residential District (R-2) shall be as set out in Appendix A of these regulations.

Section 7-4. Intensity of Use Standards

- 7-401** The intensity of use standards for Two-Family Residential District (R-2) shall be set out in Appendix B of these regulations.

Section 7-5. Height Standards

- 7-501** The height standards for a Two-Family Residential District (R-2) shall be set out in Appendix B of these regulations.

Section 7-6. Yard Standards

- 7-601** The yard standards for Two-Family Residential District (R-2) shall be set out in Appendix B of these regulations and below.
- a. The front yard shall be a minimum of 25 feet in depth measured from the front lot line on collector streets, or the minimum front yard shall be 35 feet measured from the lot line on arterial streets;

except that, the front yard dimension may be reduced with the approval of the Board of Zoning Appeals to a setback equal to the average setback of the immediately adjacent structures but in no case less than 15 feet.

- b. Side street yard setbacks may be reduced to 15 feet where the front yard setback is 25 feet or in line with or behind the front yard setbacks of the nearest adjacent house.
- c. Through lot yards shall have setback of 25 feet or 20% of the rear yard depth.

Section 7-7. Use Limitations

7-701

- a. Detached accessory structures shall not be located in any required front or side yard setback area, but may be located in the rear yard setback area provided that no such structure may be closer than 15 feet to any property line. The ground area of all detached accessory structures in the rear yard shall not exceed 50% of the total land area in the rear yard setback. No more than two detached accessory structures shall be permitted for each residence.
- b. Two-family dwellings which otherwise comply with these regulations may be divided at the party wall as to ownership and owned as separate dwelling units by separate owners and such ownership shall not constitute a violation of the lot and yard requirements of these regulations.

ARTICLE 8

GENERAL RESIDENTIAL DISTRICT (R-3)

Sections:

- 8-1. Intent**
- 8-2. Permitted Uses**
- 8-3. Conditional Uses**
- 8-4. Intensity of Use Standards**
- 8-5. Height Standards**
- 8-6. Yard Standards**
- 8-7. Use Limitations**

Section 8-1. Intent

- 8-101** The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the General Residential District (R-3). This district allows for all residential uses permitted in the R-1 and R-2 Districts and also allows multi-family dwelling units. Residential design manufactured housing is permitted subject to compliance with applicable state law.

Section 8-2. Permitted Uses

- 8-201** The listing of permitted uses in a General Residential District (R-3) shall be as set out in Appendix **A** of these regulations.

Section 8-3. Conditional Uses

- 8-301** The listing of conditional uses in a General Residential District (R-3) shall be as set out in Appendix A of these regulations.

Section 8-4. Intensity of Use Standards

- 8-401** The intensity of use standards for General Residential District (R-3) shall be set out in Appendix B of these regulations.

Section 8-5. Height Standards

- 8-501** The height standards for General Residential District (R-3) shall be set out in Appendix B of these regulations.

Section 8-6. Yard Standards

- 8-601** The yard standards for General Residential District (R-3) shall be set out in Appendix B of these regulations and below.
- a. The front yard shall be a minimum of 25 feet in depth measured from the front lot line on collector streets, or the minimum front yard shall be 35 feet measured from the lot line on arterial streets; except that, the front yard dimension may be reduced with the approval of the

Board of Zoning Appeals to a setback equal to the average setback of the immediately adjacent structures but in no case less than 15 feet.

- b. Side street yard setbacks may be reduced to 15 feet where the front yard setback is 25 feet or in line with or behind the front yard setbacks of the nearest adjacent house.
- c. Through lot yards shall have setback of 25 feet or 20% of the rear yard depth.

Section 8-7. Use Limitations

- 1. Detached accessory structures shall not be located in any required front or side yard setback area, but may be located in the rear yard setback area provided that no such structure may be closer than 15 feet to any property line. The lot coverage of all detached accessory structures shall not exceed 50% of the total land area in the rear yard setback. No more than two detached structures shall be permitted.

ARTICLE 9

MANUFACTURED HOME PARK RESIDENTIAL DISTRICT (MHP)

Sections:

- 9-1. Intent**
- 9-2. Permitted Uses**
- 9-3. Conditional Uses**
- 9-4. Minimum Design Standards**
- 9-5. Application Requirement**

Section 9-1. Intent

- 9-101** The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Manufactured Home Park Residential District (MHP). The purpose of this district is to provide for non-residential design manufactured housing in a properly designed manufactured home park. Non-residential design manufactured housing on single lots is not permitted in any district in the City. Residential design manufactured housing is permitted subject to compliance with applicable state law.

Section 9-2. Permitted Uses

- 9-201** The listing of permitted uses in a Mobile Home Park District (MHP) shall be as set out in Appendix A of these regulations.

Section 9-3. Conditional Uses

- 9-301** The listing of conditional uses in a Mobile Home Park District (MHP) shall be as set out in Appendix A of these regulations.

Section 9-4. Minimum Design Standards

9-401 Minimum Design Standard for Mobile Home Parks:

- a. All mobile home spaces shall front upon a private roadway of not less than 40 feet in paved width, which shall have unobstructed access to a public street, alley or highway. Internal roadways and walkways shall be durable and well drained under normal use and weather conditions, and adequately lighted at night. All internal streets shall be owned and maintained by the mobile home park owner. No mobile home space shall be designed for or allow direct access to a public road outside the boundaries of the mobile home park.
- b. At least one electrical outlet supplying at least 220 volts shall be provided for each mobile home space.

- c. A recreational area of not less than one acre shall be provided at a central location in said park area.
- d. Skirting of a durable type of material and construction shall be installed on each mobile home floor and the grade level of the mobile home pad. Such skirting shall be constructed of non-combustible material consistent with the exterior surface of the mobile home and maintained in a manner to enhance the appearance of the mobile home park.
- e. The mobile home park shall be surrounded by a landscaped strip of open space 50 feet wide along any street or road frontage and 25 feet wide along all other lot lines or street or road frontages. A solid or semi-solid fence or wall a minimum of six feet and a maximum of eight feet high, shall be provided between the mobile home park and any adjoining property or property immediately across the street which is zoned or used for residential purposes. In lieu of said fence or wall, a landscaped screen may be provided. Said landscaped screen shall be planted with coniferous and deciduous plant material so as to provide proper screening for the park. When the landscaped screen is used in lieu of the fence or wall, the landscaped screen shall not be included as any part of the required area for a mobile home space.
- g. The area of the mobile home stand shall be improved to provide adequate support for the placement and tie-down of the mobile home or manufactured home, thereby securing the super-structure against uplift, sliding, rotation and overturning. Such tie-down connections shall conform to the requirements of the Mobile Home and Recreational Vehicle Code (K.S.A. 75-211 et seq.), as well as the requirements of all other state laws and any applicable administrative regulations. No travel trailers need be tied down.
- h. Each mobile home space within the mobile home park shall be numbered in an orderly fashion and in a manner secure and consistent throughout the mobile home park. The lot number shall be displayed on the lot and be visible at all times. Travel trailer spaces need not be numbered.
- i. No mobile home park shall be located within 50 feet of an established residence.
- j. Mobile homes shall be placed on a permanent hard surfaced pad in lieu of a foundation. Such pad shall be of sufficient dimensions to completely support the mobile home and shall have a solid foundation or a pier and bond beam foundation extending below the normal frost depth.
- k. A storm shelter shall be provided in a central location and shall have the capability of sheltering three persons for each established mobile home park or trailer space.

- I. A small storage building shall be permitted but must meet setback requirements.

9-402

Proper provisions shall be made for adequate water supply, fire protection and refuse collection as follows:

- a. Application for rezoning to Mobile Home Park Residential District for a mobile home park shall include engineering plans and specifications of the water supply and distribution system approved by the water supplier and/or the Kansas Department of Health and Environment.
- b. Application for rezoning to Mobile Home Park Residential District for a mobile home park shall include engineering plans and specifications of sewage disposal facilities and sewer lines approved by the appropriate Sanitarian and/or the Kansas Department of Health and Environment.
- c. All refuse shall be stored in flytight, watertight, rodentproof containers, which shall be located not more than 150 feet from any mobile home lot. Where disposal service is not available, the mobile home park operator shall dispose of the refuse by transporting it to a disposal site approved by an authority having jurisdiction over such disposal areas.

9-403

The proposed mobile home park shall comply with all provisions of this section and state and local laws and regulations.

9-404

All service buildings and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance.

9-405

No owner or person in charge of any dog, cat, or other pet or animal shall permit it to run at large or commit any nuisance within the limits of any mobile home park.

9-406

All mobile home parks shall have an area or areas set aside for the storage of boats, boat trailers, hauling trailers, automobiles and other equipment for seasonal or periodic use. Such area shall be provided without the imposition of any monetary charge and for the exclusive use of residents of the mobile home park. Such equipment shall not be stored upon a mobile home space nor upon the streets within the mobile home park. Such storage area shall be screened from the remainder of the mobile home park by a combination of a solid or semi-solid fence of minimum of six feet high.

9-407

No private signs shall be allowed except those which identify the Mobile Home Park by name; identify the administrative areas within the park; and identify the roadways and individual lots.

- 9-408** A responsible attendant shall be in charge of the park at all times. Such attendant shall supervise the park, and, together with the owner of the property, shall be responsible for any violation of the provisions of this section which may occur in the operation of such mobile home park.
- 9-409** It shall be unlawful for any person to maintain or operate a mobile home park or travel trailer park unless such person shall first obtain rezoning of the property into the Mobile Home Park Residential District Use Permit or unless the mobile home park or travel trailer park is a legal nonconforming use as provided for these regulations.
- 9-410** Off-roadway parking shall be provided at the rate of two parking spaces for each mobile home space. In addition, on-roadway parking shall be maintained for guests in the amount of at least one parking space for every three mobile home spaces. No off-roadway parking areas need be provided for trailer camp parks.
- 9-411** Area and Yard Regulations:
- a. Yards: Mobile homes or manufactured homes shall be so located on each space that there shall be at least a 20 foot clearance between mobile homes or manufactured homes; provided, however, that with respect to mobile homes or manufactured homes parked end to end, the end-to-end clearance shall not be less than 15 feet. No mobile home or manufactured home shall be closer than 25 feet from any building within the park or from any property line bounding the park. Camping trailers shall be located on each space so that there shall be at least a five foot clearance between camping trailers.
 - b. Lot Width: Each mobile home space shall be at least 45 feet wide and clearly defined. Each camping trailer space shall be at least 30 feet wide and clearly defined.
 - c. Lot Area Per Family: Mobile home parks hereafter approved shall have a maximum density that does not exceed the lot area per family requirements of the residential zoning district in which they are located; provided, however, that the maximum density of any mobile home park, rather located in a residential or non-residential zoning district, shall not exceed seven units per gross acre and space shall be provided for each mobile home or manufactured home consisting of a maximum of 4,500 square feet. Trailer camp parks hereafter approved shall have a maximum density of 12 camping trailers per gross acre.

Application Requirements

- 9-501** An application for "MHP" Mobile Home Park District shall prepare or cause to be prepared a preliminary Mobile Home Park Plan, drawn to a scale of not less than 1" = 100', and 20 copies of said Plan shall be submitted to the Planning Commission for its review and recommendations. Said plan shall be designed in accordance with

Minimum Design Standards and shall have contours shown at two-foot intervals. The plan shall show the following:

1. Proposed street and drive pattern.
2. Proposed mobile home spaces and their approximate dimensions.
3. Any existing streets in or abutting the property.
4. Location and size of parking spaces.
5. Location and size of park and playground areas.
6. Location of shelters.
7. Screening and landscaping.
8. Legal description of the tract.
9. Name of the landowner, developer and the firm preparing the plan.
10. North point, scale and date.

9-502 Upon approval of the preliminary mobile home park plan by the Planning Commission, the applicant shall prepare and submit a final plan, which shall incorporate any changes or alterations requested. The final plan and the Planning Commission recommendation shall be forwarded to the Governing Body for its review and final action.

9-503 Any substantial deviation from the approved plan, as determined by the Zoning Administrator shall constitute a violation of the zoning certificate authorizing construction of the project. Changes in plans shall be resubmitted for reconsideration and approval by the Planning Commission and Governing Body prior to the issuance of a zoning certificate.

ARTICLE 10

OFFICE TRANSITION DISTRICT (B-1)

Sections:

- 10-1. Intent**
- 10-2. Permitted Uses**
- 10-3. Conditional Uses**
- 10-4. Intensity of Use Standards**
- 10-5. Height Standards**
- 10-6. Yard Standards**
- 10-7. Use Limitations**

Section 10-1. Intent

- 10-101** The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Office Transition District (B-1). The purpose of this district is to provide for professional office and non-retail business developments that provide a service. This district is also intended to be used as a transition, where deemed appropriate, from residential developments to more intensive types of commercial and/or retail business activity.

Section 10-2. Permitted Uses

- 10-201** The listing of permitted uses in an Office Transition District (B-1) shall be as set out in Appendix A of these regulations.

Section 10-3. Conditional Uses

- 10-301** The listing of conditional uses in an Office Transition District (B-1) shall be as set out in Appendix A of these regulations.

Section 10-4. Intensity of Use Standards

- 10-401** The intensity of use standards for Office Transition District (B-1) shall be set out in Appendix B of these regulations.

Section 10-5. Height Standards

- 10-501** The height standards for Office Transition District (B-1) shall be set out in Appendix B of these regulations.

Section 10-6. Yard Standards

- 10-601** The yard standards for Office Transition District (B-1) shall be set out in Appendix B of these regulations and below.
- a. 15 feet in depth measured from the front lot line except on lots which are adjacent to collector or arterial streets in which case the minimum front yard shall be 25 feet.

- b. Where lots have double frontage, the required front yard shall be provided on both streets.
- c. On corner lots there shall be a front yard of 15 feet and a side yard of 15 feet.

Section 10-7. Use Limitations

- 10-701** For purposes of this section, the phrase "screened from public view" means not visible from adjoining properties or any street right-of-way.
- 10-702** Trash enclosures shall be screened from public view on all four sides, with a 6°foot solid fence constructed of cedar, redwood, masonry or other compatible building material and landscaped, except where screened from public view by existing buildings or other structures.
- 10-703** Exterior ground-mounted or building-mounted equipment including, but not limited to, mechanical equipment, utilities and banks of meters, shall be screened from public view with landscaping or with an architectural treatment compatible with the building architecture.
- 10-704** All rooftop equipment shall be screened from public view with an architectural treatment which is compatible with the building architecture.
- 10-705** All buildings or additions thereto, and off-street parking lots in the 8-1 District, shall provide a solid screen fence or wall not less than 6 feet in height along all rear and side property lines which are common to property zoned for residential purposes, except that such screening shall not extend in front of the building line or adjacent dwellings. Such screening shall not be required where similar screening exists on the abutting residential property.

ARTICLE 11

NEIGHBORHOOD COMMERCIAL DISTRICT (B-2)

Sections:

- 11-1 Intent**
- 11-2 Permitted Uses**
- 11-3 Conditional Uses**
- 11-4 Intensity of Use Standards**
- 11-5 Height Standards**
- 11-6 Yard Standards**
- 11-7 Use Limitations**

Section 11-1. Intent

- 11-101** The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Neighborhood Commercial District (B-2). This commercial district is designed to accommodate commercial activities that draw business from, provide services to and would benefit a neighborhood. Commercial areas are to be planned and developed so as to result in attractive, viable and safe centers and clusters. Control of vehicular access, circulation, landscaping and signs should soften the impact on any nearby residential neighborhoods and assure minimum adverse effects on the street system and other public services.

Section 11-2. Permitted Uses

- 11-201** The listing of permitted uses in a Neighborhood Commercial District (B-2) shall be as set out in Appendix A of these regulations.

Section 11-3. Conditional Uses

- 11-301** The listing of conditional uses in a Neighborhood Commercial District (B-2) shall be as set out in Appendix A of these regulations.

Section 11-4. Intensity of Use Standards

- 11-401** The intensity of use standards for Neighborhood Commercial District (B-2) shall be set out in Appendix B of these regulations.

Section 11-5. Height Standards

- 11-501** The height standards for Neighborhood Commercial District (B-2) shall be set out in Appendix B of these regulations.

Section 11-6. Yard Standards

- 11-601** The yard standards for Neighborhood Commercial District (B-2) shall be set out in Appendix B of these regulations.

Section 11-7. Use Limitations

11-701 The following use limitations shall apply in the Neighborhood Commercial District (B-2):

- a. All business establishments permitted in this district shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
- b. All business, services, storage and display of goods shall be conducted within a completely enclosed building.
- c. Exterior lighting fixtures shall be located so that no direct light is cast upon any adjacent residential property and so that no glare is visible to any traffic on any public street.
- d. A solid or semi-solid 6-foot high fence or wall shall be provided adjacent to any adjoining residential district. However, in the event the adjacent residential district and the commercial development are separated by a street right-of-way, the Zoning Administrator may waive this requirement.

ARTICLE 12

HIGHWAY BUSINESS DISTRICT (B-3)

Sections:

- 12-1 Intent**
- 12-2 Permitted Uses**
- 12-3 Conditional Uses**
- 12-4 Intensity of Use Standards**
- 12-5 Height Standards**
- 12-6 Yard Standards**
- 12-7 Use Limitations**

Section 12-1. Intent

- 12-101** This district is intended to provide commercial locations for uses which serve as a convenience to the traveler, require large tracts of land, or require a location on a highway or arterial in order to have an efficient operation. It is further intended that the uses be of a single-purpose character and not be of a nature in which people walk from store-to-store as in a nucleated center. Screening and off-street parking are required to reduce possible adverse effects on surrounding uses.

Section 12-2. Permitted Uses

- 12-201** The listing of permitted uses in a Highway Business District (B-3) shall be as set out in Appendix A of these regulations.

Section 12-3. Conditional Uses

- 12-301** The listing of conditional uses in a Highway Business District (B-3) shall be as set out in Appendix A of these regulations.

Section 12-4. Intensity of Use Standards

- 12-401** The intensity of use standards for Highway Business District (B-3) shall be set out in Appendix B of these regulations.

Section 12-5. Height Standards

- 12-501** The height standards for Highway Business District (B-3) shall be set out in Appendix B of these regulations.

Section 12-6. Yard Standards

- 12-601** The yard standards for Highway Business District (B-3) shall be set out in Appendix B of these regulations.

Section 12-7. Use Limitations

12-701

The following use limitations shall apply in the Highway Business District (B-3):

- a. Gasoline pumps, air and water service and other fixtures used in connection with automobile service stations may be located within the front yard but not less than 24 feet from the front lot line, nor closer than 25 feet to the building to allow vehicles to maneuver away from the pumps.
- b. All outdoor storage, except the storage of motor vehicles and farm machinery and equipment in operating condition and off-street parking and loading spaces, shall be enclosed by a solid or semi-solid fence not less than six feet in height and having a density of not less than 70% per square foot.
- c. All business establishments shall be retail or service establishments dealing directly with consumers.
- d. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light.
- e. A solid or semi-solid fence or wall at least six feet, but not more than eight feet high and having a density of not less than 70% per square foot, shall be provided adjacent to any adjoining residential district. However, in the event the adjacent residential district and the commercial development are separated by a street right-of-way, the Zoning Administrator may waive this requirement.
- f. Trash shall be screened by an enclosure of not less than six (6) feet in height on all four sides.

ARTICLE 13

GENERAL COMMERCIAL DISTRICT (B-4)

Sections:

- 13-1 Intent**
- 13-2 Permitted Uses**
- 13-3 Conditional Uses**
- 13-4 Intensity of Use Standards**
- 13-5 Height Standards**
- 13-6 Yard Standards**
- 13-7 Use Limitations**

Section 13-1. Intent

- 13-101** The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the General Commercial District (B-4). The intent of this district is to provide a zone which is suitable to accommodate basic retail, service, and office uses which are located adjacent to the central business district, on arterials leading to the downtown area. Commercial uses which require large floor areas or large land areas and which are not compatible with the central business district are included in this district. This district has few limitations as to the types of commercial development permitted and therefore should not be utilized for shopping centers.

Section 13-2. Permitted Uses

- 13-201** The listing of permitted uses in a General Commercial District (B-4) shall be as set out in Appendix A of these regulations.

Section 13-3. Conditional Uses

- 13-301** The listing of conditional uses in a General Commercial District (B-4) shall be as set out in Appendix A of these regulations.

Section 13-4. Intensity of Use Standards

- 13-401** The intensity of use standards for General Commercial District (B-4) shall be set out in Appendix B of these regulations.

Section 13-5. Height Standards

- 13-501** The height standards for General Commercial District (B-4) shall be set out in Appendix B of these regulations.

Section 13-6. Yard Standards

- 13-601** The yard standards for General Commercial District (B-4) shall be set out in Appendix B of these regulations and below.

- a. 15 feet in depth measured from the front lot line except on lots which are adjacent to collector or arterial streets in which case the minimum front yard shall be 25 ft.
- b. Where lots have double frontage, the required front yard shall be provided on both streets.
- c. On corner lots there shall be a front yard of 15 feet and a side yard of 15 feet.
- d. Where the front yard is used for parking, the front yard setback shall be fifty (50) feet from the lot line to the building and shall have a minimum green space between the building and the parking area of no less than five (5) feet.

Section 13-7. Use Limitations

13-701

The following use limitations shall apply in the General Commercial District (B-4):

- a. Gasoline pumps, air and water service and other fixtures used in connection with automobile service stations may be located within the front yard but not less than 24 feet from the front lot line nor closer than 25 feet to the building to allow vehicles to maneuver away from the pumps.
- b. All outdoor storage, except the storage of motor vehicles and farm machinery and equipment in operating condition and off-street parking and loading spaces, shall be enclosed by a solid or semi-solid fence not less than six feet in height and having a density of not less than 70% per square foot.
- c. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
- d. All business, service, storage and display of goods shall be conducted within a completely enclosed building, except that an area equivalent to not more than 10% of the total floor area may be used for outside display and sales.
- e. 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.
- f. A solid or semi-solid fence or wall at least six feet, but not more than eight feet high, and having a density or not less than 70% per square foot, shall be provided adjacent to an

adjoining residential district. However, in the event the adjacent residential district and the commercial development are separated by a street right-of-way, the Zoning Administrator may waive this requirement.

ARTICLE 14

CENTRAL BUSINESS DISTRICT (B-5)

Sections:

- 14-1 Intent**
- 14-2 Permitted Uses**
- 14-3 Conditional Uses**
- 14-4 Intensity of Use Standards**
- 14-5 Height Standards**
- 14-6 Yard Standards**
- 14-7 Use Limitations**

Section 14-1. Intent

- 14-101** The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations of the Central Business District (B-5). This commercial district is intended to provide a zone which will accommodate the broad range of retail shopping activities and office uses that are normally found in the core area of a city.

Section 14-2. Permitted Uses

- 14-201** The listing of permitted uses in a Central Business District (B-5) shall be as set out in Appendix A of these regulations.

Section 14-3. Conditional Uses

- 14-301** The listing of conditional uses in a Central Business District (B-5) shall be as set out in Appendix A of these regulations.

Section 14-4. Intensity of Use Standards

- 14-401** The intensity of use standards for Central Business District (B-5) shall be set out in Appendix B of these regulations.

Section 14-5. Height Standards

- 14-501** The height for Central Business District (B-5) shall be set out in Appendix B of these regulations.

Section 14-6. Yard Standards

- 14-601** The yard standards for Central Business District (B-5) shall be set out in Appendix B of these regulations.

Section 14-7. Use Limitations

- 14-701** The following use limitations shall apply in the Central Business District (B-5):

- a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
- b. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
- c. No business establishment shall offer or sell food or beverages for consumption on the premises in parked motor vehicles.
- d. 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.
- e. A solid or semi-solid fence or wall at least six feet, but not more than eight feet high, and having a density of not less than 70% per square foot, shall be provided adjacent to an adjoining residential district. However, in the event the adjacent residential district and the commercial development are separated by a street right-of-way, the Zoning Administrator may waive this requirement.
- f. No outside display may utilize the City Herington sidewalk or other property except when approved by the City Commission. Said display permits shall be obtained annually. At no time shall any outside display reduce the pedestrian way to less than five feet at any point.

ARTICLE 15

LIGHT INDUSTRIAL DISTRICT (1-1)

Sections:

- 15-1 Intent**
- 15-2 Permitted Uses**
- 15-3 Conditional Uses**
- 15-4 Intensity of Use Standards**
- 15-5 Height Standards**
- 15-6 Yard Standards**
- 15-7. Use Limitations**

Section 15-1. Intent

- 15-101** The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Light Industrial District (1-1). The purpose of this district is to provide for business engaged in light manufacturing and related uses, with certain limited retail and service uses permitted as conditional uses as well.

Section 15-2. Permitted Uses

- 15-201** The listing of permitted uses in a Light Industrial District (1-1) shall be as set out in Appendix A of these regulations.

Section 15-3. Conditional Uses.

- 15-301** The listing of conditional uses in a Light Industrial District (1-1) shall be as set out in Appendix A of these regulations.

Section 15-4. Intensity of Use Standards

- 15-401** The intensity of use standards for Light Industrial District (1-1) shall be set out in Appendix B of these regulations.

Section 15-5. Height Standards

- 15-501** The height for Light Industrial District (1-1) shall be set out in Appendix B of these regulations.

Section 15-6. Yard Standards

- 15-601** The yard standards for Light Industrial District (1-1) shall be set out in Appendix B of these regulations and below.
- a. Front yard setback shall be 25 feet in depth measured from the front lot line on collector streets, and 35 feet in depth measured from the front lot line on arterial streets. Where the front yard is used for parking, the front yard setback shall be fifty (50) feet from the lot line to the building and shall have a minimum green space

between the building and the parking area of no less than five (5) feet.

- b. Where lots have double frontage, the required front yard shall be provided on both streets.
- c. On corner lots there shall be a front yard of 25 feet and a side yard of 25 feet.

Section 15-7. Use Limitations

15-701 The following use limitations shall apply in the Light Industrial District (1-1):

- a. All operations, activities and storage shall be conducted wholly inside of a structure or structures. Storage may be maintained outside the structure in side or rear yards provided that such storage is screened from public view as outlined in (c) below.
- b. No retail sales or services shall be permitted except when incidental or accessory to a permitted use.
- c. A solid fence or wall at least six feet, but not more than eight feet high, shall be provided adjacent a residential or commercial district.

ARTICLE 16

HEAVY INDUSTRIAL DISTRICT (1-2) MUNICIPAL AIRPORT DISTRICT (1-3)

Sections:

- 16-1. Intent**
- 16-2. Permitted Uses**
- 16-3. Conditional Uses**
- 16-4. Intensity of Use Standards**
- 16-5. Height Standards**
- 16-6. Yard Standards**
- 16-7. Use Limitations**
- 16-8. Municipal Airport (1-3)**

Section 16-1. Intent

- 16-101** The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Heavy Industrial District (1-2). The purpose of this district is to provide for basic or primary industries which are generally not compatible with residential and/or commercial activity. Certain extremely obnoxious or hazardous uses will require conditional permission to locate in this district

Section 16-2. Permitted Uses

- 16-201** The listing of permitted uses in a Heavy Industrial District (1-2) shall be as set out in Appendix A of these regulations.

Section 16-3. Conditional Uses

- 16-301** The listing of conditional uses in a Heavy Industrial District (1-2) shall be as set out in Appendix A of these regulations.

Section 16-4. Intensity of Use Standards

- 16-401** The intensity of use standards for Heavy Industrial District (1-2) shall be set out in Appendix B of these regulations.

Section 16-5. Height Standards

- 16-501** The height for Heavy Industrial District (1:2) shall be set out in Appendix B of these regulations.

Section 16-6. Yard Standards

- 16-601** The yard standards for Light Industrial District (1-1) shall be set out in Appendix B of these regulations.

- a. Front yard setback shall be 25 feet in depth measured from the front lot line on collector streets, and 35 feet in depth measured

from the front lot line on arterial streets. Where the front yard is used for parking, the front yard setback shall be fifty (50) feet from the lot line to the building and shall have a minimum green space between the building and the parking area of no less than five (5) feet.

- b. Where lots have double frontage, the required front yard shall be provided on both streets.
- c. On corner lots there shall be a front yard of 25 feet and a side yard of 25 feet.

Section 16-7. Use Limitations

16-701 The following use limitations shall apply in the Heavy Industrial District (1-2):

- a. All operations, activities and storage shall be conducted wholly inside of a structure or structures. Storage may be maintained outside the structure in side or rear yards provided that such storage is screened from public view as outlined in (c) below.
- b. No retail sales or services shall be permitted except when incidental or accessory to a permitted use.
- c. A solid fence or wall at least six feet, but not more than eight feet high, shall be provided adjacent to an adjoining residential district or commercial district. Said fence or wall shall be maintained in good condition by the owner or owners of the property in the 1-2 District.

Section 16-8. Municipal Industrial District (1-3)

16-801 Intent

The regulations set forth in the section or set forth elsewhere in these regulations when referred to in the section are the regulations in the Airport Industrial District (1-3). The purpose of this district is to provide for industries which are compatible with the airport use and which do not interfere with Air Traffic Safety of the Herington Municipal Airport. Certain hazardous uses will require a conditional use permit or a Federal Aeronautics Administration (FAA) Certificate of Authority and City issued Aerospace Testing and Training permit.

16-802 Permitted Uses

1. Airport uses including hangars, maintenance areas, runways, beacons, etc.
2. Aerospace related industries.

3. Manufacturing which does not interfere with the uses of the area for airport and aerospace use.
4. Agricultural uses.

Conditional Uses

Industries which have the potential of interfering with the use of the airport for general aviation or with activities associated with testing and Training of manned and unmanned aircraft shall require a conditional use permit, and, industries having less than 12,500 sq. ft. of lot area shall require a conditional use permit.

- a. City authorized Aerospace Testing and Training permitted uses. Testing of, and training of personnel with manned and unmanned aircraft originating from or associated with the Herington Airport shall require a City Authorized Aerospace Testing and Training Permit.

Intensity of Use Standards

1. Minimum Lot size-12,500 sq. ft.
2. Minimum set back measured from taxiway or street
 - Front - 50 ft
 - Side - 50 ft
 - Rear- 50 ft
 - Taxiway - 100 ft
 - Runway - per FAA requirements

Bulk Regulations

1. Maximum lot coverage - 60%
2. Maximum height - No structure shall be erected which exceeds one story and all structures must be within FAA glide requirements.

Use Limitations

No structure or building shall be erected which exceed the glide requirements set forth by the FAA.

Planning Commission Review

Site plans of all structures shall be provided to the Planning Commission for review ten (10) days before the beginning of construction. Said site plans shall contain at a minimum, the lot dimensions, setbacks, location of critical infrastructure, and an elevation view of the structure.

ARTICLE 17

SUPPLEMENTAL DISTRICT REGULATIONS

Sections:

- 17-1. Floodplain Regulations**
- 17-2. Height Regulations**
- 17-3. Lots with Double Frontage**
- 17-4. Accessory Structures/Storage Containers**
- 17-5. Temporary Uses Permitted**
- 17-6. Home Occupations**
- 17-7. Antennas and Satellite Dish Antennas**
- 17-8. Fences**
- 17-9. Planned Unit Development**
- 17-10 Swimming Pools**

Section 17-1. Floodplain Regulations

- 17-101** There is hereby adopted and incorporated by reference, for the purpose of establishing rules and regulations to protect individuals and property from flood hazards or flooding, the City of Herington Floodplain Zoning Regulations, such regulations being made a part of these zoning regulations as if they had been set out in full herein. No fewer than three copies of the City of Herington Floodplain Zoning Regulations shall be marked or stamped "Official Copy as Incorporated by the Zoning Regulations of City of Herington," and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business.

Section 17-2. Height Regulations

- 17-201** Chimneys, cooling towers, elevator headhouses, fire towers, grain elevators, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers, and spires, church steeples, radio and television towers or 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.

Section 17-3. Lots, Setback Exceptions

- 17-301** Where lots have a double frontage, the required front yard shall be provided on both streets.
- 17-302** Where the majority of the developed lots of a single block face have principal structures not meeting minimum front-yard setbacks, any new construction of or addition to a principal structure may have a front yard setback of not less than the average setback of all other principal structures upon that block face.

Section 17-4. Accessory Structures/Storage Containers

17-401 No accessory structure shall be erected in any required front yard, and no detached accessory structure shall be erected closer than five feet to any other structure or property line. 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, except that if the structure has a vehicular alley entrance, the sum of the width of the alley and the setback of the structure shall not be less than 25 feet. No accessory structure shall have a total square footage that exceeds 50% of the square footage of the ground floor of the principal building.

17-402 Metal shipping containers used for storage will be permitted in business and industrial districts. For purposes of these zoning regulations, metal shipping containers will be defined as storage containers and will be regulated as follows:

- (a) No storage container shall be installed in any required front or side yard, and no storage container shall be installed closer than five feet to any other structure or property line. 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, except that if the structure has a vehicular alley entrance, the sum of the width of the alley and the setback of the structure shall not be less than 25 feet. No accessory structure shall have a total square footage that exceeds 50% of the square footage of the ground floor of the principal building.
- (b) A concrete or rock pad must be provided for placement of the storage container.
- (c) No stacking of storage containers will be allowed, any such container shall not exceed a maximum height of ten (10) feet.
- (d) If the storage container is visible from a residential district, privacy fencing of a solid nature, no less than 8 feet in height must be installed.
- (e) Storage of hazardous materials is expressly prohibited.
- (f) Storage containers are prohibited from use in all residential areas.

Section 17-5. Temporary Uses Permitted

17-501 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.

17-502 Contractors Office: Contractors office and equipment sheds (containing no sleeping or cooking accommodations) accessory to a construction project and continuing only during the duration of such project or for 12 consecutive months, whichever is the shorter period of time.

- 17-503** Real Estate Offices: 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.
- 17-504** Seasonal Sales: Seasonal sale of farm produce grown on the premises, in a (A) 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.
- 17-505** Carnivals and Circuses: A carnival or circus, but only in an A, B-3, B-4, 1-1, 1-2 District, and then only for a period that does not exceed two 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.
- 17-506 Other temporary uses are permitted in accordance with the Temporary Uses Permitted (Section 17-5), which the Zoning Administrator determines to be the closest comparable permitted temporary use. In the event that, in the opinion of the Zoning Administrator, there is not a comparable temporary use, the temporary use shall be treated as a conditional use.

Section 17-6. Home Occupations

17-601 Home Occupations:

- a. The intent of this section is to allow home occupations, provided that they do not detract from the residential character of a neighborhood and will not cause excessive traffic, noise, nuisance or hazards to safety. It is also the intent of this section to allow only those home occupations as specifically provided for in section 17-602 below.

17-602 Restrictions and Limitations:

1. No commodities shall be displayed or sold on the premises except that which is produced on the premises.
2. No outdoor storage of materials or equipment used in the home occupation shall be permitted.
3. No alteration of the exterior of the principal residential structure shall be made which changes the character thereof as a residence.
4. No sign shall be permitted unless required by state law and, if so

required, shall not exceed six (6) square feet in area, shall be placed flat against the main wall of the structure, or free standing with upward illumination. Illumination is only allowed on the dimensions of the sign

5. No person shall be engaged or employed in a home occupation that is not a resident of the dwelling unit.
6. No home occupation can create a nuisance due to noise, electrical or radio wave interference, or odors, nor can any home occupation utilize materials that are hazardous or explosive.
7. No more than 25 percent of the area of one story of a single-family dwelling, nor more than 20 percent of the area of any other dwelling unit, shall be devoted to the home occupation, provided, however, that rooms let to roomers are not subject to this limitation.
8. The home occupation shall be conducted entirely within the principal residential building or an accessory building on the property.

17-603

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 Section 17-602 above:

1. Art, dancing, and music schools provided that instruction is limited to five pupil at one time;
2. Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers, and similar professions;
3. Offices for realtors, insurance agents, brokers, sales representatives, and manufacturing representatives when no exchange of tangible goods is made on the premises;
4. Barber and beauty services;
5. Watch, clock, and jewelry repair services;
6. Radio, television, photograph, recorder, and small appliance repair services;
7. Day care homes caring for children unrelated to the resident, provided that the number of unrelated children on the premises shall not exceed the maximum set by law, and further provided that such homes shall have enclosed all yard areas that are *devoted* to such use;
8. Home crafts and hobbies such as model making, rug weaving, lapidary work, cabinet making, etc., provided that no machinery or equipment shall be used or employed other than that which would

customarily be found in the home, including machinery or equipment that would customarily be employed in connection with a hobby or a vocation not conducted for gain or profit;

9. Tailoring, alterations, and seamstresses;
10. Sharpening services;
11. Bed-and-breakfast lodging; and
12. Ministers, rabbis and priests;
13. Or any other retail sales associated with the permitted use.

Section 17-7. Antenna and Satellite Dish Antenna

17-701 The purpose and intent of the following regulations on antennas is to build, preserve and enhance such community values as the general appearance of neighborhoods, particularly those of residential character. In addition, the regulations are designed to preserve property values, prevent property damage, promote the health, safety and general welfare of all jurisdiction residents and property owners and to protect the legal rights of residents and property owners who reside and own property in areas where antennas are constructed.

17-702 Antennas and satellite dish antennas may be constructed as an accessory use in all zoning districts provided the development standards of this section are met. Each lot may have one antenna and one satellite dish placed within its boundaries as a matter of right. Additional antennas and satellite dish antennas may be allowed as a Conditional Use under these regulations.

17-703

The following development standards shall be applied to the placement and construction of all antennas and satellite ground antennas:

- a. Television and radio receiving antennas shall not exceed 60 feet in height and shall be located at a distance inside the nearest property line of the lot at least equal to one-third its height.
- b. Ground satellite antennas shall not exceed 10 feet in diameter nor 13 feet in height from the natural ground level. Ground satellite antennas shall be ground-mounted and securely attached to a concrete pad.
- c. Ground satellite antennas shall not be placed in a front or side yard and shall not be located closer to any lot line than the distances provided as yard requirements in the zoning district in which the property is located.
- d. Roof-mounted satellite antennas shall not exceed four feet in diameter.
- e. Larger satellite and roof-mounted antennas may be permitted in non-residential zoning districts, provided the larger antennas are approved as a Conditional Use under these regulations.

Section 17-8. Fences

17-801

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 of such materials, or in such a manner or be of such design as to be hazardous or dangerous to persons or animals.
3. The building line is considered the point of the entry door
4. No fence shall exceed 50/50 see-through at the beginning of the front yard.
5. Tapers in the fence shall not exceed eight (8) feet in length.
6. No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view of an intersection or driveway, shutting out the sunlight, or hindering ventilation or which fence shall adversely affect the public health, safety, and welfare.
7. No fence shall be constructed without first obtaining a fence permit.

8. The owner and/or occupant of the real property upon which there is a swimming pool having a depth of two feet or greater shall construct and maintain a security fence of not less than four (4) feet or otherwise properly secure and restrict access to such pool in a manner approved by the Zoning Administrator.

9. The maximum height for fences shall be as follows:

Fences erected after {the date of adoption of this ordinance} shall not exceed four (4) feet in height in the front yard and street yards and not to exceed six and one-half (6.5) feet in height in the side yard and rear yards. For corner lots, eight (8) feet privacy fences should begin at the rear yard on side streets. For purpose of this ordinance, a fence shall be considered in the front yard at any point in front of the building line of the house.

Commercial	10 feet
Industrial	10 feet
Schools	no limit
Public	no limit

Section 17-9 Planned Unit Development

17-901 Objective

The objective of Planned Unit Development (PUD) is not simply to allow exceptions to otherwise applicable regulations. It is instead to encourage a higher level of design and amenity than it is possible to achieve under the usual land development requirements. It is accordingly the intent of the City to suspend the application of detailed zoning and subdivision standards as provided herein only where such special amenity is achieved. In this way the City may grant the creative developer a desirable flexibility and at the same time not only protect, but to enhance the welfare of the residents and other users of a development as well as the rest of the community.

The provisions of this section are intended for special situations in which:

1. adequate space, light, air, and other objectives of this Ordinance relating to the public health, safety, and welfare can be achieved without the literal application of the detailed zoning and subdivision requirements otherwise applicable, and
2. special amenities and benefits to the community beyond those required by this and other City ordinances can be achieved by allowing more flexible design than is otherwise permitted by such requirements.

These objectives can be achieved where an area of land is planned for development as an integrated unit, and where its design is subject to more detailed review and approval by the City than is normally required.

In recommending approval or conditional approval of a General Site Plan for an SD District Development (including Development Control Regulations associated therewith) or a Preliminary or Final Plan for a Planned Unit Development (PUD), the Plan Commission shall transmit to the City Commission written findings of fact that the application meets all of the criteria below or will meet them when the Commission's conditions are complied with. The City Commission shall, in granting approval or conditional approval, also find that all of the following criteria are met or will be met when the conditions to which the approval is made subject are complied with:

17-902: Approval Criteria for Planned Unit Developments

1. Superior Design: The PUD represents a more creative approach to the unified planning of development and incorporates a higher standard of integrated design and amenity than could be achieved under otherwise applicable zoning district and subdivision regulations, and solely on this basis modifications to the use and design standards established by such regulations are warranted.
2. Meets PUD Requirements: The PUD meets the requirements for

Planned Unit Developments set forth in this Ordinance, and no modifications to the use and design standards otherwise applicable are allowed other than those permitted herein.

3. Consistent with City Plan: The PUD is generally consistent with the objectives of the City Comprehensive Plan as viewed in light of any changed conditions since its adoption.
4. Public Welfare: The PUD will not be detrimental to the public health, safety, morals, or general welfare.
5. Compatible with Environs: Neither the PUD nor any portion thereof will be injurious to the use and enjoyment of other properties in its vicinity, seriously impair property values or environmental quality in the neighborhood, nor impede the orderly development of surrounding property.
6. Natural Features: The design of the PUD is as consistent as practical with the preservation of natural features of the site such as flood plains, wooded areas, steep slopes, natural drainage ways, or other areas of sensitive or valuable environmental character.
7. Circulation: Streets, sidewalks, pedestrian ways, bicycle paths, off-street parking, and off-street loading as appropriate to the planned land uses are provided. They are adequate in location, size, capacity, and design to ensure safe and efficient circulation of automobiles, trucks, bicycles, pedestrians, fire trucks, garbage trucks, and snow plows as appropriate without blocking traffic, creating unnecessary pedestrian-vehicular conflict, creating unnecessary through traffic within the PUD, or unduly interfering with the safety or capacity of adjacent streets.
8. Open Space and Landscaping: The quality and quantity of public and common open spaces and landscaping provided are consistent with the higher standards of design and amenity required of a PUD. The size, shape, and location of a substantial portion of total public and common open space provided in residential areas render it useable for recreation purposes. Open space between all buildings is adequate to allow for light and air, access by fire fighting equipment, and for privacy where walls have windows, terraces, or adjacent patios. Open space along the perimeter of the development is sufficient to protect existing and permitted future uses of adjacent property from adverse effects from the development:
9. Covenants: Where individual parcels are to be later sold, adequate provision has been made in the form of deed restrictions, homeowners or condominium associations, or the like for:
 - a. the preservation and maintenance of any open spaces, thoroughfares, utilities, water retention or detention areas, and other common elements not to be dedicated to the City or another public body
 - b. such control of the use and exterior design of individual structures,

if any, as is necessary for continuing conformance to the PUD Plan, such provision to be binding on all future ownership.

10. Public Services: The land uses, intensities, and phasing of the PUD are consistent with the anticipated ability of the City, the school districts, and other public bodies to provide and economically support police and fire protection, water supply, sewage disposal, schools, and other public facilities and services without placing undue burden on existing residents and businesses.
11. Phasing: Each development phase of the PUD can, together with any phases that preceded it, exist as an independent unit that meets all of the foregoing criteria and all other applicable regulations herein even if no subsequent phase should ever be completed. The provision and improvement of public or common area improvements, open spaces, and amenities--or the provision of financial sureties guaranteeing their improvement--is phased generally proportionate to the phasing of the number of dwelling units or amount of non-residential floor area.

17-10 Swimming Pools

17-1001 Restrictions and Limitations

1. Swimming pools with a depth of 2 feet or greater shall not be erected nearer to the side and rear lot lines than the standard setback requirements for the zoning district.
2. No swimming pool will be permitted forward of the front line of the house. Corner lots are considered double frontage.
3. No swimming pool, deck/lounge area, or walkway associated with the swimming pool shall be located under power lines.
4. All gates shall be securely locked with a key, combination or other proof locks sufficient to prevent access to the swimming pool through such gate when the swimming pool is not in use or supervised.
5. Gates installed for access to the property or pool area shall be equipped with a closing and latching device to protect against uncontrolled access to the property.
6. Failure to maintain fences, failure to have gates locked, or failure to either remove or retract the ladder access to the pool shall constitute a violation of the Zoning Ordinance and therefore be subject to the penalties contained herein.
7. Any structure erected in connection with a swimming pool or a swimming pool constructed below ground/grade level shall require a building permit and conform to all adopted building code standards.
8. The owner and/or the occupant of real property upon which there is a swimming pool having a depth of two feet or greater shall construct and maintain a security fence of not less than four feet or otherwise properly secure and restrict access to such pool in a manner approved by the Zoning Administrator.

ARTICLE 18

AREAS OF INFLUENCE

Sections:

18-1. Areas of Influence

Section 18-1. Areas of Influence

- 18-101** Contingent upon approval by the Attorney General of Kansas pursuant to K.S.A. 12-2904(f), the City of Herington and Dickinson County and Morris County may enter into an Interlocal Agreement providing for the joint exercise of zoning and subdivision powers within designated areas adjacent to city boundaries.
- 18-102** The Interlocal Agreement shall create an Area of Influence Joint Planning Commission consisting of three members of the City Planning Commission and three members of the Dickinson County Planning Board, or three members of the Morris County Planning Board.

ARTICLE 19

CONDITIONAL USES

Sections:

19-1. Application of Conditional Uses

19-2. Conditional Uses Enumerated

19-3. Continuance of a Conditional Use

Section 19-1. Application of Conditional Uses

19-101 Recognizing that certain uses may be desirable when located in the city, but that these uses may be incompatible with other uses permitted in a district, certain Conditional Uses listed herein, when found to be in the interest of the public health, safety, morals, and general welfare of the community, may be permitted by Conditional Use Permit, except as otherwise specified, **in** any district from which they are prohibited.

19-102 Before the location or establishment of, or before any changes in a Conditional Use Permit, the application procedures, conceptual plan requirements and public hearing requirements of these regulations shall be followed.

19-103 The Planning Commission may, within the specifications herein provided, permit such buildings, structures, or uses where requested. In considering any application for a conditional use permit, the Planning Commission shall give consideration to _the health, safety, morals, comfort and general welfare of the inhabitants of the City of Herington, including but not limited to the following factors:

- a. The stability and integrity of the various zoning districts;
- b. Conservation of property values;
- c. Protection against fire and casualties;
- d. Observation of general police regulations;
- e. Prevention of traffic congestion;
- f. Promotion of traffic safety and the orderly parking of motor vehicles;
- g. Promotion of the safety of individuals and property;
- h. Provision for adequate light and air;
- i. Prevention of overcrowding and excessive intensity of land uses;
- j. Provision for public utilities and schools;
- k. Invasion by inappropriate uses;
- l. Value, type and character of existing or authorized improvements and land uses;
- m. Encouragement of improvements and land uses in keeping with overall planning; and
- n. Provision for orderly and proper renewal, development and growth.

In this regard the Planning Commission may impose reasonable conditions on the approval of a Conditional Use Permit

Section 19-2. Supplemental Regulations

19-201

In addition to the conditional uses which may be allowed in various zoning districts as set out in Appendix A, the following conditional uses may be approved by the Planning Commission as provided in this section:

1. Quarrying, mining or removal of sand, gravel or stone and the processing of the same, including asphalt and concrete plants, all of which shall be permitted by separate conditional use permits provided:
 - a. All quarries and mining operations and asphalt and concrete plants shall be screened by a method approved by the Planning Commission when the same are visible from any public road.
 - b. The applicant shall provide an approvable method for dust abatement on all unpaved interior roads.
 - c. Where applicable, a maintenance agreement between the applicant and the jurisdiction shall be required to maintain the roads that provide the ingress/egress to the operation.
 - d. A plan for reclamation of the site shall be prepared and submitted as a part of the application. The plan shall indicate a timetable for the reclamation to the proposed use of the site **in** a general plan of the proposed use. The reclamation plan submitted shall be binding only to the extent that said plan shows the intent of the applicant for reclamation. The actual reclamation plan may be amended at such time that the applicant is ready to begin such reclamation; however, the amended plan must be approved by the Planning Commission before reclamation work may begin. Said approval shall require a public hearing under the same procedures as the original Conditional Use Permit.
 - e. All area quarried or mined shall not endanger the lateral support of abutting or adjoining properties. A minimum setback of 100 horizontal feet from any road right-of-way and 30 horizontal feet from all other property lines, measured on the surface, must be maintained free of any quarrying or mining activity, either surface or subsurface.
 - f. No structure, equipment, quarry products or other materials shall be erected or stored within 100 feet of any property or right-of-way line.
 - g. The applicant's operation shall be inspected by the Planning Commission, or its designate, on or before July

1st of every third year following approval of the Conditional Use Permit for compliance with the above listed requirements and if found to be in violation shall have the permit removed if the noncompliance is not corrected within 60 days of written notice from the Planning Commission, or its designate, itemizing the violations and corrective measures necessary for compliance.

2. Kennels, provided:

- a. The kennel occupies a minimum lot size of five acres.
- b. No kennel structure or runs shall be located nearer than 150 feet to any property line.
- c. 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 animals.
- d. The kennel shall have adequate measures to prevent odor, dust noise or drainage from becoming objectionable to uses on other properties. No incineration of animal refuse shall be permitted.
- e. All state licensing and operation requirements are met.
- f. Greyhound facilities shall only be permitted in the Agriculture (A) District.

3. Junk yards or salvage yards, provided:

- a. The junk yard or salvage yard occupies a minimum lot size of 10 acres.
- b. All such uses shall be located at least 300 feet from a property line.
- c. All such uses shall be completely surrounded on all sides by a fence or wall at least eight feet high. The fence or wall shall be of uniform height, uniform texture and color, and shall be so maintained as to insure maximum safety to the public, obscure the junk or salvage from normal view of the public, and preserve the general welfare of the neighborhood. The fence or wall shall be installed in such a manner as to retain all scrap, junk or other materials within the yard. No scrap, junk or other salvaged materials may be piled so as to exceed the heights of this enclosing fence or wall.
- d. No materials shall be loaded, unloaded, or otherwise placed either temporarily or permanently outside the fence or wall.

- e. No junkyard or salvage yard may be placed in a floodplain or flood way.

Section 19-3 Continuance of a Conditional Use

19-301

A Conditional Use Permit shall be allowed to continue, unless specified otherwise as a condition of its authorization, as long as all conditions placed on it are met. If a particular use ceases to exist for a period of six months, it will forfeit its Conditional Use Permit, and will not be allowed to exist again unless a new application is made, a public hearing held as provided for in these regulations, and a new Conditional Use Permit approved.

ARTICLE 20

PROHIBITED AND NONCONFORMING USES

Sections:

20-1. Uses Prohibited

20-2. Nonconforming Uses

Section 20-1. Uses Prohibited

20-101 Designated. No temporary or outwardly incomplete structure or building, no open excavation for a basement or foundation and no building or structure so damaged as to become unfit for use or habitation shall be permitted, maintained or remain in such condition for a period of more than six months, except by conditional permission of the Governing Body upon recommendation by the Planning Commission.

20-102 No structure material, construction equipment, machinery or refuse shall be stored, maintained or kept **in** the open upon any lot, tract or parcel within a residential district, other than during actual construction operations upon said premises or related premises. Provided, the Board of Zoning Appeals may grant an exception to said requirement in unusual cases for a limited lime.

20-103 No Structure or premises now located within the territory of the city nor any structure hereafter erected therein, shall be used or occupied for any of the following purposes:

1. Dump or dumping ground.
2. Sanitary landfill, unless established by Conditional Use Permit.
3. Hazardous or toxic waste incineration landfill or disposal facility.

Section .20-2. Nonconforming Uses

20-201 Application. The provisions of these regulations shall not apply to the existing use of any structures or land and shall not prevent the restoration of a structure damaged not more than 50% of its fair market value by fire, explosion, act of God, or prevent the continuance of the use of such structure or part thereof as such use existed at the time of such damage.

20-202 No such nonconforming use or substantial improvement of that use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

20-203 Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

20-204

A lawful nonconforming use of a structure, structure or land that has been voluntarily discontinued for a period of six consecutive calendar months shall not thereafter be resumed.

ARTICLE 21

SIGN REGULATIONS

Sections:

- 21-1. **Applicability**
- 21-2. **Definitions**
- 21-3. **Permits and Exemptions**
- 21-4. **Sign Standards**
- 21-5. **District Regulations**
- 21-6. **Nonconforming Signs**
- 21-7. **Removal of Obsolete Signs**
- 21-8. **Sign Regulation, Herington Municipal Airport**

Section 21-1. Applicability

- 21-101** The purpose of this section is to protect, preserve, and promote the beauty, safety, and general welfare of the City of Herington by establishing certain minimum standards and procedures for the erection of signs in various zoning districts. Any sign shall, by definition, be a structure. No land or building or structure shall be used for sign purposes except as provided in these regulations.

Section 21-2. Definitions.

Sign Definitions.

1. Advertising Sign: A sign which attracts attention to a business, commodity, service or activity offered at the location at which the sign is also located.
2. Agriculture Sign: A sign displayed by a property owner on land or structures owned by said property owner that directs attention to an agricultural use or purpose as defined in these regulations.
3. Billboard Sign: An illustration, generally known as outdoor advertising, mounted on a semi-permanent structure that depicts information not directly related to the property on which it is located.
4. Detached Sign: Any sign located on the ground or on a structure located on the ground and not attached to a structure.
5. Facade: The principal face or front of a structure.
6. Free-Standing Sign: A sign mounted on a pole or other structure whose primary intended use is the support of the sign, to also include those signs placed upon and supported directly by the ground.

7. Ground Sign: A free-standing sign, not more than five (5) feet in height supported by uprights, braces, columns, poles or other vertical members that are not attached to a structure or structure.
8. Identification Sign: A sign containing the name and/or address of a structure, site or activity. Such signs may also contain a trademark or other recognized commercial symbol.
9. Indirectly Illuminated Sign: Any sign that is partially or wholly illuminated at any time by a light source that is shielded so as not to be visible at eye level.
10. Internally Illuminated Sign: Any sign illuminated by diffused light through a translucent material so that the light source is not directly discernable.
11. Marquee Sign: A sign attached flat against or under the marquee or permanent sidewalk canopy of a structure but not on the upper structure of a marquee or canopy.
12. Memorial Sign/Tablet: A sign cut into the masonry or rock surface that is a part of the structure, or a bronze or similar material tablet inset into such structure stating the name of the structure and/or the date of erection.
13. Monument Sign: A detached sign where the width of the base of the sign is at least one-half (1/2) the width of the widest part of the sign face or where the base consists of two (2) or more supports where the sign face is not more than two (2) feet above the average grade of the ground. The materials of the base shall be one of the following: masonry, wood, anodized metal, stone, or concrete. A monument sign shall harmonize with the architecture of the structure or complex it serves and be constructed of materials consistent with the same.
14. Nonconforming Sign: Any sign that does not comply with the standards, regulations, or restrictions of these zoning regulations.
15. Non-illuminated Sign: A sign that is not directly, indirectly or internally illuminated.
16. Off-Premises Advertising Sign: A sign which attracts attention to a business, commodity, service or activity offered at a location other than that where the sign is located.
17. Outdoor Advertising: Any device for visual communication which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered on the premises or elsewhere than on the premises; used for the purpose of bringing the subject thereof to the attention of the public, excluding however, an flag, badge, or insignia of any government agency or

any civic, charitable, religious, patriotic, fraternal, or similar organization.

18. **Permanent Sign**: Any sign that is fixed, continuing, lasting, stable, enduring, not subject to change, and generally opposed to "temporary", but not always meaning "perpetual".
19. **Political Sign**: Any sign supporting or opposing candidates for public office or measure on election ballots.
20. **Portable Sign**: A sign not permanently affixed to a structure or the ground and which is designed to be easily transported.
21. **Projecting Sign**: Any sign extending more than one (1) foot from the face of the structure to which it is attached. A time and/or temperature instrument mounted on the face of a structure shall be included in this definition.
22. **Roof Sign**: A sign mounted or located on a roof of a structure with the intended primary use of the structure being other than to support signage. A roof sign may also include a sign located on an awning, canopy, or marquee located upon the principal structure.
23. **Sign Area**: The entire area within a single continuous perimeter enclosing all elements of the sign which form an integral part of the display including the perimeter border. Signs with more than one face shall be calculated as on face only.
24. **Snipe Sign**: Any sign of a material such as cardboard, paper, pressed wood, plastic or metal which is attached to a fence, tree, utility pole or temporary structure, or any sign which is not securely fastened to a structure or firmly anchored to the ground.
25. **Temporary Sign**: Any sign that is not a permanent sign.
26. **Time and/or Temperature Instruments**: A sign displaying only time and/or temperature information with no additional advertising or comments other than the name of the company or organization which owns the sign. Depending on their design and placement, such instruments shall be considered wall, marquee, projecting, or monument signs.
27. **Wall Sign**: Any sign attached flat against the surface of a wall, facade or canopy of a structure but not projecting horizontally from the vertical surface more than one (1) foot or above the vertical surface. Wall signs include signs painted on the walls of structures.
28. **Window Sign**: Any sign that is displayed in, attached to or applied to the exterior or interior of any transparent glass or acrylic surface that could be considered a window.

Section 21-3. Permits and Exemptions.

21-301 Permits: Except for normal maintenance and for those signs identified in these regulations as exempt no new sign shall be painted, constructed, installed, erected, remodeled, relocated or enlarged until a sign permit has been obtained from the office of the Zoning Administrator.

21-302 An application for said permit shall be filed with the required fee and shall contain an approved legal description for the property on which the proposed sign is to be erected; a scaled drawing showing property dimensions, setbacks, locations and dimensions of existing signage, and the proposed locations and dimensions of new signage; and a scaled drawing of the proposed sign, including all elements.

21-303 All applications for free-standing signs of 80 square feet and over and of 30 feet in height and above shall be accompanied by engineering specifications as to dead load and wind load design. Minimum wind load design shall be 30 lbs./ft. of sign area or greater.

21-304 Exempt Signs: The following stationary and non-illuminated signs shall be exempt from the requirements of this article:

1. Flags, emblems and temporary announcements signs of a governmental or political, philanthropic, educational or religious organization.
2. Athletic scoreboards.
3. Political signs for a candidate or an issue on a ballot displayed for not more than 45 days preceding an election, not to exceed 16 square feet in area. Such signs shall be removed within two days after the date political signs advocating the election of a candidate or an issue on an election ballot of a general election.
4. Address numerals, directional and traffic signal signs required by governmental rule, which may be illuminated.
5. Signs of a duly constituted governmental body or other quasi-public body or public utilities, including traffic or similar regulatory sign, legal notices, warnings at railroad crossing and other instructional or regulatory signs having to do with health, safety, parking, swimming, dumping, etc.;
6. Memorial signs and tablets displayed on private property;
7. Signs, not exceeding six 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;

- 21-305** Issuance of permit: If in the opinion of the Zoning Administrator the application meets the requirement of this section, a sign permit shall be issued. If the work authorized by such permit is not started within 120 days from the date of its issuance, such permit shall become null and void.
- 21-306** Permit Revocation: If the Zoning Administrator shall find that any sign subject to these regulations is unsafe or insecure; is a menace to the public; has been constructed or erected or is being maintained in violation of the provisions of these regulations, written notice shall be given to the person or entity in possession and control of the premises on which the sign is located, specifying the problem. If such person fails to remove or alter the sign so as to comply with the provisions of these regulations within 30 days of such notice, the Zoning Administrator may cause such sign to be removed or altered to comply with these regulations at the expense of the permittee or owner of the property on which said sign is located. If in the opinion of the Zoning Administrator a sign is an immediate hazard to the public health, safety, or welfare, the Zoning Administrator may cause the sign to be removed immediately and without notice.
- 21-307** Permit Renewal: Sign permits shall be valid for a period of one year and may be renewed by the applicant on an annual basis.
- 21-308** Signs Not Requiring Permits: The following types of signs shall be exempt from the permit requirements of this section, but shall be in conformance with all other requirements of these regulations.
1. Public street name signs; traffic control signs, legal notices; rezoning signs; railroad crossing signs/ danger, temporary warning and emergency signs.
 2. Signs required or specifically authorized by statute or local regulations or codes.
 3. In residential districts, one temporary "For Sale", "For Lease", "Open House", "Estate Sale", or "Garage Sale" sign per property lot that is non-illuminated and not more than six square feet in area, and not more than three feet in height.
 4. In nonresidential districts, one temporary "For Sale" or "For Lease" sign per structure that in non-illuminated and not more than 36 square feet in area, and not more than five feet in height.
 5. In commercial districts, temporary indoor window signs.
 6. Agricultural signs.

7. Such additional signs as "No Hunting", "No Fishing", "No Trespassing" and other like signs, not to exceed six square feet in area.

Section 21-4. Sign Standards.

21-401 Standards.

- a. Gross Area of Sign:
 1. 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 it shall also 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 permitted by this regulation.
 2. For computing the gross area of any wall sign which consists 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.
 3. No illuminated signs shall be located in any residential district, except exempt signs.
- b. Sign Height shall be measured from the ground level at the base of or below 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
 2. Lighted signs in direct vision of a traffic signal shall not be in red, amber or green illumination.
 3. No illuminated signs shall be located in any residential district, except exempt sign.
- d. No sign shall be attached to a public utility pole on public or private property except governmental signs.
- e. No sign shall be erected or maintained at any location where, by reason of its position, size, shape or color, it may obstruct or interfere with the view of any traffic control sign or device, or where it may confuse or obstruct traffic.

- f. Replacement of support posts or other structural supports shall constitute removal of the sign, and its replacement shall be in conformance with the provisions of this article.
- g. Signs accessory to a principal use with a legally nonconforming front yard setback need not have setbacks in excess of that of the principal structure.
- h. Flashing or Moving Signs: Any illuminated sign on which the artificial light is not constant in intensity and color at all times. For the purpose of this regulation, any revolving, rotating, moving, animated, signs with moving lights, or signs which create the illusion of movement shall be considered as a flashing sign.
 - 1. Flashing signs shall not be permitted which are in any way similar to traffic signals or emergency vehicle lights; and
 - 2. A sign whereon the current time and/or temperature is indicated by intermittent lighting shall not be deemed as a flashing sign if the lighting changes are limited to the numerals indicating the time and/or temperature and are not more frequent than every 15 seconds.
- i. Access way or Window: No sign shall block any required access way or window.
- j. Signs on Trees or Utility Poles: No signs shall be attached to a tree or utility pole whether on public or private property.
- k. Metal Signs: Signs constructed of metal and illuminated by any means requiring internal wiring or electrically wired accessory fixtures attached to a metal sign shall maintain a free clearance to grade of nine feet. Accessory lighting fixtures attached to a non-metal frame sign shall also maintain a clearance of nine feet to grade. No metal ground sign shall be located within eight feet vertically and four feet horizontally of electric wires or conductors in free air carrying more than 48 volts, whether or not such wires or conductors are insulated or otherwise protected.
- l. Traffic Safety
 - 1. No sign shall be maintained at any location where, by reason of its position, size, shape or color, it 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 feet of a driveway or within a parking area shall have its lowest elevation at least 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.

3. Under no circumstances shall any sign be placed in the sight triangle as defined by this regulation.

m. 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 one street, the lineal street frontage shall be computed as follows:

1. For those tracts or parcels located on major streets as designated in the Major Street Plan of the Comprehensive Plan, the lineal street frontage shall be the distance of that property line abutting the major street; and
2. For those tracts or parcels not located on a major street, the lineal street frontage shall be one-half the sum of all the street frontages.

Section 21-5. District Regulations.

21-501 The following signs shall be allowed by permit in the Agricultural (A) District:

1. Types Permitted:
 - a. Advertising signs, providing they conform with State statutes;
 - b. Bulletin board signs;
 - c. Business signs, pertaining only to the sale of agricultural product produced on the premises, home occupations and conditional uses;
 - d. Construction signs;
 - e. Identification signs;
 - f. Name plate signs; and
 - g. Real estate signs.
2. Structural Types Permitted:
 - a. Pole signs;
 - b. Wall signs; and
 - c. Ground signs.
3. Number of Signs Permitted: One sign per 660 feet of frontage.
4. Maximum Gross Area:
 - a. Advertising signs: 600 square feet per sign;
 - b. Bulletin board and identification signs: 24 square feet;
 - c. Business signs:

- (1) home occupation - 2 square feet;
- (2) agricultural - 20 square feet;
- d. Construction signs: 20 square feet;
- e. Name plate signs: 2 square feet; and
- f. Real estate signs: 12 square feet.

- 5. Maximum Height: 50 feet.
- 6. Required Setbacks: No sign shall overhang the property line and advertising signs shall observe a setback of 100 feet or more, if required by state or federal law.
- 7. Illumination: Advertising signs and bulletin boards, and Identification signs that do not exceed 12 square feet on one face, for churches, hospitals, police stations, fire stations and other similar public facilities, may be illuminated.

21-502

The following signs shall be allowed by permit in any residential zone district (RS, R-1, R-2, R-3, R-4 and MHP);

- 1. Types Permitted:
 - a. On-premises business signs pertaining to a home occupation and subject to the sign requirements of the home occupation section of this regulation;
 - b. Bulletin board signs;
 - c. Construction signs;
 - d. Identification signs;
 - e. Name plate signs; and
 - f. Real estate signs.
- 2. Structural Types Permitted:
 - a. Ground signs; and
 - b. Wall signs.
- 3. Structural Types Not Permitted:
 - a. Free standing pole signs.
- 4. Maximum Size Permitted: Two square feet, except:
 - a. Multiple-family apartments with six or more units and, mobile home parks may be identified with one identification sign not more than 24 square feet in area and may have one sign per street frontage.
 - b. Permitted and exception non-residential uses, excluding home occupations, may be identified with one advertising sign not to exceed 18 square feet in area.
 - c. Business signs - home occupations: 2 square feet;
 - d. Bulletin board and identification signs: 100 square feet;
 - e. Construction signs: 20 square feet;

- f. Name plate signs: 2 square feet; and
 - g. Real estate signs; 6 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.
5. Maximum Height: 10 feet *above* ground.
6. Minimum Setbacks:
- a. Affixed to the front wall of the principal structure.
 - b. For permitted and exception non-residential uses, 10 feet from the front yard property line.
 - c. Multiple-family apartments with six or more units and mobile home parks, 10 feet from each front yard property line.
 - d. All signs shall comply with the minimum side and rear yard setbacks for principal structures.
7. Illumination: No illuminated signs shall be allowed in any residential district.

21-503

The following signs shall be allowed by permit in the Office Transition and Neighborhood Commercial (B-1: B-2) Districts:

1. Types Permitted:
- a. Advertising signs;
 - b. Bulletin board signs;
 - c. Business signs;
 - d. Construction signs;
 - e. Identification signs;
 - f. Name plate signs; and
 - g. Real estate signs.
2. Structural Types Permitted:
- a. Awning, canopy or marquee signs;
 - b. Ground signs;
 - c. Projecting signs;
 - d. Roof signs; and
 - e. Wall signs.
3. Number Permitted: One sign affixed to the wall of the principal structure and one free-standing sign, or two wall signs.
4. Maximum Size Permitted: Not to exceed 40 square feet.
5. Minimum Height: 25 feet.

6. Minimum Setbacks: 10 feet from any front property line and not less than the district provisions require for a principal structure for side and rear yard setbacks.
7. Illumination: Illuminated non-flashing signs shall be permitted.

21-504

The following signs shall be allowed by permit in the Highway Business (B-3) District:

1. Types Permitted:
 - a. Advertising signs;
 - b. Bulletin board signs;
 - c. Business signs;
 - d. Construction signs;
 - e. Identification signs;
 - f. Name Plate signs; and
 - g. Real estate signs.
2. Structural Types Permitted:
 - a. Awning, canopy or marquee signs;
 - b. Ground signs;
 - c. Pole signs;
 - d. Projecting signs;
 - e. Roof signs; and
 - f. Wall signs.
3. Number of Signs Permitted:
 - a. Awning, canopy or marquee signs and wall signs: No limitations;
 - b. Ground signs and pole signs: Two per zoning lot;
 - c. Projecting signs: One per zoning lot; and
 - d. Roof signs: One per zoning lot.
4. Maximum Gross Surface Area: Four square feet for each lineal foot of street frontage, provided no single sign shall exceed a gross surface area of 600 square feet.
5. Maximum Height: 30 feet
6. Required Setback: None, except that advertising signs shall maintain the same setback that is required for principal structures.
7. Illumination: Illuminated signs shall be permitted.
8. A conditional use permit is required for a sign permit in the B-3 Highway Business District **(Commercial Drive Only)**

21-505

The following signs shall be allowed by permit in the General Commercial (B-4) District:

1. Types Permitted:
 - a. Advertising signs;
 - b. Bulletin board signs;
 - c. Business signs;
 - d. Construction signs;
 - e. Identification signs
 - f. Name plate signs; and
 - g. Real estate signs.

2. Structural Types Permitted:
 - a. Awning, canopy or marquee signs;
 - b. Ground signs;
 - c. Pole signs;
 - d. Projecting signs;
 - e. Roof signs; and
 - f. Wall signs.

3. Number Permitted: Control by permitted footage.

4. Maximum Size: Three square feet of signage per lineal foot of street frontage, not to exceed a gross surface area of 600 square feet.

5. Maximum Height: Thirty-five feet above ground.

6. Minimum Setbacks: Ten feet from any front property line and not less than the district provisions require for a principal structure for side and rear yard setbacks..

7. Illumination: Illuminated and flashing signs shall be permitted.

21-506

The following signs shall be allowed by permit in the General Commercial (B-5) District:

1. Types Permitted:
 - a. Advertising signs;
 - b. Bulletin board signs;
 - c. Business signs;
 - d. Construction signs;
 - e. Identification signs
 - f. Name plate signs; and
 - g. Real estate signs.

2. Structural Types Permitted:
 - a. Awning, canopy or marquee signs;

- b. Ground signs;
- c. Pole signs;
- d. Projecting signs;
- e. Roof signs; and
- f. Wall signs.

- 3. Number Permitted: No Limitations.
- 4. Maximum Size: Three square feet per linear foot of frontage.
- 5. Maximum Height: Thirty-five feet above ground.
- 6. Minimum Setbacks: No minimum, except no private sign extending over public property shall be closer than three feet from the back of any public street curb.
- 7. Illumination: Illuminated and flashing signs shall be permitted

21-507

The following signs shall be allowed by permit in the Light Industrial (1-1) and Heavy Industrial (1-2) Districts:

- 1. Types Permitted:
 - a. Advertising signs;
 - b. Bulletin board signs;
 - c. Business signs;
 - d. Construction signs;
 - e. Identification signs;
 - f. Name plate signs; and
 - g. Real estate signs.
- 2. Structural Types Permitted:
 - a. Awning, canopy or marquee signs;
 - b. Ground signs;
 - c. Pole signs;
 - d. Projecting signs;
 - e. Roof signs; and
 - f. Wall signs.
- 3. Number Permitted: One sign affixed to the wall of the principal structure and one free-standing sign, or two wall signs.
- 4. Maximum size: 150 square feet for the zoning lot, plus one square foot for each 200 square feet of principal structure area over 5,000 square feet.
- 5. Maximum Height: 50 feet above ground.
- 6. Minimum Setbacks: 10 feet from any front property line, and not less than the district provisions require for a principal structure for side and rear yard setbacks.

7. Illumination: Illuminated and flashing signs shall be permitted.

21-508

All Districts:

1. Temporary functional signs shall be permitted in any yard setback, but not on public property.
2. Portable structural signs shall not exceed 40 square feet in area and shall maintain a five foot minimum setback in all yards. One portable sign may be located on a zoning lot for not more than 30 days in each six-month period. Portable sign area shall be included in the total sign area otherwise allowable for tract.

Section 21-6. Nonconforming Signs.

21-601

Every sign in existence at the time these regulations become effective may continue in existence subject to the following:

1. An existing sign shall not be altered structurally or moved unless it is made to comply with the provisions of these regulations. However, the changing of the movable parts of an existing sign that is designed for such changes, or the repainting or reposting of display matter shall not be deemed a structural alteration.
2. The lawful use of a sign existing on the effective date of these regulations, although such sign does not conform to the provisions hereof, may continue; but if such nonconforming use is discontinued for a period six consecutive months, any future use of such sign shall be in conformity with the provisions of these regulations.
3. No sign which has been damaged by fire, wind, explosion, or other act of God to the extent that 50% or more of the sign is destroyed, shall be restored except in conformity with these regulations. Any sign which has been damaged to an extent less than 50% may be restored to its condition which existed as a nonconforming use prior to its damage.

Section 21-7. Removal of Obsolete Signs.

21-701

If a building, structure or premise is vacated for a 6-month period of time, the owner of said property shall be responsible for removing any commercial sign or signs located thereon with the exception of advertisements dealing with the sale or leasing of the facility. In addition, the owner shall be responsible for restoring the facade of the building, structure or premise to its normal appearance.

21-702 If the time period set forth in subsection A has elapsed and the sign or signs have not been removed, the Zoning Administrator shall send written notification by certified mail, return receipt requested, to the property owner of record of record indicating that the sign shall be removed. If the sign has not been removed within 30 days after the receipt of the notice, the Zoning Administrator may have the sign removed and the cost assessed to the property owner.

21-703 Where sign has been removed by the Zoning Administrator pursuant to the subsection 22-702, the Zoning Administrator shall mail a statement of the cost of removal of said sign or signs to the last known address of the owner of record or person in charge of such property. If such costs are not paid within 10 days from the mailing of such notice, the Zoning Administrator shall proceed to pass an ordinance levying a conditional assessment for such cost against the lot or piece of land and the City Clerk shall certify such assessment to the County Treasurer for collection and payment the same as other assessments and taxes are collected and paid to the City.

Section 21-8. Sign Regulation, Herington Municipal Airport

21-801 **General Signage.** One free standing sign per business parcel shall be allowed at the airport not to exceed four (4) feet in height measured from the average grade of the lot but not in any vision triangle (15 ft). One flat wall sign per business not to exceed three feet sign face per lineal foot of building frontage shall be permitted. No signs may protrude from the face of the building more than ten inches.

21-802 **Lighting of Signs.** No flashing, rotating or otherwise moving lights shall be allowed on the airport property.

21-803 **Highway Identification.** No advertising may be placed on the sign at County Road 2600 and Highway 56. Directional panels will be placed by the airport.

21-804 **Other Signage.** Other signage may be permitted as a conditional only.

ARTICLE 22

OFF STREET PARKING AND LOADING REGULATIONS

Sections:

- 22-1. **Applicability**
- 22-2. **General Provisions**
- 22-3. **Layout and Design Requirements**
- 22-4. **Plans and Approval Required**
- 22-5. **Required Off-Street Parking**
- 22-6. **Loading and Unloading Regulations**

Section 22-1. Applicability

- 22-101** Off-street parking and loading space, as required in this section, shall be provided for all new buildings and structures or additions thereto. Off-street parking and loading space shall be required for an existing building 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 space previously required shall not be used to satisfy required off-street parking for any new structures or additions to existing buildings, structures, or uses of land. Such existing parking space shall be maintained and shall not be reduced so long as the main building, structure or use remains, unless an equivalent number of such spaces are provided elsewhere as provided in this section. Except that no off-street parking or loading space shall be required for any use located in "B-5" Central Business District.

Section 22-2. General Provisions.

- 22-201** 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.
- 22-202** Residential Districts: Off-street parking spaces required by these regulations shall be provided in other than the front yard in all residential 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 or asphalt drives when located within the required front yard.

22-203 Accessory Use:

1. Off-street parking shall be considered as an accessory use to 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 section relating to off-street parking exceptions.
2. In no instance shall off-street parking required by this section be located more than 300 feet (as measured along lines of public access) from the use which it serves.

22-204 Repair and Service: No motor vehicle repair work or service of any kind shall be permitted in association with any off-street parking facilities.

Section 22-3. Layout and Design Requirements.

22-301 Area: The required off-street parking space shall be minimum of 180 square feet, but in no circumstances less than 9 feet in width.

22-302 Access: 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.

22-303 Design: Off-street parking spaces shall comply with such 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 section.

22-304 Surfacing: All open off-street driveways, parking and loading areas shall be graded and shall be of any of the following materials: hot-mix asphalt, cold-mix asphalt, concrete, calcium chloride, chip seal, washed concrete rock, river wash, gravel, or any other material approved by the Zoning Administrator.

22-305 Lighting: Any lighting used to illuminate off-street parking and loading areas shall be directed away from any adjacent dwelling or dwelling district.

Section 22-4 Plans and Approval Required.

22-401 Plans showing the layout and design of all required off-street parking and loading areas shall be submitted and approved by the Zoning Administrator. Before approving any parking layout, the Zoning Administrator shall satisfy himself or herself that the spaces provided are usable and meet standard design criteria contained herein. All required off-street parking spaces shall be clearly marked.

Section 22-5. Required Off-Street Parking.

22-501 Off-street parking spaces shall be provided as follows:

a. Dwelling and Lodging Uses:

1. Boarding and rooming houses: One parking space per each three sleeping rooms.
2. Elderly Housing: One parking space per dwelling unit;
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. Mobile home parks: Two parking spaces per each mobile home;
5. Nursing homes, rest homes, and similar facilities: One parking space per each five beds based on the designed maximum capacity of the structure, plus one parking space for each employee;
6. Single-family: Two spaces per dwelling unit; and
7. Two-family and multiple-family: Two spaces per dwelling unit.

b. Business, Commercial, and Industrial Uses:

1. Automobile, truck, recreation vehicle and mobile 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: Five 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: Five 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 sales area;

9. Manufacturing, production, processing, assembly, disassembly, cleaning, servicing, testing or repairing of goods, materials or products: One space per three employees based upon the largest working shift in any 2-hour time period.
10. Medical and dental clinics or offices: One parking space for each 100 square feet of gross floor area;
11. Restaurants, private clubs and taverns: One parking space for each 2.5 seats based on the maximum designed seating capacity; provided, however, that drive-in restaurants shall have a minimum of at least 10 parking spaces;
12. Retail stores and shops: One space per 200 square feet of floor sales area;
13. Service stations: One parking space for each employee during the largest shift 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 designed maximum capacity of the structure;
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. Convenience stores: One space per 100 square feet of total floor area; provided, however, that convenience stores shall have a minimum of at least 10 parking spaces; and
18. 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 four 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 each two 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. Laundromats: One space for each two washing machines;
6. Nursery schools and day care centers, public or private: One parking space for each employee;
7. Fraternal associations and union headquarters: One parking space for each three seats based upon the designed maximum seating capacity;
8. Trade and commercial schools: One parking space for each three students and employees.

Section 22-6. Loading and Unloading Regulations.

22-601

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

ARTICLE 23

AMENDMENT PROCEDURE

Sections:

- 23-1 General Authority and Procedure**
- 23-2 Fees for Rezoning**
- 23-3 Conceptual Plans**
- 23-4 Receipt of Rezoning Application**
- 23-5 Public Hearing Before Planning Commission**
- 23-6 Action by Planning Commission and Governing Body**
- 23-7 Conditional Use Permits**
- 23-8 Limitations on Reapplications for Amendments**
- 23-9 Limitation on Land Use**

Section 23-1. General Authority and Procedure

- 23-101** The Governing Body may, from time to time, amend, supplement, or change, the boundaries of the districts or the regulations herein established.
- 23-102** A proposal for an amendment or change in zoning may be initiated by the Governing Body, the Planning Commission, and if the proposed amendment is not a general revision of the existing regulations and affects specific property, upon application of the owner of the property affected or a duly authorized agent.
- 23-103** An application for an amendment or change in zoning initiated by a property owner shall be made to the Planning Commission upon appropriate forms available from the Zoning Administrator. Such application shall be made at least 45 days prior to a regularly scheduled Planning Commission meeting.
- 23-104** All proposed amendments to the zoning regulations or zoning changes shall first be submitted to the Planning Commission for recommendation and report, and no amendment or change shall be made without a public hearing before the Planning Commission.

Section 23-2. Fees for Rezoning

- 23-201** A fee, in the amount adopted by ordinance of the Governing Body, shall accompany an application for rezoning which shall include the cost of publication notice.
- 23-202** No fee shall be required if the zoning change is requested by the Planning Commission or the Governing Body. No fee shall be required if the Planning Commission or Governing Body instigates an amendment to the zoning regulations that will not affect specific property.

Section 23-3. Receipt of Rezoning Applications

- 23-301** Immediately upon receipt of such rezoning application, the Zoning Administrator shall note thereon the date filing, and make a permanent record thereof.
- 23-302** The Zoning Administrator shall have the authority to certify a rezoning application as complete or incomplete. If a rezoning application is certified as complete, then the Zoning Administrator shall place said application on the Planning Commission's agenda for consideration. If a rezoning application is certified as incomplete, then the Zoning Administrator shall return the application to the applicant with a written explanation of his or her determination. The applicant may reapply and pay another filing fee, or may appeal the Zoning Administrator's determination to the Board of Zoning Appeals.

Section 23-4. Public Hearing Before Planning Commission

- 23-401** All proposed changes shall first be submitted to the Planning Commission for recommendation and report, and no amendment or change shall be made without a hearing before the Planning Commission. The Planning Commission shall cause an accurate written summary to be made of the proceedings.
- 23-402** Public notice of such hearing shall be published by the applicant not less than 20 days prior to the date of said hearing in the official newspaper. Said notice shall notify the public that such a hearing will take place; fix the time and place for the hearing; describe the nature of the application which will be presented; and state that the public may attend and be heard. When the proposed change is not a general revision of an existing zoning regulation and will affect specific property, such property shall also be designated by legal description. Proof of publication of such notice shall be filed with the Planning Commission in advance of said hearing.
- 23-403** In addition to the publication notice, if the proposed amendment is not a general revision of an existing zoning ordinance and will affect specific property, the City shall be responsible for mailing written notice of such proposed change within 20 days to all owners of property which is located within 200 feet in an incorporated area of the area affected. For the purpose of this section, notice shall extend one thousand 1,000 feet in those areas where the notification area extends in unincorporated areas. Such mailed notice shall be given by first class mail, and shall be in letter form stating the time and place of the hearing, a general description of the proposal, the legal description of the property subject to the proposed change, and a statement explaining that the public may be heard at the public hearing and that within 14 days after the conclusion of the public hearing property owners within the area of notification of the property proposed for change shall have the opportunity to submit a protest petition, in conformance with the law, to be filed in the office of the City Clerk. The mailed notices shall be addressed to the owners of the land and not to mere occupants of the land.

23-404 Rezoning applications shall be set down for hearing not later than 60 days from the date of filing the same. Any such hearing may, for good cause, at the request of the applicant or in the discretion of the Planning Commission, be continued. At such hearing, the Planning Commission shall consider the appropriate issues contained in a staff report, including but not limited to the following factors:

1. Character of the neighborhood;
2. The zoning and uses of properties nearby including any changed conditions;
3. The suitability of the subject property to its present and proposed **use**;
4. The extent to which removal of the present zoning will detrimentally affect nearby property;
5. The length of time the subject property has remained vacant as well as nearby vacant land;
6. The relative gain to the public health, safety, and welfare by the destruction of the value of the nearby property as compared to the hardship imposed upon the individual landowner;
7. The recommendations of permanent or professional staff;
8. Change in district classification being consistent with the purposes of these regulations and the proposed district; and
9. Adequacy of street and utilities.

23-405 At the public hearing, an opportunity shall be granted to interested parties to be heard.

23-406 Table of Lesser Change: The following Table of Lesser Change is for the use of the Planning Commission in determining when republication of an application for rezoning is required. This Table of Lesser Change designates what zoning classifications are lesser changes authorized within the published zoning classifications. The Table of Lesser Change lists zoning classifications in descending order from the most restrictive zoning district to the least restrictive zoning district. The Planning Commission may modify, at its discretion, an application for rezoning to a particular district by recommending a rezoning to a district of lesser restriction, as determined by the Table of Lesser Change. However, no such modification by the Planning Commission shall result in a rezoning to a functional classification different than the one applied for (i.e. agricultural, residential, commercial or industrial).

A Agriculture District (most restrictive)

RS	Residential Suburban
R-1	Single-Family Residential District
R-2	Two Family Residential District
R-3	Multi-Family Residential District
R-4	Manufactured Housing District
MHP	Mobile Home Park Residential District

B-1	Office Transition District
B-2	Neighborhood Commercial District
B-3	Highway Business District
B-4	General Commercial District
B-5	Central Business District

1-1	Light Industrial District
1-2	Heavy Industrial (least restrictive)

Section 23-5. Action by Planning Commission and Governing Body

- 23-501** Planning Board Actions: A majority of the members of the Planning Commission shall be required to recommend approval or denial of the amendment to the Governing Body. If the Planning Commission fails to make a recommendation on a rezoning request, the Planning Commission shall be deemed to have made a recommendation of disapproval.
- 23-502** Governing Body Actions: Before acting upon any recommendation of the Planning Commission concerning a revision, modification, or amendment of these zoning regulations, the Governing Body shall set a time and place for a hearing thereon and notify the applicant, the Planning Commission and such other parties as the Governing Body shall deem appropriate.
- 23-503** Recommendation of Approval or Disapproval: When the Planning Commission submits a "recommendation of approval" or a "recommendation of disapproval" of such amendment and the reasons therefore, the Governing Body may adopt such recommendation by resolution, override the Planning Commission's recommendation by a 2/3 majority *vote* of the membership of the Governing Body, or return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove.
- 23-504** If the Governing Body returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new and amended recommendation. Upon the receipt of such recommendation, the Governing Body, by a simple majority, may adopt or may revise or amend and adopt such recommendation, or it may take no further action thereon.
- 23-505** If the Planning Commission fails to deliver a recommendation to the

Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.

23-506 Zoning Amendment to be Reflected on Zoning District Map: If the zoning amendment shall affect the boundaries of any zoning district, the amending ordinance shall define the change or boundary as amended, shall order the Zoning District Map to be changed to reflect the amendment and shall amend the section of the ordinance incorporating said map and shall reincorporate the map as amended.

23-507 Protest Petition: Regardless of whether the Planning Commission approves or disapproves a proposed zoning amendment, if within 14 days after the date of the conclusion of the Planning Commission's hearing, a petition signed by the owners of 20 percent or more of any property proposed to be rezoned, or by owners of 20 percent or more of the total area required to be notified by this Section of the proposed rezoning of a specific property, excluding streets and public ways, is filed in the Office of the City Clerk, the amendment shall not be passed except by at least 3/4 vote of the members of the Governing Body.

23-508 Time of Performance in Rezoning

1. In cases where the Planning Commission and Governing Body deem that time of development is a critical factor in protecting the public welfare in a rezoning action, a time of performance may be included in the rezoning,(ordinance/resolution). Such time allowed for performance shall be reasonable. Such time shall be not less than five years from the date of publication of the rezoning (ordinance/resolution) for all rezonings into districts in which single-family dwellings are allowed and not less than two years from the date of publication of the rezoning (ordinance/resolution) for all rezonings into districts in which single-family dwellings are not allowed. Such (ordinance/resolution) shall clearly state what constitutes performance in each case.

2. If, at the termination of such stipulated period of time performance as required has not occurred, the Planning Commission may, within reasonable time thereafter, publish notice and conduct a public hearing for purposes of determining whether or not a change in zoning to a more restrictive district would, at that time, be in the public interest. The owner of the property in question shall be notified by registered mail of the proposed hearing not less than 20 days prior to the date of the hearing. Other notification and posting as required in this section shall be performed and all proceedings shall be the same as for other rezoning actions.

3. It shall be the purpose of this hearing to hear the owner and other interested parties and make a determination as to which of the following actions would be recommended to the governing body:
 - a. Extend the time of performance to a specified date
 - b. Remove the time of performance
 - c. Rezone the land to another specific district.
4. After the hearing the Planning Commission shall forward its recommendations to the Governing Body. The Governing Body will then act to approve or disapprove the recommended action, consistent with these regulations.

Section 23-6. Conditional Use Permits

23-601 The application, notice, public hearing, and action procedures set forth in this section shall be applicable to all applications for Conditional Use Permits (including both those conditional uses set forth in each district and the conditional uses enumerated in Section 20) unless otherwise specified in these zoning regulations. The protest petition provisions of 24-507 of these regulations shall not apply to conditional use permits.

23-602 Upon approval of a Conditional Use Permit, the Zoning District Map shall be changed in the manner outlined in this Section.

Section 23-7. Limitations on Reapplication for Amendments

23-701 Whenever an application has been made under this section and the application has been denied by the governing body or withdrawn after it has been advertised for public hearing, such application, or one substantially similar shall not be reconsidered for the same property sooner than one year after the previous denial or from the date the application was withdrawn.

23-702 The Planning Commission may waive the limitation in this section for good cause if there is a substantial change in the original application. All requests for an exemption from this section shall be submitted to the Planning Commission 20 days prior to a regularly scheduled meeting of the Planning Commission and shall be included on the agenda for that meeting as an agenda item. If the Planning Commission determines that the application constitutes a substantial change from the original application the item will be advertised and a public hearing will be held at the next regularly scheduled meeting of the Planning Commission.

Section 23-8. Limitation on Land Use

23-801 The Planning Commission and the Governing Body may in the process of rezoning land, with the consent of the applicant, limit the use of the land to one specific use permitted in the district to which the land is rezoned.

ARTICLE 24

BOARD OF ZONING APPEALS

Sections:

- 24-1. Organization
- 24-2. Powers
- 24-3. Hearings
- 24-4. Appeals
- 24-5. Exceptions
- 24-6. Variances
- 24-7. Determination of Board of Zoning Appeals

Section 24-1. Organization

- 24-101** The Board of Zoning Appeals is created and established in accordance with the provisions of K.S.A. 12-741 et.seq. and amendments thereto.
- 24-102** Term: Of the members first appointed, one shall serve for one year, two shall serve for two years, and two shall serve for three years. Thereafter, members shall serve for terms of three years each. Vacancies shall be filled by appointment for the unexpired term.
- 24-103** Compensation: All members of the Board of Zoning Appeals shall serve without compensation.
- 24-104** Officers: The Board of Zoning Appeals shall annually elect one of its members as chair, one of its members as vice-chair, and appoint a secretary who may or may not be a member of the Board.
- 24-105** Rules of Procedure: The Board of Zoning Appeals shall adopt rules in accordance with the provisions of the ordinance creating and establishing such board.
- 24-106** Meetings: Meetings of the Board of Zoning Appeals shall be held at the call of the chair and at such other times as the Board may determine. The Board of Zoning Appeals shall keep minutes of its proceedings, showing evidence presented, findings of fact, decisions and the vote upon each question.
- 24-107** Records: Records of all official actions of the Board of Zoning Appeals shall be kept in the Office of the City Clerk and shall be open to public inspection during reasonable office hours.

Section 24-2. Powers

- 24-201** The Board of Zoning Appeals shall have the following powers:
1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of these zoning regulations.

2. To grant exceptions to these zoning regulations on the basis and in the manner hereinafter provided.
3. To grant variances to these zoning regulations on the basis and in the manner hereinafter provided.

Section 24-3. Hearings

24-301 The Board of Zoning Appeals shall hear an appeal or any other matter referred to it within the time period as provided by the rules of the Board.

24-302 Notice of the time, place and subject of such hearing shall be published once in the official jurisdiction newspaper at least 20 days prior to the date fixed for hearing.

24-303 A copy of said notice shall be mailed by the Secretary of the Board of Zoning Appeals to each party in interest.

Section 24-4 Appeals

24-401 Appeals to the Board of Zoning Appeals may be taken by any person aggrieved, or by any officer of the city or any governmental agency or body affected by any decision of the officer administering the provisions of these zoning regulations.

24-402 Such appeal shall be taken within the time as provided by the rules of the Board of Zoning Appeals, by filing a notice of appeal specifying the grounds thereof and the payment of the fee required therefor.

24-403 The officer from whom the appeal is taken, when notified by the Board of Zoning Appeals or its agent, shall forthwith transmit to said Board all the papers constituting a record upon which the action appealed from was taken.

Section 24-5. Exceptions

24-501 The Board of Zoning Appeals may grant exceptions to the provisions of these zoning regulations in those instances where the Board is specifically authorized to grant such exceptions and only under the terms of such regulations.

24-502 In no event shall exceptions to the provisions of these zoning regulations be granted where the use or exception contemplated is not specifically listed as an exception in such regulations. Further, under no conditions shall the Board of Zoning Appeals *have* the power to grant an exception where conditions of this exception, as established in these zoning regulations by the Governing Body, are not found to be present.

Section 24-6. Variances

24-601 In specific cases, the Board of Zoning Appeals may grant a variance from the specific terms of these zoning regulations which will not be contrary to the public interest and where, owing to conditional conditions, a literal enforcement of the provisions of the same will, in an individual case, result in unnecessary hardship, and provided that the spirit of these zoning regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance, however, shall not permit any use not permitted by these zoning regulations in such district.

24-602 A request for a variance may be granted in such case, upon a finding of the Board of Zoning Appeals that all the following conditions have been met:

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district; and is not created by an action or actions of the property owner or the applicant.
2. That the granting of the variance will not adversely affect the rights of adjacent property owners or residents;
3. That the strict application of the provisions of these zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of these zoning regulations.

24-603 Variance from the Floodplain Regulations: The Board of Zoning Appeals shall have the authority to grant variances from the City of Herington Floodplain Regulations adopted in Section 18-101; provided, however, that in addition to the conditions established in this section, the Board of Zoning Appeals, in passing upon variance applications in the floodplain, shall consider those evaluations, factors, standards, and criteria specified in the City of Herington Floodplain Zoning Regulations.

Section 24-7. Determination of Board of Zoning Appeals

24-701 In exercising the foregoing powers, the Board of Zoning Appeals, in conformity with the provisions of this section 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, may attach appropriate conditions, and may issue or direct the issuance of a permit.

24-702

Any person, official or governmental agency dissatisfied with any order or determination of the Board of Zoning Appeals may bring an action in the district court to determine the reasonableness of any such order or determination. Such appeal shall be filed within 30 days of the final decision of the Board.

ARTICLE 25

MISCELLANEOUS

Sections:

- 25-1. Interpretation and Conflict**
- 25-2. Validity**
- 25-3. Repeal of Existing Regulations, Accrued Rights, Liabilities**
- 25-4. Penalties for Violations; Actions for Enforcement**
- 25-5. Effective Date**

Section 25-1. Interpretation and Conflict

25-101 In interpreting and applying the provisions of these zoning regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by these zoning regulations to interfere with, or abrogate or annul any easement, covenants, or other agreement between parties; provided, however, that where these zoning regulations impose a greater restriction upon the use of structures or premises or upon height of structures, or requires larger open spaces than are imposed or required by other rules, regulations, or by easements, covenants, or agreements, the provision of these zoning regulations shall govern.

Section 25-2. Validity

25-201 Should any section, clause or provision of these regulations be declared invalid or unconstitutional by any court of competent jurisdiction, the same shall not affect the validity of these regulations as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

Section 25-3. Repeal of Existing Regulations and Accrued Rights and Liabilities

25-301 The adoption of these regulations repeals the existing zoning regulations of the City of Herington, Kansas.

25-302 Despite the repeal of regulations existing at the time of adoption of these regulations, nothing contained in these regulations shall affect any rights accrued or liabilities incurred under any previously existing regulations.

Section 25-4. Penalties for Violations; Actions for Enforcement

25-401 Any violation of any provision of these zoning regulations shall be deemed to be a misdemeanor and punishable by a fine of not to exceed \$500 and/or imprisonment for not more than six months for each offense, and each day's violation shall constitute a separate offense.

25-402 The Governing Body or any person, the value or use of whose property is or may be affected by such violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these zoning regulations, and to abate nuisances maintained in violation thereof.

25-403 Whenever any building or structure is or is proposed to be erected, constructed, altered, converted or maintained_ or any building, structure or land is or is proposed to be, used in violation of any zoning regulations, the Governing Body, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violation or to prevent the occupancy of such structure or land.

25-404 Any person, company, corporation, institution, municipality or agency of the state who violates any provision of any regulation relating to floodplain zoning effective under Section 18 shall be subject to the penalties and remedies provided for in this Section.

Section 25-5. Effective Date

25-501 These zoning regulations as originally adopted by Ordinance 1490, of the Governing Body as amended, shall become and are in full force and effect as of July 2, 1996.

APPENDIX A

Land Use Category	Zoning Districts														
	A	AR	RS	RI	R2	R3	MHF	BI	B2	B3	B4	BS	11	12	13
COMMERCIAL/ OFFICE															
Abstracting services								p		p	p	p			
Accounting and bookkeeping services								p		p	p	p			
Accounting, computing and office machines - manufacturing										C	C		p		
Advertising services, direct mail										p	p	p			
Advertising services, general								C	C	p	p	p			
Agricultural chemicals - wholesale														C	
Aircraft and accessories - retail	C													C	C
Alcoholic beverages, beer and wine - wholesale										C	p		p		
Alteration, pressing and garment repair services									C	p	p	p			
Amusement arcade									C	p	p	p			
Animal hospital services	C									C	C		C		
Antiques - retail	C									p	p	p	p	C	
Apparel and accessories - retail										p	p	p	p		
Appliances - sales and retail										p	p	p			
Architectural, engineering and planning - professional services								p		p	p	p			
Armature rewinding services										C	C	C	p	p	
Art galleries and studios	C									p	p	p	p	,	
Automobile and other motor vehicle - sales and retail											p	p	C		
Automobile wash services	C										p	p			
Automobile salvage and scrap metal yards	C													C	
Automobile and other motor vehicle sales and parts											p	p	p	p	
Bait shops	C										p	p		p	
Bakeries											p	p	p		
Bakery products - manufacturing														p	
Banking services										p	p	p	p		
Barber and beauty shop	C									p	p	p	p		
Bicycles - sales and service										p	p	p	p		
Bed and Breakfast	C	C	C	C	C	C		C	C	C	C	C			
Blueprinting and photocopying services								p	p	p	p	p			
P = PERMITTED C = CONDITIONAL USE	A	AR	RS	RI	R2	R3	MHP	BI	B2	B3	B4	BS	11	12	13

APPENDIX A

Land Use Category	Zoning Districts															
	A	AR	RS	RI	R2	R3	MHP	BI	82	83	84	BS	11	12	13	
COMMERCIAL/ OFFICE																
Boat sales, rentals, and repairs	C									p	p	C	p			
Books, magazines and newspapers distributing - wholesale										C			p			
Books, magazines and newspapers - retail									p	p	p	p				
Business and professional offices	C							p		p	p	p				
Bus passenger terminals										p	p	C				
Cameras and photographic supplies - retail									p	p	p	p				
Candy and other confectionary products - manufacturing													p	p		
Candy, nut, and confectionary- retail									p	p	p	p				
Charitable and welfare services										p	p	p				
Civic, social and fraternal associations	C									p	p	p				
Computer sales and services										p	p	p	p			
Construction equipment - retail and rental										p	p		p	p		
Crating and packing serices													p	p		
Credit unions and agricultural, business and personal credit services										p	p	p	p			
Convenience store with retail fuel sales										p	C	C				
Contractor office										p	p	p	p	p		
Contractor material and equipment storage yard	C									C			p	,P		
Day care centers, if not a home occupation	C					C		C	C	C	C	C				
Dental services								p	p	p	p	p				
Department stores - retail										p	p	p				
Direct mail advertising services										p	p	p				
Discount and variety stores										p	p	p				
Dry cleaning and laundering services									C	p	p	p	p			
Electrical contractor services and sales										p	p	p				
Equipment rental and leasing services										p	p	p	p			
Exterminating and disinfecting services										C	C		p	p		
Farm equipment - sales	C									p	p	C	p			
Firearms - sales										p	p	p				
P = PERMITTED C = CONDITIONAL USE	A	AR	RS	RI	R2	R3	MHP	BI	82	83	84	BS	11	12	13	

APPENDIX A

Land Use Category	Zoning Districts													11	12	13	
	A	AR	RS	RI	R2	R3	MHP	BI	B2	B3	B4	BS					
COMMERCIAL/ OFFICE																	
Floor coverings - retail											p	p	p	p			
Florists - retail											p	p	p	p			
Food lockers and storage services												C	C		p	p	
Funeral, mortuary and crematory services												p	p	p			
Furniture - sales and rental												p	p	p			
Fur apparel, hides and skins - sales	C											p	p	p			
Furs (raw), hides and skins - wholesale	C														p	p	
Gasoline service stations - retail												C	C	C			
Gas pressure control stations	C																
Gasoline storage and distribution wholesale												C			C	C	
Gifts, crafts and souvenirs - retail											p	p	p	p			
Groceries - retail												p	p	C			
Hardware - retail												p	p	p	p		
Health and fitness centers											C	p	p	p			
Heating and air conditioning, plumbing contracting services	p											p	p	p	p		
Heating and plumbing equipment and supplies - retail												p	p	p	p		
Hobby shop												C	p	p	p		
Hotels												p	p	C			
Insurance agents and brokers services	C								p			p	p	p			
Insurance carriers												p	p	p	p		
Investment services									p			p	p	p			
Janitorial services												C	p	p	p	p	
Jewelry, retail												p	p	p	p		
Kennels, boarding, see additional requirements	p						C					C					
Kennels, breeding, see additional requirements	p																
Landscape contracting services	p											p	C			p	p
Laundering and dry cleaning services												C	p	p	p	p	
Laundromat												C	p	p	p		
P = PERMITTED C = CONDITIONAL USE	A	AR	RS	RI	R2	R3	MHP	BI	B2	B3	B4	BS	11	12	13		

APPENDIX A

Land Use Category	Zoning Districts														
COMMERCIAL/ OFFICE	A	AR	RS	RI	R2	R3	MHP	BI	B2	B3	B4	BS	11	12	13
Lawn mower repair	p									p	p	p	p		
Legal services								p	p	p	p	p			
Liquor - retail									C	p	p	p			
Lumber and building materials - sales										p	C	C	p		
Machine shop	C												p	p	
Mail order houses - retail													p	p	
Mailing services								p		p	p	p			
Massage services										p	p	p			
Meat market										p	p	p			
Mini-warehouse facilities	C									p	p		p		
Mobile homes - retail										p	p		C		
Monuments - retail										p	p	C	p		
Motels										p	p				
Motorcycles sales										p	p	C			
Motor freight garaging and equipment maintenance													p	p	
Motor freight terminals													p	C	
Musical instruments and supplies - retail									p	p	p	p			
Newspaper publishing and printing										p	p	C	p		
Nursery, greenhouses, and garden supplies	p									p	p		p		
Office supplies and equipment - sales										p	p	p			
Optometrists and optical goods - retail								p		p	p	p			
Paint, glass and wallpaper- retail										p	p	p	p		
Pawn shop										p	p	p			
Petroleum bulk stations and terminals - wholesale													C	C	
Pets and pet grooming - retail									C	C	C	C			
Pharmacy								C		p	p	p			
Photocopying and blue printing services								p		p	p	p	p	p	
Photographic studios, services and sales									p	p	p	p			
P = PERMITTED C = CONDITIONAL USE	A	AR	RS	RI	R2	R3	MHP	BI	B2	B3	B4	BS	11	12	13

APPENDIX A

Land Use Category	Zoning Districts														
	A	AR	RS	RI	R2	R3	MHP	81	82	83	84	BS	11	12	13
COMMERCIAL/ OFFICE															
Physicians' services								p	C	p	p	p			
Plumbing and heating equipment and supplies - retail										p	p	p	p		
Printing, commercial										p	p	C	p		
Private clubs										p	p	p			
Radio and television broadcasting studios	C									p	p	p			
Real estate agents, brokers and management services								p	C	p	p	p			
Recreational vehicles and equipment - retail										p	p	C			
Restaurants	C									p	p	p	p	p	p
Restaurants, carry-out only									C	p	p	p			
Savings and loan associations										p	p	p	p		
Second hand merchandise - retail										p	p	p			
Security guard services and sales										p	p	p			
Sexually oriented business (see Ordinance #1595, 1596)													C		
Shoe repair, shoe shining and hat cleaning services										p	p	p	p		
Shoes - retail										p	p	p			
Skating rinks										p	p				
Sporting goods - retail										p	p	p			
Surplus stores										p	p	p			
Tailoring										p	p	p	p		
Taverns										C	C	C			
Taxicab dispatch garaging and maintenance										p	p	C			
Telemarketing										p	p	p			
Telephone exchange stations										p	p	p			
Television and electronic equipment sales and services										p	p	p			
Theaters										p	p	p			
Tires, batteries, and accessories sales and services										p	p	C	p		
Title abstracting services								p		p	p	p			
Travel agency								p		p	p	p			
Truck stops										C	C		C		
P = PERMITTED C = CONDITIONAL USE	A	AR	RS	RI	R2	R3	MHP	81	82	83	84	BS	11	12	13

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Land Use Category	Zoning Districts														
COMMERCIAL/ OFFICE	A	AR	RS	RI	R2	R3	MHF	BI	B2	B3	B4	BS	11	12	13
Truck wash services										C	C		C		
Upholstery, draperies, and curtains - retail										p	p	p			
Variety and discount stores - retail										p	p	p			
Vending machine operators - retail										p	p	p			
Veterinarian services	C									C	C		C		
Videotape sales and rentals									C	p	p	p			
Wholesale business, general										C	C	C	p	p	
Wine, beer, and alcoholic beverages - wholesale										C			p		
P = PERMITTED C = CONDITIONAL USE	A	AR	RS	RI	R2	R3	MHF	BI	B2	B3	B4	BS	11	12	13

APPENDIX A

Land Use Category	Zoning Districts														
GOVERNMENT/ INSTITUTION/ RELIGIOUS	A	AR	RS	RI	R2	R3	MHP	BI	B2	B3	B4	BS	11	12	13
Ambulance services	C	C		C	C	C		C	C	C	C	C			
Cemeteries	C	C		C	C	C				C	C				
Churches, synagogues and temples	C	C		C	C	C		C	C	C	C	C			
Correctional and detention facilities	C									C	C	C	C	C	
Hospital services	C	C		C	C	C		C	C	C	C	C			
Libraries				C	C	C	C			p	p	p			
Medical clinics, out-patient services								C	C	p	p	p			
Mental hospitals	C	C		C	C	C		C	C	C	C	C			
Museums	C									p	p	p			
Nursing homes	C					C		C	C	C					
Schools, commercial & vocational										p	p	C	C		
Schools, private & parochial		C		C	C	C		C	C	C	C				
Schools, public		C		C	C	C		C	C	C	C				
Social correctional, treatment and counseling services, rehab centers, group boarding homes and residential centers, except group homes															
P = PERMITTED C = CONDITIONAL USE	A	AR	RS	RI	R2	R3	MHP	BI	B2	B3	B4	BS	11	12	13

APPENDIX A

Land Use Category	Zoning Districts														
	A	AR	RS	RI	R2	R3	MHP	BI	B2	B3	B4	BS	11	12	13
INDUSTRIAL															
Abrasive, asbestos, and miscellaneous nonmetallic mineral products - manufacturing														C	
Advertising displays and signs - manufacturing										C	C	C	p	p	
Agricultural chemicals - manufacturing														C	
Aircraft and parts - manufacturing														p	C
Aircraft storage, repair and maintenance	C													C	
Alcohol production	C													C	
Ammunition manufacturing														C	
Aerial Spray	C													C	C
Animal and marine fats and oils including grease and tallow, rendering and hides manufacturing	C													C	
Apparel and accessories - manufacturing														p	p
Appliances - manufacturing														p	p
Asphalt processing plant	C.													C	
Automobile or other motor vehicles and equipment - manufacturing													C	p	
Automobile and other motor vehicle repair services	C									C	C	Gs	p		
Bags - manufacturing													p	p	
Biological products - manufacturing														C	
Blast furnaces, steel works and the rolling of ferrous metals														C	
Bottling and canning soft drinks and carbonated waters													p	p	
Brick, ceramic, and structural clay tile - manufacturing														C	
Brooms and brushes - manufacturing													p	p	
Bus garaging and equipment maintenance	C	C		C	C	C		C	C	C	C	C	C	C	
Canvas products - manufacturing													p	p	
Carbon black - manufacturing														C	
Carpentry and woodworking	C									C	C		p		
Carpet and rug - manufacturing														C	
Cement - manufacturing														C	
Chemical and fertilizers - mining	C														
P = PERMITTED C = CONDITIONAL USE	A	AR	RS	RI	R2	R3	MHP	BI	B2	B3	B4	BS	11	12	13

APPENDIX A

Land Use Category	Zoning Districts															
	A	AR	RS	RI	R2	R3	MHF	81	82	83	84	BS	11	12	13	
INDUSTRIAL																
Chemicals - manufacturing & storage	C													C		
Cleaning, polishing and sanitation products - manufacturing														C		
Clothing - manufacturing													p	p		
Commercial & industrial machinery, equipment & supplies - manuf.													C	p		
Composting plants	C													p		
Concrete products - manufacturing													C	p		
Concrete, ready-mix plants													C	p		
Construction and lumber materials -yard										C	C		p			
Construction, mining, materials handling machinery, equip. manuf.														p		
Electrical transmission and distribution equipment- manufacturing													C	p		
Electric generation plant	C													C		
Electricity regulating substations	C	C		C	C	C		C	C	C	C	C	C	C		
Electrometallurgical products and processing - manufacturing														C		
Electronic equipment - manufacturing													p	p		
Engine and turbines - manufacturing													C	p		
Explosives - manufacturing and storage	C													C		
Fabric products - manufacturing													C	p		
Farm machinery and equipment - manufacturing													C	p		
Fertilizers and chemicals - manufacturing and storage														C		
Firearms - manufacturing														p		
Food processing and packaging													p	p		
Footwear - manufacturing														p		
Foundries, iron, steel and non-ferrous														p		
Freight warehouses													p	p		
Furniture - manufacturing													p	p		
Glass products - manufacturing													C	p		
Grain and feed processing and sales	C												p	p		
Grain mill products - manufacturing and storage	C												C	p		
P = PERMITTED C = CONDITIONAL USE	A	AR	RS	RI	R2	R3	MHF	81	82	B3	B4	BS	11	12	13	

APPENDIX A

Land Use Category	Zoning Districts														
	A	AR	RS	RI	R2	R3	MHP	B1	B2	B3	B4	BS	11	12	13
INDUSTRIAL															
Industrial and commercial machinery, equipment and supplies - wholesale and storage													p	p	
Industrial waste disposals														C	
Leather products - manufacturing	C												p	p	
Lime products - manufacturing														C	
Machinery and small equipment - manufacturing													C	p	
Meat packing - manufacturing and processing													C	C	
Metal products - fabrication/assembly													C	p	
Metals, rolling, drawing, stamping and extrusion														C	
Millwork- manufacturing													p	p	
Mobile home - manufacturing														p	
Monuments and stone products - manufacturing													C	p	
Paints, varnishes, lacquers, enamels, allied prod. - manufacturing														C	
Paper and cardboard products - manufacturing													C	C	
Petroleum pipeline R/W	p														
Petroleum pressure control stations	C														
Petroleum (crude) and natural gas drilling	C														
Pharmaceutical - manufacturing													p	p	
Plastic materials and synthetic resins, synthetic rubber, synthetic and other manmade fibers (except glass) - manufacturing													C	p	
Prefabricating wooden buildings and structural members - manuf.													C	p	
Propane sales & storage - subject to National Fire Protec. Assoc Codi	C									C	C		p	p	
Quarrying, stone, gravel and sand	C														
Radioactive materials processing and storage - manufacturing														C	
Radioactive waste materials disposal														C	
Railroad equipment and maintenance													p	p	
Railroad freight terminals													p	p	
Railroad passenger terminals													p	p	
Railroad switching yards													p	p	
P = PERMITTED C = CONDITIONAL USE	A	AR	RS	RI	R2	R3	MHP	B1	B2	B3	B4	BS	11	12	13

APPENDIX A

Land Use Category	Zoning Districts														
	A	AR	RS	RI	R2	R3	MHP	B1	B2	B3	B4	BS	11	12	13
INDUSTRIAL															
Recycling Centers													p	p	
Refuse incineration	C													C	
Research, development and testing services													p		
Sanitary landfill	C														
Scrap metal and automobile salvage yards	C													C	
Sewage treatment facilities (private)	C	C													
Signs and advertising displays - manufacturing										C	C	C	p	p	
Soaps and detergents - manufacturing														C	
Solid waste transfer stations	C														
Steel works, blast furnace and rolling of ferrous metals														C	
Stock yards														C	
Tire - manufacturing														C	
Trailers - manufacturing													C	p	
Towers, communications transmission	C												C	C	
Warehousing and storage, general										C			p	p	
Warehousing and storage, refrigerated										C			p	p	
Water storage/rural water districts	C	C													
Water well drilling services													p	p	
Welding and blacksmith services & supplies	C												C	p	
P = PERMITTED C = CONDITIONAL USE	A	AR	RS	RI	R2	R3	MHP	81	B2	B3	84	BS	11	12	13

APPENDIX A

Land Use Category	Zoning Districts														
RESIDENTIAL	A	AR	RS	RI	R2	R3	MHP	BI	B2	B3	B4	BS	11	12	13
Dwelling, in nonresidential structure												C			
Dwelling, multi-family						p									
Dwelling, single-family (includes doublewide, permanent foundation)	p	p	p	p	p	p	p								
Dwelling, two-family					p	p									
Group homes for the mentally and/or physically disadvantaged	p	p	p	p	p	p	p								
Mobile Home (singlewide)							p								
Rooming and boarding houses and residential hotels						C			C						
P = PERMITTED C = CONDITIONAL USE	A	AR	RS	RI	R2	R3	MHP	BI	B2	B3	B4	BS	11	12	13

APPENDIX A

Land Use Category	Zoning Districts														
SPORTS/ RECREATION	A	AR	RS	RI	R2	R3	MHP	BI	B2	B3	B4	BS	11	12	13
Arenas	C									C	C	C			
Athletic fields and parks	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Bowling alley										p	p	C			
Camp grounds	C									p	p				
Country club with golf course	C	C	C												
Dude ranches	C														
Fishing and hunting clubs	C														
Fitness and health centers	C									p	p	p	C		
Golf courses	C	C		C											
Golf driving ranges	C									C	C		C		
Hunting, trap & skeet, and fishing clubs	C														
Marinas	C														
Miniature golf	p									p	p	C	C		
Race tracks and courses - vehicle	C														
Recreation centers	C			C	C	C	C			C	C	C			
Recreational vehicle parks	C									p	p				
Shooting ranges - indoor	C									C	C	C			
Shooting ranges - outdoor	C									C	C	C			
Swimming pools	p	p	p	p	p	p	p	p	p	p	p	p	p	p	
P = PERMITTED C = CONDITIONAL USE	A	AR	RS	RI	R2	R3	MHP	BI	B2	B3	B4	BS	11	12	13

APPENDIX B: INTENSITY OF USE

Zoning District	Minimum Lot Dimensions (feet)			Minimum Yard Size (feet)			Maximum(%)	Maximum (feet)
	Size	Width	Depth	Front	Side	Rear	lot Coverage	Structure Height
A	2 acres	300	500	75	10	20	20	45
RS	2.5 acres	250	300	75	25	25	20	45
R1	7,500 sq. ft.	75	100	25/35 ¹	10	25	40	35
R2	7,500	75	100	25/35 ¹	10	25	40	35
R3	s, 000 ²	50	100	25/35 ¹	53	25	50	85
B1	7,500	75	100	25/35 ¹	10	25	40	35
B2	7,500	75	100	25/35 ¹	10	25	40	35
B3	10,000	100	100	0	s*	15	60	65
B4	7,500	75	100	25/35 ¹	10	25	80	75
BS	2,500	25	100	0	0	0	100	85
11	10,000	100	100	25/35 ¹	15	15 ⁵	60	65
12	10,000	100	100	25/35 ¹	15	15 ⁵	60	65
13	12,500	0	0	50	50	50	60	one story'
MHP	(see Section 9)							

¹ 25 feet measured from the front lot line on collector streets, and 35 feet on arterial streets, exception: see variance appeal within residential code sections

² 5,000 sq.ft. first dwelling unit

7,000 sq. ft. second dwelling unit (duplex)

9,000 sq. ft. third dwelling unit (triplex)

if additional dwelling units are constructed as the second or third story, the minimum lot size will be 5,000 square feet. The 50% lot coverage remains.

³ 5 feet per story

⁴ 10 feet when abutting residential district

⁵ 25 feet when abutting residential district

⁶ See Section 16 for additional FAA regulations

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SUBDIVISION REGULATIONS

ARTICLE 1 GENERAL PROVISIONS

Sections:

- 1-1. Title and Scope
- 1-2. Purpose
- 1-3. Applicability
- 1-4. Authority
- 1-5. Exemptions
- 1-6. Definitions
- 1-7. Duties

Section 1-1. Title and Scope

- 1-101** These regulations, entitled the Subdivision Regulations of the City of Herington, Kansas, prescribe minimum design requirements and uniform approval procedures for the development of new subdivisions and resubdivisions of land within the corporate limits of the City of Herington, Kansas.

Section 1-2. Purpose

- 1-201** The purpose of these Subdivision Regulations is to set forth rules and regulations for the division of real property so that each subdivision shall be properly coordinated with existing streets, utilities and public facilities, and for the future development of these entities and to promote the public health, safety, convenience, general welfare and to conserve land values within the city limits of the City of Herington, Kansas.
- 1-202** These Subdivision Regulations are therefore adopted for the following purposes, all in accordance with the provisions of K.S.A. 12-741 et seq. and amendments thereto:
1. To protect and provide for the public health, safety, convenience and general welfare.
 2. To insure that the development of the City of Herington conforms with the goals, policies, and recommendations of the adopted Comprehensive Plan.
 3. To provide adequate and accurate records of all applicable land subdivision.
 4. To provide for adequate public input regarding the subdivision of private land.
 5. To insure that the cost of improvements which benefit primarily the tract of land being developed is borne primarily by the subdivider of the tract.

6. To insure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision.
7. To establish reasonable standards of design and uniform procedures for subdivisions in order to further the orderly layout and use of land. Specifically, these regulations shall provide for the: (a) efficient and orderly location of streets; (b) reduction of vehicular congestion; (c) reservation or dedication of land for open spaces; (d) off-site and on-site public improvements; (e) recreational facilities which may include, but are not limited to, the dedication of land area for park purposes; (f) flood protection; (g) building lines; (h) compatibility of design; and (i) any other service, facilities and improvements deemed necessary.
8. To provide for and secure the actual construction of improvements which comply with these regulations.
9. To preserve the natural beauty and natural resources within the city limits and to insure appropriate development with regard to those natural features.

Section 1-3. Applicability

- 1-301** Compliance with Regulations. No building or zoning permit shall hereafter be issued by the City of Herington, Kansas, for construction or any land that has not been subdivided in compliance with these regulations and all other applicable state and City laws and regulations in effect at the time of subdivision of said land.
- 1-302** Plat Required: After the effective date of these Subdivision Regulations, the owner or owners of any land located within the City subdividing the same into two or more lots or blocks or tracts or parcels, for the purpose of laying out any subdivision, lots, tracts or parcels or the owner of any land establishing any street, alley, park or other property intended for public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto, shall cause a plat or lot split to be made unless exempted under Section 1-5 of these regulations.
- 1-303** Filing of Plat: The original of any final plat shall be filed by the sub divider with the Register of Deeds of Dickinson County, only after approval by the Planning Commission, acceptance of dedications by the Governing Body, acceptance of financial guarantees for public improvements, and approval of engineering drawings as required by these regulations. Any fees associated with the recording of the final plat shall be the responsibility of the sub divider.
- 1-304** Sale of Proposed Subdivision Lots; No owner, or agent of the owner, of any lot located in a proposed subdivision shall transfer or sell any such lot before a plat of such subdivision has been approved by the Planning Commission, in accordance with the provisions of these Subdivision Regulations, and filed with the Register of Deeds of Dickinson County.

Section 1-4. Authority

1-401 These Subdivision Regulations and minimum standards for land development are adopted by the Planning Commission and approved by the Governing Body under powers conferred by K.S.A. 12-749, and amendments thereto.

Section 1-5. Exemptions

1-501 The following specific transactions shall be exempt from compliance with the provisions of these Subdivision Regulations:

1. A transaction between owners of adjoining land which involves only a change in the boundary between the land owned by such persons and does not create an additional lot.
2. A conveyance of land or interest therein for use as right-of-way by railroad or other public utilities subject to local, state or federal regulations where no new street or easement of access is created.
3. A conveyance made to correct a description in a prior conveyance.
4. Any partitioning of land or other transfer by operation of law.
5. The subdividing of land used exclusively for cemetery purposes and accessory uses associated therewith.
6. Any lot, parcel or tract of land located within the area governed by these Subdivision Regulations which has been legally subdivided, re-subdivided, platted, or re-platted prior to the effective date of these Subdivision Regulations.
7. The division of land for agricultural or residential purposes into parcels or tract having a minimum width of 250 feet and containing 2.5 acres or more, and not involving any new streets or easements of access and not affecting major street.
8. The division of a tract of land or lot which creates no more than one additional tract or lot subject to the provisions of Section 3 of these regulations for tract or lot splits. After any such lot or tract split, however, further division of the lot or tract of land shall be platted in conformance with the requirements of these Subdivision Regulations and the lot split provisions of Section 3 shall not apply to such division.
9. Lots zoned for industrial purposes which are platted need not be re-platted if divided into two or more tracts.

Section 1-6. Definitions

1-601 For the purpose of these Subdivision Regulations, certain terms, words, and phrases are hereby defined and shall have the meaning assigned to them in this section when used or referred to throughout these regulations. Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations their most reasonable application.

In the construction of these regulations, the provisions and rules of this section shall be observed and applied, except when the context clearly requires otherwise:

- a. Words used in the present tense shall include the future.
- b. Words in the singular number include the plural number, and the plural number include the singular number.
- c. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- d. The word "shall" is mandatory.
- e. The word "may" is permissive.
- f. The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.

Access: This right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

Alley: A dedicated public right-of-way which provides a secondary means of access to and from streets and lots.

Block: A tract of land entirely surrounded by public highway, streets, railroad or other public utility rights-of-way, public walks, parks or green strips, rural land, drainage channels or a combination thereof.

Bond: Any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the Governing Body. All bonds shall be approved by the Governing Body whenever a bond is required in these Subdivision Regulations.

City: City of Herington, Kansas.

City Attorney: The City Attorney of the City of Herington, Kansas

City Clerk: The City Clerk of the City of Herington, Kansas

Comprehensive Plan: The duly adopted Comprehensive Plan for the City of Herington, Kansas including subsequent amendments.

County: Dickinson County, Kansas.

County Clerk: The County Clerk of Dickinson County, Kansas.

Cul-de-sac: A street that has only one outlet and is permanently terminated by a vehicle turnaround at the other end, as distinguished from a dead end street.

Developer: The owner, or any person, firm or corporation authorized by the owner, undertaking proceedings under the provisions of these regulations for the purpose of subdividing land.

Easement: An interest in land that is held by the public, a corporation, or persons other than the owner that entitles the holder to a specific limited use or right. Ownership of said land shall remain with the property owner.

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

Floodplain: Land which is subject to inundation of water as a result of what is commonly known as the 100-year flood, or land that has at least a one percent (1%) chance of flooding in any given year. Floodplain boundaries in the incorporated area of the City are shown on the Federal Insurance Administration's "Flood Hazard Boundary Maps" as adopted by the City.

Floodplain Overlay Zoning District: The F-P zoning district of the City Zoning Regulations.

Governing Body: Mayor and Commissioners of the City of Herington, Kansas.

Grade: The slope of a road, street or other public way, specified in percent.

Improvements: All public or private facilities constructed or erected in whole or in part by a sub divider within a subdivision to permit and facilitate the use of lots or blocks for a principal residential or commercial, office, or industrial use.

Lot: A portion of a subdivision or other tract or parcel of land intended as a unit for transfer of ownership or for development.

Lot, Corner: A lot situated at the intersection of two streets.

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

Lot Lines: The boundary lines of a lot.

Lot of Record: A lot which is part of a subdivision, that plat of which has been recorded in the office of the Dickinson County Register of Deeds, or an unplatted

tract or parcel described by metes and bounds, the description which has been recorded in the office of the Dickinson County Register of Deeds.

Lot Split: The dividing or redividing of a lot or tract of land into not more than two lots or tracts which meet the criteria established by these Subdivision Regulations.

Open Space: An area of land or water, or combination thereof, planned for passive or active recreation or for protection, conservation or for preservation of natural resources, but does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas, or required front, rear or side yards.

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

Plan, Sketch: A plan as required by these Subdivision Regulations to outline the general intent and nature of a proposed subdivision to the Zoning Administrator and other interested departments, agencies, and committees.

Planning Commission: The Planning Commission of the City of Herington, Kansas.

Plat, Final: A plat prepared by a registered land surveyor to describe the precise location and dimension of lots, establish easements, dedicate street rights-of-way, and otherwise describe property to be sub divided and which requires approval of the Planning Commission as set out in K.S.A. 12-752 and amendments.

Plat, Preliminary: A plat for a proposed sub division of land showing streets, lots, and other features as required by these Subdivision Regulations.

Plat, Small Subdivision: A subdivision or re-subdivision that consists of one, two, three or four lots that may have the preliminary platting requirements of these Subdivision Regulations waived by the Zoning Administrator.

Register of Deeds: The Dickinson County, Kansas Register of Deeds.

Re-Subdivision: A change in a map of an approved or recorded subdivision plat if such change affects any street layout shown on such map, any area reserved thereon for public use, or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions. Tract or lot splitting may be allowed as specified within these regulations.

Right-of-Way: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water, main, sanitary or storm sewer main, or for other special purposes. The usage of the "right-of-way" hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way, and not included within the dimensions of areas of such lots or parcels.

Rule Exception: Allowing a subdivision to deviate from one or more specific standards and requirements of these regulations.

Rule Exception: Allowing a subdivision to deviate from one or more specific standards and requirements of these regulations.

Setback: A line within a lot or other parcel of land indicating the limit beyond which a building or structure may not be erected.

Sidewalk: A paved walkway located along the side of a street

Street, Arterial: A street or road that is designated in the City of Herington Comprehensive Plan for large volumes of traffic to move quickly and safely, and which provides service and access to abutting properties only as a secondary function.

Street, Collector: A street or road that is designated in the City of Herington Comprehensive Plan primarily to gather traffic from local streets and carry it to the arterial system.

Street, Dead End: A street or road having only one outlet and no vehicular turnaround, as distinguished from a cul-de-sac.

Street, Local: Any public street or road designed primarily to provide access to more than one property.

Street, Private: A right-of-way or easement which affords principal means of vehicular access to property abutting thereon, which right-of-way or easement is owned, controlled and maintained by persons other than the public.

Sub-divider: The owner, or any other person, firm or corporation authorized by the owner that proceeds to subdivide land under the provisions of these regulations.

Subdivision: Except for a "lot split" as defined in these regulations, any land, vacant or improved, which is divided or re-subdivided into two or more lots, parcels, sites, units, plots, or interests for the purpose of transfer of ownership or development. The creation of a street, alley or other public way by dedication shall be deemed a subdivision regardless of division or re-subdivision of the land.

Walkway, Pedestrian: A strip of land dedicated for public use which is reserved across a block for the purpose of providing pedestrian access to adjacent areas.

Zoning Administrator: The City of Herington official assigned the responsibility of administering the Zoning Regulations, and Subdivision Regulations.

Zoning Regulations: Zoning Regulations adopted by the Governing Body of the City of Herington, Kansas.

Section 1-7. Duties

- 1-701** Duties of the Secretary of the Planning Commission: 1. Maintain permanent and current records with respect to these regulations, including amendments thereto. 2. File copies of all preliminary and final plats together with applications therefore. 3. Transmit final plat to the Governing Body for acceptance of dedications of streets, alleys and other public ways and sites. 4. Make changes to land elevations designated on a plat, as authorized by K.S.A. 12-719 (b), and amendments thereto. 5. Determine whether an application for any subdivision approval is complete and notify the applicant as to whether the application is in compliance with these regulations.
- 1-702** Duties of the Planning commission: 1. Review and approve, approve conditionally, or disapprove preliminary plats. 2. Review and approve, approve conditional or disapprove final plats and transmit approved final plats to the Governing Body for acceptance of dedications of streets, alleys and other public ways and sites. 3. Make other determinations and decisions as may be required of the Planning Commission from lime to time by these regulations and by the applicable state statutes.
- 1-703** Duties of the Governing Body: 1. Consider Planning Commission recommendations of final plats and accept or reject dedications of easements and rights-of-way. 2. Approve engineering drawings of proposed improvements prior to construction. 3. Accept or reject financial guarantees form subdividers in lieu of immediate completion or installation of improvements required by these regulations. 4. Take other action as required from time to lime including the consideration of amendments to these regulations.

Section 1-8. Vesting of Development Rights

- 1-801** Vesting of Development Rights: In conformance with the provisions of K.S.A. 12-764, and any subsequent amendments, the following shall apply:
1. The rights of landowners of properties platted or subdivided for suburban residential development in conformance with the definition of said terms in the Zoning Regulations shall be protected for use of said land for the intended suburban residential purposes for a period of five years from the time in which such property was first platted or subdivided, provided:
 - a. Verifiable evidence is presented showing the date in which said plat or subdivision of land was first created. Acceptable evidence shall be: signed and sealed certificates or plats of survey from a Registered Land Surveyor showing the several lots proposed to be created, either date or dated and recorded with the Register of Deeds; recorded Restrictive or Protective Covenants for the development; recorded deeds conveying land; or recorded Affidavits or Equitable Interest on contracts for deed for said tracts of land.

- b. Within said five year period actual sales occur resulting in separate owners on the tracts of land.
- 2. Except for lots in a recorded plat, any remaining contiguous tracts of land within the area divided under this rule held in common ownership at the conclusion of said five year period shall be considered an unplatted lot, as defined in these Regulations, and subsequent divisions of said lot shall be in conformance with the Subdivision Regulations then in effect.
- 3. Properties divided or platted for any use other than residential purposes shall not be permitted to develop or further develop except in conformance with these Regulations and the City's Zoning Regulations. Persons who obtain a validly issued permit under the previous Zoning Regulations shall be permitted to develop the property so long as the permit issued under the previous Zoning Regulations does not expire. Failure to start construction under said permit before the expiration of the permit shall not protect the owner from the provisions of these Regulations or the Zoning Regulations then in effect.

SUBDIVISION REGULATIONS

ARTICLE 2 PLAT FILING REQUIREMENTS

Sections:

- 2-1. General Procedure**
- 2-2. Preapplication Conference and Sketch Plan**
- 2-3. Preliminary Plat**
- 2-4. Final Plat**
- 2-5. Concurrent Submission of Preliminary and Final Plats**
- 2-6. Small Subdivision plat**

Section 2-1. General Procedure

- 2-101** All preliminary and final plats of subdivisions within the corporate limits of the City of Herington shall be submitted to the Planning Commission for its approval, consistent with the provisions of these regulations.
- 2-102** The Zoning Administrator shall have the authority to certify a preliminary plat, final plat, or small subdivision plat application as complete or incomplete. If a plat application is certified as complete, the administrator shall place the application on the Planning Commission's agenda for consideration. If a plat application is certified as incomplete, the administrator shall return the application to the applicant with a written explanation of the determination. The applicant may reapply and pay another filing fee, or may appeal the administrator's determination to the Board of Zoning Appeals as provided by the Zoning Regulations.

Section 2-2. Preapplication Conference and Sketch Plan

- 2-201** Before filing a preliminary plat, the applicant shall consult with the Zoning Administrator for advice regarding general requirements affecting the proposed development. The applicant shall furnish the Zoning Administrator with the following information when such information is considered necessary by the Zoning Administrator.
- 1. A general description of existing conditions of the site, including Data on existing land and soil characteristics, existing covenants, availability of utilities and other public facilities, zoning requirements for the site and adjacent properties and proposed uses.
 - 2. A sketch of the proposed subdivision on a topographic survey map showing proposed streets, lots, and other features.
 - 3. A general location map showing the relationship of the proposed Subdivision to existing utilities, major streets, and community facilities and to surrounding developed and undeveloped land.

- 2-202** The Zoning Administrator shall be available to assist the applicant in complying with the requirements pertaining to the proposed subdivision as such requirements are established by these Subdivision Regulations. The preapplication procedure does not require formal application, fee, or filing of a plat with the Planning Commission.

Section 2-3. Preliminary Plat

- 2-301** Conformance with Comprehensive Plan and Zoning Regulations: A preliminary plat of the proposed subdivision shall be prepared by the subdivider or the subdivider's agent and submitted to the Planning Commission for its consideration and approval. The Planning Commission shall satisfy itself that the plat's proposed street pattern and land use will conform to the City's Comprehensive Plan, as well as with the City's Zoning Regulations regarding lot size and permitted use. The preliminary plat shall also conform to other local codes, regulations, and standards.

- 2-302** Contents of Preliminary Plat: After completion of the preapplication procedure, the applicant may submit to the Planning Commission an application and 10 copies of preliminary plat and vicinity maps. Such materials shall be submitted to the Planning Commission at least 15 days prior to the regular meeting of the Planning Commission. The appropriate fee shall be paid upon filing the preliminary plat application in accordance with the provisions of Section 6-4 of these regulations. Such preliminary plat shall:

1. Be drawn to a scale of not more than 100 feet to 1 inch unless the area of the subdivision is over 100 acres, then to the scale of not more than 200 feet to 1 inch.
2. State the name of the proposed subdivision, legal description of the site to be subdivided, location, acreage, names and addresses of owner and land surveyor. Such subdivision name shall not duplicate the name of any existing subdivision.
3. Show date of preparation, north point, and scale of drawing.
4. Indicate applicable zoning districts for the property and all adjoining property.
5. Show location of property and boundary lines, location, width and names of platted streets or other public ways, railroads and utility rights-of-way, parks and other public open spaces and permanent buildings within or adjacent to the proposed subdivision.
6. Show all existing sewer, water mains, gas mains, culverts or other underground installations, within or adjacent to the proposed subdivision, with pipe size and manholes, grades and location

7. Show names of adjacent subdivisions together with arrangement of streets and lots, and owners of adjacent parcels of unsubdivided land.
8. Show location of watercourses, bridges, wooded areas, lakes, ravines and such other features as may be pertinent to the subdivision.
9. Show topography with contours at intervals of two feet and unique topographic features, lakes, and tree masses.
10. Show land within the boundaries of the 100-year floodplain as identified on the Federal Insurance Administration's "Flood Hazard Boundary Maps" for the City.
11. Be accompanied by a general location map or a copy of the general location map furnished at the preapplication procedure.
12. Show proposed streets, including location, width, names and approximate grade and showing the manner in which the proposed streets may be extended to connect with existing streets.
13. Show blocks and lots, showing approximate dimensions and proposed numbers including lot lines and setbacks.
14. Show proposed utility system for sanitary waste, water, electricity and/or natural gas.
15. Show location of proposed culverts, storm sewers, and drainage system.
16. Show proposed easements, dedications and reservations.
17. Show sites to be designated for purposes other than single-family residential including location and size of proposed parks, playgrounds, churches, school sites or other special uses of land to be considered for reservation or dedication for public use.
18. Provide general layout of adjacent unsubdivided property to show how streets and other public facilities in the proposed subdivision relate to the unsubdivided property.
19. A statement as to the general nature and type of public improvements proposed for the subdivision, and in what manner the subdivider intends to finance and provide for their installation.

2-303

Notification of Surrounding Property Owners: At least 10 days prior to the Planning Commission public hearing at which the preliminary plat is to be considered for approval, the Zoning Administrator shall notify all property owners of land located within 200 feet of the subdivision land that such a hearing will take place. If the proposed subdivision is

adjacent to unincorporated land, such notice will extend 1000 feet in those areas where the notification area extends into the unincorporated area of Dickinson County.

2-304

Staff Review and Actions: Upon receipt of the preliminary plat and supporting data required in this section, the Zoning Administrator shall perform the following tasks:

1. Certify the application as complete (if applicable) and affix the date of the application acceptance on the preliminary plat.
2. Place the preliminary plat on the agenda for consideration at the next regularly scheduled meeting of the Planning Commission.
3. Prepare a staff report to the Planning Commission recommending approval, conditional approval, or denial of the preliminary plat.
4. Make changes to land elevations designated on a plat, as authorized by K.S.A. 12-749(b) and amendments thereto.

2-305

Planning Board Review and Actions: The Planning Commission shall conduct a public hearing on the preliminary plat to determine if the same conforms to the provisions of these Subdivision Regulations, and the Planning Commission shall act upon the preliminary plat within 60 days after submission stating its approval, conditional approval (stating conditions), or disapproval (stating reasons). Action on a preliminary plat shall be taken by a majority vote of the Planning Commission membership, regardless of the number of planning Commission members present and voting at the hearing. If such determination is not made within 60 days after the preliminary plat has been submitted for consideration, the plat shall be deemed to have been approved and a certificate shall be issued by the Secretary of the Planning Commission upon demand, unless the applicant has requested or consented to an extension or waiver of the time limitation.

2-306

Effect of Preliminary Plat Approval: Approval of the preliminary plat shall not constitute acceptance of the subdivision by the City of Herington but authorizes preparation of the final plat. No grading or improvements shall take place in the subdivision prior to approval and endorsement of the final plat by the Planning Commission, acceptance by the Governing Body of land dedicated for public purposes, and the submittal to and approval of street construction plans by the City. The applicant shall file a final plat application along with the required documents described in Section 2-403 within one year of the approval of the preliminary plat by the Planning Commission. Upon failure to do so within the time specified, approval of the preliminary plat is null and void, unless an extension of time, limited to six months, is applied for by the subdivider and granted by the Planning Commission. An extension shall be granted only once.

Section 2-4. Final Plat

- 2-401** Preparation: After the preliminary plat has been approved, a final plat for record shall be prepared and submitted to the Planning Commission for final approval. A final plat shall be prepared by a land surveyor licensed in the State of Kansas. The final plat may encompass all or a portion of the area encompassed by the preliminary plat. The final platting process is intended to provide a complete surveyed drawing of the subdivision for the purpose of providing a legal record of lots, streets, areas for dedication and easements for future reference and transactions.
- 2-402** Conformance with Preliminary Plat: No final plat shall be considered for approval unless all provisions of these Subdivision Regulations have been met, including compliance with conditions set forth by the Planning Commission on the preliminary plat, and no final plat shall be considered if it differs materially from the preliminary plat as previously approved by the Planning Commission.
- 2-403** Contents of Final Plat: The applicant shall submit to the Secretary of the Planning Commission a final plat application; two original drawing on tracing cloth, mylar, vellum, or other permanent reproducible material; and **10** copies thereof, to be made by a licensed land surveyor. Such submission shall be made at least 15 days prior to the Planning Commission's public meeting. The appropriate fee shall be paid upon filing the final plat application. All drawings and signatures of certification shall be in waterproof ink. The final plat shall be drawn at a scale of at least **1" = 100'** or larger. The size of the sheet on which such final plat is prepared shall be 22 or 24 inches by 36 inches. Each sheet shall have a 1 ½" binding edge along the left-hand side. Where the proposed plat is of unusual size, the final plat shall be submitted on two or more sheets of the same dimensions. If two or more sheets are required, an index map of the same dimensions shall be filed showing the entire development at a smaller scale. The dimensions indicated are standard for all final plats and must be compiled with. Title, description and other written data to be located either right or left. The final plat shall show the following;
1. The name of the subdivision;
 2. Date, title, name under which the subdivision is to be recorded, and location of subdivision. The name of the platted subdivision shall not duplicate the name of any platted subdivision previously recorded in the City unless it is an addition to and contiguous to the same.
 3. Graphic scale and North point.
 4. A legal description of the proposed subdivision.

5. A map of the proposed subdivision which shall contain sufficient information and engineering data to locate any line on the ground. Such map shall show the following.

- a. Location of section, township, range, county and state, including the descriptive boundaries of the subdivision based on an accurate traverse, giving angular and linear dimensions which must be mathematically correct. The allowable error of closing on any portion of the plat shall be one foot in 5,000.
- b. The location of existing monuments or bench marks shall be shown and described on the final plat. Location of such monuments shall be shown in reference to existing official monuments or the nearest established street lines, including the true angles and distances to such reference points or monuments.
- c. Space for approval of the final plat by the Planning Commission and space for acceptance by the Governing Body of land dedicated for public purposes.
- d. The following certificates:

(1) Certification by the licensed land surveyor responsible for the survey and final plat certifying to the accuracy of the survey and plat, and certifying that all permanent monuments as required have been set.

(2) Certification signed and acknowledged by all parties holding title or having any title interest in the land subdivided and consenting to the preparation and recording of the plat as submitted including the dedication of any property for private use. Also, certification by the subdivider, if different than said parties, that the plat is a true representation of the proposed subdivision.

(3) Certification by the County Treasurer of Dickinson County, Kansas that there are no unpaid taxes, special assessments or tax liens outstanding against the property.

(4) The acknowledgement of a notary in the following form:

State of _____ County of _____, SS.

Be it remembered that on this __ day of __, 2_, before me, a notary public in and for said County and State, ~~came~~ to me personally known to be the same person who executed the foregoing

instrument of writing and duly acknowledged the execution of same. In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year above written.

(SEAL) _____
Notary Public

(5) The certificate of the Planning Commission in the following form:

This plat of _____ Addition has been submitted to and approved by the Planning Commission of the City Of Herington, Kansas this ___ day of _____, 2__.

(SEAL) _____
Chairperson

Secretary

(6) The acceptance by the City Of Herington Governing Body, in the following form:

The easements, rights-of-way and other public dedications accepted by the Governing Body of the City of Herington, Kansas, this ___ day of ___ , 2__ .

(SEAL) _____
Mayor

ATTEST: _____

(7) The certificate of the City Attorney in the following form:

This plat of _____ Addition has been submitted to and approved by the City Attorney of Herington, Kansas, this ___ day of ___ 2__.

(SEAL) _____
City Attorney

(8) A blank space for noting entry on the transfer record in the following form:

Entered on transfer record this ___ day of ___ , 2__.

(9) The certificate of the Register of Deeds in the following form:

State of _____, County of _____ SS.

This is to certify that this instrument was filed for record in the Register of Deeds office on the _____ day of _____ Book _____ Page _____.

Register of Deeds Deputy

e. The following additional data and documents shall be submitted with the final plat:

A properly executed written agreement by the applicant to undertake and complete, to the satisfaction of the City, all public improvements required as a condition for approval of the plat. The agreement shall also set out the time limit for the completion of the specified work, the amount of bond or other acceptable surety to be posted as security for satisfactory completion of the work, and the right of the City, in the event required work is not completed in a proper and timely manner, to perform or complete the work and recover the actual cost thereof from the developer or the applicant's sureties. The applicant's agreement and bond for required public improvements shall be reviewed and approved as to the form and content by the Zoning Administrator and the City Attorney. The Governing Body may defer the submission of the written agreement until after the final plat has been approved.

6. The final plat shall designate the name or names by which the proposed roads or streets are to be officially know. The final plat shall also establish a uniform series of key numbers for all blocks and lots from which official street addresses may be designated. The Zoning Administrator reserves the right to require different names and numbering systems if the Planning Commission believes such action is necessary.

2-404

Staff Review and Actions: Upon receipt of the final plat and certification documents required in this section, the Zoning Administrator shall perform the following tasks:

1. Certify the final plat application as complete (if applicable) and affix the date of application acceptance on the final plat.
2. Place the final plat on the agenda for consideration at the next regularly scheduled meeting of the Planning Commission.

3. Prepare a staff report to the Planning Commission recommending approval, conditional approval, or denial to the final plat.

2-405

Planning Commission Review and Actions: The Planning Commission shall approve or disapprove the final plat within 60 days from the submission of such plat. Action on a final plat shall be taken by a majority vote of the Planning Commission membership, regardless of the number of Planning Commission members present and voting at the hearing. If the final plat is disapproved, the applicant shall be notified in writing of the reasons for such disapproval. If the Planning Commission fails to approve or disapprove a preliminary plat within the 60 day period, then the final plat shall be deemed approved and such approval endorsed on the plat by the Chairperson of the Planning Commission, unless the applicant shall have requested or consented to waive such time limitation. If the final plat is approved, the Chairperson of the Planning Commission shall date and endorse the original. An approved final plat shall be submitted to the Governing body for its consideration of the dedications of streets and other public ways, drainage and utility easements, and any other land dedicated for public use. The Governing Body shall approve or disapprove such dedications within 30 days of the receipt of the approved final plat. The Governing Body may defer action for an additional 30 days for the purpose of allowing modifications to comply with the requirements of the Governing Body. No additional fees shall be assessed during this period. If the final plat is deferred or disapproved, the Governing Body shall advise the Planning Commission of the reasons for such action. Failure of the Governing Body to execute an acceptance of dedications shown on the plat shall be deemed a refusal of the proposed dedication.

2-406

Acceptance of Dedications: A final plat that has been approved by the Planning Commission shall be submitted to the Governing Body for its acceptance of the dedication of streets and other public ways, service, and utility easements and any land dedicated for public purposes. The Governing Body shall accept or refuse the dedication within 30 days after its first meeting following the date of the submission of the final plat to the City Engineer. The Governing Body may defer action for an additional 30 days for the purpose of allowing for modifications to comply with the requirements of these Subdivision Regulations. No additional fees shall be assessed during this additional period. If the Governing Body defers or refuses such dedications, the Governing Body shall advise the Planning Commission of the reasons for such deferral or refusal. Failure of the Governing Body to execute an acceptance of dedication shown on the plat shall be deemed to be a refusal of the proposed dedication. Prior to recording any final plat with the Dickinson County Register of Deeds, the plat shall include a certificate of the Governing Body that all dedications, if any, are accepted by the Governing Body.

2-407

Filing of Plat: The original of any final plat shall be filed with the Dickinson County Register of Deeds by the Zoning Administrator only after all approvals, acceptances and procedures as required by these Subdivision Regulations have been met. These include:

1. Approval of the final plat by the Planning Commission and endorsement thereon.
2. Approval of land dedicated to public purposes, if any, by the Governing Body and certification thereon.
3. Certification by the County Treasurer of Dickinson County, Kansas that there are no unpaid taxes, special assessments or tax liens outstanding against the property.
4. Acceptance of financial guarantees for public improvements.
5. Approval of engineering drawings, as required by these regulations.

Section 2-5. Concurrent Submission of Preliminary and Final Plats

2-501 Nothing contained in Section 2-3 and 2-4 shall be construed to prohibit the concurrent submission of preliminary and final plats, so long as such submissions contain all the information and follow all the procedures that would otherwise be required by these Subdivision Regulations, if such preliminary and final plats were submitted separately. A public hearing shall be held as required by Section 2-305 of these Subdivision Regulations.

2-502 When a applicant submits the preliminary and final plats concurrently, the Planning Commission shall act upon such submittal within 60 days after submission, stating its approval, conditional approval (stating conditions), or disapproval (stating reasons). If such determination is not made within 60 days after the preliminary and final plats have been concurrently submitted for consideration, such plats shall be deemed to have been approved and a certificate shall be issued by the Secretary of the Planning Commission upon demand, unless the applicant has requested or consented to an extension or waiver of the time limitation.

Section 2-6. Small Subdivision Plat

2-601 Whenever a subdivision or resubdivision consists of only one, two, three, or four lots, the Zoning Administrator may waive the requirements for submission of preapplication plans and data and the preliminary plat. Such waiver shall permit the applicant to file with the Zoning Administrator a "small subdivision plat" which shall:

1. Be discussed with the Zoning Administrator before submission.
2. Be submitted to the Zoning Administrator at least 30 days prior to the regularly scheduled Planning Commission meeting at which approval is sought.

3. Be subject to the notification requirements of Section 2-303 and the planning Commission public hearing requirements of Section 2-305.
4. Contain the required information for final plats as outlined in Section 2-4.
5. Be accompanied by the filing fee required by these Subdivision Regulations.
6. Be acted upon by the Planning Commission within 60 days after submission, stating its approval, conditional approval (stating conditions), or disapproval (stating reasons). If such determination is not made within 60 days after the small subdivision plat has been submitted for consideration, such plat shall be deemed to have been approved and a certificate shall be issued by the Secretary of the Planning Commission upon demand, unless the applicant has requested or consented to an extension or waiver of the time limitation.

2-602

The approval of small subdivision final plats shall be subject to the provision of Section 2.4 except the submission to the Governing Body shall not be required if there is no need for dedication of streets, or rights-of-way or other public property, or easements in whole or in part.

2-603

A series of two lot, three lot, or four lot subdivisions which create a unified subdivision shall not constitute a small subdivision within the meaning of this section.

SUBDIVISION REGULATIONS

ARTICLE 3 LOT SPLITS

Sections:

- 3-1. Objective**
- 3-2. Authorization for Approval of Lot Splits; Application Procedure**
- 3-3. Approval Guidelines**
- 3-4. Staff Review and Action**

Section 3-1. Objective

- 3-101** The objective of this section is to provide for the division of a tract of land or lot, following the adoption of these regulations, into not more than two lots which meet the minimum size and area requirements to the zoning district in which said lots are located without having to comply with the platting requirements described in Section 2 of these Subdivision Regulations. The new lots cannot, thereafter, be further subdivided without replatting.

Section 3-2. Authorization for Approval of Lot Splits; Application Procedure

- 3-201** Requests for lot splits approval shall be made by the owner of the land to the Secretary of the Planning commission. Four copies of a scale drawing of the lots involved if there are no structures, thereon, or, if structures are located on any part of the lot being split, four copies of the survey of the lot(s) and the location of the structure (s) thereon together with the precise nature, location and dimensions of the proposed lot split, shall accompany the application. The application shall be accompanied by the names and addresses of all persons to receive notices. Written notices shall be given to all owners of land within 200 feet of the property proposed to be split when such property is within the city limits and to all owners of land within 1000 feet within unincorporated areas if the property proposed to be split is located adjacent to or outside the city's limits. Such owners shall have 14 days from the date of notification to notify the Planning Commission of any protests they may have concerning the lot split. The 14-day waiting period may be waived upon submission in writing of statements from those to be notified that they have no objection to the proposed lot split.

Section 3-3. Approval Guidelines

- 3-301** The division of lots pursuant to this section shall comply with applicable zoning laws, these Subdivision Regulations, and all other applicable regulations. No lot split shall be approved if one of the following applies:
1. A new street or alley is needed or proposed;
 2. A vacation of streets, alleys, setback lines, access control or easements is required or proposed.
 3. If such action will result in significant increases in service requirements, e.g., utilities, schools, traffic control, streets, ext., or will

interfere with maintaining existing service levels, e.g., additional curb cuts, repaving, etc.

4. There is less street or road right-of-way than required by these regulations unless such dedication can be made by separate instrument.
5. Any easement requirements have not been satisfied.
6. If such a split will result in a lot or tract without direct access to a public street.
7. A substandard size lot or parcel will be created according to these Subdivision Regulations and the City Of Herington Zoning Regulations, except where a lot split will result in the substandard sized portion being recombined with an abutting lot or parcel to produce a standard size lot, and where this recombination is duly produce a standard size lot, and where this recombination is duly filed and recorded with the Register of Deeds of Dickinson County.

3-302 The Planning Commission may make such additional requirements as deemed necessary to carry out the intent and purposes of existing land development regulations and policy. Requirements may include, but not be limited to, installation of public facilities, dedication of right-of-way and easements.

Section 3-4. Staff Review and Action

3-401 The Planning Commission shall, in writing, either approve with or without conditions or disapprove the lot split within 30 days of application. If approved, and after all conditions have been met, the Planning Commission shall sign and furnish a certificate of approval to be affixed to the lot split survey, and a certified copy thereof shall be files with the Register of Deeds, the official designated to issue building or occupancy permits, and a copy shall be furnished to the applicant.

SUBDIVISION REGULATIONS

ARTICLE 4 SUBDIVISION DESIGN STANDARDS

Sections:

- 4-1. **Applicability**
- 4-2. **Authorization for Approval of Lot Splits; Application Procedure**
- 4-3. **Approval Guidelines**
- 4-4. **Staff Review and Action**

Section 4-1. Applicability

- 4-101** All subdivisions of land subject to these Subdivision Regulations shall conform to the following minimum design standards. Such design standards shall govern the approval of subdivision plats by the Planning Commission and the acceptance of land dedicated to public use by the Governing Body.

Section 4-2. Land in Floodway and Floodway Fringe Districts

- 4-201** No land subject to the floodway and floodway fringe regulations adopted by ordinance by the City shall be subdivided for any use not permitted by the underlying zoning district as presented in the City of Herington Zoning Regulations.
- 4-202** Subdivisions subject to the floodway and floodway fringe regulations adopted by ordinance by the City shall be designed in accordance with standards established in the Floodway and Floodway Fringe Districts of the City of Herington Zoning Regulations. Such subdivision proposals shall be designed to assure that all such proposals are consistent with the need to minimize flood damage, that all public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage, and the adequate drainage is provided so as to reduce exposure to flood hazards.

Section 4-3. Street Standards

- 4-301** **Conformance with the Comprehensive Plan:** To provide reasonable vehicular movement, arterial streets and collector streets shall be properly integrated with the existing system of streets and highways, as well as with the proposed system of streets and highways presented in the city's comprehensive plan. Street design standards other than those listed in this section shall conform with standards adopted by the Governing Body.
- 4-302** **Streets, Alleys, and Public Ways:**
(1) **Relationship to Adjoining Street Systems:** The arrangement of streets in new subdivisions shall make provisions for the continuation of the principal existing streets in adjoining additions (or their proper projection where adjoining property is not subdivided) insofar as they may be necessary public requirements. The width of such streets in new subdivisions shall be not less than the minimum street widths established herein. Alleys, when required, and street arrangement must cause no hardship to owners of adjoining property

when they plat their land and seek to provide for convenient access to it. Whenever there exist a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted and dedicated. Intersections shall not be permitted if they would intersect a street within 150 feet of another existing intersection.

(2) Street Names: Street that are obviously in alignment with other already existing and named streets shall bear the names of the existing streets.

(3) Arterial Streets: An arterial or thoroughfare which primarily serves as a transportation line for vehicular traffic and which prohibits direct access from residential lots. An arterial may be classified as either a Major Arterial or a Minor Arterial, as defined in the Highway Functional Classification System of the U.S. Department of Transportation, Federal Highway Administration.

(4) Urban Collector Street: A street intended to *move* traffic from local streets to arterial streets. An urban collector street serves a neighborhood or large subdivision and should be designed to discourage residential properties from facing onto it. An urban collector is classified as either a Major Collector or Minor Collector, as defined in the Highway Functional Classification System of the U.S. Department of Transportation, Federal Highway Administrator.

(5) Local Streets: Streets intended to provide access to the streets from individual properties. Local streets shall be so designed to discourage through or non-local traffic

(6) Cul-de-sacs: An adequate turnaround of not less than a 100-foot diameter right-of-way which shall be provided at the closed end of a dead-end local street segment. Such local street segment shall not exceed 600 feet in length from the intersection of a cross street to the juncture with the cul-de-sac.

(7) Right Angle Intersections: Under normal conditions, streets shall be laid out to intersect, as nearly as possible, at right angles. Where topography or other conditions justify a variation from the right angle intersection, the minimum angle shall be 60 degrees.

(8) Streets Adjacent to a Railroad Right-of-Way, Limited Access Freeway, Principal Highway: Where lots front or side, but do not back on railroad rights-of-way, limited access freeways or principal highways, a marginal access street or frontage road may be required parallel and adjacent to the boundary of such rights-of-way. The distance from said rights-of-way shall be determined, with due consideration to minimum distance required for approach connections to future grade separated intersections.

(9) Half-Streets: Half-streets shall be avoided, except where they are essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; or, when the Planning Commission finds that it will be practical to require the dedication of the other half of the street when the adjoining property is subdivided. Whenever a half-street, or portion thereof, is existing and adjacent to a tract to be subdivided,

the other half of the street shall be based on minimum requirements as set forth in subsection 11 of this section and shall be platted within such tract.

(10) Alleys: Alleys may be required in commercial, industrial, and residential areas. Alleys shall have a minimum right-of-way width of 20 feet. Dead-end alleys shall be avoided, wherever possible; if unavoidable, such alleys shall be provided with adequate turnaround facilities at the dead end. Alleys should be avoided in residential areas except where necessary to locally continue an existing alley.

(11) Minimum Requirements: All streets, alleys and public ways, included in the subdivision, hereafter dedicated and accepted, shall comply with the following:

- (a) Arterial and Urban Collector Streets:
 - Minimum right-of-way width 100 ft.
 - Maximum gradient 6%
 - Minimum radii of horizontal curves 600 ft.
 - Minimum sight distance on vertical curves 350 ft.

- (b) Industrial or Commercial Collector Street
 - Minimum right-of-way width 80 ft.
 - Maximum gradient 8%
 - Minimum radii of horizontal curves 250 ft.
 - Minimum sight distance on vertical curves 275 ft.

- (c) Minor Residential and Residential Collector Streets
 - Minimum right-of-way width 60 ft.
 - Maximum gradient 8%
 - Minimum radii of horizontal curves 135 ft.
 - Minimum sight distance on vertical curves 200 ft.

- (d) Pedestrian Way 15 ft.

(12) Additional Requirements: When existing or anticipated traffic on arterial and collector streets warrants greater widths of rights-of-way, the additional width shall be dedicated.

(13) Street Grades: The grades of streets, alleys and other public ways included in any subdivision shall not be greater than is necessary for the topographic conditions and shall be subject to the approval of the Engineer.

4-303

Dedication of Abutting Street Right-of-Way: When a proposed subdivision abuts an existing public right-of-way for a local street or a proposed public right-of-way for a collector or arterial street as shown in the City of Herington Comprehensive Plan, then the owner of the land proposed to be subdivided shall dedicate, without charge, any land within the subdivision that is necessary to provide conformity with the right-of-way standards in Section 4-3. Said dedication shall be shown on the preliminary plat and the final plat.

Section 4-4. Block Standards

4-401 **(1) Block Length:** Intersecting streets (which determine block length) shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets in the area. In residential districts, where no existing plats are recorded, the blocks shall not exceed 1320 feet **in** length, except that a greater length may be permitted where topography or other conditions justify a departure from this maximum. In blocks longer than 1000 feet, pedestrian ways and/or easements through the block may be required near the center of the block. Such pedestrian ways or easements shall have a minimum width of 15 feet. Blocks for business use should normally not exceed 1200 feet in length.

(2) Block Width: In residential development, the block width shall normally be sufficient to allow two tiers of lots of appropriate depth. **In** certain instances, however, a different arrangement may be required in order to provide better circulations or to protect a major circulations route. Blocks intended for business or industrial use shall be of such width and depth as may be considered most suitable for the prospective use.

4-402 **Sidewalks and Walkways:** Sidewalks or pedestrian walkways of a minimum of four feet **l** width may be required, upon recommendation of the Planning Commission and approval of the Governing Body where deemed necessary to provide convenient and safe access to schools, parks, playgrounds or other public or private community facilities.

Section 4-5. Lot Standards

4-501 **(1) Lot Standards:** If the proposed subdivision is served with a public water supply and a public sewer system or a community-type sewage treatment plant, approval of the lot sizes shall be subject to the minimum requirements set forth in these regulations and the Zoning Regulations.

(2) If the proposed subdivision is served with a public water supply, but not with a public sewer system, the preliminary plat shall be submitted on the basis of a minimum lot size of 2.5 acres and will be subject to the approval of the City Engineer, which shall make or cause to be made percolations test for the proposed subdivision and who shall make recommendations to the Planning Commission. The plat will be so proportioned as to permit future replatting consistent with good subdivision design.

(3) Minimum lot width shall be as required by the Zoning Regulations. (Said width shall be measured at the building setback line.) Corner lots should have such additional width as may be necessary to provide front yard setbacks along both street frontages.

(4) Minimum lot depth shall be as required by the Zoning Regulations. (Said depth shall be measured through the center of the lot and shall be perpendicular to the front property line or radial to the property line on curved streets)

(5) The maximum depth of residential lots shall not exceed two and one-half times the width thereof.

(6) Minimum lot areas shall be subject to the Zoning Regulations of the district in which the subdivision is located and the minimum design standards of this section. The more restrictive of the regulations shall govern.

(7) All side lot lines shall bear 60 to 90 degrees from the street right-of-way line on a straight street or from the tangent of a curved street.

(8) Front building or setback lines shall be shown on the final plat for all lots in the subdivision and shall not be less than the setbacks required by the Zoning Regulations or any other regulations adopted by the Governing Body; the most restrictive setback requirement shall govern.

(9) Double frontage lots shall be avoided unless, in the opinion of the Planning Commission, a variation to this rule will provide better street alignment and lot arrangement or will better protect the traffic-carrying capacity of a major street.

(10) Every lot shall abut on a street other than an alley.

(11) The subdivision or resubdivision of a tract or lot shall not be permitted where said subdivision or resubdivision places an existing permanent structure in violation of the requirements of the Zoning Regulations or the minimum design standards of these regulations.

4-502 Lots on Collector, Arterial, and Thoroughfare Streets: The number of lots with direct access to collector streets as shown in the City of Herington Comprehensive Plan shall be kept to a minimum in each subdivision. There shall be no lots with direct access to arterial or thoroughfare streets as shown on the Comprehensive Plan.

Section 4-6. Easements

4-601 Utility Easements: Where alleys are not provided, utility easements of not less than 10 feet in width shall be provided on each side of all rear lot lines, and on side lot lines, where necessary, for utility poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains, and other public utilities. These easements shall provide for a continuous right-of-way at least 20 feet in width. Utility easements shall not be obstructed by fences, structures, or landscaping. A property owner may install fences or landscaping at his or her own risk provided that such action does not damage, destroy or interfere with any utility system component.

An additional 12-foot temporary construction easement shall be provided for initial construction of water, sewer, and other utility lines.

4-602 Drainage Easements: If a subdivision is traversed by a watercourse, drainage way or channel, then a storm water easement or drainage right-of-way shall be provided. Such easement or right-of-way shall conform substantially to the lines of such watercourse and shall be of such width or construction, or both,

as may be necessary to provide adequate storm water drainage and for access or maintenance thereof. Parallel streets or parkways may be required in connection therewith. The engineer shall make a study and report his or her recommendation to the Planning Commission as to the desired width of such easement. Such study and report shall be based on the 100 year flood depth (if known).

- 4-603** Pedestrian-way Easements: Where the Planning Commission has recommended the installation of sidewalks or walkways within a subdivision, and said improvements have been approved by the Governing Body, a pedestrian-way easement may be required. Such easement shall have a minimum width of 15 feet.

Section 4-7. Drainage

- 4-701** Drainage Plans: The subdivider shall include a drainage plan, as required by Section 2-302, and shall design required storm water facilities according to the standards established by the City Engineer. Drainage plans shall include, but are not limited to:

- a. A complete drainage-area map showing the natural drainage area boundaries, direction of surface flow, any large impervious areas, existing and proposed streets, man-made or natural obstructions to be avoided for storm drainage locations, runoff calculations for existing and for developed conditions, and proposed inlet locations.
- b. A grading design so that drainage from each lot should flow directly to a channel or detention area without crossing more than four adjacent lots.

- 4-702** Detention Facilities: The subdivider shall install detention facilities when the Planning Commission determines that a subdivision provides enough area for runoff control and determines that detention facilities are necessary, and will not adversely affect downstream conditions.

SUBDIVISION REGULATIONS

ARTICLE 5 REQUIRED IMPROVEMENTS

Sections:

- 5-1. Applicability**
- 5-2. Guarantee of Completion of Improvements**
- 5-3. Improvement Procedures**
- 5-4. Streets**
- 5-5. Water and Sanitary Sewer**
- 5-6. Other Utilities**
- 5-7. Storm Drainage**
- 5-8. Sidewalks**
- 5-9. Monuments**
- 5-10. Open Space**
- 5-11. Exceptions for Existing Improvements**

Section 5-1. Applicability

- 5-101** Prior to and as a conditions of final plat approval, the subdivider shall enter into a legal agreement with the Governing Body and agree to install or otherwise provide for certain improvements within the proposed subdivision. Such improvements to be installed by the subdivider shall comply with the standards and specifications of City of Herington and shall be subject to any applicable surety requirements to guarantee their proper installations.
- 5-102 Construction and materials for construction of roads, road beds, curbs, gutters, sidewalks grades, drains, and shoulders where applicable, shall be acceptable to the Governing Body, for public dedication and acceptance for such purposes by the Governing Body regardless of whether or not such improvements are dedicated or accepted for dedications.

Section 5-2. Guarantee of Installation of Improvements

- 5-201** Subdivision Improvements: A method for financing proposed improvements and breakdown of anticipated costs shall be submitted with the Final Plat. This shall able accomplished by filing a Subdivision Improvements Agreement or a Benefit District Petition, and shall be required for all subdivisions of land except for Lot Splits or for developments which require no improvements. The Governing Body shall have sole responsibility to accept or reject the Subdivision Improvement Agreement or Benefit District Petition. Financing methods may include, but are not limited to, the following guarantees.
- a. **Petition for Establishment of a Benefit District:** The percentage split of costs shall be based on the policy established by the Governing Body. The City may decide not to participate in benefit districts that do not comply with the capital improvements program, or those which are inconsistent with the Comprehensive Plan.

b. **Surety Bonds:** The subdivider shall provide the City Engineer with all calculations and information needed to check the cost estimates of said improvements. This cost shall be estimated by the subdivider and shall be verified by the City Engineer. The subdivider shall then be required to obtain a security bond from a surety bonding company authorized to do business in the State of Kansas. The bond shall be made payable to the City of Herington and shall be a percentage of the total improvements costs as recommended by the City Engineer or such other financial assurance accepted by the Governing Body. The duration of the bond shall be until such time as the improvements are completed, inspected and accepted by the City.

c. **Alternatives:** Other financing methods may include cash or collateral, escrow accounts, property escrow accounts, or any other guarantee the Governing Body shall deem acceptable.

5-202 Defaulting: The Governing Body may, upon advice of the City Engineer, find that the subdivider is in default of the Subdivision Improvements Agreement. Such finding shall occur at a regularly scheduled meeting of the Governing Body. Two weeks prior to such scheduling meeting, the subdivider shall be notified by registered mail of possible default proceedings. At the meeting the subdivider shall be given the opportunity to rebut findings of default.

Defaulting results from:

- a. Improper construction standards and specifications.
- b. Failure to install agreed upon improvements.
- c. Construction of improvements not according to agreed upon time schedule, allowing for unexpected or unavoidable delays.
- d. Other financial and/or contractual conditions which might lead to the developer being unable to complete the agreed upon improvements.

5-203 Default Proceedings: The Governing Body may find the subdivider not in default, extend the time limit, or:

- a. Should the Governing Body find the Subdivision Improvements Agreement to have been violated, it may liquidate the improvements guarantee, in whatever form it takes, and apply the proceeds of this guarantee to the construction of the improvements set out in the Subdivision Improvements Agreement.
- b. Should the proceeds of the guarantee not be sufficient to cover the costs of said improvements, the Governing Body may assess to the subdivider, property owners, or both, the construction costs of the improvements that exceed the amount provided by the subdivider. This may take form of a lien against the property covered in the Subdivision Improvements Agreement.
- c. Should the proceeds of the guarantee exceed the actual cost of the improvements, and any cost incurred in the default procedures, the City shall return the unexpended balance to the individual names on the Subdivision Improvements Agreement as the one having secured the guarantee.

- 5-204** Guarantee Release: When all improvements have been completed and have been inspected, approved and accepted, the City shall authorize the release of the guarantee.
- 5-205** Performance Bond: As a guarantee that all public improvements, especially street improvements, have been done in a satisfactory manner, the subdivider shall provide a performance bond to the City of all subdivisions in the unincorporated portion of the City subject to these Regulations. Said performance bond shall be for a period of two years. The time period shall begin upon final acceptance of all improvements within the subdivision. Said final acceptance shall be made by the City Engineer. The performance bond shall be in the amount acceptable to the City Engineer and shall be in a form acceptable to the Governing Body, based upon advice from the City Attorney.

Section 5-3. Improvement Procedures

- 5-301** Final Improvement Plans: Upon the approval of the preliminary plat, the subdivider shall have prepared by a licensed professional engineer, engineering drawings for proposed required improvements containing the date and information specified in Section 5-302. Such drawings shall be certified by a licensed professional engineer, and shall be submitted in duplicate to the City Engineer at least 30 days prior to the date that approval of the final plat is requested. Failure to do so will be considered automatic consent, by the subdivider, to a waiver or an extension of waiver of any time limitation for plat approval.
- 5-302** Content of Engineering Drawings: Engineering drawings for required improvements shall contain the following data and information:
1. Plans, profiles, details, specifications and cost estimates for roadway and sidewalk construction, including plans and profiles for each street with a typical cross section of the roadway. The profiles of grade lines shall be shown to a scale of one inch equals 20 feet horizontal, and one inch equals 5 feet vertical. This information shall be shown on standard plan and profile sheets unless otherwise required by the City Engineer.
 2. Plan, profiles, details, specifications and cost estimates of proposed storm drainage improvements.
 3. Plans, profiles, details, specifications and cost estimates of proposed water distribution systems and proposed water supply facilities and water hydrants, if any.
 4. Plans, profiles, details, specifications and cost estimates of sewage systems and of any required sewage treatment facilities.
 5. Plans, profiles, details, specifications and cost estimates of other utilities that are required in these regulations.

6. Grading plans for all lots and other sites in the subdivision.
7. When unusual site conditions exists, the City Engineer may require such additional plans, specifications and drawings as may be necessary for an adequate review of the improvements to be installed.
8. All plans shall be based on N.G.S. datum for vertical control.

- 5-303** Review of Plans: The City Engineer shall review all engineering drawings in order to determine whether such drawings are consistent with the approved preliminary plat and comply with city design standards. If such drawings are consistent and in compliance, the Engineer shall forward to the Planning Commission a notice that such drawings do so conform or comply. The Engineer shall notify the subdivider of the specific manner in which such drawings do not so conform or comply; the subdivided may then correct such drawings, of such drawings are not corrected, the Engineer shall forward to the Planning Commission a notice as to the items of nonconformity or noncompliance.
- 5-304** Approval by Planning Commission: The Planning Commission shall approve a final plat only when the approval of the City Engineer and notice therefrom has been received indicating that the plans and engineering drawings have been approve or that the appropriate petitions, if authorized, have been filed with the City Engineer.
- 5-305** Construction of Improvements: No improvements shall be constructed nor shall any work preliminary thereto be done until such time as a final plat and the engineering drawings accompanying it shall have been approved as set forth in Sections 5-303 and 5-304 and there shall have been compliance with all of the requirements relating to an agreement, bond or deposit specified in these regulations. Construction of improvement shall commence within 12 months of date of approval of the final plat by the Planning Commission.
- 5-306** Inspection: All improvements constructed or erected shall be subject to inspection by the City Engineer or official responsible for setting and enforcing the applicable design and construction standards of the required improvements. The subdivider shall give at least 48 hours written notification to such official prior to the performance of any of the following work:
1. All phases of roadway and sidewalk construction; and
 2. All phases of construction including, but not limited to, water lines, sanitary sewer lines, storm drainage, underground wiring and other required improvements.

Section 5-4. Streets

- 5-401** Applicability: The subdivider shall provide for the improvement of all new streets within the subdivision. All public street construction shall conform to the standards and specifications of the City.

- 5-402** Street Signs: Street signs shall be placed at those locations within the area to be subdivided as determined by the City Engineer.
- 5-403** Subdivision Entrance Structures: Where one or more entrance or street structures, such as monuments, pillars, fences, walls, statuary or other decorative features are to be installed in a permanent fashion, the locations size and design shall be included on the street plans submitted to the City Engineer for approval. This submission shall also include a copy of the by-laws or other documentation of the Association which will have permanent responsibility for maintenance. Such by-laws or other documentation shall contain language which will, in the opinion of the City Attorney, assure proper maintenance by such associations.
- 5-404** Street Lighting: Street lighting shall be placed at those locations within the area to be subdivided as determined by the City Engineer. Street lighting shall comply with the standards adopted by the City.

Section 5-5. Water and Sanitary Sewer

- 5-501** Applicability: The type of water supply and sanitary sewer utilized to serve the subdivision shall be subject to the requirements of the City Engineer and the Kansas Department of Health and Environment.
- 5-502** Water: Before approval of a final plat, the subdivider shall present evidence as to the adequacy and potability of water available for domestic and fire protection use in the subdivision.
- 5-503** Septic Tanks: Septic tanks may be permitted on lots of 2.5 acres or more provided the requirements of the City Engineer are met. Where septic tanks are allowed, they must be approved by the City Engineer and a septic tank permit issued by the same. No final plat shall be approved until evidence is presented to the Planning Commission by the Zoning Administrator that septic tank installations is feasible on each proposed lot in a subdivision.

Section 5-6. Other Utilities

- 5-601** Installation of Utility Lines: The subdivider shall be responsible for making the necessary arrangements with the appropriate utility companies for the installation of utility lines and appurtenances. A letter from the utility company, confirming that such installation has been completed, shall be submitted to the Zoning Administrator prior to the issuance of building permits within the subdivision.
- 5-602** Buried Power and Communication Lines: Electrical power, telephone, telegraph, and cable television lines shall be buried where:
1. The subdivision is approved after date of passage of these regulations. New service must be provided. It shall not be interpreted that existing overhead systems will be required to be removed, replaced or duplicated. Except that the developer may request a waiver concerning the required underground installation. Such request for waiver shall be accompanied with a report from the responsible utility stating per lot cost differential

between buried and overhead installations. The Planning Commission shall *review* the request and make its recommendation to the Governing Body.

Section 5-7. Storm Drainage

5-701 Installation of Improvements: The subdivider shall install culverts, storm sewers, rip-rap slopes, stabilized ditches and other improvements to adequately handle storm water. All improvements shall comply with the minimum standards adopted by the Governing Body and shall be approved by the Zoning Administrator prior to construction.

Section 5-8. Sidewalks

5-801 Sidewalks may be required, as herein provided, upon the recommendation of the Planning Commission and the approval of the Governing Body. When required, the subdivider shall install sidewalks on at least one side of the street(s). All sidewalks shall conform to the standards and specifications adopted by the Governing Body. Sidewalks shall be located in the platted street right-of-way, abutting the property line.

Section 5-9. Monuments

5-901 Permanent Monuments: Permanent monuments shall be placed at all block corners, angle points, points of curve in streets and at intermediate points as required by the City Engineer prior to the final acceptance of the plat by the Governing Body. Said permanent monuments shall be ¾-inch iron bars, three feet long and shall be set with the top of the monument flush with existing ground lines.

Section 5-10. Open Space

5-1001 Dedication or Reservation of Public Sites and Open Spaces: In subdividing an existing plat, due consideration should be given by the subdivider to the dedication or reservation of suitable sites for schools, parks, playgrounds, or other public recreational areas or open spaces. As an alternative to such dedication or reservation, the Planning Commission may provide for the payment of a fee in lieu of dedication of land. Any areas so dedicated or reserved shall conform as nearly as possible to the recommendation of the Planning Commission may provide for the payment in its comprehensive plan and to the recommendations of the Board of Education. All areas will be dedicated to or acquired by the appropriate agency. A written statement from the Board of Education shall be submitted by the subdivider indicating whether or not a school site in the proposed subdivision is desired.

Section 5-11. Exception for Existing Improvements

5-1101 Exceptions for Existing Improvements:
(1) Where the proposed subdivision is a resubdivision or concerns an area presently having any or all required improvements as previously set out, and where such improvements meet the requirements of this section and are in good condition as determined by the City Engineer, no further

provision need be made by the subdividers to duplicate such improvements. However, where such existing improvements do not meet said requirements, the subdivider shall provide for the repair, correction, or replacement of such improvements so that all final improvements will then meet said requirements.

- (2) Where the proposed subdivision is a resubdivision or concern an area presently abutting or containing any existing public street of less than the minimum required right-of-way width or roadway width, land shall be dedicated so as to provide a minimum street right-of-way width established by these regulations and Planning Commission policy, and the subdivider of such proposed subdivision shall provide an additional roadway pavement meeting the minimum standards set by these regulations and the City Engineer. The Engineer shall determine what adjustment to make where the aforesaid widening merge with existing streets which are of smaller width at the boundary of such proposed subdivision. The Engineer may reduce the minimum roadway required by these regulations to match an existing roadway system if the extension of such roadway is already improved at each end of the roadway in the subdivision and the roadway in the subdivision to be reduced is two blocks or less in length. The City Engineer may also require lanes to be painted on such widened streets designating driving and parking areas. The foregoing provisions requiring the widening of pavement may be waived by the Planning Commission when the length of such pavement is less than one block.

SUBDIVISION REGULATIONS

ARTICLE 6 ADMINISTRATION

Sections:

- 6-1. Rule Exceptions**
- 6-2. Appeals**
- 6-3. Penalties for Violations; Actions for Enforcement**
- 6-4. Filing Fees**
- 6-5. Building Permits**
- 6-6. Land Elevations**

Section 6-1. Rule Exceptions

6-101 Whenever the Planning Commission deems full conformance to provisions of these regulations is impractical or impossible due to the size, shape, topographic location or conditions, or such usage of land included in a subdivision plat doing presented for approval the Planning Commission may recommend authorization of rule exceptions of these regulations in the final plat. Such recommendation shall intend that substantial justice may be done and the public interest be secured. Such Planning Commission recommendation for authorization of exceptions shall be made by letter of transmittal to the Governing Body. In recommending such exceptions, the Planning Commission shall find the following:

1. That there are special circumstances or conditions affecting the property.
2. That the exceptions are necessary for the reasonable and acceptable development of the property in question.
3. That the granting of the exceptions will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

Such request for exception shall be approved or disapproved by the Governing Body after its consideration of the recommendations of the Planning Commission. The decision of the Governing Body shall be transmitted in writing to the subdivider and the Planning Commission

Section 6-2. Appeals

6-201 Any decision of the City Engineer on matters contained herein may be appealed to the Planning Commission. Any decision of the Planning Commission on matters contained herein may be appealed to the Governing Body which may reverse or affirm such decision. In addition, any decision of the Zoning Administrator on matters pertaining herein to lot splits may be appealed to the Governing Body which may reverse or affirm such decisions. Any decision of the Zoning Administrator on matters pertaining to building permits may be appealed to the Board of Zoning Appeals, as provided for by the Zoning Regulations except as provided otherwise in these regulations.

Section 6-3. Penalties for Violations, Actions for Enforcement

- 6-301** The violation of any provision of these Subdivision Regulations shall be deemed to be a misdemeanor and any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed \$500.00 or by imprisonment for not more than six months for each and every offense. Each day's violation shall constitute a separate offense.
- 6-302** The Governing Body or any person, the value or use of whose property is or may be affected by a violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these Subdivision Regulations, and to abate nuisances maintained in violation thereof.

Section 6-4. Filing Fees

- 6-401** A filing fee shall be paid by all subdividers submitting preliminary plats for approval by the Planning Commission. Said fee shall be set by ordinance for the Governing Body.
- 6-402** The filing fee shall be paid to the Secretary of the Planning Commission through the Zoning Administrator at the time the preliminary plat is submitted. This fee shall apply to approval of the preliminary plat and final plat, provided that the final plat includes the same area to be subdivided as the preliminary plat. If the final plat is submitted in segments then the filing fee shall apply to all submittals except the first.

Section 6-5. Building Permits

- 6-501** No building permit shall hereafter be issued by the Zoning Administrator for construction on any land subject to these Subdivision Regulations until:
1. An endorsed copy of the subdivision plat has been recorded in the office of the Register of Deeds of Dickinson County.
 2. A recorded plat of the subdivision or an approved lot split, if applicable, is available for the Zoning Administrator's examination.
 3. Required public improvements have been installed to provide for occupancy of the subdivisions.
 4. There has been compliance with all of the provisions of these Subdivision Regulations, the conditions of plat approval and all other applicable state laws and regulations of the City of Herington in effect at the time of the subdivision of said land.
- 6-502** Lot Splits: The Zoning Administrator shall not issue a building permit for any site which contains a division of a platted lot or any unplatted lot of records, unless such division has been approved in the manner provided by Section 3 (Lot Splits) of these Subdivision Regulations.
- 6-503** Dwellings Per Lot: Unless otherwise allowed by the City of Herington Zoning Regulations, the Zoning Administrator shall not issue more than one building
- 6-504** Administration: Upon receipt of the building permit application and certification by the Zoning Administrator that the application is complete, the Zoning Administrator shall affix the date of acceptance on the application. The Zoning Administrator shall issue or refuse to issue the building permit within 30 days following examination of the recorded plat. If disapproved, the applicant shall have the right to perfect an appeal to the Governing Body within 30 days.

SUBDIVISION REGULATIONS

ARTICLE 7 MISCELLANEOUS

Sections:

- 7-1. Validity**
- 7-2. Repeal of Existing Regulations and Accrued Rights and Liabilities**
- 7-3. Effective Date**
- 7-4. Amendments**

Section 7-1. Validity

- 7-101** Should any section, clause or provision of these Subdivision Regulations be declared invalid or unconstitutional by any court of record, the same shall not affect the validity of these regulations as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

Section 7-2. Repeal of Existing Regulations and Accrued Rights and Liabilities

- 7-201** The adoption of these Subdivision Regulations repeals the existing subdivision regulations of the City of Herington in their entirety.
- 7-202** Despite the repeal of regulations existing at the time of adoption of these regulations, nothing contained in these Subdivision Regulations shall affect any rights accrued or liabilities incurred under said previously existing regulations.

Section 7-3. Effective Date

- 7-301** These regulations, being designated as the "Subdivision Regulations of the City of Herington, Kansas", shall be in full force and effect from and after their passage and publication.

Section 7-4. Amendments

- 7-401** Amendment Procedure: These regulations may be amended at any time, in accordance with K.S.A. 12-749 (c) and amendments thereto after the Planning Commission has held a public hearing on the proposed amendment. A notice of such public hearing shall be published for two consecutive weeks, the second of which shall be at least 20 days prior to the public hearing. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms.
- 7-402** Public Hearing: The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as the Planning Commission may from time to time prescribe by rule. Any interested person or party may appear and be heard at the hearing.
- 7-403** Action by the Planning Commission: Upon the conclusion of the public hearing, the Planning Commission shall prepare and adopt its recommendations and by an affirmative vote of a majority of the entire

membership adopt the same in the form of proposed subdivision regulations.

7-404

The Planning Commission shall submit the same together with a record of the hearing to the Governing Body.

Action by the County Board: When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the Governing Body may either:

(1) Approve such recommendations by ordinance;

(2) override the Planning Commission recommendation by a 2/3 majority vote; or

(3) may return the same to the Planning Commission for further consideration, together with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the Planning Commission recommendations, the Planning Commission, after considering the same, may resubmit its original recommendations. Upon the receipt of such recommendations, the Governing Body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations, by ordinance, or it need take no further action thereon.

If the Planning Commission fails to deliver its recommendations to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendations and proceed accordingly. The proposed subdivision regulations and any amendments thereto shall become effective upon publication of the adopting ordinance.