

# Article 15

## Supplemental Use Regulations

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### 15.100 Purpose and Intent

1. Statement of Intent and Purpose. The purpose of the supplementary use regulations is to provide additional regulations for specific uses. Compliance with all applicable supplementary regulations shall be required for any activity listed herein prior to any development or use of the land.

### 15.101 Airports and Landing Strips

1. Airports and landing strips shall meet all the requirements of the Federal Aviation Administration for the particular class of field proposed to be developed.

### 15.102 Adult Uses or Sexually Oriented Businesses

1. Where Permitted. Adult use or sexually oriented businesses shall only be permitted in the C-3, General Commercial District.
2. Location Requirements. Adult use or sexually oriented businesses must be located not less than 1,000 feet from the uses listed below. Measurement shall be determined by using a direct line (as the crow flies) from property line to property line.
  - a) Public or private school.
  - b) Place of worship.
  - c) Park.
  - d) Licensed day care center.
  - e) Another adult entertainment or adult use.
  - f) Residentially zoned property.

### **15.103 Bed and Breakfast**

1. A bed and breakfast facility located in a residentially zoned district must be established in a residential building or a building that can be successfully readapted to a residential use. In non-residentially zoned districts the building shall be compatible in design with the surrounding area.
2. No more than eight (8) rooms may be rented to guests.
3. One full bathroom facility must be provided for each four (4) rooms for rent.
4. The owner or owner's agent must live on the premises.
5. The facility is a part of the principal use of the lot.
6. Meals served shall be limited to residents, staff, overnight customers and guests.
7. A maximum of two signs may be installed in conformance with the provisions of Article 19.
8. On-site and or off-site parking shall be provided in accordance with the provisions of Article 20.

### **15.104 Campgrounds and RV Parks**

1. Campgrounds/RV Parks shall be utilized only for the accommodations of camping trailers, tents, recreational vehicles, and other similar camping vehicles. Under no circumstances shall campgrounds be used for mobile or manufactured homes except by the owner, agent, or guardian.
2. Campgrounds shall not be less than two (2) acres in size and located on a well-drained site that is properly graded to insure rapid discharge of storm water.
3. Campgrounds/RV Parks shall have an approved potable water supply and waste water treatment and disposal system.
4. Each site plan shall comply with the following minimum requirements.
  - a) Campground facilities, including camping spaces, shall conform to the setback distances specified for the zoning district in which the campground is located.
  - b) All camping spaces shall front on a private roadway that has an unobstructed access to a public street.
  - c) If the Zoning Administrator deems it necessary to screen adjoining property and provide privacy to the campground, a solid or semi-solid fence or wall six (6) feet high, but not more than eight (8) feet high, shall be placed between the campground and adjoining property. In lieu of a fence or wall, a landscape buffer may be used, provided that it is not less than twenty-five (25) feet in width and shall be planted with coniferous and deciduous trees and shrubs so as to provide a dense screening barrier the year round. The operator shall properly maintain the fence, wall or landscape buffer.

## **15.105 Communication Towers**

1. Radio or television towers, communication towers, microwave transmitting and/or receiving towers and/or stations, radio antennas, commercial satellite earth stations, and similar appurtenances are subject to the following:
  - a) The applicant shall present satisfactory proof that the proposed location and use is reasonably necessary to provide transmission/reception coverage for the service area.
  - b) If the tower is proposed to be located on a site where night-time warning lights would intrude in an area used for a residential purpose, the applicant shall be required to document as to why the tower cannot be reasonably located in a remote area.
  - c) Towers may be located on parcels of land that do not meet the lot size regulations of the zoning district in which they are located.
  - d) Towers shall be set back from all adjacent property lines, buildings, streets and highways a distance equal to not less than its height plus fifty (50) feet. A tower may be located adjacent to buildings owned by the applicant but must still meet all other setback requirements.
    - i. Exception: A statement is provided to the Zoning Administrator from the tower design engineer, which is stamped and signed by the design engineer, attesting to the fact the tower requires no fall zone.
  - e) The applicant or intended user of the tower shall provide documentation substantiating the technical need for the tower to be of the height stated in the site plan. The height-substantiating documentation shall be signed by a licensed professional engineer or a degreed radio frequency engineer in the employ of the applicant (or intended user) or retained by the applicant (or intended user).
  - f) The tower and accessory equipment must meet all requirements of the Federal Aviation Administration.

## **15.106 Junkyard or Salvage Yards**

1. The use shall be located on a tract of land at least 1,000 feet from a residential use or residential zoning district.
2. The operation shall be conducted wholly within a building or within an area completely surrounded on all sides by a solid fence or wall installed in accordance with Article 7. The fence or wall shall be located no closer than fifteen (15) feet to any public right-of-way.
3. No junk shall be loaded, unloaded, or otherwise placed, whether temporarily or permanently, outside the enclosed building, fence or wall, or within the public right-of-way.

4. Burning of paper, trash, junk, or other waste materials shall not be permitted.
5. No junk, salvage, scrap or other materials shall be piled or stacked higher than the top of the required fence, or wall.

### **15.107 Kennels, Breeding and Boarding**

1. The minimum lot size for boarding/breeding/training kennels shall be three (3) acres, unless all animals are harbored indoors; or unless the kennel is used exclusively as animal boarding facility for cats and/or dogs in conjunction with a veterinary or animal grooming operation.
2. No kennel shall be located within 1,000 feet of the nearest residential use.
  - a) Exception: A residence occupied by the owner or the operator of the kennel.
3. No kennel building or runs shall be located nearer than 100 feet to any property lines.

### **15.108 Mining and Quarrying**

1. The applicant for a conditional use approval (See Section 4.102 regarding the conditional use approval process) for a mining and/or quarrying site shall provide for the review of the Planning Commission and the City Commission:
  - a) A site operations plan. (The term "site" as used in Section 15.108 refers to the entire property upon which the mining or quarrying operation is taking place, not just the operational area of the property.)
  - b) A time schedule for the planned extraction of rock or other materials.
  - c) A copy of the state operating license issued in accordance with the state's Surface-Mining Land Conservation and Reclamation Act (KSA 49-601 *et seq.*).
  - d) A copy of the site reclamation plan submitted to the state to obtain the license (see KSA 49-607(a)(2) and KAR 11-8-6).
  - e) A copy of the financial assurance document submitted to the state in accordance with KSA 49-608 and KAR 11-8-8.
2. The site operations plan shall address:
  - a) Noise and dust control.
  - b) The control of vehicular traffic on the site and the principal routes to be used for the transport of materials off site. The applicant shall provide documentation that the off-site roads and bridges on transportation routes within the city or Pottawatomie County are structurally capable of carrying the loads to be imposed by the transport of materials to and from the site.
  - c) The maintenance of existing stream beds or how the streams will be diverted to maintain stream flow.

- d) Storm water drainage and retention.
  - e) Site security.
  - f) Site lighting.
3. Operational Restrictions
- a) No such use shall be allowed within a 100-year floodplain, unless approved by the State of Kansas.
  - b) The operational portion of extraction sites shall be at least 500 feet from an existing residence or business unless written permission to be closer is obtained from the owner of said residence or business.
4. The City Commission may require a maintenance agreement between the applicant and the county or city to maintain the roads and bridges in the county and the city, as applicable, that provide ingress and egress to the site. If the county declines to enter into a road and bridge maintenance agreement for roads and bridges under its jurisdiction, the requirement shall be met by presentation of a copy of the county's decision.
5. The site's owner and/or operator shall provide the Zoning Administrator copies of all correspondence, reports, and notifications to the state required by KSA 49-601 *et seq.* and KAR 11-8-1 through 11-8-8. Failure to make timely submissions of these documents to the Zoning Administrator shall be grounds for revocation of the conditional use permit.

### **15.109 Home Occupations** (see also 11.101.2e)

1. Home occupations shall be allowed in Residential districts as follows:
- a) In residential structures including attached garages utilizing a maximum of 25 % of the gross floor area of the residence. The garage may be included in the tabulation of the gross floor area. In detached accessories structures (sheds, garages) not to exceed 50% of the gross floor area or 500 square feet whichever is greater.
  - b) Only one structure per residential lot may be used for a home business.
2. Deliveries to and from the home business shall not require the use of vehicles other than parcel post or similar service vehicles.
3. Commercial vehicles greater than one-ton capacity used in the conduct of the home business shall not be parked in the public right of way.
4. No alteration of the principal residential structure shall be made that changes its residential character or appearance.
5. No mechanical or electrical equipment shall be used, nor any business activity permitted, which creates a nuisance from noise, smell, dust or other disturbance uncharacteristic of a normal dwelling unit.
6. No outdoor storage of equipment or materials used in the home business shall be permitted.

7. The home business shall be conducted by and involve the employment of only one family member and two assistants, the two assistants may be family members.
8. The home business may display a wall sign not exceeding four (4) square feet or a monument sign no larger than 3 feet by 4 feet meeting the requirements of Article 19.
9. Customary home occupations include the following uses, but are not limited to this list.
  - a) Teachers, including music, dance and drama instructors.
  - b) Dressmakers, seamstresses or tailors.
  - c) Artists, sculptors, authors, composers or photographers.
  - d) Offices of accountants, architects, engineers, attorneys, realtors, insurance agents.
  - e) Offices of salesmen, manufacturer representatives, provided no exchange of tangible goods is made on the premises.
  - f) Home crafts.
  - g) Barber shops and beauty parlors.
  - h) Hobbies, including the sale of small merchandise such as collector cards, coins, stamps, and games.
  - i) Locksmith or gunsmith.
  - j) Shoe, boot, and leather goods repair (including saddle making).
  - k) Small electronic and appliance repair.
  - l) Professional offices for health care services.
10. The following uses shall be prohibited from being classified as a home occupation.
  - a) Funeral homes.
  - b) Restaurants.
  - c) Commercial stables, kennels or animal hospitals.
  - d) Motor vehicle sales and repair.
  - e) Sale of liquor.
  - f) Sale of beer.
  - g) Motorcycle sales or repair.
  - h) ATV sales or repair.
  - i) Sale of accumulation of salvage.
  - j) Kennels or animal boarding.
  - k) Sale of dangerous animals.

### **15.110 Top Soil Removal Permit**

1. The Zoning Administrator shall issue, upon recommendation of the Planning Commission and approval of the City Commission, a permit for the commercial removal and sale of top soil and/or fill material. This permit requirement does not cover top soil removal activities that have a valid agricultural purpose or are undertaken in preparing a site for construction in accordance with an issued building permit. Top Soil Removal Permits shall be issued for a maximum period of one year with two allowed

extensions of six months each granted by the Planning Commission. Extensions beyond this two-year period shall require specific approval of the City Commission.

2. The Planning Commission shall recommend such permit only if there is reasonable assurance that the land can be successfully restored to an acceptable state; that run-off water and erosion can be controlled during the stripping process; and that such activity, including the generation of noise, dust, and traffic associated with the removal or ultimate reclamation, will not adversely impact property values or public health and safety.
3. Upon receipt of an application for a Top Soil Removal Permit, the Zoning Administrator shall publish a notice of a Planning Commission public hearing, together with a legal description and a vicinity map of the proposed site, in the official city newspaper at least one week in advance of the public hearing. The public hearing shall be conducted in accordance with the procedures set forth in Section 4.103.
4. The applicant shall be responsible for supplying a list of abutting property owners (or each lot owner in a subdivision if the subdivision abuts the top soil removal site.) The Zoning Administrator shall notify by mail landowners at least one week in advance of the public hearing.
5. The applicant shall provide the following materials and information to the Zoning Administrator as part of the permit application:
  - a) A scale drawing of the removal area and adjacent properties.
  - b) The drawing shall show the topography of the site and significant drainage features.
  - c) A legal description and a vicinity map of the proposed site
  - d) A project plan that provides a time-line schedule showing all significant events, including but not limited to:
    - i. The project start date,
    - ii. The start and completion of soil removal,
    - iii. The start and completion of site restoration,
    - iv. The date set for site closure (end of all project work),
    - v. The approximate amount (cubic yards) of material to be removed shall be noted in the project plan.
  - e) A site operations plan containing the information specified in Section 15.108.2.
  - f) A site restoration plan indicating the manner and schedule for land restoration and the anticipated site topography following restoration.
  - g) A plan for compliance with state and federal storm water regulations.
6. The Planning Commission may impose reasonable conditions and operating rules designed to protect public health, safety, welfare, and property values.

7. All damage to adjacent municipal or privately-owned drainage facilities, road, lanes, or other municipally or county owned property or natural watercourses resulting from the excavation, removal, or the deposit of soil shall be repaired by the permit holder.
8. All adjacent drainage facilities and natural watercourses shall be kept free of silt, clay, sand, rubble, debris, gravel, and any other matter or thing originating from any excavation or filling of any lands and causing obstruction to such drainage facilities or natural watercourses. Drainage facilities or natural watercourses shall not be polluted.
9. The City Commission shall require the applicant to deposit an irrevocable letter of credit or other acceptable financial assurance document to cover compliance with all the relevant terms and conditions of the permit, including, but not limited to the restoration of the site and the repair of damage as required in Section 15.110.6 above resulting from the removal operation. If, upon the expiration of a permit, the applicant has complied with all the relevant terms and conditions, the City Commission shall issue a release of all claims against the filed financial assurance document. If for any reason, the applicant fails to comply with the provisions or terms of the permit, the city may demand payment as set forth in the financial assurance document. The city may apply funds received to rectify any breach of the terms and conditions of the permit.

## **15.111 Temporary Uses**

1. General Provisions. The following temporary uses are allowed in any zoning district unless prohibited in the zoning district regulations (Article 10 through 13 for a specific district).
  - a) Christmas tree sales in any commercial or industrial district for a period not to exceed sixty (60) days. Display of Christmas trees need not comply with the yard and setback requirements of this ordinance, provided that no tree shall be displayed within 25 feet of the intersection of the curb line of any two streets.
  - b) Contractors' office and equipment sheds accessory to a construction project and to continue only during the duration of such project.
  - c) Seasonal sale of farm produce grown on the premises in a residential area for not more than six (6) months per year. Structures incidental to such sale need not comply with the applicable front yard requirements if the structures are removed or moved back from the required front yard setback line at the end of the season during which they are used.
  - d) A tractor-pull, sports events, large, single event auctions, craft sales, carnival, festival, or fair in commercial, agricultural, or industrial districts, and then only for a period that does not exceed three weeks. Such uses may be placed in all other districts if all activities are located more than 300 feet from the



nearest residential use. Such uses need not comply with front yard requirements, provided that structures or equipment which might block the view of operators of motor vehicles on the public streets shall not be located within thirty (30) feet of the intersection of the curb line of any two streets.

- e) The display of goods and merchandise may be conducted outside of enclosed buildings. Retail business may display merchandise of a type generally sold within the building in the area immediately adjacent to the building subject to the following conditions:
  - i. Any items displayed for sale seasonally or on a regular basis in front of a store shall be in keeping with the theme or nature of the business.
  - ii. Items displayed should be done so tastefully and safely and should be kept within 36" of a store front in order to allow safe passage of pedestrians.
  - iii. Any display should conform to ADA accessibility guidelines.
- 2. The Zoning Administrator shall determine that the temporary use adequately addresses parking, sanitary facilities, site impacts (including but not limited to traffic, dust, noise and activity), required health inspection certificate where applicable, and compliance with all other city codes and licenses.
- 3. The Zoning Administrator may issue a temporary use permit and allow the activity to proceed.
- 4. The Zoning Administrator is authorized to establish time limits for operation and set conditions as operating principles. A temporary use permit may be revoked for failure to operate within the established conditions.