

# **City of St. Marys, Kansas Unified Development Code**

**Adopted October 4, 2011, Ordinance No. 1245**

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Updated Ordinance No. 1345 "Rural Residential"

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# Article 1

## General Provisions

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### 1.100 Title and Authority

1. Title. This ordinance shall be known and cited as the St. Marys Unified Development Code, hereinafter cited as the UDC. Chapter 1 shall refer to the zoning regulations and Chapter 2 shall refer to the subdivision regulations.
2. Authority. This ordinance is adopted under authority of KSA 12-715b, KSA 12-741, et. Seq. to KSA 12-770.

### 1.101 Purpose.

1. This ordinance is adopted to serve the following purposes.
  - a) Promote the health, safety, morals, and general welfare of the community.
  - b) Provide and maintain a high-quality living environment for the residents of St. Marys and the surrounding extraterritorial area.
  - c) Lessen or avoid congestion on the public streets and highways of the community.
  - d) Secure safety from fire and flooding to persons and avoid damage to property.
  - e) Prevent the overcrowding of land.
  - f) Conserve and protect property values.
  - g) Conserve farmlands and other natural resources.
  - h) Promote the orderly growth and development of the community.
  - i) Establish minimum standards for all site plans, redevelopments and subdivisions.
  - j) Regulate and limit the heights, setbacks, and size of buildings and other structures.
  - k) Establish minimum requirements for:

- i. Off-street parking,
- ii. Loading, and unloading areas.
- l) Establish minimum requirements for buffer zones.
- m) Establish minimum requirements for the use of land in the flood plain to minimize flood loss.

### **1.102 Relationship to the Comprehensive Plan**

1. The St. Marys Unified Development Code is intended to implement the planning goals and policies contained in the St. Marys comprehensive plan and other planning documents and policies of the Planning Commission.
2. It is hereby acknowledged that the St. Marys comprehensive plan and amendments thereto shall constitute the basis or guide for public action to insure a coordinated and harmonious development or redevelopment which will best promote the health, safety, and welfare.

### **1.103 Jurisdiction**

These regulations shall apply to all structures, land and use of the land within the City limits of St. Marys, Kansas and the extra-territorial area as defined by legal description and adopted by the City Commission pursuant to state law.

### **1.104 Application of District Regulations**

1. Application. The provisions of these regulations may be regarded as the minimum requirements for the protection of the public health, safety, and welfare. They are not intended to abrogate or annul any building permit, certificate of occupancy, variance, or other lawful permit issued before the full force and effective date of these regulations. Any use or occupation of land previously approved as a permitted use shall be permitted to continue as a lawful use or occupation. Any lawful use or occupation of land existing at the time of adoption of this UDC shall not be affected, except as otherwise noted herein.
2. Conformance. No land, building, or structure, shall be used or occupied nor shall any sign be erected except in conformity with all the regulations of this ordinance, unless a variance is granted.
3. Exemptions. The following structures and uses are exempt from the provisions of this ordinance.
  - a) Land in excess of three acres, under one ownership, which is used only for agricultural purposes in the A-1 agricultural zone in the extra-territorial zone.
  - b) Railroad tracks, signals, bridges and similar facilities located on a railroad right-of-way.
  - c) Public information signs usually erected and maintained by a public agency that provide the public with information and in no

way relates to a commercial activity. Includes, but not limited to, speed limit signs, stop signs, city limit signs, street name signs, and directional signs.

- d) Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the distribution of electricity, gas, or water, or the collection of sewage or storm water operated or maintained by a public utility.
- 4. Multiple Buildings on Single Lots. In no case, shall there be more than one main use, building, or structure on one lot, except when a single lot is used or zoned for multi-family, R-2 and R-3, commercial, or industrial purposes. In such cases, all buildings shall collectively comply with all front, side and rear yard requirements for the zoning district where the lot is located.
- 5. Exemption for Existing Lots of Record. A building permit shall be issued to an applicant who is owner of a legally created "lot of record" (established prior to the effective date of this ordinance). Development may be permitted in any zone on a lot, which is substandard with regard to width, depth, or area provided the development meets all other requirements of these regulations.

**1.105 Enforcement and Penalties**

- 1. It shall be the responsibility of the Zoning Enforcement Officer [the Zoning Administrator] to interpret and administrate the rules and regulations contained in these regulations.
- 2. The City may institute appropriate action, including injunction and mandamus, to prevent unlawful erection, construction or alteration of structures, use of the land, occupation of buildings, abatement of nuisances, failure to obtain permits, sale of land for development purposes without reference to a valid plat, refusal to obey and adhere to a lawful order of the Zoning Administrator, or any other violation of the UDC.
- 3. Any person or agent who fails to apply for a building permit before construction starts including any dirt work, footing, slab, support or foundation shall be required to pay a late charge in accord with the following schedule:

New or Relocated Principal Buildings		Additions to Structures or Accessory Buildings
First Offense	\$10	\$10
Second Offense	\$20	\$20
Third Offense	\$30	\$30
Thereafter	\$40	\$40

- 4. The Zoning Administrator, upon finding a violation of these regulations (or if a proposed action would constitute a violation), shall have the power to:

- a) Issue a Notice of Violation that shall specify the offense, the name of the property owner or agent and/or occupant, the legal description of the property, and the remedy.
  - b) Issue a Stop Work Order that commands any person to immediately cease and desist from any unlawful construction, use or alteration of any building or land.
5. Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a complaint with the Zoning Administrator stating fully the facts or grounds upon which the complaint is based. The Zoning Administrator shall promptly record and investigate such complaint and take appropriate action as provided in this ordinance.
6. Whenever any provision of this ordinance is violated, the Zoning Administrator shall promptly notify in writing the person(s) responsible for the violations. The notification shall contain the nature of the violation and any corrective orders.
7. The Zoning Administrator shall have the following remedies without limitations:
  - a) No Action. Following any complaint, and after careful consideration, the Zoning Administrator may issue a "No Conflict" opinion.
  - b) Informal Contact. The Zoning Administrator shall have the authority to abate the zoning violation through informal meetings or conversations.
  - c) Agreement to Abate. The Zoning Administrator may enter into an agreement with a violator to abate or remedy a violation within a period not to exceed six (6) months, unless extended by the Planning Commission.
  - d) Notice and Order. (See #4. a and b) listed above.
  - e) Permits. The Zoning Administrator may refuse to issue any required permits on tracts, parcels, or lots cited for active violations of this ordinance.

## **1.106 Zoning of Annexed Lands**

All lands hereafter annexed to the City of St. Marys shall carry the county zoning designation upon annexation into the city for 60 days following the effective date of annexation. Any owner of land within the area annexed may apply for rezoning any time following the effective date of annexation. During the 60 days following the effective date of annexation, the Planning Commission shall prepare, or cause to be prepared a zoning map of the annexed area, conduct the necessary public hearing, and submit the same to the Governing Body for adoption. Upon adoption of the zoning map, all zoning requirements and regulations of the city shall take effect, and the regulations of the prior zoning jurisdiction shall terminate as affects the annexed area.

### **1.107 Vesting**

1. For the purpose of single-family residential developments, development rights in such land use shall vest upon recording of a plat of such land. If construction is not commenced on such land within five years of recording a plat, the development rights in such shall expire. Construction commencement shall mean the start of the construction of infrastructure (road and utilities) as necessary to allow for the construction and occupation of residences.
2. For all purposes other than single-family developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by a city or county and construction has begun and substantial amounts of work have been completed under a validly issued permit. Substantial amount of work shall mean installation of a foundation and the expenditure of at least \$2,500.00.

### **1.108 Repeal of Previous Regulations**

The previously adopted St. Marys Unified Development Code, adopted on the 21st day of March, 2006 (Ordinance #1172), and all amendments are hereby repealed effective from and after the date of the approval and adoption by the City Commission and publication of the adopting ordinance for this UDC.

### **1.109 Severability**

The intent of the City Commission of the City of St. Marys is that the provisions of this UDC are separable, in accord with the following:

- a) If a court of competent jurisdiction adjudges any provision of this ordinance to be invalid, such judgment shall not affect any other provision of this ordinance.
- b) If any court of competent jurisdiction shall find invalid the application of any provision of this ordinance to a particular parcel of land, building, or other structure, this judgment shall not affect the application of said provisions to any other parcel of land, building, or structure.

### **1.110 Effective Date**

The provisions of this ordinance shall become effective from and after the date of their approval and adoption by the City Commission and publication of the adopting ordinance. All zoning actions taken under prior regulations are hereby affirmed with zoning district classifications assigned as indicated on the official zoning map adopted with these regulations.

# Article 2

## Interpretations and Definitions

Section 2.100	Uses of Terms and Meanings
Section 2.101	Rules for Interpretation
Section 2.102	Undefined Terms, Words and Phrases
Section 2.103	Definitions

### 2.100 Use of Terms and Meanings

1. Words used in the present tense shall include the future tense.
2. Words used in the singular number shall include the plural number and the plural number shall include the singular number.
3. The words "shall" and "will" are mandatory and are not discretionary.
4. The word "may" is permissive.
5. The word "lot" shall include the words "place" and "parcel."
6. The word "building" shall include any covered structure specifically constructed for support, shelter or enclosure of persons, animals, chattels or moveable property of any kind.
7. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
8. The word "person" shall include the words "individual," "corporation," "governmental agency," "trust," "estate," "partnership," "association," "ventures," "joint ventures," or any other legal entity.
9. The masculine gender includes the feminine and neuter.
10. All measured distances shall be expressed in feet and shall be to the nearest foot. If a fraction of one-half (1/2) foot or less, the next full number below shall be used. If a fraction of more than one-half (1/2) foot, the next full number above shall be used.
11. Unless otherwise specified, all distances shall be measured horizontally.
12. Word and terms shall have the meaning set forth, except where otherwise specifically indicated. Words and terms not defined herein shall be defined as in Webster's New Collegiate Dictionary - latest edition.

### 2.101 Rules for Interpretation

1. Overlapping Regulations. Where the conditions imposed by any provision of this ordinance (UDC) on the use of land, buildings, or structures are more restrictive than comparable conditions imposed by any other laws, ordinances, resolutions, rules or regulations of any kind, the restrictions of this ordinance shall govern.

2. Private Agreements. The provisions of this ordinance (UDC) are not intended to annul or otherwise interfere with any easement, covenant, or private legal agreement, except that when the regulations of this ordinance are more restrictive, or impose higher standards than private agreements, the regulations of this ordinance shall govern.
3. Unlawful Uses. No building, structure, or use of the land not lawfully existing at the time of the adoption of this ordinance shall become or be made lawful solely by reason of the adoption of this ordinance.
4. Prohibited Uses. All uses and activities not provided for or addressed by the terms of this ordinance shall be considered to be prohibited uses and activities, unless the Zoning Administrator shall find that the use or activity is consistent and compatible with the provisions of this ordinance. The Zoning Administrator's decision may be appealed to the Board of Zoning Appeals as provided for in Chapter One, Section 3.101.7.a).

## **2.102 Undefined Terms, Words and Phases**

1. Terms, words and phrases not defined herein, but in need of definition, shall be processed under the interpretation provisions of Section 2.100.12 of this Unified Development Code.
2. The definitions in Chapter 2 Subdivision Regulations are intended to be used in conjunction with the definitions in Chapter 1 Zoning Regulations.

## **2.103 Definitions**

Note: See also Chapter 1, Section 14.111 for definitions applicable to floodplain matters and Chapter 2, Article 6 for definitions applicable to subdivisions.

1. Abut: To touch or to adjoin, or being separated from a common border by a R.O.W. or other type of easement.
2. Accessory Use: A use of land or a building or structure or portion thereof customarily incidental and subordinate to the principal use of the land or building or structure and located on the same parcel or zoning lot as the principal use.
3. Adjacent: To lie near, or close to.
4. Addition: Any increase to the gross floor area of a structure.
5. Agent: One who represents another, called the principal, in dealings with third persons. The agent undertakes some business by authority of the principal. The principal is the property owner. Typical actions include obtaining a building permit, applying for a rezoning, subdivision plat, variance or an appeal of a zoning-ordinance related matter.
6. Adult Care Home: Adult care home means any nursing facility, nursing facility for mental health, intermediate care facility for the mentally

retarded, assisted living facility, residential health care facility, home plus, boarding care home, adult day care facility, and adult care home for the aged. For specific definition see KSA 39-923, 39-1501 and 12-4901.

7. **Agriculture:** The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for packing, treating or storing the produce. Included are truck-farming, growing of nursery stock, raising of fruit and berries, bee-keeping and the retail sale of products grown or raised on the premises.
8. **Agricultural Building or Structure:** For the purposes of this ordinance, an "agricultural building or structure" shall imply any building or structure existing or erected on land used principally for agricultural purposes. Agriculture buildings include, but are not limited to: barns, sheds, granaries, silos, wind towers, structures and buildings for the housing of livestock, poultry and other marketable animals or fowl, or buildings or structures for the storage or housing of equipment and machinery or foodstuff produced on the farm.
9. **Agricultural Services:** An establishment primarily engaged in providing services specifically for the agricultural community which is not directly associated with a farm operation. Included in this use type would be servicing of agricultural equipment, independent equipment operators, and other related agricultural services.
10. **Airport or Aircraft Landing Field:** Any area of land which is used or intended for use for the landing and taking off of aircraft and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, including all necessary taxi ways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.
11. **Alley:** A public or private way, which normally affords a secondary means of access to abutting property. An alley shall not be considered a street. Further, frontage on an alley shall not be construed as satisfying the requirements related to frontage on a dedicated street.
12. **Amateur Radio Tower:** A structure on which an antenna is installed for the purpose of transmitting and receiving amateur radio signals erected and operated by an amateur radio operator licensed by the FCC.
13. **Animal Boarding:** Any structure where animals are boarded.
14. **Animal Hospital/Veterinary Clinic:** Any structure where animals or pets are given medical or surgical treatment. Use for boarding purposes and shall be limited to short-time boarding and shall be incidental to such hospital use.

15. Apartment: One (1) or more rooms in a multiple-family dwelling arranged, intended or designed as living quarters for an individual, group of individuals, or a family.
16. Area: The area is a function of the length of bounding sides yielding a measurement of the surface given in "square" units of length: e.g., square yards or feet.
17. Area, Floor: The floor area is the surface included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts.
18. Area of a Building: The total of all floor surfaces, including attached garages and below grade rooms, expressed in square feet (exclusive of uncovered porches, terraces and steps).
19. Arterial Street: Any street serving major traffic movements or used primarily for through traffic, designed primarily as a road to serve collector streets.
20. Assurance: A financial commitment consisting of letters of credits, construction bonds, cash, or other instruments approved as to form by the City Attorney, to cover the cost of public improvements.
21. Attic Story: An attic story is any story situated wholly or partly in the roof, so designated, arranged, or built so as to be used for business, storage, or habitation.
22. Automobile Accessory Stores: Automobile accessory stores are commercial uses primarily engaged in the business of selling new tires, batteries, or vehicle parts. Exterior storage areas are not permitted. This definition does not include "salvage yards".
23. Automobile Car Wash: Building or portion thereof containing facilities for washing one (1) or more automobiles.
24. Automobile Dealership: The use of any building, land area or other premise for the display of new and used automobiles, trucks, vans, or motorcycles for sale or rent, including any warranty repair work and other major and minor repair service conducted as an accessory use.
25. Automobile Repair Garage: An "automobile repair garage" is any building or premises whose primary use is for the general repair, engine rebuilding or reconditioning of motor vehicles, collision service such as body, frame and fender straightening and repair and painting of motor vehicles.
26. Automobile Service Station: An "automobile service station" is any building or premises whose primary use is for the dispensing or sale at retail to the public of automobile fuels, lubricating oil or grease, tires, batteries and other minor automobile accessories. Services offered may include the installation of tires, batteries and minor automobile accessories, minor automobile repairs and greasing or washing of individual automobiles, but do not include major automobile repairs. See Automobile Repair Garage.

27. Awning: A roof-like cover, temporary in nature, which projects from the wall of a building or other structure. A light, protective, appurtenance to a building.
28. Base Setback Line: A point from which all required setbacks are measured. When no R.O.W. is present, the measurement point shall be along the property line.
29. Basement: A basement or walk-out is that portion of a building located below grade.
30. Bathroom: A room containing bath, water closet or mechanically flushable device for the disposal of human waste, and a basin with running hot and cold water and drainage piping or tubing.
31. Bed and Breakfast Facility: A dwelling in which bedrooms are provided for overnight guests for compensation, on daily or weekly basis, with or without breakfast. The serving of meals other than breakfast or the serving of breakfast to other than overnight guests shall be considered a restaurant.
32. Bedroom: A room in a dwelling which one or more persons occupy for sleeping purposes.
33. Board of Zoning Appeals: The term Board of Zoning Appeals shall refer to the St. Marys Board of Zoning Appeals, also referred to in this ordinance as BZA.
34. Boarding House: A building other than a hotel, motel, or bed-and-breakfast where lodging and/or meals are provided for guests pursuant to previous arrangements, but not for the public or transients.
35. Broadcasting or Communication Tower: Any unstaffed facility for the transmission and/or reception of radio, television, radar, cellular telephone, personal paging device, specialized mobile radio (SMR), and similar services. A Broadcasting or Communication Facility usually consists of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission or reception devices or antenna. Excluded are amateur radio towers, which are described separately.
36. Borrow Pit: Any place or premises where dirt, soil, sand, gravel, or other material is removed by excavation or otherwise, below the grade of surrounding land, for any purpose other than that necessary and incidental to grading or to building construction or operation on the premises.
37. Buffer Zone: The term buffer zone as used in this UDC refers to a portion of one or more properties set aside for the purpose of lessening the visual disparity between commercial and residential zones, and between industrial and residential zones. A buffer zone may consist entirely of a large open space separation of the two zones, or of vegetation of a sufficient density year round to provide the visual separation, or a combination thereof. A buffer zone may be

established on land specifically set aside for the buffer zone, or on land that is a required setback area, or on land that is a combination of thereof, as required to obtain a lessening of the visual disparity between the disparate.

38. Building: Any structure built for the enclosure, protection, shelter, or support of persons, animals or property of any kind and which is permanently affixed to the ground. The term "building" shall not include fences.
39. Building, Attached: A building having any portion of a wall(s) in common with an adjoining building.
40. Building, Detached: A structure not supported by or appurtenant to another structure or a building surrounded by an open space on the same lot.
41. Building Code: The Building Code of the City St. Marys.
42. Building, Completely Enclosed: Any building separated on all sides from adjacent open space, or from other buildings, by a permanent roof and by exterior walls or party walls pierced only by windows and normal entrance or exit doors.
43. Building Coverage: That portion of a lot, which when viewed from directly above, would be covered by any building or structure. For the purposes of this definition, lot shall include contiguous lots of the same ownership within a single zoning district which are to be used, developed or built upon as a unit.
44. Building Envelope: The portion of a lot shown in a final plat which may be used for construction purposes, including: buildings, accessory uses, lateral fields, lagoons, and parking. Typically, the lot building envelope is the area bounded by the required setback, side and rear yards. However, because of conditions arising from soils composition, slope, drainage and other natural features, the building envelope may be either reduced or increased in size at the direction of the Planning Commission
45. Building, Front Line of: The side of a building which faces the front of the lot upon which the building is located (see "Lot, Front").
46. Building Height: The vertical distance from the average grade or its equivalent, opposite the center of the front of a building to the top or the highest roof beams, in the case of a flat roof; to the deck line of a mansard roof; and to mean level of the highest gable or slope of a gable, hip or gambrel roof. Where no curb level has been established, the height of a building may be measured from the mean elevation of the center line of the street fronting the lot.
47. Building, Residential: Any building which is arranged, designed, used, or intended to be used for residential occupancy by one or more families or lodgers and which includes, but is not limited to, the following types:

- a) Single-family detached dwellings.
  - b) Two-Family dwellings.
  - c) Townhouse dwellings.
  - d) Multiple-family dwellings.
48. Building Separation: The minimum horizontal distance between two buildings on adjacent lots or across a street or alley.
49. Building Setback Line: The line, perpendicular to the depth of the required front yard setback and parallel to a front lot line and/or street right-of-way line, whichever is greater, at which structures are permitted to be constructed and where "lot width" is measured.
50. Buildable Area of a Lot: That portion of a lot bounded by the required "rear" and "side yards" and the "building setback line."
51. Bulk: A composite term used to indicate the size and setbacks of buildings or structures and the location of same with respect to one another, and includes the following:
- a) Size and height of buildings;
  - b) Location of exterior walls at all levels in relation to lot lines, streets, or to other buildings.
  - c) Floor area ratio of buildings.
  - d) All open spaces allocated to buildings.
  - e) Amount of lot area provided per dwelling unit.
52. Bulk Storage: The storage of chemicals, petroleum products and other materials in aboveground containers for subsequent resale to distributors or retail dealers or outlets.
53. Business: An occupation, employment, or enterprise, which occupies time, attention, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.
54. Caliper: The diameter of the trunk of a tree in inches at the height of twelve inches above grade.
55. Camp, Day or Youth: A camp providing facilities for groups of young people such as Y.M.C.A. camps, Boy Scout camps and Girl Scout camps.
56. Campground: An area of land, managed as a unit, providing short term accommodations for tents, tent trailers, travel trailers, recreational vehicles and campers.
57. Capacity in Persons: The "capacity in persons" of an establishment or use is the maximum number of persons that can avail themselves of the services (or goods) of such establishment, at any one time, with reasonable safety.
58. Carport: An open-sided roofed automobile shelter, usually formed by extension of the roof from the side of a building.
59. Car Wash: See Automobile Car Wash.

60. Certificate of Occupancy: The written approval of the Zoning Administrator certifying that a newly constructed structure, addition to an existing structure, or existing structure undergoing a change in use is in full compliance with the provisions of this Ordinance and that such structure is habitable and in conformance with all applicable City building codes and regulations.
61. Child Care
- a) Licensed Day Care Home is a facility giving regular care for less than 24 hours per day to a maximum of six children under kindergarten age (includes the family's own children in this age group and four additional children kindergarten age and over, with a maximum of ten children including the provider's children).
  - b) Group Day Care Home is a facility licensed to care for a maximum of 12 children less than 14 years of age.
  - c) Registered Family Day Care Home is a licensed facility giving regular care for less than 24 hours per day to six or fewer children away from the child's home. The total must include the family's own children under the age of 16, and may not include more than three children less than 18 months of age (including the family's own children in this age group).
  - d) Child Care Center/Preschool is a licensed facility in which care and educational activities are provided for 13 or more children two weeks to 16 years of age for more than three hours and less than 24 hours per day (including day time, evening, and night time care), or which provides before and after school care for school aged children. A facility may not have fewer than 13 children and be licensed as a center if the program and building meet childcare center regulations. For facility regulations see KSA 1982 Supp. 72-1107(c).
62. Clinic: A building, the principal use of which is for offices of health professionals, which contains facilities for the examination and treatment of patients but not for their lodging.
63. Club: An organization catering exclusively to members and their guests, or premises and buildings for social, recreational, or athletic purposes which are not conducted primarily for gain; provided that any vending stands, merchandising, or commercial activities are conducted only as required generally for the membership of such club.
64. Clustering: The grouping of structures, courts, cul-de-sacs, or short streets--more closely than in conventional residential plans--in order to preserve natural site amenities and open space.
65. Collector Street: A road that collects traffic from local streets and serves as the most direct route to an arterial street.
66. Common Open Space: Land within or related to development, not individually owned or dedicated for public use, that is designed and

intended for the common use or enjoyment of the residents and their guests of the development and may include such complementary structures and improvements as are necessary and appropriate. Common open spaces do not include streets, alleys, off-street parking or loading areas or other facilities dedicated by the developer.

67. Common Entrance: Any access facility that provides passageway from the outside to a group of apartments in a garden apartment building or apartment house.
68. Compatible Use: Any property, use, or service, which is capable of direct association with certain other uses because it is complementary, congruous, or otherwise not detrimental.
69. Conditional Use: A use that, owing to some special characteristics attendant to its operation or installation is permitted in a district subject to approval by the Planning Commission and subject to special requirements, different from those usual requirements for the district in which the conditional use may be located.
70. Conforming Building or Structure: A "conforming building" or "conforming structure" is any building or structure which complies with all the regulations of the UDC.
71. Congregate Housing. Low-rent housing connected with which there is a central dining facility to provide wholesome and economical meals to the low-rent housing occupants. (See 42 USC 8002 for federal law setting forth other definitions affecting congregate housing.)
72. Conservation Easement: An easement granting a right of interest in real property that is appropriate to retaining land or water areas in their natural state.
73. Contiguous: See "Adjacent".
74. Curb Level: The level of the established curb in the front of a building or other structure measured at the center of such front. Where no curb elevation has been established, the mean elevation of the center line of the street fronting the lot shall be considered the curb level.
75. Density, Gross: The numerical value obtained by dividing the total number of dwelling units in a development by the gross area of the tract of land (in acres) within a development. This would include all non-residential land uses and private streets of the development, as well as rights-of-way of dedicated streets; the result being the number of dwelling units per gross acre of land.
76. Density, Net: The numerical value obtained by dividing the total number of dwelling units in a development by the area of the actual tract of land (in acres) upon which the dwelling units are proposed to be located and including common open space and associated recreational facilities within the area; the result being the number of dwelling units per net residential acre of land. Net density calculations exclude rights-of-way of publicly dedicated streets and private streets.

77. Detention Basin: A facility for the temporary storage of storm water runoff and the release of it gradually into a watercourse or storm water facility.
78. District: A portion of the territory of the City St. Marys where certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of this Ordinance.
79. Drainage Facility: Any ditch, gutter, pipe, culvert storm sewer, or other structure designed, intended, or constructed for the purpose of diverting surface waters from, or carrying surface waters off streets, public rights-of-way, parks, recreational areas, or any part of any subdivision or contiguous land areas.
80. Drive-in and/or Take-out Establishment: A place of business operated for the retail sale and purchase of food and other goods, services, or entertainment, which is laid out and equipped so as to allow its patrons to be served or accommodated while remaining in their motor vehicles, or which allows the consumption of food or beverages in motor vehicles on the premises or elsewhere on the premise, but outside any completely enclosed structures. If, in addition to the consumption of any food or beverages in motor vehicles or elsewhere on the premises outside any completely enclosed structure, an establishment also allows for the consumption of such products within a completely enclosed structure, it shall be considered a drive-in, drive-thru and/or take-out establishment.
81. Driveway: A pathway for motor vehicles with access from a street to a parcel of land or a structure.
82. Dwelling: A building, or portion thereof designed or used exclusively for human habitation.
83. Dwelling, Multiple-Family: A building designed exclusively for human habitation containing three (3) or more dwelling units.
84. Dwelling, Single-Family: A building designed exclusively for human habitation containing one (1) dwelling unit and intended for occupancy by one (1) family.
85. Dwelling, Townhouse: A building designed exclusively for human habitation containing two (2) or more dwelling units where each dwelling unit is attached to another dwelling unit by a vertical wall, with each dwelling unit having an individual entrance, not accessible from the entrance of any other dwelling unit and not overlapping any part of another dwelling unit.
86. Dwelling, Two-Family: A building designed exclusively for human habitation containing two (2) dwelling units.
87. Dwelling Unit: One (1) or more rooms, including individualized bathroom or kitchen facilities, which are arranged, designed, or used as living quarters for one (1) family or household.

88. Easement: A limited service or right-of-way of use granted in private land for public or quasi-public purpose; authorization by a property owner of any designated part of his/her property for use by another for a specified purpose.
89. Educational Institutions: Any public, parochial, private or charitable, or non-profit school, junior college, or university, other than trade or business schools, including instructional and recreational uses, with or without living quarters, dining rooms, restaurants, heating plants, and other incidental facilities for students, teachers and employees.
90. Efficiency Unit: A dwelling unit consisting of one (1) principal room exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room.
91. Establishment, Business: Any place of business carrying on operations, the ownership and management of which are separate and distinct from those of any other place of business located on the same zoning lot.
92. Factory Built Home: The term factory-built home means a mobile home, manufactured home or modular home. (See KSA 58-4202 (d) and UDC Sections 2.134, Manufactured Home; 2.135, Mobile Home and 2.136, Modular Home).
93. Family: A "family" consists of one (1) or more persons each related to the other by blood, marriage, or adoption (including foster children), together with such relatives of the respective spouses who are living with the family in a single dwelling and maintaining a common household.
94. Farm: Land being utilized for agricultural purposes.
95. Fence: A structure used as a boundary, screen, separation, means of privacy, protection or confinement, and constructed of wood, plastic, metal, wire mesh, stone, masonry or other similar material and used as a barrier of some sort.
96. Frontage: The length of all the property fronting on one (1) side of a street between the two (2) nearest intersecting streets, measured along the line of the street, or if dead ended, then all of the property abutting on one (1) side between an intersecting street and the dead end of the street.
97. Garage, Private: A detached accessory building or portion of a principal building, designed, arranged, used or intended to be used for the storage of motor vehicles owned and operated exclusively by the occupants of the premises and their guests.
98. Glare: The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.
99. Grade: The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

100. Grading: The reshaping of natural land contours, using natural land materials such as soil, gravel, sand, etc., for the purpose of eliminating erosion or sedimentation problems, creating or improving surface drainage, providing for the natural aesthetic contouring of property, or to accommodate a building plan by making minor changes in land elevation.
101. Group Home: Any dwelling occupied by not more than 10 persons, including eight or fewer persons with a disability who need not be related by blood or marriage and not to exceed two staff residents who need not be related by blood or marriage to each other or to the residents of the home, while dwelling is licensed by a regulatory agency of this state. (See KSA 12-736 for state law governing the operation of group homes.)
102. Halfway House: An establishment providing accommodations, rehabilitation, counseling, and supervision to persons suffering from alcohol, drug addiction, or similar disorders or to persons re-entering society after being released from a correctional facility or other institution.
103. Height of Structure: The "height of a structure," other than that of buildings (for height of buildings see Building Height), is the vertical distance from the ground level measured at a ninety (90) degree angle from the highest point of said structure.
104. Home Occupation: Any occupation or profession conducted within a dwelling unit, which complies with all the regulations of the UDC.
105. Hospice: A medical facility, either in a commercial or residential building, for the care of terminally ill people, including accommodations for their families.
106. Hospital: A "hospital or sanitarium" is an institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care of three (3) or more non-related individuals suffering from illness, disease, injury, deformity, or other abnormal physical or mental conditions.
107. Hotel: An establishment which provides lodging for transient guests in return for monetary reward and which provides customary hotel services, such as maid service, the furnishing and laundering of linen, telephone and desk service, the use and upkeep of furniture.
108. Incompatible Use: A use or service, which is incapable of direct association with certain other uses because it is contradictory, incongruous, or discordant.
109. Inoperable Vehicle or Equipment: A motorized vehicle or a machine, which is not in a condition to be operated in the normal or customary manner.
110. Industrial Park: A special or exclusive type of planned industrial area designed and equipped to accommodate a variety of industries,

providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.

111. Junk Vehicle: An automobile, truck, or other motor vehicle which has been damaged to such an extent that it cannot be operated under its own power and will require major repairs before being made usable or such a vehicle which does not comply with State, County or City laws or ordinances.
112. Junk or Scrap Yard\Salvage Yard: An open area where junk, waste, scrap, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. "Junk yard" includes automobile wrecking or salvage yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, but does not include uses established entirely within enclosed buildings.
113. Kennel: A licensed or unlicensed commercial or non-profit facility where dogs or other domesticated animals commonly kept as pets (primarily cats and dogs) are boarded, bred, maintained for humane reasons, made available for adoption, or sold. A residence or a farm is not classified as a kennel when household pets are sometimes bred and given away or sold. This definition does not include small accessory use structures providing shelter to household or farm pets.
114. Landfill, Dump: A disposal site in which the method of disposing of solid waste is by landfill, dump or pit and which has a solid waste disposal area permit issued under K.S.A. 65-3401 et seq., and amendments thereto.
115. Landscaping: The improvement of the appearance of an area by the planting of trees, grass, shrubs, or other plant materials, or by the alteration of the contours of the ground.
116. Livestock Sales Yard: An enclosure or structure designed or used for the purpose of holding livestock for sale or transfer by auction, consignment, or other means.
117. Lot: A single parcel of land under unified ownership or control. A lot can be either a lot of record or a zoning lot.
118. Lot Area, Gross: The area of a horizontal plane bound by the front, side and rear lot lines.
119. Lot, Buildable Area: The space remaining on a zoning lot after the minimum open space requirements of this Code have been complied with.
120. Lot Corner: A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding one hundred thirty-five (135) degrees. On a "corner lot", the front lot line shall be the lot line having the shorter dimension along the street line.

121. Lot Coverage: That portion of the lot that is covered by the ground floor of any covered or enclosed structure.
122. Lot Depth: The mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries.
123. Lot, Interior: A lot other than a corner or reversed corner lot.
124. Lot Line: A property boundary line of any lot. When a lot extends to an abutting street or alley, the lot line shall be the closest street or alley line.
125. Lot, Flag: A lot having access to a public street by means of a private driveway, access easement, or other private means.
126. Lot Line, Front: The surveyed boundary of a lot along the right-of-way of an existing or dedicated or public street or where no public street exists, along a public way. Where such public way is not a dedicated street, the right-of-way of such public way shall be deemed to be sixty (60) feet in width unless otherwise provided.
127. Lot Line, Rear: That boundary of a lot, which is most distant from, and is, or is most nearly, parallel to, the front lot line.
128. Lot Line, Side: Any boundary of a lot, which is not, a front lot line or a rear lot line.
129. Lot of Record: A lot which is a part of a subdivision, the plat of which has been recorded in the Office of the Pottawatomie County Register of Deeds; or a parcel of land which was lawfully recorded prior to the adoption and enactment of this Comprehensive Amendment to the City of St. Marys Zoning Ordinance.
130. Lot, Reversed Corner: A corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.
131. Lot, Through: A lot having a pair of opposite lot lines along two (2) more or less parallel public streets and which is not a corner lot.
132. Lot Width: The horizontal distance between the side lot lines of a lot measured within the lot boundary at the building setback line.
133. Marquee or Canopy: A roof-like structure of a permanent nature, which projects from the wall of a building.
134. Manufactured Home: The term manufactured home means a structure which:
  - a) Is transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

- b) Is subject to the federal manufactured home construction and safety standard established pursuant to 42 U.S.C. 5403. (See KSA 58-4202(a).
135. Mobile Home: The term mobile home means a structure which:
- a) Is transportable in one or more sections, which in the traveling mode is 8 body feet or more in width and 36 body feet or more in length, and is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; and
  - b) Is not subject to the federal manufactured home construction and safety standard established pursuant to 42 U.S.C. 5403. (See KSA 58-4202(a).
136. Modular home. The term modular home means a structure which is:
- a) Transportable in one or more sections,
  - b) Not constructed on a permanent chassis,
  - c) Designed to be used as a dwelling on a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; and
  - d) Certified by its manufacturer as being constructed in accordance with a nationally recognized building code. (See KSA 58-58-4202(c).
137. Residential Design Manufactured Home: The term residential-design manufactured home means a manufactured home on permanent foundation which has:
- a) Minimum dimensions of 22 body feet in width.
  - b) A pitched roof.
  - c) Siding and roofing materials, which are customarily used on site-built homes. (See KSA 12-742 (a) (7) and UDC Section 2.103 Definitions)
138. Mobile or Manufactured Home Park: An area of land or lands upon which three (3) or more independent mobile homes are harbored either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle, or enclosure used or intended for use as a part of the equipment of such mobile home park. A mobile home park shall not include a sales lot or unoccupied mobile homes for the purpose of inspection and sale.
139. Motel: An establishment which provides lodging for transient guests, in return for monetary reward and which provides customary hotel services such as maid service, the furnishing and laundering of linen, telephone and desk service, the use and upkeep of furniture and bellboy service. A typical motel consists of a number of bedrooms

- united under one (1) roof, but having individual entrances and with adequate parking available nearby.
140. Motor Freight Terminal: A building or area in which freight brought by motor truck is assembled and/or stored for routing in shipment by motor truck.
  141. Motor Vehicle: Any passenger vehicle, motorcycle, recreational vehicle, truck, truck-trailer, or semi-trailer propelled or drawn by mechanical power.
  142. Non-Conforming Building or Structure: Any building or structure and the use thereof or the use of land that does not conform with the regulations of this ordinance or any amendment hereto governing use in the district in which it is located.
  143. Non-Conforming Use: Any use of land, buildings, or structures which use is not permitted in the zoning district in which such use is located.
  144. Occupancy: The period during which one owns, rents, leases, uses, or occupies a certain premises or land.
  145. Occupant: A person who, on a regular basis, spends nights at a residence. A person is considered an occupant regardless of whether they spend the majority of their nights at a residence, if the times they do stay overnight are regular and recurrent. In addition, a person shall be considered an occupant if their clothes or other daily living supplies are maintained at the residence.
  146. Open Space: That portion of land and/or water not devoted to buildings or other structures, parking or loading areas, driveways, or any principal or accessory use.
  147. Outdoor Storage: The keeping, in other than a building, of goods, materials, or merchandise kept on the same parcel outside of the building for more than twenty-four consecutive hours.
  148. Overlay District: A district established by this ordinance to prescribe special regulations to be applied to a site in combination with the underlying or base district.
  149. Parking Facility: A site for surface parking or a parking structure unrelated to a specific use which provides one or more parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this ordinance. This use type shall not include parking facilities accessory to a permitted principal use.
  150. Parking Lot Area: The square foot area of the parking spaces, aisles and interior parking lot islands, excluding access drives that do not have parking spaces within them.
  151. Permitted Use: A use which is permitted "by right" in a particular zoning district. It is contrasted with special (conditional) uses that are authorized only if certain requirements are met and after review and

- the appropriate city boards grant approval. Permitted uses are normally principal uses of land.
152. Place of Worship: A facility or institution which people regularly attend to participate in or hold religious services, meetings, other activities. A “place of worship” for the purpose of this ordinance, shall only mean a building, which has been specifically constructed or adapted to a place of assembly and not a dwelling unit.
  153. Planned Unit Development (P.U.D.): A tract of land which is developed as a unit under single ownership or unified control, which includes one (1) or more principal buildings or uses and is processed under the Planned Unit Development provisions of this Ordinance. Also, a parcel of land planned as a single unit, rather than as an aggregate of individual lots, with design flexibility from traditional regulations (such as side yards, setbacks and height limitations) or land use restrictions (such as prohibitions against mixing land uses within a development). The greater flexibility in locating buildings and in combining various land uses often makes it possible to achieve certain economics in construction, as well as the preservation of open space and the inclusion of many amenities.
  154. Planned Unit Development Plat: A drawing or map made to measurable scale upon which is presented a description and definition of the way in which the design requirements of the Planned Unit Development are to be met and intended for recording with the County Register of Deeds.
  155. Planning Commission: The Planning Commission of the City of St. Marys.
  156. Principal Building: The main building upon a lot, or the building, which houses the principal use of the premises.
  157. Principal Use: The primary use of land or structures as distinguished from a secondary or accessory use. A house is a principal use in a residential area; a garage or pool is an accessory use.
  158. Quarter-quarter. A quarter of a quarter section of land (1/16 of 640 acres or approximately 40 acres).
  159. Quarry, Sand Pit, Gravel Pit, Top Soil Stripping: A lot or parcel or tract, used for the purpose of extracting stone, sand, gravel or topsoil for sale, and exclusive of the process of grading a lot in preparation to the construction of a building for which application for a permit has been made.
  160. Recording (of a document): To officially record a document in the Office of the County Register of Deeds.
  161. Recreational Vehicle: Any unit designed primarily for living or sleeping purposes, equipped with wheels or placed upon a wheeled device for the purpose of transporting from place to place. This term shall include, but not be limited to, camping trailers, campers, tent trailers, motor

- coaches, tent campers and shall also include those wheeled devices upon which they are placed.
162. Restaurant: Any establishment whose principal business is the sale of food for consumption at tables located on the premises.
  163. Restaurant, Drive-In: An establishment primarily engaged in the preparation of food and beverages, for take-out, delivery or table service, served in disposable containers at a counter and a drive-up or drive through service facility or which offers curb service.
  164. Restaurant, Fast-Food (Carry Out): An establishment primarily engaged in the preparation of food and beverages, for either take-out, delivery or table service, served in disposable containers at a counter. This use type does not employ a drive-up or drive-through service facility, and does not offer curb service. Retention: The permanent on-site maintenance of storm water.
  165. Right-of-way, Public: An access way dedicated to public use.
  166. Right-of-way, Railroad: A strip of land with tracks and appurtenant track operational facilities.
  167. Roadside Stand Non-Permanent: A temporary, portable structure used for retail sales and/or service.
  168. Screening: Concealing from view.
  169. Senior Housing: Multiple-Family residential development, the occupation of which shall be limited to persons 62 years of age or more provided that if two or more persons occupy a single dwelling unit, at least one shall be 62 years of age or more.
  170. Setback: the shortest horizontal distance between the lot line and the outermost buildable area of the lot.
  171. Sexually Oriented Business: The definitions, words, and phrases contained in KSA 12-770, and amendments thereto, are adopted by reference and shall have the same meaning for this Unified Development Code.
  172. Sight Triangle: The triangular space formed by the street lines of a corner lot and a line drawn from a point in one street line to a point in the other street line, each such point being 15 feet from the point of intersection of the street lines (measured along the street lines). Where the two street lines do not intersect at a point, the point of intersection of the street lines shall be deemed to be the intersection of the projection of the street lines or the intersection of the tangents to the street lines.
  173. Signs, Portable or movable: Portable or movable sign. A portable or movable sign is a sign whose supporting structure is not placed in the ground or affixed to a structure or building and which requires the efforts of two or more people or mechanical equipment to move it.
  174. Site or Lot Coverage: A percentage figure indicating that portion of a site covered by principal and accessory buildings, parking area, private

- streets, access drives, etc. Normally, land not considered in the site coverage computation is classified as open space.
175. Stable, Private: A detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale.
  176. Stables and/or Riding Academies, Commercial: The grounds and buildings where horses are bred, raised, boarded, or kept for remuneration, hire or sale.
  177. Story: That portion of a building included between the surface of any floor and the surface of the floor next above, or if there is no floor above, the space between the floor and the ceiling next above.
  178. Street: A public or private right-of-way, which affords a primary means of vehicular access to abutting property, but does not include alleys or driveways to buildings.
  179. Structure: Anything constructed, erected or placed, which requires location in or on the ground or is attached to something having a location on the ground.
  180. Structural Alteration: Any change, other than incidental repairs, which would prolong the life of supporting members of a building, such as the addition, removal, or alteration of bearing walls, columns, beams, girders or foundations.
  181. Tent: Any structure or enclosure, the roof of which and/or one-half (1/2) or more of the sides, are constructed of silk, cotton, canvas, fabric, or a similar light material.
  182. Top Soil: The top 10 inches of soil at a particular location.
  183. Trailer: Any vehicle, house car, camp car, recreational vehicle, or any portable or mobile vehicle on wheels, jacks, horses, skids, or blocks, and with or without automotive power; which is used, adapted, or designed for living, sleeping, business, trade, occupation or storage purposes. Normally, such occupancy is on a temporary or transient basis.
  184. Trailer-Camper Parks: A residential facility designed, used, or intended to be used to accommodate the over-night or temporary location, hook-up, or use of its facilities for travel trailers, camp trailers and recreational vehicles.
  185. Use: The purpose or activity for which the land, or building thereon, is designed, arranged, or intended, or for which it is occupied or maintained, and shall include any manner of performance of such activity with respect to the performance standards of this UDC.
  186. Variance: A device which grants a property owner relief from certain provisions of this Zoning Ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship, as distinguished from a mere inconvenience or a desire to make more

- money, or a practical hardship owing to circumstances which do not occur generally to land or buildings in the neighborhood.
187. Vested Property Right: A right that has become fixed. Vested rights are often established by showing that some development permit (road, water, sanitary sewer, or building permit) has been obtained and substantial construction started on the project. See Chapter 1 Section 1.107.
  188. Warehouse: A structure, or part thereof, or area used principally for the storage of goods and merchandise.
  189. Public Water Supply System: A system for the provision to the public of piped water for human consumption, if such system has at least 10 service connections or regularly serves an average of at least twenty five (25) individuals daily at least sixty (60) days out of the year. Such term includes any source, treatment, storage or distribution facilities under control of the operator of the system and used primarily in connection with the system, and any source, treatment, storage or distribution facilities not under such control but which are used in connection with such system.
  190. Short-term Rental – rental of a property, a dwelling unit, or a portion for a period of less than 30 consecutive days, excluding bed and breakfasts.
  191. Well: An underground source of water made accessible by drilling or digging to the level of the water table.
  192. Wholesale Establishment: A business establishment principally engaged in selling to retailers or distributors rather than consumers.
  193. Wind Turbine Electrical Generator (Small): A wind turbine electrical generator that has a rated capacity of 10 KW or less, has a rotor diameter of 10 feet or less, shall not cause a sound pressure level in excess of 60 decibels, as measured at ground level anywhere on the property line of the property on which the generator is located and which is intended primarily to reduce on-site consumption of utility power.
  194. Yard: any open unoccupied space within a lot.
  195. Yard, Corner Side: A side yard which adjoins a public street.
  196. Yard, Front: An open unoccupied space between the front property line and the front setback line extending the full width of the lot.
  197. Yard, Interior Side: A side yard which is located immediately adjacent to another zoning lot or to an alley separating such side yard from another zoning lot.
  198. Yard, Rear: an open unoccupied space between the rear lot line and the rear setback line, extending the full width of the lot.
  199. Yard, Side: an open unoccupied space between the side lot line and the side setback line, extending from the front setback line to the rear setback line.

200. Zero-Lot Line Residence: A detached single-family dwelling unit which is built to one of the side lot lines; generally constructed within a Planned Unit Development or when clustering residential units.
201. Zoning Administrator: A person appointed by the City Manager who is vested with certain defined administrative responsibilities regarding the implementation and enforcement of this ordinance.
202. Zoning District (Zone): A section or sections of the land area incorporated within the City St. Marys and the Extra-Territorial Zone (ETZ) for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.
203. Zoning Lot: A parcel or tract of land used, developed, or built upon as a unit under single ownership or control. The 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; and shall be contiguous parcels.

# Article 3

## Administration

Section 3.100	Planning Commission
Section 3.101	Board of Zoning Appeals
Section 3.102	Zoning Administrator
Section 3.103	Building Permit

### 3.100 Planning Commission

1. Membership. A Planning Commission is hereby created and appointed by the Mayor with the concurrence of the City Commission. There shall be eight regular voting members of the Planning Commission.
2. Terms and Qualifications
  - a) All applicants' names for Planning Commission vacancies shall be forwarded to the City Commission with the Planning Commission's recommendation.
  - b) All Commissioners shall be appointed for terms of three years unless the appointment is to fill an unexpired vacancy.
  - c) Vacancies that occur during a commissioner's term shall be filled for the balance of the unexpired term.
  - d) Planning Commissioners shall be at least 18 years of age.
  - e) Three members shall reside in the extra-territorial zone area. The remaining members must live in the City of St. Marys or own real estate located in the corporate limits of St. Marys.
  - f) Planning Commissioners may be removed for cause, including, but not limited to, failure to attend meetings, abuse of office, serious conflict of interest, and abusive conduct, by a 2/3 vote of the City Commission. Any Planning Commissioner removed from office shall have the right to file an appeal within 14 days of removal, for a full hearing of the matter before the City Commission.
3. Duties of the Planning Commission. The duties of the Planning Commission shall include, but not be limited to the following:
  - a) Comprehensive Plan. The Planning Commission is authorized to make or cause to be made a comprehensive plan for the development of the City of St. Marys and the extra-territorial zone. The comprehensive plan shall constitute the basis or guide for public action to insure coordinated and harmonious development or redevelopment that will best promote the health, safety, and welfare as well as the efficient expenditure of public funds.
  - b) Annual Review of the Comprehensive Plan. Once each year in January, the Planning Commission shall review or reconsider

the comprehensive plan or any part and may propose amendments, extensions or additions to the comprehensive plan.

- c) Subdivision Regulations. The Planning Commission shall advise and recommend to the City Commission adoption and amendment of regulations governing the subdivision of land, following the adoption of a comprehensive plan. The Planning Commission may establish subdivision regulations for all land located in the city and may apply such regulations to land outside of but within the ETZ. The Planning Commission shall determine if a subdivision plat conforms to the provisions of the subdivision regulations. The Planning Commission may either approve the plat, or notify the applicant the plat does not conform to the requirements of the subdivision regulations.
  - i. Approval of Preliminary Plats. The Planning Commission shall determine if a preliminary plat conforms to the provisions of the Unified Development Code and comprehensive plan. See Chapter 2, Article 2.
  - ii. Approval of Final Plats. The Planning Commission shall determine if the final plat conforms to the provisions of the Unified Development Code and forward the final plat to the City Commission for acceptance of public rights-of-way and easements. See Chapter 2, Article 2.
- d) Zoning Regulations. The Planning Commission shall advise and recommend adoption and amendment of zoning regulations, following the adoption of a comprehensive plan by the City Commission. The Planning Commission shall recommend to the City Commission the nature and the number of zoning districts that it deems necessary.
- e) Evaluate Changes in Zoning Boundaries and Zoning Maps. The Planning Commission shall conduct public hearings and provide a recommendation to the City Commission on all proposed amendments to the zoning boundaries and zoning maps. This shall also include conditional uses.
- f) Conditional Uses. The Planning Commission shall conduct public hearings and provide a recommendation to the City Commission on all proposed conditional uses.
- g) Site Plans. The Planning Commission may establish zoning regulations that require the submission of site plans to assist in the planned development of a site.

#### 4. Meetings

- a) All meetings shall be conducted by the Chair of the Planning Commission, or in his/her absence, by the Vice Chair, and then by the most senior member. The Chair, and other officers, shall

be elected by a simple majority of the Planning Commissioners on an annual basis. All officers shall serve for one year, or until their successors are elected, with a maximum of two consecutive years.

- b) All meetings {other than special meetings} of the Planning Commission shall be held on the 2nd and 4th Monday of each month at 7:00 PM. When there is no official agenda, a meeting may be canceled at the discretion of the Chair. The Chair, or the Vice Chair in his/her absence, shall have the power to call any special meetings, or to change a meeting time or place following public notification. Meetings shall generally be conducted in accord with Roberts Rules of Order.

5. Rules of Voting and Conflict of Interest.

- a) The Chair may vote in all official motions or elections. The Chair shall lead all discussions, and call for all votes, give direction, focus purpose, and bring issues to closure.
- b) All official votes shall be by simple majority of a quorum. A quorum is five commissioners present at any meeting, unless specified otherwise by state law. If a tie vote occurs, the motion is lost. The Chair can entertain another motion. If the Planning Commission fails to pass a motion, then a recommendation of denial is sent to the City Commission.
- c) All votes shall be "yes" or "no" by "voice" of the members; written votes are not allowed. The Chair may require reasons for the vote from each Commissioner when the magnitude of the change requested for the plan or zone change is extensive. Abstentions from voting, as distinguished from disqualifications, shall not be allowed. Official votes shall also be written by the secretary or designee in the form of minutes; minutes shall be approved at each meeting.
- d) Any Commissioner, including the Chair may disqualify him or herself, without stating reasons, by announcing the disqualification for the record, and leaving the table while the issue is being discussed and voted on. In case of a challenge by an applicant or a member of the public or a fellow commissioner, the Chair shall rule on disqualifications. Reasons for disqualification shall be, but are not limited to, the following:
  - i. To avoid the appearance of an impropriety.
  - ii. If the planning commissioner is a property owner within the statutory distance for notification of hearing.
  - iii. If the planning commissioner is a relative, employer or employee or business partner of an applicant.
  - iii. If the planning commissioner is an agent for an applicant {in a business or legal capacity}.

- iv. If the planning commissioner serves on an appointed board with an applicant.
  - v. If a planning commissioner is a constant, long term, and close social acquaintance of an applicant.
  - vi. If the planning commissioner feels that he/she cannot render a fair and impartial judgment due to past association, hearsay, or actions of an applicant or member of a public hearing.
  - vii. If the planning commissioner is a party to ex parte contact on a particular item of business that is subject to a public hearing.
6. Conduct of Public Hearing. Please see Article 4, Section 4.103, Procedures for Public Hearings .
7. Effect of Voting
- a) Votes shall either be cast of “yes” or “no” on an issue. A tie vote presented to the City Commission shall have the same meaning as “no recommendation”.
  - b) In the case of a final plat, the vote of endorsement by the Planning Commission is not advisory, and does not require approval by the City Commission. However, the final plat shall be sent to the City Commission for approval of all dedications of land for public purposes. If the City Commission does not accept the dedications within 60 days after plat endorsement by the planning commission, the city commission shall advise the planning commission of the reasons therefore, and the plat shall not be filed.
  - c) In the case of a proposed zoning amendment to the land use map or a in the case of a proposed Conditional Use, the vote of the Planning Commission is advisory and must be presented to the City Commission in the form of either recommendation for approval or denial. Upon receiving the recommendation of the Planning Commission, the City Commission shall review and process the proposal in accordance with Article 4, Section 4.104 of this UDC.
  - d) If a protest against such amendment, supplement or change is filed in the office of the City Clerk within fourteen (14) days after the conclusion of the hearing pursuant to said publication notice and is signed by the owners of record of 20% or more of any real property proposed to be rezoned. Or by the owners of record of 20% or more of the total property within the area required to be notified by this act (excluding streets and public ways and property excluded pursuant to paragraph (2) of this subsection) the ordinance adopting such amendment shall not be passed except by at least a 3/4 vote of all of the members of the City Commission.

- e) For the purpose of determining the sufficiency of a protest petition, if the proposed rezoning was requested by the owner of the specific property subject to the rezoning or the owner of the specific property subject to the rezoning does not oppose in writing such rezoning, such property also shall be excluded when calculating the "total real property within the area required to be notified" as that phrase is used in paragraph (1) of this subsection.

### **3.101 Board of Zoning Appeals**

1. Creation. A Board of Zoning Appeal (BZA) is hereby created to administer all zoning, floodplain, subdivision appeals, variances, and other matters of land regulation as enumerated in the St. Marys Unified Development Code.
2. Membership Requirements. All members of the Board of Zoning Appeals must be age 18 years or older at the time of their initial appointment.
3. Composition of the Board.
  - a) The Board of Zoning Appeals shall be composed of five (5) members; four (4) members shall be appointed by the Mayor and one member, who is also a member of the Planning Commission, shall be appointed by a simple majority vote of the Planning Commission. One member shall reside in the extra-territorial zone.
  - b) Members shall serve for terms of three (3) years and may be re-appointed for subsequent terms.
4. Service of Members.
  - a) All members of the Board of Zoning Appeals shall serve without pay or other compensation.
  - b) Members may be removed for just cause, including conflict of interest, bias, and failure to attend scheduled meetings by a majority vote of the City Commission.
  - c) Appointments to fill unexpired terms shall be made by the Mayor, with the concurrence of the City Commission.
5. Officers and Duties.
  - a) The Chair and Vice-Chair of the Board shall be elected by the membership of the Board annually at a regular meeting in November and serve a one-year term or until a successor is elected, for a maximum of two full consecutive years.
  - b) The duties of the Chair shall be:
    - i. To preside at all meetings of the Board.
    - ii. To decide all points of procedure, unless otherwise directed by a majority vote of the Board.
    - iii. Preserve order and decorum.

- iv. Prescribe a reasonable time for the presentation of evidence, argument and comment.
- viii. Sign the decisions of the Board.
- c) The duties of the Vice-Chair shall be to assume the duties of the Chair in the Chair's absence or incapacity.
- d) The duties of the Secretary shall be to conduct all correspondence of the Board; receive and file all appeals, exceptions, or variances, papers and records; summarize and report the recommendation of the City Staff; prepare, post and mail all notices required by law, ordinance, prepare and keep calendars, dockets and minutes of Board proceedings; and generally attend to all administrative work of the Board.

6. Meetings.

- a) The Chair and in his/her absence, the Vice-Chair, and then the most senior member, shall conduct all meetings and take all votes. Meetings shall be held at a time and place designated by the Chair of the Board of Zoning Appeals.
- b) All votes shall be "Aye" or Nay" by voice, with a taped record and written minutes kept of each session. Abstentions shall not be allowed, but members, may disqualify themselves, for cause. The secretary shall record in the minutes the vote of each member on every question, or, if the member is absent, such fact shall be indicated in the minutes.
- c) All hearings before the Board of Zoning Appeals shall be open to the public. The Board shall not hold a "closed meeting" or executive session, except as provided by Kansas Open Meetings Act.
- d) The Chair of the Board of Zoning Appeals may establish, from time to time, reasonable limitations on the length of testimony, and shall have the power to rule on objections and other points of order raised by a board member, an applicant, or member of the public hearing.
- e) Whenever there are no appeals or other business to be considered at any regular meeting, the Chair may cancel such meeting by notifying each Board member.
- f) A quorum for any meeting or hearing shall consist of three (3) members. All decisions of the Board granting an appeal, variance, or exception shall require a majority vote of a quorum.
- g) The order of business at regular meetings shall be substantially as follows below: Except as otherwise set out in these by-laws, parliamentary procedure at meetings shall be generally conducted by Robert's Rules of Order, as amended.
  - i. Roll call
  - ii. Determination of a quorum
  - iii. Approval of the minutes
  - iv. Hearing of cases

- v. Communications and miscellaneous business
- ix. Adjournment
- h) The following order of procedure shall generally be used for consideration of cases before Board:
  - i. The Chair announces the case.
  - ii. The Zoning Administrator shall present the staff report.
  - iii. The applicant or appellant shall present their case.
  - iv. Citizens will be recognized to present evidence, comment and argument in support or against the relief sought by the applicant or appellant.
  - v. Zoning Administrator evidence, comments and rebuttal to presentations by citizens.
  - vi. Applicant or appellant evidence, comments and rebuttal to presentations by citizens.
  - vii. Closing arguments by applicant or appellant.
  - viii. Closing arguments by the Zoning Administrator.
  - ix. Closing rebuttal by applicant or appellant.
  - x. The Board may question participants at any point in the hearing.
  - xi. Motion by a member or the Chair.
  - xii. Second by another member or the Chair.
  - xiii. Discussion on the motion. The facts and reasons in support of the motion shall be stated on the record during discussion on the motion.
  - xiv. Vote.
- i) The appellant or agent must appear before the Board of Zoning Appeals on the appointed time and day for the meeting or hearing. Failure to appear, unless waived by the Board of Zoning Appeals for cause, shall result in a dismissal of the appeal, and shall require re-application.
- j) The Board may adjourn or table an appeal to a date certain; such adjourned date shall be construed as a continuance of the hearing.
- k) An appeal may be withdrawn by the appellant in writing any time prior to the public hearing. Withdrawn applications for variances and exceptions may be filed again after six (6) months and shall be placed on the calendar according to the date filed.
- l) Actions of the Board of Zoning Appeals are final orders and are not sent to the City Commission for review or approval.

## 7. Powers and Responsibilities

- a) Appeals.
  - i. The Board of Zoning Appeals (BZA) is hereby authorized to hear appeals from any person or official affected by any decision of the Zoning Administrator. In exercising the power of appeals, the BZA may

reverse, amend, modify or affirm any discretionary act, requirement, decision or determination of the Zoning Administrator. To this end, the BZA shall have all of 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.

- ii. The appeal must be brought within 30 days of the final decision or action of the Zoning Administrator.
- iii. The appellant must file the proper forms provided by the Zoning Administrator, and if applicable, pay the appeals fee as listed in the Code of the City of St. Marys. No fee shall be refunded after a notice of appeal is filed and published.
- iv. Notice of the appeal hearing must be published once in the official city newspaper, at least 20 days prior to the hearing.
- v. When an appeal is filed, the action of the Zoning Administrator shall be stayed pending a final decision of the Board of Zoning Appeals.

b) Variances.

- i. The Board of Zoning Appeals is hereby authorized to issue variances from the specific terms of the zoning regulations provided that:
  - 1) The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone; and is not created by an action or actions of the property owner or the applicant.
  - 2) The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
  - 3) The strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
  - 4) The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
  - 5) Granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.
- x. The appellant must file the proper forms provided by the Zoning Administrator, and if applicable pay the

posted fee as is listed in the Code of the City of St. Marys. No fee shall be refunded after a notice of variance is filed and published.

- ii. Notice of the variance hearing must be published once in the official city newspaper, at least 20 days prior to the hearing.

c) Exceptions.

- i. The Board of Zoning Appeals is hereby authorized to grant exceptions to the provisions of the Unified Development Code in those instances where the Board is specifically authorized to act, and only under such terms and conditions that are enumerated in the zoning regulations.
- ii. The applicant must file the proper forms provided by the Zoning Administrator, and pay the posted fee as listed in the code of the City of St. Marys. No fee shall be refunded after a notice of exception is filed and published.
- iii. Notice of the exception hearing must be published once in the official city newspaper, at least 20 days prior to the hearing.

8. Requirements for Applicants

- a) Obtain an accurate legal description of the property.
- b) Make a scale drawing of the property; usually the recorded subdivision plat or survey will be sufficient for this purpose.
- c) Complete the necessary applications on forms provided by the Zoning Administrator and pay the required fee.
- d) Make an appointment with the Zoning Administrator to review the scale drawing. If possible, bring photos that clarify the need for the variance or exception.
- e) Write a statement of purpose that explains the need for the variance or exception. Explain or clarify any extenuating circumstances that would help the Board of Zoning Appeals to understand the request.

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

10. Representatives and Agents. Nothing contained in these bylaws shall be construed as prohibiting the right of any applicant or a member of a public hearing to retain an agent to represent them before the Board of Zoning Appeals. Likewise, legal counsel may be used to represent any person having business pertaining to the Board of Zoning Appeals. All persons, and their agents or counsels, have a right to speak at the designated time,

submit written comments for the record, make objections, note exceptions, or request points of clarification {for the record} during public hearings.

### **3.102 Zoning Administrator**

#### 1. Appointment.

The City Manager shall appoint an official known as the "Zoning Administrator" to administer the St. Marys Unified Development Code. The Zoning Administrator may use other City employees to assist in the administration of the UDC, such use to be approved by the City Manager and with the concurrence of Department Heads.

#### 2. Powers and Duties of the Zoning Administrator. The powers and duties of the Zoning Administrator shall include, but not be limited to the following:

- a) Letter of zoning compliance. To issue or deny a certificate of zoning compliance, which indicates that the use and physical development of the site is in conformity with the UDC.
- b) Process all applications for changes in zoning boundaries, conditional uses, site plans, and subdivision plats, including the collection of any fees.
- c) Process all applications for the Board of Zoning Appeals.
- d) To make and keep all records required by state law or necessary and appropriate for the administration of the UDC.
- e) Maintain the official zoning map.
- f) Review lot splits.
- g) Create such forms and applications as are necessary for the administration of the UDC. The information requirements specified on forms and applications for the administration of the UDC thus created shall not exceed, and shall be consistent with, the information requirement specified in the UDC.
- h) The authorization to grant administrative zoning variances for waivers, temporary uses, cases of necessity, minor errors and/or honest mistakes without recourse to the Planning Commission or the Board of Zoning Appeals. All administrative zoning variances granted under this authority shall be documented, with a copy given to the person requesting the variance. The variances authorized under iii. and iv. below shall not be interpreted as granting a special benefit to property owners as a matter of mere convenience. These two provisions are intended to prevent unreasonable hardships created by strict enforcement of the UDC in unique situations. The Zoning Administrator's administrative zoning variance authority includes:
  - i. Waiver of the sign requirements in Article 19.
  - ii. The granting of a temporary sign permit for a maximum of 30 days.

- iii. Waiver of any provision of the UDC related to the use of property on a temporary basis, limited to a prudent and reasonable time, when property owners have been impacted by natural or man-created disasters or a health emergency. If the period of the waiver extends beyond 60 days, the Zoning Administrator shall seek approval from the City Commission.
  - iv. The waiver of any provision of the UDC related to the use of property during times of construction, reconstruction, or adaptation waivers for such items as temporary living quarters for construction personnel, offices, storage buildings, machinery and equipment, stocked pile materials, sanitary facilities and portable concrete and asphalt mixing plants are included within this waiver authority. The waiver variance under this provision shall be for a finite period of time, up to a year in duration, as is reasonable based on the construction schedule. If the period extends past a year in duration, the Zoning Administrator shall seek approval from the City Commission.
  - v. The issuance of a permanent setback variance, only in the case of an existing use, when it is discovered that a principal permitted use, or an accessory use, does not conform to established building setbacks. The setback variance may encroach into a yard or setback line to a maximum of 5 percent or 5 feet, whichever is greater. A request for a setback variance for greater than five (5) percent or five (5) feet shall be referred to the Board of Zoning Appeals for the issuance of a permanent setback variance for the extension of parking areas into any yard or setback line, provided that a clear view for traffic is maintained.
- i) Interpret the official zoning map and provisions of the UDC, and offer written opinions on their meaning and applicability, and to make findings of fact, and, with the concurrence of the City Attorney, conclusions of law regarding determinations of vested rights.
  - j) Use an averaging method to establish any yard or setback in established areas to prevent excessive offsets between new and old structures.
  - k) Authorized to grant a waiver, grant temporary uses, and issue a "Permit to Encroach" in cases of necessity, minor error and/or "honest mistake" without recourse to the Planning Commission or Board of Zoning Appeals.

### 3.103 Building Permit

1. Building Permit Required. It shall be unlawful to commence the construction or the excavation for the construction of any building or structure, or the development of any site, including accessory structures or uses, or to commence the moving or alteration as defined in the city building code of any building, including accessory buildings within the City of St. Marys until the Building official/Zoning Administrator has issued a building permit for such work.
2. It shall be unlawful to commence the construction or the excavation for the construction of any building or structure, or the development of any site, including accessory structures or uses, or to commence the moving onto any site in the extra-territorial zone any building until a letter of zoning compliance is obtained from the Zoning Administrator.

Exception: Upon written authorization of the Board of Zoning Appeals as provided in Section 3.101, no such building permit shall be issued for any building where said construction, moving, alteration, or use thereof would be in violation of any provision of this Unified Development Code.
3. All applications for a building permit shall be accompanied with a site layout or plot plan drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location of the lot, existing buildings or structures, if any, and the size and location of the building or structure to be constructed, altered, or moved. The applicant shall state the existing and intended use of each building or part of building.
4. When requested by the Zoning Administrator, stakes on property corners, and at the corners of the proposed building shall be put in. Stakes placed on property lines or corners shall be marked "property line or corner". Stakes placed on building corners shall be marked "building corner".
5. Site Plan Approval. Before a building permit is issued for uses classified as a "conditional use" or specified for an "administrative site plan review", the applicant shall be required to submit a site plan in compliance with the requirements set forth in Article 8.

# Article 4

## Procedures

Section 4.100	General Procedures and Regulations
Section 4.101	Procedures for Zoning Map Amendment
Section 4.102	Procedures for Conditional Use Permit Applications
Section 4.103	Procedures for Public Hearings
Section 4.104	City Commission Review of Zoning Amendments and Conditional Uses

### 4.100 General Procedures and Regulations

1. The process for all zoning map amendments (including Planned Unit Development Districts) and Conditional Use permits shall include an application, a preliminary meeting with the Planning Commission, a public hearing, and the Planning Commission's recommendation presented to the City Commission.
2. Applications. All applications for zoning map amendments (including Planned Unit Development Districts) and for Conditional Uses shall be made on forms provided by the Zoning Administrator. For specific details regarding applications and procedures for zoning map amendments (including Planned Unit Development Districts) and Conditional Use permits, please see sections 4.101 and 4.102 of this Article.
3. Preliminary Meeting. The Planning Commission shall conduct the preliminary meeting in order to review the proposed change or proposed Conditional Use, to determine if the application is complete, and to request any additional information as needed. At the conclusion of the preliminary meeting, the Planning Commission must either instruct the Zoning Administrator to schedule a Public Hearing or explain to the applicant what is needed for the application to be complete. The Planning Commission must conduct a preliminary meeting before a Public hearing may be scheduled.
4. Public Hearing: All Public Hearings must be conducted in accordance with section 4.103, Procedures for Public Hearings.
5. City Commission Review. The City Commission shall review the Planning Commission's recommendation as seen in section 4.104 of this Article.

### 4.101 Procedures for a Zoning Map Amendment

1. All issues requiring a Public hearing shall first be submitted to the St. Marys Planning Commission for an introductory review of the issue and the completed application. Once the Planning Commission has received the issue and reviewed the completed application, the Planning

Commission shall notify the Zoning Administrator to schedule a public hearing in accordance with the provisions of Section 3.100.

2. Materials and Information. The following materials and information shall be used to process an application for a change to the zoning map and shall be considered as part of the completed application.
  - a) The applicant shall provide title or other suitable proof of ownership to the subject property.
  - b) The applicant shall provide a correct legal description of the subject property either in the form of a certificate of survey or a lot and block reference to the official city zoning map.
  - c) The applicant shall provide a sketch of the subject property drawn to scale that details the lot lines, existing features or building, drives, adjacent buildings, and the current use of existing buildings.
  - d) The applicant shall provide a written statement detailing the nature and reasons for the requested change
  - e) The applicant shall submit supporting material as requested by the Zoning Administrator depending on the magnitude of the change and the possibility of detrimental effects on surrounding properties. Supporting materials may include but are not limited to the following.
    - i. Topography at an appropriate scale.
    - ii. A Certificate of Survey.
    - iii. Environmental assessment.
    - iv. Surface water discharge analysis.
    - v. Facilities and utilities suitability analysis.
    - vi. An analysis of existing wells, tanks, and other sub-structures.
    - vii. Traffic and parking analysis.
3. Fees. The applicant shall pay all fees associated with the requested change.
4. Staff Review. After the preliminary meeting by the Planning Commission and after a public hearing has been scheduled, the Zoning Administrator shall review the application and analyze the proposal for consistency with the comprehensive plan. The Zoning Administrator shall prepare a staff report that summarizes the analysis and recommends approval or denial of the proposed change. Staff report and all documents that have been collected by the Zoning Administrator shall be submitted to the Planning Commission at least 5 days before the Public Hearing.
5. Public Hearing. The Zoning Administrator shall schedule the required public hearing only after receiving the approval of the planning commission and a completed application. The Zoning Administrator shall be responsible for placing in the official newspaper, a public notice to be published at least 20 days prior to the date of the hearing and/or to send

out the written notices to land owners of record within the prescribed distance as set forth in 4.103.3.

- a) A legal description or general description sufficient to identify the property under consideration.
- b) A statement regarding the proposed changes in the boundary or classification of any zone or district or a general description of the proposed development, subdivision, or other proposed action.
- c) The date, time, and place of the public hearing, and a clear statement that it is a public hearing at which public testimony is sought.
- d) The notice shall include a statement that a complete legal description is available for public inspection and shall state where such information is available.

#### **4.102 Procedures for Conditional Use Permit Applications**

1. Purposes of Condition Uses. The intent of these provisions is to recognize that certain uses may be appropriate only in a specific location. The Planning Commission must review the Conditional Uses Permit Application in order to evaluate the appropriateness and compatibility of the proposed use with the character of surrounding property, adequacy of services and other factors.
2. Zoning District Restrictions. The proposed Conditional Use must be listed in the approved Conditional Uses for the zoning district in which the property is located. If the proposed use is not, then the property must first undergo rezoning. A conditional use application requires a public hearing that is separate from an amendment to the zoning map. A change in zoning permits a range of uses, whereas a conditional use authorizes only one particular use as listed in the zoning district.
3. Special Regulations. An authorized conditional use shall comply with all applicable supplementary use regulations specified in Article 15.
4. Imposed Conditions. The Planning Commission is authorized to impose conditions with their recommendation to insure compliance with the criteria for review contained below in Section 4.102.7. Any additional condition shall be consistent with the requirements and context of the UDC.
5. Fees. The applicant shall pay all filing fees associated with an application.
6. Procedures for Application Review at the preliminary meeting. The following are necessary for a completed application for a Conditional Use Permit:
  - a) A written application for a Conditional Use shall be filed with the Zoning Administrator. This shall include a statement indicating

- the authorizing section of the UDC and sufficient evidence to show that the use will conform to the criteria in Section 4.102.7.
- b) All applicants for a review shall submit a site plan with their application in accordance with the submission requirements of Article 8 Site Plans. The Planning Commission is authorized to waive the site plan requirement when one is deemed unnecessary.
  - c) At the preliminary meeting, the Planning Commission shall advise the applicant of potential conflicts or deficiencies with the zoning regulations.
  - d) The Planning Commission may request additional information during their reviews at the preliminary meeting in order to better evaluate conformance with the UDC.
7. Public Hearing. After the application is deemed complete, the Planning Commission shall conduct a public hearing in accordance to section 4.103, Procedures for Public Hearings. At the public Hearing, the criteria for review of a conditional use are listed below:
- a) The location and size of the proposed use in relation to the site and to adjacent sites and uses of property, and the nature and intensity of operations proposed.
  - b) Accessibility of the property to police, fire, refuse collection and other municipal services.
  - c) Adequacy of ingress and egress to and within the site; traffic flow and control; and the adequacy of the off-street parking and loading areas.
  - d) Utilities and services, including water, sewer, drainage, gas and electricity, with particular reference to location, availability, capacity and compatibility.
  - e) The location, nature and height of buildings, walls, fences, and other improvements; their relation to adjacent property and uses; and the need for buffering or screening.
  - f) The adequacy of required yard and open space requirements and sign provisions.
  - g) The general compatibility with adjacent properties; other properties in the neighborhood; and the safety, health, comfort and general welfare of the community.
  - h) The consistency of the proposed use with the comprehensive plan.
  - i) The Planning Commission may request additional information during their reviews at the public hearing in order to better evaluate conformance the UDC.
8. The approval of a conditional use shall lapse and become void unless within two (2) years of the date of approval by the City Commission the applicant shall either:
- a) Apply for a building permit (if required) or
  - b) Engage in the conduct of the approved conditional use.

9. Approval of a Conditional Use shall be deemed to authorize only the particular use for which it is approved. A conditional use permitted by review shall run with the land.

#### **4.103 Procedures for Public Hearings**

1. Public Hearings are required for changes to the official zoning map (including PUD's, and for Conditional Use Permit applications. A preliminary meeting must be held by the Planning Commission before a public hearing is scheduled as seen in section 4.100.3 of this Article. The Planning Commission should also review Article 3, section 3.100 for clarification of their responsibilities with regards to Public Hearings.
2. After the preliminary meeting, the Zoning Administrator is responsible for scheduling the Public Hearing and for the proper execution and timing of all notifications.
3. Notifications by Mail. Prior to all public hearings, the public must be notified by either mail or by a public notice published in the official newspaper. The following are the procedures for notifications made by mail:
  - a) For zoning amendments and conditional use permit applications on property located within the city limits, the applicant must provide a list of the names and addresses of owners of all property situated within two hundred (200) feet of the property lines of the subject property boundaries. If one or more of the property lines of the property abuts the city limit boundary, then the area of notification is extended to 1000 feet for the area outside of the city limit.
  - b) For zoning amendments and conditional use permit applications on property located within the extra-territorial zone, the distance of notification for property owners increases to 1000 feet of the subject property boundaries. If one or more of the property lines abuts the city limit boundary, then the area of notification extends 200 feet for the area inside of the city limits, except for Conditional Use Permits Applications, for which the notification distance remains at 1000 feet.
  - c) This list shall be current as of the date of submission.
  - d) Persons appearing on the notification list shall be sent notice of the public hearing at least 20 days before the public hearing from the Zoning Administrator.
  - e) When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or City Commission.
4. Notifications by Publication. Prior to all public hearings, the public must be notified by either mail or by a public notice published in the official

newspaper. The following are the procedures for notifications made by publication:

- a) The Zoning Administrator shall be responsible for placing a public notice in the official newspaper. This notice must be published at least 20 days prior to the date of the hearing.
- b) The notice shall include a legal description or general description sufficient to identify the property under consideration.
- c) The notice shall include a statement regarding the proposed changes.
- d) The notice shall include the date, time, and place of the public hearing, and a clear statement that it is a public hearing at which public testimony is sought.
- e) The notice shall state that a complete legal description is available for public inspection and shall state where such information is available.

5. Conduct of Public Hearings. The following is the method of conduct for a Public Hearing.

- a) An Applicant, or an Agent for the Applicant, must be present to introduce a proposal for change, except that this rule may be waived by a 2/3 majority vote of the Planning Commissioners present. If an applicant or agent is not present, and the rule is not waived, then the Applicant shall automatically be granted an extension until the next regularly scheduled meeting of the Planning Commission. If the Applicant or Agent fails to appear at the following meeting, the matter shall be deemed void and the Applicant or Agent must reapply. If the Applicant or Agent fails to attend the first regularly scheduled hearing, they shall be assessed the full cost of public notification, including postage, abstractor search (if necessary) and a \$20.00 surcharge for reprocessing.
- b) All citizens (or their agents) attending a public hearing shall have the right to speak regarding the business at hand. The Planning Commission shall not hold a "closed meeting" or executive session, except as provided by Kansas Open Meetings Act. The Chair may set reasonable time limits for the duration of all discussions. At a public hearing, parties shall speak in the following order:
  - i. The Planning Commission Chair opens the hearing by explaining the nature of the request, its location, and the action or votes required of the Planning Commission.
  - ii. The Applicant or Agent introduces the proposal.
  - iii. The Planning Commission/Staff may ask questions to clarify any points made by the Applicant. Following

- this, any member of the public hearing may request points of clarification.
- iv. The members of the public may speak to the proposal.
  - v. A period of rebuttal shall be allowed for the applicant and those in favor or opposition.
  - vi. Final rebuttal for the applicant shall be allowed.
  - vii. The Chair shall officially close the public hearing phase of the particular business at hand.
  - viii. The Planning Commission shall debate the facts presented at the hearing.
- c) Following debate, the Planning Commission shall vote on a motion or table the item for further consideration. Decisions of the Commission shall be based upon facts entered into the record at the public hearing phase of the meeting, the recommendations of the staff, the adopted comprehensive plan, and the preservation of health, public safety, and the general welfare. Changes may be made to the proposed amendment only if the changes are directly related to facts stated by a member of the public during the public hearing portion of the discussion. If the item is not tabled for further consideration, the Planning Commission must vote to send the proposal to the City Commission with their recommendation for either approval or denial.
- d) Appropriate considerations for voting on an issue may also include the need for the proposed change, the magnitude of the change, and whether or not the change will bring harm to established property rights. Other considerations may include, but are not limited to:
- i. Demonstration of need for the change.
  - ii. The character of the neighborhood.
  - iii. The zoning designation of nearby properties.
  - iv. The suitability of the use to which the property is now restricted.
  - v. Length of time the subject property has remained vacant under the current zoning designation.
  - vi. Recommendation of the Zoning Administrator.
  - vii. The relative loss or gain to the subject property owner as compared to the relative loss of nearby property owners.
  - viii. The extent to which the proposed use will adversely affect the capacity or safety of the street or road network influenced by the use, or if the proposed uses provides adequate access roads or ingress and egress to prevent traffic hazards.

- ix. The environmental impact generated by the proposed use including, but not limited to, flooding problems, excessive storm water runoff, soil erosion and sedimentation, adverse effects on water supplies, including surface and ground waters, air pollution, noise pollution, excessive nighttime lighting or other environmental harm.
- x. The extent to which the proposed use will result in the destruction, loss or damage of any natural, scenic or historic feature.

#### **4.104 City Commission Review of Zoning Amendments and Conditional Uses**

1. For all Zoning Amendments and Conditional Use applications, the City Commission may either approve the recommendation of the Planning Commission by ordinance or override the Planning Commission recommendation by a 2/3-majority vote of the membership of the City Commission.
2. The City Commission may also return the Planning Commission's recommendation for further consideration. The Planning Commission may resubmit its original recommendation with supporting reasons, or submit a new and amended recommendation. If the Planning Commission fails to deliver either its recommendation or a letter requesting additional time for review to the City Commission following the Planning Commission's next regular meeting after receipt of the City Commission report, the City Commission shall consider such course of inaction as a resubmission of the Planning Commission's original recommendation.
3. The applicant may request a continuance by either a written request to the Zoning Administrator or seek a motion by the City Commission to grant a continuance. Any such continuance, when requested by the applicant, shall be made to a specified day.
4. The City Commission may also require additional information from either the Planning Commission or the applicant during their reviews to evaluate conformance to the requirements of the UDC.
5. For Conditional Uses and Planned Unit Developments, the City Commission may also impose additional conditions in order to insure better conformance to the requirements of the UDC. These certain conditions shall be listed on the site plans or final plats before the mayor signs them. These conditions shall be a permanent condition of the proposed use and shall not be deleted, amended or changed without the approval of the City Commission. The applicant must use the subject tract or parcel in accordance with all conditions and specifications listed on the approved site plan or final plat that has been approved by the City Commission. Any additional conditions shall be consistent with the requirements and context of the UDC.

6. A change in zoning or a conditional use shall become effective upon publication of the adopting ordinance by the City Commission.
7. If the City Commission denies the conditional use, the applicant's recourse is to District Court.

# Article 5

## Height and Area Exceptions

Section 5.100	General Provisions
Section 5.101	Building Height Exceptions
Section 5.102	Area Exceptions

### 5.100 General Provisions

The regulations and requirements relating to both the height of buildings and structures, and also the area of lots and yards, shall be subject to the exemptions in this article.

### 5.101 Building Height Exemptions

The exempted buildings or structures that may be erected above a district height limit are antennas, communication towers, flagpoles, chimneys, cooling towers, elevator bulkheads, fire towers, church steeples, grain elevators, stacks, storage towers, ornamental towers, monuments, cupolas, domes, spires, stand pipes, small wind turbine electrical generators, and other necessary mechanical appurtenances.

### 5.102 Area Exemptions

Patios, pools, or similar structures which are at or below grade may be located in any side or rear yard area provided they are at least 3 feet from any property line.

# Article 6

## Legally Nonconforming Property, Structures, and Uses

Section 6.100	Legally Nonconforming Property, Structures, and Uses
Section 6.101	Legally Nonconforming Property
Section 6.102	Legally Nonconforming Structures
Section 6.103	Legally Nonconforming Uses

### 6.100 Legally Nonconforming Property, Structures, and Uses

1. A property, structure, or use is legally nonconforming if it does not conform to regulations in this UDC and if the nonconformity is due to a change in regulation after the property, structure, or use was established.
2. Legally nonconforming property, structures, and uses may be continued or modified subject to the requirements of this Article.

### 6.101 Legally Nonconforming Property

Legally nonconforming lots may be built upon and/or used provided the new structure and/or use complies with applicable regulations in this UDC.

### 6.102 Legally Nonconforming Structures

1. Repairs may be made to a legally nonconforming structure if the repair does not create an additional nonconformity to the structure. In the case of major damage or destruction, the structure can be repaired or re-built up to its size before the damage was incurred.
2. Any addition to a legally nonconforming structure must comply with the regulations in this UDC.

### 6.103 Legally Nonconforming Uses

1. A legally nonconforming use of property or structures, or any combination thereof, may be continued.
2. A legally nonconforming use may be changed to a similar nonconforming use if the new nonconforming use does not negatively change the effects upon the neighborhood.

# Article 7

## Accessory Buildings, Structures, and Fences

Section 7.100  
Section 7.101

Accessory Buildings and Structures  
Fences

### 7.100 Accessory Buildings and Structures

1. General Provisions.

- a) An accessory building or structure shall be incidental and subordinate to the normal operation of the principal structure, building, or use.
- b) All accessory buildings or structures shall be located on the same lot as the principal use, or on a lot owned by the same taxpayer adjacent to the principal use.
- c) All accessory buildings over 150 square feet, shall be placed on a permanent foundation, slab, or piers approved by the Zoning Administrator. Any building less than 150 square feet and any accessory building that is equipped with skids or any other devices designed to make the building portable, shall require proper anchoring to a recognized standard.

2. Location.

- a) Accessory buildings shall not be located within the front yard setback.
- b) An accessory building shall not be located closer than five (5) feet to any side or rear lot line.

3. Use Limitations.

- a) All accessory buildings, uses, and activities shall comply with the general use regulations of each zoning district.
- b) No accessory structure shall be constructed and occupied on any lot prior to the completion of the principal structure.

4. Height Limitations.

An accessory building or structure shall not exceed the height restrictions of the zoning district in which it is located except those structures listed in Article 5 Section 5.101.

### 7.101 Fences

1. General Provisions.

- a) Permit Required. A permit shall be obtained before installation of any fence, except for fences to be used for agricultural purposes. The Zoning Administrator shall review and approve, approve with conditions, or deny the permit.

- b) Easements. Fences that intrude on public utility easements may be installed but at the land owner's risk and responsibility. The public utility has the right to remove the fence if needed for repair and maintenance work. If time permits, the owner will be given an opportunity to remove the fence, otherwise it will be removed by the public utility with such due care as is possible given the circumstances and the land owner will have no recourse for compensation by the public utility. If the land owner reinstalls the fence after repairs are done, the cost is entirely the land owner's responsibility.
- c) All fences shall be constructed to allow for proper surface drainage.
- d) Barbed wire fences and electric fences are not allowed in all residential districts in St. Marys. Agricultural fences and livestock fences are not allowed in the front yards of all residential districts in St. Marys.
- e) A functional access gate shall be installed in a fence when a fence places a city-serviced utility meter or service connection within the fenced in area.

2. Location Details

- a) Setbacks: Fences may be placed within the property lines.
- b) Sidewalks: Fences may be placed up to the sidewalk when one is present. However, if this places the fence in a public right of way, the landowner assumes the same risks and responsibilities as if the fence were in an easement.
- c) Corner Lots: KDOT sight triangle requirements must be followed if they require a fence to be placed inside a lot line on a corner lot.

3. Height. The following height standards shall apply to fences in all zoning districts.

- a) Residential Districts. Fences shall not exceed 8 feet in the side and rear yards, and 5 feet in the front yard.
- b) All other districts: Fence heights in districts other than Residential shall not exceed 8 feet.
- c) The Board of Zoning Appeals may grant a variance in all fence heights.

Note: Reference UDC Chapter 1, Article 11.101.6 Special Regulations

# ARTICLE 8

## Site Plans

8.100	Site Plans, When Required
8.101	General Site Plan Requirements
8.102	Additional Site Plan Requirements for Conditional Use Permits
8.103	Additional Site Plan Requirements for Planned Unit Developments
8.104	Additional Site Plan Requirements for uses in the Extra Territorial Zone (ETZ)

### 8.100 Site Plans, When Required

1. The submission of a site plan is required in all conventional zoning districts, including those in the Extra Territorial Zone, when there is proposed:
  - a) New construction.
  - b) Construction that changes an existing building footprint.
  - c) A new accessory building or structure, or an addition or change in the location of an existing accessory (the Zoning Administrator may skip the site plan requirement for accessories at his discretion if he thinks a site plan is not necessary).
  - d) Conditional Use Permit.
  - e) Further development, expansion, and / or redevelopment within a Mobile Home Park.

### 8.101 General Site Plan Requirements

1. All site plan submissions shall include the following information and meet the following standards:
  - a) A "Site Plan Cover Sheet" (obtained from the Zoning Administrator).
  - b) Two copies of the site plan.
  - c) The size of the plans shall be approved by the Zoning Administrator.
  - d) The Applicant acknowledges that he reviewed the permitted uses of the applicable zoning district.
  - e) The site plan shall be drawn to a scale that is professionally acceptable and is suitable for the area of the proposed project. The scale used and a north arrow shall be shown on all plans within the site plan submission.
  - f) A copy of the recorded plat of the property shall be included. Information to be shown on the plat includes property

pin locations, easements, and any buildings or accessories existing or proposed on the property.

- g) The location of proposed utility connections (if applicable) shall be shown.
- h) The location of adjacent streets and or alleys (if applicable) shall be shown.
- i) The location of driveway, composition, dimensions, and parking facilities (if applicable) shall be shown.
- j) The location and nature of proposed signs (if applicable) shall be shown.
- k) The submission shall include the following signature blocks:
  - i. i. I certify that I have reviewed this site plan and will comply with all specifications, changes, and amendments herein, and that this instrument creates a legally enforceable obligation to build and develop in accordance with all final agreements.
  - ii. \_\_\_\_\_ / \_\_\_\_\_
  - iii. Applicant's Signature                      Date
  - iv. Approved by the City of St. Marys City Zoning Administrator this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Zoning Administrator

### **8.102 Additional Site Plan Requirements for Conditional Use Permits**

Certain conditions may be imposed on site plans for Conditional Use Permits. For the handling of these imposed conditions, and also for the procedure required for the Conditional Use Permit application, please refer to Article 4, section 4.102, Procedures for Conditional Use Applications and Reviews.

### **8.103 Additional Site Plan Requirements for Planned Unit Developments**

Certain conditions may be imposed on site plans for Planned Unit Developments. For the handling of these imposed conditions, and also for the procedure required for Planned Unit Developments, please refer to Article 16, Planned Unit Development District.

### **8.104 Additional Site Plan Requirements for uses in the Extra Territorial Zone (ETZ)**

Below are special requirements that affect Site Plans in the ETZ:

1. Pottawatomie County is responsible for issuing any water and or sewage system permits which are required prior to commencement of any construction. County approval for this item must be obtained before construction begins.
2. Pottawatomie County is responsible for approving any roads or driveways opening onto any county roadways. County approval for this item must be obtained before construction begins.
3. The applicant shall fill out the application form for “Extra-Territorial Zones” which is provided by the Zoning Administrator.

# Article 9

## Creation of Zoning Districts and Official Map

Section 9.100            Establishment of Zoning Districts  
Section 9.101            Zoning Map Adopted

### 9.100 Establishment of Zoning Districts

The following zones are established and they may be referred to by the zone name or by the symbol as listed below.

- A.....Agricultural District
- R-R..... Rural Residential District
- R-1 ..... Single Family Residential District
- R-2 ..... Two Family Residential District
- R-3 ..... Multi-Family Residential District
- MHP ..... Mobile Home Park District
- PUD ..... Planned Unit Development District
- C-1 ..... Central Business District
- C-2 ..... Limited Neighborhood Commercial District
- C-3 ..... General Commercial District
- I-1 ..... Light Industrial District
- I-2 ..... General Industrial District
- I-3 ..... Heavy Industrial District

### 9.101 Zoning Map Adopted

1. Pursuant to St. Marys City Ordinance No. \_\_\_\_\_ adopted on \_\_\_\_\_, 2012, there is adopted by reference, an official zoning map which includes every portion of land located within the corporate limits of the city and the city's extra-territorial zone. The location and boundaries of the zoning districts are hereby established and shown on the official zoning map. The official zoning map, together with all explanatory matter is declared to be a part of this ordinance.
2. The zoning map shall be marked "Official copy of zoning district map incorporated into zoning regulations by adoption of Ordinance No. \_\_\_ by the governing body of the City of St. Marys on the \_\_\_ day of \_\_\_\_\_, 2012." The official copy shall be signed by the Mayor and shall be posted in City Hall where it can be reviewed by citizens during normal business hours without the need of staff assistance.
3. The scale, symbology and coloring of the zoning map shall be such that each zoning district is easily understandable even by color-blind citizens, and shall be such that all streets and parcels are readily identifiable. If necessary, the map may consist of more than one sheet. Each sheet

shall be annotated with the adopting ordinance number and date and the signature of the mayor.

# Article 10

## Agricultural Zoning District

Section 10.100	Purpose and Intent
Section 10.101	Exempt Uses
Section 10.102	Uses Permitted
Section 10.103	Conditional Uses
Section 10.104	Appearance Requirements for Non-Farm Uses
Section 10.105	Property Development Regulations
Section 10.106	Special Regulations

### 10.100 Purpose and Intent

This district is created to preserve rural character and protect land used for production agriculture, the farm family, and support services, and promote uses necessary to assist agricultural activities in and around the St. Marys area. The district allows limited rural residential development, but is primarily intended to contribute to the safe, efficient, and convenient conduct of farming and animal husbandry.

### 10.101 Exempt Uses

1. The following uses are exempt from all regulations except environmental sanitary codes and floodplain location requirements:
  - a) Farm residences and all agriculturally related structures.
  - b) Production agriculture; livestock; dairy; poultry and hatchery; commercial gardening; orchards; silvaculture; viticulture; horticulture; forestry; bees; fur bearing animals; necessary accessory uses to support operations.
  - c) Except for flood plain regulations in areas designated as a flood plain and environmental sanitary codes, regulations adopted pursuant to this act shall not apply to the use of land for agricultural purposes, nor for the erection or maintenance of buildings thereon for such purposes so long as such land and building erected thereon are used for agricultural purposes and not otherwise.

### 10.102 Uses Permitted

1. The following uses shall be permitted within the Agricultural District.
  - a) Dwelling unit(s) for members of the extended farm family or farm employees.
  - b) Single family, non-farm dwelling units. Factory-built homes, excluding mobile homes, will be allowed if placed on a

permanent foundation. The provisions of Section 11.100.4 apply, less Section 11.100.4.a). As long as the zoning of any contiguous land to the dwelling unit parcel remains Agricultural, the provisions of KSA 2-3202, Certain Agricultural Activities Not A Nuisance, and KSA 2-3203, Definitions, apply.

- c) Congregate housing (limited to State pre-empted categories for disabled). "Group Home for Disabled, see KSA 12-736.
- d) Bed & Breakfasts and Home Occupations, subject to the provisions of Article 15, Supplementary Use Regulations.
- e) Place of worship, Cemeteries, Public and Private Schools, Libraries and Museums, and Clubs and Lodges.
- f) Veterinary clinic and veterinary supplies provided that such buildings be located not less than 500 feet from any lot in a residential zoning district.
- g) Agriculture and livestock research facilities.
- h) Agricultural storage and processing facilities, including elevators and dehydrators. Such facility shall be located 2,500 feet or more from the nearest residence not owned by the operator at the time the facility is constructed.
- i) Exploration and extraction of oil and gas.
- j) Shops for hobbies, welding, and farm machinery repair, but does not include general auto repair, body or detailing shops.
- k) Public utilities, facilities, and water and sewer district facilities.
- l) Riding academies and stables and the sale of tack and equestrian supplies.
- m) Public and private parks and recreation facilities, limited to sports complex, golf courses, driving ranges, tennis, clubhouses, and archery.
- n) Temporary construction offices; storage, and batch asphalt or concrete mixing facilities for a period of up to one year (renewable for additional year).
- o) Uses or structures accessory to a principal use, subject to the provisions of Article 7, Accessory Buildings and Uses.
- p) Uses, which in the opinion of the Zoning Administrator are similar in nature to the above listed.

### **10.103 Conditional Uses**

1. The following uses may be permitted, subject to procedures listed in Section 4.102.
  - a) Commercial bulk sale and storage of agricultural fuels, feeds, fertilizers, pesticides, and herbicides, shall be located 2,500 feet or more from the nearest residence not owned by the operator.
  - b) Correctional facility, public or private.

- c) Supplementary Uses subject to the provisions in Article 15, Supplementary Use Regulations, including airport and aviation fields, crop spraying facilities, communication towers greater than 100 feet in height, travel camper and recreational vehicle parks including accessory commercial and residential uses, recycling and salvage facilities, kennels (five or more dogs) for breeding, boarding, or sale, quarries, gravel extraction, and mining.
- d) Recreation facilities: gun clubs; skeet and sporting clay ranges; shooting ranges; controlled wildlife shooting areas.
- e) Livestock sales facilities, rodeo or fairgrounds, flea markets, and open air used goods sales.
- f) Farm implement and equipment sales and service.
- g) Private construction debris landfills (requires Kansas State permit).
- h) Retreats, non-profit, common ownership camps and congregate facilities.
- i) Asphalt, concrete plants, and saw mills.
- j) Construction equipment yards and machinery storage.
- q) Consignment auction facilities.
- k) Accessory, non-farm residential units for care of family elderly or disabled. The accessory residence may be a 16' or wider residential design manufactured dwelling unit, a site built accessory dwelling unit, or a slide-in manufactured ECHO (elderly cottage housing opportunity) unit, provided that such additional unit complies with the Sanitary Code
- l) Wind turbine generators not otherwise allowed.

### **10.104 Appearance Requirements for Non-Farm Uses**

1. All new non-farm uses established after the effective date of this ordinance shall comply with the following requirements.
  - a) All scrap materials, inoperative vehicles; scrap machinery, appliances, debris, or other similar accumulated materials must be stored in a defined area behind the building or at the rear of the lot.
  - b) All parking and/or paved or graveled spaces must be separated from a public right-of-way by a minimum 12 feet "green area" - either seeded or landscaped unless exempted by the Planning Commission.
  - c) All outdoor lighting serving commercial uses shall be directed or shaded from residential property.
  - d) When a non-residential use is established adjacent to property used for residential purposes, the Planning

Commission may require the owner of the non-residential use being established to install a screening barrier.

## 10.105 Property Development Regulations

1. The following property development regulations shall apply to all non-farm sites in the Agriculture District.
  - a) Maximum building height of 35 feet for dwelling units.
  - b) Maximum density of one (1) non-farm dwelling per quarter-quarter (40 acres).
  - c) Minimum Lot area:
    - i. Five acres with individual well
    - ii. Three acres with public water service
  - d) Minimum lot frontage is 330 feet.
  - e) Minimum lot depth is 330 feet.
  - f) Minimum front yard setback:
    - i. When front yard abuts a city street the front yard setback is forty feet from right of way.
    - ii. When front yard abuts a County/Township Road the front yard setback is 80 feet from the right of way.
    - iii. When the front yard abuts a State or Federal Highway the front yard setback is 80 feet from the right of way.
  - g) Minimum side yard setback:
    - i. From property line to the principal structure is 30 feet.
    - ii. From property line to accessory structure is 30 feet.
2. The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.

## 10.106 Special Regulations

1. The following special regulations shall apply to each site in the Agriculture District.
  - a) Non-Farm Uses Building on Unplatted Land:
    - i. All new non-farm construction on unplatted land on less than 10 acres must prepare and record a plat, a certificate of survey, or a lot split prior to the issuance of a building permit unless it is a lot of record created prior to the adoption of this ordinance.
  - b) On-site Sewage Disposal Systems:
    - i. All uses shall provide an on-site sewer treatment system that complies with the requirements of the Pottawatomie County Sanitary Code.
  - c) Legally Established Property Development Regulations:
    - i. The Zoning Administrator is hereby empowered to issue building permits or certificates of zoning compliance to new construction on lots of record created before the effective date of the adoption of

this ordinance. The permits shall adhere to the original lot size and yard requirements as specified for the lot of record.

# Article 11

## Residential Zoning Districts

Section 11.100	R-R, Rural Residential District
Section 11.101	R-1, Single Family Residential District
Section 11.102	R-2, Two-Family Residential District
Section 11.103	R-3, Multiple-Family Residential District
Section 11.104	MHP, Mobile Home Park District

### 11.100 R-R, Rural Residential District

1. Purpose and Intent. This district is intended to provide residential subdivisions served by individual on-site wastewater disposal facilities, within the extra-territorial area. The intent is to allow platted subdivisions to promote a rural environment or lifestyle.
2. Uses Permitted. The following uses shall be permitted within the Rural Residential District.
  - a) Single family dwelling units (one unit per lot or tract) which may include a living suite for the care of family members.
  - b) Mobile homes and manufactured homes shall be located in a manufactured home park.
  - c) Residential-design manufactured homes, subject to the provisions of Article 15, Supplementary Use Regulations.
  - d) Place of worship and customary accessory residential use.
  - e) Child or adult day care homes for six (6) persons or less, subject to registration by the State of Kansas.
  - f) Congregate housing (limited to State pre-empted categories for disabled).
  - g) Public and private park and recreation facilities, including a golf course and ancillary uses such as club house, tennis courts, storage sheds and driving ranges.
  - h) Public utilities and facilities; governmental office(s) and storage facilities; public water and sewer service district facilities.
  - i) Club or lodge.
  - j) Bed and Breakfast enterprise, subject to the provisions of Article 15, Supplementary Use Regulations.
  - k) Commercial orchards, gardens, and nurseries with sale of produce or product grown on premises.
  - l) Home occupations, subject to the provisions of Article 15, Supplementary Use Regulations.
  - m) Limited stock animals such as horses, cows, sheep, swine, or goats for show, pleasure, and care provided that the stock is maintained in good order and in such quantities as not to become a public or private nuisance.

- n) Poultry, rabbits, guinea pigs and other small animals. Commercial dog kennels are not permitted.
  - o) Sale of agricultural produce and crafts in roadside stands.
  - p) Accessory structures and uses, subject to the provisions of Article 7.
  - q) Uses, which in the opinion of the Zoning Administrator, are similar in nature to the above listed uses.
3. Conditional Uses. Aviation fields, cemeteries, communication towers and antennas, commercial kennels, riding academies and/or stables, and veterinary clinic and supplies may be permitted, subject to procedures listed in Section 4.102 and, when applicable, provisions in Article 15.
4. The following property development regulations shall apply to all sites in the R-R District.
- a) Minimum District size is 20 acres.
  - b) Minimum lot area:
    - i. Five (5) acres served by private water well and individual lagoon.
    - ii. Less than five (5) acres served by public water service and individual lateral fields or hybrid septic.
  - c) Minimum setback from any state highway is 70 feet.
  - d) Minimum setback from any county road is 40 feet.
  - e) Minimum setback from an internal road is 25 feet.
  - f) Minimum setback from property lines is 14 feet.
  - g) Maximum building height is 45 feet.
  - h) The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.
  - i) A letter of zoning compliance is required. See section 3.103.2.
  - j) A dedicated 10-foot strip of land, on each side of the lot adjoining a street, for future consideration, by the residents or developer(s), of a sidewalk.
5. Sewage Disposal System Requirements
- a) All uses within the city limits shall be connected to the city's sewer system.
  - b) All uses in the extra territorial zone shall provide an individual sewage treatment and sewage disposal system that complies with the requirements of the "Code of Sanitation, Pottawatomie County."
6. Required Dedication of Right-of-Way
- a) The owners of tracts abutting an existing public road that contains less right-of-way than required shall, by plat or warranty deed, dedicate or convey the additional right-of-way necessary to comply with the minimum right-of-way standard for that road as set forth by city or county regulations.

- b) For developments within the city limits, building permits shall not be issued until the city accepts the dedications or conveyances required by this section.
  - c) For developments in the extra territorial zone, a Certificate of Zoning Compliance will not be issued until the county accepts the dedications or conveyances required by this section.
7. Legally Established Property Development Regulations. For “lots-of-record” established prior to adoption of this ordinance, the Zoning Administrator shall issue building permits to new uses and structures within the city determined to be consistent with the original building, yard, setback and lot size requirements. For lots of record established in the extraterritorial zone prior to the adoption of this ordinance, the Zoning Administrator shall issue a Certificate of Zoning Compliance to new uses and structures determined to be consistent with the original building, yard, setback, and lot size requirements.
8. Rural Subdivisions:
- a) A dedicated 10-foot strip of land, on each side of the street, for future construction, by the residents or developer(s), of a sidewalk.
  - b) All new rural subdivisions of greater than nine (9) lots shall have a walking/bicycling trail that connects as many lots as possible to rights of way and other features in the subdivision in a circular (looped) fashion.

### **11.101 R-1, Single Family Residential District**

1. Purpose and Intent. The intent of this district is to encourage single-family, detached residential dwellings together with school sites, churches, civic buildings, and parks necessary to create stable neighborhoods.
2. Uses Permitted. The following uses shall be permitted within the R-1, Residential District.
  - a) Single-family dwellings (excluding mobile homes), which may include a living suite in or attached to the principal structure used for the care of family members.
  - b) Public and private schools.
  - c) Places of worship and customary accessory residential uses.
  - d) Child or adult day care homes for six (6) persons or less, subject to registration by the State of Kansas.
  - e) Home occupations, subject to the provisions of Article 15, Supplementary Use Regulations.
  - f) Congregate housing (limited to State pre-empted categories for disabled).
  - g) Hospitals, Adult Care Homes, Independent Living facilities/retirement residences, medial offices, libraries, community centers, historical societies, and museums. For the purposes of this section, an Independent Living

facility/retirement residence is a multi-resident unit facility in which exclusively reside both non-related and married adults who are over the age of fifty-five (55) years, and is situated on the same lot or contiguous group of lots, and may be under the same management as an Adult Care Home. **(Ord. No. 1317)**

- h) Public and private park and recreation facilities, including golf courses and ancillary uses such as club houses, tennis courts, storage sheds, and driving ranges.
  - i) Public utilities and facilities and governmental offices, including facilities for public water and sewer districts.
  - j) Temporary buildings for uses incidental to construction work, subject to the provisions of Article 7, provided the buildings are immediately adjacent to the construction work.
  - k) Accessory structures and uses subject to the provisions of Article 7.
  - l) Uses, which in the opinion of the Zoning Administrator are similar in nature to the above listed uses.
  - m) There shall be only one dwelling unit per lot, except in the case of those permitted uses in 2g). **(Ord. No. 1317)**
  - n) Short-term rentals
3. Conditional Uses. Cemeteries funeral homes, bed and breakfast enterprises, clubs and lodges, communication towers, and antennas 60 feet or more in height, and boarding houses may be permitted, subject to procedures listed in Section 4.102 and, when applicable, provisions in Article 15.
4. R-1 Setback regulations and exemptions, and lot size minimums.
- a) Minimum front yard setback is 20 feet.
    - i. For lots of record which are 7,500 square feet in area (50' x 150'), the minimum front yard setback is 15 feet.
  - b) Minimum side yard setback is 8 feet.
    - i. For corner lots, if KDOT site triangle regulations require a greater setback, then KDOT regulations must be followed.
  - c) Minimum rear yard setback is 25 feet for principal structures.
  - d) Minimum lot depth is 100 feet.
  - e) Minimum lot width is 70 feet.
  - f) Maximum building height is 45 feet.
  - g) The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.
5. Parking Regulations. All development in the R-1 District shall comply with the parking and loading requirements in Article 20.
6. Special Regulations. All principal and accessory use structures built, located, or used in the R-1 District shall incorporate a residential-type design. This design requirement extends to all aspects of buildings, and

includes structures used for public facilities, accessory uses, structures or buildings, fences, offices, and other allowed non-residential uses. Residential design may vary, but at a minimum, it must include a pitched roof, or partial pitch (3" in 12" on a portion of the building which gives the appearance of a pitch), framed windows, dust-free parking areas, low lighting intensities and no outside storage of extraneous materials. Construction may be of any material normally used for residential construction.

## **11.102 R-2, Two Family Residential District**

1. Purpose and Intent. The intent of this district is to encourage the development of single-family homes on smaller lots, allow for two-family dwellings (**attached or detached**), and accommodate the mixing of these housing types in a manner that will encourage a stable residential neighborhood. This district can also act as a transitional use between the R-1, Single Family Residential District, and other more intense districts. (Ord. No. 1327/120120)
2. Uses Permitted. The following uses shall be permitted within the R-2, Two-Family Residential District.
  - a) All uses permitted in R-1 Residential Single-Family District, Section 11.101.2, "Uses Permitted" section.
  - b) Two-family dwellings or duplex.
3. Conditional Uses. All conditional uses permitted in R-1, Residential Single-Family District, Section 11.101.3, "Conditional Uses" may be permitted subject to the procedures listed in that section.
4. Offices for professional services limited to attorneys, real estate agents and brokers, architects, engineers, financial consultants, accountants, and similar services, are permitted by site plan review.
5. The following property development regulations shall apply to all sites in the R-2 District.
  - a) Minimum front yard setback is 15 feet.
  - b) Minimum side yard setback is 8 feet.
    - i. For corner lots, if KDOT site triangle regulations require a greater setback, then KDOT regulations must be followed.
  - c) Minimum rear yard setback is 25 feet for principal structures.
  - d) Minimum lot depth is 100 feet.
  - e) Minimum lot width is 50 feet.
  - f) Maximum building height is 45 feet.
  - g) The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.
6. Parking Regulations. All development in the R-2 District shall comply with the parking and loading requirements in Article 20.

7. Special Regulations. All principal and accessory use structures built, located, or used in the R-2 District shall incorporate a residential-type design. This design requirement extends to all aspects of buildings, and includes structures used for public facilities, accessory uses, structures or buildings, fences, offices, and other allowed non-residential uses. Residential design may vary, but at a minimum it must include a pitched roof, or partial pitch (3" in 12" on a portion of the building which gives the appearance of a pitch), framed windows, dust-free parking areas, low lighting intensities, and no outside storage of extraneous materials. Construction may be of any material normally used for residential construction.

### **11.103 R-3, Multiple-Family Residential District**

1. Purpose and Intent. This district is intended for the purpose of allowing the placement of compatible single-family, two-family dwellings, apartments, home occupations, and community facilities.
2. Uses Permitted. The following uses shall be permitted within the R-3, Multiple-Family District.
  - a) Multiple- family dwellings.
  - b) Townhouse.
  - c) All uses permitted in R-2, Two-Family Residential District, Section 11.102, "Uses Permitted" section.
3. Conditional Uses. All uses permitted in R-1, Residential Single-Family District, Section 11.101.3, "Conditional Uses" section may be permitted subject to the procedures listed in that section.
4. The following property development regulations shall apply to all sites in the R-3 District.
  - a) Minimum front yard setback is 15 feet.
  - b) Minimum side yard setback is 8 feet. For corner lots, if KDOT site triangle regulations require a greater setback, then KDOT regulations must be followed.
  - c) Minimum rear yard setback is 25 feet for principal structures.
  - d) Minimum lot depth is 150 feet.
  - e) Minimum lot width is 50 feet.
  - f) Maximum building height is 45 feet.
  - g) The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.
5. Parking Regulations. All development in the R-3 District shall comply with the parking and loading requirements in Article 20.
6. Special Regulations.
  - a) Any multi-family development that abuts an area zoned for R-1 or R-2 shall provide a fifteen (15) feet buffer zone between the development and the R-1 or R-2 zoned area. The Planning Commission may modify this requirement and require an

appropriate wall or screening in conformance with the requirements of Article 18.

- b) Principal and accessory use structures built, located, or used in the R-3 District shall incorporate a residential-type design. This design requirement extends to all aspects of buildings, and includes structures used for public facilities, accessory uses, structures or buildings, fences, offices, and other allowed non-residential uses. Residential design may vary, but at a minimum it must include a pitched roof, or partial pitch (3" in 12" on a portion of the building which gives the appearance of a pitch), framed windows, dust-free parking areas, low lighting intensities, and no outside storage of extraneous materials. Construction may be of any material normally used for residential construction.

### **11.104 MHP, Mobile Home Park District**

**Notice of Kansas Statutes:** The Kansas Mobile Home Code is found at K.S.A. 75-1211 et. seq. Two of the requirements of specific interest to mobile home park owners and renters are:

- a) Municipal Construction Code Exemption - K.S.A. 75-1218.
  - b) Tie Downs, Piers, and Foundations - K.S.A. 75-1226, K.S.A. 75-1227, and K.S.A. 75-1228.
  - c) Kansas law also establishes the duties of a mobile home park landlord and a mobile home tenant.
  - d) A landlord's duties are set forth in K.S.A. 58-25,111.
  - e) A tenant's duties are set forth in K.S.A. 58-25,113.
1. Purpose and Intent. This district provides medium density mobile home park development compatible with the character of the surrounding neighborhood
  2. Uses Permitted. The following uses shall be permitted in the Mobile Home Park District.
    - a) Mobile homes either single or double wide.
    - b) Recreational vehicles for a period not to exceed 8 weeks.
    - c) Residential design manufactured homes.
    - d) Single family residential units for management or other park purposes.
    - e) Accessory units to the manufactured home, such as storage buildings and expansion devices.
    - f) Buildings and structures used for storm shelters, community buildings, storage areas, laundry, garages and similar uses.
    - g) Child or adult day care homes.
    - h) Home occupations subject to K.S.A. 58-25,101 *et. seq.*
  3. Conditional Uses. The following uses may be permitted, subject to procedures listed in Section 4.102.

- a) Retail and personal services outside of the mobile home.
  - b) Child care for seven (7) persons or more. Included in this category are the following types of day care operations as defined by the State of Kansas: family day care homes, licensed; group day care homes; child care centers and preschools. (See K.S.A 65-517, K.A.R. 28-4-113, and K.A.R. 28-4-420).
4. Property Development Regulations.
- a) Mobile homes shall be placed:
    - i. No closer to each other than 20 feet side to side.
    - ii. No closer than 13 feet end to end.
    - iii. No closer than 22 feet from the edge of the access road paving (or curb) serving the mobile home, and no closer than 10 feet from the edge of an access road that is on the side of the mobile home.
    - iv. No structure in a mobile home park may be placed closer than eight feet to the park's boundary lines.
5. Use Limitations. Each manufactured home park shall be designed in accordance with the following minimum standards:
- a) Minimum Design Standards:
    - i. Lot arrangement shall be designed to provide positive drainage to the municipal storm water system.
    - ii. Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area.
    - iii. All subdivisions shall conform to the requirements of the St. Marys Flood Plain Regulations. All subdivisions in the extra-territorial zone shall conform to the requirements of the Pottawatomie Flood Plain Regulations.
    - iv. All manufactured home spaces shall front upon a private roadway of not less than 25 feet in width, including curbs on each side; provided, however, that no on-street parking is permitted. If parallel parking is permitted on one side of the street, the width shall be increased to 30 feet; and if parallel parking is permitted on both sides of the street, the width shall be increased to 36 feet. All roadways shall have unobstructed access to a public street.
    - v. Each manufactured home space shall provide for two off-street parking spaces. Each space shall have a minimum dimension of 10' x 20'.
    - vi. All roadways, parking spaces, and sidewalks within the manufactured home park shall be of all-weather surfacing.

- vii. Parking spaces shall be located adjacent to the street frontage.
  - viii. All mobile home parks shall be provided with street lighting units at such heights and spacing as will provide acceptable levels of illumination for the safe movement of pedestrians and vehicles at night.
  - ix. The perimeter of all manufactured homes shall be fully skirted.
  - x. All roadways shall be certified by a professional engineer as meeting generally accepted standards for the type of road being constructed and the expected load it will experience
  - xi. Storm shelters meeting the following requirements shall be installed in all Mobile Home Park Districts.
    - 1) Storm shelter(s) shall be designed and approved by a licensed engineer.
    - 2) Storm shelter(s) shall accommodate all the residents in a designed area.
    - 3) The designed area shall be at least one storm shelter per 20 mobile home units.
    - 4) The storm shelter(s) shall be centrally located in the designed area(s).
    - 5) The storm shelters shall be clearly marked to indicate to the residents and visitors the location(s) of the shelters.
6. A building permit shall be obtained before moving a manufactured home into an MHP District.
7. Water Supply Standards. A mobile home park located within the city limits shall be connected to the city's water supply. Mobile home parks located within the extra-territorial zone shall be connected to a rural water system or supplied by a private water system conforming to state health standards.
8. Sewage Disposal. A mobile home park located within the city limits shall be connected to the city's sewage disposal system. Mobile home parks located within the extra-territorial zone shall be served by a sewage disposal system conforming to state health standards.
9. Electrical. Electrical service shall be installed in accordance with Chapter 17 of the Code of the City of St. Marys.
10. Natural Gas. Liquefied gas systems located in Mobile Home Parks in the extra territorial zone shall be provided with safety devices to relieve excessive pressure; all storage bottles or tanks shall be fastened to prevent accidental overturning. No liquid natural gas vessel shall be stored underneath the manufactured home.
11. Pad Requirements.
- a) Hard surfaced

- i. Concrete
  - ii. Asphalt
  - iii. Similar Materials
- b) Flexible Materials
- i. Minimum of 5 inches of gravel, stone or compacted earth.
  - ii. Similar Materials
  - iii. Treated to discourage plant growth

12. Application Requirements.

- a) Information complying with the requirements of Article 8 and Article 11 shall be submitted to the Zoning Administrator for review.

# Article 12

## Commercial Zoning Districts

Section 12.100	C-1, Central Business District
Section 12.101	C-2, Limited Neighborhood Commercial District
Section 12.102	C-3, General Commercial District

### 12.100 C-1, Central Business District

1. Purpose and Intent. This district is intended to accommodate civic, commercial services, housing, and offices in Downtown.
2. Uses Permitted. The following uses and similar uses are permitted within the C-1, Central Business District.
  - a) Food and restaurant businesses. These include grocery stores, restaurants, bakeries, caterers, farmers markets, liquor stores, bars, microbreweries and similar businesses.
  - b) Household, personal care, and retail type businesses. These include clothing sales and repair stores, barbers, appliance and furniture stores, laundry and dry-cleaning facilities, hardware and home maintenance stores, and similar businesses.
  - c) Entertainment type businesses. These include theaters, sporting goods sales and repairs stores, pet stores, video rental and sales (except adult videos), exercise or instruction facilities and similar businesses.
  - d) Auto and transportation type businesses. These include auto sales, auto servicing and repair shops, auto supply stores, fuel stations, bus or taxi terminals and similar businesses.
  - e) Professional offices and businesses. These include banks, post offices, mailing services, internet and phone providers, printing and publishing businesses, business supplies stores, computer and similar technology related businesses, taxidermists, consumer and business products repair and servicing businesses, and similar businesses.
  - f) Other uses. These include churches, clubs and lodges, funeral homes, ambulance and emergency services, hotels and motels, bed and breakfast establishments, apartments located above the first floor, parking as needed for permitted uses, schools and training facilities, government properties and uses including utilities, publicly owned uses such as libraries and parks, and any other business, profession or service which, in the opinion of the Zoning Administrator are of the same scale and intensity as those uses listed above.

3. Conditional Uses. The following uses may be permitted, subject to procedures listed in, Section 4.102.
  - a) Car wash.
  - b) Communication towers 60 feet or greater in height, subject to the provisions of Article 15, Supplementary Use Regulations.
  - c) Warehousing for goods related to permitted use activities in the district.
4. The following property development regulations shall apply to all sites in the C-1 District.
  - a) Maximum building height of 45 feet or by Planning Commission review.
  - b) Minimum front yard: None Required.
  - c) Minimum side yard: No side yard is required except when a side yard has a common boundary with property in a residential district and then there shall be a setback of 5 feet with screening meeting the requirements of Article 18.
  - d) Minimum rear yard: No rear yard is required except when a side yard has a common boundary with property in a residential district and then there shall be a setback of 5 feet with screening meeting the requirements of Article 18.
  - e) The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.
5. Appearance Codes. All new commercial buildings established after the effective date of this ordinance shall comply with the following requirements.
  - a) Scrap materials, non-operative motor vehicles or machinery, disassembled machinery, debris, solid waste containers, construction materials or equipment, and used machinery parts must be stored in the rear of the lot. Screening may be required at the discretion of the Zoning Administrator, meeting the requirements of Article 18.
  - b) All outdoor lighting must be shielded and focused to direct light onto the premises and away from adjoining residential properties.
6. Parking Regulations. There are no requirements for off street parking in C-1 Zones.
7. Special Regulations. Multiple commercial structures are allowed on a single zoning lot when the lot is under one ownership.

### **12.101 C-2, Limited Neighborhood Commercial District**

1. Purpose and Intent: This district is intended to allow retail, commercial, office and institutional uses in and near residential areas. In general, the activities and uses in this district should be compatible with the residential character of the neighborhood, should have very little outside activity.

2. Permitted Uses, The following uses shall be permitted within the C-2 Limited Neighborhood Commercial District.
  - a) All uses permitted in C-1, Downtown Commercial District, Section 12.100, Uses Permitted, except the following uses:
    - i. Auto service.
    - ii. Gas stations.
    - iii. Automobile dealers, new and used.
    - iv. Bar or nightclub.
    - v. Commercial printing and publishing.
    - vi. Drive-through food service.
    - vii. Hotel or motel.
  - b) Any commercial or office use that meets the intent and purpose of this section and is keeping with the general character of the district.
3. Conditional Uses: The following uses may be permitted, subject to the procedures listed in Section 4.102.
  - a) Auto service.
  - b) Gas Stations.
  - c) Automobile dealers, new and used.
  - d) Bar or nightclub.
  - e) Commercial printing and publishing.
  - f) Drive-through food service.
  - g) Hotel or motel.
4. The following property development regulations shall apply to all sites in the C-2 District.
  - a) Maximum building height is 45 feet.
  - b) Minimum front yard setback is 15 feet.
  - c) Minimum side yard is 8 feet on each side. For corner lots, if KDOT site triangle regulations require a greater setback, then KDOT regulations must be followed.
  - d) Minimum rear yard is 25 feet. When the rear yard abuts a railroad right of way, no rear yard setback is required.
  - e) The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.
5. Appearance Codes: All new commercial buildings established after the effective date of this ordinance shall comply with the following requirements.
  - a) Scrap materials, non-operative motor vehicles or machinery, disassembled machinery, debris, solid waste containers, construction materials or equipment, and used machinery parts must be stored in the rear of the lot.
  - b) All outdoor lighting must be shielded and focused to direct light onto the premises and away from adjoining residential properties.
6. Parking Regulations:

- a) There are no requirements for off street parking in C-2 Zones for existing structures. New Commercial buildings shall meet requirements of Article 20, Parking and Loading Regulations.
  - b) Parking areas located in the side or rear yards of the principal building used exclusively for the storage of vehicles, or for remote, reserve parking may use recycled asphalt or gravel on compacted earth.
7. Special Regulations: Multiple commercial structures are allowed on a single zoning lot when the lot is under one ownership.

### **12.102 C-3, General Commercial District**

1. Purpose and Intent: This district is intended to accommodate commercial services, offices, and businesses in locations outside of downtown. The C-3 district is generally intended to be suitable in locations along the highway or major streets; at specific sites where it is determined that business is harmonious with the surrounding neighborhood. The district is also intended to accommodate uses which are heavy traffic generators, uses which require increased parking and storage needs and businesses which must use outside storage facilities.
2. Permitted Uses: The following uses shall be permitted within the C-3 General Commercial Business District.
  - a) All uses permitted in C-1, Downtown Commercial District, Section 12.100.
  - b) Agricultural supplies including farm implement and other heavy equipment sales and services.
  - c) Car washes.
  - d) Exterminators.
  - e) Landscape and horticultural services and sales.
  - f) Lumberyards.
  - g) Manufactured home dealers.
  - h) Self-storage Buildings.
  - i) Auction businesses.
  - j) Any commercial or office uses that meets the intent and purpose of this section and is keeping with the general character of the district.
3. Conditional Uses. The following uses may be permitted, subject to the procedures listed in Section 4.102.
  - a) Camps, travel trailer, or RV parks.
  - b) Communications towers over 60 feet in height.
  - c) Petroleum products (storage and distribution).
  - d) Recycling collection stations.
  - e) Welding shops.
  - f) Truck stops.
4. The following property development regulations shall apply to all sites in the C-3 District.

- a) Maximum building height is 45 feet.
  - b) Minimum front yard set back is 15 feet.
  - c) Minimum side yard setback is 8 feet. If KDOT site triangle regulations require a greater setback, then KDOT regulations must be followed.
  - d) Minimum rear yard is 25 feet. When the rear yard abuts a railroad right of way, no rear yard setback is required.
  - e) The Zoning Administrator may adjust set backs for averaging with adjacent buildings.
5. Appearance Codes. All new commercial buildings established after the effective date of this ordinance shall comply with the following requirements.
- a) Scrap materials, non-operative motor vehicles or machinery, disassembled machinery, debris, solid waste containers, construction materials or equipment, and used machinery parts must be stored in the rear of the lot.
  - b) All outdoor lighting must be shielded and focused to direct light onto the premises and away from adjoining residential properties.
6. Parking Regulations. All development in the C-3 District shall comply with the parking and loading requirements in Article 20.
7. Special Regulations. Multiple commercial structures are allowed on a single zoning lot when the lot is under one ownership.

# Article 13

## Industrial Zoning Districts

Section 13.100	I-1, Light Industrial District
Section 13.101	I-2, General Industrial District
Section 13.102	I-3, Heavy Industrial District

### 13.100 I-1, Light Industrial District

1. Purpose and Intent. The I-1 Light Industrial District is intended primarily for light industry; warehousing, distributing, fabricating, processing, assembly of goods and products, office and research facilities, and all uses permitted in C-3, General Commercial District 12.102. The activities found in this district are typically conducted so that noise, odor, dust, and glare are confined within the district.
2. Buildings in this district shall provide buffering when located adjacent to residential districts when deemed necessary by the Zoning Administrator.
3. Uses Permitted. The following uses shall be permitted within the I-1, Light Industrial District.
  - a) Light manufacturing, fabricating, and assembly businesses as well as machinery repair. (note: the sale of these products is allowed on the premises)
  - b) Broadcast and communication facilities.
  - c) Commercial bakeries.
  - d) Laboratories, testing services, research and development facilities.
  - e) Warehouses.
  - f) Technical schools and training facilities.
  - g) Any other industries or businesses that are in keeping with the intent of the district and are compatible with the permitted uses.
4. Conditional Uses. The following uses may be permitted, subject to procedures listed in, Section 4.102.
  - a) Animal shelters.
  - b) Communication towers greater than 100 feet in height.
  - c) Motor freight terminals.
  - d) Recycling centers.
  - e) Construction equipment storage areas.
  - f) Distribution centers.
5. Property Development Regulations. The following property development regulations shall apply to all sites in the I-1 District.
  - a) Maximum building height of 45 feet or by Planning Commission review.
  - b) Minimum front yard setback is 20 feet.

- c) Minimum side yard is 15 feet on each side.
  - d) Minimum rear yard is 15 feet. When the rear yard abuts a railroad right of way, no rear yard setback is required.
  - e) The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.
6. Appearance Codes. All new industrial buildings established after the effective date of this ordinance shall comply with the following requirements.
- a) All operations, activities, and storage shall take place indoors or behind screened areas when possible. The Zoning Administrator is authorized to grant an exception when unusual conditions prevent the required screening of storage areas.
  - b) All outdoor lighting must be shielded and focused to direct light onto the premises.
7. Parking Regulations. All development in the I-1 District shall comply with the parking and loading requirements in Article 20.

### **13.101 I-2, General Industrial District**

1. Purpose and Intent. The I-2 district is intended to provide areas within the community that are set aside for product fabrication which is not normally compatible with residential or commercial areas. The I-2, district is for industrial uses and is designed to accommodate all but the heaviest and most intense uses
2. Uses Permitted. The following uses shall be permitted within the I-2, General Industrial District.
- a) All uses permitted and conditional uses permitted in the I-1, Light Industrial District.
  - b) Manufacturing, fabricating, and assembly facilities, including but not limited to:
    - i. Textile, paper, plastic, food, metal, wood, stone, rubber, and similar products.
    - ii. Construction equipment storage areas.
    - iii. Fairgrounds.
    - iv. Saw mills.
    - v. Recycling centers.
3. Conditional Uses. The following uses may be permitted, subject to procedures listed in, Section 4.102.
- a) Salvage yards.
  - b) Communication towers greater than 100 feet.
4. The following property development regulations shall apply to all sites in the I-2 District.
- a) Maximum building height is 75 feet.
  - b) Minimum front yard setback is 15 feet.

- c) Minimum side yard is 8 feet on each side. For corner lots, if KDOT site triangle regulations require a greater set back, then KDOT regulations must be followed.
  - d) Minimum rear yard is 20 feet. When the rear yard abuts a railroad right of way, no rear setback is required.
  - e) Zoning Administrator may adjust setbacks for averaging with adjacent buildings.
5. Appearance Codes. All new industrial buildings established after the effective date of this ordinance shall comply with the following requirements.
- a) Scrap materials, non-operative motor vehicles or machinery, disassembled machinery, debris, solid waste containers, construction materials or equipment, and used machinery parts must be stored in the rear of the lot.
  - b) All outdoor lighting must be shielded and focused to direct light onto the premises and away from adjoining residential properties.
6. Parking Regulations. All development in the I-2 District shall comply with the parking and loading requirements in Article 20.
7. Special Regulations. If used for industrial purposes, multiple industrial structures are allowed on a single zoning lot when the lot is under one ownership.

### **13.102 I-3, Heavy Industrial District**

1. Purpose and Intent. This district is designed to accommodate heavy industrial uses not otherwise provided for in the I-2 General Industrial District. The intensity of uses permitted in this district requires separation from residential and commercial uses.
2. Uses Permitted. The following uses shall be permitted within the I-3, Heavy Industrial District.
- a) All uses permitted and conditional uses permitted in I- 1 and I-2 districts shall be permitted in the I-3, Heavy Industrial District.
  - b) Agricultural storage and processing facilities, including elevators and dehydrators.
  - c) Sale and bulk storage of agricultural fuels, feed, fertilizers, and pesticides.
  - d) Asphalt, cement plants.
  - e) Heavy construction trades.
  - f) Heavy manufacturing, fabricating, and assembly.
  - g) Clay, lime and gypsum products.
  - h) Chemical and allied products.
  - i) Public safety services.
  - j) Public utilities or facilities.
  - k) Scrap metal storage yard.
  - l) Transfer station, solid waste facilities.

- m) Any manufacturing, processing, or fabrication activity that involves substantial heat, light, and glare from welding, pressing, stamping, food preparation, assembly lines, or excessive noise from moving, machinery, or assembly.
  - n) Any other use similar in character to the above as approved by the Zoning Administrator.
3. Conditional Uses. The following uses may be permitted, subject to procedures listed in, Section 4.102.
- a) Acid manufacturing or reclamation facilities.
  - b) Pesticide or herbicide manufacturing.
  - c) Explosives manufacturing or storage facilities.
  - d) Slaughtering houses and meat packing plants.
  - e) Fertilizer manufacturing facilities.
  - f) Petroleum refineries.
  - g) Smelting of base metals.
  - h) Bulk storage of gasoline and other petroleum products.
4. The following property development regulations shall apply to all sites in the I-3 District.
- a) Maximum building height is 75 feet.
  - b) Minimum front yard setback is 15 feet.
  - c) Minimum side yard is 8 feet on each side. For corner lots, if KDOT site triangle regulations require a greater set back, then KDOT regulations must be followed.
  - d) Minimum rear yard is 20 feet. When the rear yard abuts a railroad right of way, no rear yard setback is required.
  - e) The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.
5. Appearance Codes. All outdoor lighting must be shielded and focused to direct light onto the premises and away from adjoining residential properties.
6. Parking Regulations. All development in the I-3 District shall comply with the parking and loading requirements in Article 20.
7. Special Regulations. When a lot is used for industrial purposes, multiple industrial structures are allowed on a single zoning lot when the lot is under one ownership.

# Article 14

## Flood Plain Regulations

Section 14.100	Statutory Authority, Finding of Facts, and Purposes
Section 14.101	General Provisions
Section 14.102	Administration
Section 14.103	Provisions for Flood Hazard Reduction
Section 14.104	Floodplain Management Variance Procedures
Section 14.105	Violations
Section 14.106	Amendments
Section 14.107	Definitions

### 14.100 Statutory Authority, Findings of Facts, and Purposes

#### 1. Statutory Authorization

a) Approval of Draft Ordinance by Kansas Chief Engineer Prior to Adoption. The following floodplain management regulations, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on August 15, 2022.

#### b) Kansas Statutory Authorization

The Legislature of the State of Kansas has in K.S.A. 12-741 *et seq*, and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare of the public. Therefore, the City Commission of St. Marys, Kansas, ordains as follows:

#### 2. Findings of Fact

#### a) Flood Losses Resulting from Periodic Inundation

The special flood hazard areas of **St. Marys, Kansas**, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety, and general welfare.

#### b) General Causes of the Flood Losses.

These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood

hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

c) Methods Used to Analyze Flood Hazards

The Flood Insurance Study (FIS) that is the basis of this ordinance uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps.

- i. Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this ordinance is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this ordinance. The base flood is the flood that is estimated to have a one percent chance of being equaled or exceeded in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated **November 17, 2022** as amended, and any future revisions thereto.
- ii. Calculation of water surface profiles that are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
- iii. Computation of a flood way required to convey this flood without increasing flood heights more than one (1) foot at any point.
- iv. Delineation of floodway encroachment lines within which no development is permitted that would cause **any** increase in flood height.
- v. Delineation of flood fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

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

- a) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;

- b) Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
- c) Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

## 14.101 General Provisions

- a) Lands to Which Ordinance Applies. This ordinance shall apply to all lands within the jurisdiction of the City of St. Marys, Pottawatomie County, Kansas identified as numbered and unnumbered A Zones, AE, AO and AH Zones on the Flood Insurance Rate Map (FIRM) panels referenced on the associated FIRM Index dated **November 17, 2022** as amended, and any future revisions thereto. In all areas covered by this ordinance, no development shall be permitted except through the issuance of a floodplain development permit, granted by the St. Marys City Commission or its duly designated representative under such safeguards and restrictions as the St. Marys City Commission or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Article 4.
- b) Compliance. No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.
- c) Abrogation and Greater Restrictions. It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- d) Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.
- e) Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas

outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create a liability on the part of the **City of St. Marys**, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made there under.

- f) Severability. If any section; clause; provision; or portion of this ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.

## 14.102 Administration

- a) Floodplain Development Permit. Floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured or mobile homes, in the areas described in Article 2, Section A. No person, firm, corporation, or unit of government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.
- b) Designation of Floodplain Administrator. The **Zoning Administrator (or his/her designee)** is hereby appointed to administer and implement the provisions of this ordinance.
- c) Duties and Responsibilities of Floodplain Administrator. Duties of the Floodplain Administrator shall include, but not be limited to:
  - i. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;
  - ii. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
  - iii. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
  - iv. Issue floodplain development permits for all approved applications;
  - v. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and

submit evidence of such notification to the Federal Emergency Management Agency (FEMA);

- vi. Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse; and
- vii. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
- viii. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed;
- ix. When floodproofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a registered professional engineer or architect.

#### 4. Application for Floodplain Development Permit

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

- a) Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
- b) Identify and describe the work to be covered by the floodplain development permit;
- c) Indicate the use or occupancy for which the proposed work is intended;
- d) Indicate the assessed value of the structure and the fair market value of the improvement;
- e) Specify whether development is located in designated flood fringe or flood way;
- f) Identify the existing base flood elevation and the elevation of the proposed development;

- g) Give such other information as reasonably may be required by the floodplain administrator;
- h) Be accompanied by plans and specifications for proposed construction; and
- i) Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

## **14.103 Provisions for Flood Hazard Reduction**

### **1. General Standards**

- a) No permit for floodplain development shall be granted for new construction, substantial improvements, and other improvements, including the placement of manufactured or mobile homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section are satisfied.
- b) All areas identified as unnumbered A zones on the FIRM are subject to inundation of the one percent annual chance or 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this ordinance. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.
- c) Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- d) All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured or mobile homes, and other developments shall require:
  - i. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - ii. Construction with materials resistant to flood damage;
  - iii. Utilization of methods and practices that minimize flood damages;
  - iv. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities

- be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- v. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and
  - vi. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
    - a. All such proposals are consistent with the need to minimize flood damage;
    - b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
    - c. Adequate drainage is provided so as to reduce exposure to flood hazards; and
    - d. All proposals for development, including proposals for manufactured home parks and subdivisions, of greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.
  - e) Storage, Material, and Equipment. Storage of material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.
  - f) Nonconforming Use. A structure, or the use of a structure or premises that was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:
    - i. If such structure, use, or utility service has been or is discontinued for 24 consecutive months, any future use of the building shall conform to this ordinance.
    - ii. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any

alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

2. Specific Standards. In all areas identified as numbered and unnumbered A zones, AE, and AH Zones, where base flood elevation data have been provided, as set forth in Article 4, Section A (2), the following provisions are required:

a) Residential Construction

New construction or substantial-improvement of any residential structures, including manufactured or mobile homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above base flood elevation. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

b) Non-Residential Construction

New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured or mobile homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall verify that the standards of this subsection are satisfied. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer. Such certification shall be provided to the floodplain administrator as set forth in Article 3, Section C (7)(8)(9).

c) Enclosures Below Lowest Floor

Require, for all new construction and substantial-improvements, that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- i. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and
- ii. The bottom of all opening shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

### 3. Manufactured or Mobile Homes

- a) All manufactured or mobile homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured or mobile homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- b) Require manufactured or mobile homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's FIRM on sites:
  - i. Outside of a manufactured home park or subdivision;
  - ii. In a new manufactured home park or subdivision;
  - iii. In an expansion to an existing manufactured home park or subdivision; or
  - iv. In an existing manufactured home park or subdivision on which a manufactured or mobile home has incurred substantial-damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.
- c) Require that manufactured or mobile homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, that are not subject to the provisions of Article 4, Section C (2) of this ordinance, be elevated so that:
  - i. The lowest floor of the manufactured or mobile home is a minimum of one (1) foot above the base flood level. The elevation of the lowest floor shall be

certified by a licensed land surveyor or professional engineer.

4. Areas of Shallow Flooding (AO and AH zones)

Located within the areas of special flood hazard as described in Article 2, Section A are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

a) AO Zones

- i. All new construction and substantial-improvements of residential structures, including manufactured or mobile homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
- ii. All new construction and substantial-improvements of any commercial, industrial, or other non-residential structures, including manufactured or mobile homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two (2) feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- iii. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

b) AH Zones

- i. The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in Article 4, Section B.
- ii. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

5. Floodway

Located within areas of special flood hazard established in Article 2, Section A, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:

- a) The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory flood way must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
- b) The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in **any** increase in flood levels within the community during the occurrence of the base flood discharge.
- c) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision, fulfills the requirements for such revisions as established under the provisions of 44 CFR 65 .12, and receives the approval of FEMA.
- d) If Article 4, Section E (2), is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Article 4.
- e) In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in Article 4, Section A (2).

6. Recreational Vehicles

Require that recreational vehicles placed on sites within all unnumbered and numbered A Zones, AE, AH, and AO Zones on the community's FIRM either:

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

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

#### **14.104 Floodplain Management Variance Procedures**

1. Establishment of Appeal Board. The **St. Marys Board of Zoning Appeals** shall act as the Appeal Board as established by the **St. Marys City Commission** and shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.
2. Responsibility of Appeal Board. Where an application for a floodplain development permit is denied by the Floodplain Administrator, the applicant may apply for such floodplain development permit directly to the Appeal Board, as defined in Article 5, Section A. The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
3. Further Appeals. Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 and 12-760.
4. Floodplain Management Variance Criteria. In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:
  - a) Danger to life and property due to flood damage;
  - b) Danger that materials may be swept onto other lands to the injury of others;
  - c) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d) Importance of the services provided by the proposed facility to the community;
  - e) Necessity to the facility of a waterfront location, where applicable;
  - f) Availability of alternative locations, not subject to flood damage, for the proposed use;
  - g) Compatibility of the proposed use with existing and anticipated development;
  - h) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - i) Safety of access to the property **in** times of flood for ordinary and emergency vehicles;
  - j) Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,

- k) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

#### 5. Conditions for Approving Floodplain Management Variances

- a) Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing items two (2) through six (6) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- b) Variances may be issued for the reconstruction, repair, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provide the proposed activity will not preclude the structure's continued historic designation and the variance is the minimum necessary to preserve the historic character and design of the structure.
- c) Variances shall not be issued within any designated floodway if any significant increase in flood discharge or base flood elevation would result.
- d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e) Variances shall only be issued upon: (a) showing of good and sufficient cause, (b) determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- f) A community shall notify the applicant in writing over the signature of a community official that: (a) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
- g) A community shall maintain a record of all variance actions, including justification for their issuance.

- h) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of items 1 through 5 of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

## **14.105 Violations**

- a) The floodplain administrator (or designee) may make reasonable entry upon any lands and waters in the city of St. Marys for the purpose of making an investigation, inspection, or survey to verify compliance with these regulations. The floodplain administrator shall provide notice of entry by mail, electronic mail, phone call, or personal delivery to the owner, owner's agent, lessee, or lessee's agent whose lands will be entered. If none of these persons can be found, the floodplain administrator shall affix a copy of the notice to one or more conspicuous places on the property a minimum of five (5) days prior to entry.
- b) A structure or other development without a floodplain development permit or other evidence of compliance is presumed to be in violation until such documentation is provided.
- c) The floodplain administrator shall provide written notice of a violation of this ordinance to the owner, the owner's agent, lessee, or lessee's agent by personal service or by certified mail, return receipt requested. The written notice shall include instructions and a deadline to request a hearing before the appeals board, and if no hearing is requested, a deadline by which the violation must be corrected.
- d) Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall be subject to the provisions of UDC Article 1, Section 1.105 Enforcement of Penalties. Nothing herein contained shall prevent the City of St. Marys, Kansas, or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.
- e) Notwithstanding any criminal prosecutions or in lieu of any criminal prosecutions, if the owner, occupant, or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the period specified, the public officer or an authorized assistant shall abate or remove the conditions causing the violation.
- f) If the public officer or an authorized assistant abates or removes the nuisance pursuant to this section, notice shall be provided to the owner, the owner's agent, lessee, or lessee's agent by certified mail, return receipt

requested, of the total cost of the abatement or removal incurred. The notice shall also state that the payment is due within 30-days following receipt of the notice. The cost of providing notice, including any postage, required by this section may also be recovered.

- g) The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1, 115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (K.S.A. 12-1617-f).

## **14.106 Amendments**

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

## 14.107 Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning they have in common usage and to give this ordinance its most reasonable application.

1. **"100-year Flood"** see *"base flood."*
2. **"Accessory Structure"** means the same as *"appurtenant structure."*
3. **"Actuarial Rates"** see *"risk premium rates."*
4. **"Administrator"** means the Federal Insurance Administrator.
5. **"Agency"** means the Federal Emergency Management Agency (FEMA).
6. **"Appeal"** means a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.
7. **"Appurtenant Structure"** means a structure that is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
8. **"Area of Shallow Flooding"** means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
9. **"Area of Special Flood Hazard"** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
10. **"Base Flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.
11. **"Base Flood Elevation"** means the elevation of the surface of the water during a one percent annual chance flood event.
12. **"Basement"** means any area of the structure having its floor subgrade (below ground level) on all sides.
13. **"Building"** see *"structure."*
14. **"Chief Engineer"** means the chief engineer of the division of water resources, Kansas Department of Agriculture.

15. **"Chief Executive Officer" or "Chief Elected Official"** means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.
16. **"Community"** means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.
17. **"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
18. **"Elevated Building"** means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
19. **"Eligible Community" or "Participating Community"** means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).
20. **"Existing Construction"** means for the purposes of determining rates, structures for which the *"start of construction"* commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. *"existing construction"* may also be referred to as *"existing structures."*
21. **"Existing Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
22. **"Expansion to an Existing Manufactured Home Park or Subdivision"** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
23. **"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe

storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

24. **"Flood Boundary and Floodway Map (FBFM)"** means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.
25. **"Flood Elevation Determination"** means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.
26. **"Flood Elevation Study"** means an examination, evaluation and determination of flood hazards.
27. **"Flood Fringe"** means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.
28. **"Flood Hazard Boundary Map (FHBM)"** means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.
29. **"Flood Hazard Map"** means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.
30. **"Flood Insurance Rate Map (FIRM)"** means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
31. **"Flood Insurance Study (FIS)"** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.
32. **"Floodplain" or "Flood-prone Area"** means any land area susceptible to being inundated by water from any source (*see "flooding"*).
33. **"Floodplain Management"** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
34. **"Floodplain Management Regulations"** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power.

The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

35. **"Floodproofing"** means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.
36. **"Floodway" or "Regulatory Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
37. **"Floodway Encroachment Lines"** means the lines marking the limits of floodways on Federal, State and local floodplain maps.
38. **"Freeboard"** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. *"Freeboard"* tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.
39. **"Functionally Dependent Use"** means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.
40. **"Highest Adjacent Grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
41. **"Historic Structure"** means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

42. **"Lowest Floor"** means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this ordinance.
43. **"Manufactured Home"** means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *"manufactured home"* does include mobile homes manufactured prior to 1976 but **does not include** a *"recreational vehicle."*
44. **"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
45. **"Map"** means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).
46. **"Market Value" or "Fair Market Value"** means an estimate of what is fair, economic, just and equitable value under normal local market conditions.
47. **"Mean Sea Level"** means, for purposes of the National Flood Insurance Program (NFIP), the National American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.
48. **"New Construction"** means, for the purposes of determining insurance rates, structures for which the *"start of construction" commenced* on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *"new construction"* means structures for which the *"start of construction"* commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.
49. **"New Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.
50. **"(NFIP)"** means the National Flood Insurance Program (NFIP).

51. **“Numbered A Zone”** means a special flood hazard area where the Flood Insurance Rate Map shows the Base Flood Elevation.
52. **“One percent annual chance flood”** see *“base flood.”*
53. **“Participating Community”** also known as an *“eligible community,”* means a community in which the Administrator has authorized the sale of flood insurance.
54. **“Permit”** means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state, or federal authorities.
55. **“Person”** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.
56. **“Principally Above Ground”** means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.
57. **“Reasonably Safe from Flooding”** means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
58. **“Recreational Vehicle”** means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently able to be towed by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
59. **“Remedy A Violation”** means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.
60. **“Risk Premium Rates”** means those rates established by the Administrator pursuant to individual community studies and investigations, which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. *“Risk premium rates”* include provisions for operating costs and allowances.
61. **“Special Flood Hazard Area”** see *“area of special flood hazard.”*

62. **"Special Hazard Area"** means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.
63. **"Start of Construction"** includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The **actual start** means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the **actual start of construction** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
64. **"State Coordinating Agency"** means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.
65. **"Structure"** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *"Structure"* for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.
66. **"Substantial-Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
67. **"Substantial-Improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before *"start of construction"* of the improvement. This term includes structures, which have incurred *"substantial-damage,"* regardless of the actual repair work performed. The term does not,

however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a *"historic structure,"* provided that the alteration will not preclude the structure's continued designation as a *"historic structure."*

68. **"Unnumbered A Zone"** means a special flood hazard area shown on either a flood hazard boundary map or flood insurance rate map where the base flood elevation is not determined.
69. **"Variance"** means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.
70. **"Violation"** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.
71. **"Water Surface Elevation"** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

# Article 15

## Supplemental Use Regulations

Section 15.100	Purpose and Intent
Section 15.101	Airports and Landing Strips
Section 15.102	Adult Uses or S.O.B.
Section 15.103	Bed and Breakfast
Section 15.104	Campgrounds & RV Parks
Section 15.105	Communication Towers
Section 15.106	Junkyard or Salvage Yard
Section 15.107	Kennels, Breeding and Boarding
Section 15.108	Mining and Quarrying
Section 15.109	Home Occupations
Section 15.110	Top Soil Removal Permit
Section 15.111	Temporary Uses

### 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.

# Article 16

## Planned Unit Development District

Section 16.100	Purpose and Objectives
Section 16.101	Permitted Uses
Section 16.102	Standards for Planned Unit Development
Section 16.103	Procedures for Planned Unit Development
Section 16.104	Conceptual Plan & Preliminary Plat Submission Data
Section 16.105	Final Plan & Final Plat Submission Data
Section 16.106	Changes & Amendments to a PUD

### 16.100 Purpose and Objectives

1. The purpose of the PUD regulations is to provide developers with greater flexibility in designing a development by offering relief from compliance with conventional zoning district's site and design requirements.
2. The objective of the PUD regulations is to promote the efficient use of land and resources.

### 16.101 Permitted Uses

1. A PUD District may be approved for any residential, commercial, industrial, public, or institutional use, or combination of these uses (mixed-use development.) The uses permitted in any specific PUD District may be any "uses permitted" or "conditional uses" listed in any conventional zoning district contained in this ordinance.

### 16.102 Standards for Planned Unit Development

1. Comprehensive Plan. A Planned Unit Development must conform to the objectives of the Comprehensive Plan of St. Marys.
2. Compatibility. The uses permitted in a Planned Unit Development must be of a type and so located as to exercise no undue detrimental influence upon surrounding properties.
3. Net Density. The net density of the Planned Unit Development is not required to precisely correspond with the normal net density of a traditional zoning district, but instead should reflect complementary building types and architectural design. The Planning Commission shall determine net density and floor area through the conceptual site plan review.

4. Site Ownership. The Planned Unit Development site shall be under a single ownership or unified control. Unified control shall mean that the various owners of adjacent sites join to submit a unified application for a PUD.
5. Space between Buildings. The spaces between buildings shall be consistent with the building setbacks as specified in the conventional zoning district articles for the type of uses being proposed (residential, commercial, industrial). The Planning Commission has the authority, during the conceptual site plan review, to allow deviations from the setbacks as appropriate for the type of PUD being proposed.
6. Setbacks. The minimum required setbacks along the periphery of the PUD shall be equal in width or depth to that of the adjacent zoning district.
7. Parking Standards. Adequate parking shall be provided and shall be in general conformance with the parking regulations provided for in Article 20 unless changes are warranted by the particular characteristics of the proposed Planned Unit Development.
8. Traffic. The PUD must incorporate adequate provisions to provide ingress and egress designed to minimize both internal and external traffic hazards and congestion.
9. Design Standards. The PUD may depart from strict conformance with this ordinance to the extent specified in the Conceptual Plan (described below) approved by the City Commission.

### **16.103 Procedures for Planned Unit Development**

1. General. Approval of a Planned Unit Development proposal shall follow the procedures used for a change to the official zoning map as outlined in Article 4.
2. A Conceptual Plan shall be submitted concurrent with the request for rezoning to a PUD District. The conceptual plan shall meet the requirements of Article 16, "Planned Unit Development District".
3. Processing Procedures. The following steps are required in processing all Planned Unit Developments:
  - a) Pre-Application
    - i. Intent. The intent of the pre-application process is for the applicant to obtain a general awareness of the requirements contained in the City's Comprehensive Plan and the Uniform Development Code, and the boundaries of the zoning districts as specified on the Zoning Map.
    - ii. Pre-application Conference. Prior to the filing of an application for approval of a PUD, the prospective applicant may request an informal informational meeting with the Planning Commission to discuss the proposed development. The meeting shall be

conducted at a regular or special meeting of the Planning Commission for the purpose of exchanging information; no formal action will be taken by the Planning Commission at the meeting.

- iii. Pre-application Document Review. Prior to filing an application for approval of a PUD, either before or after the Pre-application Conference, the prospective applicant should review the Zoning Map, the Comprehensive Plan, and the Uniform Development Code in order to determine the consistency of the proposal to the particular documents aforementioned.

4. Conceptual Plan and Preliminary Plat Procedure.

- a) Intent. The intent of the Conceptual Plan Submission is to obtain the approval of the City for the development of a parcel of land in accord with the plans, programs, and schedule submitted as this part of the Planned Unit Development application. The Conceptual Plan shall be prepared so as to serve in lieu of a preliminary plat. At this stage, the applicant is explicitly committing the subject property to a specific arrangement of land uses at a specific range of densities or intensity. In return the applicant is receiving through rezoning for a Planned Unit Development, a City Commission commitment that, following conceptual plan approval, the applicant can proceed to subsequent steps of the Planned Unit Development procedure with assurance that if the agreed to concept is carried forth, final plan and plat approval will be granted.
- b) Procedure. A request for approval of a Conceptual Plan/Rezoning, as a step in the Planned Unit Development procedure, shall be submitted to the Zoning Administrator and subsequently shall be referred to the Planning Commission for public hearing, review, and recommendation.
- c) Hearing. Within 60 days of the application submittal to the Zoning Administrator, the Planning Commission shall hold a public hearing on the application for a Planned Unit Development Conceptual Plan/Rezoning in accord with the procedures established for public hearings in Article 4.101.
- d) Review Time. Following the public hearing and review of the Conceptual Plan submission, the Planning Commission shall within sixty (60) days, unless an extension is requested by the applicant in writing, recommend approval, modification, or disapproval of the Conceptual Plan/Rezoning, and the reasons therefore, or indicate why a report and recommendation cannot be forwarded to the City Commission.
- e) City Commission Review. The City Commission, after receipt of the Conceptual Plan/Rezoning from the Planning Commission, shall approve, disapprove, or return the proposal to the Planning

Commission for additional review within sixty (60) days, unless an extension is requested by the applicant. In the case of approval, the City Commission shall pass an ordinance approving the Conceptual Plan. This ordinance shall provide for a change in the official City Zoning Map indicating that the subject site is approved for a Planned Unit Development. If the City Commission returns the application to the Planning Commission with specific recommendations for change, and such changes are not made by the Planning Commission, or the changes made by the Planning Commission are not in agreement with what the City Commission wanted, the City Commission may, consistent with the requirements of this ordinance, modify, add conditions, or impose specific limitations as necessary to protect public health, safety, and welfare.

5. Final Development Plan and Final Plat Approval

- a) Purpose. The purpose of the Final Development Plan and Plat is a precise plan of development that shows the exact location of facilities, arrangement of streets and lots, open space and common areas, and the final survey description.
- b) Procedure. The Final Plat shall be submitted as a Planned Unit Development Plat and shall conform substantially to the Conceptual Plan as approved and, if desired by the applicant, may be submitted in stages with each stage reflecting the approved Conceptual Plan; provided that each stage submitted conforms to all requirements of these regulations.
- c) Submission. Submission of the items required of a Final Development Plan and Plat petitioner as identified under the "Submission Requirements" Section of this Article (see Section 16.104) shall be made to the Zoning Administrator for certification that the Final Development Plan and Plat is in conformance with said requirements.
- d) Review. The Planning Commission shall review the Final Development Plan and Plat within sixty (60) days after submission unless an extension is requested by the applicant.
- e) City Commission. The City Commission, after receipt of the Final Development Plan and Plat from the Planning Commission, shall approve, or disapprove the Final Development Plan and Plat within a period of sixty (60) days, unless the applicant requests an extension. The City Commission shall base its review on the sufficiency the dedications and/or reservations offered by the applicant. If approved, the City Commission shall sign the plat and send it to the Register of Deeds for recording.

## **16.104 Conceptual Plan & Preliminary Plat Submission Data**

### **1. Pre-Development Stage.**

- a) Application. A written application for a Planned Unit Development shall be submitted on forms supplied by the Zoning Administrator.
- b) Fee. All required fees shall accompany each application.
- c) Special expertise. If the Zoning Administrator believes that special expertise (such as planning, engineering, and architectural consultants) is needed to properly review the PUD application, the applicant shall be so notified and given the opportunity to make such expertise available to the city at his own expense. Should the applicant challenge the requirement, the matter will be referred to the Planning Commission for consideration in an open meeting. Within 30 days of the applicant making the challenge, the Planning Commission shall consider the matter in an open meeting and make a recommendation to the City Commission as to the necessity of having the special expertise be made available to city staff. Within 30 days of receiving the Planning Commission's recommendation, the City Commission shall make a decision in open meeting as to whether or not the applicant must, at his expense, make available to the city the requested special expertise. If the City Commission decides that the special expertise is required, and the applicant refuses to pay the costs of retaining the special expertise, the City Commission shall summarily disapprove the PUD District application.
- d) Notification List. A list of the names and addresses of owners of all property situated within two hundred (200) feet of the property lines of the subject site shall be submitted to the Zoning Administrator by the applicant. The list shall have been compiled within 15 working days of the date of its submission to the Zoning Administrator. Persons appearing on said list will be sent notice of the public hearing in compliance with statutory requirements. In addition, as they may exist, the responsible fire protection district(s), affected school districts, affected park districts, and affected sanitary and/or drainage districts shall appear on the notification list. Additional parties, specified by the applicant, may appear on the notification list.
- e) Ownership. A statement of present and proposed ownership of all land within the development shall be submitted to the Zoning Administrator.
- f) Legal Description. A legal description of the subject site shall be submitted to the Zoning Administrator.

- g) Number of Copies. At the time of the public hearing on the Conceptual Plan, eight (8) copies, and all subsequent listed information, shall be submitted (with the exception of non-reproducible exhibits.) Failure to submit any of the required information, without a specific written waiver from the Planning Commission, shall constitute grounds for dismissal of the PUD application. The waiver of specific Conceptual Plan submission elements may be requested of the Planning Commission, in writing, at the time the PUD Conceptual Plan application is submitted to the Zoning Administrator. Specific grounds for the waiver must be stated by the applicant. The Planning Commission shall consider the waiver request at its next regularly scheduled meeting following submission of the waiver request by the applicant, or at a special meeting. The applicant shall have the opportunity to address the Planning Commission regarding the waiver request should he so request, and discuss the matter with the Planning Commission. Upon the Planning Commission's decision regarding the waiver request, the public hearing will be scheduled.
- h) Conceptual Plan and Plat. A drawing of the Planned Unit Development shall be prepared at a scale that provides for a clear understanding of the way in which the property is intended to be developed. The Plan shall provide sufficient information to illustrate the concept of the development, including (as applicable) but not limited to: overall land use patterns, general traffic and pedestrian circulation flows, open spaces and/or parks, major features of the development, and a list of proposed restrictions, conditions, and covenants.
- i) The Plan must include:
  - i. Boundary lines and dimensions of the subject site.
  - iv. The general location and purpose of existing and proposed easements.
  - ii. Streets on, adjacent to, or proposed for the tract, including all rights-of-way and pavement widths.
  - iii. Land use patterns proposed for the subject site.
  - iv. Map data to include:
    - 1. Name of development.
    - 2. Name of site developer.
    - 3. North point.
    - 4. Scale
    - 5. Date of preparation.
  - v. Site Data. A list of pertinent site data, as applicable to the site, including;

1. Description and quantity of land uses.
  2. Acreage of site.
  3. Number of dwelling units proposed.
  4. Area of industrial, commercial, institutional, recreational, and number of buildings proposed.
  5. Schedule. Development schedule indicating:
  6. Stages in which project will be built with emphasis on area, density, use, and public facilities such as open space to be developed with each stage. Overall design of each stage shall be shown on the plat and through supporting graphic material.
  7. Approximate dates for beginning and completion of each stage.
  8. If different land use types are to be included within the Planned Unit Development, the schedule must include the mix of uses anticipated to be built in each stage.
- j) Environmental Information. Data identifying existing natural and environmental site conditions, including:
- i. Topography. A topographic map, if possible underlying the concept plan, at a minimum of ten (10) foot contour intervals.
  - ii. Flood Plain. Information from the most current source specified by the City indicating the location and extent of the regulatory flood plain.
  - vi. Information from the most current U.S. Department of Agriculture soil survey indicating the location and classification of soils on the land to be designated a PUD. Soil borings taken on the site may be substituted for the USDA soil survey data.
  - iii. A depiction of existing surface drainage patterns and proposed retention and detention areas.
- k) Utilities. Statement indicating that sanitary sewer, storm sewer, and water are directly available to the site, or if well and septic systems are proposed, a statement from a licensed professional engineer indicating that the proposed development can be suitably served by such systems.
- l) Traffic Analysis. A study providing information on the existing road network, and vehicle volumes, and the effect the proposed Planned Unit Development will have on the existing (or improved) road network.

## **16.105 Final Plan & Final Plat Submission Data**

1. Final Plan and Final Plat Submission Requirements.
  - a) An accurate legal description of the entire area under immediate development within the planned development.
  - b) A Planned Unit Development Plat of all lands which are part of the Final Plat being submitted, meeting all requirements for a Final Plat.
  - c) Designation of the location of the building pads, or areas, or setback lines or setback standards for all buildings to be constructed.
  - d) The final plan shall include all the information and signature blocks as listed in Article 8 "Planned Unit Development Site Plan Requirements".
  - e) Final Systems Plans. Final plans, with all required detail, shall be submitted, including:
    - i. Engineering plans showing how the site is to be serviced with sewer, water, well, and/or septic systems (as agreed to during the Preliminary Plat Stage).
    - ii. Lighting plans.
    - iii. Drainage and storm water retention and detention plans.
    - iv. Road plans, including curbs and gutters, on-site/off-site signalization, acceleration, deceleration lanes, etc.
    - v. Sidewalk, paths, and cycle trails.
    - vi. Landscape Plans. Plans showing the type and location of plant material, berms, and other aesthetic treatments.
    - vii. Public Facilities. An approved non-revocable letter of credit or surety bond to guarantee construction of required on site and or off site public facilities for the Planned Unit Development shall be a prerequisite to final approval of the final plat. The sub divider's bond or approved letters of credit, payable to the City of St. Marys, shall be sufficient to cover the full cost of the improvements plus ten (10) percent. Detailed construction plans shall be submitted for all public facilities to be built.
    - viii. Construction Schedule. A final construction schedule shall be submitted for that portion of the Planned Unit Development for which approval is being requested.
    - ix. Delinquent Taxes. A certificate shall be furnished from the appropriate County official that no delinquent

taxes exist and that all special assessments constituting a lien on the whole or any part of the property of the Planned Unit Development have been paid.

- x. Covenants. Final agreements, provisions, or covenants which will govern the use, maintenance and continued protection of the Planned Unit Development shall be approved by the City and recorded at the same time as the Final Planned Unit Development Plat.

## **16.106 Changes and Amendments to a PUD**

1. Development Concept.
  - a) The Planned Unit Development shall be developed only according to the approved and recorded Final Plan and Plat and all supporting data.
  - b) The recorded Final Plat and supporting data together with all recorded amendments shall be binding on the applicants, their successors, grantees, and assigns and shall limit and control the use of premises and location of structures in the Planned Unit Development project as set forth therein.
2. Changes. Changes and amendments may be made to the PUD in accord with the following schedule:
  - a) Major changes.
    - i. Changes which alter the concept or intent of the Planned Unit Development may be approved only by submission and reconsideration of a new Preliminary and/or Final Planned Unit Development Plat and supporting data and following the Preliminary or Final Plat procedure to include the following:
      - 1) Increases in density,
      - 2) Changes in the height of buildings,
      - 3) Reductions of proposed open space,
      - 4) Changes in the development schedule,
      - 5) Changes in road standards,
      - 6) Changes in the final governing agreements, provisions, or covenants.
    - ii. If the major change alters data or evidence submitted during the Conceptual Plan or Preliminary Plan or Preliminary Plat stage, the resubmission must begin at the Preliminary Plat stage.
    - iii. If only Final Plat evidence or data is altered as a result of the major change, the resubmission shall begin at the Final Plat stage. If major changes are

proposed, a new public hearing shall be required during resubmission of the Preliminary or Final Plat.

- iv. All changes to the "original" Final Plat shall be recorded with the County Register of Deeds as amendments to the Final Plat or reflected in the recording of a new "corrected" Final Plat.
- b) Minor Changes. Changes that are deemed minor by the Planning Commission, and not listed above under major changes, may be initiated at any regular meeting after first being published on the agenda.
- c) Vesting. Vested rights to a PUD shall expire five (5) years after the date of final approval if electrical, sewer, and water utility systems have not been installed in the first phase of the Planned Unit Development.

# Article 17

## State or Municipally Owned and Operated Public Utilities and Facilities

Section 17.100      Jurisdiction

### **17.100 Jurisdiction**

All State or City owned properties and uses are regulated by this UDC and must comply with all the procedures and requirements included in this UDC.

# Article 18

## Buffer Strips

Section 18.100 Buffer Strips, When Required  
Section 18.101 General Procedures and Requirements

### 18.100 Buffer Strips, When Required

The purpose of this article is to allow for proper screening, placement of landscaping, and open space between uses and property. Screening and landscaping are intended to lessen the transmission from one lot to another of noise, dust, and glare. Screening and landscaping can lessen the visual pollution that may occur within a community and establish a greater sense of privacy from visual or physical intrusion.

### 18.101 General Procedures and Requirements

1. A buffer strip of open space may be imposed by the Zoning Administrator for new construction buildings which are located both in an I-1, Light Industrial Zoning District, and adjacent to a Residentially Zoned District. A buffer strip may be imposed by the Zoning Administrator during a site plan review of industrial development when deemed appropriate to buffer a industrial use of a property from adjacent residential use or property. The decision of the Zoning Administrator is subject to appeal to the Board of Zoning Appeals.
2. In general, a buffer strip should not exceed fifteen (15) feet.
3. A buffer strip shall be located within the zone for which it is required.
4. A buffer strip shall be provided in addition to any required setback.
5. A buffer space shall be used for no other purpose than open space, the erection of a fence or screen, and/or landscape planting.

# Article 19

## Sign Regulations

Section 19.100	Intent and Purpose
Section 19.101	Prohibited Signs
Section 19.102	Sign Permits
Section 19.103	Construction Methods and Materials
Section 19.104	Size and Height Limitations
Section 19.105	Abandoned or Unsafe Signs
Section 19.106	Temporary Signs – Special Regulations

### 19.100 Intent and Purpose

1. It is the intent and purpose of this section to establish minimum standards to insure traffic safety, to protect neighborhood aesthetics, to insure public safety, and to protect property values.
2. Prior to installing a sign along US-24 or K-63 Highways, one should be familiar with K.S.A 68-2231 through 68-2244, Highway advertising control: sign standards.
3. Prior to changing this article, future commissions are advised to research U.S. Supreme Court rulings on sign regulations.

### 19.101 Prohibited Signs

Prohibited signs include:

1. Private signs located on any public property or on any public easement, including signs located in the right of way along K-63 or US 24 as described in K.S.A. 68-422. Prohibited signs located on public property may be removed by the City of St. Marys. An attempt to contact the owner of the sign will be made prior to removal. If the owner of the sign cannot be contacted or there is no response from the owner in a timely manner, the sign may be removed and destroyed by the City of St. Marys.
2. A sign that displays patently indecent or obscene matter.
3. Any sign which blocks the clear vision or sight triangle of an intersection and any sign which blocks traffic signs.

### 19.102 Sign Permits

1. All signs which exceed the height, size, location, and time restrictions in this article require a permit. It shall be unlawful for any person to erect, construct, alter, relocate, or convert any sign or advertising device (as described in this section) in such a way as to exceed the restrictions in this article without first obtaining a sign permit.

2. An application for a sign permit shall be made on forms provided by the Zoning Administrator and submitted to the Zoning Administrator. The Zoning Administrator must review the application and respond to the applicant with his decision within five working days of the submission of a completed application. The applicant shall provide the following information, as applicable to the sign installation, on two sets of plans drawn to an appropriate scale:
  - a) Sign location on the property or structure.
  - b) The size and type of sign. If the sign exceeds the size restrictions, the Zoning Administrator may require a sight plan.
  - c) The design of the sign and its structural support.
  - d) The materials to be used in the construction and support of the sign.
  - e) The method of sign illumination.
  - f) Such other information, consistent with the requirements of this UDC, as may be required by the Zoning Administrator to determine compliance with the UDC.
3. The application may be approved or denied by the Zoning Administrator.

### **19.103 Construction Methods and Materials**

1. All signs must be maintained in good and safe structural condition and must be constructed to acceptable engineering standards.
2. Signs must be constructed from materials commonly used for sign making such as wood, metal, masonry materials, plastic, and other similar materials. Signs that are not made from acceptable materials and are determined to be aesthetically unacceptable are not allowed and will be treated as an abandoned or unsafe sign as seen in Section 19.105.

### **19.104 Size and Height Limitations**

1. In all Residential districts, signs may be 15 square feet or less.
2. In all Commercial and Industrial districts that are not located on Highway 63 or U.S. 24, signs may be 80 square feet or less.
3. In Commercial and Industrial districts located on Highway 63 or U.S. 24, the size of signs allowed varies as follows.
  - a) Signs located along US-24 West of Maple Hill Road and East of 10<sup>th</sup> Street, and along K-63 South of the city limit, may be up to 100 square feet in size.
  - b) Signs located along US-24 East of Maple Hill Road and West of 10<sup>th</sup> Street, and along K-63 North of the city limit, may be up to 200 square feet in size. Billboard type signs, such as those commonly seen along highways, are allowed in these areas subject to K.S.A 68-2231 through 68-2244.

4. Signs may be as tall as the permitted building height allowed in the district in which it is located, except in Residential areas, where signs may be up to 6 feet tall. The Residential exception is for aesthetic purposes.

### **19.105 Abandoned or Unsafe Signs**

1. If the Zoning Administrator, in conjunction with the Utility Supervisor, finds that any sign or advertising device is unsafe, or a menace to the public, they shall notify the property owner in writing. If the sign is not repaired or removed within five days (unless an appeal has been made to the Board of Zoning Appeals), such device shall be removed and the costs assessed to the owner of the property. Uncollected removal costs shall be assessed with the property taxes.
2. The property owner may appeal to the Board of Zoning Appeals if a sign is deemed unsafe or a menace. If the BZA votes in his favor, he may keep the sign. If the BZA does not vote in the property owner's favor, the sign must be repaired or removed as stated in Section 19.103.1.

### **19.106 Temporary Signs – Special Regulations**

Temporary signs such as special event signs, garage sale signs, bake sale signs, and signs similar in nature are allowed on Private Property subject to the following regulations.

1. Temporary sign(s) may be placed at curb side except when located in along a Highway 63 or U.S. 24.
2. Temporary signs located along Highway K-63 or U.S. 24 right of way shall be placed behind the sidewalk that parallels the highway. If no side walk exists the sign shall be placed outside of the highway right of way or in a storefront window.
3. Signs announcing a special event may be allowed for a period of one month.
4. Garage sale signs, bake sale signs, and signs similar in nature should be posted for public display no longer than 5 days.

# Article 20

## Parking and Loading Regulations

Section 20.100	General Provisions
Section 20.101	Parking Site Plan
Section 20.102	Number of Parking Spaces Required
Section 20.103	Design Standards
Section 20.104	Off-Street Loading and Unloading Requirements

### 20.100 General Provisions

1. All new structures shall provide parking and loading facilities in accordance with this article.
2. When an existing structure is altered, expanded, or remodeled in any manner so as to enlarge or increase capacity by adding or creating dwelling units, floor area or seating capacity, the existing structure shall provide parking and loading facilities in accordance with this article.
3. Parking may be located in any yard however; in residential districts, no parking shall be located in a required front yard or a required side yard adjacent to a street except in the driveway or on a hard surface parking space.
4. Parking stalls and spaces shall be used for motor vehicles in operating condition.
5. No major vehicle repair work or service of any kind shall be permitted in any parking facilities except for emergency repairs.
6. No unlicensed vehicle or part of such vehicle may be left, parked or stored upon any street, public or private property, or on any driveway within the city. If said violation occurs, the owner shall remove the vehicle after notice by the Police Department. The parking and storage of vehicles is covered in greater detail in St Marys City Code 8-302.

### 20.101 Parking Site Plan

1. See Article 8 for site Plan requirements.

### 20.102 Number of Parking Spaces Required

1. Unless waived or modified by the Zoning Administrator, parking requirements and space development standards for all uses shall be established in accord with the following standards in all zoning districts that require off-street parking.
  - a) Residential R-1, R-2, R-3
    - i. No Off Street Parking is required for R-1 Districts

- ii. Two spaces per dwelling unit for R-2 and R-3.
  - b) Church or Place of Worship (except those located in C-1 Zones)
    - i. One space for each 4 seats or,
    - ii. One space for each four occupants of building capacity, calculated by the adopted building code.
  - c) Hotels and Motels.
    - i. One space per rental unit.
    - ii. One space per 500 Square feet of enclosed common area.
  - d) Funeral Facility.
    - i. One space per employee.
    - ii. One space for each four seats or building capacity, calculated by the adopted building code.
  - e) Office Facility. One space per 300 square feet of enclosed building space.
  - f) Medical Office. One space per 200 Square feet of enclosed building space.
  - g) Retail or Commercial (other than such businesses located in a C-1 zone) where other sections of this code require off street parking. One space per 200 square feet of enclosed building space.
  - h) Industrial or Manufacturing. One space per 500 square feet of enclosed building space.
  - i) Taverns and other places of entertainment.
    - i. One space per each employee.
    - ii. One space for each four seats or building capacity, calculated by the adopted building code.
  - j) Restaurant. One space per 100 square feet of enclosed building space or 1/3 of total building occupant load based on the adopted building code, whichever is greater.
  - k) Schools. One space per 3.5 seats in assembly areas plus 1 stall per faculty and employee.
  - l) Day Care Home. 1.5 stalls per employee.
2. The Zoning Administrator may adjust minimum parking standards to greater or lesser capacities to account for location, expected traffic circulation flows, and the likelihood of conversion to another use.
  3. Specific uses not included in this table shall use commonly accepted parking and traffic circulation standards promulgated by standard site design principles and anticipated occupancy loads.

### **20.103 Design Standards**

1. Each required parking space shall open directly on an aisle or driveway to provide safe and efficient means of ingress and egress.
2. In residential districts, all parking shall be located on the same zoning lot as the structure or use served, or an adjacent lot under the same

taxpayer's name, unless special permission is granted by the Planning Commission for collective or group parking.

3. All uses are required to develop and designate a "disabled" parking space(s) in conjunction with their business. All parking spaces for the disabled shall be clearly marked by vertically mounted signs bearing the international symbol of access. There shall be one disabled parking space for 1 to 25 regular parking spaces and two disabled parking spaces for 26 to 50 regular spaces.
4. All lighting used to illuminate parking areas shall be directed away or shielded from residential properties.
5. Parking areas shall have adequate markings to control and direct the movement of vehicles.
6. Regular Parking Spaces.
  - a) City of St. Marys. Off-street parking spaces including access drives shall be surfaced with asphalt or concrete and shall be graded to prevent drainage problems.
  - b) Extra-Territorial Area. Off-street parking spaces including access drives shall be surfaced with gravel, asphalt, concrete, or equivalent and shall be graded to prevent drainage problems.
  - c) Unless otherwise specified in this ordinance or waived by the Zoning Administrator, overflow-parking spaces shall be on a prepared surface as listed in 20.103.6a and b above.
  - d) All regular parking spaces shall be delineated using painted lines or other acceptable means.
  - e) The minimum dimension for all regular parking spaces shall be 10 feet in width and 20 feet in depth. Required ADA parking shall meet the requirements of the "Code of Federal Regulations" as listed in 28 m CFR Part 36 Chapter 1.
  - f) No parking space(s) shall be permitted between the property line and curb line or edge of pavement.

## **20.104 Off-Street Loading and Unloading Requirements**

Off-street loading and unloading spaces shall be required for property zoned commercial or industrial, unless waived by the Planning Commission.

- a) The loading and unloading spaces shall be provided off-street in the side or rear yard for all uses involving receipt or distribution of materials or merchandise by motor vehicle or rail.
- b) All loading and unloading operations shall be located so as to avoid undue interference with traffic and public use of streets, alleys, and walkways.
- c) Off-street loading spaces shall be on a prepared surface as listed in 20.103.6a and b above and shall be graded so as to prevent drainage problems.

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# Article 1

## General Provisions

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Section 1.115	Effective Date

### 1.100 Title and Authority

1. Title: This ordinance shall be known and cited as the St. Marys Unified Development Code, hereinafter cited as the UDC. Chapter 2 shall be known as the subdivision regulations.
2. Authority. This ordinance is adopted under authority of KSA 12-749.
3. The provisions of Chapter Two apply only to new subdivisions or the expansion portions of existing subdivisions undertaken after the effective date of this ordinance.

### 1.101 Purposes

1. This ordinance is adopted to serve the following purposes:
  - a) Provide for the harmonious and orderly development of St. Marys and the extra-territorial zone in accordance with the comprehensive plan.

- b) Ensure adequate traffic circulation through coordinated street systems with relation to major thoroughfares and adjoining subdivisions.
- c) Provide safe and convenient vehicular and pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for proper location and width of streets and building lines.
- d) Achieve individual property lots of reasonable utility and livability.
- e) Ensure that public facilities and services are available concurrent with development and will have sufficient capacity to serve the proposed subdivision.
- f) Provide for the conservation and protection of natural resources, and prevent the pollution of air, streams, and ponds.
- g) Ensure compatibility between adjacent and neighboring subdivisions; to promote harmony in the relationships and transitions between subdivisions and between new development and existing development.
- h) Ensure the conveyance of land by accurate legal description.
- i) Establish minimum standards of design and procedures for subdivisions and re-subdivisions to further the orderly layout and use of land.

### **1.102 Relationship to the Comprehensive Plan**

1. The St. Marys Unified Development Code is intended to implement the planning goals and policies contained in the St. Marys comprehensive plan and other planning documents and policies of the Planning Commission.
2. It is hereby acknowledged that the St. Marys comprehensive plan and amendments thereto shall constitute the basis or guide for public action to insure a coordinated and harmonious development or redevelopment which will best promote the health, safety, and welfare.

### **1.103 Jurisdiction**

1. These regulations shall apply to all land located within the city limits of St. Marys and the extra-territorial zone as defined by legal description and adopted by the City Commission pursuant to state law.

## 1.104 Applicability

1. The provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. It shall be unlawful for any person to subdivide land without being in compliance with these subdivision regulations.
2. It shall be unlawful for any person to sell or otherwise convey land for the purpose of laying out any subdivisions, suburban lots, building lots, tracts or parcels or any owner of any land to establish any street, alley, park or other property intended for public use or to offer for development purposes any land without reference to a valid, recorded plat or approved certificate of survey.
  - a) Exception: Selling of land for future development purposes.
3. The Zoning Administrator shall not convey a plat of any subdivision to the Register of Deeds of Pottawatomie County, Kansas, to be recorded until the following actions have been completed.
  - a) Plat is accepted by Pottawatomie County and bears their signature(s).
  - b) Plat is approved by the Planning Commission
  - c) Plat bears the endorsement of the Planning Commission
  - d) The City Commission has accepted any dedications or public improvements and the plat bears their signatures.
4. No building permit (or certificate of zoning compliance for buildings in the extra territorial zone) shall be issued for the construction of any building or structure located on a lot or parcel subdivided or sold in violation of the provisions of these regulations, nor shall the municipality have any obligation to extend utility services to any parcel created in violation of these regulations.
5. No building permit shall be issued for any parcel or plat of land that was created by subdivision after the effective date of these regulations that is not in conformity with the provisions of these subdivision regulations.
6. Exemptions. The following sales, resales, conveyances, and auctions of land which involve splitting, dividing, or parceling are exempt from the provisions of this ordinance.

- a) A split, division, or transfer of land for a valid agricultural purpose.
- b) A split, division or transfer of land 40 acres or greater in area, in which case only a valid metes and bounds legal description shall be required.
- c) The subdivision of any land used exclusively for cemetery purposes and associated accessory uses.
- d) The vacation of land used for public use (i.e., right-of-way, alley, or utility easement).
- e) The land is owned by, or held in trust for, the United States government, the State of Kansas, Pottawatomie County (or its political subdivisions), or the City of St. Marys.

**1.105 Fees**

- 1. The City Commission shall adopt by ordinance the fee schedule for filing applications under these regulations. The applicant shall pay all fees associated with the filing of an application for a subdivision.

**1.106 Enforcement and Penalties**

- 1. It shall be the responsibility of the Zoning Enforcement Officer [the Zoning Administrator] to interpret and administrate the rules and regulations contained in these regulations.
- 2. A violation of any regulation adopted in this ordinance shall be a misdemeanor and shall be punishable by a fine not to exceed \$500.00 or by imprisonment for not more than six months for each offense, or by fine and imprisonment. Each day’s violation may constitute a separate offense. In addition, the City may institute appropriate action, including injunction and mandamus, to prevent unlawful erection, construction or alteration of structures, use of the land, occupation of buildings, abatement of nuisances, failure to obtain permits, sale of land for development purposes without reference to a valid plat, refusal to obey and adhere to a lawful order of the Zoning Administrator, or any other violation of the UDC.
- 3. Any person or agent who fails to apply for a building permit before construction starts including any dirt work, footing, slab, support or foundation shall be required to pay a late charge in accord with the following schedule:

New or Relocated Principal Buildings		Additions to Structures or Accessory Buildings
First Offense	\$100	\$75

Second Offense	\$200	\$75
Third Offense	\$300	\$200
Thereafter	\$400	\$400

4. Additional Late Charges for All Structures: An additional \$200.00 fee shall be added to the initial charge if a valid permit is not obtained within 7 working days after the Zoning Administrator issues a Stop Work Order. A stay of this action shall be granted to the violator if a proper appeal is filed with the Board of Zoning Appeals or court of competent jurisdiction prior to the 7<sup>th</sup> workday.
5. The Zoning Administrator and/or the designated deputy, upon finding a violation of these regulations (or if a proposed action would constitute a violation), shall have the power to:
  - a) Issue a Notice of Violation that shall specify the offense, the name of the property owner or agent and/or occupant, the legal description of the property, and the remedy.
  - b) Issue a Stop Work Order that commands any person to immediately cease and desist from any unlawful construction, use or alteration of any building or land.
6. Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a complaint with the Zoning Administrator stating fully the facts or grounds upon which the complaint is based. The Zoning Administrator shall promptly record and investigate such complaint and take appropriate action as provided in this ordinance.
7. Whenever any provision of this ordinance is violated, the Zoning Administrator shall promptly notify in writing the person(s) responsible for the violations. The notification shall contain the nature of the violation and any corrective orders.
8. The Zoning Administrator shall have the following remedies without limitations:
  - a) No Action. Following any complaint, and after careful consideration, the Zoning Administrator may issue a "No Conflict" opinion.
  - b) Informal Contact. The Zoning Administrator shall have the authority to abate the zoning violation through informal meetings or conversations.
  - c) Agreement to Abate. The Zoning Administrator may enter into an agreement with a violator to abate or remedy a violation within a period not to exceed six (6) months, unless extended by the Planning Commission.

- d) Notice and Order. (See #5. a and b) listed above.
- e) Permits. The Zoning Administrator may refuse to issue any required permits on tracts, parcels, or lots cited for active violations of this ordinance.

### **1.107 Conditions on Plats**

1. The Planning Commission is authorized to attach reasonable conditions consistent with the provisions of the Uniform Development Code to a preliminary or final plat concerning design, dedication, improvement, and restrictive use of the land to conform to the comprehensive plan and the physical and economic development of the city and to promote the health, safety, and general welfare of the future lot owners in the subdivision and community at large.
2. The City Commission or County Commission is authorized to attach reasonable conditions to a final plat concerning dedication, improvements, guarantee of installation, utility extension, or easements to conform to the comprehensive plan and the physical and economic development of the city and to promote the health, safety, and general welfare of the future lot owners in the subdivision and the community at large.

### **1.108 Variances and Waiver of Conditions**

1. The Planning Commission may grant variances from the provisions of these subdivision regulations where there exists an extraordinary hardship or practical difficulty that would prevent strict compliance with these rules or regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal. The Planning Commission shall consider variances as a separate agenda item prior to action on a preliminary or final plat. The applicant and any other interested person shall be given an opportunity to be heard with respect to the proposed variance request. The Planning Commission shall not approve a variance unless it shall make findings that all of the following apply:
  - a) The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other nearby property.
  - b) The conditions upon which the request is based are unique to the property in question.
  - c) Because of the particular physical surroundings, shape, or topographical conditions of the specific property

involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience.

- d) The proposed variance request is in harmony with the intended purposes of these regulations as identified in Section 1.101.
2. When a plat is presented that includes land for which a planned unit development plan has been approved, the Planning Commission may vary the design standards in these regulations as necessary to conform to the approved planned unit development plan.

## **1.109 Interpretation and Conflict**

1. The provision of these regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule, or regulation, or other provision of law, the provision that is more restrictive or imposes higher standards shall control.
2. The provisions of these regulations are not intended to abrogate any easement, covenants, or other private agreement; provided, that where the requirements of these regulations are more restrictive or impose higher standards or regulation than such easement, covenant, or private agreement, the requirements of these regulations shall govern.
3. A subdivision of land, that was not lawful at the time of the adoption of these regulations, shall not become or is made lawful solely by reason of adoption of these regulations.

## **1.110 Severability**

1. The intent of the City Commission of City of St. Marys is that the provisions of this UDC are separable, in accord with the following:
  - a) If a court of competent jurisdiction adjudges any provision of this ordinance to be invalid, such judgment shall not affect any other provision of this ordinance.
  - b) If any court of competent jurisdiction shall find invalid the application of any provision of this ordinance to a particular parcel of land, building, or other structure, this judgment shall not affect the application of said provisions to any other parcel of land, building, or structure.

### **1.111 Vested Rights**

1. For the purpose of single-family residential developments, development rights in such land use shall vest upon recording of a plat of such land. If construction is not commenced on such land within five years of recording a plat, the development rights in such shall expire. Construction commencement shall mean the start of the construction of infrastructure (road and utilities) as necessary to allow for the construction and occupation of residences.
2. For all purposes other than single-family developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by a city or county and construction has begun and substantial amounts of work have been completed under a validly issued permit. Substantial amount of work shall mean installation of a foundation and the expenditure of at least \$2,500.00.

### **1.112 Vacation or Replat of Plats**

1. The vacation or replat of any plat shall be accomplished in accordance with K.S.A. 12-512b.

### **1.113 Amendments**

1. These regulations may be amended at any time after the Planning Commission holds a public hearing on the proposed amendment. A notice of such public hearing shall be published in the official city newspaper as provided by law. The Planning Commission may, after such public hearing, adopt such amendment, but such amendment shall not become effective until approved by the City Commission in accordance with state law.

### **1.114 Repeal of Previous Regulations**

1. The 1993 subdivision regulations for the City of St. Marys, Kansas adopted on the 16<sup>th</sup> day of November 1993, and all amendments thereto are hereby repealed effective from and after the date of the approval and adoption by the City Commission and publication of the adopting ordinance for these subdivision regulations.

## **1.115 Effective Date**

1. The provision of these subdivision regulations shall be effective from and after the date of their approval and adoption by the City Commission and publication of the adopting ordinance.

# Article 2

## Subdivision Application Procedure

Section 2.100	Pre-Application Conference and Sketch Plan
Section 2.101	Short Plat
Section 2.102	Preliminary Plat
Section 2.103	Preliminary Plat Action
Section 2.104	Final Plat
Section 2.105	Final Plat Action
Section 2.106	Recording of Plat
Section 2.107	Re-subdivision or Replat
Section 2.108	Concurrent Plat Approval

### 2.100 Pre-Application Conference and Sketch Plan

The Zoning Administrator may request a pre-application conference prior to submission of any application of a preliminary plat. A pre-application conference affords the subdivider/applicant an opportunity to meet with city staff and receive assistance before the preliminary plat is prepared. The purpose of the pre-application conference is to acquaint the applicant with the procedural requirements of these regulations; provide for an exchange of information regarding the proposed development plan and applicable elements of these regulations; advise the applicant of any public sources of information that may aid the applicant; identify policies and regulations that create opportunities or pose significant restraints for the proposed development; and permit city staff input into the general design of a project, based on the submitted sketch plan. The conference consists of the following steps:

1. Contact the Zoning Administrator at the St. Marys City Hall.
2. The applicant shall furnish the Zoning Administrator with a sketch plat or plan of the proposed development. The Zoning Administrator may waive the sketch plan due to the limited size of development or elementary character of site development. The sketch plan shall be submitted for staff review and comment at least ten days prior to the scheduled pre-application conference. No fee is required with a sketch plan.
  - a). The sketch plan shall contain the following information:

- i. Name, address, and phone of applicant.
  - ii. Legal description and existing zoning.
  - iii. Proposed boundaries, north point.
  - iv. General topographic features at reasonable intervals.
  - v. General drainage features.
  - vi. Streets adjacent to tract.
  - vii. Availability of utilities and other public services.
  - viii. Proposed general street and lot layout.
  - ix. General estimate of lot sizes.
  - x. General location details showing the relationship of the proposed subdivision to existing utilities, streets, and to surrounding developed and undeveloped land.
3. The Zoning Administrator will review pertinent requirements for platting, including streets, easements, physical arrangement and density, and general regulations for public water and sewer connections.
  4. The applicant shall review all environmental, engineering and traffic, and sanitary sewer regulations and flood plain elevation maps that are currently in force in St. Marys.

## **2.101 Short Plat**

1. A short plat may be prepared in land divisions containing no more than five (5) lots. The development must not require major infrastructure improvements. The purposes of the short plat are to “streamline” or speed development permits and simplify procedures. This process is not intended to proliferate small plats that will eventually accumulate into larger developments. To this end, the use of the short plat is discretionary upon review of the facts by the Planning Commission. A short plat may be used to:
  - a) Make minor amendments to an existing plat.
  - b) For public facility, commercial, and industrial lots.
  - c) Allow further dividing of land.
2. The sub divider shall submit three copies of the short plat application forms and attachments to the Zoning Administrator in accordance with the following standards.
  - a) A scaled, legible survey showing bearings, point of beginning, monuments, pins, distances, setbacks,

easements, lot configuration and numbers, and a north arrow. The scale is typically 50 feet, 100 feet or 150 feet to one inch.

- b) Short plat name, if any.
  - c) Date, acreage, number of lots, and zoning designation.
  - d) The name, mailing address, and telephone number of the owner, and the person with whom official contact should be made regarding the short subdivision.
  - e) A legal description of the property.
  - f) Lot, block, and street right-of-way and centerline dimensions.
  - g) Street names.
  - h) Proposed dedications, if any.
  - i) Water or sewer notation, if any.
  - j) Surveyor's signature, certificate, and seal.
  - k) Notary signature and certificate.
  - l) Signature and date blocks for the Zoning Administrator, County Environmental Officer (extra-territorial zone), County Director of Public Works (extra-territorial zone), Planning Commission Chair, City Commission, County Commission (extra-territorial zone), City Clerk, and City Attorney.
  - m) Notation block for the Register of Deeds.
  - n) Application fee.
3. Criteria for preliminary short plat approval. In order to grant approval of a short plat, the Planning Commission must find:
- a) That the proposed short plat subdivision is in conformance with the St. Marys comprehensive plan, and any other such plans developed pursuant to law;
  - b) That appropriate provisions have been made for water, storm drainage, and sanitary sewage disposal methods proposed for the short plat subdivision which are consistent with city or county standards and plans;
  - c) That appropriate provisions have been made for proposed road, utilities, and other improvements which are consistent with city or county standards and plans;

- d) That appropriate provisions have been made for dedications, easements, and reservations;
  - e) That the physical characteristics of the proposed short plat division site, including but not limited to topography, soil conditions, and susceptibility to flooding have been considered.
  - f) That the proposed short plat subdivision complies with the requirements of the zoning ordinance (UDC Chapter 1).
4. Short plat approval. Within thirty days of the filing date of the short plat, the Zoning Administrator shall review the short plat for conformance with all conditions of these regulations. If all such conditions are met, the Zoning Administrator shall place the short plat on the next regularly scheduled meeting of the Planning Commission. The Planning Commission may approve the final plat and authorize the recording of the short plat. If all conditions are not met, the Planning Commission shall provide the applicant with a list of necessary changes to the plat to bring the plat into conformance or explain why the application was denied.
  5. Short plat recording. Short plats must be filed on the size and type of paper provided by the Zoning Administrator, or on one sheet of 18" x 24" Mylar. The applicant shall pay all applicable recording fees

## **2.102 Preliminary Plat**

The sub divider shall submit a preliminary plat to the Zoning Administrator in accordance with the following standards.

1. The applicant shall submit a complete preliminary plat form available at City Hall and five (5) copies of a preliminary plat to the Zoning Administrator, together with any supplementary data specified by these regulations, at least twenty-one (21) days prior to the Planning Commission meeting at which consideration of the preliminary plat has been placed on the agenda.
2. The applicant shall pay all filing fees associated with preliminary plats as adopted by the City Commission before the plat is accepted for review by the Zoning Administrator and Planning Commission.
3. The preliminary plat shall contain the information and data as set forth in Chapter 2, Section 3.100 and Section 3.101.

4. The Zoning Administrator is authorized to reject an incomplete submission form or preliminary plat that fails to comply with the requirements set forth in Chapter 2, Sections 3.100 and 3.101.

## **2.103 Preliminary Plat Action**

1. Public Notice. The Zoning Administrator shall schedule the required public hearing and be responsible for publication in the official newspaper a public notice at least 14 days prior to the date of the hearing. The notice shall include the following:
  - a) A legal description or general description sufficient to identify the property under consideration.
  - b) A general description of the proposed development or subdivision.
  - c) The date, time, and place of the public hearing and a clear statement that it is a public hearing at which public testimony is sought.
  - d) The notice shall include a statement that a copy of the proposed preliminary plat is available for public inspection and shall include where such information is available.
2. Plat Approval. The Planning Commission shall approve, conditionally approve, or disapprove the plat, within 60 days from the date of the first hearing, unless such time is extended by mutual consent. If no action or determination that the plat conforms to the provisions of the subdivision regulations within 60 days, then such plat shall be deemed to have been approved. If the Planning Commission finds that the preliminary plat does not conform to the requirements of these regulations, the applicant shall be notified in writing indicating the ways in which the preliminary plat fails to conform to these regulations.
3. Additional Criteria for Review. The Planning Commission shall also review the preliminary plat to assure:
  - a) Conformance with the comprehensive plan,
  - b) Utility and municipal service requirements are met,
  - c) Financial assurance is provided for the installation of public facilities and infrastructure,
  - d) The review of possible environmental impacts the project may have.

4. Public Improvements. The Planning Commission shall require the applicant to indicate on the plat all streets and public improvements to be dedicated and all special districts for water, fire, drainage, street, and utility improvements.

## **2.104 Final Plat**

If the Planning Commission approves a preliminary plat, the applicant may submit a final plat to the Planning Commission for a compliance review. The sub divider shall file a final plat with the Zoning Administrator in accordance with the following standards.

1. The applicant shall submit a complete final plat form available at City Hall and five (5) copies of a final plat to the Zoning Administrator, together with any supplementary data specified by these regulations, at least twenty-one (21) days prior to a regularly scheduled Planning Commission meeting.
2. The applicant shall pay all filing fees associated with final plats as adopted by the City Commission before the final plat is accepted for Zoning Administrator and Planning Commission review.
3. The final plat shall contain the information and data as set forth in Chapter 2 Section 3.102.
4. The Zoning Administrator is authorized to reject an incomplete submission form or final plat that fails to comply with the requirements set forth in Chapter 2 Section 3.102.

## **2.105 Final Plat Action**

1. County Commission Action. All subdivisions in the extra territorial zone shall be forwarded to the Pottawatomie County Commission for its consideration of conformance with all county/township road standards, offers of dedication, and financial assurances in accordance with state statutes.
2. Planning Commission Action. A majority of a quorum of the membership of the Planning Commission shall approve, conditionally approve, or disapprove within 60 days from the date of the filing of the plat, unless such time is extended by mutual consent. If no action or determination that the plat conforms to the provisions of the subdivision regulations within 60 days, then such plat shall be deemed to have been approved.
  - a) The question of final approval will be placed upon an agenda at the regularly scheduled meeting of the Planning Commission.

- b) No final plat shall be considered for final approval or acceptance unless all provisions of these regulations have been met, including compliance with the conditions set forth by the Planning Commission on the preliminary plat.
  - c) If the Planning Commission finds that the final plat does not conform to the requirements of these regulations, the applicant shall be notified in writing indicating the ways in which the final plat fails to conform to these regulations.
  - d) An approved overall preliminary plat may be final platted in phases rather than as a whole.
  - e) No public notice or public hearing is required for a final plat. Written notice shall be given to the applicant concerning the date of the public hearing.
  - f) If the final plat is approved, the Planning Commission Chair shall date and endorse the original final plat.
3. City Commission Action. After the Planning Commission approves the final plat, the City Commission shall examine the final plat to ensure conformance with all city utility and road standards, offers of dedication, and financial assurances. Within 30 days after the first meeting of the City Commission following the date of the submission of the plat to the City Clerk, the City Commission must either accept or refuse the dedication of land for public purpose. The City Commission may defer action for an additional 30 days for the purpose of allowing modifications to comply with the requirements established by the City Commission. If the City Commission defers or refuses such dedication, it shall advise the Planning Commission of the reasons for said action.
4. Affect of Denial for Public Acceptance. If a final plat is refused because of failure to adhere to road standards, or if offers of dedication would be contrary to public policy, the matter has reached closure, and the plat may not be filed.

## **2.106 Recording of Plat**

- 1. Upon approval of a final plat, and acceptance of all dedications by the City or County Commission, and upon submission of all documents and signatures required as part of a final plat, the Zoning Administrator shall release the final plat to be filed with the Pottawatomie County Register of Deeds.

2. The sub-divider shall be responsible for the recording fee and any outstanding real estate taxes and special assessments, and submitting two (2) reproducible copies of the recorded final plat to the Zoning Administrator.
3. No construction or building permits, or letters of zoning compliance shall be issued until the final plat is recorded.

## **2.107 Re-subdivision or Replat**

Any previously subdivided tract(s) may be re-subdivided after submission of a new or corrected plat.

1. Re-subdivided plats may be used for the following purposes:
  - a) The division of any existing lot into two or more additional lots.
  - b) Change the number of lots
  - c) Change lot lines
2. Title Block. All re-subdivision plats shall contain the title "Re-subdivision" or "Replat" followed by the original title of the "Plat" and, if applicable, the lot(s) that are to be divided: i.e., "A Replat of Lots 1 and 2 of Wildcat Subdivision".

## **2.108 Concurrent Plat Approval**

The Zoning Administrator is authorized to decide if a preliminary plat and final plat for the same property can be filed and placed on the Planning Commission agenda for concurrent approval.

# Article 3

## Contents of Preliminary and Final Plats

Section 3.100	Preliminary Plat
Section 3.101	Supplementary Information for Preliminary Plats
Section 3.102	Final Plat
Section 3.103	Required Certificates

### 3.100 Preliminary Plat

Unless waived by the Zoning Administrator, all preliminary plats shall contain the following information:

1. Vicinity map showing the location of the proposed subdivision.
2. A north point and scale of one inch equals 100 feet, unless the Zoning Administrator approves an alternate scale.
3. A legal description and a current zoning designation.
4. Names of applicant, developer/sub divider, title of subdivision, and proposed street names.
5. Name and seal of surveyor/engineer.
6. Date surveyed.
7. Adequate legend.
8. Block and lot numbers and dimensions of blocks and lots.
9. Complete outline drawing of all boundaries, lots, and streets, together with angles, bearings, and/or azimuths (as appropriate) distances, and areas. Boundaries shall be shown as solid lines and all easements or required yards as dashed lines.
10. The location of all proposed streets, roads, alleys, and sidewalks and their relation to platted streets, proposed streets, or streets as shown on any recorded plat of adjacent property. Street names for all proposed and existing streets shall be identified. The width and approximate grade shall be noted for all proposed streets, roads, and alleys.
11. Rights-of-way and/or easements proposed to be created for all drainage purposes, utilities, walkways, access, and other purposes.

12. The location of the water/sewer distribution/collection system; the plat must show that these systems touch upon each lot, or in an easement appurtenant to each lot.
13. Total acreage and size of each lot in a data table.
14. Contours at vertical intervals of five feet unless the Zoning Administrator approves an alternate interval.
15. Setbacks, yards, building envelope, and any entrance restrictions.
16. Location and direction of flow of all watercourses and the location of the 100-year flood plain. If no portion of the subdivision lies within the 100-year flood plain, such fact shall be noted in the legend.
17. Existing features such as ponds, lakes, wetlands, and wooded areas.
18. Existing use of the property including the location of all existing structures showing those that will be removed and those that will remain on the property.
19. If the subdivision is scheduled for phasing, then each phase shall be clearly indicated on the plat.
20. Location, description, and elevation of all benchmarks established or source used for vertical control.
21. Sites proposed for dedication as drainage way, park, school, or other public purpose.

### **3.101 Supplemental Information for Preliminary Plats**

The following supplementary information may be requested by the Zoning Administrator or Planning Commission and shall be submitted with the preliminary plat or be included thereon.

1. Storm water drainage data, analysis, information, and supplemental maps of surrounding property in sufficient detail to demonstrate how storm water is proposed to be controlled or managed.
2. Copies of the proposed restrictive covenants if any.
3. The preliminary plat shall show:
  - a. The location of adjoining lots and parcels,
  - b. The structures
  - c. Natural features on the adjoining lots or parcels within 1,000 feet of the subdivision."

4. A statement as to the general nature and type of improvements proposed for the subdivision, and in what manner the sub divider intends to provide for their installation, e.g. petition, actual construction, escrow deposit, performance bond.
5. If the proposed subdivision is located in the extra-territorial zone and will utilize lateral fields or lagoons, the County Environmental Officer must be supplied with adequate physical data necessary to evaluate the type, size, and overall suitability of the project. Typical information that should accompany the preliminary plat for sanitary purposes would include: a soils analysis or a profile analysis, percolation tests, and the direction of surface water drainage. The County Environmental Officer shall forward his evaluation and provide the Planning Commission with a recommendation for approval, denial, or modifications to ensure the proposed plat conforms to the county environmental regulations. See Section 4.102(2) Public Water and Sewer Connections.
6. A statement as to how the adverse development conditions set forth in sections 4.103.4 of this chapter, if applicable, will be resolved.

### **3.102 Final Plat**

All final plats shall contain the following information:

1. Final plats shall be prepared at a scale of not less than one inch represents one hundred feet.
2. The words "FINAL PLAT" followed by the name of the subdivision.
3. A legal description of the subdivision boundaries.
4. The instrument of survey which shows:
  - a) The point of beginning,
  - b) Corners,
  - c) Angles, bearings, and/or azimuths (as appropriate),
  - d) Distances,
  - e) Exterior boundaries,
  - f) Interior lot boundaries,
  - g) Pins and monuments found or set.

5. The instrument of survey shall conform to the Minimum Standards for the Practice of Land Surveying as set forth in K.A.R. 66-12-1.
6. Either individual notations or a table showing: All lot sizes, building setbacks, and building envelopes {envelopes are required by ordinance} (i.e. PUD). A lot envelope indicates the area of a lot, which may be used for structure development when physiography, drainage, or general soil conditions restrict building practices.
7. Block and lot numbers and dimensions of blocks and lots. Blocks shall be numbered clearly in the center of the block, within a circle.
8. All streets right-of-way with curve data, which shall include radius, arc length, chord length, and central angle.
9. Ingress/egress limitations if required.
10. Method of water and sewer service.
11. The location of existing and proposed easements, with widths.
12. Person or entity responsible for maintaining each easement.
13. An instrument of dedication for all streets and easements
14. Special notations required as a condition of platting by the Planning Commission.

### **3.103 Required Certificates**

1. Owner's Certificate with Notary Certificate and Seal.
2. Certificate of the St. Marys City Commission signature block indicating acceptance of the public dedications;
3. {Attest} signature block for City Clerk with date.
4. Extra-territorial zone plats shall also have a Certificate of the County Commission and the County Clerk's attest and seal.
5. St. Marys Planning Commission approval as evidenced by the signature of the Chair and Secretary.
6. City Attorney.
7. Certificate of the Register of Deeds.
8. Surveyor's Certificate and Seal.
9. Certificate of review by the County Surveyor or designee indicating that the plat and survey description has been reviewed and approved.

# Article 4

## Minimum Subdivision Improvement & Design Standards

Section 4.100	Purpose
Section 4.101	Guarantee of Installation
Section 4.102	Public Utility Extensions
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Section 4.105	Blocks
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Section 4.111	Sedimentation and Erosion Control
Section 4.112	Benchmarks, Monuments, and Corners
Section 4.113	Buffer Strips, Landscaping and Screening Standards

### 4.100 Purpose

The purpose of this article is to provide reasonable standards of design for the subdivision and re-subdivision of land and the required improvements for each subdivision. The Planning Commission shall study and review all subdivision plats in relation to the general character of the area, the general requirements of the community, and the particular requirements of the neighborhood. These design standards shall guide private and public policy regarding the layout, design, and construction of public improvements.

Further, the purpose of this article is to advance the orderly development of the City of St. Marys and the extra-territorial zone. Required public improvements are established to ensure that adequate public facilities are available and will have sufficient capacity to serve new developments: to provide water, sanitary sewers, streets, sidewalks, streetlights, and other public facilities.

## 4.101 Guarantee of Installation

The developer shall install or provide for the installation of all or a portion of the facilities and improvements required by the development policy and practices of the City of St. Marys or Pottawatomie County. Developers are required to install infrastructure (including but not limited to streets, drainage courses, culverts, water distribution, or sewer collection) as they appear on the final plat prior to the issuance of a building permit. The City Commission or County Commission may, at its discretion, determine a reasonable method, including but not limited to a corporate surety bond, cashier's check, escrow account, letter of credit, or other like security in an amount to be fixed by the City Commission or County Commission and conditioned upon the actual completion of such work or improvements within a specified period, for insuring completion of improvements by the developer.

## 4.102 Public Utility Extensions

No preliminary plat shall be approved unless the Planning Commission determines that all public utilities will be adequate to support and service the area of the proposed subdivision. The intent is to maximize local municipal coordination of public utilities in accordance with the comprehensive plan and the Cities ability to extend utilities collection system.

1. The Policy of the City of St. Marys for subdivision development within the limits of the City shall be, absent an agreement between the City and any developer or owner, as follows:

a. STREETS.

- i. All streets, sidewalks, curbs, and guttering shall be installed pursuant to a licensed engineer design, and,
- ii. Shall be subject to review and acceptance by the City Engineer for the City of St. Marys, and
- iii. All costs shall be at the expense of the developer,

1. Exception:

A proper petition for a benefit district is approved by the City Commission, wherein the cost of such improvements, including the development, design and

installation, shall be paid through the benefit district.

b. SEWER:

- i. All sewer extensions shall be installed pursuant to a licensed engineer design, and
- ii. Shall be subject to review and acceptance by the City Engineer for the City of St. Marys, and
- iii. All costs shall be at the expense of the developer,
  1. Exception:

A proper petition for a benefit district is approved by the City Commission, wherein the cost of such improvements, including the development, design and installation, shall be paid through the benefit district.

c. WATER:

- i. All water extensions shall be installed pursuant to a licensed engineer design, and
- ii. Shall be subject to review and acceptance by the City Engineer for the City of St. Marys, and
- iii. All costs shall be at the expense of the developer,
  1. Exception:

A proper petition for a benefit district is approved by the City Commission, wherein the cost of such improvements, including the development, design and installation, shall be paid through the benefit district.

d. ELECTRICAL SERVICE:

- i. The extension of all electric lines shall be performed by the City of St. Marys.

- ii. The cost of the materials, such as poles, transformers, lines and the direct material cost, shall be paid for by the developer, upon being billed by the City of St. Marys, and prior to commencement of work for such extension of service.
2. When the City Engineer for the City of St. Marys reviews such designs for streets, water, or sewer, any review cost shall be attributed to the project and paid for by the developer or benefit district.
3. As to all of the above, street, sewer, and water service extensions, the owner of the property shall be responsible for the extension from such street, sewer main, and/or water main to the structure as established by the benefit district.
4. As to extension of sewer and water service, if there is a requirement from the City to enhance any primary service line for future expansion or other City purpose, the additional cost of the pipe and connections so required, above the standard size of pipe and connections, shall be paid by the City. The City shall not be responsible for any other cost.
5. Rural or Extra-Territorial Zone Subdivisions.
  - a. The intent of these regulations is to encourage the orderly development and growth of St. Marys by extending municipal water and sanitary sewer service into the unincorporated areas surrounding the city, if feasible.
  - b. Before an extra-territorial subdivision connects to any city utility, the subdivision shall be annexed, unless waived by the City Commission.
  - c. Subdivisions platted after the adoption date of these regulations that are located in the extra-territorial zone, and connection to St. Marys water or sanitary sewer is deemed reasonably and feasibly accessible by the Planning Commission and City Commission, the developer shall be required to connect to municipal water or sewer service, unless waived by the City Commission.

6. The Policy of the City of St. Marys for subdivision development within the extra-territorial Zone shall be:
  - a. Extra-Territorial Zone Water Connections shall meet the following conditions:
    - i. The water main system shall be designed in accordance with acceptable engineering standards and practices and shall be designed to allow for the expected normal usage and fire flows.
    - ii. Fire hydrants will be required on all municipal water extensions. The type and spacing of fire hydrants shall be in conformance with the National Fire Protection Association (NFPA) #24 Design Guidelines Manual Department of Public Utilities.
    - iii. Any water system connected to any city water system shall meet the requirements listed in section 4.102.c) of the City of St. Marys Subdivision Regulations.
    - iv. The developer may provide a connection to a central water system or water from a private well(s).
      1. As part of the supplementary information submitted with a preliminary plat, the developer shall provide verification from a licensed engineer or licensed well contractor that an adequate and acceptable water supply is available.
      2. Fire hydrant installation shall not be required on private individual wells.
    - v. If the subdivision is connecting to a rural water system, as part of the supplementary information submitted with a preliminary plat, the developer shall:
      1. Provide a written statement from the affected rural water district stating that it is willing and able to provide service to the subdivision.

- b. Extra-Territorial Zone Sanitary Sewer Systems.
  - i. If the developer wants to extend municipal sanitary sewer service to the subdivision, the sanitary waste system shall be designed in accordance with acceptable engineering standards and practices and,
  - ii. Shall be designed to allow for the expected normal usage and future expansion flows.
  - iii. All sanitary waste systems shall be constructed and installed in accordance with the “Pottawatomie County Sanitary Code of Pottawatomie County, Kansas”.
  - iv. As part of the supplementary information submitted with a preliminary plat, the developer shall provide the Planning Commission with a statement from the Pottawatomie County Environmental Health Officer stating the sanitary waste system the developer desires to use meets Pottawatomie County sanitation regulations.
  - v. As part of the supplementary information submitted with a preliminary plat, the developer shall provide written verification from the Kansas Department of Health and Environment that the proposed sewage collection and treatment facility meets state guidelines for the design and installation of said system.

#### **4.103 General Development**

Subdivisions, re-subdivisions and all related improvements shall be planned, designed, and constructed in accordance with the standards and specifications set forth in this Article.

1. A subdivision shall be designed to comply with the St. Marys Comprehensive Plan.
2. The name of any new subdivision or subdivision road shall not duplicate or closely approximate that of any existing roads or subdivisions within the St. Marys postal delivery area.
3. Any land that the Planning Commission finds unsuitable for subdivision and subsequent development due to flooding, improper drainage, steep slopes, rock formations, topography, inadequacy of utility easements, or other features that will reasonably effect the public health, safety, and welfare shall not

be subdivided or developed until reasonable and adequate methods are formulated by the developer and approved by the Planning Commission to solve the problems of adverse development conditions.

4. If the development is to be served with public water or sewer, the plat must bear a notation that the subdivision is to be served by these facilities. The Zoning Administrator may not issue a building permit or a letter of zoning compliance (extra territorial area zones) for a lot notated "SERVICED BY CITY" if in fact such facilities are not present or assured.

#### **4.104 Lot Design and Layout**

All lots and landform design shall be planned in accordance with the following general standards.

1. The lot size, width, depth, shape and orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision, the type of development, and the use contemplated.
2. All lots shall be designed and arranged with safe access to a public street. Where driveway access from an arterial or a collector street may be necessary for several adjoining lots, the Planning Commission may require that such lots be served by a combined access drive in order to limit possible traffic hazards.
3. Lot arrangement shall be designed to provide positive drainage to the municipal storm water system or lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area
4. Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area.
5. All subdivisions within the City of St. Marys zoning jurisdiction shall conform to the requirements of the St. Marys Flood Plain Regulations.
6. Side lines of lots shall be at right angles or radial to the street lines, unless a variance is granted to provide a better street and lot plan. The angle of variation will be marked on the plat. Lot lines shall be straight, when not adjacent to street right-of-way.
7. Flag lots shall be permitted by a specific plat variance issued by the Planning Commission.

8. The minimum lot areas and widths, measured at the setback lines, shall conform to the requirements of Chapter One of this ordinance.
9. Corner lots in residentially-zoned districts shall be sized sufficiently large to allow for the building setbacks from both streets as specified in the applicable zoning district regulations.
10. Double frontage and reverse frontage lots should be avoided except where they are needed to provide for the separation of residential development from arterial streets or to overcome specific disadvantages of topography or orientation. No access shall be allowed from individual lots to arterial streets.
11. If an owner places restrictions on any lot that are greater than those imposed by these subdivision regulations, or by the zoning regulations of St. Marys, such restrictions or a reference thereto shall be placed on the final plat.
12. All portions of the tract being subdivided shall be taken up in lots, streets, planned open spaces, phases, or other uses so that remnants of land-locked areas are not created.

#### **4.105 Blocks**

Intersecting streets determining block lengths shall be provided at such intervals as to serve the anticipated traffic flow of the subdivision, taking into consideration the location of existing streets.

#### **4.106 Streets and Circulation**

The plan for general circulation and the development of all streets shall be prepared in accordance with the following.

1. All new streets or roads constructed inside the city limits, or in an area meeting the definition of an urban subdivision shall comply with the following:
  - a) A set of street or road construction and grading plans shall be submitted to the Zoning Administrator.
  - b) The developer shall be responsible for constructing all new streets.
  - c) All street pavement, curbs and gutters, shoulders, drainage improvements, and sidewalks shall be designed and constructed in accordance with acceptable engineering standards and practices.
  - d) All curbs and gutters shall be of concrete.

- e) All streets shall be of BM2 asphalt or its equivalent no less than 8" (eight inches) in depth.
  - i. Exception: Alleys are exempt from this regulation.
- 2. Rural or Extra-Territorial Zone Subdivisions. All road improvements located in the unincorporated area shall comply with the following:
  - a) A set of road construction and grading plans shall be submitted to the county Director of Public Works for approval.
  - b) The developer shall be responsible for constructing all new roads.
  - c) All road pavements, shoulders, and drainage improvements shall be constructed in conformance with the standards and requirements set by the county.
- 3. Arrangement. All streets shall be integrated with the existing and proposed system of road, streets, and dedicated rights-of-way. Additionally, all streets shall be related to specific traffic generators and to the pattern of existing and proposed land uses.
  - a) Where required by the Planning Commission, rights-of-way shall be provided for extending streets to adjoining un-subdivided property. Land in such rights-of-way shall be dedicated to city or county.
  - b) Where a proposed subdivision abuts an approved subdivision containing future street rights-of-way, the developer of the proposed subdivision shall construct the street and all required improvements from the proposed subdivision to the approved street in the existing subdivision.
  - c) New streets shall be extended to the boundaries of the subdivision to provide access to adjoining property, and shall intersect with existing streets.
  - d) When a subdivision borders on, or contains a railroad right-of-way or a limited access highway, the Planning Commission may require a street approximately parallel to and on each side of such right-of-way, at a distance from the railroad or limited access highway right of way determined with due regard for the requirements of approach grades and future grade separations.
  - e) Local streets shall be so designed as to discourage through or non-local traffic.

- f) Road shall be related appropriately to the topography. Grades of streets shall conform as closely as possible to the original topography.
  - g) 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 Planning Commission may authorize a variation with a minimum angle of eighty (80) degrees.
4. Connectivity. In order to promote connectivity to adjacent properties, every plat shall provide multiple access points, to the greatest extent possible. Streets in a proposed subdivision must connect, where feasible, to existing streets in abutting platted subdivisions.
  5. No subdivision shall be approved unless it has access to a public street that has been designed and constructed in accordance with acceptable engineering standards and practices.
  6. The developer shall warranty all new streets and the repair of new streets for a period of not less than one year following the date of final acceptance by the city or county
  7. All proposed new streets in a new subdivision shall become public streets and dedicated to the city or county.

a. Exception:

Private streets may be approved by the planning commission. When private streets are approved as part of a subdivision, they shall meet the design standards for local streets of these regulations. Approval of a subdivision involving a private street shall be solely at the discretion of the Planning Commission. The right-of-way width and roadway width for private streets are the same as those required for public streets. Turnaround provision for private streets, with a single point of ingress and egress, are the same as are required for public streets. Applications for a private street shall be accompanied by a development agreement, which shall be recorded with the Pottawatomie County Register of Deeds as part of the final plat. This agreement shall establish the conditions under which the street will be constructed and maintained, as well as the conditions controlling an offer of dedication, and shall stipulate:

- b) The street shall be constructed and maintained to conform to the St. Marys construction specifications.
  - c) An offer for dedication of the street shall be made only for the street as a whole.
  - d) The method of assessing maintenance and repair costs.
8. Half-Street. Dedication of half-streets shall not be approved.
  9. Temporary Turnaround. When a temporary turnaround is provided on a street that is to be extended in the future, the Planning Commission shall establish the width of the turnaround and the need for temporary easements. Temporary cul-de-sacs shall have, as a minimum, the same dimensions as a permanent cul-de-sac.
  10. Cul-de-sacs. Permanent cul-de-sacs (dead end streets) shall not be longer than 600 feet and a turn-around not less than 50 feet in radius shall be provided at each terminus to provide adequate provision for turn-around of emergency or commercial vehicles, such as fire trucks and school busses.
  11. Streets for Commercial and Industrial Use. The minimum right-of-way width of streets adjacent to an area designed, proposed, or zoned for commercial or industrial use may be increased by the Planning Commission to such extent as the Commission may deem necessary to assure the free flow of through traffic without interference from parked or parking vehicles.
  12. Clear sight triangles meeting figure one below shall be designed in all intersections. No obstructions to vision shall be allowed within the applicable triangle(s). Any object shall be deemed an obstruction if it is located within any applicable sight triangle and the object is between two and one-half feet and ten feet above the edge of the roadway.

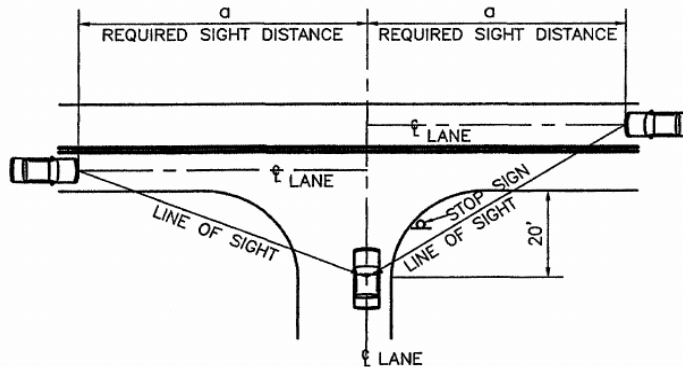
Figure 1

**SIGHT TRIANGLE REQUIREMENT  
STOP-CONTROLLED INTERSECTION**

<sup>1</sup> DISTANCE "a" CALCULATED PER AASHTO, CASE IIIB. ASSUMES FLAT GRADES AT INTERSECTION. WHERE THE GRADES OF THE INTERSECTION LEGS ARE OTHER THAN FLAT, CORRECTIONS SHOULD BE MADE TO THE SIGHT DISTANCES PER AASHTO TABLE IX-9.

<sup>2</sup> USE TRUCK SIGHT DISTANCES IN COMMERCIAL AND INDUSTRIAL ZONED AREAS.

OPERATING SPEED (MPH)		25	30	35	40	45	50
DISTANCE $a^1$ (FEET)	TRUCK <sup>2</sup>	490	645	820	1020	1340	1710
	PASSENGER CAR	300	375	470	580	700	840



13. Minimum Street Design Standards. All roadways shall be designed in accordance with nationally recognized design standards and practices, signed and sealed by a registered engineer of the appropriate discipline.
14. Dedication of Rights-of-way. Developers are required to dedicate right-of-way land to the city or county for public streets or roads, which abut the proposed development in accordance with city or county policy.

**4.107 Sidewalks**

1. The Planning Commission shall determine at the time it considers the preliminary plat if sidewalks shall be required within a subdivision.
2. Access ramps for disabled persons shall be installed whenever new curbing and/or sidewalks are constructed or reconstructed.

All sidewalk grades, approaches, and ramp shall comply with the Standards of the American Disabilities Act.

#### **4.108 Pedestrian Access**

The Planning Commission may require, in order to facilitate pedestrian access from the streets to schools, parks, playgrounds, or other nearby streets, pedestrian easements at least ten (10) feet in width, unless modified by the Commission. Pedestrian easements and maintenance responsibility thereof shall be indicated on the plat.

#### **4.109 Easements and Reservations**

All permanent and temporary easements shall be prepared for dedication in accordance with the following standards and specifications.

1. All public utility installations, including lines for street lighting systems, which traverse privately owned property, shall be protected by easements granted by the developer to the public and appropriate public utility. Such easements shall be located so as to not interfere with the use of any lot or other part of the subdivision. The size of, and restrictions pertaining to, such easements shall be in accordance with the standards and specifications of the agency having jurisdiction over the utility lines if such standards and specifications are greater than those imposed by these regulations.
2. The location of utility easements shall be proposed by the developer, and approved by the Planning Commission, taking into consideration lot size and configuration, the requirement to provide all utility services to all lots, and the goal of retaining maximum useable area of the lot by the owner. The preferred location for utility easements is along the rear line of lots, though side lot line easements, or other locations as proposed, may be approved if they are needed to meet utility system design standards. Utility easements shall be 20 feet in width, except for street lighting easements which may be 10 feet in width.
3. 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. The easement 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 access for maintenance. The final plat shall indicate maintenance responsibilities of such areas.

4. Drainage easements on land subject to rapid storm water discharge may be required by the Planning Commission. The developer is responsible for providing such documentation as may be appropriate to show that the land is or is not subject to rapid storm water discharge, how the discharge will be managed, and how the requirements of the State of Kansas National Pollutant Discharge Elimination System Standards applying to storm water runoff will be addressed. Any such documentation shall be signed by a registered engineer, a registered hydro geologist. Drainage easements may also be required for retention or detention basins. Storm water channels and retention or detention basins, if required, shall be designed by a Kansas registered civil engineer.

#### **4.110 Street Lights**

The Planning Commission may require streetlights for illumination of streets and pedestrian walkways for safe movement of vehicles and pedestrians at night.

#### **4.111 Sedimentation and Erosion Control**

The storm water management plans for all subdivisions shall conform to the State of Kansas National Pollutant Discharge Elimination System standards.

#### **4.112 Benchmarks, Monuments, and Corners**

1. Benchmarks. All elevations shown on plats shall be based on National Geodetic Survey (NGS) datum. The permanent bench mark location and description that is used to extend datum to the project shall be noted on the Preliminary and Final Plat.
2. Monuments. Monuments shall be located, constructed, placed, and documented in accordance with the surveying standards set forth in Kansas Administrative Regulations 66-12-1, Minimum Standards for the Practice of Land Surveying.
3. Monument Placement. All boundary monuments and interior controlling corners shall be set prior to the submission of the final plat to the Planning Commission for approval.
4. The final plat must be signed by the county prior to submitting the final plat to the Planning Commission for final approval.

## **4.113 Buffer Strips, Landscaping and Screening Standards**

1. A buffer strip or setback of open space may be imposed by the Planning Commission as a condition of rezoning or as a requirement imposed on a preliminary plat when deemed appropriate to buffer a commercial or industrial use of a property from adjacent residential use or property. A buffer strip or setback of open space may be imposed by the Zoning Administrator during a site plan review of commercial or industrial development when deemed appropriate to buffer a commercial or industrial use of a property from adjacent residential use or property. The decision of the Zoning Administrator is subject to appeal to the Board of Zoning Appeals.
2. The Planning Commission shall determine the depth of a buffer zone based on the character of nearby uses and existing environmental features. In general, a buffer strip should be a minimum of fifteen (15) feet when the planting of trees is required in order to accommodate the growth of trees to maturity.
3. A buffer strip shall be located within the zone for which it is required.
4. A buffer strip shall be provided in addition to any required setback.
5. A buffer space shall be used for no other purpose than open space, the erection of a fence or screen, and/or landscape planting.
6. When the planting in a buffer space is to serve the purpose of a screen, the plants used shall be of a species that provides a screening effect all year long and shall be planted at a density sufficient to provide full screening from reasonably anticipated off-site viewing angles. The vegetation planted to meet a screening requirement shall be of species or maturity which can reasonably be expected to create the desired screen within five years from the time of planting.
7. The erection of a screen or fence in a buffer strip, or the planting of vegetation to create a screen in a buffer strip, may be imposed by the Planning Commission as a condition of rezoning or as a requirement imposed on a preliminary plat when deemed appropriate to screen a commercial or industrial use of a property from adjacent residential use or property. The erection of a screen or fence in a buffer strip, or the planting of vegetation to create a screen in a buffer strip, may be imposed by the Zoning Administrator during a site plan review of commercial or industrial development when deemed appropriate to screen a commercial or industrial use of a property from adjacent residential use or

property. The decision of the Zoning Administrator is subject to appeal to the Board of Zoning Appeals.

8. The height of man-made screens shall conform to the fence heights authorized in Section 7.300 of this UDC. The fence height variance authority authorized by Section 7.300 also applies to screens.
9. Man-made screens, or fences which are fulfilling a screening purpose shall not have openings through which that being screened can be ascertained as to form or function. Man-made screens, or fences which are fulfilling a screening purpose may be constructed of any common building material.
10. Nothing in this Article is to be interpreted as preventing the installation of a combination of screens, fences, and vegetation in a buffer space as may be required to meet the intent of this Article or the desires of the land owner.

# Article 5

## Lot Splits

Section 5.100	Purpose
Section 5.101	General Provisions
Section 5.102	Contents of Plot Plan
Section 5.103	Approval Authority
Section 5.104	Approval Guidelines

### 5.100 Purpose

These regulations are designed to provide for the division of a lot into not more than two lots that meet the minimum size and area requirements of the zoning district in which said lots are located. Any new lot created under the provisions of this article shall not be further subdivided without re-platting.

### 5.101 General Provisions

The owner of the land shall submit a lot split application to the Zoning Administrator in accordance with the following standards.

1. The applicant shall submit a complete lot split application form available from the Zoning Administrator and three (3) copies of a plot plan to the Zoning Administrator, together with any supplementary data specified by these regulations.
2. The applicant shall pay all filing fees associated with a lot split as adopted by the City Commission before the application is accepted for review.
3. The plot plan shall be submitted as a certificate of survey and sealed by a licensed land surveyor or engineer in Kansas.

### 5.102 Contents of Plot Plan

The plot plan shall contain the following information:

1. Signature and date blocks for the Zoning Administrator and the Register of Deeds.
2. The location and dimension of existing structures and/or curb cuts on the lot with respect to the existing lot lines.

3. All platted building setbacks.
4. The dimensions of the proposed lots.
5. The legal description(s) for the proposed lots.
6. The current zoning of the subject parcel.
7. The total square footage contained in each of the two lots.
8. All existing easements and utilities. If the easements were granted by separate instrument, the certificate of survey must contain a note indicating that these instruments are on file with the Register of Deeds.
9. Location and width of access ways, existing and proposed.
10. The Surveyor's signature, certificate, and seal.
11. The Owner's signature.

### **5.103 Approval Authority**

The Zoning Administrator or other city employee appointed by the City Manager is authorized to approve or disapprove lot splits with these regulations.

1. The Zoning Administrator shall provide a written approval, with or without conditions, or denial of the lot split within thirty (30) days after receiving a complete application.
2. The Zoning Administrator may provide conditions as deemed necessary to implement the intent and purpose of these regulations. Requirements may include, but are not limited to, installation of public facilities, and dedication of right-of-way and easements.
3. If the application is approved, the applicant shall file the approved lot split with the Pottawatomie County Register of Deeds. A copy of the filed request must be returned to the Zoning Administrator.

### **5.104 Approval Guidelines**

No lot split shall be approved if one or more of the following applies:

1. A new street or alley is needed or proposed.
2. There is less street or road right-of-way than required by these regulations.
3. A vacation of streets, alleys, setback lines, access control, or easements is required or proposed.

4. The lot split results in a lot or tract without direct access to a street.
5. The lot split results in a lot that does not meet minimum lot size, setbacks, or other requirements of the zoning regulations.
6. An easement requirement has not been satisfied.

# Article 6

## Definitions

1. Access Control: The limitation of public access rights to and from properties abutting streets or highways to preserve traffic service and to improve public safety.
2. Acceptable engineering standards and practices: Acceptable engineering standards and practices shall mean such standards and practices that are proposed on drawings or documents signed and sealed by a registered professional engineer of the appropriate discipline.
3. Alley: A public or private way which normally affords a secondary means of access to abutting property. An alley shall not be considered a street. Further, frontage on an alley shall not be construed as satisfying the requirements related to frontage on a dedicated street.
4. Block: A unit of land bounded by streets or by a combination of streets and public land, railway rights-of-way, waterways, or any other barrier to the continuity of development.
5. Buildable Area: The area of a lot remaining after the minimum yard and open space requirements of the zoning ordinance has been met.
6. Building Envelope: The portion of a lot shown in a final plat which may be used for construction purposes, including: buildings, accessory uses, lateral fields, lagoons, and parking. Typically, the lot building envelope is the areas bounded by the required setbacks, side and rear yards. However, because of conditions arising from soils composition, slope, drainage and other natural features, the building envelope may be either reduced or increased in size at the direction of the Planning Commission.
7. City: The City of St. Marys, Kansas.
8. City Attorney: The attorney designated by the City Manager to furnish legal assistance for the administration of these regulations.

9. Comprehensive Plan: A plan for the development of the city and the extra territorial zone prepared by the Planning Commission, and approved by the City Commission pursuant to state law, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.
10. Common Ownership: Ownership by a single entity in any form of ownership of two or more contiguous lots.
11. Complete Application: An application form completed as specified by ordinance and the rules and regulations of the governmental agency and all accompanying documents and fees required by ordinance for approval of the application.
12. Cul-de-sac: A local street with one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.
13. Design Standards or Requirements: All requirements and regulations relating to design and layout of subdivisions contained in these regulations.
14. Deed Restriction: A restriction upon the use of a property placed in a deed.
15. Detention Basin: A facility for the temporary storage of storm water runoff and the release of it gradually into a watercourse or storm water facility.
16. Developer: The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such land or any person who:
  - a) Has an interest in land and causes it, directly or indirectly, to be divided into a subdivision, or
  - b) Directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease, or development, any interest, lot, parcel site, unit, or plat in a subdivision, or
  - c) Engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel site, unity, or plat in a subdivision; and who is directly or indirectly controlled by, or under direct, or indirect common control with any of the foregoing.

17. Easement: A permanent or temporary grant of right by the property owner to the public, a corporation, or another person or entity, of the use of a portion of a lot or tract of land for specified purposes where title to said portion of the lot or tract of land remains with the landowner.
18. Easement, Drainage: Land required for the installation of storm water sewers or drainage ditches and/or required for the preservation or maintenance of a natural stream or watercourse or other drainage facility.
19. Elevation. The vertical distance of the land surface above mean sea level.
20. Engineer: An individual who is licensed to practice engineering in the state of Kansas.
21. Frontage: That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.
22. Frontage Road: The length of all the property fronting on one (1) side of a street between the two (2) nearest intersecting streets, measured along the line of the street, or if dead ended, then all of the property abutting on one (1) side between an intersecting street and the dead end of the street.
23. Governing Body:
  - a) City Commission: The City Commission of St. Marys, Kansas.
  - b) County Commission: The Board of County Commissioners of Pottawatomie County, Kansas.
24. Grade: The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.
25. Grade, Finished: The elevation of the ground level after development.
26. Grading: The reshaping of natural land contours, using natural land materials such as soil, gravel, sand, etc., for the purpose of eliminating erosion or sedimentation problems, creating or improving surface drainage, providing for the natural aesthetic contouring of property, or to accommodate a building plan by making minor changes in land elevation.

27. Half-Street: A Street bordering one or more property lines of a subdivision tract to which the developer has allocated only a portion of the required street width.
28. Improvements: See Lot Improvements or Public Improvements.
29. Legend. The minimum requirements for an adequate map or plan legend are: title, scale, direction of north, date, name of preparer, and the identification of any unique symbols used.
30. Lot: A single parcel of land under unified ownership or control. A lot can be either a lot of record or a zoning lot.
31. Lot, Corner: A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding one hundred thirty five (135) degrees. On a "corner lot", the front lot line shall be the lot line having the shorter dimension along the street line.
32. Lot Coverage: That portion of the lot that is covered by the ground floor of any covered or enclosed structure.
33. Lot Depth: The mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries.
34. Lot, Double Frontage: See reverse frontage lot.
35. Lot, Flag: A lot having access to a public street by means of a private driveway, access easement, or other private means.
36. Lot Frontage: The length of the front lot line measured at the street right-of-way line.
37. Lot Improvement: Any building structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.
38. Lot, Interior: A lot other than a corner or reversed corner lot.
39. Lot Line: A property boundary line of any lot. When a lot extends to an abutting street or alley, the lot line shall be the closest street or alley line.
40. Lot Line, Rear: That boundary of a lot which is most distant from, and is, or is most nearly, parallel to, the front lot line.
41. Lot Line, Side: Any boundary of a lot which is not a front lot line or a rear lot line.

42. Lot of Record: A lot which is a part of a subdivision, the plat of which has been recorded in the Office of the Pottawatomie County Register of Deeds; or a parcel of land which was lawfully recorded prior to the adoption and enactment of this Unified Development Code.
43. Lot, Reverse Frontage: Lots which front on one public street and back on another.
44. Lot Split: The dividing of a lot in a recorded plat into not more than two lots, subject to the provisions of these regulations.
45. Lot Width: The horizontal distance between the side lines of a lot measured within the lot boundary at the building setback line.
46. Monument. Monuments are visible marks or indications left on natural or other objects indicating the lines and boundaries of a survey. Any physical object on ground which helps to establish location of boundary line called for; it may be either natural (e.g. trees, rivers, and other land features) or artificial (e.g. fences, stones, stakes, or the like placed by human hands).
47. Nonconforming Lot: A lot existing on the effective date of these regulations that does not meet the minimum area requirement of the zoning district in which the lot is located.
48. Owner: Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.
49. Pedestrian Way: A right-of-way dedicated to public use, which cuts across a block, tract, or parcel to facilitate pedestrian access to adjacent streets and properties.
50. Performance Guarantee: Any security that may be accepted by the Governing Body to assure that improvements required as part of an application for development will be satisfactorily completed.
51. Planning Commission: The Planning Commission of the City of St. Marys.
52. Plat, Final: A plan or map prepared in accordance with the provisions of these regulations, which plat is prepared to be placed on record in the office of the Register of Deeds of Pottawatomie County, Kansas.
53. Plat, Preliminary: The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission for approval.

54. Plat or Plan, Sketch: A concept, informal map of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification.
55. Public Improvement: Any improvement, facility, or service together with its associated site or right-of-way necessary to provide transportation, drainage, utilities, or similar essential services and facilities and that are usually owned and operated by a governmental agency.
56. Public Utilities: A closely regulated enterprise with a franchise for providing the public a utility service deemed necessary for the public health, safety, and welfare.
57. Re-subdivision: The further division of lots or the relocation of lot lines of any lot or lots within a subdivision previously approved and recorded according to law; or the alteration of any streets or the establishment of any new streets within any such subdivision, but not including conveyances, made so as to combine existing lots by deed or other instrument.
58. Right-of-way: An access way dedicated to public use.
59. Setback line or Building line: The line, perpendicular to the depth of the required front yard setback and parallel to a front lot line and/or street right-of-way line, whichever is greater, at which structures are permitted to be constructed and where "lot width" is measured.
60. Sight Triangle, The area of visibility required on a corner to allow for the safe operation of vehicles, trains, pedestrians, and cyclists in the proximity of intersecting streets, rail lines, sidewalks, and bicycle paths.
61. Street: A public or private right-of-way, which affords a primary means of vehicular access to abutting property, but does not include alleys or driveways to buildings.
62. Street or Road, Private: A non-dedicated way, which forms the principal vehicular access to a property or subdivision. A private drive serving one residence is not considered a private street or road.
63. Street, Public: A right-of-way, which affords principal access to property abutting thereon, which right-of-way is owned, controlled and maintained by the Governing Body.
64. Subdivision: The division of a lot, tract, or parcel of land into two or more lots, tracts, plots, sites, parcels, or other divisions of land for sale, development, or lease.

65. Subdivision, Rural: A subdivision located in the extra-territorial zone that does not meet the definition of an urban subdivision.
66. Subdivision, Urban: A subdivision located wholly within the corporate limits; or located partially within, adjoining or touching the corporate limits; a subdivision adjoining or touching the boundary of a tract of land for which annexation proceedings have commenced by the city or the landowner has requested annexation; a subdivision adjoining or touching another subdivision which has previously received final plat approval by the city and adjoins or touches the corporate limits; a subdivision which has or intends to have both municipal type water supply and sewage disposal systems.
67. Surveyor: An individual licensed to survey land in the State of Kansas.
68. Vested Right: A right that cannot be changed or altered by changes in regulation.